THE ROLE OF WEIGHTS & MEASURES IN FAIR TRADING.

The West Sussex case study (attached) illustrates the importance of trustworthy measurement in a variety of fields:

- Expressing comparative value for money
- Health
- Safety
- Taxation
- Environmental controls

My purpose today is to develop the first of these, ie the contribution to assessing comparative value for money, to demonstrate the role which W&M legislation plays in delivering the fair trading agenda.

We are used to seeing prices in various markets expressed in terms of the unit quantity being sold: Petrol - 109.9p/litre; Gold - £477.79/Troy ounce; Bananas - 85p/kg.

All such statements have four things in common. First, they are the basis on which price competition takes place in the respective markets. Second they can be rendered untruthful if the trader actually charges more than 109.9p, £477.79 or 85p. Third they can be rendered untruthful if the trader delivers less than a litre, Troy oz or kg. And fourth, the truth of the statement can ultimately be determined only by using equipment whose accuracy needs to be maintained throughout its working life.

These are not trivial markets. It is estimated that over £170bn of goods are sold by retail on the basis of measurement of their quantity every year. That goes up to over £200bn if gas and electricity is included. And this does not include the substantial amount of business to business transactions, where the customers in that case are often small or very small businesses

Now the crucial point is that these are largely food and energy products. They are the staples of life. They are products which form a larger proportion of expenditure in low income families than in high income families.

More often than not competition in such markets means price competition. And price competition in such goods is largely based on comparisons between unit prices.

The significance of this is that buyers must trust the accuracy of both price and quantity declarations if they are to have confidence in the integrity of the pricing mechanism.

But there is an even greater significance when it comes to quantity statements. Buyers usually know, sooner or later, when they have been overcharged. They hardly ever know if they have been given short measure. The integrity of the pricing mechanism for such goods, therefore, depends not just on the accuracy of those measurements but on the confidence buyers have in those measurements at the point of sale.

This in turn has implications for how we approach Risk Management. The vast majority of buyers – including small business customers - cannot make their own measurements to the relevant degree of accuracy. So, if this trust in stated measurements is ever lost, the cost of restoring it will be immense. In the meantime, the basis on which price competition operates in markets for staple goods will be seriously disrupted as buyers start making their own judgements on who they can

and cannot trust. I emphasise “try”, but in reality they don’t have the tools available to make those judgments, which will simply mean that the market disruption is inherently unpredictable.

Be that as it may, when it comes to assessing risk we need to view this largely in terms of what the theorists would call “inherent risk”, ie the likelihood and severity of what would happen if current control mechanisms – the enforcement of the body of Weight & Measures legislation – cease to be effective.

So is this Fair Trading? The phrase is undoubtedly a wide one. And I hope the comments already made are sufficient to demonstrate that it should be wide enough to encompass statements regarding price and quantity as well as statements regarding quality or fitness for purpose. What we are talking about here are untruthful statements – or highly relevant pieces of information withheld – which not only change individual purchasing decisions but also undermine trust in the competitive market itself.

Some of these concepts are quite close to that of the Unfair Commercial Practices Directive, but that can hardly be surprising – a number of the individual pieces of legislation mentioned by Rogers as under the banner of “Fair Trading” have already been replaced by the Consumer Protection from Unfair Trading Regulations. But it is possible to go further - if we are to have a coherent view of what we mean by “Fair Trading” it arguably has to embrace some business to business transactions where small businesses can be every bit as vulnerable to sharp practice as consumers. And it has to embrace regulation aimed at all aspects of ensuring a level playing field in competitive markets, which means those which relate to both price and quantity, and not just questions of quality, specifications etc

So, what are the conclusions we can draw from this?

1. It is undoubtedly right that Fair Trading is regarded as a priority – it goes to the heart of how competitive markets work
2. A failure in any one part of the system can destroy confidence in the whole edifice. The need to avoid non-compliances which threaten that trust is thus a *national* as well as a *local* issue
3. As both the Hertfordshire and West Sussex case studies illustrate, action under this heading can have a beneficial impact far outside the traditional boundaries of consumer protection
4. What is or is not covered by this priority should not be a matter of some random selection of sectoral legislation, individual sales techniques, or even concepts of such as “roguery”. It has to be defined in terms of outcome. And the clearest outcome we are seeking is a maintained confidence in integrity - integrity not just in what traders claim, but integrity of the markets themselves
5. And finally to return to the area of Weights & Measures, the difficulty in establishing the truth of claims concerning measurement means that enforcement must essentially be a matter of public law. It would be very odd if in setting our priorities we could ignore quantity in order to concentrate on quality, or to turn away from the markets where, in times of financial tightness, value for money is of ever more importance to the most vulnerable of our citizens.