



RICS

REGULATION

The Royal Institution
of Chartered Surveyors

12 Great George Street
Parliament Square
London SW1P 3AD
United Kingdom

T +44 (0)20 7695 1670
F +44 (0)20 7334 3862
regulationpolicy@rics.org
www.rics.org/newregulation

Discussion paper: Business Leadership in Consumer Protection
Policy Group – 3C16
Office of Fair Trading
Fleetbank House
2-6 Salisbury Square
London
EC4Y 8JX

29 April 2009

Dear Sirs

Business leadership in consumer protection

I am responding on behalf of the Royal Institution of Chartered Surveyors (RICS) to the OFT consultation on business leadership in consumer protection.

The RICS is the world's leading professional body on all aspects of land, property, construction and the associated environmental issues. An independent, not-for-profit organisation, it regulates and promotes over 140,000 individually qualified chartered surveyor members in over 140 countries worldwide and almost 10,000 firms in the UK. It is also authorised by the government to regulate both members and firms in a number of statutory functions that fall within their competence.

Definition of self regulation

The definition of self regulation used in the consultation document appears to be different from that which would be used in the industry. The definition limits self regulation to initiatives by groups of businesses, however increasingly professional bodies are using a mixture of members and non-members to control their regulatory regimes.

RICS has an arm's length regulatory board, which has a non-member majority and chair. This provides an independent, consumer-focused view and allows RICS to uphold its Royal Charter requirement to act in the public interest. We regulate members on behalf of Government for several areas of practice, for example home inspectors and those performing insurance mediation. Despite these factors, we would still consider ourselves a self regulatory body as our organisation both represents and regulates surveyors. Throughout this response, RICS is considered to be a self regulatory body despite the fact that we do not fit entirely within the definition of one.

What types of market problem are most likely to be suitable for an industry-led solution?

There are a number of factors which would make a market suitable for industry-led regulation.





RICS

REGULATION

The Royal Institution
of Chartered Surveyors

12 Great George Street
Parliament Square
London SW1P 3AD
United Kingdom

T +44 (0)20 7695 1670
F +44 (0)20 7334 3862
regulationpolicy@rics.org
www.rics.org/newregulation

The primary factor in the decision on whether an industry should self regulate is the type and detail of legislation covering the area of practise. Areas which are tightly regulated by legislation are unlikely to gain anything through an additional layer of self-regulation. Conversely, in areas where legislation is patchy or outdated and unlikely to be altered in the near future, self-regulation can provide a responsive and targeted approach to consumer protection. An example of this is in the estate agency sector where legislation is outdated for the current business models, but is unlikely to be altered in the short-term. Self regulation is also likely to be effective in an industry which is fast moving and therefore legislation cannot effectively keep up with the changes in it.

A secondary factor is whether there is sufficient information available to consumers to create a strong enough market to be able to drive firms not offering a good service to consumers out of the market. Where companies do not need repeat business to remain in the market, there is less of an incentive for them to offer a good service once they have attracted the customer. In other cases a consumer may not have a choice over which business they deal with, for example in the case of a leaseholder over a managing agent for their building.

Size of the market also plays a part in whether it can be effectively self regulated. A larger market is more difficult to control by non-governmental means and in these markets legislation may be more appropriate. Small markets with strong industry links are better able to be self-regulated as it is easier to identify wrongdoers and for the industry as a collective to exert influence.

The types and number of regulatory schemes, codes and registers are likely to affect the success of self regulation. An industry working together to produce one recognised standard which the majority of the industry signs up to will be much more effective than a number of fragmented schemes and codes tackling different areas of practise with varying requirements and different levels of stringency.

In which market conditions is self regulation more likely to be an effective solution than legislation and enforcement?

We do not see market conditions as a factor in whether self regulation is likely to be effective. We do believe however that market conditions play a part in which solutions consumers perceive to be effective and this is affected, in part, by the media.

What type of support from OFT would be appropriate to encourage more self regulatory solutions to market problems?

We believe that support from OFT is necessary in ensuring that self regulation is effective. Consumers often do not differentiate between regulated and non-regulated firms in an industry and efforts by self regulatory bodies to provide information about the benefits of a regulated company are seen as self interested. OFT should therefore be involved with educating consumers about the types and levels of regulation available in an industry and the consequences of this.





RICS

REGULATION

The Royal Institution
of Chartered Surveyors

12 Great George Street
Parliament Square
London SW1P 3AD
United Kingdom

T +44 (0)20 7695 1670
F +44 (0)20 7334 3862
regulationpolicy@rics.org
www.rics.org/newregulation

The paper notes the 'free rider effect' whereby firms who choose not to uphold standards use the efforts of other to increase their reputation by association. We believe the converse situation to be more of a risk, whereby the reputations of those firms which do choose to sign up to a self-regulatory scheme and uphold high standards are dragged down by those firms which don't. There is a place for OFT to assist the industry in educating the consumer as to the regulatory options available and the implications of choosing a regulated or non-regulated firm.

What does effective self regulation require?

Effective self regulation requires those organisations which are regulating to have sufficient sanctions against wrong-doers to discourage inappropriate behaviour. If a firm can simply leave the regulatory scheme and continue to trade with no loss of custom or effect to their reputation little is achieved.

Effective self regulation also requires sufficient separation of standards, redress and supervision. Often there is a blurring between redress and supervision with the redress mechanism being used to regulate firms, whereas it should be used to provide compensation to consumers, not to set standards or ban firms from practise.

I hope that the above is useful, but if you have any further queries please don't hesitate to contact me.

Yours sincerely

Colette Best
Senior Policy Officer
RICS Regulation



www.rics.org/regulation

