

DRAFT RESPONSE SERVICE

As part of the Rural Opportunities Bulletin, RSN will regularly provide concise potential responses to key current consultations. These are not intended to be definitive or to reflect the views of RSN and may include potentially opposing responses to reflect different views designed to assist individual organisations in compiling their own response. We do however recognise the pressure members are under and we hope this service will assist.

Protecting the independent press from unfair competition – Department for Communities and Local Government, April 2013

<https://www.gov.uk/government/consultations/protecting-the-independent-press-from-unfair-competition>

The 'Publicity Code' provides guidance on the content, style, distribution and cost of local authority publicity. This code applies to all local authorities in England and builds on the government's commitment to "impose tougher rules to stop unfair competition by local authority newspapers." The new publicity code includes specific guidance about the frequency, content and appearance of local authority newspapers, including recommending that principal local authorities limit the publication of any newspaper to once a quarter and parish and town councils limit their newsletters etc to once a month. The new Code also represented a major reshaping of the earlier Codes, for clarity grouping the guidance under 7 principles. These principles are that local authority publicity should be:

- Lawful
- Cost effective
- Objective
- Even-handed
- Appropriate
- Have regard to equality and diversity
- Be issued with care during periods of heightened sensitivity.

This consultation sets out the government's proposals to give the guidance greater force by putting compliance with the Publicity Code on a statutory basis. All local authorities are being consulted and the consultation closes on 6 May 2013.

Consultation Question 1 – *Views on the proposed legislation are invited, and in particular do consultees see the proposals as fully delivering the commitment to give greater force to the Publicity Code by putting compliance on a statutory basis?*

Draft Response: The Publicity Code provides useful and clear guidance on the use of newspapers and other publicity by local authorities including a clear set of guiding principles. However, the need to provide statutory enforcement against this code is not apparent from the consultation document which has been published. The document states that the majority of local authorities comply fully with the code but "there are still cases where this is not so." The consultation document provides no evidence of the scale of any non-compliance and, therefore, it

is difficult to gauge the proportionality of the proposals against the issue which exists. There appears a real danger of 'a sledgehammer being used to crack a nut' in this instance.

If there are examples of local authorities contravening the Code then this is, indeed, regrettable. It is suggested that if statutory compliance is considered the appropriate remedy that this should be restricted to named authorities in each instance rather than the opportunity, as currently stated, for the secretary of state to issue a direction to all, or a large group, of local authorities. This would appear a much more efficient and directed way to deal with any non-compliance. Such an approach will not penalise compliant authorities and would serve to better highlight specific issues which are of concern to the government.

Consultation Question 2 – *If there is alternative to the power of direction, how will this meet the aim of improved enforcement of the code?*

Draft Response: An alternative approach would be to use existing networks to promote good practice in relation to publicity which is compliant with the Code and, potentially, for the government to highlight non-compliance. If a power of direction is to be utilised as a last resort then this should be as surgical in its nature as possible and be specifically directed at clear non-compliance with the principles of the code rather than an indiscriminate direction at larger groups of local authorities, the vast majority of which are acknowledged as complying with the Publicity Code.

Consultation Question 3 – *This consultation invites evidence of the circumstances where the code was not met and the implications of this on competition in local media.*

Draft Response: Such evidence would best be gathered prior to determining the appropriate response to non-compliance with the Publicity Code. This would ensure any proposals for a power of direction are appropriate in scale and effectively targeted. It is suggested that a further consultation is issued on this matter following receipt and assessment of evidence of non-compliance.