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HOMEBUILDING SECTOR IS BROADLY COMPETITIVE – OFT Industry agrees to introduce new code to protect consumers

The OFT has today published its market study into the homebuilding sector which says that whilst the sector is broadly competitive, many homebuyers experience faults or delays. As a result, the industry has agreed to develop its own code of conduct and redress scheme for consumers.

The OFT found little evidence of competition problems with the delivery of new homes in the UK. The report says that on the whole barriers to entering the market appear low, and that prices are set through homebuilders competing for sales against each other and are significantly constrained by the prices of existing homes. There is no evidence that individual homebuilders have persistent or widespread market power giving them the ability to restrict supply in order to inflate prices.

However, the OFT found that homebuyers can experience a number of problems, which include:

- delays in moving in
- faults in new homes

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- issues around the sales process including reservation fees, the clarity of information provided to homebuyers and potentially unfair terms and conditions in contracts.

As a result, representatives from across the sector have agreed to form a body to deliver a code of conduct and redress scheme for consumers, which it aims to have fully operational by March 2010. However, if the industry fails to make adequate progress or deliver an effective solution, the OFT recommends further intervention through a statutory redress mechanism. This would involve a means of redress for homebuyers with the ability to award compensation for any failings in the sales process, shortcomings in contracts, delays or faults, and would need to be funded by a levy on the industry.

John Fingleton, OFT Chief Executive, said:

‘We have found the homebuilding market to be generally competitive, with no evidence that individual homebuilders have the ability to restrict supply in order to inflate prices or to hoard land for anti-competitive reasons.

‘However we have concluded that homebuyers need more protection when buying a new home and we have worked hard with the industry to help it develop a new approach to self-regulation that will improve consumer protection.

‘We believe that this measure will position this important sector of the economy to provide better levels of consumer satisfaction, with long term benefits to the industry and consumer alike.’

The study also found no evidence that homebuilders have the ability to anti-competitively hoard land or withhold a large amount of land with planning permission on which they have not started to build. Instead ‘landbanking’ reflects the need for firms to have a pipeline of land at different stages in the development process.

The report also stresses the importance of maintaining a vibrant small and self build sector. This includes recommending that the Government and the Welsh Assembly should help small homebuilders and self builders meet the technological advances required by the Code for Sustainable Homes by enabling them to make use of ‘off-the-peg’ solutions. They should also consider assisting small homebuilders and self builders to access the necessary technologies to overcome the zero carbon challenge.

NOTES

- 1 To access the full report visit www.ofc.gov.uk/homebuilding
- 2 The code of conduct is being developed by a Cross Industry Steering Group comprising the Construction Employers Federation (NI), Council of Mortgage Lenders, Federation of Master Builders, Home Builders Association, Home Builders Federation, Homes for Scotland, LABC New Home Warranty, National House Building Council, Premier Guarantee, Retirement Housing Group and Zurich Building Guarantee.

- 3 The Barker Review of Housing Supply, which was set up in 2003 to look at the reasons for the lack of supply and low responsiveness of housing in the UK, published its final report in March 2004. This called on the industry to increase levels of customer satisfaction and to introduce a code of conduct. It said that if progress was unsatisfactory, or consumer satisfaction levels did not rise substantially in the three years following the report, the OFT should conduct a wide-ranging review of the market.
- 4 The OFT launched this market study in June 2007. The principal focus has been an examination of the role of competition in the supply of new homes and the consumer issues surrounding the new build homebuying process.
- 5 OFT Market Studies are carried out under section 5 of the Enterprise Act 2002 (EA02) which allows a market-wide consideration of both competition and consumer issues. Possible outcomes of a market study include:
 - a. giving the market a clean bill of health,
 - b. publishing information to help consumers,
 - c. encouraging firms to take voluntary action,
 - d. encouraging an industry code of practice,
 - e. making recommendations to the Government or sector regulators,
 - f. investigation and enforcement action against companies suspected of breaching consumer or competition law,
 - g. a market investigation reference to the Competition Commission.

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