

EXPLANATORY MEMORANDUM TO
THE TOWN AND COUNTRY PLANNING (CONTROL OF
ADVERTISEMENTS) (ENGLAND) REGULATIONS 2007

2007 No.783

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations provide a self-contained set of procedures relating to the display of advertisements in England. They replace, with amendments, the Town and Country Planning (Control of Advertisements) Regulations 1992 (“the 1992 Regulations”), which cease to have effect as regards England.

2.2 The Regulations grant consent for the display of certain classes of advertisement (“deemed consent”). Where deemed consent is not granted, and express consent is required, the procedure for making an application for express consent is comparable to that for making an application for planning permission. The Regulations also contain procedures for appeals and for discontinuing the display of advertisements. They also make provision for the control of advertisements in particularly sensitive areas by means of areas of special control which are designated by orders made by local planning authorities.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 Functions under section 220 and the other sections of the Town and Country Planning Act 1990 relied on for the making of these Regulations are exercisable, in relation to Wales, by the National Assembly for Wales. The Regulations that are the subject of this Memorandum do not affect the application of the 1992 Regulations (S.I. 1992/666) as regards Wales.

4.2 The Regulations are being made to update, clarify and consolidate the 1992 Regulations.

5. Extent

5.1 The Regulations apply in relation to England only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 This section explains the main changes from the 1992 Regulations.

7.2 Definitions of “advertiser” and “amenity” are included. “Advertiser” means the owner of the site on which the advertisement is displayed, the occupier of the site and any other person who undertakes or maintains the advertisement display. One of the practical consequences is that it is now clear that when a local planning authority serves a discontinuance notice, withdrawing deemed consent for a specific advertisement, or against the use of a site for the display of advertisements, the discontinuance notice must be served on the owner of the site on which the advertisement is displayed, on the occupier of the site and on the person who undertakes or maintains the advertisement display. “Amenity” is defined to include aural amenity; the increasingly sophisticated nature of advertisement displays can have significant implications as regards the generation of noise.

7.3 Regulation 3 makes it clear that local planning authorities should take into account relevant development plan policies when exercising their functions under the Regulations.

7.4 Under the 1992 Regulations an application for express consent had to be made on a form provided by the local planning authority with such plans as the local planning authority required. Under paragraph (2) of the new regulation 9, and subject to the transitional arrangements in paragraphs (6) and (7) as regards the period beginning on 6th April 2007 and ending on 31st October 2007, an application for express consent must be made either electronically or in hard copy on a form published electronically by the Secretary of State, or a form substantially to the same effect. Hard copy forms will be available from the local planning authority for applicants who are not able to download them. The form must be accompanied by accurate plans which are drawn to an identified scale and which identify the location of the site by reference to at least two named roads. The plans must show the direction of North and identify the proposed position of the advertisement.

7.5 Local planning authorities have a new power to decline to determine an application for express consent for an advertisement in an Area of Special Control where they have no power to grant the consent applied

for (see regulation 14(1)(c) and (2) and subsection (1A) of section 70A of the Town and Country Planning Act 1990 as set out, in its modified form, in Part 2 of Schedule 4 to the Regulations).

7.6 Other changes include (see also paragraph 7.9):

- clearer advertisements appeals procedures;
- adding government departments and agencies to Class 1 of Schedule 3 so that any functional advertisement they wish to display is in the same category as those displayed by local authorities, statutory undertakers and public transport undertakers;
- amending Class 13 of Schedule 3 to change the criteria for deemed consent for advertisements displayed on the same site for the past ten years;
- a new deemed consent class for telephone kiosk advertisements (Class 16 of Schedule 3). This was included as a result of a separate consultation '*Telephone Kiosk Glass Advertising*' issued in 2001;
- new size limits on some deemed consent classes.

Consultation

7.7 The Regulations have been the subject of consultation with the Department for Transport, Department for Environment, Food and Rural Affairs, Department for Trade and Industry, the National Assembly for Wales, the Scottish Executive, the Department of Environment, Northern Ireland, the Planning Inspectorate, local planning authorities, organisations, businesses and members of the public. The first consultation period on proposed changes to the 1992 Regulations ran from 14 July 1999 to 13 October 1999. The second consultation on the draft Regulations and Circular ran from 24 July 2006 to 18 September 2006. The first consultation attracted nearly 200 responses and the second over 100 responses.

7.8 There is a brief analysis of the responses to the consultation in the final RIA.

7.9 In response to consultees' comments, the following main changes have been incorporated:

- The rules for Areas of Special Control of advertisements remain.
- Applications for express consent must be accompanied by plans that are drawn to scale, indicating North and showing the site and surroundings with at least two named roads.
- Advertisements that comprise sequential displays or include moving parts or features require express consent from the local planning authority.
- The European Union flag, the flag of the Commonwealth, the United Nations flag and county flags may be flown without express

consent. Saints' flags may also be flown without express consent in a county with which the saint is associated. (New Class H in Schedule 1).

- Applications for express consent do not have to be accompanied by written evidence that the owner and every other person with an interest in the site consents to the application.
- Applications for express consent do not have to be accompanied by written evidence that the application is acceptable to the highway authority.
- Size limits have been relaxed in respect of some deemed consent classes in Schedule 3.

7.10 Some consultees asked for further relaxation of the conditions and limitations in the new Class 16 of Schedule 3 (advertisements on telephone kiosks). That request could not be accepted. The introduction of the new Class is the direct outcome of the consultation undertaken in 2001. It would be premature to further relax the Class before its introduction (and without further consultation) and before the effect of the initial measure has been assessed.

Guidance

7.11 A Circular containing a full commentary on the Regulations will be published before the Regulations come into force. It will contain comprehensive guidance for advertisers and local planning authorities.

8. Impact

8.1 A Regulatory Impact Assessment has been prepared and is attached to this Memorandum.

8.2 The impact on the public sector should achieve a more efficient system of control that is less costly to administer. There should be a reduction in the amount of harmful advertising taking place. The greater clarity that the new Regulations provide should assist in better decision-making, in relation to both applications and appeals.

8.3 The new procedures should lower the cost to firms of applying for express consent, although amendments to some deemed consent classes may result in some compliance costs for advertisers.

9. Contact

Carolyn Vickery at the Department for Communities and Local Government
Tel: 020 7944 3805 or e-mail: Carolyn.vickery@communities.gsi.gov.uk, who can answer any queries regarding the instrument.

REGULATORY IMPACT ASSESSMENT (RIA)

Title of Proposal

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007

Purpose and Intended Effect of Measure

Objective

The Government's aim is to provide a system of advertisement control that is both responsive to the needs of the outdoor advertising industry and sensitive to the needs of the environment in cities, towns and the countryside.

Background

The present legislative framework for the control of outdoor advertisements is the Town and Country Planning (Control of Advertisements) Regulations 1992 (SI 1992 No 666 as amended), made under powers in Chapter 3 of Part 8 of the Town and Country Planning Act 1990. Local planning authorities (LPAs) are responsible for the day-to-day operation of the advertisement control system and for deciding whether a particular advertisement should be permitted or not. The Planning Inspectorate Agency is responsible for administering the advertisement appeal system.

There are three different groups of outdoor advertisement.

- Advertisements which may be displayed provided they comply with certain conditions: eg advertisements displayed on enclosed land (such as railways stations) and advertisements relating to elections.
- Advertisements for which the Regulations give a “deemed consent”. Provided certain conditions are complied with, the advertisements may be displayed without having to apply to the local planning authority for consent: eg static illuminated advertisements on business premises and directional advertisements to new residential development. Local planning authorities have powers to remove the “deemed” consent (discontinuance).
- Advertisements for which the planning authority’s “express consent” is always needed: these would include large commercial advertisements with illumination and moving displays.

The criteria for giving consent are public safety (for example, would the advertisement distract motorists) and amenity (for example, would the advertisement have an unacceptable effect on the urban or rural landscape).

Rationale for government intervention

The current provisions for the regulation of outdoor advertising are outdated and no longer achieve the correct balance between protection of the countryside and support to the advertising industry. They do not take account of current technology, for example on moving and sequential advertisements and illumination. There are also interpretation problems, for example: difficulty establishing that a site had been used continually since 1 April 1974 for the display of advertisements; and whether advertisements on the glazed surface of telephone kiosks benefitted from deemed consent. Advertising on telephone kiosks was not an issue in 1992: although the scale of these advertisements is similar to other deemed consent classes, it was unclear whether such advertisements fitted in to any existing class. Experience has also shown that both the application and appeals procedure need rationalisation: LPAs were not able to decline to determine certain applications for express consent where they have no power to grant that consent, and the appeals procedure lacked clarity. If no changes were made, these difficulties would only get worse.

Consultation

The 2007 Regulations have been prepared following two consultation exercises. In 1999, the Department put forward 42 proposals for change. Most were accepted by consultees, some were amended and six new proposals were subsequently developed for the 2006 consultation exercise, which asked respondents to consider new amended and consolidated Regulations, a new departmental Circular and the partial RIA.

Within government

We have consulted the Department for Transport, Department for Environment, Food and Rural Affairs, Department for Trade and Industry, the Welsh Assembly Government, the Scottish Executive and the Department of the Environment (Northern Ireland).

Public consultation

Responses were received from a wide range of interested bodies and individuals. These included: the Town and Country Planning Association, the Civic Trust, the Royal Town Planning Institute, the Council for the Protection of Rural England, English Heritage, the Law Society, the Local Government Association, the Outdoor Advertising Association, the British Sign Association and local authorities. There were 186 responses to the 1999 consultation exercise and 107 to the 2006 exercise, which took place between July and September 2006.

Following the 2006 consultation, the Department held discussions with the Outdoor Advertising Association of Great Britain. Most of the responses were technical in nature and many suggestions made by respondees have been adopted. A note of the specific changes suggested by consultees and taken on board by the Department is in the Annex to this RIA.

The results of the consultation *Outdoor Advertisement Control* were announced in June 2000 and can be found at:

http://www.press.dtlr.gov.uk/pns/DisplayPN.cgi?pn_id=2000_0450

The results of the consultation *Draft Town and Country Planning (Control of Advertisements) Regulations 2006 and draft Circular* were placed on the Department's website on [date February 2007] and can be found at [url].

Changes from the 1992 Regulations in the 2007 Regulations

Definitions of “advertiser” and “amenity” are included (regulation 2(1)). “Advertiser” means the owner of the site on which the advertisement is displayed, the occupier of the site and any other person who undertakes or maintains the advertisement display. One of the practical consequences is that it is now clear that when local planning authorities serve a discontinuance notice, removing deemed consent from a specific advertisement (or advertisements) in the position where they are actually displayed, or against the use of a site for the display of advertisements, the discontinuance notice must be served on the owner of the site on which the advertisement is displayed, on the occupier of the site and on the person who undertakes or maintains the advertisement display. “Amenity” is defined to include aural amenity as well as visual amenity; the increasingly sophisticated nature of advertisement displays can have significant implications for the generation of noise.

Regulation 3 makes it clear that local planning authorities should take into account relevant development plan policies when exercising their functions under the Regulations.

Regulation 8 (Discontinuance of deemed consent) has a new provision requiring the LPA to include in a discontinuance notice the names and addresses of everyone on whom the notice has been served.

Under the 1992 Regulations an application for express consent had to be made on a form provided by the local planning authority with such plans as the local planning authority required. Under paragraph (2) of the new regulation 9, and subject to the transitional arrangements in paragraphs (6) to (7) for the period beginning on 6th April 2007 and ending on 31st October 2007, an application for express consent must be made either electronically or in hard copy on a form published electronically by the Secretary of State (the Single Application Form). The single form will make the application process simpler, especially for applicants dealing with more than one local planning authority, as the information requirements will be the same. This will be beneficial for business. Hard copy forms will be available from the local planning authority for applicants who are not able to download them. The form must be accompanied by accurate plans which are drawn to an identified scale and which identify the location of the site by reference to at least two named roads. The plans must show the direction of North and identify the proposed position of the advertisement. Dropping the requirement for this to be an Ordnance Survey map will be a small benefit for business.

Applications for express consent must be accompanied by plans that are drawn to scale, indicating North and showing the site and surroundings with at least two named roads (regulation 9(3)).

Applications for express consent do not have to be accompanied by written evidence that the owner and every other person with an interest in the site consents to the application (deletion of proposed additions to regulation 9 in the consultation draft).

Applications for express consent do not have to be accompanied by written evidence that the application is acceptable to the highway authority (deletion of proposed additions to regulation 9 in the consultation draft).

Local planning authorities have a new power to decline to determine an application for express consent for an advertisement in an Area of Special Control where they have no power to grant the consent applied for (regulation 14(1)(c)).

clearer advertisements appeals procedures (regulation 17 and Schedule 4, Parts 3, 4 and 5);

shopping malls and shopping arcades are to be included, but historic arcades are to be excluded, in the definition of enclosed land for the purposes of Schedule 1 Class A (An advertisement displayed on enclosed land). This Class covers advertisements not readily visible from outside the enclosed area. Within a modern shopping mall, there would be no adverse effect on amenity or public safety for any type of advertisement, but unrestricted advertisements in a historic arcade (as defined in condition 3 of Class A), such as Burlington Arcade in London, could easily disfigure the historic visual amenity;

adding advertisements relating specifically to a referendum to Schedule 1 Class E so that they may be displayed without consent;

The European Union flag, the flag of the Commonwealth, the United Nations flag and English county and saints' flags (where these are associated with a particular county) may be flown without express consent (Schedule 1, Class H).

adding Government Departments and Agencies and Transport for London to Schedule 3 Part 1, Class 1 so that any functional advertisement they wish to display is in the same category as those displayed by local authorities, statutory undertakers and public transport undertakers. Without these additions, Government Departments and TfL would have to apply for express consent for such advertisements. For the Government, these would include warning notices for firing ranges. It is necessary to include Government Departments specifically as the 1992 Regulations did not apply to the Crown until 7 June 2006. TfL does not fit into the definition of either a statutory undertaker or a public transport undertaker although it functions in a similar way to both: it therefore has to be specified in order to benefit from this Class;

For all deemed consent classes where illumination is permitted, we accepted that new advertisements that include an intermittent light source, flashing lights, moving parts or features, exposed cold cathode tubing, animation or retroreflective material have a detrimental effect on road safety and have introduced a new condition to make it clear that these advertisements do not qualify for deemed consent (Schedule 3, Part 1, Classes 2B, 2C, 4A, 4B, 5 and 8);

Simplified and relaxed luminance levels for illuminated advertisements on business premises (Schedule 3, Part 1, classes 4A and 4B, and Schedule 3 Part 2, paragraph 2);

new size limits on the following deemed consent classes: Schedule 3, Part 1, Class 5 (Other advertisements on business premises), Class 6 (an advertisement on a forecourt of business premises) (both 1.55 square metres) and Class 8 (Advertisements on hoardings) (38 square metres). For Classes 5 and 6, these are new limits as none were specified before. This means that deemed consent will only be available for advertisements that not have any adverse effects on safety or amenity. The changes to Class 8 remove a minimum size limit and slightly increase the maximum to accommodate standard size advertisements.

amendment to Schedule 3, Part 1, Class 13 to change the criteria for deemed consent for advertisements displayed on the same site from display since 1 April 1974 to a rolling period of display for the past ten years. The time that has passed since 1974 has made it increasingly difficult to establish whether a site had in fact been in continual use since then. The change to a rolling ten-year period is much more certain and will not go out of date;

Schedule 3, Part 1, Classes 13 and 14 now only allow advertisements to be replaced with advertisements that have the same type of illumination or movement technology;

remove balloon advertisements from Schedule 2 Class A of the 1992 Regulations and insert them in a new deemed consent Class 15 in Schedule 3, Part 1. (Schedule 2 of the 1992 Regulations is now Schedule 1 to the 2007 Regulations). Previously, balloons were either round or blimp-shaped, but balloon production techniques have become more sophisticated, raising amenity and safety considerations. Balloons can now be in the shape of the product advertised (eg a bottle) which can be unsightly. We consider that balloon advertisements, provided they comply with certain conditions and limitations, should be allowed to be displayed with deemed consent, which allows the LPA to take discontinuance action if the advertisement does have an adverse effect on amenity or safety;

a new deemed consent class for telephone kiosk advertisements (Schedule 3, Part 1, Class 16). This was included as a result of a separate consultation '*Telephone Kiosk Glass Advertising*' issued in 2001;

The revised interpretation of “business premises” in Schedule 3, Part 2, paragraph 1(1)(a) will allow local planning authorities to control advertisements on large Victorian-type terraced properties where only part of the building had been granted planning permission for change of use to offices. As business premises these advertisements would be in Class 5. It also applies to advertisements in Class 2A, 2B and 2C.

Options

Two options have been identified:

- **Option A** - continue to rely on the current controls and guidance, as set out in the Town and Country Planning (Control of Advertisements) (England) Regulations 1992, and the accompanying Circular 5/92;
- **Option B** - revised regulations and guidance which is up to date and will be easier to administer and ensures a fairer balanced advertisement control system

Other option considered but rejected - self regulation by advertisers. This would mean disapplying current legislation and allowing companies to have the freedom to display advertisements without any consideration towards amenity and public safety. We anticipate a high level of concern or even outrage due to the potential harm to amenity and safety that unrestricted advertisements could cause. Valuable townscapes and rural areas could be disfigured and cluttered and public safety could be compromised by (for example) unrestricted roadside advertising which could distract drivers. There was no support for this option in the consultation.

Costs and Benefits

A balance needs to be struck between:

- the need to preserve and where possible enhance the character of the environment;
- the need to provide a system of control that does not place undue burdens on industry, or those who administer the system i.e., local authorities and the Planning Inspectorate; and
- the commercial freedom of advertisers.
- A further principle, underlying the changes in Schedule 3, Part 1, Classes 13 and 14, is that deemed consent should not be available for changes to the nature of existing advertisements if a new advertisement of that nature would require express consent.

Benefits

Option A

Economic: There would be no additional start-up costs to authorities, the Planning Inspectorate etc, to implement changes in legislation and update literature and guidelines.

Social and Environmental: None identified beyond the current benefits of a familiar system that offers some degree of regulation.

Option B

The proposed amendments are designed largely to clarify existing legislation and guidance, to make the current system operate more effectively. This will provide benefits as follows;

Economic: the outdoor advertising industry would find the control system more user-friendly and responsive to the legitimate interests of the industry. There are likely to be some savings to businesses resulting from the amendments, which would clarify existing legislation and guidance, making the current system more effective. For example, the proposal to amend Regulation 9(2) so that applicants will no longer be required to submit an Ordnance Survey map when applying for express consent to display advertisements. The use of the Single Application Form will simplify the process, especially for advertisers operating in the areas of more than one local planning authority, as information requirements will be consistent throughout England. We cannot quantify this as we do not know how many advertisers already use electronic forms or how many deal with more than one authority.

There are about 25,000 applications for express consent a year. The cost of providing an Ordnance Survey map is £30. Although a map will still be required, the new Regulations do not specify the source. We estimate the cost of a map meeting the requirements of the new Regulations to be about £5. The saving to advertisers would therefore be $25,000 \times £25 = £625,000$.

Social and Environmental: the Planning Inspectorate would be able to provide a more speedy and efficient service to its customers. Local authorities would be able to implement and operate a fairer and more balanced system of control. In particular, the removing of deemed consent for advertisements on sites used for ten years to display advertisements, and advertisements where express consent has expired, where illumination is added and where a static advertisement is changed to a moving display, will mean that public safety and amenity will be specifically taken into account in any application for express consent. For advertisements on hoarding round building sites, only static illumination will be allowed for deemed consent, whereas there was no limitation on illumination previously.

Business Sectors Affected

Outdoor advertising is a multi-million pound industry. The Outdoor Advertisement Association is the trade association for commercial advertisement companies. Their 52 members form the bulk of this sector. Turnover in 2005 was £897m and turnover in 2006 is estimated at £935m. Members of the Association employ some 8,000 people. Most of the compliance costs will fall on this sector as a result of the changes to the deemed consent classes in Schedule 3, Part 1, Classes 8, 13 and 14. Although extra costs are unwelcome, the OAA recognises the rationale behind the changes to these Classes. Consultation responses on these Classes concentrated on the workability of the drafting rather than the principle of regulation. Although the bulk

of the costs fall on the commercial sector, all businesses that use outdoor advertising are likely to be affected to a greater or lesser extent. In general, business would like to see the new Regulations in place as soon as possible, particularly those working in sectors where the 1992 Regulations are particularly out of date (advertisements on continually used sites and telephone kiosks). The new Regulations will also benefit Government Departments and their agencies, as the 1992 Regulations have no provision for giving deemed consent for functional advertisements. The new Regulations will close a lacuna that has existed since 7 June 2006, when the planning Acts and the associated subordinate legislation applied to the Crown.

Race Equality Impact Assessments, Health Impact Assessments and Rural proofing have been carried out for both options, and no significant disproportionate impacts in these areas have been found.

Costs

Option A

Economic: Costs to LPAs of implementing current regime and of advertisers of adhering to it would remain the same. There would also be prosecution and appeals costs for cases taken to court. Because no changes would take place in terms of reducing the number of express consent classes, advertisers who unwittingly displayed adverts without applying for consent would continue to experience unexpected prosecution costs.

Social and Environmental

None anticipated.

Option B

Economic: May result in businesses incurring compliance costs through the following amendments to the deemed consent classes in Schedule 3 Part 1 of the Regulations: the imposition of a size limit on advertisements in Classes 5 and 6; the insertion of a condition in Class 8 prohibiting the display of moving advertisements; and the insertion of a condition in Classes 13 and 14 preventing a change from non-illuminated to illuminated advertisements and from static to moving advertisements.

The costs of applying for an express consent for an advertisement greater than 1.55 square metres in area (Classes 5 and 6 advertisements on business premises and on a forecourt of business premises) should not be excessive. The application fee is £70 and the application form can be downloaded free from the planning portal. The preparation and advice required to decide how to complete the application is not possible to predict with certainty, but it is unlikely to exceed a few hundred pounds for a permission that will last five years (and would then benefit from deemed consent if it remained unchanged).

The costs arising from changes to Classes 8, 13 and 14 will, as mentioned above, fall mainly to the commercial outdoor advertisement industry. The Department's Admin

Burdens Measurement Project measured the costs of providing information to local authorities and government. On an annual basis the average administrative burden of notifying the LPA of a forthcoming Class 8 deemed consent was £21.06 and the administrative burden of applying for express consent was £57.92. Where an express consent would be needed under the new Regulations, a deemed consent notification would not be required, so the excess cost is $£57.92 - £21.06 = £36.88$.

The industry suggest that there could be hundreds of express consent applications for elaborate advertisements on hoardings around building sites. If there were 200, the total cost would be approximately £7,500 and if there were 300, the total cost would be approximately £10,000. If there were similarly between 200 and 300 express consent applications for advertisements that would have had deemed consent under Classes 13 and 14, the administrative costs would be between $200 \times £57.92 = £12,000$ (approximately) and $300 \times £57.92 = £18,000$ (approximately).

The range of additional annual administrative costs is therefore between about £19,500 and £28,000 a year.

The actual cost of applying for express consent for a commercial outdoor advertisement that goes beyond what is allowed by the new deemed consent classes 8, 13 and 14 is typically £2,500. This includes such things as the cost of survey, drawings and the fee. Assuming the same numbers for these applications as above, the costs in the year of application would be between £500,000 and £750,000 for Class 8 and the same for Classes 13 and 14 combined.

Each express consent on hoardings round building sites (beyond Class 8) lasts for three years, so the annual cost to the applicants should be averaged out. The true annual costs are therefore between £166,667 and £250,000.

Other express consents (such as those obtained where what is allowable under Classes 13 and 14 are exceeded) last for five years. The average annual costs are therefore between £100,000 and £150,000. It should also be remembered that when an express consent expires, the advertisement can remain indefinitely under the deemed consent in Class 14. In practice, therefore, the annual costs will less than stated. For example, the application costs for an advertisement that lasted 10 years would be only £250 a year.

These compliance costs assume that businesses and the advertisement industry will continue to do what they would have done had the Regulations remained unchanged. In many cases this would involve replacing static advertisements with ones having complex illumination or moving displays. If, however, businesses choose to replace like with like, or otherwise operate within the new deemed consent conditions, they could avoid any new costs as they would not need to apply for express consent for the replacement advertisement..

Social and Environmental

None anticipated.

Small Firms Impact Test

The initial consultation in 1999 and the second consultation in 2006 sought the views of small firms and their trade bodies on the possible impact of these proposals. We consulted the Small Business Service who accepted our approach. Where potential significant impacts were identified we explored how these might be addressed. As a result, changes were made and details are in the Annex. The Department believes that the Regulations will not impose any significant costs on small businesses.

Competition Assessment

The Competition Assessment was carried out and a detailed assessment is not necessary. It was suggested that the consultation exercise should be used to gain feedback about the effect of the changes on outdoor advertising businesses, which is highly concentrated (partly because of merger activity) and also industry and local authority views on the viability of self-regulation.

Consultation confirmed that it is unlikely that the proposed changes would have a disproportionate anti-competitive impact on any particular sector. The consultation responses also contained no demands for self-regulation. As described above, the Department met the OAA to discuss their concerns and agreement was reached on the way forward.

Recommendation

The Department sees a continued need for a system that facilitates the display of outdoor advertisements but retains sufficient control to ensure that the interests of amenity and safety continue to be safeguarded. The present system achieves this but is now out of date in certain respects. The recommendation is therefore to pursue the adoption of Option B.

Enforcement, Sanctions and Post-Implementation Review

Local planning authorities would continue to operate the advertisement control system utilising the existing provisions carried forward into the new Regulations for tackling any advertisement displayed without the necessary consent. The Department will continue to monitor and review the working of the Regulations as necessary by correspondence with local planning authorities and industry stakeholders. A formal post-implementation review will be commenced in spring 2010, three years after the Regulations come into force.

Implementation and Delivery Plan

2007

Task/Objective

	Make regulations and issue guidance in Spring 2007
	Commencement of Regulations April 2007
	Update 'Guide to Advertisers' booklet
	Begin Advertisement appeals regulations

2008

	Task/Objective
	Begin revision of PPG19 to become PPS

SUMMARY AND RECOMMENDATIONS

Option	Benefit (annual)	Cost (annual)
A	<p>Familiarity with a system that is now well established.</p> <p>No additional start-up costs to authorities and Inspectorate</p>	<p>Costs to advertisers of prosecutions because lack of clarity about adverts and fewer deemed consent classes.</p> <p>Continued drain on Inspectorate resources because of appeals</p>
B	<p>A more efficient system of control. because:</p> <p>a) It is less costly to administer b) It lowers the cost to firms of applying for permission c) It reduces the amount of harmful advertising taking place. d) Greater clarity will assist decisions on appeal.</p> <p>Quantifiable: £625,000 a year because OS maps no longer required</p>	<p>Amendments to deemed consent classes may result in some compliance costs for advertisers.</p> <p>Quantifiable: annual administrative costs between about £19,500 and £28,000 a year.</p> <p>Annual average costs of extra express consent applications between about £266,667 and £400,000.</p>

Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Signed ...Yvette Cooper.....

8th March 2007

Yvette Cooper

Minister for Housing and Planning
Department for Communities and Local Government

Contact point for enquiries and comments:

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ANNEX

Consultation - 2006

A note of the issues arising from the 2006 Consultation which the Department took on board.

Draft Regulations, including the amendments described above as part of Option B, a new draft Circular and a Partial RIA were available for public consultation between 24 July and 18 September 2006.

There were [107] responses from businesses, local authorities and others. The Department held post-consultation discussions with the Outdoor Advertising Association of Great Britain. Most of the responses were technical in nature and many suggestions made by respondents have been adopted. These include a number of drafting corrections which are not listed below. The substantive changes are:

Regulation 8 (Discontinuance of Deemed Consent): A provision to require LPAs to include a list of all who have been served with a discontinuance notice either in the notice itself or in an accompanying note. This means that all those served will know who else has been served with the notice. This will enable any omissions to be notified to the local planning authority and enable recipients to copy any documents to all the interested parties if further action is taken, such as an appeal.

Regulation 9 (Applications for Express Consent): Transitional provisions to accommodate the introduction of the Standard Application Form (paragraph (2)(a)), and the removal of the statutory requirement to provide evidence of the owner's and the highway authority's consent (paragraph (2)(c)).

Regulation 31 (Transitional provisions): Provisions for Class 13 advertisements deleted. Class 8 advertisements displayed on hoardings may be displayed with deemed consent for a maximum of three years from the date the Regulations come into force.

Schedule 1

Class H: the flags of the Commonwealth, the United Nations and English county and saints' flags (where these are associated with a particular county), as well as that of the European Union may be displayed without requiring express consent.

Schedule 3

Class 1: Transport for London specified together with government departments and their agencies, local authorities, public transport undertakers

and statutory undertakers for the purposes of displaying functional advertisements.

Class 1A, condition (2): the size limit of 1.42 square metres changed to 1.55 square metres.

Class 3F, condition (6): amended such that no part of the advertisement is more than 4.6 metres above ground level, or 3.6 metres in an area of special control to align with other advertisements in Class 3.

Classes 5 and 6: increase the size limits for advertisements displayed with deemed consent so that no single advertisement may exceed 1.55 square metres in area.

Class 8, condition (4): increase the overall size limit so that no advertisement shall exceed 38 square metres in area. This will accommodate standard 96-sheet advertisements.

Class 13: Amended such that pre-1974 advertisements which currently benefit from deemed consent will continue to do so. Revert to the use of “continually” (from “continuously”) to allow for breaks in the display of an advertisement for maintenance of the site etc not to interrupt the period of display.

Class 14: Revert to the use of “continually” as for Class 13.

Only one respondent commented on the partial RIA. Although they believed that compliance costs could be very high, the provision which led the respondent to that conclusion has, we believe, been amended to remove the perceived difficulty (see change to regulation 9(2)(c) noted above). No other respondent, including the trade associations, raised compliance costs as an issue. The Department therefore concludes that these Regulations will not impose any significant costs on business.