

## ANNEX D

### REGULATORY IMPACT ASSESSMENT

#### Title of proposed measure:

**The Unsolicited Goods and Services Act 1971 Regulatory Reform Order**

#### Objective

*Section 3 of the 1971 Act, and the 1975 Regulations*

1. The proposed Regulatory Reform Order (RRO) would amend section 3 of the Unsolicited Goods and Services Act 1971 (referred to as “the 1971 Act”). Section 3 contains requirements governing the manner in which a directory publisher must gain authorisation from a business or individual that wishes to pay for an entry in a directory. These are requirements that directory publishers must follow prior to claiming payment for the entry. The Act prescribes three methods of paying for a directory entry:
  - The Business Order Form Method, which is where a request for a directory entry is sent on the business’ own order form or other stationery belonging to the business and bearing in print its name and address (referred to as “Business Order Forms” in this consultation document);
  - The Business ‘Note’ method, which is where a ‘note’ agreeing to the charge is produced by a directory publisher and signed by the business; and
  - The Electronic Communications method, which is where an electronic communication agreeing to the charge is sent by the business.<sup>1</sup>
2. There is also a supplementary proposal to amend the Unsolicited Goods and Services (Invoices etc) Regulations 1975 (the “1975 Regulations”). These regulations govern the contents of “invoices and similar documents”. The 1975 Regulations specify the requirements as to content and form with which an invoice or similar document must comply in order for it **not** to be regarded as asserting a right to payment (for the purposes of sections 2 and 3 of the 1971 Act). The 1975 Regulations include the requirement that the document state “THIS IS NOT A DEMAND FOR PAYMENT. THERE IS NO OBLIGATION TO PAY” or “THIS IS NOT A BILL”. The requirements in the 1975 regulations apply to paper based documents only.

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<sup>1</sup> A parallel regulatory change is underway to create “electronic business order forms”, which will dis-apply the information requirements for where an Order is sent electronically. This is to ensure compatibility between UGSA and the European E-Commerce Directive. See condoc attached as Annex E.

### *The problem defined*

3. The 1971 Act requires a complex and time-consuming authorisation procedure to be followed, whenever an entry in a directory is paid for. The 1971 Act's requirements also prevent efficient methods of payment, such as using credit or debit cards over the telephone without written formalities. Whenever a Business Note is issued by the directory publisher or an electronic communication sent, the directory publisher is also required to provide a range of information, stating
  - amount of charge
  - name of directory/proposed directory
  - name of person producing directory
  - his geographical address
  - if directory in printed form, proposed date of publication of directory or issue in which entry appears
  - if directory to be put on sale, its price and minimum number of copies available for sale
  - if directory is free, minimum number of copies to be distributed
  - if directory in non-printed form, adequate details of how it may be accessed
  - reasonable particulars of entry in the directory/proposed directory

A copy of this note must also be supplied to the business prior to their signing it, for their retention.

### *The objectives of the proposal*

4. The authorisation requirements are burdensome for both directory publishers and those who pay to advertise in directories. They require the authorisation process to be followed for all directory entries including repeat or renewed entries, and regardless of whether there is an existing business relationship between advertiser and directory publisher.
5. It is proposed, therefore, that the strict authorisation requirements for a repeat or a renewed entry in a directory be dis-applied. It is also proposed that businesses and individuals be given the opportunity to enter into an agreement for an initial entry immediately over the telephone. This proposal would also dispense with the need for any written communications, provided they are given sufficient information to make an informed decision and pay for the entry via debit or credit card. This is standard, modern commercial practice.
6. The amendments proposed to the 1975 regulations are to update them, so that the protections they contain apply to electronic as well as paper based documents.

7. The consultation responses were almost unanimous in supporting this approach<sup>2</sup>, noting that the risk of “scams” was minimal where the Act’s authorisation procedures were dis-applied for repeats or renewals for directory entries. Most submissions considered the existence of an on-going business relationship was sufficient to establish there was a basis of confidence and trust between business advertisers and directory publishers. This made the full authorisation processes for repeats and renewals unnecessary. The OFT, however, was concerned at the second proposal of providing initial authorisation without written authorisation via the telephone.
8. The proposals aim to reduce the administrative burden for directory publishers, by relaxing authorisation requirements while still ensuring that businesses and individuals who choose to pay for directory entries retain necessary protection from scams. The Consumer White Paper “Modern Markets: Confident Consumers” (July 1999) included a commitment to simplify the provisions set out in the 1971 Act on charging for entries in directories.

### **Extent of the 1971 Act to Devolved Administrations**

9. The 1971 Act extends to Wales; the proposed changes do not impact on Assembly functions. The subject matter is reserved under Section C7 of Schedule 5 to the Scotland Act 1998. The 1971 Act does not extend to Northern Ireland, and the Northern Ireland Department of Enterprise, Trade and Investment intends to introduce parallel legislation there. The same applies to the 1975 Regulations.

### **Background to the 1971 Act**

#### *The scams perpetrated prior to the 1971 Act*

10. The 1971 Act was passed to protect businesses and individuals from rogue directory publishers who operated certain types of scams. The 1971 Act makes no distinction between a business and an individual (that is, persons acting in a non-business capacity) who chooses to take out a paid entry in a directory. However, in practice few individuals choose to place paid entries in directories, and this Regulatory Impact Assessment generally refers only to business clients.
11. There were two types of scams that were predominantly practised prior to the 1971 Act coming into force:
  - Some rogue ‘directory publishers’ had the practice of sending businesses invoices for entries in directories without having gained their approval for inclusion. Some businesses would unwittingly pay

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<sup>2</sup> Two submissions opposed both proposals 1 and 2, being Harrogate Chamber of Trade and Commerce and Mathews and Wilson Ltd. However, their concerns related more to the activities of bogus publishers operating from outside the UK (not covered by the 1971 Act anyway) than these particular proposals.

such invoices (especially where follow up demands for payment and threats of retribution were made). Those responsible for such scams were often not 'directory publishers' at all, but simply claimed to have produced a non-existent directory. Where publications were produced, they were not generally of any commercial value and were not the type of production that a legitimate directory publisher would choose to be involved with or that a business would choose to advertise in.

- Alternatively, some 'directory publishers' would send businesses documents, often asking for verification of details such as address and phone number, but which included 'small print'. The small print provided that the effect of verifying details is to grant authority to the directory publisher for inclusion of an entry in the directory and to give consent to be charged for that entry. The directory publishers involved would say they had received due authorisation and claim payment. This type of action was taken by people who would not produce a commercially viable publication. It was not a tactic used by the bona fide directory publishing industry.

*The 1971 Act addressed these scams through an authorisation process*

12. The 1971 Act addressed these issues by allowing businesses to refuse payment for unauthorised directory entries and to reclaim any such payments made. It also made it an offence to claim payment for a directory entry without knowing or having reasonable cause to believe that the entry was authorised in accordance with the methods of authorising payment that were set out in section 3 of the Act and have been discussed above.
13. The 1975 Regulations were made under section 3A of the 1971 Act. The 1971 Act provides that any invoice or similar document stating the amount of any payment *and not complying* with the requirements of regulations made under section 3A shall be regarded as asserting a right to payment. Section 3(2) ("directory entries") of the 1971 Act makes it an offence, amongst other things, to assert a right to payment for a directory entry without knowing or having reasonable cause to believe that the entry has been duly authorised in accordance with the 1971 Act.

*Burdens imposed by the 1971 Act*

14. While the 1971 Act provides protection for businesses from rogue directory publishers, it also places a number of burdens on legitimate directory publishers and on those who choose to pay for directory entries. The requirement for written formalities to be followed may ignore the realities of the modern business world. In particular, widespread concerns have been expressed in the past about the authorisation process applying equally to initial as well as repeat entries and renewals.

15. The 1971 Act requires the same set of formalities to be carried out for every entry in a directory regardless of whether the client is merely 'rolling over' or repeating their directory entry from one issue to the next. This places an unnecessary burden on the reputable publishing industry that is trying to compete in an increasingly international marketplace. While an authorisation process in some form may still be required for initial entries to ensure that necessary protections remain, there seems little justification requiring it for repeat or renewed entries.
16. The world of directory publishing has changed dramatically in recent years. On-line directories are now commonplace and clients can update their entries on a much more regular basis. In this context, the need to make a prescribed authorisation for every repeat entry has become increasingly burdensome. On-line directories may be based anywhere in the world, and more burdensome compliance requirements place British directory publishers at a disadvantage compared to European publishers.<sup>3</sup>
17. Businesses also cannot opt to pay for a directory entry over the phone immediately with a credit or debit card, without the need to follow prescribed written formalities. A paper or electronic document, containing specific information, must be sent by the business to authorise an entry prior to payment being made. This process necessitates a further phone call should a business wish to pay over the phone with a credit or debit card.
18. This authorisation process and associated costs place directory publishers at a competitive disadvantage to related industries, such as newspaper advertising, where debit and credit card payments over the phone are widely used. It is also frustrating for businesses that wish to utilise an immediate and direct payment method. Our view is that the authorisation process should not preclude initial entries being authorised over the phone, provided a business receives sufficient information to make an informed decision and is confident enough to pay immediately via a credit or debit card.

*The 1975 Regulations apply to paper documents only*

19. The 1975 Regulations governing the form of "invoice(s) or similar document(s) stating the amount of any payment" only apply to paper based documents. There is no evidence yet of electronically based invoicing scams, yet it is still appropriate to amend the Regulations to mitigate the risk.

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<sup>3</sup> The Electronic Commerce (EC Directive) Regulations 2002 provide that businesses within the European Economic Area (EEA) which provide "information society services" are subject to the laws of their own country and can not be hindered by the national law of other EEA states. This is where those provisions impose requirements restricting freedom to provide the service. In other words, these Regulations allow a directory publisher elsewhere in the EEA to operate electronically in Britain without being subject to the 1971 Act and 1975 Regulations.

## Risk assessment

### The Directory Publishing industry

20. The proposals directly affect directory publishers and those who pay to advertise in directories. Indirectly, they affect all businesses that could be targeted by rogue directory publishers. They also affect suppliers under section 2 of the 1971 Act, to the extent that they might have to make some minor changes to their invoicing.
21. The Directory publishing market is worth about £1.4B per annum. Business to Consumer directories (dominated by Yell (Yellow Pages)) comprise between £800.000 and £1B per annum. Business-to-Business directories are about £200 – £300 million per annum.<sup>4</sup> There is also a small number of directories which are non-advertising and service the professional reference market. Many publishing houses also publish directories as a sideline to their other business. The four groups that would primarily be affected by changes to the 1971 Act and 1975 Regulations are:
- Directory Publishers
  - Businesses generally (who either advertise in directories or who could be targeted by rogue directory publishers) and
  - To a much lesser extent, individuals acting in a non-business capacity (consumers) that choose to pay for an entry in a directory.
22. The proposal to amend the 1975 Regulations would also affect suppliers who do not wish to be regarded as asserting a right to payment for certain unsolicited goods (for the purposes of section 2 of the 1971 Act).
23. There are risks if the 1971 Act and 1975 Regulations are changed and if they are not changed. This section considers the four groups affected and the risks if the 1971 Act and 1975 Regulations are both amended or left as they are.

### Directory Publishers

24. The primary aim of the 1971 Act is to protect businesses from rogue directory publishers. However, the burdens of the Act affect the way legitimate directory publishers must gain authorisation in order to claim payment for a directory entry. There are no additional risks for directory publishers if the 1971 Act is amended. The risks if the Act is not amended are as follows:

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<sup>4</sup> Information gained from personnel in the industry. The figures are based on directory publishing within the UK, though actual industry turnover is greater, because it takes account of publishing accounts overseas. For example, Yell's actual revenue in 2003/04 was £1.1B.

- British firms who have devoted resources to comply with the 1971 Act are at a competitive disadvantage to foreign competitors who are not burdened with the Act's requirements.
  - The competitiveness of the Directory publishing industry with domestic classified newspaper publishers is also compromised, as no such authorisation requirements apply to them.
  - Legitimate directory publishers who fail to comply entirely with the 1971 Act could have their contracts deemed invalid, allowing business clients to reclaim money paid for their directory entries.
  - Bona fide directory publishers may be prosecuted for a criminal offence, for behaving in a manner that, while not legal, does not 'scam' or harm anyone involved.
26. Anecdotal evidence suggests that some legitimate directory publishers do not follow the 1971 Act correctly for repeat or renewed entries. Such behaviour is unlikely to come to the attention of authorities as the directory publishers are providing a service their advertisers are happy to pay for. It seems appropriate to legitimise actions that are not viewed as harmful to those who pay to place entries in directories.

### Businesses

27. The main risks for business advertisers arise if the 1971 Act *is* amended. The risks relate to an upsurge in the number of scams from bogus publishers similar to those practised prior to the 1971 Act. These risks would be managed by
- dis-applying the authorisation procedures **only** for repeat or renewals of directory entries, and
  - providing a process for authorising an entry in a business directory over the telephone **only** where a business is confident enough to give out credit or debit card details.

### *Repeats and renewals of directory entries*

- The authorisation process for repeats or renewals of directory entries would be dis-applied where the transaction took place between the original contracting parties (or parties to a Novation agreement).<sup>5</sup> In other words, there would be an existing business relationship.

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<sup>5</sup> Change made in response to submissions. While legally the contracting parties may have changed, the organisations involved remain the same, and there is a process of entering a "novation agreement" to recognise this:

- The authorisation process for repeats or renewals of entries would only be dis-applied where there has not been a significant change in form, content or distribution of the directory.
  - For repeat entries, the position will be governed by ordinary contractual principles. Business will still have to signify agreement to the directory publisher to continue the arrangement.
  - The Control of Misleading Advertisements Regulations 1988 (the 1988 Regulations) provide an alternative means of investigation and protection against “scam” practices for repeat entries. These regulations apply where documents are deemed misleading advertisements.<sup>6</sup>
28. As indicated above, there were two scams that the 1971 Act was introduced to protect business advertisers from. The first involved directory publishers “verification” documents with small print signing them up to directory entries. The second involved sending an invoice for an unsolicited entry in the hope that the business would pay it. Neither of these scams is likely to be perpetuated under this approach. A directory publisher who followed the authorisation process for an initial entry is unlikely to then revert to dubious practices for subsequent entries.

#### *Telephone authorisation*

- The proposal to allow telephone authorisation of initial entries involves amending section 3 of the 1971 Act to allow those who wish to pay for an entry in a directory to agree to the entry without complying with any written formalities.
- Provision for telephone authorisation would be made on the condition that the business advertiser had been verbally provided with specific information by the directory publisher and wished to pay by credit or debit card.
- Under the telephone authorisation proposal, the directory publisher will still have to provide specific information. If a business that wishes to pay for the directory entry is concerned about the veracity of the caller or the directory, they can still opt to use the alternative authorisation procedures. That is, seek information in writing.

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<sup>6</sup> The Control of Misleading Advertisements Regulations 1988 (the “1988 Regulations”) provide that in certain circumstances the Office of Fair Trading may apply for an injunction to stop publication of misleading advertisements. The 1988 Regulations define an advertisement as “any form of representation which is made in connection with a trade, business, craft or profession in order to promote the supply or transfer of goods or services...”. An advertisement is deemed misleading if it, broadly speaking, in any way, including its presentation, deceives persons and by reason of its deceptive nature is likely to affect their economic behaviour.

- The Business may decide not to provide credit or debit card details over the phone. This is a decision businesses may make when providing such details for *any* telephone transaction. The willingness to provide such details indicates a certain degree of confidence in the supplier.

29. The telephone authorisation proposal would bring the industry into line with other areas, such as newspaper advertising, that permit services to be paid for immediately over the phone without following written formalities. This proposal is unlikely to lead to an increase in scams in this area. The scams practised in the directory publisher field within the UK have been paper-based. The Act does not provide any protection against foreign-based scams using the telephone, as it does not apply to “bogus” publishers operating from overseas.<sup>7</sup>

30. As well as the risks, there are some benefits for business if the Act is amended, in terms of needing to manage less paper work when placing an ad in a business directory. The telephone authorisation proposal will save businesses time and money by allowing them to take advantage of simpler payment methods for initial directory entries.

31. The submission from the OFT did not support the telephone authorisation proposal, though other submissions including the Trading Standards Institute did. The OFT saw telephone authorisation as providing another means for scammers to practise their scams (though there was no indication of UK bogus publishers doing so to date). They questioned the ability of agencies to enforce the verbal information requirements.

32. The DTI acknowledges the OFT’s concerns. However, it does not consider that the risks in relation to directory publishing are significantly greater than for related industries. For example, phone orders are accepted without written paper work or prescribing information for classified newspaper advertisements. It considers the potential benefits of the proposal outweigh any potential increase in risk, which would probably be slight, and wishes to proceed with this proposal.

### *The 1975 Regulations*

33. A proposed change to the 1975 Regulations, which currently apply only to paper-based documents, will reduce the risk that rogue directory publishers will attempt to circumvent the restrictions by operating electronically based scams.

### Consumers

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<sup>7</sup> See below paragraph 38, indicating the best mechanism for combating such scams is through the co-operation between the enforcement agencies of Member States across the European Union and European Economic Area.

34. Consumers will not incur any additional risks from rogue directory publishers if the 1971 Act is not amended. The protections outlined above for businesses will still apply if the 1971 Act is amended.

#### Suppliers under section 2 of the 1971 Act

35. The 1975 Regulations apply to suppliers who wish to send documents to businesses stating the amount of any payment, but who do not wish to be regarded as asserting a right to payment. If the proposal to extend the 1975 Regulations to cover electronic documents is not taken forward, then there is a risk that such suppliers will attempt to get around the 1975 Regulations, without fear of sanction. They would do this by utilising electronic communications to send documents that could be mistaken by businesses for legitimate invoices requiring payment.

#### **Issues of equity and fairness**

36. The key question of equity and fairness concerns whether the benefits of the proposals for the directory publishing industry and for those who choose to pay to advertise in directories, justify any increased risk for businesses from rogue directory publishers.

37. The proposals provide tangible benefits for the legitimate directory publishing industry and their clients, and this is not considered to come at any increased risk. The section on risk assessment (above) outlines the necessary protections that, in our view, will remain.

38. Furthermore, the 1971 Act does not currently provide comprehensive protection for businesses. The 1971 Act does not of itself have jurisdiction over rogue directory publishers based overseas and there are cases of such companies targeting British businesses. A recent instance involved the European City Guide based in Barcelona, which was prosecuted by Spanish authorities in March 2001 following international cooperation with the OFT.

39. There is little prosecution data to suggest that the 1971 Act is being used to protect businesses from scam behaviour within the UK. There was 1 prosecution made under the Act in the years 2000 and 2001. Given appears to be a lack of general awareness of the 1971 Act, and it seems unlikely that rogue directory publishing within the UK would immediately increase should a change be made. Regardless, the proposed changes still include protections for business.

40. We consider that there are tangible benefits offered by the proposals for legitimate directory publishers and their advertisers. We do not consider that these will place the general business community or individual consumers at any greater risk than where they undertake comparable transactions (such as placing an ad in a newspaper).

## Options

41. There were three options considered prior to the formulation of the proposals for consultation. These were:
- Option 1 – Do nothing
  - Option 2 – Define repeat or renewed directory entries and exempt them from the authorisation requirements of the 1971 Act, and allow those who choose to pay for directory entries to authorise an entry over the telephone in certain circumstances and in the absence of written communications.
  - Option 3 – Repeal section 3 of the 1971 Act

## Benefits

### *Option 1 - Do Nothing*

42. The 'do nothing' option retains maximum protection for businesses from rogue directory publishers. It is not possible to gauge the value this provided businesses. It is difficult to ascertain what costs businesses would incur from scams if the 1971 Act did not exist, as there is no pre-1971 data available for comparison.
43. This option would not advance the objective of reducing burdens on directory publishers. It would not incur any compliance costs – i.e. arising from policy implementation. It would also not result in any potential benefits for directory publishers and for businesses, in terms of less paper work or increasing competitiveness.

### *Option 2 – Define repeat or renewed directory entries and exempt them from the authorisation requirements of the 1971 Act, and allow those who choose to pay for directory entries to authorise an entry over the telephone in certain circumstances and in the absence of written communications*

44. The major strength of protection offered by the 1971 Act is to filter out rogue companies via the authorisation process for initial entries – the benefit of the 1971 Act's requirements for subsequent entries is significantly less clear. Removing the authorisation requirements for initial entries provides only marginal benefits for directory publishers. Most of the requirements reflect good practice for the reputable directory publishing industry when establishing a business relationship via an initial entry. Their removal could significantly increase the levels of risk for the business.
45. The presumption is that the business in a repeat or renewed entry scenario is able to make an informed decision – they have now formed a relationship with the publisher, they have seen one edition of the directory, and are happy to proceed with another.

46. The consultation has indicated that the benefits of the proposed changes are hard to quantify, in part because business has long since adapted to the current requirements. The Directory Publishers Association has estimated that some of the 1971 Act's authorisation requirements cost 25% more than methods that would be considered good practice within other industries. There are also significant opportunity costs arising from the time taken in administrative tasks rather than in obtaining sales.
47. There will be savings in time and paperwork for those who choose to pay for directory over the phone immediately, with a credit or debit card. It would also allow directory publishers to use more efficient processes. A conservative estimate arising from the consultation was that both proposals would lead to aggregate savings in a range of £800,000 to £1.2 m per annum for directory publishers alone. This is based on information from one large publisher, estimating annual savings of £476,155.<sup>8</sup>
48. This option would reduce the majority of the burdens imposed by the 1971 Act on directory publishers.

#### *Option 3 – Repeal section 3 of the 1971 Act*

49. This option would have the greatest financial benefit for directory publishers, who would generally be bound by contact law in their dealing with businesses, rather than by the 1971 Act. This would allow businesses to tailor their businesses processes more effectively and potentially be more competitive.
50. However, this option would provide only marginal benefits over the second option, and would increase unacceptably the risk to business from scams. As indicated above, the strength of the 1971 Act is in filtering out rogue traders through an upfront authorisation process.

### **Costs**

#### *Compliance costs*

##### *Option 1 – Do Nothing*

51. The “no change” option would not cause any implementation or policy costs. It would not, however, allow any potential benefits to be realised either.

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<sup>8</sup> The publisher estimated savings in labour, postage, printing paper, stationery, telephone call and customer service labour savings for approximately 100,000 orders per annum. This took into account current practices of sending duplicate paper work and/or making more than one chase call per account.

*Option 2 – Define repeat or renewed directory entries and exempt them from the authorisation requirements of the 1971 Act, and allow those who choose to pay for directory entries to authorise an entry over the telephone in certain circumstances and in the absence of written communication*

52. Option 2 will not directly lead to costs for directory publishers, although it provides the opportunity to amend business processes to take advantage of relaxed authorisation requirements. Such changes would presumably involve costs.
53. The possibility that these changes may lead to increased numbers of rogue directory publishers cannot be entirely ruled out. However, given alternative statutory instruments and protections that would remain, the minimum standards of behaviour required by this option, and the general lack of awareness of the 1971 Act, it is not thought that any significant increase in scams would result.

*Option 3 – Repeal section 3 of the 1971 Act*

54. This option had the same costs for directory publishers as for the chosen option, option 2. The repeal of *all* the provisions protecting businesses does potentially introduce costs for them via the risk of scams. While this option would have had the greatest financial benefit for directory publishers, it would have provided marginal benefits over the second option, and increased unacceptably the risk to business from scams.
55. The risk of repealing all authorisation requirements is that rogue directory publishers will have no specified minimum standard. They may take advantage of this to implement both novel scams and those the 1971 Act sought to provide protection against. Or operate practices that, while ripping off businesses, avoid breaking the law.

*Costs for a typical business*

54. Directory publishers would incur costs initially by taking advantage of relaxed authorisation procedures in order to make longer-term savings. These short-term costs are difficult to quantify.

### **Small Firms Impact Test**

55. The directory publishing industry has a small number of large companies that account for the majority of the turnover in the industry and a larger number of smaller companies. See the ‘Directory Publishing Industry’ section above for details.
56. Small businesses have indicated that they would welcome the proposed changes and would not be adversely affected. Previous consultation on the subject also generated universal support for the proposed measures from directory publishers of all sizes.

57. The general small business population could theoretically be affected by the changes if they became the targets of rogue directory publishers that targeted them for scams. Again, the actual likelihood of such action increasing in response to the proposed changes to the 1971 Act is slim. The possibility has been raised with the Small Business Service and responses to this consultation document will be used to gauge levels of concern.

### **Competition assessment**

58. The proposed changes to the 1971 Act are not considered to have any adverse impact on competition. The markets considered relevant to the proposals include:
- British directory publishers
  - The advertising industry
59. Within the directory publishing industry itself, the proposals were welcomed by all the firms approached, regardless of their size. The proposals would not limit competition within the industry or allow any one firm or type of firm to gain a competitive advantage over rivals. The proposals should reduce administration costs for directory publishers and this may allow them to compete more effectively within the wider advertising industry.

### **Enforcement and Sanctions**

60. Trading Standards Authorities throughout Britain are responsible for the enforcement of the 1971 Act, and would continue to be so under the proposals. While it would be necessary for staff to be aware of any changes, it is not envisaged that they would incur any costs in doing so, or in enforcing the amended Act.
61. There is no proposal to amend any of the sanctions associated with the 1971 Act.
62. Trading Standards Authorities were consulted via their representative body Local Authorities Coordinators of Regulatory Services (LACORS). They did not provide a submission in response to the proposals.

### **Monitoring and review**

63. Officers within the Department of Trade and Industry will retain responsibility for the 1971 Act. Monitoring of scams and rogue directory publishers will continue as part of the day-to-day activities of the Department. No official follow up is planned.

### **Consultation**

64. The Regulatory Reform Order consultation document, of which this Final Regulatory Impact Assessment forms a part, has a list of the organisations and groups being consulted about the proposals. It also details where the document can be accessed should further copies be required.
65. Previous consultation has been carried out on aspects of these proposals, the paper *Simplification of the Unsolicited Goods and Services Act 1971 (as amended)* – December 1999 is available at: <http://www.dti.gov.uk/CACP/ca/consultation/goodserv.htm>

## **Summary and Recommendation**

66. We recommend that Option 2 be implemented.
  - Option 1 involves no change, and while this continues to provide maximum protections for businesses from scams it does not address the burdens faced by legitimate directory publishers, which is the policy objective of this RRO.
  - Option 3 involves repeal of all authorisation requirements specific to directory publishers. This option advances the policy objective of reducing burdens for directory publishers. However, as it does not specify any minimum standards of behaviour it risks allowing businesses to be taken advantage of.
  - Option 2 advances the policy objective of reducing the large majority of operational burdens for directory publishers. It also maintains protection for businesses by retaining the authorisation process for initial entries, as well as providing a new authorisation process for agreeing directory entries over the telephone.
  - We view Option 2 as striking the right balance between saving directory publishers money by reducing burdens, and preventing businesses incurring costs due to scams. Quantified costs and benefits are difficult to ascertain, though savings for directory publishers alone are expected to be in a range of £800,000 to £1million per annum.

