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Dear Mr Britton

Local Authority Property Search Services: Consultation and Good Practice Guidance

The Office of Fair Trading (OFT) welcomes the Good Practice Guidance and direction set out in the consultation on charges guidance for property search services produced by Communities and Local Government and the Ministry of Justice.

In 2005 we undertook a study which investigated how the market for property searches was working. We found that the price of property searches provided by local authorities (LAs) varied greatly, and it was likely that some consumers were paying too much. LAs provided property information under a complex framework of legislation and some local authorities restricted access by property buyers and their agents, including property search companies, to the property information that they held.

Our report made a series of recommendations aimed at improving competition and access to property information aimed at ensuring more effective competition through the creation of a level playing field for refined information between LAs and private property search companies. In December 2005 the government welcomed our report and accepted our recommendations.



Good practice guidance for local authorities and personal searchers

We recommended that LAs made their unrefined property information available to third parties on terms that did not advantage their own compiling activities over competing compilers. We therefore welcome this guidance, which sets clear expectations concerning access to data held by LAs. We think it is important that all parties adhere to it to achieve fair competition and efficiency in provision of this service.

There is always some risk that guidance will not be complied with. However, we recognise that introducing stronger powers in this area is complex and may not be necessary. We would therefore encourage DCLG to monitor how effective the guidance is at ensuring equal access and revisit the use of statutory powers if significant problems remain.

Consultation on Charges for Property Search Services

Charging for unrefined information

In our report we gave several pricing options that could increase the efficiency of provision for unrefined information, namely a uniform zero charge, a uniform national charge based on average or “efficient authority” costs or a charge set by each authority to cover its costs. The consultation paper indicates that the Government’s preference is for LAs to charge for property search services on a costs recovery basis, and for the personal search of the local land charges register to charge up to cost recovery locally. This is in keeping with our recommendation.

We are content that the detailed guidance developed by KPMG meets our other recommendation for unrefined information, which is that LAs are given clear guidance concerning how they should calculate their costs of providing the information.

In our report we strongly recommended that LAs made their unrefined property information available to third parties on terms that did not advantage their own compiling activities over competing compilers. We welcome the emphasis on this point that is made in the guidance.

Charging for personal searches of the LLCR

We recognise that the price charged for viewing the LLCR is important for LA revenue purposes. From a competition perspective we have no view over whether £11 is the appropriate charge, provided that the same charge is made to all users.

Charging for refined information

The consultation document proposes a “price competed” approach for refined information. This creates the opportunity for LAs to earn profits from their value-added activities. Whilst this is not a concern in itself, it may create an incentive for them to act unfairly in providing access to their unrefined information as such behaviour could increase their ability to offer better products than the private sector for refined information. Although the good practice guidance encourages fair access, this guidance may be undermined by the profit motive created by this approach.

Earlier in our letter we encouraged DCLG to monitor the situation to ensure that the good practice guidance was complied with. The incentive effects created by the “price competed” approach re-enforce the need to do this.

Finally, we have some concern over the question of whether VAT should be applied to the charging for refined data by local authorities. Although we recognise there may be practical challenges with introducing this, we think from a competition perspective that LAs should be applying VAT for refined information, in line with the requirement placed on the private sector. We encourage the Government to consider this further.

Monitoring

Since the OFT undertook its study the system of Best Value Performance Indicators has undergone radical change and so the scope for a BVPI in this area is limited. We support the alternative suggestion proposed by KPMG for the monitoring of charging involving auditor.

We believe that the implementation of the course proposed in the consultation will lead to greater competition and efficiency in this sector, and as a result create savings for consumers.

Yours sincerely

Antoinette Graves

Infrastructure and the Knowledge Economy Market Grouping