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Representation from Jacky Frost – Jacky's Boutique

Dear Mr O'Shea

RE: Local Government (Miscellaneous Provisions) Act 1982 Street Trading and Market Policy Consultation

With reference to the above, I would like to raise my concern to sections 3.5(a) and 5.2 of the draft policy. I feel if these changes are applied then it could make it unworkable and would be anti competitive. I would also like to know how the situation would be policed? As you well know, I cannot have shop owners mainly Virgo and Dolly's visiting my stall weekly. This has had to be referred to the police as an harassment issue. As, I buy my goods on a weekly basis as do the rest of the market traders. If we buy items and then the shops see these as good selling items and buy them after us, how can anyone prove who had it first?

I sell Ladies Clothes that are fast changing, there are many occasions when I have had items before the shops, as I also have been trading from my shop in Doddinghurst for the past 8 years. I have built up a relationship with all my customers who visit from near and far, they love coming to the stall especially when they can also visit the shops in the High Street.

Since this has been made very public, the overwhelming, positive support from so many local people who love the market (not just my stall) and who ask me on a weekly basis if there is any news and if they can help in any way to keep the market, as they shop with us weekly. The overall public opinion is very strong.

We, as traders work hard to supply a varied range of goods to all our customers and that is why they are happy to come back on a regular basis. I hope the policy will be considered as a workable one for everyone involved in the High Street. The fact that one shop made a complaint and went on a witch hunt to involve other shops, obviously did not consider the livelihood of the rest of the traders involved or their anti competitive behaviour. Their main concern at one of the meetings was their rate issues, they should not have used the market as their scapegoats!

I have no interest in visiting any of the shops, I know my customers, I know what they wear and I know how much they are willing to pay for their items. I feel I enhance the High Street and compliment it.

I am a member of the National Market Traders Federation, who have also visited the market and they have been very helpful advising my on the European Services Directive.

Yours sincerely

Jacky Frost

Via email

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Representation from Lisa Ford

Re: **Local Government (Miscellaneous Provisions) Act 1982 Street Trading and Market Policy consultation**

Dear Mr O'Shea

Thank you for your recent letter concerning the above subject. Please find below my comments on the matter.

Whilst I am certain that the owner of Jackie's Boutique will write separately on the matter, I would make the following observations regarding the policy changes which I feel if applied, could render it both unworkable, and in direct contravention of the Competition Act 1998.

3.5 (a) That there are already enough traders trading in the street from shops or otherwise in the exact goods in which the applicant desires to trade. NB: Goods that are high demand products and/or with a reasonably short shelf life e.g. Bread, cakes and other perishables are less likely to be refused although the Council reserves the right to make judgement on all matters on a case by case basis (this is because there is generally a higher demand and higher turnover of such products)

5.2 Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 states that Council's may refuse an application on the following grounds: January 2016 That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade; The Government has recently issued guidance that states that restricting certain types of trading may fall foul of competition laws and therefore suggests that schedule 4 of the Local government (Miscellaneous Provisions) Act 1982 should not generally be applied. However, it is the view of this Council that the Market has been introduced for a specific purpose and that schedule 4 has not to date been repealed. Therefore some trading may still be refused if the Council believes that there is a surplus of certain products already available whether on the Market or in local shops. Whilst there is flexibility within this policy and each case will be considered on merit this restriction will normally only apply to branded goods or goods that are unsuitable for a Market environment.

There are many concerns with implementing such clauses. Firstly, it would be a difficult clause to police effectively with fast moving fashion. Who will be the arbiter of deciding who had the idea of stocking 'a black t shirt with camouflage print' first? This is the crux of the matter, particularly when the same item is stocked by more than one wholesaler - or is even copied between wholesalers (allowable as the goods are not subject to copyright). You cannot therefore 'police' through the wholesale purchasing route.

It has been the position of the owner of Jackie's Boutique from the outset of this process that the owners of the 'bricks and mortar' shops have in fact copied from her what they (Virgo/Dolly's Queenies/Fashion Avenue) notice customers purchasing on her stall. This practice has been as recent as last week (weekend of 26/27th Feb 2016) when the owners of Virgo (who I might add have sought to restrict the goods Jackie sells to an absolute minimum – a requirement that she has complied with to her own financial detriment) noticed that the weekend prior that Jackie's stocked a 'leisure suit' with a

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'pom-pom trim' in black and Khaki Colours which had sold well. This particular suit was purchased from wholesalers 'B Girl'. Virgo then stocked the same suit the following weekend (from the same wholesaler) with a 'Price Match' sticker on it (£19) which was £1 cheaper than Jackie's. Jackie's Boutique has no complaints about competition in pricing as she believes that customers value service above saving a pound or two. It is the fact that despite Jackie's agreeing to keep the peace (at the request of Brentwood Council Licencing Team) by stocking goods that were not stocked at outlets such as Virgo's she was then subject to being copied and this cannot be deemed to be fair. This is the point about policing. It is simply not possible.

Furthermore, you may or may not be aware, that since the public meeting held on December 8th, 2015 the owners of Virgo have sought to try and intimidate the owner of Jackie's Boutique and its customers to the point where the owner of Jackie's had to resort to calling the Police in an effort to make the owners of Virgo desist. The owners of Virgo fundamentally disagree with the Competition Law believing it not applicable to their business. It is my opinion that they will try and intimidate any fashion stall holder in a concerted effort to remove competition as they succeeded in doing in Chingford. This cannot be allowed to happen again as it is totally unfair on consumers to restrict choice to those who wish to operate a cartel on pricing. By reducing the price of the same suit to undercut Jackie's Boutique, Virgo's have in effect admitted that they are able to sell the same goods for a lower margin, they choose not to as they prefer to profit from higher margins. The fact that Jackie's boutique highlights their high margin business model is the issue and why they seek to restrict her trade. If this however, is an issue about high business rates, this is not the forum for those to be considered. There are other remedies that Virgo et al can seek on this issue.

Finally, Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 has yet to be ruled upon. However, as a member of the National Federation of Market Traders, Jackie's Boutique has sought their opinion. They are emphatic in their expert opinion on this matter having considered the detail of the public meeting held on December 8th 2015. They have issued the following advice to Jackie's Boutique:

'We believe Brentwood's market policy is not reasonable and is in fact anti-competitive. Whether the council acknowledge this or not, the European Services Directive is law and local authorities must adapt to it. From meetings that the NMTF has been involved in with the Department for Innovation and Skills (BIS) via the Retail Markets Forum, the Government's position is that the following statement is in contravention of the Directive and should be repealed:

(b) That there are already enough traders trading in the street from shops or otherwise in the goods in which the applicant desires to trade;

Repealing this clause will effectively make local authorities unable to manage the trade balance within their streets - in this case, creating an open door policy for the market. Official guidance from BIS will be issued in October 2016. We believe that there is scope to challenge their decision solely under the Directive'

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I would raise concerns that with the advice of the NFMT in mind, it would be a waste of public money to ignore the European Directive and not repeal the clause as it is only a matter of time before any contrary decision is challenged and the decision will have to be reversed. If this were the case, the Council should be mindful of opening the floodgates for possible compensation for those affected by the Council's initial decision being made knowingly in direct contravention of the European Directive. It has long been the case that the Brentwood Street Market has enhanced the high street trade. Jackie's boutique complements the high street offering. The Council should be careful to consider all of the facts before making their final decision. This may even include waiting until the referendum has taken place on the EU membership.

Yours sincerely,

Lisa Ford

Via email

Representation from Virgo

Hi Gary, I attach the e mail laying out our concerns in the new licensing policy which you are about to finalise....all we ask is that we have some restrictions in future licensing to protect our presence and high street labels which we stock which is the makeup of our store...and of the other stores concerned.

We would like you to put these e mails forward to the councillors concerned in this new licensing policy and hope you will be sympathetic to our points and concerns for our future trading and that the situation that we have all suffered over the last 2 years which is laid out in all my previous e mails will hopefully be taken into account.

We just want to point out that you have in clause 3.5 (b) the wording the EXACT goods in which the applicant desires to trade, this we feel should reflect on DESIGNER and HIGH STREET LABELS and not only recognised brand label clothing which would support us independent retailers and not only the likes of NEXT And MONSOON and other multiples who would not be affected by the market anyway as their goods CANNOT be purchased for sale by say market traders.

5.3 we agree with

5.4 (a) does this mean that a childrens wear stall would also be able to trade also in ladies wear as is the case of Jackies stall is currently practising or be restricted to just childrens or just ladies clothing.

5.4 (b) To ordinarily refuse products.....etc.... On point 7 ...Designer or recognised brand label clothing, footwear or accessories.....we would need in order to safeguard our future buying and business...the wording to be around

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"Designer or recognised brand label clothing and/or exact fashion labels already being stocked by existing high street fashion retailers, footwear or accessories"

This would stop market stalls 1..undercutting and 2. copying our businesses.

IF THE ABOVE CONCERNS COULD BE TAKEN INTO ACCOUNT WITH THE INTRODUCTION OF THE NEW LICENSING POLICY BY ALL THE OFFICERS AND COUNCILLORS INVOLVED.

ON BEHALF OF VIRGO AND OTHER STORES INVOLVED.

AS YOU MENTIONED GARY THIS WILL BE OUR RESPONSE TO YOUR REQUEST FOR INPUT ON OUR CONCERNS OF THE REVISED STREET TRADING LICENSING AND WE WOULD APPRECIATE YOUR DISCUSSING AND TAKING INTO ACCOUNT

OUR NEEDS.

Regards

Vicky Jacobs on behalf of Virgo