

EXTENDED WARRANTIES MONOPOLY INQUIRY:
REVISED STATEMENT OF HYPOTHETICAL REMEDIES

Consultation on possible remedies

The Competition Commission (CC) has today sent a letter to domestic electrical goods' retailers, and others concerned, to consult them on alternative packages of possible remedies aimed at improving competition in the market for extended warranties (EWs) on domestic electrical goods (DEGs). On 20th May the Commission sent out a "remedies letter" consulting on nineteen possible remedies. Since then the Commission has considered the responses they received, and has had hearings with a number of the parties. In the light of these consultations the Commission has dropped or amended certain remedies and has brought together the remaining remedies that it wishes to pursue into two possible packages. Today's letter offers the parties an opportunity to comment on these packages e.g. in respect of the most suitable periods for the validity of quotes or delayed purchase rights. This, second, "remedies letter" is attached. It has also been published on the CC's website

Consumers deserve better information on the alternatives, time to choose and better value

The packages of possible remedies aim to give

- consumers the information they need to make an informed choice of whether they want an extended warranty, what type of warranty would best suit their needs, and which providers offer the best deals;
- consumers time to reflect, away from the rush and pressure of the store, on whether an EW they are being offered is really what they need, and is good value; or whether an alternative provider has a better offer;
- alternative providers of EWs time to get their offer on the table, so that consumers are given a better choice, and a real opportunity to shop around; and
- retailers an independently managed and enforced code governing selling practices and the terms and conditions in EW contracts.

Information, and the opportunity and time to make a genuine, transparent, choice will, the Commission believes, stimulate competition in the market for EWs and lead to significant improvements in value for consumers.

Remedies

Details of the proposed remedies are set out in the note attached to the letter. In brief the first package would require sellers of EWs to:-

- display the price and duration of the EW with the price for the electrical appliance to which it relates, and in any publicity material for the appliance;
- give consumers who are interested in, or who purchase, an EW a leaflet giving information on
 - statutory rights;
 - alternative providers of EWs;
 - broad categories of product reliability and repair costs;
 - whether the EW is insurance backed, and whether in the case of default it is backed by a compensation scheme;
 - cancellation rights(see below)
- give consumers who ask for one, or who buy an EW, a written quote which;
 - gives the price and duration of the EW in which the consumer has expressed an interest;
 - commits the retailer to sell that EW to that consumer at that price at any time within 30-45 days from the purchase of the DEG;
 - commits the retailer to pay a full refund if the purchaser of an EW at point of sale of the DEG cancels the policy within 60 days (providing no claim has been made);
 - commits the retailer, for EWs other than replacement-only warranties, to send the purchaser a reminder of his right to cancel;
 - commits the retailer to pay a refund after the sixty day period that is pro-rata to the unexpended period of the EW at any time that the purchaser wishes to cancel, whether or not there has been a claim;
 - refers to the availability of EWs from other providers, and to the guidance in the leaflet
- follow an independently managed and enforced code of practice which covers:
 - selling practices
 - criteria governing the terms and conditions that may be included in an EW

The second package would include broadly the same requirements, modified in the detail of their application, but would go further by requiring retailers

- not to complete the sale of a full EW on the day of the sale of the appliance to which it applies; at that point of sale they could sell cover that supplements the manufacturer's guarantee for a period of one year and they could give the consumer a quote for an EW (see above) on the basis of which the consumer could purchase a full EW at the price quoted at any time in the following 1-45 days.

Consultation Period

The letter has been sent to the retailers, manufacturers, and insurers listed at Annex 1 of the letter of 20 May, and to others who participated in the inquiry, including the various representative bodies of consumers, retailers manufacturers, insurers etc. Comments are invited by 5 August.

The CC will report by 30th September

Earlier stages in the Inquiry

The Commission was asked on 2nd July of last year to undertake an inquiry into the supply of Extended Warranties on domestic electrical appliances under the Fair Trading Act 1973. The terms of reference require the Commission to investigate and report on whether one or more companies is involved in a monopoly in the market; on whether there are any practices which exploit or maintain this monopoly; and on whether they may operate against the public interest.

Following initial investigations the Commission published on 28th February an “issues letter” setting out the issues that they had identified for further consideration, in order to give interested parties an opportunity to put to the Commission any points they wished to raise. The Commission then held hearings with number of the main parties, followed by an open hearing on 25th April.

On 20th May the Commission published in a letter to retailers of domestic electrical goods, and others concerned, a ‘Statement of hypothetical remedies’. The letter set out the CC’s provisional view that retailers who sell extended warranties at the point of sale of the electrical goods are doing so in a way which creates a “complex monopoly” situation in the supply of extended warranties. The CC is considering whether this is against the public interest and is therefore consulting on possible remedies.

Notes to Editors

1. The reference was made by the Director General of Fair Trading under section 2 of the Fair Trading Act 1973 on 2nd July 2002 (see OFT Press Release PN40/02). The CC was originally asked to report by the 1st July 2003, but on 26 June the Secretary of State for Trade and Industry agreed an extension to 30th September (see DTI Press Release P/2003/372).
2. The inquiry is being carried out by a group of five CC members led by Sir Derek Morris, the CC Chairman. The four other members are Christopher Clarke, Dr Diane Coyle, Peter Hazell and Dr Elizabeth Monck.
3. Further information can be found on the CC website; www.competition-commission.org.uk
4. Enquiries should be directed to: Francis Royle, Press Officer, tel.: 020-7271-0242

EXTENDED WARRANTIES INQUIRY - REMEDIES

In our letter of 20 May we set out a number of remedies that the Commission might recommend, in the event that we find that there is a monopoly situation in the provision of extended warranties (EWs) on domestic electrical goods (DEGs), and that this is against the public interest. Details of the basis on which we might reach such findings were given in that letter. Views on the remedies described below should be formulated on that basis.

We have since received comments from many of the parties concerned, and we have held hearings to take further evidence from a number of them. Following this, we have developed and refined our

analysis of the possible remedies. The proposals that we are now considering are set out in the attached note. This indicates that we are currently inclined not to proceed with a number of the remedies listed in the letter of 20 May. It then shows how the remedies that are still under consideration might be grouped in two alternative packages. Which (if either) of these packages of remedies we recommend will depend primarily on which in practice we conclude would be most effective in addressing any public interest detriment that we may identify. At present, we take the view that remedies would apply to all retailers who provide paid EWs at the point of sale of the relevant DEGs, including catalogue and internet retailers, but possibly with some variations where appropriate.

Any comments should be sent by 5 August to the Inquiry Secretary, Tom Muir.

SUMMARY OF THE REMEDIES PACKAGES

INTRODUCTION

The Competition Commission's letter of 20 May listed 19 possible remedies. Having considered the evidence provided to us, we are not currently minded to pursue the following as remedies:

- A2: Display price of manufacturer's EW
- A4: Information on alternative providers (although a statement about availability from alternative types of provider would be included as part of remedy A3, Provide written information to consumers)
- A5: Tables of comparative information
- A6: Publish information on EW profitability
- B11: Requirement to provide EWs on DEGs sold by other retailers
- B13: Requirement to unbundle different elements of EWs
- B14: Provision of customer lists to manufacturers and other providers of EWs
- C16: Limits to sales incentives
- D19: Introduce benchmark product

PACKAGE 1

1. The main purposes of this package are

- (i) to provide more information to consumers;
- (ii) to give more opportunity (and flexibility) for consumers to purchase or to cancel an EW;
- (iii) to eliminate certain selling practices in relation to EWs.

The remedies that make up this package are summarised below (the remedy numbers shown below refer to our letter of 20 May). Further details of each are then given. Should the CC recommend such a package, it would not necessarily include every element identified in the list.

- A1: Display price of retailer's EW. Retailers would be required to display the price of an EW on the same price ticket as the price of the DEG and alongside the price of the DEG in other advertising and publicity.
- A3: Provide written information to consumers. Retailers would be required to give consumers certain information about EWs before an EW could be purchased.
- B7: Written quotes. Retailers would be required to give consumers a quotation for the purchase of an EW for a specific DEG in a standard format and containing specified information before an EW could be sold. The quotation would be valid for a certain period.
- B8: Longer cancellation periods. Retailers would be required to give consumers purchasing an EW at the POS of the DEG a minimum period during which the EW could be cancelled with a full refund if no claim had been made.
- B9: Written confirmation of the right to cancel. Retailers would be required to write to consumers who purchased an EW at the POS of the DEG to remind them of the option to cancel as described in B8, above.
- B12: Cancellation rights. Retailers would be required to allow consumers to cancel an EW and obtain a pro-rata refund at any time after the cancellation period described in B8, above. (This is one element of remedy B12 from our letter of 20 May.)
- C15: Discounting policy. Retailers would be required to make any discount or other incentive to purchase that was offered to a consumer at the POS of the DEG and was contingent on the purchase of an EW available to the same consumer for the period of the quotation described in B7, above.
- C17: Controls on sales processes. Retailers would be required to avoid certain EW selling practices.
- D18: Financial protection. Retailers would be required to inform consumers whether the EW was insured and covered by the FSCS (Financial Services Compensation Scheme), or if

uninsured to describe what arrangements had been taken to ensure that sufficient funds were available to secure the cost of claims.

2. Further details of this package of remedies are described below.
3. A1: Display price of retailer's EW. When shopping around for a DEG, consumers would see the price of at least one EW alongside the price of every DEG:
 - 3.1. In store, the price of the EW and the period of cover would be shown on the same price ticket as the price of the DEG.
 - 3.1.1. The price of the EW and the period of cover would be clear so the consumer looking at the price of the DEG would be able easily to read the EW price.
 - 3.1.2. Where the price and the period of cover of the EW were identical for a range of DEGs then the price might be displayed just once for the range if this price could be made clearly visible when the consumer was looking at any one particular DEG within the range.
 - 3.1.3. The price to be displayed could be based on any type of EW and any period of cover at the discretion of the retailer.
 - 3.1.4. Catalogue retailers would display the price of an EW alongside the price of the DEG (rather than on a different page of the catalogue).
 - 3.1.5. Web sites would display the price of an EW alongside the price of the DEG when the consumer is "browsing", i.e. before the DEG had been placed "in the basket".
 - 3.2. The terms of all EWs available on the DEG would be available and on display nearby to the DEG for the consumer to pick up and take away.
 - 3.2.1. Catalogue retailers would provide clear signposting from the DEG pages to the page where the terms were printed.
 - 3.2.2. Websites would provide clear links from the DEG pages to the page where the terms were shown.
 - 3.3. Press advertisements and other publicity that showed the price of the DEG would also show the price of the EW in a way that was easy to read and would advise consumers how and where they could obtain the detailed terms and conditions of the EW.
4. A3: Provide written information to consumers. If the consumer in a store was being helped by a salesperson, when the salesperson started to inform the consumer about the available EWs he/she would always offer the consumer certain written information.
 - 4.1. This information would be in the form of a standard document, that might be prepared by the industry and approved by the OFT. It would include:

- 4.1.1. Information on statutory rights. Although we do not wish to prescribe any exact wording at this stage we have in mind something along the lines of this extract from the OFT's EW consumer leaflet: "When you buy your appliance from a shop you are protected by the Sale of Goods Act 1979, if the appliance is not of satisfactory quality or fit for its purpose. This law only applies if the appliance had something wrong with it when you bought it, although the fault may not be obvious at the time."
- 4.1.2. Availability of EWs from other providers, which would list the categories of alternative providers including other retailers, manufacturers, specialist on-line providers, insurers, utility companies and credit card providers.
- 4.1.3. The possible relevance of household insurance to some consumers. Although we do not wish to prescribe any exact wording at this stage we have in mind something along the lines of this extract from the OFT's EW consumer leaflet: "Your household contents insurance policy may cover you for accidental damage, fire or theft of the appliance. Check your household policy for details of your cover".
- 4.1.4. Information about cancellation rights and procedures (see remedies B8 and B12, below).
- 4.1.5. Information about product reliability and repair costs. We currently believe that it could be helpful if information on product reliability and/or repair costs could be provided to consumers. We think that this information, if it were authoritative and not misleading, would help consumers to make informed decisions. We envisage that any such information would be provided at a product category level rather than by model. We recognise a number of difficulties that have been put to us (including the availability of authoritative data on reliability, the treatment of accidental damage and "no fault found" claims in reliability statistics, the availability of data on the repair costs that individual consumers would pay local repairers, the variability of reliability and repair costs, and the use of past experience as a basis for predicting the future). Nonetheless, relevant actuarial data is available to insurers and/or providers, and some overall statistics based on that data would be useful to consumers. We invite proposals on how this could be achieved before we finalise any recommendations we may make on this. (It is possible that depending on the volume of this information, it might have to be provided separately).
- 4.1.6. Information about whether the warranty was an insured product (see remedy D18, below).
- 4.2. Our working assumption is that the above information would be clearly and concisely presented on an A4 information sheet.
- 4.3. Retailers would be required not to issue other information to consumers that could contradict the information described above.
- 4.4. Catalogue retailers would print this information in the catalogue with clear signposting from the pages showing the DEGs.
- 4.5. Websites would display this information on a separate page with clear links from the pages showing the DEGs.

5. B7: Written quotes. If the consumer in a store was being helped by a salesperson, when the salesperson started to inform the consumer about the available EWs he/she would always offer the consumer a written quotation
 - 5.1. The quotation would include the following information:
 - 5.1.1. The price of one or more EWs for a specific DEG.
 - 5.1.2. A statement on statutory rights.
 - 5.1.3. A statement that the quotation was valid for a certain period. We are considering a period of between 30 and 45 days from the date of purchase of the DEG.
 - 5.1.4. We invite comments on the most appropriate period for the quotation to remain valid to enable consumers to make an informed choice amongst different providers.
 - 5.1.5. We invite comments on whether a consumer who purchased an EW after the POS but during the validity of the quotation would then receive an EW that covered (say) 5 years from the date of purchase of the DEG or whether it should be valid for (say) 5 years from the (later) date of purchase of the EW.
 - 5.1.6. A statement that a full refund was available for a certain period if there had been no claims. See remedy B8, below.
 - 5.1.7. A statement that EWs may also be available from other categories of providers.
 - 5.2. A possible format for this quotation is shown in Appendix 1. Our working assumption is that the quotation would be printed on the reverse of the information sheet for remedy A3.
 - 5.3. Retailers would be required not to issue other information to consumers that could contradict the information in the quotation as described above.
 - 5.4. If a consumer in-store was not being helped by a salesperson, but instead selected a DEG and took it to the till him/herself, if the member of staff at that point offered an EW to the consumer or the consumer expressed interest in purchasing an EW, a quotation would at that point be given to the consumer.
 - 5.5. Retailers selling EWs at POS would be required to issue a quotation at any time while the consumer was in the store if the customer expressed an interest in purchasing an EW; i.e. before, during or after the purchase of the DEG.
 - 5.6. If a consumer decided to purchase an EW at the POS of the DEG in-store then the member of staff dealing with the transaction would be required to check that the consumer had been offered the information in remedy A3 and had been provided with the quotation in remedy B7. At this point, the consumer would be given a verbal reminder that there was an option of purchasing an EW at a later date.

- 5.7. We envisage that the consumer would be asked to sign a copy of the quotation (remedy B7) when purchasing an EW at POS, as confirmation that the quotation and the information on it had been seen by the consumer.
- 5.8. The equivalent requirement for catalogue retailers and websites would be to indicate clearly that the EW could be purchased after the DEG and that the published EW prices would be available for the period shown in 5.1.3.
6. B8: Longer cancellation periods: Retailers would be required to give consumers purchasing an EW at the POS of the DEG a minimum period during which the EW could be cancelled with a full refund if no claim had been made.
 - 6.1. For EWs purchased at the POS of the DEG we are considering a period of 60 days for this remedy. We invite comments on the most appropriate period.
 - 6.2. Application of this remedy to mail order providers and websites would need to take account of the provisions of the Distance Selling Regulations.
7. B9: Written confirmation of the right to cancel. Retailers would be required to write to consumers who purchased an EW at the POS of the DEG to remind them of the option to cancel as described in B8 and related timescale and procedure, above. A pre-paid form or card that could be used to cancel the policy by post would be provided for this purpose.
 - 7.1. Our current view is that replacement-only type EWs which tend to be sold for less than £50, and for which the consumer's name and address is often not captured, could be excluded from this requirement.
8. B12: Cancellation rights. Retailers would be required to allow consumers to cancel an EW and obtain a pro-rata refund for the remaining term of the EW at any time after the cancellation period described in B8, above.
 - 8.1. The refund would be pro-rata to the period of unexpired cover as a proportion of the total period of cover. For example, if a three-year policy (1+2) were cancelled at the end of the first year, then two-thirds of the cost of the EW would be refunded. No administration or other fees could be deducted.
 - 8.2. Pro-rata refunds on cancellation would still apply if the consumer had made a claim on the EW.
 - 8.3. The EW documentation that is given to the consumer at POS would include a prominent statement about the cancellation rights. A pre-paid form or card that could be used to cancel the policy by post would be provided for this purpose and cancellation might also be accepted by telephone.
 - 8.4. A pro-rata refund would also be payable on cancellation of the policy by the provider, e.g. following a claim requiring replacement on some policies which do not provide continuous cover for the period of the EW.

9. C15: Discounting policy. Retailers would be required to make any discount or other incentive to purchase that was offered to a consumer at the POS of the DEG and was linked to or associated with the purchase of an EW available to the same consumer for the period of the quotation described in B7, above.
 - 9.1. Any such discount would be recorded on the quotation issued under remedy B7, above.
10. C17: Controls on sales processes. Retailers would be required to ensure that their salespeople kept to certain rules about how EWs were sold. An industry code of practice (that might be the existing BRC Code, strengthened as necessary, or a new code that met the OFT's core criteria including complaints handling, monitoring and enforcement) would encompass the existing BRC Best Practice Code rules and would include the following additional requirements:
 - 10.1. To avoid certain additional techniques or practices of applying undue pressure on consumers to purchase including:
 - 10.1.1. "Double-hitting": The use of more than one salesperson to persuade the consumer to purchase the EW unless this was essential to ensure that the consumer had the information needed to make an informed decision. This rule would apply both to the use of multiple salespeople at the same time or at different times during the consumer's visit to the store.
 - 10.1.2. Providing misleading information about competitors' EWs.
 - 10.2. To stop the EW selling process if the consumer indicated he/she found the approach unwelcome.
 - 10.3. Websites would be required to avoid the EW being automatically placed "in the basket" as a default when the DEG was selected.
11. D18: Financial protection. Retailers would be required to inform consumers whether the EW was insured and covered by the FSCS, or if uninsured to describe what arrangements had been taken to ensure that sufficient funds were available to secure the cost of claims.
 - 11.1. We invite views as to whether this information should be contained within the information issued as part of remedy A3, above (in which case that information would need to vary by retailer) or be included in the provider's own EW publicity.
 - 11.2. Similarly we invite views on the most appropriate mechanism to draft and agree the relevant wording.
12. Certain parts of this package would not be relevant to EWs that are sold as rolling monthly contracts, whereby payment is made monthly and an option to cancel with one month's notice is made very clear to the consumer. These could include the requirements in remedies B8, B9, and B12.

PACKAGE 2

13. The main purpose of this package is to separate the purchase of an EW from the point of sale of the relevant DEG, in order to create more scope for competition in the supply of EWs. The package extends package 1 by including certain elements of remedy 10 from our letter of 20 May.
14. Providers could not sell an EW at the point of sale of the relevant DEG if the EW provided cover for more than a year from the date of purchase of the DEG.
15. If a consumer wishes to purchase such an EW for a period in excess of one year, he/she would need to do so at some time after the date of purchase of the DEG.
 - 15.1. The consumer could pick up an application form for cover beyond the first year in-store at the time of purchase of the DEG. The retailer could choose to accept applications by telephone or post but this would not be a requirement of the remedy.
 - 15.2. We envisage that the remedy would prevent a retailer from accepting applications for EW for a period in excess of one year until between one and 45 days after purchase of the DEG. The period chosen would depend on the view we take about how long it would need to be to be effective. We invite comments.
 - 15.3. Our working assumption is that the same requirements would apply to catalogue retailers and websites although we invite views on the particular logistical issues that may face these types of retailers.
16. If the consumer wishes to purchase an EW in-store at point of sale, in order to be covered from day one for risks not included in the manufacturer's guarantee, an EW for up to one year could be offered for sale. This could cover risks such as accidental damage and theft, and access to consumer helplines.
17. If a consumer who had purchased the one year policy later decided to purchase a standard EW from the same POS retailer, then the retailer would offset the cost of that policy against the cost of the longer term policy.
18. Remedies A1, A3, C17 and D18 from package 1 would also apply under package 2.
19. We invite views on whether remedies B7, B8, B9, B12, and C15 from package 1 would still be appropriate in whole or in part under Package 2.

APPENDIX 1

EXAMPLE FORMAT FOR QUOTE

ELECTRICALS PLC

Issued: [Date]

Price for extended warranty for Brand X Washing Machine Model X01

The manufacturer's guarantee covers parts and labour in the first year and parts in the first five years.

Three years from date of purchase: £119.99

Five years from date of purchase: £169.99

- **You can buy this EW at any point over the next [x] days**
- **The policy can be cancelled within [x] days of purchase and a full refund obtained unless a claim has been made**
- **Extended warranties are available on this product from other companies**