



Ms S Price
Clerk to the Select Committee on Regulators
Committee Office
House of Lords
London
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T02-4

15 February 2007

Dear Ms Price

**House of Lords Select Committee on Regulators
Call for Evidence**

The Home Builders Federation (HBF) is the trade association representing the interests of house builders in England and Wales. Our members are responsible for more than 80% of the new homes built every year.

Please find enclosed our response to the questions in the above call for evidence. I have also included a summary of the results of a survey of our members that we conducted last year. This demonstrates the extent to which the national housing supply is affected by the service offered by the utility companies whose activities are subject to some of the regulators on your list.

Yours sincerely

D F Mitchell
Technical Director

CONSULTATION RESPONSE



House of Lords Select Committee on Regulators

8 February 2007

House of Lords Select Committee on Regulators Call for Evidence UK Economic Regulators

Regulators' working methods and their effectiveness

1. How do regulators interpret their statutory remit? Do they set themselves aims and objectives that take their work beyond fulfilling their statutory obligations? And, if so, why?

We are concerned that the regulators do not entirely fulfill their statutory obligations in respect of the house building industry. While there have been recent discussions to remedy the situation we still have the impression that the regulators have a comparatively narrow interpretation of their remit, particularly as regards their understanding of the 'customer'. Our industry is in itself a customer. However the industry is also providing new homes for consumers so issues affecting the industry will in turn directly affect consumers. We believe that there is a need for a greater understanding of this on the part of the regulators.

2. Not answered.

3. How can we assess whether regulators provide value for money?

a. Do their internal structures facilitate or hinder them in meeting their objectives with regard to providing value for money?

b. Does the work of the National Audit Office help to ensure that regulators provide value for money?

c. Have regulators sought to make appropriate efficiency savings through co-operation with other regulators, by selecting particular lines of inquiry and/or by other means?

We would wish to see a focus by the NAO and others on how relevant regulators can ensure that they work consistently with each other on matters relating to housing supply. There is a need for a concerted focus on delivering cost-efficient and timely utility service connections.

4. Have individual regulators established effective collective working arrangements with both functional and sectoral regulators? Is the current Concurrency Working Party system providing sufficient opportunities for co-operation, communication and co-ordination between sectoral regulators and the Office of Fair Trading and Competition Commission?

We have no direct knowledge of these arrangements but would reiterate that there are some broadly similarly housing-related issues within the remit of individual regulators such as utility connection services that would benefit from an effective collective focus. It is also desirable that organisations such as the HBF should know how they could raise any cross-utility concerns of this kind effectively.

5. Have regulators created communications systems with their relevant industry or industries, which provide for accurate receipt and provision of information? Do regulators specify clearly, and with adequate notice, what information they require from companies?

There are systems but generally we find that complaints taken through the channels that we have are dismissed as 'anecdotal' and only the number of official complaints received merits attention.

6. Are regulators sufficiently clear in presenting the reasoning and financial models that underpin their decisions? Are regulated companies given enough early warning before enforcement action to allow for self-correction?

They are clear. However the level of enforcement does not appear to be high when seen from the point of view of our industry and its concerns relating to utility service connections.

7. In summary, how successful have the economic regulators been? What changes, if any, could improve their effectiveness?

They need more powers to intervene in disputes and to take effective action. They also need to address the public perception that they are there to protect rather than regulate the monopoly utility service providers.

Economic regulators and the public interest

8. What is the most appropriate definition of the 'public interest' in respect of the activities of the economic regulators? Is there a divergence between consumer interests and wider societal concerns encompassed by the term 'public interest'?

'Public interest' needs to include the interests of major consumer-facing industries such as home building as well as those of individual consumers. From the industry perspective it appears that the interests of the utility provider are of more importance than other considerations.

9. Have regulators been effective in protecting consumers from firms abusing their dominant positions in markets and restricting practices between firms that reduce competition? Have regulators successfully promoted the ability of consumers to switch firms at reasonable cost and without undue restrictions?

No. In the case of home building, even in those areas where there is competition in utility provision (and there are significant geographical differences) there are often obstacles to using alternative contractors. Our members report cases where the asset owners have refused to make connections, even where all their requirements have been met by an alternative contractor. The promotion of the option to switch is quite visible in many areas but it is debatable to what extent this has improved competition. Generally for house builders the difficulty is the connections where the existing monopoly asset owners are reluctant to accept work done by other contractors and will often have their own list of approved contractors, often not operating particularly competitively and struggling to meet acceptable timescales for work.

10. To what extent should the public interest influence regulators' decisions on maintaining restrictions on competition? How should regulators ensure that regulatory restrictions on competition are limited and proportionate to the public interest(s) they serve?

The public interest should be the primary rationale behind regulators' decisions, however the definition of 'public interest' does need to be expanded as we have argued above.

11. What research have regulators commissioned into the public interest(s) they serve, amongst the industries they regulate and those industries' customers? What use have they made of any such research?

There has been limited research, for instance Ofwat's recent questionnaire on the take up of the self-lay option but it is unclear what their response to this research might be.

Competition within domestic industries and the UK economy's international competitiveness

12. What scope do sectoral and functional regulators have to improve economic performance either within specific markets or the wider UK economy?

Their perception of the limits to their authority is a deterrent to the influence that they could bring. Certainly for house building the regulators have the potential to improve the delivery of new housing. The current overriding issue for the industry is the inordinately long timeframe in which the utility providers operate. This is currently the second most important factor undermining the government's plans for an increase in housing supply. The Government is already attempting to address the most important factor so that the provision of utilities could become the main cause of delays to housing provision.

13. Have regulators successfully facilitated the transition from public utility monopolies to effective competition within and between privatised or liberalised utilities? How has the restructuring of markets by regulators led to the development of better competition?

No. The level of competition varies across the country and across the utilities. It is regrettable that the multi-lay option, although geographically restricted, has not led to an improvement in service and in many cases has actually worsened the position for developers. The results of the HBF's survey on this is attached and demonstrates quite clearly that competition has not been sufficiently effective in addressing the problems arising from the privatisation of formerly state-run monopolies.

14. Is there any evidence to suggest that regulatory activity affects industry investment levels? How can regulators improve market signals and incentivise longer-term investment in regulated markets? How should regulators improve and sustain business confidence in regulatory decisions?

Yes. Perceptions of the regulators' impotence have an impact on investment and will be a major obstacle to the regional spatial strategy plans for certain parts of the country.

15. By international standards, have UK regulators succeeded in promoting the international competitiveness of the UK economy? How do the UK's institutional and regulatory arrangements to promote competition compare with those of other countries?

Recent acquisitions of utility companies would suggest that they are identified as successful businesses abroad. However, whether this also indicates that they are competitive is arguable since they are increasingly becoming a minor market for global corporations. It would appear that the UK's regulatory systems promote foreign acquisitions but this is unlikely to result in improved competition.

16. Does foreign ownership of UK companies (particularly within utility markets) present specific and identifiable problems for the domestic regulatory framework?

There are issues around the long-term sustainability of dependence (particularly for public utilities) on enormous companies for whom the provision of a particular utility may be a very minor part of their business. The present domestic regulatory

framework may restrict the capacity of such companies to realise greater assets but it is unlikely to affect profitability while the utilities continue to operate as monopolies. However, the government's targets for reducing energy and water usage are likely to have an impact on how such utilities see the UK market.

Economic regulators' use of regulatory impact assessments

17. Not answered.

D.F Mitchell