

Report to the Tyne and Wear Trading Standards Joint Committee

4 March 2021

Penrose Report: “Power to The People – Stronger Consumer Choice and Competition”

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Purpose of the report

To update the Committee on the Government publication on the 16 February 2021 of the Penrose Report entitled: “Power to The People – Stronger Consumer Choice and Competition”.

Introduction

1. The above report was commissioned by the Chancellor in September 2020. John Penrose MP was asked to write an independent report on how the UK’s approach to competition and consumer issues could be improved in future following the impact of Coronavirus and Brexit.

Key References to Trading Standards

2. The report majors on Competition and the role of the Competitions and Markets Authority (CMA) but there is specific reference to Trading Standards in Section 6.4. Key points in this section include the following: -
3. The Report recognises that Local authority trading standards services (LATS) have an essential role in investigating and enforcing local scams and other consumer problems which are too small to warrant a full-scale investigation by CMA or a sector regulator.
4. The Report goes onto recognise that LATS have been ‘hollowed out’ in some – but by no means all – parts of the country by Councils facing budget pressures.
5. The number of trading standards officers has fallen steadily. Almost half of all LATS do not believe that their team has sufficient skills to cover the full range of trading standards responsibilities. Extra expertise is provided by National Trading Standards and Trading Standards Scotland, which have specialist teams to help with things like e-crime and scams.
6. Beyond the legal duty in respect of metrology under the provisions of the Weights and Measures Act 1985, the general legal duty only requires local Councils to establish a trading standards service; some have taken this to mean as little as a single qualified officer, when estimates suggest the sustainable minimum is eight.

7. The Report takes the view that the predictable result is an enforcement gap.... spotty and uneven local investigations and enforcement will sap consumer trust and confidence in whether the system is working properly to protect them, and stop local economies from becoming efficient, competitive, and productive too.
8. The key recommendation that follows is: - “We should create a new statutory duty for minimum standards in LATS, including powers to mount antitrust and consumer investigations, and provide ring-fenced resources so they can deliver them well. The new statutory duty should define the outcomes which have to be achieved but leave local Councils to decide how best to deliver them, to allow more local control and creativity. This will also allow LATS to decide whether and how to join forces with their neighbours to tackle regional scams and cartels, in the same way as police forces pool resources in Regional Organised Crime Units at the moment.

Summary of All the Report’s Recommendations

9. Recommendations are outlined in Chapter 9. There are many so a short summary is below.
10. The Report found that our competition and consumer regime currently have a good reputation, but not a great one. We have stopped making progress on cutting the costs of red tape; sector regulators intervene heavily; competitive pressures have got weaker; and consumers feel ripped off. The system needs to be updated, improved, and refreshed.
11. Stronger competition and consumer choices mean more jobs, make exporting firms more likely to win contracts, and give customers a wider range of high-quality goods and services at more competitive prices. Societies where firms have to compete hard to attract and retain customers are fairer, with less injustice, because rip-offs can’t become as serious, or last as long, and because people are confident that the system is on their side.
12. CMA should publish an annual ‘State of Competition and Consumer Detriment’ report which measures and analyses progress and problems across all sectors of the economy.
13. CMA’s civil consumer enforcement powers should be updated to bring them into line with the competition toolkit and they should be able to impose higher penalties for non-compliance with investigations and take legally binding undertakings in broader circumstances as part of market studies.
14. There should be improved information sharing with international competition regulators, a simplified appeals system, and an end to end review of case management.
15. The Government should make cutting red tape costs into an automatic burden-reduction process, with a revived, stronger Better Regulation regime including: reinstating the gateway condition so Ministers and regulators must first remove or modernise old rules before they can introduce new ones; increasing the ‘one-in-one-out’ target to ‘one-in two-out’, include all forms of Government rule-making with no exceptions.

16. The CMA's new Digital Markets Unit must be ring-fenced tightly, to prevent regulatory creep and only apply to problems which CMA's existing powers can't solve.
17. Require each economic regulator to have a multi-year project plan, to turn as much of their sector into a 'normal' pro-consumer, high-standards competitive market as possible. Each will be subject to the better regulation targets. A process to transfer economic regulators powers to the CMA where appropriate.
18. Small Claims Courts and ADR services should all become fully 24/7 and be as easy, cheap, and simple as using an app on your phone.
19. Create a new statutory duty for minimum standards in LATS, including powers to mount antitrust and consumer investigations, and provide ring-fenced resources so they can deliver them well.
20. Apply measures to address "loyalty penalties" as a general consumer-protection regulation across all affected sectors
21. CMA should update its guidelines on what treating customers fairly means in practice, including 'transactional fairness' in its work and identify what consumer protection rules and analytical techniques will be needed to protect consumers from it as digital technologies evolve and develop over time.
22. Improve use of Digital Comparison tools and other ways to ensure consumers know what they are paying for data and digital services.

Recommendation

23. The Committee is asked to note the information as contained within the report.

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