

Report to the Tyne and Wear Trading Standards Joint Committee

16 February 2017

Report of the National Audit Office: Protecting Consumers from Scams, Unfair Trading and Unsafe Goods

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Purpose of the report

The National Audit Office (NAO) on the 15 December 2016 issued its report on its recent review of the Consumer Landscape. It is a report to the Department for Business Energy and Industrial Strategy (BEIS) and they will officially respond in due course.

Summary

1. UK consumers spend over £1,160 billion a year on goods and services. Confident and active consumers play a key role in driving vigorous competition between firms, which then compete to supply what consumers want at the most efficient price. Consumer confidence is vital for both effective markets and economic growth.
2. Consumer detriment occurs when a customer is accidentally, carelessly or deliberately treated unfairly by a business or trader. It can be caused by a wide range of activities ranging from unfair commercial practices, such as misdescribed goods or pressure selling, to scams where criminals operate behind the appearance of a legitimate business.
3. In 2015-16, consumers contacted the Citizens Advice consumer service nearly one million times to seek information on their consumer rights or advice on how to solve specific problems. However, when things go wrong, the effects on consumers can be significant and often include financial loss and psychological impacts; in more severe cases, they can lead to injury or death, for example, from unsafe products. Some 35% of all UK consumers had a consumer problem in 2015. The most vulnerable individuals in society are particularly at risk, for example from being repeatedly targeted by mass marketing scams and rogue traders. Examples of consumer detriment include losses from:
 - Unfair trading. This is the most prevalent consumer issue, and can lead to significant individual detriment, for example caused by unfair contractual terms, misleading advertising, no access to redress, or high pressure selling. These problems may often be hidden from the consumer who will be unaware that they have suffered detriment.
 - Mass marketing scams, which are widespread and impact on the elderly and vulnerable. A typical postal scam victim is 74 years old and living alone. Victims aged between 75 and 79 years lose an average of £4,500 each and many experience psychological problems as a result, requiring the assistance of social services. Criminals typically sell on victims' details, with

National Trading Standards recently uncovering a list of over 500,000 names.

- e-crime, which is the most recorded crime in the UK and can affect anyone. High-volume low-value frauds, for example copycat websites, can involve individuals paying small amounts of money for a service that is free on the legitimate website. Investment fraud involves criminals defrauding wealthy individuals of large sums of money by selling non-existent investments.
 - Unsafe goods, which can cause injury and fatalities. Common recent examples include make-up that contained carcinogens, counterfeit medicines, and electrical items which caught fire when charging. Counterfeit items are often sold at huge discounts to the legitimate product and may disproportionately affect the poorest in society.
4. BEIS has overall responsibility for consumer policy, with some aspects devolved to the Scottish Government. The majority of law enforcement is carried out by local authority Trading Standards services, funded through a centrally distributed revenue support grant (administered by the Department for Communities and Local Government in England and the devolved administrations in Scotland and Wales) and locally raised income such as council tax and business rates. National Trading Standards is funded by the Department and covers regional and national issues. Citizens Advice provides advice and education to consumers, and is the contact point for people who have experienced a problem. The Chartered Trading Standards Institute provides information to businesses on consumer protection legislation. The Competition and Markets Authority uses its consumer powers to tackle market-wide issues to support competition and consumer choice, and has lead responsibility for unfair contract terms and international consumer issues. Together, these organisations make up the consumer protection system and share responsibilities, including:
- enforcing consumer protection legislation;
 - providing information, advice and education to business and consumers; and
 - consumer advocacy.
5. Consumer law aims to protect people from consumer detriment. It covers areas such as unfair terms, advertising, aggressive practices, and basic contractual rights. The consumer bodies also use a wide range of other legislation, for example the Fraud Act 2006. Other agencies, such as the National Crime Agency, the Police Service and HM Revenue & Customs (HMRC) work with the consumer protection bodies on issues such as trader fraud and imported counterfeit goods.

The Key Findings - Funding of consumer protection

6. BEIS does not routinely cost the consumer protection system but NAO estimates that it cost £165 million in 2015-16. Local Trading Standards services, funded at the local level, received £124 million. BEIS funds Trading Standards at the national level (£14.8 million), as well as Citizens Advice (£18 million). HM Treasury funds the Competition and Markets Authority, which spent £6 million on its consumer protection work in 2015-16.

Identifying consumer detriment and its impact

7. There is limited robust data on the overall scale of consumer detriment, but we estimate that consumers lost at least £14.8 billion in 2014-15. Detriment is difficult to estimate, in particular because in many cases, for example unfair terms, fraud or counterfeit goods, the consumer may be unaware of the detriment or unwilling to report it. Detriment caused by problems the consumer is aware of costs £10.6 billion annually. Using available data on doorstep crime, mass marketing scams and counterfeit goods we estimate hidden detriment is at least £4.2 billion. There are no robust data on the overall wider economic impacts of consumer detriment.
8. Consumers are facing increasingly complex and wide-ranging threats, in particular from the rise in e-commerce, and scams are becoming more targeted. The UK's e-commerce market is the largest in Europe and the third largest globally. Consumers often have to give personal data for online transactions, increasing the risks of identity theft and fraud. Resolving problems may be more difficult when traders are based in different jurisdictions. Scams involving extracting personal information from the victim rose 21% in 2015, while Citizens Advice considers that up to one in six products advertised on some e-trading sites are potential scams.
9. The consumer protection bodies have improved data on consumer threats, but significant gaps still remain. The NAO 2011 report found major shortcomings in intelligence and data systems. Since then National Trading Standards has created a national intelligence team, all regions now have analyst support, and intelligence logs have risen by 70%. The case study sites considered that the quality of intelligence has improved. However, there are still local authorities with no or few intelligence logs, the proportion of entries on product safety and e-crimes is low (5% and 3% respectively), and there are still issues with accessing other agencies' databases. Furthermore, consumer contacts to Citizens Advice, a critical source of data, have fallen by 18% in the last four years as consumers turn increasingly to social media to complain and self-help online tools.

Addressing consumer detriment

10. BEIS has improved the overall coordination of consumer protection bodies. The 2011 NAO report found that the consumer protection system was very fragmented with poor overall system coordination. An integrated approach is now even more essential as commerce has become increasingly national and international. BEIS created the Consumer Protection Partnership in April 2012, and key bodies now regularly share knowledge and intelligence, and coordinate work. BEIS also created National Trading Standards to cover national and regional issues and establish system-wide case management.
11. BEIS has little control over the majority of resources, making effective system prioritisation difficult. Prioritisation is necessary to use resources cost-effectively to address the highest areas of risk. Some 75% of funding is delivered locally, where local authorities have to balance resources with other services such as social care. We found local authority Trading Standards are incentivised to prioritise local issues, in particular safeguarding. A 2014 survey, shortly after BEIS established National Trading Standards, found that only around 7% of local authority Trading Standards were able to organise their service to reflect national priorities. Furthermore, they have to enforce up to 263 different pieces

of legislation, with little direction from government on the relative prioritisation of these.

12. The loss of resource and downsizing of Local Trading Standards services have led to gaps in coverage at the local level. Effective consumer protection relies on sufficient coverage across the local level, in particular to prevent enforcement gaps. Local Trading Standards has lost 56% of full-time equivalent staff since 2009. Twenty services in England have reduced funding by over 60% since 2011 and some now have only one qualified officer. The funding of smaller services is no longer sufficient for them to undertake significant enforcement cases, and a number of our case study sites were concerned about the viability of their service. There is no consensus on the minimum service level needed to protect consumers adequately.
13. The system is addressing national and international issues better but long-term planning is insufficient. National Trading Standards, which BEIS established in 2012, has prevented around £345 million worth of detriment to consumers since April 2014, with a cost–benefit ratio of around 12.6 to 1. It runs a number of specialist teams which address detriment such as mass marketing scams and the safety of imported products. However, funding of £13.5 million is small set against the size of the problem and annual budgeting prevents proper longer-term planning, with a heavy reliance on short-term staffing arrangements. National Trading Standards was unable to accept any new cases in the last third of the year due to a lack of resources. The Competition and Markets Authority estimates that its consumer enforcement work generates at least £74 million of direct financial benefits to consumers annually, at a cost of £6 million.
14. Government’s response has not kept pace with the growth in online consumer fraud. The Office for National Statistics estimates that there were 5.6 million incidents of online fraud and computer misuse in England and Wales in the year ending June 2016; the most prevalent recorded crime. Hosted by the City of London Police and funded by the Home Office, Action Fraud is the UK’s national fraud and cybercrime reporting centre, and the National Fraud Intelligence Bureau is the national crime dissemination centre. However, responsibility for responding is complex and sits with many different parts of government, including with Trading Standards. National Trading Standards has supported cases leading to convictions of 83 defendants with over 60 years of custodial sentences and £400,000 of confiscation orders. However, Trading Standards has lost e-crime expertise at the local level, and has a low profile with the National Fraud Intelligence Bureau, receiving around only 5% of the total number of referrals. The National Crime Agency considers that government is being outpaced by cybercriminals.
15. BEIS has created opportunities for a more preventative approach to consumer protection. BEIS recently introduced legislation strengthening consumer rights and ability for self-protection when things go wrong, for example by clarifying the period within which a consumer can return an item, and including new provisions for digital products. The effectiveness of these measures is reliant on consumer and trader awareness of the law, which is currently low. The Department has also consulted on giving consumer protection bodies’ civil fining powers although it has not yet decided on the outcome. The Competition and Markets Authority uses civil fining powers widely to deter businesses behaving anti-competitively in its competition work.

Recommendations

16. The recommendations are formulated to build on the work that BEIS and the consumer protection delivery bodies have done since the last NAO review in 2011, and are aimed at promoting greater system coherence across central government departments and local government. Many of these recommendations fall under the responsibility of BEIS, but can be taken forward by the Consumer Protection Partnership where relevant, while some recommendations need to be implemented across government more widely:
17. BEIS should ensure that detriment is estimated and reported regularly in a consistent manner. This could involve a biennial evaluation commissioned and owned by the Consumer Protection Partnership covering analysis of both, problems that consumers are aware of, and available data on hidden detriment. It will ensure that all bodies have insight on the scale, distribution, and trends of consumer problems and can balance the response appropriately.
18. BEIS should work with the Consumer Protection Partnership to continue to improve intelligence gathering and sharing across the system as a whole. This should involve addressing any barriers to intelligence sharing, and in particular making full use of information from consumer contacts.
19. BEIS should work with relevant departments, and the Department for Communities and Local Government, towards a shared understanding of risks to consumers. The governance, accountability, and incentives should be aligned with the delivery of outcomes at the appropriate level in line with the risks identified. This should include setting clear and realistic expectations of what each body should deliver, alongside reporting progress, so as to ensure that system priorities are met alongside local priorities. It could also include representation of Local Authority Trading Standards on the Consumer Protection Partnership.
20. BEIS should work with relevant departments, and the Department for Communities and Local Government, to ensure that consumer protection skills and capacity are deployed strategically to reflect how and where detriment occurs. This would help manage gaps at the local level and could include defining what a Trading Standards service is intended to deliver.
21. In the face of significant funding reductions, the Department should ensure that the most appropriate and cost-effective tool or intervention is available to the system as a whole, including new powers where appropriate. This could involve, for example:
 - Greater use of consumer advice and education to help prevent consumers falling victim to fraud.
 - Further improvements to consumers' ability to resolve complaints directly.
 - The introduction of civil fining powers as a strong deterrent against unfair trading (such as those used in the competition regime).
22. BEIS should ensure that its delivery bodies can plan for a longer period than annually. This should help build resilience into the system to facilitate better staff development and give greater confidence in dealing with cases that are expected to last longer than a year.

23. BEIS, together with the Home Office and other government departments, should coordinate further their separate activities addressing consumer fraud. In particular BEIS can raise the profile of the work of Trading Standards. This should ensure a more coherent approach to dealing with consumer fraud, including clear roles in identification, response and reporting of detriment according to relevant skills, powers and resources across government, with fuller recording of the detriment identified and prevented.

Recommendation

24. The Committee is asked to note the information.