

17 January 2014

to: The Department for Business Innovation & Skills
email to: balanceofcompetences@bis.qsi.gov.uk
from: British Ceramic Confederation

**Response to the Call for Evidence on the Government's Review of the
Balance of Competences between the United Kingdom and the European Union:
Call for Evidence: Social and Employment Review**

Dear Sir or Madam

The British Ceramic Confederation (BCC) is the trade association for the UK ceramic manufacturing industry, representing the common and collective interests of all sectors of the industry. Our 100 member companies comprise over 90% of the industry's manufacturing capacity and include manufacturers from the following industry sub-sectors:

- Bricks
- Gift and Tableware
- Refractories
- Clay Roof Tiles
- Floor and Wall Tiles
- Industrial Ceramics
- Clay Drainage Pipes
- Sanitaryware
- Material Suppliers

With so many on-going regulatory changes taking place and policy initiatives under implementation, now is an opportune time to take stock of the balance of competence between the United Kingdom (UK) and the European Union (EU) and we welcome the opportunity to respond to your consultation.

We note that the social and employment Balance of Competences embraces a diverse range of issues including equal treatment, regulation of the employment relationship, social protection and health and safety at work. In terms of representing the interests of companies in membership of the BCC we intend to restrict our comments to matters relating to health and safety where a common view can be derived and where a different philosophical approach exists in the European Commission compared to the UK which can have the effect of posing difficulties for UK manufacturing. So far as the other aspects which fall within the "social" sphere we consider that they have for very many years been the subject of fierce debate which has more often than not been split down Party lines, especially in matters relating to employment terms and conditions and the social welfare. In view of this as a trade association we do not feel it appropriate for us to offer a response.

The overriding concern in the field of health and safety relates to a fundamental difference of approach adopted by the UK regulator (the HSE) compared with that of the European Commission and this relates to the risk based approach which has been at the heart of UK health and safety law for decades and a hazard based approach which pervades the thinking within the Commission and which invariably increases costs without bringing about commensurate benefits.

To improve the quality of EU based directives and regulations within the health and safety sector and elsewhere (consumer protection and environmental protection), future EU based regulations and

directives need to be underpinned by the best available science and evidence. In addition all EU regulatory policies should be based on risk assessments rather than hazard classification, to ensure that policies are based on the likelihood or probability of a substance/event causing harm rather than just basing regulations on the potential of substance/event to cause harm. In addition to this, all regulations and directives (and amendments to them) with a significant projected cost to society (across the EU) should undergo an automatic and comprehensive regulatory economic impact assessment.

Without a robust and comprehensive EU impact assessment, it is extremely difficult to provide assurance that there is actually a need for the regulation/directive in question, and that the benefits of the proposal outweigh the costs. Furthermore, to ensure that these impact assessments are of the highest quality there is a need to introduce strict scientific peer review. Such a peer review could be achieved through a stronger, more independent EU impact assessment board that in turn, is properly resourced. Alongside this independent Board a European Parliamentary Committee looking at risk should be established that in turn could assist EU regulators and policymakers to regulate on the basis of risk and scientific evidence.

Finally on this point, the impact assessment should be carried out by a totally independent third party group. There is a general view within industry that impact assessments which are carried out by the regulator tend to have only one outcome, which is the outcome sought by the regulator. Industry does not welcome an increase in cost but if the benefits are demonstrated properly then implementation will be less problematic.

General Comments:-

There should be better scrutiny of EU legislation by the UK Parliament, with a more powerful European Scrutiny Committee and other UK parliamentary select committees more focused on EU legislation (something which is allowed for in the Lisbon Treaty).

Most regulation would need to be established at national level if it did not exist at EU level but at a greater cost if it fragmented the single market.

Yours faithfully

