

# Response to Discussion paper: Enforcement

## Introduction

As with Discussion paper 1, the underlying assumption behind the consultation paper appears to be that the current enforcement regime is onerous, expensive (for both traders and enforcers) and ineffective. UKMA questions these assumptions.

The paper indicates that in 2005-6, 28.7% of businesses were inspected. This suggests that if all businesses were equally likely to be inspected, then each business could expect on average to be visited once in every three and a half years. We do not think this is onerous.

The average cost of inspection is estimated at £500, although the range of costs is not indicated, nor whether the average is typical. Again, if this is averaged over three and a half years, the annual cost would be £174 per year (which would of course be allowable against tax liability). The global cost for all businesses is estimated at £42.3 million. In the context of the total turnover of goods and services produced by the businesses concerned (£289 billion in 2004 for the retail industry alone<sup>1</sup>) we do not think these are large sums.

The effectiveness of the current regime is less easy to assess. The paper indicates that 87.64% of businesses were compliant. In other words, about one in eight businesses is not compliant. Arguably, this is a cause for concern and suggests that a more rigorous inspection regime is called for.

## Measurement units compliance

UKMA's primary interest in weights and measures enforcement lies with the use of measurement units. Anecdotal evidence from numerous observations in different parts of the UK suggests that compliance with Clause 8 of the Weights and Measures Act (requiring trade to be in metric units) and with the Price Marking Order generally (requiring unit prices per metric unit to be displayed) is patchy. The larger supermarkets, which account for the majority of food sales, generally comply with the law. However, smaller shops and especially market stalls are much more likely to be non-compliant. This tends to reflect a number of factors, including the socio-economic group served by the trader, the degree of hostility of individual traders to what is incorrectly perceived to be a "foreign" imposition, and the priority attached to the issue by local trading standards officers.

UKMA considers that the importance of consistent use of legal measurement units is frequently underestimated by the authorities. Traders who use imperial scales may well be giving short measure as their scales cannot be checked for accuracy, and the customer has no opportunity to make their own check at the point of sale. Traders who display only imperial prices (or inaccurate imperial prices as supplementary indications) are preventing customers from making value for money comparisons with the prices of traders who do comply with the law. This can give them a competitive advantage, which may tempt other traders to break the law. This has led in some cases to entire markets (such as Portobello Road in the Royal Borough of Kensington and Chelsea) becoming predominantly imperial-only – with little effective intervention by the local authority concerned.

UKMA's conclusion is that greater emphasis should be placed on enforcement of the rules

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1 Source: Table 24.1 of Annual Abstract of Statistics, 2007

surrounding measurement units. The current approach has failed to ensure that a single legal system is in use and it is therefore helping to condone and perpetuate the current “two systems” muddle. It is understandable that local authorities wish to avoid a confrontational approach, but the fact that some local authorities have succeeded in enforcing the law demonstrates that a determined approach can succeed. Indeed, it is likely that once a fully compliant situation has been achieved, reversion to use of imperial measures is unlikely, and the resources devoted to enforcement in this area can be reduced – resulting in savings for business and enforcers alike.

## **Questions posed in the Document**

### **A. What is the objective of enforcing the legislation?**

See answer to Question 1 of Discussion Paper 1.

### **B. What do you see as the biggest challenges to the enforcement of weights and measures legislation?**

In regard to measurement units:

- Failure of successive governments to give a lead and actively promote metric units as the primary legal system in the UK
- Hostility of some traders, supported by some politicians and sections of the media, to what they incorrectly perceive to be a foreign imposition
- Political interference by some local authority members

### **C. How can these issues in the enforcement of weights and measures legislation be overcome?**

- The government needs to give a lead and support local authorities that enforce the law effectively. This could be a performance measure in the allocation of Revenue Support Grant.
- Publication of accurate information – e.g. setting the record straight on misinformation in the media about the role of the European Union in the regulation of measurement units

### **D. and E. How should weights and measures legislation be most appropriately enforced? What structure should be in place to do this?**

Enforcement is partly a local and partly a national function. This is because shops and traders operate locally, but many (e.g. big supermarket chains and online traders) are governed at a national level. At the same time many local authorities lack the resources to deal with large companies with many outlets. The present regime of “home authorities” attempts to tackle this problem, but it cannot ensure consistency between different “home authorities”.

We would suggest that consideration should be given to establishing a national enforcement authority for dealing with major national companies that operate through many outlets.

The grouping of local authorities and pooling of resources should also be encouraged.

**F. Are current compliance rates acceptable? If not, what options are open to regulators to drive rates up?**

The overall compliance rate of 87.64% is a cause for concern generally. The reasons for this low rate of compliance need to be established. For example, if it is because traders calculate that they are unlikely to be inspected and any non-compliance detected, they may be prepared to risk illegal practices. Equally, if they think that trading standards officers may “turn a blind eye” to transgressions, they may be less scrupulous in observing the rules.

The solutions will depend on the answers to these questions. Probably the most important message to communicate is that if traders do break the rules they are likely to be detected.

**Appendix: The NCC report, “Measuring up<sup>2</sup>”**

We should like to comment on this report, which is referred to in the Document. It was explicitly a report about consumer perceptions rather than about consumer behaviour. It appears to show that the eight focus groups who were interviewed made little use of unit pricing (because they did not understand or could not read it) and concludes that it is therefore not a priority. The study also reported that the participants in the focus groups “far from expressing much anxiety ... came across as unexpectedly comfortable with their ability to make informed decisions” (about value for money in the street market). However, this may simply show that many shoppers are unaware that they are paying more than they need to for similar products - especially if they can’t compare metric prices in the supermarket with imperial prices in the street market. A more reliable and credible survey would compare a proper sample of shoppers’ perceptions with observation of their actual behaviour.

It is simply not plausible that most shoppers are indifferent to whether they are getting value for money. This section (at least) of the report lacks credibility and should not be used as a basis for policy-making.

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<sup>2</sup> Terry A. and Cullum P. 2006 “Measuring Up: Consumer Perceptions of Weights and Measures Legislation,” National Consumer Council