



Department
for Environment
Food & Rural Affairs

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Consultation on the Code of Practice on Noise from Ice-Cream Van Chimes Etc. 1982 Summary of Responses

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Background

1. On 8th March 2012, Defra published a consultation seeking views on the future of the Code of Practice on Noise from Ice-Cream Van Chimes Etc. 1982 ('The Code').
2. The Code was developed to complement the provisions of section 62(3) of the Control of Pollution Act 1974 (COPA). This permits the operation of a loudspeaker in the street between the hours of 12noon and 7pm if it:
 - a. is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and
 - b. is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and
 - c. is so operated as not to give reasonable cause for annoyance to persons in the vicinity.
3. The Code was developed, with the involvement of the industry, to give guidance on methods of minimising the risk of causing annoyance or disturbance by the operation of loudspeakers fixed to ice-cream vans and similar vehicles used to convey and sell perishable commodities for human consumption to the public. It includes guidance on the frequency, duration and loudness of chiming. Although the Code refers to 'ice cream van chimes' it applies equally to loudspeakers used by other mobile vendors, e.g., sandwich vans.
4. The Code was prepared and approved under section 71(1)(a) of COPA and, while it does not in itself create offences or have the force of law, regard must be had to it by local authorities and magistrates' courts in the exercise of their powers and functions under Part III (Noise) of COPA.
5. The Code also complements the statutory nuisance regime under Part III of the Environmental Protection Act 1990 (EPA). Under subsection 79(1)(ga) noise that is prejudicial to health or a nuisance that is emitted from or caused by a vehicle, machinery or equipment in the street is a statutory nuisance. Under section 80(7) of the EPA, businesses have a defence against nuisance action if they are able to prove that the 'best practicable means' were used to prevent, or to counteract the effects of, the nuisance. This means that they did all they could to avoid causing annoyance.
6. Compliance with the Code will assist vendors to avoid chiming in such a way as to cause a statutory nuisance. Alternatively, compliance with the Code will be evidence that vendors have used the 'best practical means' when chiming.
7. This Code will therefore give mobile vendors greater certainty that they are not going to be subject to proceedings under section 62 of COPA or Part III of the EPA, or that they will have a robust defence should action be taken.

8. In April 2011, the Government launched the Red Tape Challenge, a campaign to review all potentially unnecessary regulation on business over this Parliamentary Term. The Code was included as a potential area for change during the 'Spotlight on Hospitality' section of the challenge that took place in 2011. The outcome was the consultation on the future of the Code.
9. The options set out in the consultation, as recommended by the Red Tape Challenge Star Chamber, were:
 - 1) Keep the Code as it is (i.e., make no changes)
 - 2) Keep the Code but make it less restrictive (i.e., make changes to the suggested rules for sounding chimes)
 - 3) Keep the Code but in the form of a non-statutory Industry Code of Practice (led and managed by relevant industry bodies, rather than the Government)
 - 4) Remove the Code
10. During pre-consultation discussions, industry bodies also expressed an interest in changes to COPA directly, to increase the hours during which mobile vendors could chime from the current 12noon-7pm to 10.30am-8pm. The consultation asked additional questions on this issue to gather wider views.
11. The consultation applied to England only and was open for 12 weeks, closing on 31st May 2012.
12. Further details of the consultation can be found on the Defra website at:
<https://www.gov.uk/government/consultations/code-of-practice-on-noise-from-ice-cream-van-chimes-etc-1982>.

Summary of responses

13. The consultation received 57 responses:
 - 35 from members of the public;
 - 7 from ice-cream industry organisations (including the Ice Cream Alliance) and individual vendors;
 - 11 from local authority environmental health departments and 1 from their professional body, the Chartered Institute of Environmental Health; and
 - 3 from other interested organisations, including the Noise Abatement Society.
14. Of the four options presented in the consultation, Options 3 and 4 were not supported by any of the respondents. These options were therefore not pursued further.
15. Option 1 was strongly supported by the Noise Abatement Society. They argued that the current Code 'establishes a balance between noise makers and noise sufferers'. This option was also supported by six local authority environmental health departments, predominantly on the grounds that the Code works well in its current state, and by eighteen members of the public, arguing in the main that the noise environment would be likely to worsen if the guidelines for chiming were made less restrictive. An additional six members of the public made no clear option preference but argued against chiming in general, therefore aligning themselves most closely to Option 1.
16. Option 2 was supported by fourteen respondents comprising the Ice Cream Alliance and six other industry organisations, the Chartered Institute of Environmental Health, four local authority environmental health departments and two noise consultancy organisations. They argued that the Code is overly restrictive in its current state. In addition, five members of the public made no clear option preference but were supportive of the principles of Option 2 by generally arguing in favour of chiming.
17. Nine respondents (seven industry organisations and two local authorities) supported the industry's wish to increase permitted chiming hours. However, strong arguments were made against it by the remaining 21 respondents who commented on this issue. These respondents were: six local authorities, the Chartered Institute of Environmental Health, the Noise Abatement Society, two noise consultancy organisations and eleven members of the public. The potential extension of chiming to 8pm was particularly contentious, on the grounds that it would disturb young children's bedtimes and annoy those trying to relax in the evening; local authorities who received complaints about ice-cream chimes said the majority were received because the chimes were causing annoyance after 7pm.

Summary of support for Options 1 and 2 from all respondents:

	Option 1	Option 2	No clear option preference, but generally in favour of chiming	No clear option preference, but generally against chiming	No clear preference	Total
Members of Public	18	0	5	6	6	35
Industry	0	7	0	0	0	7
Local Authorities + Chartered Institute of Environmental Health	6	5	0	0	1	12
Other Interested Organisations (including Noise Abatement Society)	1	2	0	0	0	3
Total (/57)	25	14	5	6	7	57

Summary of views on extending the hours of chiming from respondents commenting on this issue:

	Supportive of extending hours of chiming	Against extending hours of chiming	Total
Members of Public	0	11	11
Industry	7	0	7
Local Authorities + Chartered Institute of Environmental Health	2	7	9
Other Interested Organisations (including Noise Abatement Society)	0	3	3
Total (/30)	9	21	30

Government response

18. We would like to thank respondents for their comments on the future of the Code.
19. After careful consideration of all the responses, we have decided to keep the Code but make it less restrictive. We have also decided not to extend the hours between which it is legal to chime.
20. Some relaxation of the Code will give mobile vendors more flexibility when chiming to advertise their business - thereby satisfying one of the aims of the Red Tape Challenge – whilst still providing a framework for good practice and minimising the risk of disturbance. The Code will continue to provide a means by which local authorities or the courts could establish whether mobile vendors have operated their chimes “so as not to give reasonable cause for annoyance to persons in the vicinity” or employed ‘best practicable means’ in any case brought against them regarding noise from chiming.
21. The responses to the consultation showed that the possibility of extending the hours between which it is legal to chime is a particularly contentious issue. We were persuaded by the majority of those responding on this point (including those enforcing the current legislation) who argued strongly that this option would increase the risk of annoyance and disturbance, particularly later in the evening. Therefore, we feel that making the Code less restrictive but not extending the hours between which it is legal to chime strikes the appropriate balance.
22. In order to implement these changes, we intend to withdraw the current Code and revoke the relevant legislative order. We will re-issue an amended version of the Code following approval by the Secretary of State by Order. As well as including the key changes to the Code that are outlined below, we will take the opportunity of updating the Code where necessary, such as the instructions on making sound measurements, which are currently contained within the margins of the Code but some details of which are now out of date.
23. We intend to implement these changes as soon as Parliamentary time and Defra legal resources allow. The subsequent changes to the Code of Practice will apply to England only.

Summary of changes to the Code

(Original Code text is in italics; future changes in bold)

Do not sound chimes

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

A. Change this to 'For longer than 12 seconds at a time'.

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

B. Change this to 'More often than once every 2 minutes'.

3. *When the vehicle is stationary;*

C. Change this to 'More than once when the vehicle is stationary at a selling point'.

4. *Except on approach to a selling point;*

D. Change this to 'Except on approach to or at a selling point'.

5. *When in sight of another vehicle which is trading;*

E. No change.

6. *When within 50 metres of schools (during school hours), hospitals, and places of worship (on Sundays and other recognised day of worship);*

F. No change.

7. *More often than once every 2 hours in the same length of street;*

G. No change.

8. *Louder than 80 dB(A) at 7.5 metres;**

H. No change.

9. *As loudly in quiet areas or narrow streets as elsewhere.*

I. Change this to 'As loudly in areas of low background noise or narrow streets as elsewhere'.

List of respondents

Members of the public (x35)

Industry:

- Graham's Ices Ltd
- Ice Cream Alliance
- Individual vendors (x3)
- Microminiatures
- Niceone Ices

Local Authorities/Professional Body:

- Boston Borough Council
- Bracknell Forest Council
- Brighton and Hove City Council
- Chartered Institute of Environmental Health
- Colchester Borough Council
- Crawley Borough Council
- Harrogate Borough Council
- Leicester City Council
- Middlesbrough Borough Council
- Northampton Borough Council
- Rushcliffe Borough Council
- Telford and Wrekin Council

Other Interested Organisations:

- Association of Noise Consultants
- Noise Abatement Society
- Noise Control Services