



Response of the Road Haulage Association to the consultation from the Department for Business Innovations and Skills, Late Payment: Challenging “Grossly Unfair” Terms

Key concerns of the Road Haulage Association

- The RHA supports the proposal to allow representative organisations to pursue court action on behalf of individuals or groups related to grossly unfair terms
- We also support the proposal to allow representative organisations to take up a cause on behalf of members or non-members if such action is agreed to have important implications for a significant proportion of members belonging to that organisation
- We support these provisions on the basis that there would be no compulsion on representative organisations to take any sort of action, with such issues being left entirely to the be decided within the internal governance structures of each organisation

General comments

The Road Haulage Association (RHA) is the trade and employers organisation for the hire-and-reward sector of the road haulage industry. The RHA represents some 7,000 companies throughout the UK, with around 100,000 HGVs and with fleet sizes and driver numbers varying from one through to thousands.

Generally, RHA members are entrepreneurs, including many family-owned businesses as well as some plcs. More than 80 of the Motor Transport top 100 companies are RHA members.

While many RHA members are smaller operators we do have a significant number of hauliers in membership running large businesses some of which will sub-contract haulage to smaller freight operators.

Having called for such measures to be implemented over a number of years, the RHA welcomes the provisions of the Small Business, Enterprise and Employment Act 2015 which require larger businesses to be more transparent about their payment practices. We also very much welcome the strengthening of prompt payment reporting requirements set out in the Act aimed at ensuring that large and listed companies publish their payment practices regularly so that smaller suppliers can weigh up the risks of contracting with a larger customer.

We also support the provisions of the Enterprise Bill that will, when enacted, create a Small Business Commissioner to help small organisations resolve payment disputes with their larger commercial customers without the need to go to court. If the Commissioner is given proper resourcing in terms of financing, staffing and is allowed to publicise the existence of the service properly, we think that the new system will be of great benefit to small businesses.



As has been indicated in the consultation paper there may still be circumstances where small businesses decide to pursue a late payment in court, and so we agree that measures need to be put in place to make litigation a less daunting option for small businesses. This point is of particular importance since other policies being introduced by government at present, such as the raising of civil court fees, may be perceived as placing obstacles in the way of smaller businesses having access to justice.

The RHA would again like to stress that hauliers are an essential part of the UK supply chain serving other businesses as well as the public sector and private households. The haulage industry is highly competitive, often with an oversupply of providers of services, and with contract prices agreed on fairly low margins. Road haulage is particularly affected by late payment because freight operators cannot run their trucks without paying first for diesel, and so cash flow is a huge issue in the sector. The structure of the industry means that many operations that are otherwise viable, may be pushed into insolvency if customers delay payment for significant periods, because the haulier faces problems funding fuel and truck maintenance costs; in the worst cases late payment can lead to insolvency of the haulier.

This point is reinforced by the statistics in the consultation paper which say that as of June 2015, the overall level of late payment debt owed to small and medium sized businesses in UK was reported as standing at £26.8 billion.

So in summary the RHA supports the proposals in the consultation paper as part of a suite of measures targeted at dealing with the issues of late payments and grossly unfair payment terms. However we remain concerned that the power imbalance between many smaller businesses and their customers and so will continue to raise issues with government where necessary.

Consultation Questions

Q1. Do you agree that representative bodies should have the flexibility to take action on behalf of individuals and groups? If not, why?

Yes. We support the proposal to give representative bodies further powers to challenge grossly unfair terms and practices by applying to the court if an issue arises which they think is of sufficient importance to their members, and which justifies court action on behalf of individuals and groups.

Q2. Do you agree that representative bodies should have the flexibility to take action on behalf of members & non-members if they chose to do so? If not, why?

We agree that where a cause would be strengthened by seeking support or evidence beyond the membership of a particular organisation, representative bodies should have the flexibility to decide whether to take action on behalf of members or non-members.



Q3. Do you have any additional comments you would like to make in relation to these draft Regulations?

In particular we wish to emphasise that a representative organisation should not be compelled to take any court action on behalf of members or non-members.

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