

**THE REGULATORY FRAMEWORK
FOR HOME BUYING AND SELLING**

Government response to
consultations on the Estate
Agents Act and the Property
Misdescriptions Act

SEPTEMBER 2012

Contents

Contents	2
Summary of the Response	3
Introduction	3
The Estate Agents Act 1979.....	4
Property Misdescriptions Act 1991.....	10
Next steps	11
Devolution	11
1. Amending the Estate Agents Act.....	12
Introduction	12
Consultation responses	14
The Government’s response.....	18
2. Repealing the Property Mis-descriptions Act	21
Introduction	21
Consultation responses	22
The Government’s response.....	24
Annex A – Responses to the consultation on amending the EAA.....	28
Annex B – Responses to the consultation on repeal of the PMA	31

Summary of the Response

Key Decisions

- The Estate Agents Act to be amended to take out of scope intermediaries such as private sale portals which merely enable private sellers to advertise their properties and provide a means for sellers and buyers to contact and communicate with one another.
- The Property Misdescriptions Act to be repealed.

Introduction

1. The Estate Agents Act 1979 (EAA) and the Property Misdescriptions Act 1991 (PMA) regulate businesses in the home buying and selling sector and overlay the more general consumer protection legislation such as the Consumer Protection from Unfair Trading Regulations 2008 (CPRs).
2. The Office of Fair Trading (OFT) published a market study into the home buying and selling market in February 2010.¹ It found that the market was dominated by traditional estate agents whose business practices and charging structures had remained largely unchanged over the years. Price competition between traditional estate agents remained weak and commission rates were “sticky” – as property prices rose during booms, in real terms, so did estate agents’ fees.
3. The OFT believed that the best way to tackle the lack of price competition was to encourage new business models which might provide choice and put pressure on traditional models. The market study argued that the very broad definition of “estate agency work” in Section 1 of the EAA meant that a wide range of activities were potentially in scope even where they were not traditional activities of an estate agent and did not pose risks to consumers. Businesses wishing to offer a trimmed down service where the risk to consumers were considered low had to comply with the same requirements as those offering the full traditional estate agency service. This also meant that such activities were in scope for the PMA. The OFT argued that the application of legislation might be a deterrent and hinder innovation.
4. The OFT therefore recommended to Government that the legislation be updated.
5. As part of the Disruptive Business Models theme of the Government’s Red Tape Challenge process which seeks to ensure that our regulatory system is fit for

¹ Home Buying and Selling: A Market Study - http://www.offt.gov.uk/shared_oftr/reports/property/OFT1186.pdf/

purpose, and is not holding back disruptive new companies,² a targeted consultation of interested parties was undertaken between 8 June and 10 August 2012 on whether the EAA should be amended to clarify its scope. The proposal was to exempt intermediaries such as private property sale portals which act only as a vehicle for contact between seller and buyer and which neither provide advice nor handle client's money ("passive intermediaries"). Over 400 responses were received from 271 organisations and individuals including traditional estate agents, private sales portals, trade and professional bodies, representatives of Local Authority Trading Standards and consumer bodies.

6. Whilst the proposal related to the EAA, it also took into account how the EAA bears on other legislation which incorporates the definition of estate agency work from the EAA. In particular, the PMA applies to estate agents under the EAA definition (although see below). Other more general regulations such as the Money Laundering Regulations 2007 (the MLRs) apply to estate agents under the EAA definition.
7. In addition to inviting responses to the proposal, discussions were held during the consultation period with traditional estate agents, private sale portal businesses and representatives of consumer organisations, Local Authority Trading Standards Services (LATSS), the National Association of Estate Agents, the National Federation of Property Professionals, the Royal Institute of Chartered Surveyors, the Property Ombudsman and the OFT.
8. In 2011, the Government also consulted on repealing the PMA on the grounds that it is largely superseded by the CPRs which were introduced in 2008.

The Estate Agents Act 1979

The market is still dominated by traditional estate agents

9. In 2007 there were 1.6 million residential property transactions in the UK with a total value of £361 billion. The economic downturn has seen a sharp decline in the number of homes being bought and sold. Transactions fell considerably up to 2009 and only recovered slightly to 884,000 in 2011.³
10. There are approximately 14,000 traditional residential estate agent offices in the UK.⁴ The traditional estate agency market, excluding fees for ancillary services, was worth approximately £4.2 billion in 2007, falling to £2.1 billion in 2008, mainly because of the large drop in transactions. Virtually all estate agents have an online presence and most also market their property details through one of the major

² <http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/>

³ HM Revenue & Customs National Statistics – Table 16-2, Property Transactions in the UK

⁴ From the OFT market study and feedback from consultation respondents

property marketing portals which allow buyers to search for properties and contact the estate agents involved. Rightmove is the largest property market portal with a market share in excess of 80 per cent by some measures.⁵

11. The market for home buying and selling is still dominated by traditional estate agents. Research carried out for the OFT market study found that at that time 87 per cent of sellers used a traditional estate agent, a similar proportion to those surveyed in an earlier 2004 study. This proportion had increased from the position in 1979 when the then Price Commission surveyed sellers and found that just 73 per cent used an estate agent, while 25 per cent of homes were sold privately. In their more recent work, the OFT found that 11 per cent of sellers sold privately while auctions were very rarely used, at least for private individuals selling their own home. Online-only estate agents were still at the fringe of the market, with only two per cent of sellers choosing to use one. There now appear to be approximately 20 online-only estate agents and fewer than 30 private sale portals; from feedback received, the number of private sale portals is decreasing and their geographical reach is rather limited. Online-only estate agents offer traditional estate agent services to consumers but operate without high street premises. Private sales portals provide a platform for private sellers to display property details, some provide information about the buying and selling process and some provide tools to allow the buyer to communicate with the seller.

There is a lack of innovation in business models, price structure and charges

12. The OFT report found “surprisingly little innovation” in relation to the traditional model of selling property. The OFT noted, however, that this may reflect the preferences many consumers express for personal, face-to-face contact with an estate agent.
13. As above, the dominant model was the traditional estate agent with a high street presence retained by the seller and paid a fee on completion based on a percentage of the achieved price. The OFT had expected to see estate agents looking to cut costs by shifting more of their operations online. While some traditional estate agents had set up virtual offices, it was not yet common practice at that time.
14. Another striking feature of the market was the homogeneity of the service offering. Most estate agents offered broadly the same package of services – valuation, production and distribution of marketing material, accompanied viewings, and negotiation – at broadly the same price, one to two per cent of the achieved sale price.
15. With the heterogeneity among sellers, the market study found it surprising that there was not greater variety in terms of service offered or greater use of menus of services with the buyer deciding which parts of a package to buy. Similarly, it was surprising that a single form of contract – flat percentage commission – dominated the market.

⁵ <http://www.estateagenttoday.co.uk/>

16. There are some indications that innovation has proceeded faster in other countries. In the US in 2007, 80 per cent of the market was served by traditional real estate agents and brokers and more appeared to offer a menu of services than in the UK with fees varying in line with the level of service provided. That gave consumers more control over pricing and enabled them to manage their costs, which in turn encouraged competition in the market and drove down the fees charged. Despite this, fees overall were still higher than in the UK – commissions were normally between 5-6 per cent of the sale price.⁶ The level of commission paid in different countries is not directly comparable, however, not least because it involves comparing property prices which is difficult.
17. It is impossible to make an objective assessment of whether there is enough innovation in a market. However, given the emergence of factors which might be expected to trigger changes, for example greatly improved access online to local pricing information, the OFT felt that it was surprising that even straightforward innovation appeared muted.
18. Evidence from the Government's consultation broadly supported the OFT's findings. Many traditional estate agents charge a commission on the sale price of between 1-2.5 per cent for sole agency contracts or up to 3 per cent or more for multiple agency contracts; some also offer a fixed fee service that amounts to broadly the same cost to the seller. Online-only estate agents usually offer three levels of service for a flat fee (£250 to £500) or a flat fee plus commission if the sale is successful (either as a fixed amount or a percentage of the sale price amounting to £400 to £1000). Online-only estate agents tend to offer multi-agency rather than sole agency contracts and offer services such as premium listing on the portal sites or For Sale signs at extra cost. Private sale portals are cheaper, or in one case free, and charge fixed fees (up to £300) with some offering a "For Sale" board either within a fixed fee or as an optional extra.

Uncertainty surrounding the scope of the regulation is of itself a concern and it may also be hampering innovation

19. Despite the innovations in many sectors due to the use of the internet, the OFT market study observed that estate agency legislation had not changed. The definition of an estate agent which triggers the application of the EAA (as well as other legislation) is over 30 years old and did not in their view easily accommodate new business models, which might not, in fact, pose potential risks for consumers.
20. The EAA currently applies to "estate agency work", the definition of which is very broad. The EAA covers the activities of businesses which act on instructions for the purpose of introducing sellers to buyers of UK property, and vice versa, or to secure a sale or purchase after such an introduction has been effected.⁷ It does not apply to

⁶ US Federal Trade Commission and Department of Justice (2007) Competition in the real estate brokerage industry

⁷ Under section 1(1) of the EAA, the EAA applies (subject to exemptions) to any "things done by any person in the course of a business... pursuant to instructions received from another person ("the client")

advertising or the dissemination of information, provided the business carrying out the advertising service does not do anything else which falls within the definition of “estate agency work”.⁸

21. The EAA requires businesses to, among other things, be transparent in the way they handle information about offers on properties and to disclose any self interest or the interests of third parties who may benefit from a sale. An amendment to the EAA added the requirement from 2008 that all estate agents doing residential work be members of an approved redress scheme.
22. The PMA, which relies on the definition of estate agency work in the EAA, places an obligation on estate agents not to publish property particulars that are false or misleading (also see below and in Chapter 2). The MLRs require persons in specified sectors, including estate agents, to guard against and report any suspicion of money laundering.
23. Responses to the consultation showed that there was a range of views about the meaning of the definition of estate agency work and uncertainty about whether the activities of private sale portals fell within the strict legal scope of the EAA. This uncertainty was acknowledged by some respondents including estate agents and trade bodies and some thought that clarity would be welcome. The consequences of this uncertainty include the following:
 - If the business model was in scope, the intermediary would either need to comply with the EAA (and PMA) with the costs involved or to operate without complying and potentially be open to enforcement action for acting illegally. The private sale portals consulted considered they were out of scope but agreed that the uncertainty of the situation was a deterrent to them wishing to expand their activities and to potential new entrants.
 - The major property marketing portals do not allow private sale portals to post details on their sites and private sales portals felt this restricted their ability to compete with traditional estate agencies. This may be because of concerns that property details being provided by businesses not complying with the PMA might be inaccurate.
 - Private sales portals and LATSS referred to cases where consumers had been charged commission by estate agents under sole selling or sole agency contracts, for selling property through private sales portals. Guidance was

who wishes to dispose of or acquire an interest in land (i) for the purpose of, or with a view to, effecting the introduction to the client of a third person who wishes to acquire or, as the case may be, dispose of such an interest; and (ii) after such an introduction has been effected in the course of that business, for the purpose of securing the disposal or ... acquisition”.

⁸ This exemption is provided in section 1(4) of the EAA, which states that the EAA “does not apply to the publication of advertisements or the dissemination of information by a person who does no other acts which fall within subsection (1)”.

issued by the OFT, Trading Standards Institute and Local Authorities Coordinators of Regulatory Services (LACORS) in around 2009, following such cases, to provide clarity as to whether internet portals were estate agents. Private sales portal respondents commented that their business is still affected by suggestions that private sales portals may be considered to be estate agents (under the EAA) and thus may conflict with estate agents' sole agency contracts.

24. A large proportion of the responses were from traditional estate agents who were against a change that they felt would create an unlevel playing field and allow disruptive competition with consequent job losses.

Consumer protection should not be diluted

25. Almost all respondents were concerned that the protections the EAA afforded consumers should not be diluted as it would lead to confusion and expose the consumer to sharp practices. Traditional estate agents felt that their business model was the one that most sellers preferred to provide confidence that the overall process was being well managed – supported by the fact that this is the dominant model in the UK. In particular, they thought that the requirement for estate agents to be part of a redress scheme and the fact that most are also signed up to an approved, voluntary code of conduct was an important protection for consumers.
26. The LATSS representatives that responded thought that the rather low levels of enforcement action seen in this sector⁹ was evidence that the legislation was well understood and working well. Consumer bodies agreed but felt there could be more innovation in the market to boost consumer choice. The range of views about the interpretation of the scope of the EAA confirmed that the uncertainties referred to above exist. The responses also supported the OFT market study conclusions about a lack of penetration alternative business models into the market, albeit this may be down to consumer preference for the traditional model.

The Government's response

27. The Government's view is that some private sale portals may currently be in scope of the EAA, if they act on instructions of the prospective seller or buyer and provide a means for the prospective seller and buyer to make initial contact or to continue to communicate with one another. This is because although publishing advertisements and disseminating information is exempted from the scope of the EAA, facilitating such communication goes beyond this, even though it may not amount to any of the services traditionally associated with estate agents.
28. Taking the consultation responses into account, the Government believes that a limited deregulation of the EAA would bring benefits to consumers and to the industry without reducing consumer protection. It should provide confidence to existing private sales intermediary businesses and potential new entrants, thereby

⁹ One LATSS representative estimated that 1:200 complaints followed up were in the home buying and selling sector.

stimulating competition and innovation leading to more consumer choice and better standards of service. The Government recognises that property sales are significant and occasional transactions for consumers with a risk of consumer detriment if businesses which influence or are directly involved transactions are not regulated. The Government believes that a limited amendment to legislation, combined with guidance, will provide clarity and draws the appropriate balance between the interests of businesses and consumers.

29. The Government has therefore decided to amend the EAA to take out of scope intermediaries such as private sale portals which merely enable private sellers to advertise their properties and provide a means for sellers and buyers to contact and communicate with one another. The Government recognises this is a limited amendment – many respondents have commented that the choice for consumers to sell property privately already exists – but the Government is concerned by the uncertainty and range of views as to the legal position of private sales portals that the responses demonstrated.
30. This amendment will enable the intermediary to provide a means for the seller and prospective buyer to contact one another, for example online, a branded For Sale board to the seller to assist this process, and to pass on to a buyer solely the information provided by the seller in their advertisement, by whatever channel of communication. If, however, the intermediary offers any personal advice to a seller or a buyer or other ancillary services such as preparing property particulars or photographs or an Energy Performance Certificate, then the intermediary will be in scope of the EAA and bound by its obligations.
31. Businesses outside the scope of the EAA will also be out of scope of the PMA (although the Government also intends to repeal the PMA – see below). The CPRs apply to all businesses that deal with consumers. They could therefore be relevant where a private individual uses a private sales portal to advertise a property. The degree of due diligence that the CPRs require from such businesses is proportionate to the level of service offered.
32. The definition of “estate agency work” is also incorporated in other legislation. The Money Laundering Regulations 2007 require estate agents to guard against and report any suspicion of money laundering. The Terrorism Act 2000 and the Proceeds of Crime Act 2002 incorporate the definition from the EAA in applying particular standards to “regulated sectors” which include estate agents. The limited amendment will also apply to these pieces of legislation.
33. The Government believes a limited amendment will strike the right balance between deregulating low risk activities which do not involve the business in the property transaction and retaining the consumer protections of the EAA where agents act on behalf of a party to the transaction.
34. Guidance to businesses and consumers on the EAA will be revised to reflect these changes.

Property Misdescriptions Act 1991

There is duplication of legislation concerning the provision of information to consumers

35. The PMA makes it an offence to make false or misleading statements in the course of an estate agency or property development business about property offered for sale.
36. In 2008 the Consumer Protection from Unfair Trading Regulations (CPRs) came into force implementing the EU Unfair Commercial Practices Directive in the UK. These regulations apply in all sectors and provide similar protections for consumers to the PMA – their introduction meant that consumers were protected by two broadly equivalent pieces of legislation. The consultation sought views on whether this duplication put additional burdens on business without providing significant additional protection for consumers.
37. Responses to the consultation were mixed with some for and some against the proposal to repeal. Opponents of repeal were united in thinking that the PMA provided clarity and was well understood by consumers, enforcers and estate agents alike and it provided clear decisions and procedures. They raised a range of queries and concerns about the applicability of the CPRs to the home buying and selling sector.
38. Supporters of repeal thought it sensible to remove duplicate regulations and simplify matters for businesses and enforcement agencies. They thought repeal would put an end to problems of conflict between the prescriptive approach of the PMA and the principles-based approach of the CPRs. The CPRs were regarded as being more powerful in that they included the prohibition of misleading omissions, not covered by the PMA.

The Government's response

39. The Government understands the reasons why opponents to repeal of the PMA favour it over the CPRs. The PMA deals specifically with property and as such is easy to apply. The CPRs by contrast are not specific to the sector and, being principles-based, require traders to consider how they apply to their particular circumstances.
40. The Government remains of the view, however, that the CPRs provide broadly similar protection to the PMA. The queries and concerns raised are similar to those that were raised when the CPRs were first proposed and these fears do not seem to have materialised in other sectors. The Government believes this situation will continue so long as the PMA remains in place and that repealing the PMA would not significantly reduce levels of consumer protection. This is disputed by some stakeholders but not others and the Government does not find the arguments for a loss of consumer protection convincing. The Government will therefore lay before Parliament an Order to repeal the PMA. The current intention is that this will come into force not before October 2013.

Next steps

41. The next step will be for the proposed amendment to the EAA to be subjected to Parliamentary scrutiny and the Government intends to bring forward the amendment as soon as the Parliamentary timetable allows.
42. In parallel, the Secretary of State for Business, Innovation and Skills will lay an order under the European Communities Act 1972 to repeal the PMA.
43. Revised guidance for businesses and consumers will be produced to cover these changes. The Office of Fair Trading is publishing guidance on the use of the CPRs in the home buying and selling sector alongside this response.¹⁰

Devolution

44. The EAA and PMA extend to the whole of the UK but the subject of estate agency is devolved in Northern Ireland. Changes to the legislation made in Great Britain can be applied in Northern Ireland with the agreement of the Northern Ireland Assembly.

¹⁰ OFT (September 2012) OFT Guidance on Property Sales: Compliance with the Consumer Protection from Unfair Trading Regulations 2008 and the Business Protection from Misleading Marketing Regulations 2008. www.offt.gov.uk/shared_offt/estate-agents/OFT1364.pdf

1. Amending the Estate Agents Act

Introduction

- 1.1. The proposal on which the Government sought views was to amend the EAA to clarify its scope in terms of the types of businesses that it covers and to exempt intermediary businesses such as private sale portals which act only as a means for seller and buyer to contact and communicate one another and which neither provide advice nor handle client money. The Government asked for views as to the services which should bring intermediaries into scope of the EAA.
- 1.2. The EAA currently requires estate agencies to, among other things, be transparent in the way they handle information about offers on properties, to disclose any self interest or the interests of third parties who may benefit from a sale and, if doing residential work, to be members of an approved redress scheme.
- 1.3. The legal definition of “estate agency work”, which sets the current scope of the EAA, is as follows:¹¹

S1. Estate agency work.

(1) This Act applies, subject to subsections (2) to (4) below to things done by any person in the course of a business (including a business in which he is employed) pursuant to instructions received from another person (in this section referred to as “the client”) who wishes to dispose of or acquire an interest in land—

(a) for the purpose of, or with a view to, effecting the introduction to the client of a third person who wishes to acquire or, as the case may be, dispose of such an interest; and

(b) after such an introduction has been effected in the course of that business, for the purpose of securing the disposal or, as the case may be, the acquisition of that interest;

and in this Act the expression “estate agency work” refers to things done as mentioned above to which this Act applies.

(2) This Act does not apply to things done—

¹¹ The full text of the Act is available at <http://www.legislation.gov.uk/ukpga/1979/38/contents>

(a) in the course of his profession by a practising solicitor or a person employed by him [or by an incorporated practice (within the meaning of the Solicitors (Scotland) Act 1980) or a person employed by it]; or

(b) in the course of credit brokerage, within the meaning of the Consumer Credit Act 1974; or

[(c).]

(d) in the course of carrying out any survey or valuation pursuant to a contract which is distinct from that under which other things falling within subsection (1) above are done; or

(e) in connection with applications and other matters arising under [the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990, the Planning (Hazardous Substances) Act 1990] or [the Town and Country Planning (Scotland) Act 1997, the Planning (Listed Buildings and Conservation Areas) (Scotland) Act 1997, the Planning (Hazardous Substances) (Scotland) Act 1997] or the Planning (Northern Ireland) [Order 1991].

(3) This Act does not apply to things done by any person—

(a) pursuant to instructions received by him in the course of his employment in relation to an interest in land if his employer is the person who, on his own behalf, wishes to dispose of or acquire that interest; or

(b) in relation to any interest in any property if the property is subject to a mortgage and he is the receiver of the income of it; or

(c) in relation to a present, prospective or former employee of his or of any person by whom he also is employed if the things are done by reason of the employment (whether past, present or future).

(4) This Act does not apply to the publication of advertisements or the dissemination of information by a person who does no other acts which fall within subsection (1) above.

- 1.4. The targeted consultation was launched on 8 June 2012 and closed on 10 August. The Government invited a number of regulators, estate agents and their associations, private sales portal businesses, property portal businesses, legal representative bodies, and consumer bodies to provide responses, and to share the consultation within their networks, and published the consultation online. Over 400 responses were received from 271 organisations and individuals (see Annex A). A large number of responses came from estate agents who were small or micro-businesses. In addition, discussions were held with traditional estate agents, private sale portal businesses and representatives of consumer organisations, Local Authority Trading Standards Services (LATSS), the National Association of Estate Agents, the National Federation of Property Professionals, the Royal Institute of Chartered Surveyors, the Property Ombudsman and the OFT.

Consultation responses

Question 1. Is being within the scope of the existing Act i. a burden on existing businesses in the home buying and selling market or ii. a barrier to new business models?

Question 2. Does the way “estate agency work” is defined in S1 of the EAA cause uncertainty about the scope of the Act and thereby create a significant barrier to businesses wishing to set up new business models, such as online estate agencies or matching sites?

Question 3. Are there any significant barriers to entry to the home buying and selling market caused by other legislation?

- 1.5. Estate agency respondents felt that the EAA enshrines best practice in the industry and key consumer protections, and does not present a burden for businesses that wish to comply with them. Nor did estate agency respondents think that the legislation proved a barrier to entry and pointed to existing online-only businesses acting within the scope of the EAA. They acknowledged, however, the relatively low number of such businesses currently in the market and considered that this was due mainly to consumer preference and the commercial difficulties of making a success of that type of business model rather than compliance with the legislation. Many called for more rather than less regulation of the estate agency industry and particularly for positive licensing of the business involved.
- 1.6. Which? suggested that the number of estate agents operating was more likely to be determined by the state of the property market than by regulation acting as a barrier to entry. Which? commented that in 2004 it had set up a fake estate agency to demonstrate the lack of regulation governing the industry and had been able to go into business in a matter of days, without any training.
- 1.7. Private sale portals disagreed, saying that the EAA posed a disproportionate burden if they were deemed to be within its scope. Some LATSS representatives thought that new businesses might perceive the regulations to be a disincentive to entering the market.
- 1.8. Many respondents considered that private sales portals not providing advice to either party or otherwise getting actively involved in a particular sale should not be in scope of the EAA. However, there were differing views about whether these portals were currently in scope.
- 1.9. Uncertainty as to the current scope was acknowledged by some respondents, including estate agents and trade bodies, who agreed the definition predated the internet, and that it was unwieldy and clarity would be welcome. A trade body in the house building sector said that its industry would welcome clarity.
- 1.10. Some respondents, including estate agents and regulators, considered that the definition made clear that private sales portals were already exempt from the EAA, because they only engage in advertising. One estate agent took the view that the

exemption for advertising meant that private sales portals were not caught by the EAA if they published advertisements which included contact details for the seller, but they were if they did anything more to contribute to an introduction or a sale. Another thought that the breadth of the definition of estate agency work in S1 of the EAA meant that private sales portals were caught.

1.11. The consequences of this uncertainty are:

- If the business model was in scope, the private sales intermediary would either need to comply with the EAA (and PMA) with the costs involved or to operate without complying and potentially be open to enforcement action for acting illegally. The private sale portals consulted considered they were out of scope but agreed that the uncertainty of the situation was a deterrent to them wishing to expand their activities and to potential new entrants.
- The major property marketing portals do not allow private sale portals to post details on their sites and portals felt this restricted their ability to compete with traditional estate agencies. This may be because of concerns that property details being provided by businesses not complying with the PMA might be inaccurate.
- Private sales portals and LATSS referred to cases where consumers had been charged commission by estate agents under sole selling or sole agency contracts, for selling property through private sales portals. Guidance was issued by the OFT, TSI and LACORS in around 2009, following such cases, to provide clarity as to whether internet portals were estate agents. Private sales portal respondents commented that their business is still affected by suggestions that private sales portals may be considered to be estate agents (under the EAA) and thus may conflict with estate agents' sole agency contracts.

1.12. There was agreement that the requirements of the PMA that property details should be checked for accuracy involved a significant amount of work for estate agents including training staff, checking details and inspections.

Question 4. The proposal is that businesses, such as online sites, that act simply as "passive intermediaries" offering a limited, low-risk service to buyers and sellers, whether or not they charge a fee, should be outside the scope of the EAA. What do you think the benefits and disadvantages of amending the scope of the EAA in this way would be?

Question 5. If the EAA was amended as proposed what activities should result in a business ceasing to be a "passive intermediary" and coming within the scope of the EAA?

1.13. Private sale portals thought that the benefits of the proposal would be to allow different business models to compete with one another on a more equal basis. Removing uncertainty about the scope of the legislation and hence whether or not some business models were acting within the law should also help the confidence of existing businesses and potential new entrants.

- 1.14. Which? expressed support for consumer choice but also the need to balance this with consumer protection, particularly as consumers may not distinguish between different business models.
- 1.15. Some trade bodies saw the merits in amending the EAA to provide clarity but felt that the amendment should be tightly defined and accompanied by clear guidance for all concerned. One respondent commented that there would be little impact, because private sales portals can already do the proposed activities outside of the EAA. Some enforcers thought simply changing the guidance would suffice, on the same basis.
- 1.16. Many estate agents thought that the proposal would create a two-tier estate agency industry and there were concerns that consumers would not have access to the redress mechanisms that are mandatory for estate agents engaging in residential work. These respondents appeared to misunderstand that the scope of the proposal was limited to businesses offering a passive intermediary service who would not be providing advice or getting involved in negotiations or other active agency roles. One private sale portal business had attempted to set up a voluntary code of conduct for similar businesses.
- 1.17. In terms of the affects on consumer detriment, concerns were also raised about private sales resulting in bogus house viewings, predatory buyers preying on vulnerable sellers, private sellers not being subject to legal duties in terms of properly describing their properties, the lack of a redress scheme and sellers or buyers not achieving appropriate price for their sale/purchase. On the other hand, some felt that such risks are inherent in private sales.
- 1.18. Most respondents considered that the types of activities that were not appropriate for private sale portals if they were operating outside the EAA included: personal advice about a particular sale, preparing particulars, carrying out a physical inspection of a house, valuations, arranging viewings, arranging finance, handling deposits, negotiations on the sale and involvement in post-completion activities.
- 1.19. There were differing views on whether a private sale portal should be able to provide For Sale boards. All thought that providing a board for the seller to put their own details on was compatible with a passive role and some thought that providing board branded by the intermediary and with the internet address of the site where the property details could be obtained was also compatible. Some felt that the passive role should not include telephone contact with a prospective buyer as there was a risk of influencing the buyer. Others were not concerned by this so long as the telephone contact was restricted to transmitting the same information as was available on the site.

Question 6. What do you estimate the likely effects of the proposed change to be on the operational costs and profitability of individual firms or the industry as a whole?

- 1.20. Some of those who responded to this question thought that the proposal might boost competition in the sector although they were not able to quantify this. Most

of the many estate agents who responded were strongly of the view that consumers preferred the traditional “holistic” service they provided and that it was consumer preference rather than the legislation that resulted in the current very low market penetration of alternative business models such as private sale portals. On the other hand, many of them feared that the proposed deregulation would put traditional estate agents at a disadvantage and that they would lose out.

Question 7. Would the purpose of the proposed change be best served by amending the definition of “estate agency work” ie the activities within the scope of the EAA (S1.1) or by amending the set of activities which are exceptions to the EAA (S1.2, 1.3 and 1.4)?

1.21. Of the respondents who had views about this, most did not support an amendment at all. However, some suggested the definition should be the focus as this would provide a clearer and more comprehensive effect. Others who favoured amending the exceptions thought that the central concept in the EAA of an estate agent being someone making an introduction was a useful one and widely understood and should be retained.

Question 8. What, if any, beneficial or detrimental effects might the proposed change have on consumers?

1.22. While some (as per Question 4 above) felt the proposal would reduce consumer protection, others thought that the CPRs provided adequate protection and that removing barriers to new business entrants would lead to greater competition and consumer choice and to higher standards and lower prices. Other benefits could be greater consumer awareness of the home buying and selling process and the tools that were available. For example, how to research current prices of similar properties in a particular area as well as the different business models for buying and selling that were available.

1.23. Private sales portals felt the proposal would increase competition and drive down costs in the industry and provide increased choice for the consumer.

1.24. Many respondents of all types were concerned that consumers might have difficulty selling privately because of a lack of knowledge and experience in negotiating with the risk of chains breaking down. Trade bodies felt that consumers would need to be given sufficient information about the services offered by “passive intermediaries” to make an informed decision when choosing how to sell their home.

1.25. The Scottish Trading Standards (SCOTTS) were satisfied that the protections of the CPRS 2008 would be sufficient to regulate the passive intermediaries and ensure adequate consumer protections.

Question 9. Could there be unintended consequences of the proposed change and if so, what?

1.26. Some, particularly traditional estate agents, felt there would be an increased risk of unscrupulous operators seeing an opportunity in the proposal to take advantage of

unsuspecting consumers. Others felt that existing legislation including the CPRs and the Fraud Act were sufficient protection. Many were concerned about the decline of the traditional high street estate agent and jobs being lost with a knock on effect of the high street suffering. However many recognised in their responses that consumers did still prefer the face-to-face contact and the local knowledge and having someone to negotiate on their behalf. This would not be affected as the narrow exemption would not allow for exempt businesses to offer advice.

- 1.27. Other key issues raised by the trade bodies were that private sales portals would be exempt also from the MLRs, on the basis that the EAA definition of “estate agency work” is incorporated in the MLRs. They felt that the risk of money laundering was high when establishing non face to face business relationships. One trade body suggested that the amendment would lead to more potential prosecutions under the Proceeds of Crime Act 2002 (POCA), as private sales portals would not be covered by the MLRs but could still be prosecuted under POCA.

Question 10. Would there be particular issues about implementing the proposal in Scotland, Wales or Northern Ireland?

- 1.28. Many respondents either had no comment or were unable to comment. A few felt that in Scotland, there were fewer problems generally in home buying and selling and that the proposal would give some benefits to consumers in terms of greater competition and choice. SCOTTS did not regard estate agency as source of major problems but thought that there might be marginal benefits from the proposed amendment.

Question 11. Are there any other points you wish to make about this proposed change?

- 1.29. Other issues raised were outwith the scope of the consultation and included property lettings not being in scope of the EAA, positive licensing for estate agents and the potential advantages of a market where agents could act for a buyer as well as a seller.
- 1.30. Some respondents felt that the consultation should have detailed the proposed amendment and the activities which were proposed to be in and out of scope, to enable them to respond more fully. A number of estate agents were concerned that they only became aware of the consultation towards the end of the consultation period and that the consultation period should have been longer with greater effort to engage estate agents.

The Government’s response

Limited deregulation

- 1.31. The Government recognises the concerns raised that deregulation of services carried out on behalf of property sellers may give rise to increased risk of detriment to consumers. The Government also considers consumer choice to be valuable, both for individual consumers and to promote growth in the market. Many

respondents have commented that the choice for consumers to sell property privately already exists but the Government is concerned by the uncertainty and range of views as to the legal position of private sales portals which the responses demonstrated.

- 1.32. The Government's view is that some private sale portals may currently be in scope of the EAA if they act on instructions of the prospective seller or buyer and provide a means for the prospective seller and buyer to communicate with one another. This is because although publishing advertisements and disseminating information is exempted from the scope of the EAA, facilitating such communication goes beyond this even though it may not amount to any of the services traditionally associated with estate agents.
- 1.33. Taking the responses into account, the Government believes that a limited deregulation of the EAA to enable private sales businesses to provide means of communication between prospective buyer and private seller, would bring benefits to consumers and to the industry without reducing consumer protection. The Government recognises that property sales are significant and occasional transactions for consumers with a risk of consumer detriment if businesses which influence or are directly involved transactions are not regulated. Equally, the Government considers a limited deregulation should provide confidence to existing private sales businesses and potential new entrants, thereby stimulating competition and innovation leading to more consumer choice and better standards of service.
- 1.34. The Government has therefore decided to amend the EAA to take out of scope intermediaries such as private sale portals which merely enable private sellers to advertise their properties and provide a means for sellers and buyers to contact and communicate with one another.
- 1.35. This amendment will enable the intermediary to provide a means for the seller and prospective buyer to have contact, for example online, a branded For Sale board to the seller to assist the private sale process, and to pass on to a buyer solely the information provided by the seller in their advertisement, by whatever channel of communication. If, however, the intermediary offers any personal advice to a seller or a buyer or other ancillary services such as preparing property particulars or photographs or an Energy Performance Certificate, then the intermediary will be in scope of the EAA and bound by its obligations.
- 1.36. The Government recognises that the amendment is limited as businesses which simply publish advertisements are already exempt. However, it is important that the legislation keeps pace with modern technology.
- 1.37. The Government has considered whether clarification could be achieved simply by guidance rather than legislative change. Given, however, that the current exemption for advertising is conditional upon no other acts being done with a view to effecting an introduction, the Government considers that an amendment to the legislation is needed to extend this, albeit to a limited extent. Given the range of interpretations as to the current scope of the EAA, the Government considers it is important to

achieve legal certainty. The Government considers that guidance will also have a key role in helping to promote continued clarity in this area, but whilst it would be persuasive, guidance would not be binding upon a court.

- 1.38. Businesses outside the scope of the EAA will also be out of scope for the PMA (although see Chapter 2). The CPRs apply to all businesses that deal with consumers. They could therefore be relevant where a private individual uses a private sales portal to advertise a property. The degree of due diligence that the CPRs require from such businesses is proportionate to the level of service offered.
- 1.39. The definition of "estate agency work" is also incorporated in other legislation. The MLRs require estate agents to guard against and report any suspicion of money laundering. The Terrorism Act 2000 and the POCA incorporate the definition from the EAA in applying particular standards to regulated sectors which include estate agents. The limited amendment in respect of private sales portals will also apply to these pieces of legislation. Businesses which carry out estate agency work will of course continue to be within scope of the MLRs and the relevant provisions of POCA and the Terrorism Act.
- 1.40. The Government believes this will strike the right balance between deregulating activities which do not involve a business in the property transaction, and retaining the consumer protections of the EAA for the higher risk elements of the home buying and selling process.
- 1.41. Subject to agreement by Parliament to the amendment, the Government will also publish revised guidance on the EAA when it comes into force.

Consultation

- 1.42. The purpose of the targeted consultation was to seek views from interested parties on the appropriate limits for regulation of intermediary businesses to inform a potential amendment, rather than to consult on a fixed definition. The Government targeted a cross-section of interested parties from different parts of the industry as well as from consumer groups and regulators, and expected that representative bodies would share the consultation with their members. The Government also held meetings with interested parties in order to engage with them and discuss their views. Over 400 responses were received from 271 organisations and individuals across a wide spectrum of interest were received and have been considered carefully.
- 1.43. On the duration of the consultation, the Government considered that nine weeks was appropriate because the proposal for consideration was limited solely to the scope of the legislation. The proposed change would need to be made by primary legislation which meant that the proposal would be subject to Parliamentary scrutiny, in addition to the consideration of consultation responses. There was no statutory requirement to consult. As the Government wished to consider and act on consultation responses for early consideration by Parliament, the Government was not in a position to extend the consultation period.

2. Repealing the Property Mis-descriptions Act

Introduction

- 2.1. The PMA makes it a criminal offence for estate agents and property developers to provide false or misleading information about property for sale, in relation to 33 specified matters. The matters covered are wide ranging, and include location or address, aspect, measurements and sizes, and physical or structural characteristics. The PMA does not cover trivial inaccuracies, but applies if a statement is false to a “material degree”.
- 2.2. The CPRs implement the EU Unfair Commercial Practices Directive 2005 (UCPD) and are designed to protect consumers from unfair business-to-consumer commercial practices. These include commercial practices which are unfair because they give false or misleading information or omit important information which consumers need to make informed choices.
- 2.3. The CPRs do not apply to misleading statements made by estate agents or property developers to potential commercial customers. Business to business advertising complaints are dealt with under the Business Protection from Misleading Marketing Regulations 2008 (the BPRs).
- 2.4. The consultation published on 11 January 2011 set out the Government’s view that there were significant overlaps between the CPRs and the PMA that imposed duplication of regulation and increased the burden on business. Also, that the scope of the CPRs was potentially wider than that of the PMA and it was therefore possible that the CPRs gave a wider range of protection.
- 2.5. Based on an analysis of enforcement cases taken under the PMA the consultation suggested that in the majority of cases it was likely that an offence under the PMA would also be an offence under the CPRs and the Government therefore considered that the CPRs provide a broadly equivalent level of protection to the PMA. The Government’s view was that repeal should not negatively impact on consumer protection in the property sector and it should not significantly affect enforcement. While the PMA was generally valued by enforcers because of its specific nature, practical enforcement experience of the CPRs was still developing. The consultation therefore proposed that further guidance on how the CPRs might apply to the sale of property would, in the event the PMA was repealed, help bridge the gap until case law develops in this area.
- 2.6. The consultation closed on 5 April 2011. Responses were received from 23 organisations and individuals (see Annex B).

Consultation responses

Question 1: The Government's view is that the CPRs provide a broadly equivalent level of protection to the PMA. Do you agree?

Question 2: If your view is that the CPRs provide substantially more or less protection, please provide examples where this might be the case.

Question 3: Which of the two regulatory options would you choose – no change or repeal with guidance? Please explain why. The Government's favoured option is repeal with guidance.

- 2.7. Responses were mixed with some in favour of and some opposed to repeal. Opponents of repealing the PMA were united by the clarity they felt it provided for the industry. They argued that it was well understood by estate agents, enforcers and consumers alike. From a business perspective the PMA provided certainty allowing for clear decisions and procedures.
- 2.8. Some felt that increased use of the CPRs would lead to greater uncertainty and less protection for consumers because cases would become more complex and take longer to resolve and this would put off consumers from complaining. Concerns were expressed that some businesses might exploit the "transactional decision" test in the CPRs (there is a breach if the misleading action or omission causes the average consumer to take a "transactional decision" which he/she would not otherwise have taken) and be less likely to settle complaints. Also that LATSS might be put off from taking enforcement action. There was consensus amongst opponents that, at least in the short term, repeal of the PMA would have a negative impact on consumers.
- 2.9. Opponents also expressed concerns about the timing of the PMA's repeal. Some thought that it should wait until the CPRs had had sufficient time to bed down. Others had concerns about the negative impact that repeal might have on the housing market, the impact of training costs on estate agents under pressure from low transaction volumes and the effect of budget cuts on the ability of LATSS to police the CPRs and take court action.
- 2.10. Finally, those against repeal raised a number of queries about the applicability of the CPRs to property matters. They thought that it would be difficult to assess an "average consumer", given the variation in property, prices and purchaser requirements, and whether a "transactional decision" had taken place, given the different reasons consumers purchase property, not all of them logical. They queried when a transactional decision does in fact take place, legal rulings on the CPRs, the role of agents in a transaction and the ability to avoid prosecution by rectifying false or deceptive information before a purchase is completed. They also expressed concerns about the lack of case law, the way that the courts would interpret guidance and reduced protection for business purchasers of property under the Business Protection from Misleading Marketing Regulations 2008 (BPRs).

2.11. On the other hand, supporters of repealing the PMA thought it sensible to remove duplicate regulations and simplify matters for business and enforcers. They also thought repeal of the PMA would end conflicting approaches to regulation brought about by different approaches of the regulations – the PMA being prescriptive and the CPRs principles-based. Some respondents thought that the CPRs were further reaching than the PMA so would provide additional protections for consumers. It was noted that businesses and Trading Standards are already required to apply the CPRs.

Question 4: Do you have any comments on the Impact Assessment and on the costs and benefits we have identified?

Question 5: Do you have any other comments that might aid the consultation process as a whole?

Question 6: How much time is spent ensuring that property particulars comply with the CPRs? Is the time additional to that spent on the PMA?

Question 7: How much time is spent training staff to comply with the CPRs (in relation to property particulars)? Is the time additional to that spent on the PMA

Question 8: Are there differences in the amount of time it takes to carry out enforcement related work under the PMA as opposed to the CPRs. If so please describe them?

Question 9: If the PMA was repealed, would there be a similar amount of enforcement work under the CPRs (in relation to property particulars) as takes place under the PMA?

2.12. In terms of the costs and benefits of repeal, many respondents felt the proposed benefits were overstated and that there would be equivalent costs incurred in training about the CPRs and in providing information to enforcers about possible breaches. These issues are dealt with further in the Impact Assessment accompanying this response.

2.13. There were differing views as to whether there would be any change in the amount of enforcement work. Some respondents felt that the time taken to carry out enforcement work would be unchanged, whilst others thought that more time would be spent advising estate agents about the CPRs at least in the short term, and that the nature of the CPRs would increase the time taken to carry out prosecutions and enforcement work.

Question 10: Assuming there was detailed guidance on the CPRs and estate agency, would there be similar number of inspections and court cases (in relation to property particulars) under the CPRs, as currently takes place under the PMA?

2.14. Most respondents welcomed the provision of guidance on the CPRs, which it was felt would help overcome initial problems although opponents of repeal thought that guidance would not overcome the potential complexity of the CPRs. Trading standards bodies had mixed views as to whether there would be a change in the number of inspections and court cases.

The Government's response

- 2.15. The Government understands the reasons why opponents to repeal of the PMA favour it over the CPRs. The PMA deals specifically with property and as such is easy to apply. The CPRs by contrast are unfamiliar to the industry and, being principles-based, require traders to consider how they apply to their particular circumstances.
- 2.16. The Government remains of the view, however, that the CPRs provide broadly similar protection to the PMA. The queries and concerns raised are similar to those that were raised when the CPRs were first proposed and these fears do not seem to have materialised in other sectors. The Government believe this situation will continue so long as the PMA remains in place and that repealing the PMA would not significantly reduce levels of consumer protection. This is disputed by some stakeholders but not others and the Government does not find the arguments for a loss of consumer protection convincing. More detailed responses to the legal issues raised by respondents are given in the following sections.
- 2.17. The Government will therefore lay before Parliament an Order to repeal the PMA. The current intention is that this will come into force not before October 2013.
- 2.18. The OFT is publishing guidance on the application of the CPRs to the home buying and selling sector alongside this document.¹²

Concerns about the application of the CPRs to home buying and selling

An average consumer

- 2.19. Some respondents saw difficulty in assessing an "average consumer" when it comes to purchasing property given the huge variation in property, prices, product, purchaser requirements and that houses are bought infrequently. They claimed there is no such thing as an average consumer and it was difficult to see how an infrequent purchaser could be deemed "reasonably well informed, reasonably observant and circumspect" as described in the CPRs. There was further difficulty in proving that a misleading commercial practice was likely to cause a different transaction given the myriad of reasons why a consumer would or would not purchase or view or survey a house, not all of them logical.
- 2.20. The Government's view is that the important issue is whether the misleading practice is *likely* to cause the average consumer to take a different decision. Also, an average consumer is a notional consumer – not a real person or a statistically average consumer. Chapter 3 of the OFT guidance deals with this issue.

¹² OFT (September 2012) OFT Guidance on Property Sales: Compliance with the Consumer Protection from Unfair Trading Regulations 2008 and the Business Protection from Misleading Marketing Regulations 2008. www.of.gov.uk/shared_of/estate-agents/OFT1364.pdf

CPRs and private individuals

- 2.21. Some respondents queried whether the CPRs apply to private house sales because the typical property transaction is between two private individuals (buyer and seller) and the CPRs typically apply to business to consumer transactions.
- 2.22. The Government's view is that the CPRs do not apply between private individuals – if an individual makes a misleading statement – but then neither does the PMA. However, the CPRs apply to all businesses dealing with consumers.

Scope of the transactional decision

- 2.23. Some respondents argued that in consumer transactions, a “transactional decision” in the CPRs is normally to buy or not buy an item but in relation to property, it was much harder to assess the transactional decision because of the scope for negotiation around the terms of the transaction, including the selling price. The test under the CPRs was therefore much harder to apply and it was difficult to prove that one factor had influenced a consumer to, for example, go to the estate agent or to book a viewing.
- 2.24. A further concern was that estate agents could argue that false or deceptive information would be corrected in good time before a consumer made a purchase, or rectified before detriment was caused, thereby avoiding a prosecution.
- 2.25. These difficulties were exacerbated by the lack of case law at that time with only one decision by a court of record on the issue of a transactional decision.
- 2.26. The Government takes the view that the purpose of the transactional decision test in the UCPD is simply to distinguish minor falsehoods from false or misleading descriptions which are significant – in the words of the PMA, “are false to a material degree”. Descriptions which are deceptive are likely to cause the average consumer to take a different transactional decision. Other false or misleading information may also do so.
- 2.27. The term “transactional decision” is defined widely and not simply as a decision to buy or not. Therefore, advertising could still be misleading under the CPRs if any false or deceptive information contained in the advert was corrected at the point of sale. Commercial practices apply before, during or after a commercial transactional decision *if any* in relation to a product, so there does not have to be a completed transaction for consumers to be protected under the CPRs.
- 2.28. A transactional decision also does not only relate to decisions to purchase (or otherwise) property, but also to purchase, pay for, retain or discharge of services such as those of an estate agent.

2.29. Chapter 3 of the OFT guidance deals with the concept of transactional decision.

2.30. Unless the CPRs are more widely used, the Government's view is that case law on this point will not materialise.

Commercial Transaction

2.31. Another query was whether there is a commercial transaction in relation to property as in a property transaction a buyer can be misled by an estate agent without having a commercial relationship with him or her. The CPRs relate to commercial practices, which are defined as acts, omissions or conduct etc and may occur before, during or after a commercial transaction, if any transaction occurs.

2.32. The Government's view is that a commercial practice does not require that there is a commercial relationship between a trader and a consumer. Nor does it require a commercial transaction to take place. For most forms of advertising there cannot be such a relationship and brand advertising can be misleading although consumers will not have a commercial relationship with the brand manufacturer. In most property transactions there is no *contractual* relationship between the estate agent and the purchaser or potential purchaser. But there is a broader commercial relationship in the sense that the behaviour of the potential purchaser may be affected by the commercial practices of the estate agent.

Basis of case law

2.33. The concern was raised that more generally, much of the existing case law around the use of the CPRs was not about property but was based on breaches of Schedule 1 to the CPRs, which sets out practices always considered unfair.

2.34. The Government's view is that the continuing existence of the PMA may be limiting the use of the CPRs in property-related cases. The practices in Schedule 1 to the CPRs are relevant to property transactions. Chapter 4 of the OFT guidance provides examples.

Guidance

2.35. Some concerns were raised that there was no guarantee courts would uphold guidance about the CPRs, for example from the Office of Fair Trading.

2.36. The Government acknowledges that the courts are required to interpret the CPRs directly in the light of the purpose of the underlying UCPD. This is to prohibit unfair commercial practices, including misleading property descriptions, which directly harm consumers' economic interests. Authoritative guidance is still useful to courts, however, and they do consider it.

Misleading Omissions

- 2.37. A criticism of the CPRs was that their ability to deal with misleading omissions was not significantly greater than the PMA. This was because, while the PMA does not impose a general requirement to disclose information, an offence could occur under that legislation where a statement is made misleading by an omission – for example omitting in property particulars describing view from a window to say that there was a cement works next door.
- 2.38. The Government's view is that the CPRs deal directly with pure omissions (which do not also constitute misleading actions) whereas the PMA does not. Where the omission of information makes what is said misleading this is potentially both a misleading action and a misleading omission. In certain cases this should make enforcement under the CPRs easier.

Concerns about the use of the BPRs in home buying and selling

- 2.39. Some respondents questioned whether there was less protection for businesses under the BPRs than there was under the PMA, on the basis of the BPRs being more limited in scope than the CPRs.
- 2.40. The Government does not believe there is a lack of protection under BPRs. The BPRs prohibit advertising which may mislead other businesses. For the purposes of the BPRs, advertising has a very broad meaning. The protection against misleading advertising under the BPRs also applies very widely, and covers advertising which may impact on both business customers and competitors.

Annex A – Responses to the consultation on amending the EAA

Abbeyfords Sales & Lettings
 Able Agents
 Acres Estate Agents
 Adams Estate Agents
 Aegis Estates
 AFK Estate Agents
 Albert Grace Properties
 Amazing Results
 Andrew Grant
 Andrews Estate Agents Ltd
 HomeOwners Alliance
 Arnold and Goodall Estate Agents
 Atkinson Keene-Partners
 Auction House
 Barbararees.Com
 Base Property Specialists
 Beaumont Gibbs Estate Agents
 Bedfords Estate Agents
 Behr and Butchoff
 Belgarum Estate Agents
 Belvoir Lettings
 Benham & Reeves
 Beresfords (Chelmsford)
 Beresfords Group
 Birt & Company
 Black and White Estates Ltd
 Blair Cadell
 Blake & Blake
 Bradley Estate Agents (Beagroup)
 Bradley Group
 Brighthouse Wolff
 Brook Independent Estate Agents
 Cadman Homes
 Central Association Of Agricultural Valuers
 Century 21 UK
 Chancellors Group Of Estate Agents
 Chapplins Estate Agents
 Charles Eden Estate Agents
 City Quays
 Clarke Gammon Wellers
 Clarkes Estates
 Clear Properties
 Clee Tompkinson & Francis
 Clifftons Lettings and Estate Agents
 Cobb Property
 Cole Rayment & White
 Colin Ellis Property Services
 Colin Mackenzie Ltd
 Connor Prince
 Country Property
 Countrywide
 Cousins Estates
 Craig Caroline
 Cross & Prior
 Curchods
 Dacre, Son and Hartley
 David Pearse
 Davies and Way Chartered Surveyors
 DB Roberts
 David Hughes
 Dennis Estate Agents
 Designs Property
 Diamond Mills & Co
 DLR Property Overseas
 Domenic Versace
 Douglas And Gordon
 Drivers & Norris
 DTZ
 Duffield Stunt
 East of England Trading Standards Association
 Eckersley White Estate Agents Ltd
 Edmund Estate Agents
 Edwin Thompson
 English Homes
 Entwistle Green
 Entwistle Green (Blackpool)
 ESPC (UK) Ltd
 Essex Country
 Essexenergysurveys.co.uk
 Evans Bros
 Farrell Heyworth
 Faye Jarvis Estate Agent
 Fine & Country
 FleetMilne Residential
 Flick & Sons
 Fry & Kent
 Geoffrey Collins and Co
 George F White
 Glawood Limited

GLS Properties
Grants Estate Agents
Greg Roberts and Co
Groves Residential
Guild of Professional Estate Agents
Haart
Hamptons International
Hanane Foster
Harbour Properties
Harrison Murray
Harvey Wheeler
Hatched.co.uk
Hennings Moir
Home Building Federation
Home Counties Property
Home.co
HOMESpartnership
House and Son
Househop.co.uk
House-Hut Estate Agents
Humberstones
Humphreys of Chester
Hunt and Nash
Hunters Property Group
Hussain Arshad
Ian Westering
Iles and Company
Imana Estates
Indigo Residential
Indigo FS.uk
Indigogroup.com
Innes Mackay
Jacksons Estate Agents
Jackson-Stops & Staff
Jeffries
John D Wood
John Francis
John P Dennis & Son
John Sear Estate Agents
John Tyrell
Jones Estate Agents
Jones, P
Justmortgages.co.uk
Kelvin Francis
Kent Jones Estate Agents
Kevin Allitt
Kevin Henry Estate Agents
Keysure Homes
Kinleigh Folkard and Hayward
Kudos Residential
Lancaster Properties
Lanes Property Agents
Larards Residential Sales
Law Society of Scotland
Lawson Commercial
Lednor & Co
Living Property Estate Agents
Lovett Residential
Lovett, Malcolm
LSIL Property Services
M&P Estates
Mackendrick-Norcott
Mackenzies Smith
Maloco Associates
Mark Beaumont.Com
Marriott Estates Ltd
Martin & Co
Martin Hawksby
Martyn R Cox Estate Agents
Marwicks Solicitors
Matt Edwards
Medway Mortgage Shop
Meetmyagent.co.uk
MHD Law
Michael Jones Estate Agents
Michael Naik
Michael Poole Property Agents
Millers Estate Agents
Millers Ongar
Mitchell And Partners
Moss of Wimbledon
Moss Properties
Movearound Ltd
National Federation of Property
Professionals
Neals
Nesbitts
Nicholsons Yorkshire Coast Estate Agents
North East Trading Standards Association
North East Trading Standards Association
Executive
Nugent and Wallis
Oakwood Homes
Oliver James Estate Agents
Oliver Miles
Ombudsman Service
Omega Property Services
Ongar Estates
O'Riordan Bond
Pace Place
Parkers Estates
Parry Lowarch

Pettengells Estate Agents
 Phil Hall
 Philip James Partnership
 Philip Laney And Jolly
 Pinnacle Properties
 Portsmouth Property Association
 Premier Sales and Lettings
 Prime Property Management
 Property Centres
 Property Express
 Propertybroker.co.uk
 Propertymatch24
 Pub Innsite Ltd
 RE/MAX Property Livingston
 RE/MAX Scotland
 Reads Davies Estate Agents & Valuers
 Rent A Home Associates
 Residential Holdings Ltd
 Rettie & Co
 Richard Saunders & Co
 Robert Oulsnam & Company
 Rochills Ltd
 Royal Institute of Chartered Surveyors
 Russel Laitken
 Salter Consulting
 Samantha Murray
 Sarah Mains
 Scottish Government
 Sears, G
 Sebastian Roche Ltd
 Sellors and Lettors
 Seymours (Guildford)
 Sheperds Estate Agents
 Simon Thornton
 Skitts Wednesbury
 Slades Estate Agents
 Smart Estates Uk Ltd
 Smart-Let
 Society of Chief Officers of Trading
 Standards In Scotland
 Spicer Haart
 Spicer Mccoll
 Squares Estate Agents Ltd
 Stephen Wolfenden
 Sterling Estate Agents
 Sterling Homes
 Streets Ahead
 Strutt & Parker
 Susan Eve Estate Agency
 Swift Estate Agents
 TFT Cumbria Property Rentals
 The Auction Agents
 The Letting Game Property Management
 The Little House Company
 The Marteinsson Partnership
 The Property Centres
 The Property Ombudsman
 The Property Ombudsman Board
 Thomas Morris
 Thornes Llanelli
 Time to Let
 Tobin Jones
 Todd and Hartridge
 Town & Country Property Services
 Trading Places Property
 Trading Places Stretford
 Trading Standards Institute
 Trevor Mealham
 Underhill Property
 Upad
 Urban Moves
 Vickery
 Walter and Mair
 Weale-Hitchen
 Webbers Estate Agents
 Webbers Property Services
 Which?
 White and Sons
 Whitegates
 Wilkinson Grant & Co
 Williams & Goodwin
 Winkworth
 Wrights Estate Agents

Annex B – Responses to the consultation on repeal of the PMA

Association of Residential Managing Agents (ARMA)
Cenred Elworthy, Barking and Dagenham Trading Standards
Central Association of Agricultural Valuers (CAAV)
Countrywide PLC
David W Pearce, Chartered Surveyors
Emma Head, East of England Trading Standards Association
English Homes Estate Agents
Hannah Davies, Birmingham Trading Standards
Home Builders Federation
Home Counties Property Estate Agents
Local Government Regulation and the Trading Standards Institute
LSL Property Services Ltd
Moat Housing Association
National Federation of Property Professionals (NFoPP)
Royal Institution of Chartered Surveyors (RICS)
Society of Chief Officers of Trading Standards in Scotland (SCOTSS)
Strutt & Parker Estate Agents
The Bar Council
The Law Society
The Property Ombudsman
Trading Standards North West (TSNW)
Which?

© Crown copyright 2012

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

This publication is also available on our website at www.bis.gov.uk

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

URN 12/1006