

## Summary: Intervention & Options – ANNEX B

|  |   |                         |
|--|---|-------------------------|
| <b>Department:</b><br>Business Enterprise and<br>Regulatory Reform (BERR)  | <b>Title:</b> Impact Assessment of Proposed, 'Cancellation of<br>Contracts Made in a Consumer's Home or Place of<br>Work e.t.c. Regulations 2008' |                         |
| <b>Stage:</b> Final  | <b>Version:</b> 1   | <b>Date:</b> 1 May 2008 |
| <b>Related Publications:</b> 'Door to Door', September 2002; 'Doorstep Selling', May 2004;<br>Response to Public Consultation & Regulatory Impact Assessment, September 2006 |   |                         |

Available to view or download at:

<http://www.>

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**What is the problem under consideration? Why is government intervention necessary?**

Under current Doorstep Selling Regulations a consumer has cancellation rights for a contract made as a result of an unsolicited visit by a trader but no cancellation rights where a contract is a result of a solicited visit by a trader. Government action is necessary to remove opportunities for unscrupulous traders to exploit the distinction between unsolicited and solicited sales, and to simplify consumer rights by making the Regulations easier for consumers, business and enforcement officers to understand.

**What are the policy objectives and the intended effects?**

To reduce consumer detriment by providing all consumers with the 'safety net' of a cooling off period and cancellation rights whether or not the contract was made during an unsolicited visit or a solicited visit by a trader;  
To improve consumers' awareness of their rights by requiring a notice of the right to cancel to be included within the contract where the contract is completed wholly or partly in writing;  
To make the law simpler and clearer for consumers, businesses and enforcement agencies.

**What policy options have been considered? Please justify any preferred option.**

Following the OFT report, 'Doorstep Selling' (May 2004), the Government consulted on 7 legislative options for improving the protection of consumers purchasing goods and services away from the business premises. These options were fully considered in the RIA, 'Doorstep Selling and Cold Calling' (September 2006) from which (a) extending to solicited visits the cancellation rights and cooling off period that consumers currently enjoy for unsolicited visits, and (b) requiring a notice of the right to cancel the contract to be prominently and clearly displayed in the same document (where the contract is wholly or partly in writing) were announced as options the Government would take forward. In this Impact Assessment 3 options for the financial threshold at which the new legislation would be applicable were considered, as well as 3 options for the length of the cooling off period.

**When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?**

October 2011

**Ministerial Sign-off** For final proposal/implementation stage Impact Assessments:

*I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.*

Signed by the responsible Minister:

.....Date:

## Summary: Analysis & Evidence

**Policy Option: A1 & B1**

**Description: A combination of a threshold of £35 and a cooling off period of 7 days**

|   |   |           |   |
|---|---|-----------|---|
| <b>COSTS</b>  | <b>ANNUAL COSTS</b>                               |           | Description and scale of <b>key monetised costs</b> by 'main affected groups'<br><u>Business</u> : Costs of making sales that are later cancelled by consumers. |
|   | <b>One-off</b>                                    | <b>Yr</b> |   |
|   | £   |           |   |
|   | <b>Average Annual Cost</b><br>(excluding one-off) |           |   |
|   | £ 5.7m  |           | <b>Total Cost (PV)</b> £ 36.0m.   |
| Other <b>key non-monetised costs</b> by 'main affected groups'<br><u>Business/Consumers/Enforcement Agencies</u> : cost of familiarisation with the new legislation.<br><u>Business</u> : Cost of including cancellation notice in the contract.<br><u>Enforcement Agencies</u> : Cost of enforcement (more businesses will fall within scope of the regulations) |   |           |   |

|  |  |           |   |
|--|--|-----------|---|
| <b>BENEFITS</b>  | <b>ANNUAL BENEFITS</b>                               |           | Description and scale of <b>key monetised benefits</b> by 'main affected groups'<br><u>Consumers</u> : potential reduction in detriment |
|  | <b>One-off</b>                                       | <b>Yr</b> |   |
|  | £  |           |   |
|  | <b>Average Annual Benefit</b><br>(excluding one-off) |           |   |
|  | £14.22m.   |           | <b>Total Benefit (PV)</b> £ 90.0m.  |
| Other <b>key non-monetised benefits</b> by 'main affected groups':<br><u>Business</u> : potential growth of doorstep selling market due to increased consumer confidence/awareness of rights; Reduction in training/printing costs (because business will be able to use same contract for both solicited and unsolicited visits etc).<br><u>Enforcement</u> : savings in resources – generally no need to distinguish between solicited/unsolicited visits by traders<br><u>Consumers</u> will be less at risk from unscrupulous traders exploiting the different treatment of unsolicited/solicited visits; easier to make complaints if dissatisfied as all types of visits will be covered |  |           |   |

### Key Assumptions/Sensitivities/Risks

A key assumption is that consumers become aware of their rights and exercise them.

|                      |                     |                                     |   |
|----------------------|---------------------|-------------------------------------|---|
| Price Base 2006 Year | Time Period Years 7 | <b>Net Benefit Range (NPV)</b><br>£ | <b>NET BENEFIT (NPV Best estimate)</b><br>£ 53.92m. |
|----------------------|---------------------|-------------------------------------|---|

What is the geographic coverage of the policy/option?

UK

On what date will the policy be implemented?

October 2008

|  |                   |    |    |    |
|--|-------------------|----|----|----|
| Which organisation(s) will enforce the policy?                 | Trading Standards |    |    |    |
| What is the total annual cost of enforcement for these         | £ ?               |    |    |    |
| Does enforcement comply with Hampton principles?               | Yes               |    |    |    |
| Will implementation go beyond minimum EU requirements?         | Yes               |    |    |    |
| What is the value of the proposed offsetting measure per year? | £ n/a             |    |    |    |
| What is the value of changes in greenhouse gas emissions?      | £ n/a             |    |    |    |
| Will the proposal have a significant impact on competition?    | No                |    |    |    |
| Annual cost (£-£) per organisation<br>(excluding one-off)      |                   |    |    |    |
| Are any of these organisations exempt?                         | No                | No | No | No |

|   |           |             |   |                   |
|---|-----------|-------------|---|-------------------|
| <b>Impact on Admin Burdens Baseline</b> (2005 Prices) |           |             |   |                   |
| Increase of   | £ 769,362 | Decrease of | £ | <b>Net Impact</b> |
|   |           |             |   | Increase<br>£     |

Key: Annual costs and benefits: Constant Prices

(Net) Present Value

## Evidence Base (for summary sheets)

### A. Strategic Overview

1. The current Regulations, the 'Cancellation of Contracts Concluded Away From Business Premises Regulations 1987' implement Directive 85/577/EEC ('the Directive) to protect the consumer in respect of contracts negotiated away from business premises. The Directive provides cancellation rights to a consumer who enters into an agreement with a trader to buy goods or services during and unsolicited visit (i.e. where the visit did not take place at the express request of the consumer) in their homes or places of work, or the home of another consumer or during an excursion organised by the trader.
2. Those rights provide for a cooling off period of 7 days, during which time the contract may be cancelled by the consumer, and a requirement that the trader provides the consumer with a written notice of cancellation rights. There are various exemptions provided for in the Directive and these are reflected in the current Regulations.
3. The Directive is a minimum harmonisation directive so additional protection may be created for consumers in this field. It is up to member states to decide.
4. In September 2002, that National Association of Citizen Advice Bureaux (NACAB, now Citizens Advice) published a report, 'Door to Door' which looked at a wide range of goods and services sold at the door and problems reported to Citizens Advice Bureaux (CAB).
5. NACAB saw the main problems in doorstep selling transactions as being lack of awareness about consumer rights; consumers being misled and subject to high pressure sales techniques; cancellation

rights and cooling off periods being limited to certain types of doorstep sales which can confuse consumers; cancellation rights being ignored by salespersons; and the goods sold to consumers being unsuitable for their needs or not meeting their requirements.

6. The Report was submitted to the Office of Fair Trading (OFT) as a super-complaint within the terms of the Enterprise Act 2002 and in November 2002 the OFT launched a study of the doorstep selling market.

7. The OFT published their doorstep selling market study report in May 2004. The report included 7 recommendations to better protect consumers purchasing goods and services from salespersons in the home.
8. The Government responded to the OFT Report by launching a public consultation in July 2004 (URN 04/1331). The purpose of the consultation was to canvass as wide a range of views as possible on the OFT recommendations from business, consumers, enforcement bodies and other key stakeholders.
9. In September 2006, the Government published a full regulatory impact assessment of the 7 recommendations included in the 2004 OFT Report (URN 06/1807), and announced – in its formal response to the public consultation (URN 06/1802) - that it would take forward measures:
  - (a) Extending the-cooling off period and cancellation rights which currently apply to a contract made during an unsolicited visit by a trader, to contracts made during a solicited visit by a trader;
  - (b) Requiring that a notice of a right to cancel the contract be prominently and clearly displayed in the same document where the contract is completed wholly or partly in writing; and
  - (c) Requiring firms trading via doorstep selling to provide consumers with greater transparency on process for their products and demonstrate greater willingness to provide written quotes
10. The first of these measures ((a)) was taken forward through the Consumers, Estate Agents and Redress (CEAR) Act 2007. The Act includes a power to enable the Secretary of State to make regulations entitling a customer who is party to a protected contract

to cancel the contract. A protected contract under the Act is a contract concluded as a result of a solicited visit.

11. We now propose to revoke the current Regulations and make new Regulations (under the vires of the CEAR Act 2007, and section 2(2) of the European Communities Act 1972) that implement both the requirements of the Directive 85/577/ECC in relation to unsolicited visits and measures 'a' and 'b' (above).
12. Measures to encourage greater transparency on prices and greater willingness to provide written quotes (c) are being taken forward via voluntary industry self regulation and in line with the OFT's Consumer Codes Approval Scheme.

## **B. The Issue**

13. Whilst the current Regulations do afford consumers some protection when they purchase goods and services in their home, evidence suggests that the current Regulations are not working as well as they could. The original legislation assumed most problems would occur when the consumer hadn't requested a visit. However, a psychological study, referred to in the OFT 2004 report on Doorstep Selling, showed that consumers are no better prepared to resist pressure selling techniques if they have solicited the visit than if they are cold called. More complaints are made about the doorstep sales of high value products and the majority of those high value sales are made during solicited visits.
14. With the current Regulations providing no cooling off period or cancellation rights for contracts made as a result of a solicited visit by a trader, consumers can find themselves, often inadvertently, locked into contracts they regret making.

15. Consumers are not sufficiently aware of their rights and the extent of protection they have under the law. A survey carried out by the OFT found that only 6% correctly identified that they had more rights when purchasing goods and services in the home. Of those only 7% correctly identified what those rights were. Evidence collected by Citizens Advice suggests many people try to cancel their contracts, but are told they cannot, often as a result of abuse of the current distinction made in the Regulations between unsolicited and solicited calls.
16. A survey carried out by LACORS, and included as an annex to the OFT report, obtained data from authorities that collectively represent 26% of the UK population. In an 18-month period there were over 5,500 doorstep selling complaints recorded. A large number of these complaints related to selling practices. Given the low level of awareness amongst consumers of their rights, this sort of level of complaints might be under-representing the scale of any problem.
17. There are an estimated 15,000 complaints in relation to doorstep sales every year (i.e. the sale of overpriced and/or substandard goods or services). Many more go unreported. OFT estimate that the average amount of money paid in relation to each complaint is £2,000, so it is possible that in excess of £30 million is handed over to rogue traders every year. Consumers lose out of the protection offered by the current regulations and legitimate businesses suffer, as they have to put increased resources into distinguishing themselves from dishonest traders.

### **C. Objectives**

18. Extending the cooling off period and cancellation rights to include contracts made as a result of solicited visits should make the law



simpler and clearer for the consumer, business and the enforcement agencies.

19. All consumers will have the 'safety net of a cooling-off period'. Consumers who at present avoid doorstep selling due to being uncomfortable with the situation may now participate in this market as they may be given greater confidence because of their ability to cancel purchases. There will also be a benefit to business by possibly expanding the number of potential customers.
20. The scope of the Regulations will now extend to apply to extensions, conservatories, patios, and driveways. Home improvements and maintenance are the most complained about aspects of doorstep sales, and the potential for consumer detriment is high because of the value of the goods or services provided.
21. Businesses will generally be able to work with one contract for both solicited and unsolicited visits, reducing ongoing costs in production of contracts and training of sales staff. The simpler rules will ensure that businesses do not need to spend time establishing whether their sales visit is solicited or unsolicited.
22. Enforcement Agencies will not have to use valuable resources on determining whether a visit was solicited or not as in general the same rules will apply, making it easier to follow up complaints and enforce the regulations.
23. Requiring notice of cancellation rights, and how they may be exercised, to be prominently and clearly displayed in the contract will help to make consumers more certain of their rights.
24. The effectiveness of the new Regulations in meeting the objectives can be monitored via the Office of Fair Trading who collate statistics

of consumer complaints via local Trading Standards Offices and Consumer Direct. Over time we would expect to see a reduction in the number of complaints about this sales channel.

## **D. Options Identification**

This Impact Assessment will consider options in relation to:

- Extending to solicited visits the cooling-off period and cancellation rights which currently apply to unsolicited visits by traders

Options include:

- the value of sale threshold at which the new Regulations would apply:

Option A1: £35 for both unsolicited and solicited visits;

Option A2: A zero limit for both unsolicited and solicited visits;

Option A3: A higher limit for solicited visits e.g. £500, leaving the limit for unsolicited visits at £35

- the length of the cooling-off period for unsolicited and solicited visits:

Option B1: Extending the 7-day cooling off period to solicited visits;

Option B2: Extending the cooling off period to 10 days for both solicited and unsolicited visits;

Option B3: Extending the cooling off period to 14 days for both solicited and unsolicited visits

## **E. Analysis of the Options**

### **The Value of Sale Threshold at which the New Regulations would apply to Solicited Visits**

25. Under the terms of Directive 85/577/EEC (which applies to unsolicited visits only) Member States can choose to exclude from the Regulations any contract under which the total value of sale does not exceed a value of €60. The current UK Regulations

implement that option and set a threshold which excludes any contract under which the total value of sale does not exceed £35 (for unsolicited visits only).

26. The provisions of the Directive mean that - at present - the value of sale threshold for unsolicited visits cannot be set any higher than £35, although we do have the option to lower the limit or to remove the limit altogether. As the Directive applies to unsolicited visits only, we do have the option to set a higher threshold for solicited visits in the new Regulations.

Costs and Benefits of Option A3 – A higher limit for solicited visits e.g. £500, leaving the limit for unsolicited visits at £35

27. Option A3 is the 'do minimum' option as it provides the least protection and therefore is the smallest change to the current situation for solicited visits. Arguably, Option A3 would place the minimum cost of compliance on business as any contract made as a result of a solicited visit, with a value of under £500 would be outside the scope of the regulations. Option A3 would not address consumer detriment up to £500 for contracts made as a result of solicited visits. Option A3 would not fulfil the objective of simplifying the law in this area. Different thresholds for unsolicited and solicited visits would be confusing to business, consumers and enforcement agencies. It would also leave open the possibility of rogue traders attempting to avoid the Regulations by exploiting the different thresholds for solicited and unsolicited visits.

Cost and Benefits of Option A2 – A zero limit for both unsolicited and solicited visits

28. Option A2 would extend the right to cancel contracts to small purchases of any value, making this the most interventionist option. Such purchases form a small part of total sales on the doorstep. The OFT estimated sales of goods with a value of less than £500 to be £200m out of an estimated doorstep total of £2400m although they note that some small sales are likely to be unreported. Sales of cosmetics alone were around £90m and most of these were believed to be under £35.

29. In addition to the small part that they form of total sales, a high proportion of small items are likely to be repeat purchases. Traders will therefore have an incentive to build up a clientele and customers will have the opportunity to avoid those traders or goods

that they consider do not offer good value for money. These factors lead us to believe that there is unlikely to be significant consumer detriment in purchases under £35. Business costs of compliance with the legislation on the other hand are likely to be significant relative to the cost of the goods and any consumer detriment on them.

#### Analysis of Option A1 – A £35 limit for both unsolicited and solicited visits

30. Option A1 is our preferred option. It avoids extending the legislation to areas where consumer detriment is likely to be low. It keeps the law simple for consumers, business and enforcement agencies, and removes the possibility of rogue traders attempting to avoid the Regulations by exploiting the different thresholds for unsolicited and solicited visits.

#### Costs of Preferred Option (Option A1) - A £35 limit for both unsolicited and solicited visits

31. Under the preferred option, an increase in cancellations from the current situation would be expected. We estimate that cancellations would increase to 8% at the most, i.e. the percentage of consumers that are successful in cancelling unsolicited sales. Businesses will need to do more work to get the same number of sales.

32. It is often the case that where customers cancel a contract they still want the product but decide to go to a different supplier. Alternatively they will be deciding to cancel because they genuinely do not want the goods or services or felt that they were pressured into the sale. Arguably, the risk from greater cost from cancellation could incentivise companies selling in the home to resist pressure selling and ensure the customer really wants their product.

33. The increased number of cancellations would create an opportunity cost i.e. the time that staff spend on securing a sale that is then cancelled, and that could have been spent doing something more productive.

34. Businesses and enforcement bodies will face enforcement costs.

#### Benefits of Preferred Option (Option A1) - A £35 limit for both unsolicited and solicited visits

35. Consumer detriment will decrease as consumers who wish to cancel a purchase over £35 made from a solicited call will be able to do so.

36. Keeping the minimum threshold of the value of goods sold from solicited calls, above which these regulations will come into play, in line with that of unsolicited goods keeps the law simple for consumers, businesses and enforcement agencies.

37. Keeping the minimum threshold for solicited calls the same as for unsolicited calls removes the possibility of rogue traders attempting to avoid the regulations by exploiting different thresholds for solicited and unsolicited calls.

#### The Length of the Cooling Off Period for Solicited and Unsolicited Visits

38. Cooling off periods in which a contract can be cancelled can provide clear benefits to consumers. They are important to discourage the excesses of high pressure selling and give consumers the opportunity to shop around. At present, the current regulations only provide a cooling off period and cancellation right to those sales made following an unsolicited visit.

39. The length of cooling off period in the current regulations (which apply to unsolicited visits only) is 7 calendar days from the date the contract is made.

40. Responses to the formal consultation on the proposed Regulations suggest that stakeholder groups have different opinions on the appropriate length of the cooling off period. Consumer Groups generally support a longer cooling off period – up to 14 days. A number of enforcement bodies favour retention of the 7 day period while other enforcement bodies recommend an increase to either 10 or 14 days. Some business stakeholders argue that a 14 day cooling off period would be too long and would increase the risk of abuse by the consumer and increase the period of time that the consumer needs to take care that the product stays as new (in the event that the consumer returns the goods to the trader following cancellation of the contract).

41. We recognise that there is an argument for extending the cooling off period (possibly to 10 or 14 calendar days) in order to ensure that consumers have sufficient time in which to consider whether or not to cancel the contract. However, we received no quantifiable evidence on the question, although many responses provided anecdotal evidence. On balance we do not consider that an overwhelming case has been made with convincing evidence to extend the length of the cooling off period. We have therefore decided to set the cooling-off period at 7 days.

Costs and Benefits of Option B2 and Option B3 - Extending the cooling off period to 10 days (Option B2) or 14 days (Option B3) for both solicited and unsolicited visits

42. Option B2 and Option B3 would both have the benefit of providing the consumer with a longer period of time (than the current 7 days)



to shop around, and to cancel any contract they regret making. However both Option B2 and Option B3 would increase the period of time that the consumer would need to take care that any product, delivered before cancellation of the contract, would need to be kept as new (in the event that the products had to be returned to the trader on cancellation of the contract).

## Analysis of Option B1- Extending the 7-day cooling off period to solicited visits

43. The length of the cooling off period was not one of the issues included in the scope of the OFT, market study on doorstep selling (May 2004), and at this stage, whilst we have anecdotal evidence from a number of stakeholders to support an increase in the length of the cooling off period we do not have sufficient statistical evidence to support such a change.
44. The Direct Selling Association (DSA) represents a number of companies with average order values of between £500 and £1500 - almost all these transactions result from solicited visits. The companies involved all offer a 14 day cancellation period in line with the DSA's code of practice. Data provided by these companies show that the majority of cancellations are within 7 days. The DSA data suggests that the majority of consumer detriment can be captured within a 7-day cancellation period.
45. Our preferred option is Option B1 to leave the cooling off period at 7 days for unsolicited visits and extend its application to include solicited visits. Setting the same length of cooling off period for contracts made as a result of unsolicited visits by traders, and for contracts made as a result of solicited visits by traders will help to keep the law simple and make it much easier for consumers and business to understand. However, we will be pleased to consider any views and evidence put forward in support of an increase in the length of the cooling off period before Ministers make a final decision.

## Costs of the Preferred Option (Option B1) - Extending the 7-day cooling off period to solicited visits

46. Assessing the impact on business of an extension of the 7 day cooling off period to solicited visits is difficult because there is no reliable data available on how many companies engage in doorstep selling.

The costs involved in adopting this measure are:

- Re-printing contracts
- Informing/training salespeople of the cooling-off period
- Potential additional cancellations

47. At the current time, doorstep salespeople may use different contracts depending on whether their visit was solicited or unsolicited. This measure would allow salespeople to use the same contracts. Costs involved are likely to be negligible for this reason and probably outweighed by the ongoing benefits of using the same contracts.

48. There is an administrative burden attached to incorporating the notice of cancellation into the contract. We estimate the total cost to be approximately £770,000. This is based on an estimated industry size of 341,894 sellers from evidence received from the Consultation.

49. Doorstep salespeople will need to be informed about the changes to procedures, but as the procedure will not be new to them, this will again be negligible.

50. The major impact on firms of introducing a cooling-off period for solicited sales visits would be in time spent on sales subsequently cancelled, for example the salesperson's time, administration time, potentially work by designers/technicians – time that the firm could have spent on pursuing other sales. Under the preferred option an increase in cancellations would be expected.

51. Time spent by salespeople in people's homes can result in a sale, a sale that is later cancelled or no sale at all. Success rates vary across different types of doorstep selling. Cold calling yields roughly 1 sale in 10-12 visits, whilst professional salespersons with a pre-arranged appointment might achieve 1 in 2-3<sup>1</sup>. Extending cancellation rights therefore might have the effect of slightly reducing the success rate of doorstep sales. As a result, additional sales and administration time may be spent on achieving the same number of sales.
52. The OFT report (para 5.22) shows that roughly 8% of consumers were successful in cancelling unsolicited sales, compared with a figure of 4% for solicited sales (4% of customers of high value solicited sales attempted to cancel their purchase and we are assuming here that they were all successful in cancelling) - this figure is quite variable, and often cancellation can result due to failure to qualify for credit facilities. Double-glazing accounts for the majority value of doorstep sales. The extension of this right to solicited visits might be expected to result in a similar or higher percentage of cancellations. An estimate for what this might cost conservatory and double glazing doorstep sellers is £5.74 million<sup>2</sup> per year. However, there are many reasons to believe that the costs will not be so high. Often, work on the customer's order will not commence in the seven-day cooling-off period, in which case costs incurred are just the salesperson's time and potential foregone sales. In addition, many companies in this area already offer cancellation rights on solicited visits, so for them there would be no additional costs, further limiting the impact on them of this measure.

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<sup>1</sup> Doorstep Selling: A Report on the Market Study, OFT 2004, excludes switching energy supplier.

<sup>2</sup> This is based on sales of £1.85bn (estimate of annual value of double glazing and conservatory doorstep sales from OFT report), an average purchase price of £4,000, which suggests 462,500 sales visits concluding in a sale. OFT report estimates that 62% of high value doorstep sales result from solicited visits, suggesting 286,750 successful solicited sales visits. Assuming an additional 4% of solicited sales are cancelled, this leads to 11,500 additional cancelled visits. Taking a generous assumption of each unsuccessful visit costing £500 leads to a range of additional costs in double glazing and conservatory sales of £5.74 million.

53. The total cost of making sales that are later cancelled by consumers calculated above for businesses involved in the construction of conservatories and in replacement double glazing will be used as a proxy for the total cost to all doorstep sales companies. The OFT's doorstep selling report points out that conservatories and double glazing make up a significant share of high value doorstep sales. Also, the Report states that 'Many of the same firms which supply double glazing and conservatories also supply a range of related roof-line products such as replacement guttering and fascia panels. For a wide range of other home improvement products the proportion of doorstep sales is much smaller than for double glazing or conservatories'.

54. The measure will not impose costs on enforcement agencies beyond informing officers of the changes.

#### Benefits of the Preferred Option (Option B1) - Extending the 7-day cooling off period to solicited visits

55. The main benefit will be to consumers. All consumers will have the 'safety net of a cooling-off period' and the opportunity to cancel a contract that they regret entering into.

56. The first time that a consumer has any specific information about the product or the price is often when the salesperson has called and is making a sales pitch. The pressure to buy 'there and then' is often difficult for the resist, particularly if the consumer is being offered a discount to sign on the spot. OFT evidence suggests that such discounts are not always a good deal. For example, research commissioned by the OFT found that double-glazing companies offering the highest discount in fact also offered the highest priced final quote. This indicates that, while discounts approaching 50 per

cent of the initial price may look attractive, they offer no guarantee that the final price will be low in absolute terms.

57. The OFT report (paragraph 5.22) shows that roughly 8% of consumers were successful in cancelling unsolicited sales. 4% of customers of high value solicited sales attempted to cancel their purchase. On total solicited double glazing sales of approximately £1,147m. (£1850m. x 62%). Assuming that the 4% of customers of solicited sales that attempted to cancel were successful, and the new regulations lead to the percentages of successful solicited cancellations equalling the unsolicited ones and that consumers were successful in achieving the shop price, a reduction in consumer detriment of £14.22m<sup>3</sup> would be achieved.
58. The OFT also looked at the variability in doorstep prices of mobility products and the price difference between that and two other sales channels namely: advertised prices in shops; and prices on the internet. The data showed a substantial and statistically significant difference between prices across the 3 sales channels. These amounted to home purchasers paying nearly one third (31%) more than shop prices and nearly two thirds (63%) more than internet prices. The proposed Regulations mean that a home purchaser would be able to cancel a contract, within the 7 day cooling off period, if he finds a more competitive price for the same product through a different sales channel.
59. Amending the doorstep selling regulations may improve competition in markets that utilise doorstep selling. This will benefit legitimate businesses, protecting them against unfair competition from rogue traders and reducing the costs of distinguishing themselves from such traders.

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<sup>3</sup> £1,147m x 4% = £45.88m of solicited sales cancelled. If the consumers were then successful in achieving the shop price, the fall in consumer detriment would be £45.88m x 31% = £14.22m

60. Consumers who at present avoid doorstep selling may now participate in this market as they may be given greater confidence because of their ability to cancel purchases. This may be a benefit to business by possibly expanding the number of potential customers.
61. Businesses will generally be able to work with one contract for both solicited and unsolicited visits, reducing ongoing costs in production of contracts and training of sales staff. The simpler rules will ensure that businesses do not need to spend time establishing whether their sales visit is solicited or unsolicited.
62. Enforcement Agencies will not have to use valuable resources on determining whether a visit was solicited or not as in general the same rules will apply, making it easier to follow up complaints and enforce the regulations.

## **F. Risks**

### Risk 1

63. The Directive (85/577/EEC) is one of the 8 Directives covered by the Commission's ongoing review of the consumer regulatory framework (the Consumer Acquis). As part of the Review, in October 2007, the Commission published a discussion paper on the Directive to take stock of its effectiveness in the current market place. Depending on the Commission's timetable for amending the Directive, there is a risk that UK business, consumers, and enforcement agencies may have to adapt to two amendments of the UK regulations in a relatively short space of time.

### Mitigating Action – Risk 1

64. We are in touch with Commission officials to establish their timeline for review of the Directive. We sought (in our consultation document) stakeholders' views on the timing of the new Regulations in light of the Commission's review of the Directive. We realise that we would have to consider the burden on business, consumers and enforcement agencies to have to adapt to two changes to UK regulations in a relatively short space of time. On the other hand, Government has a long standing commitment to amend the UK regulations and would not want to delay this, should the Commission's review take a number of years.

## Risk 2

65. There is a risk that business will not be made sufficiently aware of the requirements of the new regulations in advance of the planned commencement date.

## Mitigating Action – Risk 2

66. We shall issue guidance on the new regulations, and how they are likely to impact on business at least 12 weeks before the new regulations come into force. We will try to make sure that businesses, likely to be affected by the regulations, know in advance that guidance on the new regulations will be available 12 weeks prior to the new regulations coming into force, and where they can obtain it. We will seek assistance from representative bodies to help disseminate guidance effectively. We will develop a communications strategy and use publicity and marketing opportunities to deliver key messages to target audiences during the implementation period for the new doorstep selling regulations.

## Risk 3



67. There is a risk that consumers will not be sufficiently aware of the rights provided by the new regulations.

#### Mitigating Action – Risk 3

68. OFT to run an awareness raising campaign and BERR Communication Strategy.

#### **G. Enforcement**

69. The proposed new Regulations would be enforced by Trading Standards - as with the current Regulations. Failure to provide the consumer with a written notice of cancellation, which contains all the relevant information requirements [as detailed in Schedule 3 of the proposed new Regulations] makes the contract unenforceable. A trader guilty of the offence of failing to provide the consumer with a notice of cancellation is liable on summary conviction to a fine not exceeding level 4 (£2,500) on the standard scale.

70. Enforcement will be compliant with the Hampton Code, and will be conducted in a fair, open and transparent manner.

## H. Recommendation and Summary Table of Costs and Benefits for the Options

Recommendation on the value of sale threshold at which the new regulations would apply to solicited visits: £35 for both solicited and unsolicited visits

| <b>Benefits</b>  | <b>Costs</b>   |
|--|--|
| Removes consumer detriment for consumers who wish to cancel a purchase over £35 made from a solicited call   | Opportunity cost from increased cancellations – lost work and time on goods or services over £35, which have then been cancelled |
| Keeps the law simple for consumers, businesses and enforcement agencies  | Increased cancellations – need to do more work to get the same number of sales   |
| Removes the possibility of rogue traders attempting to avoid the regulations by exploiting different thresholds for unsolicited and solicited visits | Familiarisation costs (business and enforcement bodies)  |

Recommendation on the length of the cooling off period for solicited and unsolicited visits: 7 day cooling off period for solicited goods

| Benefits  | Costs  |
|---|--|
| <p>Removes consumer detriment for consumers who wish to cancel a purchase made from a solicited call within 7 days – Direct Selling</p> <p>Association figures suggests this will be quite high</p>   | <p>Increased business costs from reprinting contracts to include cancellation notices</p>  |
| <p>Possible reduction in high pressured selling techniques used in sales due to risk of greater costs from cancellation.</p> <ul style="list-style-type: none"> <li>- better for consumer satisfaction</li> <li>- prices could fall as the OFT has noted that the highest prices were most strongly associated with pressure selling</li> </ul> | <p>Opportunity cost from increased cancellations – lost work and time on goods or services over £35, which have then been cancelled.</p> <p>Estimated to be £2.9-11m in the double-glazing market.</p> |
|   | <p>Increased cancellations – need to do more work to get the same number of sales</p>  |
|   | <p>Familiarisation Costs (business and enforcement bodies)</p>   |



## Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

**Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.**

| Type of testing undertaken | <i>Results in Evidence Base?</i> | <i>Results annexed?</i> |
|----------------------------|----------------------------------|-------------------------|
| Competition Assessment     | Yes                              | Yes                     |
| Small Firms Impact Test    | Yes                              | Yes                     |
| Legal Aid                  | No                               | No                      |
| Sustainable Development    | No                               | No                      |
| Carbon Assessment          | No                               | No                      |
| Other Environment          | No                               | No                      |
| Health Impact Assessment   | No                               | No                      |
| Race Equality              | No                               | No                      |
| Disability Equality        | No                               | No                      |
| Gender Equality            | No                               | No                      |
| Human Rights               | Yes                              | Yes                     |
| Rural Proofing             | No                               | No                      |

## **Consultation with Small Business: the Small Firms' Impact Test**

During initial consultation we contacted a number of small firms in the building and double-glazing sectors. All the firms contacted said that they did not undertake unsolicited visits and instead relied upon their local reputation and private recommendations to obtain business. This has made it difficult to identify additional costs to small business.

Small Business Service (DTI/SBS) responded to our original consultation and we have liaised further with them. Their view is that many legitimate small businesses in relevant sectors could face increased costs and some loss of business, and that the proposed measure may have limited impact on the real rogues. However, they accept that this measure is more proportionate than the alternatives, which we are not proposing to take forward (such as a ban on cold calling to offer property services).

A short questionnaire on the impact on small business of the preferred option was sent to small businesses that conclude at least some of their business on the doorstep. The replies we received suggested that extending consumers rights to solicited visits was a positive move. However, it was raised that in some cases there could be some cost implications such as handling charges when returning goods to the supplier and associated administrative costs.

It is understood that there could be some loss of business in the future, however we believe this loss will be because consumers did not really want the products in the first place. We believe our proposal gives significant new protection to consumers without placing a disproportionate burden on business.

## Competition Assessment

The proposal for change will affect the majority of contracts, which are concluded or agreed in a consumer's home, that of another consumer, or during an excursion organised by the trader. A high majority of contracts concluded in the home are made up of double-glazing, conservatories, other property services, mobility aids and hearing aids. Another high majority of contracts concluded in the home are by electricians, plumbers, carpenters and similar trade persons. This option is unlikely to have a detrimental impact on competition. There may even be a positive impact on competition in the sense that illegitimate traders may find it more difficult to operate, thus making competition fairer.

Some affected markets are more concentrated than others, for example the five-firm concentration ratio for double-glazing is roughly 50%, and other markets have many firms. The proposed change is likely to have a similar effect on all types of firms within markets, be they small, large, new or old, so the structure of markets is likely to remain unaffected.

The majority of markets where sales are made on the doorstep are not characterised by rapid technological change. This option will not affect firms' choices of price, quality and location.