

Better Regulation Delivery Office

consultation@brdo.bis.gsi.gov.uk

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Dear Sir or Madam

Non-economic Regulators: Duty to Have Regard to Growth

Introduction

The National Federation of Property Professionals (NFOPP) comprises a number of divisions which are professional bodies/self regulatory organisations that represent and regulate agents conducting a wide variety of property work. Agents join the divisions of NFOPP purely voluntary and some members belong to more than one division. The aim of all of NFOPP's divisions is to support members by promoting the highest standards of professionalism and integrity, and to encourage the public to proactively choose our members.

NFOPP comprises:

- National Association of Estate Agents
- National Association of Valuers and Auctioneers
- Institution of Commercial and Business Agents
- Association of Residential Lettings Agents (ARLA).

Members of all divisions must meet various requirements in order to initially obtain and subsequently maintain their membership. These requirements are designed to protect consumers.

Q1: Should primary legislation be used to introduce a duty for regulators to have regard to growth and the economic impact of their actions?

No. We do not believe that progressing primary legislation in this area would be a good use of scarce parliamentary time. The current system of consultation with the private sector includes detailed impact assessments, and strikes the right balance. ARLA has recently written to the BRDO to express support for the proposal to extend the Primary Authority scheme to the Housing, Health & Safety Rating System. Extension of the scheme is a responsible way to support businesses and consumers, but to impose a legal duty on regulators to have regard to growth is a bridge too far.

Despite the intention not to detract for the important public protection role that regulators perform we fear that this would be the outcome, especially because of the proposal to measure regulators' performance in relation to the proposed new duty. No details are provided as to how performance will be measured, but if the number of new business starts ups is used as a measure, and if non compliance is tolerated for an initial grace period, then this would disadvantage established businesses.

It may be helpful if we provide some examples of our concerns. We would prefer Companies House to focus on steps to improve the integrity of companies rather than make the process of setting up a company even easier in the hope that this will drive growth. The proposed application of a statutory duty of growth towards HMRC in respect of their anti money laundering (AML) function is also alarming given the inconsistencies that have been identified between HMRC's approach to supervision and the generally more robust approach taken by the other AML supervisors which oversee the same sector. It is unacceptable for the government to create such a 'race to the bottom'.

The consultation paper does not deal with the apparent tension between the proposal and the increasing potential for unlimited fines for breaches of secondary regulations¹.

ARLA lobbied in support of the powers in the Enterprise and Regulatory Reform Bill which will allow the Government to apply consumer redress to lettings agents. In fact we support statutory regulation and ARLA's proposals for regulation of the lettings sector are enclosed.

Yours faithfully



ELIZABETH RICHARDS

Consultation Lead

¹ An unlimited fine can be imposed for a conviction on indictment of an offence under the Consumer Protection from Unfair Trading Regulations (2008).