

Title: Consultation on the Code of Practice on Noise from Ice-Cream Van Chimes Etc. 1982 IA No: Defra 1437 Lead department or agency: Defra Other departments or agencies: Cabinet Office	Impact Assessment (IA)				
	Date: 06/02/12				
	Stage: Consultation				
	Source of intervention: Domestic				
	Type of measure: Code of Practice				
Contact for enquiries: Neighbourhood Noise and Nuisance Team noise@defra.gsi.gov.uk					
Summary: Intervention and Options					RPC: Green

Cost of Preferred (or more likely) Option				
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, One-Out?	Measure qualifies as 'Out'
N/A	N/A	N/A	Yes	'Out'

What is the problem under consideration? Why is government intervention necessary?

Noise from ice-cream vans and similar vehicles can be an annoyance to the residential population. The Code of Practice on Noise from Ice-Cream Van Chimes Etc. (the Code) looks to manage this annoyance whilst allowing the operation of this sector. The Code was published in 1982 and has not been amended since. The proposed consultation has been written to see if it remains fit for purpose. This action was recommended under the Hospitality theme of the Red Tape Challenge, which aims to reduce unnecessary burdensome regulation on business.

What are the policy objectives and the intended effects?

Under section 62 of the Control of Pollution Act 1974 (COPA) it is an offence to operate a loudspeaker fixed to an ice-cream van or similar vehicle unless certain conditions are complied with. One such condition is that 'the loudspeaker is so operated as not to give reasonable cause for annoyance'. The Code, which is voluntary, gives guidance on methods of minimising annoyance.

The Code has been approved by the Secretary of State under section 71 of COPA. This gives mobile vendors some certainty that if they follow the guidance they are less likely to be found to be causing annoyance, as, if they were to be prosecuted, the courts must have regard to the Code in determining whether 'best practicable means' have been employed for minimising annoyance.

The objective of this exercise is to ensure that the Code is fit for purpose. A Code that is fit for purpose should allow mobile vendors to operate their chimes with minimal annoyance to the public, whilst at the same time, not unnecessarily constraining their activities.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

This impact assessment will consider the impact of four possible options:

- 1) Keep the Code as it is (i.e. make no changes)
- 2) Keep the Code but make it less restrictive (i.e. make changes to the suggested rules for sounding chimes)**
- 3) Keep the Code but in the form of a non-statutory Industry Code of Practice (led and managed by relevant industry bodies, rather than the Government)
- 4) Remove the Code

The preferred option is Option 2. Evidence suggests that the current Code is unnecessarily restrictive and, anecdotally, is not always fully complied with. A relaxation of the Code is therefore not anticipated to generate a large increase in numbers of complaints from residents. Furthermore the industry favours a Government-approved Code over a non-statutory industry-led Code or removal of the Code, both of which would reduce the certainty that a mobile vendor would not be found to be causing annoyance. Regard would not necessarily be had to a non-statutory industry-led Code if a mobile vendor were prosecuted for causing annoyance. Similarly, removing the Code would mean the courts would have to decide on a case-by-case basis whether an operator was causing annoyance, rather than being able to have regard to the Code in deciding whether an operator was using 'best practicable means' to minimise annoyance. Options 3 and 4 could therefore increase costs to businesses (as there is a greater risk of prosecution), local authorities (due to the likely increase in time taken to decide whether a vendor is causing annoyance) and the courts (in terms of the lack of guidance) as well as risking a deterioration of the noise environment.

Will the policy be reviewed? Yes If applicable, set review date: 2017 (5 years)					
Does implementation go beyond minimum EU requirements?				N/A	
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.		Micro Yes	< 20 Yes	Small Yes	Medium Unlikely
				Large Unlikely	

What is the CO₂ equivalent change in greenhouse gas emissions?
(Million tonnes CO₂ equivalent)

Traded:
N/A

Non-traded:
N/A

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: Date:

Summary: Analysis & Evidence

Policy Option 1

Description: Keep the Code as it is

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	£0	£0	£0
High	£0	£0	£0
Best Estimate	£0	£0	£0

Description and scale of key monetised costs by 'main affected groups'

This option represents the baseline against which the other options are assessed.

Small monetised costs currently occur for local authorities as they have a duty to investigate complaints that are made to them about noise from mobile vendors. These costs are thought to be in the region of £130,000 - £260,000 per annum (pa).

Similarly, small monetised costs also currently occur for local residents as a result of making a complaint (in the region of £18,500 - £37,500 pa) and for mobile vendors in terms of the time taken to respond to any complaints made against them (in the region of £15,500 - £31,000 pa). These costs are unlikely to change if the Code is kept as it is.

[NB: These monetised values are not robust enough to be taken as best estimates, but are included to indicate the scale of the probable costs involved. Costs have been given as total costs for England.]

Other key non-monetised costs by 'main affected groups'

Non-monetised costs currently occur for local residents as chiming can lead to annoyance and therefore a cost of wellbeing to those individuals. Although not all those who are annoyed will make a complaint, the low number of complaints made to local authorities per year suggests that the current cost of annoyance for local residents is also relatively low. This is unlikely to change if the Code is kept as it is.

	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	£0	£0	£0
High	£0	£0	£0
Best Estimate	£0	£0	£0

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to provide monetised benefits of chiming within the guidance currently set out in the Code. It is assumed that chiming allows mobile vendors to advertise their goods and generate sales. Sales are therefore unlikely to change if the Code is kept as it is.

Other key non-monetised benefits by 'main affected groups'

The current Code is known and used by mobile vendors and by local authorities. Its familiarity would be retained if the Code is kept as it is.

Key assumptions/sensitivities/risks

Discount rate (%)

It is assumed that all mobile vendors currently comply with the Code and will continue to operate in the same way if the Code is kept as it is. However, anecdotal evidence suggests that some elements of the Code are not always fully complied with.

Industry bodies believe the Code to be unnecessarily restrictive (e.g. the 4 second limit for sounding chimes, which is not long enough to play a recognisable tune). It is thought to prevent an increase in sales that could be generated with less restrictive chiming. Alternatively vendors may decide to work outside the guidelines set out in the Code which carries a higher risk of prosecution.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: £0	Benefits: £0	Net: £0	No	N/A

Summary: Analysis & Evidence

Policy Option 2

Description: Keep the Code but make it less restrictive – Preferred Option

Proposals to change the Code have been drawn up following pre-consultation with the industry. The proposals that have been considered in this Summary Sheet are shown below. These are merely suggestions for change and may change depending upon the consultation responses:

Proposal A) Change the Code to increase the maximum length of chiming from 4 seconds to 12 seconds

Proposal B) Change the Code to increase the frequency of chiming from once every 3 minutes to once every 2 minutes

Proposal C) Change the Code to allow chimes to be sounded once when stationary

Proposal J) Change the Code to increase the number of hours between which chimes can be sounded from 12:00 noon – 7:00pm to 10:30am – 8:00pm (this proposal differs from the others in that it would require a change to COPA)

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
	Low	£30,000		
High	£120,000		N/A	N/A
Best Estimate	£75,000		N/A	N/A

Description and scale of key monetised costs by ‘main affected groups’

There are no anticipated monetised costs for mobile vendors as a result of making the Code less restrictive. An increase in monetised costs may however occur for local authorities and local residents if more complaints are made as a result of a less restrictive Code. It is not possible to say whether this would occur, or estimate the extent of the increase, however the additional costs are expected to be low (particularly given that anecdotal evidence suggests that some elements of the code are not currently complied with, and may therefore be less likely to create additional complaints). A ‘worst case’ scenario of a doubling of incidents equates to an additional combined cost in the region of £150,000 - £300,000 pa.

Transition costs will also occur if this option is chosen as mobile vendors will need to become familiar with the amended Code. These are thought to be in the region of £30,000 - £120,000.

[NB: Apart from the transition costs, **these monetised values are not robust enough to be taken as best estimates and are only included to indicate the scale of the probable costs involved.** Costs have been given as total costs for England.]

Other key non-monetised costs by ‘main affected groups’

Non-monetised costs may occur for local residents as making the Code less restrictive may lead to annoyance and therefore a cost of wellbeing to those individuals. A recent survey demonstrated that all of the proposals (A,B,C and J) affect elements of chiming that have the potential to cause annoyance to the point of making a complaint. However, it is not possible to estimate the increase in annoyance as a result of this option.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
	Low	N/A		
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised benefits by ‘main affected groups’

Monetised benefits should occur for mobile vendors as a result of making the Code less restrictive. It is assumed that chiming within a less restrictive Code will allow mobile vendors to better advertise their goods and generate more sales. This should lead to an increase in profit.

There may also be knock on monetised benefits on other businesses associated with mobile vans, if their sales were to increase (e.g. the insurance industry, maintenance businesses and suppliers).

Calculating these figures would require a large amount of resources, which is not justified since the scale of the impacts of the changes being proposed is expected to be low. However, it is assumed that the benefits of this option will outweigh the costs.

Other key non-monetised benefits by ‘main affected groups’

There are no anticipated non-monetised benefits of making the Code less restrictive.

Key assumptions/sensitivities/risks	Discount rate (%)	
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It is assumed that all mobile vendors would comply with the new Code. It is also assumed that these proposals, having been carefully considered with the industry, will be sufficient in minimising annoyance whilst at the same time generating an increase in sales and therefore profitability for the vendor.

BUSINESS ASSESSMENT (Option 2)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	Yes	'Out'

Summary: Analysis & Evidence

Policy Option 3

Description: Keep the Code but in the form of a non-statutory Industry Code of Practice

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised costs by 'main affected groups'

There are no anticipated monetised costs for mobile vendors as a result of working within a non-statutory industry-led Code. Monetised costs may however occur for industry bodies in terms of the resources required to implement their own Code (i.e. transition costs) and manage that Code. Calculating these figures would require a large amount of resources, which is not justified since the scale of the impacts of the changes being proposed is expected to be low.

An increase in monetised costs may occur for local authorities and local residents if the industry changes the Code in such a way that a higher number of complaints are made. It is not possible to say whether this would occur, or estimate the extent of the increase if it did, however the additional costs are expected to be low. Assuming the time taken to investigate a complaint would double (given the potential uncertainty surrounding an industry-led Code) and, in a 'worst case' scenario the number of incidents doubles, this equates to an additional combined cost in the region of £300,000 - £600,000 pa.

[NB: These monetised values are not robust enough to be taken as best estimates, but are included to indicate the scale of the probable costs involved. Costs have been given as total costs for England.]

Other key non-monetised costs by 'main affected groups'

Non-monetised costs may occur for mobile vendors, local authorities and magistrates' courts in terms of the potential uncertainty surrounding a non-statutory industry-led Code. As the legislation only requires that regard is had to a Secretary of State approved Code in determining whether 'best practicable means' have been employed to minimise annoyance, there is a higher risk of prosecution for mobile vendors despite following a non-statutory industry-led Code. Local authorities and magistrates' courts would also need to decide whether or not to give weight to the Code.

Furthermore, different industry bodies may decide to produce different Codes, further confusing the situation.

Non-monetised costs may also occur for local residents if the industry changes the Code in such a way as to cause annoyance and therefore a cost of wellbeing to those individuals (this is in addition to the cost of the time taken to complain, which is considered as a monetised cost). It is not possible to say whether this would occur, or estimate the extent of the increase if it did.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

Description and scale of key monetised benefits by 'main affected groups'

Monetised benefits may occur for mobile vendors if the Code becomes a non-statutory industry-led Code. If the industry changes the Code in such a way to allow mobile vendors to better advertise their goods and generate more sales this should lead to an increase in profit.

There may also be knock on monetised benefits on other businesses associated with mobile vans, if their sales were to increase (e.g. the insurance industry, maintenance businesses and suppliers).

It is not possible to say whether this would occur, or estimate the extent of the increase if it did.

Other key non-monetised benefits by 'main affected groups'	
A non-statutory industry-led Code would support the Government's drive to reduce central regulation.	
Key assumptions/sensitivities/risks	Discount rate (%)
It is assumed that all mobile vendors would follow a non-statutory industry-led Code, which would comply with the conditions of COPA.	
Industry bodies have expressed a lack of support for this option as it reduces the certainty that their vendors will not be found to be causing annoyance. This suggests that this option is not viable. Local authorities have also suggested that the approved status of a Code enhances its effectiveness. Out of court, the status can be referred to when communicating with operators of vans about which noise complaints have been received, or have been observed infringing the terms of the Code. This would be lost with a non-statutory industry-led Code. Furthermore the industry would be able to change the guidance within the Code at their discretion. While it is assumed that any changes would attempt to minimise annoyance and allow the generation of more sales it is not possible to say whether this would occur. There is therefore a risk that Codes drawn up by the industry may not adequately protect the public.	

BUSINESS ASSESSMENT (Option 3)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	Yes	'Out'

Summary: Analysis & Evidence

Policy Option 4

Description: Remove the Code

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year N/A	Time Period Years N/A	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised costs by 'main affected groups'
Other than transition costs there are no anticipated monetised costs for mobile vendors as a result of removing the Code. Transition costs would occur as it is probable that mobile vendors will spend time deciding the parameters in which they believe it is reasonable to chime without causing annoyance. It is not possible to estimate the number of hours this would take, however the total transition costs are expected to be low.
An increase in monetised costs may also occur for local authorities and local residents if the Code was removed and mobile vendors chimed in such a way that a higher number of complaints are made. It is not possible to say whether this would occur, or estimate the extent of the increase if did, however the additional costs are expected to be low. Assuming the time taken to investigate a complaint would double (given the potential uncertainty surrounding the lack of a Code) and, in a 'worst case' scenario the number of incidents doubles, this equates to an additional combined cost in the region of £300,000 - £600,000 pa.
[NB: These monetised values are not robust enough to be taken as best estimates, but are included to indicate the scale of the probable costs involved. Costs have been given as total costs for England.]

Other key non-monetised costs by 'main affected groups'
Non-monetised costs may occur for mobile vendors, local authorities and magistrates' courts in terms of the potential confusion that could occur as a result of removing the Code. Removing the Code would remove the test against which a mobile vendor could argue that they were using 'best practicable means' to minimise annoyance. Similarly, there would be greater uncertainty for local authorities and magistrates' courts in deciding which practices are reasonable and which are likely to cause annoyance.
Non-monetised costs may also occur for local residents if the Code was removed and mobile vendors chimed in such a way as to cause annoyance and therefore a cost of wellbeing to those individuals (this is in addition to the cost of the time taken to complain, which is considered as a monetised cost). It is not possible to say whether this would occur, or estimate the extent of the increase if it did.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A	N/A	N/A
High	N/A	N/A	N/A
Best Estimate	N/A	N/A	N/A

Description and scale of key monetised benefits by ‘main affected groups’	
Monetised benefits may occur for mobile vendors if the Code was removed and mobile vendors chimed more freely to better advertise their goods and generate more sales. This should lead to an increase in profit. There may also be knock on monetised benefits on other businesses associated with mobile vans, if their sales were to increase (e.g. the insurance industry, maintenance businesses and suppliers). It is not possible to say whether this would occur, or estimate the extent of the increase if it did.	
Other key non-monetised benefits by ‘main affected groups’	
Removing the Code would provide the non-monetised benefit of reducing regulation for businesses.	
Key assumptions/sensitivities/risks	Discount rate (%)
It is assumed that without a Code mobile vendors would chime in such as way as to comply with the conditions of COPA. Industry bodies have expressed a lack of support for this option as it reduces the certainty that their vendors will not be found to be causing annoyance. Furthermore the removal of the Code would allow mobile vendors to chime at their discretion. While it is assumed that any changes in chiming would attempt to minimise annoyance and allow the generation of more sales it is not possible to say whether this would occur. There is therefore a risk that this option may not adequately protect the public.	

BUSINESS ASSESSMENT (Option 4)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as			
Costs:	N/A	Benefits:	N/A	Net:	N/A	Yes	‘Out’

Evidence Base

Problem under consideration and rationale for intervention

The Code of Practice on Noise from Ice-Cream Van Chimes Etc. 1982 gives guidance on methods of minimising annoyance or disturbance caused by the operation of loudspeakers fixed to ice-cream vans and similar vehicles used to convey and sell perishable commodities for human consumption to the public. It does not in itself create offences or have the force of law, but it is intended to be of assistance to local authorities and magistrates’ courts in the exercise of their powers and functions under section 62 of the Control of Pollution Act 1974 (COPA), which outlines the regulations regarding the use of loudspeakers in the street. It states that loudspeakers may be operated between the hours of 12 noon and 7:00 pm on the same day if the loudspeaker:

- “s62(3) (a) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and*
- (b) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and*
- (c) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.”*

The Code has been approved by the Secretary of State under section 71 of COPA. If an operator were to be prosecuted under COPA for causing annoyance, the courts must give regard to the Code in determining whether ‘best practicable means’ have been employed for minimising annoyance¹. The Code applies to all vehicles that use chimes to announce the sale of perishable goods to the public, including coffee sellers, fishmongers and sandwich sellers.

The Code was published in 1982 and has not been amended since. It is now being reviewed following a recommendation made under the Hospitality theme of the Red Tape Challenge, to see if it remains fit for purpose.

Policy objective

The objective of the Code is to balance the potential annoyance to the public from the operation of these loudspeakers against the benefits they provide to the operation of this industry. The Code provides

¹ Under Part III of the Environmental Protection Act 1990 (EPA) (as amended by the Noise and Statutory Nuisance Act 1993) ‘noise that is prejudicial to health or a nuisance and is emitted from or caused by a vehicle, machinery or equipment in a street’ is listed as a statutory nuisance (s.79(1)(ga)). Noise complaints from mobile vendors could therefore also be pursued through the statutory nuisance provisions outlined in the EPA. However, given that there is specific legislation for loudspeakers fixed to vehicles used for the conveyance of perishable goods under COPA it is assumed for the purposes of this impact assessment that complaints would be pursued through this route rather than through statutory nuisance provisions.

guidance on minimising annoyance or disturbance caused by the operation of loudspeakers fixed to ice-cream vans and similar vehicles used to convey and sell perishable commodities for human consumption to the public. It also gives the industry some certainty that if they follow the Code they are less likely to be found to be causing annoyance.

The purpose of the consultation is to decide whether the Code, or the guidelines within in, is a useful guide for minimising annoyance or an unnecessary burden on business. The intended effect is to allow businesses to operate their chimes without the risk of being found to be causing annoyance, whilst at the same time, not unnecessarily constraining their activities.

Depending on the results of the consultation the Code will stay as it is, be amended, or revoked.

Description of options considered (including costs and benefits of each option)

There are four main options for consultation:

Option 1 – Keep the Code as it is (i.e. make no changes)

Option 2 – Keep the Code but make it less restrictive (i.e. make changes to the suggested rules for sounding chimes)

Option 3 – Keep the Code but in the form of a non-statutory industry Code of Practice (led and managed by relevant industry bodies, rather than the Government)

Option 4 – Remove the Code

Option 2 is the preferred option as it is estimated that the benefits outweigh the costs of this option. Evidence suggests that the current Code is unnecessarily restrictive and, anecdotally, is not always fully complied with. A relaxation of the Code is therefore not anticipated to generate a large increase in numbers of complaints from residents, as vendors are likely to be currently chiming outside some of the guidelines set out in the Code. As complaint numbers are currently very low (an average of 2.1 complaints per local authority per year), it is anticipated that a relaxation of the Code will not cause a significant deterioration of the noise environment or increase in annoyance. Furthermore the industry favours a Government-approved Code over a non-statutory industry-led Code or removal of the Code, both of which would reduce the certainty that a mobile vendor would not be found to be causing annoyance. Regard would not necessarily be had to a non-statutory industry-led Code if a mobile vendor were prosecuted for causing annoyance. Similarly, removing the Code would mean the courts would have to decide on a case-by-case basis whether an operator was causing annoyance, rather than being able to have regard to the Code in deciding whether an operator was using 'best practicable means' to minimise annoyance. Options 3 and 4 could therefore increase costs to businesses (as there is a greater risk of prosecution), local authorities (due to the likely increase in time taken to decide whether a vendor is causing annoyance) and the courts (in terms of the lack of guidance) as well as risking a deterioration of the noise environment. Additionally, local authorities have suggested that the approved status of a Code enhances its effectiveness. Out of court, the status can be referred to when communicating with operators of vans about which noise complaints have been received, or have been observed infringing the terms of the Code. This would be lost with a non-statutory industry-led Code or removal of the Code.

Each option is discussed in further detail below. **For all of the options, the monetised values available are not robust enough to be taken as best estimates, but are included to indicate the scale of the probable costs involved.**

Option 1 – Keep the Code as it is (i.e. make no changes)

No changes would be made to the Code or its approved status and the current Code would continue as it is. As this is a continuation of the status quo, there are no additional costs or benefits associated with this option. This option provides a baseline against which Options 2-4 can be compared.

Costs of Option 1

Small monetised costs currently occur for local authorities as complaints are made to them about noise from mobile vendors.

A 2005 report on a review of the Code found that of the 14 local authorities that provided information on the number of complaints received, there were typically between 0 and 2 complaints of noise from ice-cream van chimes in the last year². More recently the Chartered Institute of Environmental Health (CIEH) carried out a survey of complaints about noise from ice-cream vans and other mobile vendors, to which 170 local authorities in England responded. The mean total number of complaints per local authority per year in 2009/2010 and 2010/2011 was found to be 2.1 (see Table 1).

Table 1: Total number of mobile vendor complaints per year³

	2009/10	2010/11
Total no of LAs in England	326	326
No. of LAs responding to survey	170	170
% of all LAs responding to survey	52.1%	52.1%
No. of responding LAs reporting MV complaints (N)	82	91
% of responding LAs reporting MV complaints	48.2%	53.3%
Sum of all complaints reported	169	195
Mean complaints per respondent LA reporting MV complaints	2.1	2.1
Median	1	1
Minimum	1	1
Maximum	10	9

The survey also collected data on the causes of complaints in relation to the guidelines set out in the Code and the legislation outlined in COPA. The results are shown in Table 2 below.

Table 2: Causes of complaints by Code and COPA criteria³

Causes of Complaint	Sum	N	%
A: Code of Practice			
Complaints about the length of time chimes were sounded for (i.e. for longer than 4 seconds at a time)	120	51	16.9
Complaints about the frequency of sounding (i.e. more often than once every 3 minutes)	72	33	10.1
Complaints about chimes sounding while the vehicle was stationary (not allowed)	69	28	9.7
Complaints about chimes sounding other than on approach to a selling point (sounding while 'cruising' is not allowed)	24	12	3.4
Complaints about chimes sounding while in sight of another vehicle which is trading (not allowed)	6	3	1

² Review of Existing Codes of Practice on Minimising Noise, Defra, September 2005.

³ Survey of complaints about noise from ice-cream vans and other mobile vendors, Chartered Institute of Environmental Health, November 2011.

Complaints about chimes sounding within 50m of sensitive premises (school in school hours, hospital, church on Sundays)(not allowed)	7	6	1
Complaints about sounding chimes more often than once every two hours in the same street	35	17	4.9
Complaints about the volume of chimes (chimes operated above 80dB (A))	134	55	18.8
Complaints about mobile vendors failing to reduce the volume of chimes in quiet areas or narrow streets	18	10	2.5
B: Section 62 Control of Pollution Act 1974			
Complaints where the chime was sounded before midday or after 7.00pm	136	48	19.1
Complaints where chimes were sounded in a way which gave 'reasonable cause for annoyance'	91	38	12.8

Where N = number of authorities recording the reason and % = prevalence of particular reason among all reasons (both Code and COPA reasons)

Notes to Table 2:

- Respondents were not able to provide underlying reasons for all reported complaints.
- Some complaints cited more than one relevant reason.
- Three causes of complaints stand out in particular:
 - The length of time for which chimes were sounded (Code)
 - The volume of chimes (Code) and
 - Sounding before 12:00 noon or after 7:00pm (COPA)

It has been estimated that the current average cost to the local authority per ice-cream van chime incident is between 5.05 and 10.10 hours. This takes into account the route through the complaint procedure, and applies to the incident (for example the act of sounding chimes for longer than 4 seconds) rather than the complaint (a local resident making a complaint to the local authority). Based on CIEH Noise Statistics from 2007-2010⁴ there are an average of 1.35 complaints per incident (i.e. one incident usually generates more than one complaint).

Applying this ratio to the 2.1 mobile vendor complaints received per local authority per year gives an average number of mobile vendor incidents of 1.56. This equates to a cost in hours per local authority per year of between approximately 8.00 and 16.00 hours.

Using the Defra estimate of local authority Environmental Health Officer time of £50.63 per hour⁵ it is possible to attribute a cost, in pounds, to this time. The average cost of mobile vendor complaints per local authority is therefore approximately £400 - £800 per annum (pa).

With a total of 326 local authorities in England, the current country wide burden to local authorities for mobile vendor complaints is approximately £130,000 - £260,000 pa.

Small monetised costs also currently occur for local residents in terms of time. It has been estimated that the average cost to the complainant of each incident (taking into account the route through the complaint procedure) is between 5.51 and 11.03 hours. Using the ratio of 1.35 complaints to 1 incident described above, the average number of mobile vendor incidents per local authority per year is 1.56. This equates to an average cost to the complainants living within a local authority per year of between approximately 9.00 and 17.00 hours.

⁴ CIEH carry out an Annual Survey of Local Authority Noise Enforcement Activity . The data used here applies to England only and was provided by CIEH for internal Defra use only. 2009/2010 statistics for England, Wales and Northern Ireland can however be found at <http://www.cieh.org/policy/noise-statistics-research.html>

⁵ Consultation on Full Bi-ennial Review of Local Authority Environmental Regulation of Industrial Plant: 2011/12 Fees and Charges (paragraph 9): <http://archive.defra.gov.uk/corporate/consult/pollution-charging/100929-consult-condoc.pdf>

If it is assumed that complaints are made in the complainant's leisure time, as opposed to during their working hours, an average monetised value can be given to these figures of £6.66 per hour⁶. This represents the perceived value of an individual's leisure time. It is therefore estimated that the average cost to the complainants living within a local authority is approximately £55 - £115 pa.

With a total of 326 local authorities in England, the current country wide burden to mobile vendor complainants is approximately £18,500 - £37,500 pa.

Small monetised costs also occur for mobile vendors in terms of the time taken to respond to any complaints made against them. If it is assumed that the same amount of time is taken for mobile vendors to respond to an incident as it is for the local authority to investigate an incident (5.05 – 10.10 hours) this represents a total cost to mobile vendors in England of £15,500 - £31,000 pa (based on 2.1 complaints per local authority per year, and assuming that the value of a mobile vendors time to respond to a complaint would reflect the National Minimum Wage of £6.08 per hour⁷).

Benefits of Option 1

It has not been possible to provide monetised benefits of chiming within the guidance currently set out in the Code. It is assumed that chiming allows mobile vendors to advertise their goods and generate sales. Sales are therefore unlikely to change if the Code is kept as it is.

The current Code is known and used by mobile vendors and by local authorities. Its familiarity would be retained if the Code is kept as it is and there would be no transitional costs.

Option 2 – Keep the Code but make it less restrictive (i.e. make changes to the suggested rules for sounding chimes)

This option would allow the industry greater flexibility whilst continuing to provide guidance on methods of minimising annoyance or disturbance. Pre-consultation indicates that this is the preferred option of industry representatives and that other stakeholders understand the rationale for relaxing some elements of the Code. It is also anticipated that a relaxation of the Code will not lead to a significant deterioration of the noise environment and increase in annoyance as anecdotal evidence suggests some elements of the Code are not currently fully complied with.

Proposals to amend sections of the current Code, based on pre-consultation with industry representatives, are outlined below (original Code in italics, proposed changes in bold). These proposals are initial suggestions and may change as a result of the consultation. Four proposals (A, B, C and J) were considered in the Summary Sheet for Option 2. Reasons why the other proposals were not considered are given where relevant.

Do not sound chimes

1. *For longer than 4 seconds at a time;*

A. The proposal is to change this to 'For longer than 12 seconds at a time'.

- This change would allow mobile vendors to advertise their arrival for longer, and therefore may increase trade.
- Anecdotal evidence from stakeholders suggests this aspect of the Code is not always currently adhered to and that it is difficult to play a recognisable tune in 4 seconds. It is anticipated that a 12 second time limit would not be broken as a recognisable tune can be played within this time.
- This proposal has been considered in Summary Sheet 2.

2. *More often than once every 3 minutes;*

B. The proposal is to change this to 'More often than once every 2 minutes'.

- This would allow mobile vendors to chime more frequently, and therefore may increase trade.
- This proposal has been considered in Summary Sheet 2.

⁶ This value is derived from webTAG guidance, which gives a value of leisure time of £4.46 per hour in 2002. Converting this to 2011 prices, and assuming productivity increases of 2% per annum, gives a value of leisure time of £6.66 per hour. The webTAG guidance can be found at: <http://www.dft.gov.uk/webtag/documents/expert/unit3.5.6.php#012>

⁷ National Minimum Wage for workers aged 21 and above:
http://www.direct.gov.uk/en/Employment/Employees/TheNationalMinimumWage/DG_10027201

3. *When the vehicle is stationary;*
C. The proposal is to change this to ‘More than once when the vehicle is stationary’.
- This would allow vendors to chime once when stationary (although not if they have already chimed on approach, see rule 4).
 - During pre-consultation the industry suggested that chiming when driving and looking for somewhere to stop could be more hazardous than chiming when stationary.
 - There could be concerns for householders however if mobile vendors stop regularly outside the same residential properties and are allowed to chime when stationary.
 - This proposal has been considered in Summary Sheet 2.
4. *Except on approach to a selling point;*
D. The proposal is to change this to ‘Except on approach to or at a selling point’.
- This change reflects the proposed change to rule 3. Mobile vendors would be allowed to chime on approach to a selling point, or once when stationary.
 - This proposal has not been considered in Summary Sheet 2, as it reflects a change to rule 3, whose impact has already been considered.
5. *When in sight of another vehicle which is trading;*
E. No proposed change.
- This proposal has not been considered in Summary Sheet 2, as the associated costs and benefits would continue as they are.
6. *When within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised day of worship);*
F. No proposed change.
- This proposal has not been considered in Summary Sheet 2, as the associated costs and benefits would continue as they are.
7. *More often than once every 2 hours in the same length of street;*
G. No proposed change.
- Some industry members have suggested that this rule be changed to reflect the difference between chiming in industrial estates and business parks (where mobile sandwich vendors might chime to advertise their arrival), and chiming on residential streets. However no change has been proposed, as attempting to specify areas where chiming is allowed more often than once every 2 hours might lead to greater confusion and therefore greater potential annoyance.
 - As Defra are not proposing a change this proposal has not been considered in Summary Sheet 2 as the associated costs and benefits would continue as they are.
8. *Louder than 80 dB(A) at 7.5 metres;**
H. No proposed change.
- This limit was set to prevent the unnecessarily loud sounding of chimes.
 - There could be some concerns about this limit in light of other proposed changes e.g. allowing chiming once when stationary.
 - This proposal has not been considered in Summary Sheet 2, as the associated costs and benefits would either continue as they are, or have been considered in the other relevant proposed changes.
9. *As loudly in quiet areas or narrow streets as elsewhere.*
I. The proposal is to change this to ‘As loudly in areas of low background noise or narrow streets as elsewhere’.
- This change is proposed to remove reference to ‘quiet areas’ which now have a more formal meaning in policy documents and under the Environmental Noise (England) Regulations 2006 (as amended).
 - This proposal has not been considered in Summary Sheet 2, as it reflects a change in wording that is not expected to result in a real life change in operations of mobile vendors.

REMEMBER:

It is an offence to sound your chimes before 12:00 noon or after 7:00pm

It is an offence to sound your chimes at any time in a way which gives reasonable cause for annoyance.

J. Industry bodies have expressed an interest in a change to the times between which it is an offence to sound your chimes (for example to ‘before 10:30am or after 8:00pm’).

- This proposal differs from those listed above as it would require a change to section 62 of COPA itself. As a result, it would take longer to come into effect, if it were accepted.
- Pre-consultation suggests that the industry support an earlier start time to allow mobile sandwich vendors (in particular) to sell their goods before lunchtime to business parks and industrial areas.
- The industry have also expressed support for a later end time as this is the time of peak ice-cream trade, as well as arguing anecdotally that children’s bedtimes are later than they used to be.
- This proposal has been considered in Summary Sheet 2.
- Furthermore, some industry members have suggested a changing to the wording of section 62 of COPA to include the delivery, as well as the sale, of perishable goods. This reflects what they report to be an increase in the use of chimes to signal the delivery of goods that have already been paid for (e.g. mobile take-away and pizza vans). This is not included as a specific proposal in the consultation and is therefore not included in this impact assessment. If the consultation responses call for further changes to COPA a more detailed impact assessment outlining the costs and benefits of each change will be produced.

Costs of Option 2

There are no anticipated monetised costs for mobile vendors of increasing the maximum length of chiming (Proposal A), increasing the frequency of chiming (Proposal B) or allowing chimes to operate when stationary (Proposal C). This is simply a matter of turning on and off the chimes at different times. Furthermore, although COPA currently prohibits loudspeakers being used in the street before 12:00 noon and after 7:00pm, it does not prohibit sales, therefore increasing the number of hours of chiming (Proposal J) should not create greater monetised costs for mobile vendors in terms of fuel, staffing etc. if they continue to trade for the same number of hours. This is at the discretion of the vendor. Monetised costs for mobile vendors for Proposals A,B,C and J are therefore seen as negligible.

Monetised costs may occur for local authorities if more complaints were made as a result of a relaxation in the Code (Proposals A,B,C and J). Although it is not possible to estimate the increase in number of complaints as a result of these proposals, there is some certainty that the increase in costs to local authorities will be low. If, for example, all of the proposals were implemented cumulatively which resulted in a doubling of the number of incidents, this would represent a total additional cost to local authorities in England of £130,000 - £260,000 pa.

Monetised costs may also occur for local residents as a result of relaxing the Code. Although it is not possible to estimate the increase in number of complaints as a result of these proposals, there is some certainty that the increase in costs to complainants’ time will be low. If, given the same example above, all of the proposals were implemented cumulatively which resulted in a doubling in the number of incidents, this would represent a total additional cost to complainants in England of £18,500 -£37,500 pa. It is important to note that these figures only include the time cost to complain and not the level of annoyance. They also only include the number of people of complain who may be a minority of those affected by the noise.

The combined additional cost to both local authorities and local residents of the ‘worst case’ scenario of a doubling of incidents would therefore be in the region of £150,000 - £300,000 pa.

There may also be non-monetised costs of relaxing the Code (Proposals A,B,C and J) for local residents as sounding the chimes for longer and more frequently may lead to annoyance and therefore a cost of wellbeing to those individuals. Table 2 shows that all of the elements of the Code and of COPA relating to Proposals A,B,C and J have the capacity to cause annoyance to the point of making a complaint. The most common cause of complaints came from chimes sounding before 12:00 noon or after 7:00pm. This has implications for Proposal J, as it suggests that extending the hours of chiming could cause greatest annoyance. It is not possible however to estimate the increase in annoyance as a result of these proposals.

If Option 2 were pursued, total transition costs to mobile vendors have been estimated as being approximately £30,000 - £120,000. Assuming it would take a vendor 1 hour to print, become familiar with, and display the amended Code, the minimum total transition cost has been estimated as 1 hour’s time at National Minimum Wage⁷ (£6.08) for each of the 5000 ice-cream vans thought to be currently in use by the ice-cream industry. The maximum total transition cost has been estimated as 1 hour’s time at double the

National Minimum Wage (£12.16) for 10,000 mobile vendors, assuming the number of non-ice-cream vans (sandwich vans, fishmongers, etc.) is no greater than the number of ice-cream vans currently in use. The best estimate of the total transition costs is taken as the mid-point between these two figures, at £75,000. Again, it must be stressed that these figures are given to provide an indication of scale, rather than being based on robust evidence.

Benefits of Option 2

There may be monetised benefits for mobile vendors as relaxing the Code (Proposals A,B,C and J) may lead to an increase in sales and therefore profit. The industry have suggested that changing habits have led to the majority of ice-cream sales being made in the evenings, therefore extending the number of hours of chiming from 7:00pm to 8:00pm (Proposal J) may lead to the greatest increase in sales of ice-cream. Furthermore, an earlier chime time (10:30am rather than 12:00 noon) has been suggested by the industry to allow mobile sandwich vendors to sell their goods before lunchtime. There may also be knock on monetised benefits on other businesses associated with mobile van sales, if their sales were to increase (e.g. the insurance industry, maintenance businesses and suppliers). However calculating these figures would require a large amount of resources which is not justified for the scale of the impacts of the changes being proposed.

Non-monetised benefits may occur for mobile vendors if allowed to sound chimes when stationary (Proposal C) as it could reduce potential hazards associated with chiming when driving and looking for a place to stop.

While impossible to quantify, it is believed that the benefits of this option are likely to outweigh the costs. However, this assumption will be tested through the consultation.

Option 3 - Keep the Code but in the form of a non-statutory Industry Code of Practice (led and managed by relevant industry bodies, rather than the Government)

Pre-consultation suggests that the industry does not support this option. A non-statutory industry-led Code of Practice would not be approved by the Secretary of State under section 71 of COPA. This means that if an operator were to be prosecuted for causing annoyance, the courts would not necessarily have to give regard to the Code in determining whether 'best practicable means' have been employed to minimise annoyance. Lack of support from the industry suggests that this option would not be viable. Additionally, local authorities have suggested that the approved status of a Code enhances its effectiveness. Out of court, the status can be referred to when communicating with operators of vans about which noise complaints have been received, or have been observed infringing the terms of the Code. This would be lost with a non-statutory industry-led Code. (N.B. Although an industry-led Code could theoretically be approved by the Secretary of State under section 71 of COPA, it was decided that, in this case, the Government was best placed to gather views from a variety of interested parties on any changes to a statutory Code. A Government approved industry-led Code is therefore not an option in the consultation.)

Costs of Option 3

There are no anticipated monetised costs for mobile vendors as a result of working within a non-statutory industry-led Code. Any changes to the duration or frequency of chiming, for example, would simply require the chimes to be turned on and off at different times.

Monetised costs may occur for industry bodies in terms of the resources required to implement their own Code (i.e. transition costs) and manage that Code. The transition costs of implementing an industry-led Code are difficult to quantify due to the uncertainty surrounding which industry body/bodies would take responsibility for managing the Code and what changes they may make. However, it is assumed that the total transition costs would be greater than those anticipated for the preferred option, Option 2, as it would require additional resources from the industry.

An increase in monetised costs may occur for local authorities and local residents if the industry changes the Code in such a way that a higher number of complaints are made. It is not possible to say whether this would occur, or estimate the extent of the increase if it did, however the additional costs are expected to be low. Assuming the time taken to investigate a complaint would double (given the potential uncertainty surrounding a non-statutory industry-led Code) and, in a 'worst case' scenario the number of incidents doubles, this equates to an additional combined cost in England of £300,000 - £600,000 pa.

Non-monetised costs may occur for mobile vendors, local authorities and magistrates' courts in terms of the potential uncertainty surrounding a non-statutory industry-led Code. As regard would not necessarily be had to such a Code in determining whether 'best practicable means' have been employed to minimise annoyance, there is a higher risk of prosecution for mobile vendors despite working within its guidelines. Local authorities and magistrates' courts would also need to decide whether or not to give weight to the Code. Furthermore, different industry bodies may decide to produce different Codes, further confusing the situation.

Finally, non-monetised costs may occur for local residents if the industry changes the Code in such a way as to cause annoyance and therefore a cost of wellbeing to those individuals. It is not possible to say whether this would occur, or estimate the extent of the increase if it did.

Benefits of Option 3

Monetised benefits may occur for mobile vendors if the Code becomes a non-statutory industry-led Code. If the industry changes the Code in such a way as to allow mobile vendors to better advertise their goods and generate more sales this should lead to an increase in profit. There may also be knock on monetised benefits on other businesses associated with mobile vans, if their sales were to increase (e.g. the insurance industry, maintenance businesses and suppliers). It is not possible to say whether this would occur, or estimate the extent of the increase if it did.

A non-statutory industry-led Code would also support the Government's drive to reduce central regulation.

Option 4 - Remove the code

If this option was taken there would be no Code of Practice for mobile vendors. Although reducing the regulation for businesses, the industry have suggested that this is not a preferred option for their vendors as there would not be the same level of certainty if a complaint arose. Furthermore in the 2005 report of a review of the Code, 12 of the 14 local authorities responding to a question on the Code's use said that they used the Code, and 9 of the 10 local authorities responding to a question on the Code's effectiveness thought the Code was effective². The Code also provides guidance to the courts in determining whether 'best practicable means' have been employed in minimising annoyance. This guidance would be lost if the Code were removed.

Costs of Option 4

Other than transition costs, there are no anticipated monetised costs for mobile vendors as a result of removing the Code. Any changes to the duration or frequency of chiming, for example, would simply require the chimes to be turned on and off at different times. Transition costs of removing the Code are likely to be small, although it is probable that mobile vendors will spend time in deciding the parameters in which they believe it is reasonable to chime without causing annoyance. It is not possible to estimate the extent of this time, or therefore whether the total transition costs are likely to be larger or smaller than the preferred option, Option 2.

An increase in monetised costs may occur for local authorities and local residents if the Code was removed and mobile vendors chimed in such a way that a higher number of complaints are made. It is not possible to say whether this would occur, or estimate the extent of the increase if it did, however the additional costs are expected to be low. Assuming the time taken to investigate a complaint would double (given the potential uncertainty surrounding the lack of a Code) and, in a 'worst case' scenario the number of incidents doubles, this equates to an additional combined cost for England of £300,000 - £600,000 pa.

Non-monetised costs may occur for mobile vendors, local authorities and magistrates' courts in terms of the potential confusion that could occur as a result of removing the Code. Removing the Code would remove the test against which a mobile vendor could argue that they were using 'best practicable means' to minimise annoyance. Similarly, there would be greater uncertainty for local authorities and magistrates' courts in deciding which practices are reasonable and which are likely to cause annoyance. The above mentioned 2005 review of the Code found that local authorities used the Code and found it to be effective².

Non-monetised costs may occur for local residents if the Code was removed and mobile vendors chimed in such a way as to cause annoyance and therefore a cost of wellbeing to those individuals. It is not possible to say whether this would occur, or estimate the extent of the increase if it did.

Benefits of Option 4

Monetised benefits may occur for mobile vendors if the Code was removed and mobile vendors chimed more freely to better advertise their goods and generate more sales. This should lead to an increase in profit. There may also be knock on monetised benefits on other businesses associated with mobile vans, if their sales were to increase (e.g. the insurance industry, maintenance businesses and suppliers). It is not possible to say whether this would occur, or estimate the extent of the increase if it did.

Removing the Code would also provide the non-monetised benefit of reducing regulation for businesses.

Rationale and evidence that justify the level of analysis used

The level of detail of the costs and benefits outlined above reflect that fact that the proposals are likely to affect relatively few firms or organisations (there are 5000 ice-cream vans in the UK, the majority of which are small traders with up to 7 vans). Although it is anticipated that the consultation may get some publicity, there are relatively few people that will become better or worse off if any of the amendments suggested in the consultation are made. Gathering data for detailed costs and benefits would require a large amount of resources, which is not justified since the scale of the impacts of the changes being proposed is expected to be low. The consultation itself will be used to obtain more evidence on the potential costs and benefits of the proposals. This information will be used to further inform the impact assessment.

Assumptions and risks

Option 1

It is assumed that all mobile vendors will continue operating in the same way if the Code is kept as it is.

Industry bodies believe the Code to be unnecessarily restrictive (e.g. the 4 second limit for sounding chimes, which is not long enough to play a recognisable tune). It is thought to prevent an increase in sales that could be generated with less restrictive chiming. Alternatively vendors may decide to work outside the guidelines set out in the Code which carries a higher risk of prosecution.

Option 2

It is assumed that allowing chimes to be sounded for longer, more frequently, when stationary and for a greater part of the day (Proposals A,B,C and J) would increase profitability for the vendor. As chimes are used as a way of advertising a vendor's presence in the local vicinity it is assumed that an increase in chiming would lead to a greater awareness of the fact that ice-creams or other goods were for sale, and therefore an increased likelihood of greater sales.

Under Proposal J it is also assumed that increasing the number of hours of chiming would not necessarily increase the number of hours of trading (as vans can still trade outside of the COPA regulations restricting the operation of a loudspeaker between 12:00 noon and 7:00pm). As such it is assumed that the monetised costs for mobile vendors would not increase as a result of Proposal J.

Finally, it is assumed that these proposals, having been carefully considered with the industry, and considering that anecdotal evidence suggests they are currently not fully complied with, will be sufficient in minimising annoyance whilst at the same time generating an increase in sales. The risk is that this doesn't hold true, and that the proposals generate an unexpected increase in annoyance.

Option 3

It is assumed that any non-statutory industry-led Code would comply with the conditions of COPA.

Industry bodies have expressed a lack of support for this option as it reduces the certainty that their vendors will not be found to be causing annoyance. This suggests that this option is not viable. Furthermore the industry would be able to change the guidance within the Code at their discretion. While it is assumed that any changes would attempt to minimise annoyance and allow the generation of more sales it is not possible to say whether this would occur.

Option 4

It is assumed that without a Code mobile vendors would chime in such as way as to comply with the conditions of COPA.

Industry bodies have expressed a lack of support for this option as it reduces the certainty that their vendors will not be found to be causing annoyance. Furthermore the removal of the Code would allow mobile vendors to chime at their discretion. While it is assumed that any changes in chiming would attempt to minimise annoyance and allow the generation of more sales it is not possible to say whether this would occur.

One-in, One-out

As the Code has been approved by the Secretary of State, and regard must be had to it by the courts in determining whether 'best practicable means' have been employed for minimising annoyance, the preferred option (Option 2) could be seen as an 'Out' under the Government's 'One-in, One-out' policy. This option recommends proposals to make the existing Code less restrictive and is therefore a deregulatory measure.

Similarly, making the Code a non-statutory industry-led Code (Option 3) or removing the Code (Option 4) could also both be seen as 'Out's as they would remove existing regulation. However, as previously mentioned, the industry are not in favour of either of these options as they both reduce the certainty that a mobile vendor would not be prosecuted for causing annoyance.

Wider impacts

The preferred option (Option 2) has been put forward to make it easier for mobile vendors who use chimes to advertise their presence to sell their items. The proposals may therefore help these businesses in terms of increasing profitability. As the majority of these businesses are micro-businesses (a typical ice-cream van seller may have up to seven vans), they are not exempt from these proposals. Indeed, they are the largest group likely to be effected. The proposals should benefit all of these businesses in the same way. There may also be a knock on effect for other associated businesses as they may receive more custom due to the increased sales of mobile vendors.

Specific regional or local effects are only likely to be felt where there are currently ice-cream vans or other similar vendors operating. Although more people may be encouraged to enter the ice-cream industry or another equivalent industry those areas that are currently not served by this type of business are less likely to be affected.

If vendors decide to increase the number of hours of trading as a result of increasing the hours of chiming (Proposal J) there may be increased emissions as a result of longer hours on the roads. Similarly, emissions may increase if the number of mobile vans on the roads increases. Both of these increases are expected to be negligible.

The proposals under Option 2 may affect the number of people exposed to annoyance. This may be particularly true for residents with properties outside which mobile vans regularly stop, especially if the Code is changed to allow chiming once when stationary (Proposal C).

There are no anticipated financial or resource impacts on other Government departments.

Summary and preferred option with description of implementation plan

Both the Government and industry representatives' preferred option is Option 2 'Keep the Code but make it less restrictive'. If the consultation is found to support an increase in the time, frequency and ability to chime when stationary (Proposals A,B and C) the Code can be amended relatively easily and will be done so by Defra. The Secretary of State will then formally approve the amended Code under section 71 of COPA. If the consultation responses are in favour of increasing the times that the chimes can sound between (Proposal J) then this will take more time as an appropriate legislative slot will need to be identified to change COPA legislation.