"**STREET TRADING AND PEDLAR LAWS**:
A joint consultation on modernising Street Trading and Pedlar Legislation…"
Response by N.J.McGerr, Pedlar, Petitioner, and agent at Parliament UK.

Question 1 : Do you agree that the definition is in need of updating and clarifying ? If not please provide your reasons.
Answer : No.

Reasons : Please refer to the following as answer 1 to condition all other questions in the document: BIS URN 09/1074

The authors of this BIS government document **URN 09/1074** misrepresent it not only by title but with law itself. Any useful response to the questions posed is immediately disabled at the outset by the format and use of language throughout, and primarily by the lack of clarity that it seeks to achieve.

As can be seen further in this commentary, there is no explanation of what the government is attempting by amalgamation of "street trading" and pedlary, both of which are historic and customary activities, and both subject to different law and interpretation. The assumption is that the process is facile, however its outcome is not, as witnessed through current judicial practice when on the firm basis of evidence.

It is plain from the **Introduction** and **Executive Summary**, that there is a disproportionate emphasis on disrupting the safeguard of the Pedlars Act and no attempt to improve the one definitive law on regulation of street trading, adoptive, Local Government (Miscellaneous ProvIsions) Act 1982 - the *LG(MP)A*:

> - which clearly includes pedlars within terms of "*street trading*" but in this government document is then intended to regulate visits not in the street but at homes and on doors without any definitive or descriptive conditions.

This confusion is abetted by the government in its paucity of attention to detail, and more than that, it is guilty of looking at pedlary as being the only "*issue*" rather than that of "rogue" trading.

This attempt by the government to achieve a "*proportionate*" result by altering the "*definition*" of a pedlar to conform to some post-dated regulation is doomed to failure and goes directly against the Pedlars Act in which there is complete reliance on:

> "*Interpretation of certain terms.. if not inconsistent with the context… terms have the meanings hereinafter respectively assigned to them".*

Both the initial decision and the ultimate definition about a pedlar is therefore to be made by a judge and not to be pre-ordained by a codified description.

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answer to question 1	2

What can only be realised by the fulfillment of the intended result as directed by this government's departmental construction is for the Pedlars Act to be utterly destroyed, which by prompt to the Minister to sign off under **19 Impact Assessment** page 71 is:

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

with the implied offence and supposed reason:

> "*certified pedlars may be trading as "street traders*".."

followed by the fallacy, because:

> "*Local Authorities (LAs) can make a provision for the licensing of street traders, but the responsibilities for certification of pedlars (and therefore enforcement) is undertaken by the police... limited resources mean such pedlars are rarely prosecuted*".

What is ignored by this construction, a method in law not favoured by judiciary, is that Pedlars as street traders are lawful by certificate and not by licence;

LA's do not have extant pedlar certification or licensing regimes nor have any been moved towards provision of such despite the recommendation of Parliament, and that somehow a change in law will be able to make for an increase in "*resources*" i.e. cash.

It is of vital constitutional importance to have attention drawn to all these inconsistencies in what appears to be government's intention, and to preserve the authority of the Pedlars Act,

Street trading is an activity defined by the *LGMPA* and one which is inclusive of pedlars' activity exempting them from regulation under terms of the *LG(MP)A* and it is until now, often only through the *LG(MP)A* that attacks on the Pedlars Act can be made - but the *LGMPA* itself is coming under attack by this government paper with its confusion and haphazard technique of cut and paste:

URN 09/1074 page 29, 111 **6 Services Directive**

" *Pedlars who just provide a services*..." attempts to explain a decision that has been taken by BIS in terms of the private legislation by some LAs to extend the *LG(MP)A*

> "*to providing services in the street*"

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answer to question 1	3

ignoring the confusion on page 77 describing:

> *Street traders*: *'selling or exposing or offering for sale… or offering to supply any service...'*

and on page 10:

> "*Thus, street trading under the LGMPA regulates the sale of goods only*".

BIS has decided to eliminate part of the function of pedlars by excising the potential for two activities of pedlars on the very little basis of having found "*very little evidence*", and again having to rely for argument on the fallacy of page 29 112:

> "*only a pedlar of services operating exclusively door to door who is exempt from having to obtain a street trader licence...*"

relies yet again on unjusticiable law about any person or a pedlar visiting a house or going to a door for trade required to have a Street Trader licence to satisfy the regulation for exemption that is a condition of the primary statute.

The comment made on page 29 114:

> "*Incidentally*"... indicates precisely how little authority the department views the LAs have to carry out major reform of licensing regimes without considerable resources applied and how little confidence there can be in suggestions that there is sufficient capacity for LAs to take on the principles for granting certification away from police.

This contradictory and confusing text demonstrates not only the incomprehension of its authors about pedlary but also the impossibility of good law being applied as a result of it.

The authors join with those wanting to attack the Pedlars Act, those who rely on change to the application of the Pedlars Act through amendment to the *LG(MP)A* - but there is nothing in this report written about the *LG(MP)A* and its relationship to the Pedlars Act which alters street trading, helps to adjust the law conditioning street trading or in their words to "modernise".

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answer to question 1	4

The Pedlars Act 1871 is referred to in the *LG(MP)A* because in terms of "STREET TRADING", the trading activities of pedlars are exempt from regulation, which makes the whole ambit of this consultation redundant, unless its priority has been set outside of its terms of reference and within the demands of those who have declared an interest to "cut away" at the Pedlars Act such as the NABMA, Sharpe Pritchard, and the LGA.

These authors also ignore utterly the unique and important historic context of the Pedlars Act, whilst at the same time adopting the vulgar expressions of its detractors such as it being antique, archaic, or anomalous, when in fact the Pedlars Act is an effective and unique piece of legislation which gives more than the little it states, the most critical aspect of which is:
- that a person has to be of good character with that assessment being the judgment of law through the aegis of police and magistrates and subject to self appeal by a responding person considering to be suitable.

This "*consultation*" is an attempt by the authors to change this basis of law and revert it to some sort of self-serving ad hoc regime that can be useful to only a very narrow clique within society in danger of causing damage to the principle of law and corruption of the society:
- reference *Butterfield*, witness for the promoters on the effect of the City of Westminster Act 1999.

The Pedlars Act then is in its essence a preface to any attempt following it to define the nature of a person in law such as in an *Identity Act*, and is therefore very modern in its application and usefulness:
- but it relies completely on interpretation for its effect - it is a recognition in law that it is almost impossible to codify human nature except by proscription or prescription.

So the Pedlars Act <u>does not go to definition</u> apart from setting out what a pedlar may not do in contravention of the Pedlars Act: **c.96 Clause 4(1)**, which is the ground for a pedlar to be of good character, and so the Pedlars Act sets out the "means" of a pedlar, that is a **description** of activities that <u>indicate</u> a pedlar, including at the outset a "*hawker*" and then including <u>any</u> "***or** other person*":

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answer to question 1	4 a

So the Pedlars Act not going to particular definitions but with descriptions of indicative activities is its own regulation, it is what authorises a pedlar, it is the pedlar's own authority, on its own conditions, for a pedlar to proceed on an own recognizance as validated by police and approved by a magistrate - Pedlars Act: c.96 Clause 4(1)

> "*The term "pedlar" means any hawker, pedlar, petty chapman, tinker, caster of metals, mender of chairs**, or other person** who, without any horse **or** other beast bearing or drawing burden, travels and trades on foot and goes from town to town **or** to other men's houses, carrying to sell or exposing for sale any goods, wares, or merchandise, or procuring orders for goods, wares, or merchandise immediately to be delivered or selling or offering for sale his skill in handicraft."*

This flow of english is no more "old" and useless than the institutions from which it sprang, and as for the trammelling of the Act carried out in panic to satisfy a European Directive when there is always time for *transition*:

I viewed with great pleasure the work of a *chair-mender* sited at Calverly in Tunbridge Wells, and follow with interest a pedlar displaying *skill in handicraft* or any *caster of metals* plying a way through Westminster, and there is always any "*or other person*".

URN 09/1074 because of its lack of attention to the origin of the legislation and by its misuse of language: ignores the nicety of the Pedlars Act and its liberal foundation upon the permissive use of "***or***" which allows for the constant widening of its scope through time and additional expertise.

Damage has been done to its interpretation and its later exploitation through private legislations by deliberate changes made to the wording of the original Act in subsequent dependent legislation - as at first instigated by David Chambers of Westminster City Council addressing the ATCM conference with the idea that pedlars may only go by making visits to houses and doors, and that a pedlar "*goes from town to town **and**",* rather than *"**or** to other men's houses."*

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answer to question 1	5

The crux of the DEFINITION about a pedlar is of a person who is a pedestrian who goes about and trades and is lawful with a certificate that attests to honesty limited only by the conditions that the certificate is current: **Clause 4**, not forged: **Clause 12**, borrowed or lent: **Clause 10**, not used for begging: **Clause 13,** and must be shown on demand: **Clause 17**.
Further emphasis is required in this consultation to differentiate this type of trader from others because a pedlar is 'mobile' and does not occupy a LA licensed 'static' pitch. It is this comparative yardstick that forms the pillars of difference between the two types of lawful street trading.

The answer to the first question of this consultation is therefore perhaps contained in the response to most of the other questions, with the consultation misleading in the form that it is presented. Its understanding about pedlars is scant, and its purpose has been devised to conform not to the better regulation of street trading but is in fact to abnegate a freedom and facility open to all suitable persons throughout the UK.

Which is why the prominent use of "*proportionate*" in the context of justification for the authors' proposals so that the work glides easily through HR legislation can be considered disingenuous.
The number of persons suitable in the UK, which has not been properly assessed nor researched, has the potential of about 48 million, and then there is Europe.

For this reason alone the consultation puts HMG in peril of reprimand by the European Court on many grounds including that of occasioning disproportionate effect whilst aping most of the private business legislators who have relied on their legislation being proportionate as "in the general interest" to suit the domestic HRA.
Stupidity is obvious therefore, before the first question is asked, and is within:

4. Certification Process The UK and Scottish Governments' Preferred Option*
*(note this as *Government's preferred option* based on *our* (their) assessment..)
Option B

48. It seems *clear* that the *outdated* language *used to define a pedlar* in the Pedlars Act is *leading* to some *confusion* around what a pedlar's lawful activities are. It is a general principle of better regulation that legislation should be clear and transparent for those subject to the legislation, and those charged with enforcing it.
    It is on this basis that we would propose to update the definition.

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answer to question 1	6

* The basis of the government's *preferred option* is flawed because the: "*our assessment* of the evidence to date" - has Scotland outside of the UK.

It is not "*clear*" that there is any basis to "*update*" the definition:
"*outdated*" - only because this URN 09/1074 states it to be so;
"*define a pedlar*" - the "*confusio*n" is by the authors mixing the descriptive means of a pedlar with the conditions to be a pedlar set out in the original and primary Act; but as made in a vital comment by *Durham*: this Act could be altered usefully to: "**enable easier identification of genuine certificates**"

This is the only & most practical aspect of the whole of this "consultation" which has to take place within the terms: "*easier identification of genuine certificates*"
- set out in a revised and updated text for the **Forms A&B** of the national certification scheme of the statute which states:
- a pedlar may go throughout the United Kingdom, and which should now include Europe in order to comply with European legislation and as should the *LG(MP)A* .

Part 48 of the consultation notes perversely:
"*It is a general principle of better regulation that legislation should be clear and transparent for those subject to the legislation*…"
because: pedlars are expressly EXEMPT from conditions of regulation other than the conditions of the Pedlars Act and other applicable national laws, and certainly exempt from the regulatory conditions of street trading in the *LG(MP)A*.

It is therefore inappropriate and doubtful that this consultation has any true effect other than to confirm the prejudices of those who have set out to REVOKE the Pedlars Act as intended by this consultation on page 20 **4.6** 78:
Revoking Pedlars Act and licensing Pedlars under … LG(MP)A.

Other than this, national government has stated a lack of urgency to address the "*pedlar issue*" and there has not been any similarly strident lobby to attach change to the *LG(MP)A*, which is itself only applicable locally. noted hypothetically in 81. page 21:
"***However**, the street trading provisions in the LG(MP)A and CG(S)A are **currently optional** for local authorities. We **would need** to consider further how this **might be reconciled** with a **desire** to retain national access to pedlar certificates. It **might**, for example, be appropriate to require all local authorities to participate in the certification of pedlars*…"

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answer to question 1	7

Not only does this attempt at convergence go directly against the ECHR and the HRA, but given not only the reluctance and most often the right of LA's to resist the imposition of central authority:
- there is not the funding to support such an edict, nor as has been noted in Parliament will it be supported by the fallacious imposition of seizures and FPNs.

This **URN 09/1074** is of itself anomalous and as has been suggested in Parliament: "*absurd*", with the prospect of having government legislation based on it seen as: "*intolerable*".

The importance of understanding the evolution of law has been emphasised most recently by *Elizabeth Wilmshurst* alert to the danger of government hiding its processes, not declaring its interests, but relying on a single arbitrary decision, which has then to be subject to judicial review.

The Pedlars Act has no other reference other than to itself and is based not on any pre-existing law but on customary practice. To a great degree that practice continues among holders of Certificates of good character, and review is continuing on the basis of judicial interpretation which is of itself open to appeal and hence is the cornerstone of the "evolving" law of society.

Any attempt to codify the activities of a pedlar, a common pedestrian when in trade, or to "*define*" a pedlar, goes against the history of legal precedent and the common law of society.

That a pedlar bears a Certificate as a <u>testament to honesty</u> is such a unique treasure that it surely is something that should be encouraged for a more widely appreciated and effective morality in the health and safety of an ethical society:
- but <u>not</u> for it to be casually disposed of with so much impertinence.

This government consultation should ally itself with the history and social culture of the common nations and not be swayed by disparate and unrepresentative groupings of private interests who have yet to declare themselves to be in the wider public general interest, or to reveal an agenda that conforms to widespread common values based on comprehensive evidence and not mere anecdote.

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answer to question 1	8

Parliament in 1871 made a law about people being able to go about anywhere, to allow knocking on other persons' doors and approaching people in the street without being judged a nuisance.

The need for the law followed the 1847 *Town Police Clauses Act* which would have continued to catch pedlars if not for the introduction of the Pedlars Act. Parliament gave legitimacy to pedlars' established and useful activities - clearing away the confusion about pedlars introducing themselves and then to be arrested for committing an offence.

There is now however with this **URN 09/1074** an attempt to revert back to this "confusion" which can be viewed easily as being promulgated deliberately.

The introduction of the Pedlars Act was to correct the situation for people who went about selling or displaying their wares being harassed by various authorities such as town constables and bailiffs, as now with licensing officers, city marshals, sub-contracted "security", CPSOs, and types who enjoy picking on those less fortunate than themselves. This coercive and awkward tendency continues to persist throughout many "*modern*" regimes.

Pedlars are pedestrians and quite vulnerable when carrying items of value or needing to seek out conversation in order to promote some mutual interest and can easily be set upon.

Historically this was the situation which many honest and purposeful individuals found themselves to be in when being attacked as vagrants and rogues, which is why Parliament introduced the safeguard of the Pedlars Act to remedy the grievance and:

- to lessen the amount of potential breach of the peace and in 1871 to encourage a better flow of economy throughout the United Kingdom.

The Pedlars Act has no definition other than the word itself which is as the English dictionary has it:

"*traveling vendor of small wares usually carried in a pack*";

and sometimes with the more common pejorative understanding of a person who is a teller of tales, or "*retailer*".

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answer to question 1	9

The definition of a pedlar is therefore exact in the Pedlars Act.

It is written clearly as in the statute, and the descriptions that follow are included there as explanatory guidance so that those needing to evaluate a person with a pedlar's certificate can have some indication about that person's lawful activity.

Within that list of possible activities is the all encompassing allowance of "**or other**" that permits anyone who has been proved by police and authorised by a magistrate to hold a Pedlars Certificate, while at all times of trade complies with all conditions of that certificate: not to have it forged, lent or borrowed, or to be used to be a beggar: - can on production be allowed to proceed without let or hindrance and within all other laws.

The Pedlars Act is thus very restrictive, well conditioned, and good regulation.

What the authors of this consultation document **URN 09/1074** attempt to enforce *as a definition of pedlary,* is a list of possible activities, but they deride these activities in many different terms such as it having been formed by "*old legislation*" which in their words is:

"*leading to confusion about its interpretation over time*"

The LGA and other of their confederates add further facetious contempt by pillorying pedlars as "*rogues*" going about in "*malevolent gangs*".

This is to divert attention away from the initial charm of the list which is in fact not a definition but is a list wholly descriptive and entirely open to interpretation by the important inclusion of the words "***or other***".

The authors of this document have thus at the outset sought to remove from this consultation any ambit of judicial inquiry by forcing upon stakeholders a narrow and restricted understanding of the law and one which despite the inclusion of various references to case precedents, ignores, not only the original and unique formula of this Act, but includes the prejudices of those who are striving to strike down this primary and useful statute by yet again **reverting it back to before its inception:**

when pedlars and the public did not have the safety of the Pedlars Act.

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ANSWER TO QUESTION 2: YES & NO - a reformat & careful questions required
REASON: Refer to answer to Question1. - this question 2 should not be posed in terms of "Option B" as "the list" is not presented in the Pedlars Act as definition only as a list of descriptive terms, and it is for a court of law to apply interpretation. The pre-condition set out by this question has been pre-determined by the department on pages 42- 43 of the "consultation" 8.1 - 8.3 with the ludicrous amalgam in 8.3: "*that this criteria is comprehensive.. when a person is acting as a pedlar or a street trader*", This is not a distinction in law, the *LG(MP)A 1982* states that a pedlar is exempt from street trader regulation. The distinction is therefore false and the criteria is not comprehensive because it ignores court Order 57 Rule 1.
The distinction introduced by the authors of this consultation lets in a head capable of a simple prosecution of a pedlar. This gambit is typical of the whole consultation. The "list" format is an attempt to codify law as purely functional, whereas there is history to culture and custom: with nature not yet described as entirely mechanistic - so this question is thus inappropriate, entirely wrong and redundant.

ANSWER TO QUESTION 3: YES & NO – its all relative
REASON: As referred to in answer to Question1.- this question cannot be answered as "the list" is only a list of indicative descriptive terms. It is for a court of law to apply interpretation. The term pedlars in the Pedlars Act includes *hawkers* and it is only since the revocation of the Hawkers Act that courts of law have recognised hawkers to be able to have a means of carrying and transportation: size and use has been judged **on the facts and ruled accordingly**. It is for courts of law to determine the Pedlars Act, and it is for regulating authorities to bring forward the relevant offence according to the relevant law out of many, which could for example be about obstruction or having a false certificate.
This consultation needs to have more thorough scrutiny of existing law, and also to be able to recommend a wider review of all law and associations such as the ATCM & the NABMA impinging on HMG & the purview of Local Authorities.

ANSWER TO QUESTION 4: YES
SUGGESTION: Apart from a repeat of the comments given above in answer to Questions 2 & 3 - this question cannot be answered with effect as it has no point of reference other than its own box. The whole of this consultation needs to be revised in order to establish both a domestic and European context and not be so limited to an obscure agenda that seeks only to penalise pedlars.

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ANSWER TO QUESTION 5: NO
REASON: Refer to answer to Question 4. - this question is not reasonable nor usefully answered because its "description" is loaded by the context of its origination and by the fact that it does not address the reality of the Pedlars Certificate as national, with national authority, and needing to be administered by national agency such as police and not as implied "*dependent on whether the issuing authority should change*"; point 56 indicates that the purpose is to increase LA's power to isolate pedlars simply as immediate offenders with burdens of FPNs & seizure: "*these options... will only be viable if the enforcement officer can be confident of the offenders details*" - this statement is in contrast to the certificates true value as a witness to good behaviour and a pre-cursor to an I.D. card.
The Pedlars Certificate is already "viable" as it supports national opportunity and is evidence of vital & viable jurisprudence. The certificate's issue is for the protection of the pedlar and not as an aid for prosecution. Revising this consultation should place this question in the proper context: cf. questions 6-16 and further.

ANSWER TO QUESTION 6: NO
REASON: Refer to Question 5 point 58: "*This will benefit certificate holders*" - only as they will be charged an undisclosed amount of money and draw no other benefit than that their I.D. is confirmed with a photograph (PACE) releasing pedlars from the drudgery of too much harassment. Cost is not & cannot be related to scale & will not be covered by fee. Variation removes cost equivalency: adding applications increases potential and with the probability of EC and approved non EC input.
The equation: total of fees = recovery cost of central database, is fatuous & absurd. A national update of data systems as enabled recently by Berners-Lee allied to efficient communication systems does not make "the list" a priority and may go against other conventions if too many details are available for public view. Embedding information which can be accessed by a scanner is more modern & pertinent and fits better with the prospect of a centralised monitoring authority.

ANSWER TO QUESTION 7: YES&NO
CONDITION: page 17- Scots have declared Unilateral Independence? This clears all answers to previous Q's. A database has to include all of UK with EC and with international access. Establishment cannot be recovered through a scale of fees.
The text: "The **UK** and **Scottish Government**s' Preferred Option" indicates the bias throughout - that this consultation looks only towards towards local application.

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ANSWER TO QUESTION 8: NO
REASON: The Durham proposal is for a "central computerised collection of data on pedlars'certificates"; this as a question is somewhat similar to "eats shoots & leaves"? The need is for minimal data & not to maximise the information held on a certificate, therefore name, number & if technically possible, a photograph or laser bar-code; removing data-sharing capacity from one agency & granting it solely to another incapacitates the system - whilst allowing too much access to too much information is similar and contravenes too many aspects of privacy & security. As police currently run data checks, and also input & access data on a wide variety of activities, police are the priority function requirement monitored by a supervisory and appeal agency: - with that all approved officers will then have the technical solution of a scanner to validate a pedlar's Certificate. Without significant lawful authority this question as proposed through point 63, but without any reference made to origin - that LAs will be aided to share data because of some "retail" collaboration like M&S cash desks..? This is not only dangerous but preposterous.

ANSWER TO QUESTION 9: YES
COMMENT: placing this question in at this point of the document exemplifies the department's technique of cut & paste - removing the possibility of a logical flow of reasoning and indicating knee jerk panic to satisfy assumed conditions. **REASON:** the precipitate reaction by BIS to introduction of a Services Directive indicates many flaws in the department's ability to have a well considered approach. The arbitrary decision to eliminate elements of the Pedlars Act whilst in "consultation" about pedlary, using the tool of a Statutory Instrument without putting the issue through full debate in Parliament nor by suspending the initiation of the directive as allowed for by the EC: indicates that any better consideration about pedlars is more likely to be put in jeopardy. This consultation has to be in root and branch concordat with the principle of pedlary, otherwise its only result will be to spread more offence.

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ANSWER TO QUESTION 10: NO
REASON:
Point 69. Yet again the government authors show their ignorance of the Pedlars Act and their state of inverted logic: there is no statement of proof required for the grant of a Certificate: the applicant is self asserting to be capable of acting as a pedlar within terms of being a pedlar, all under the aegis of magistrates and police who are best able to assess the balance of evidence more than the ill defined "other" of "Option B": which does not declare itself, but is: the narrow but strong lobby of private interests as displayed through private bill business in Parliament . This Option is yet a further push towards removing the entire substance of the Pedlars Act by textual manipulations carried out under the guise of some sort of efficiency that is not provable and does not come within the remit of fairness nor justice. On proof of evidence there is a right of appeal to the respondent through a court, rather than the sole adjudicator being LAs with many unspecified views.

ANSWER TO QUESTION 11: YES and but NO

SUGGESTION: the usual muddle up and conflict of text & supposed meaning with this "consultation" - it is obvious from the context of these questions that the proposal is to hand authority for the grant of certificates over to LAs and as a result LAs will be more able to have more and more frequent "*more consistent*.. **refusa**l of applications".
LAs , especially those with private business interests have the most amount of refusals for licences on the simple basis that they are not prepared to allow for them.

ANSWER TO QUESTION 12: NO
REASONS:
Section 4.5 page19 - arguments are illogical, tautological and fallacious:

point(s) 71: not all LAs adopt LG(MP)A; 72: LA's control only static positions;
73: Pedlars statute does not require police to make trading decisions, but police can & do issue licences; 76: the double negative: "We do not **currently..** not to transfer.." is the fallacy, shows LACK of consideration in reality and displays precisely why this "consultation" is flawed - that somehow there is no doubt about "*illegal street trading*" but "*uncertainty*" about "**legitimate pedlary**" despite there being a **statute** about Pedlars, and that somehow: - when that is dissolved the issue "*will be clarified*"...(?)

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ANSWER TO QUESTION 13: YES&NO - clear terms are stated in the Pedlars Act. **CONDITION:** this question is conditioned by "*What does the evidence say?*" which is then not provided, instead only the tortuous assembly of words attempting to verify "*refusal of applications in the legislation*"; what legislation - the efficacy of the LG(MP)A which is known and has been stated by the department's researchers to be incompetent to take on the Pedlars Act...? It is significant that this question is asked at 13 as it refers back into the consultative process and reflects forward on to all others.

ANSWER TO QUESTION 14: NO
REASON:.for all reasons stated up to this point that the Pedlars Act is fit for purpose and the LG(MP)A whilst suitable for many administrative functions of local government is not suitable nor can be easily adopted to reflect a wider concern. Again to satisfy bureaucratic regulation there is the deliberate false distinction made between "pedlary" and "street trading" in order to fit a misconception and a ridiculous outcome: that with no "Pedlars there is a definition of & about Pedlars.

ANSWER TO QUESTION 15: NO
REASON: there is no "reason" other than the demands of a small but persuasive lobby, a narrow sector of LA's, the destruction of "viable" law, the awkward instigation of an unknown process that has no basis in actuality, the removal of effective and viable safeguards, the imposition of an uncapped tariff of fees, the tramelling of human liberty, and an opportunity for government departments to have a long sledge through a proven and well regarded constitution.

QUESTION 16: YES but these are not options by BIS, nor is allowed a wide margin of CONSIDERATION. Instead attention is directed to one sole (im)probable regime: "*definition which reflects the current trading practices of legitimate pedlars*". "Current" as is always changing, "the river flows and down into the sea"; there **is only** "**legitimate** pedlars", & this absurd situation is addressed in answer to Q17

ANSWER TO QUESTION 17: YES of course if pedlary as constituted is ruined
REASONS: AS ABOVE: THERE HAS BEEN ONLY A VERY CONDITIONED SET OF QUESTIONS WHICH DIRECT TOWARDS A SINGLE RESULT.
PEDLARS THROUGH THEIR RESPONSE TO THE PRESSURES PUT UPON THEM BY THOSE WANTING TO ERADICATE PEDLARS AS A FACET OF SOCIETY HAVE IN CONTRAST MADE PRACTICAL & PURPOSEFUL RECOMMENDATIONS AS TO HOW THEIR IDENTITY CAN BE PRESERVED & IMPROVED. SOME PEDLAR "OPTIONS" REQUIRE ONLY TECHNICAL ADJUSTMENTS - WHEREAS THIS BIS DOCUMENT HEADS TOWARDS ONLY A DISINTEGRATION OF LAW.

"**STREET TRADING AND PEDLAR LAWS**:
A joint consultation on modernising Street Trading and Pedlar Legislation…"
A response by N.J.McGerr, Pedlar, (refers to and is conditioned by answer to Question 1)

ANSWER TO QUESTION 18: OPTIONS: the options provided under "an alternative vote system" drill down into a percentage indicator that ensures that pedlars, outnumbered by establishment, will be penalisd, and by an unfair and invidious regime. Pedlars' are authenticated by law & on the judgment of courts. LAs finding justice costly enough to seek to avoid it (point 88) need to revise and educate their procedures and not seek a revenue stream through FPNs that has been overtly criticised by the Magistrates Association, and now by this incomprehensible combination of options: option D is options 2&3 i.e. in Impact Assessment (ii)..(?). Pedlars will be denied the authority of a magistrate and suffer a grievance worse than a speeding motorist - "*not shared by all authorities*"
REASON: take this and all further responses to Questions in this consultation as being in agreement with the joint submission by pedlars in the 12th Feb 2010 pdf document: - <***http://www.pedlars.info/bis-consultation.html***>

ANSWER TO QUESTION 19: NO – there is no overall and complete request evidenced by LAs: point 88 "***may***", the most influence bought to bear on this view is from authorities that have bought their plundering power with private business exploiting local communities; the calculations as presented are inaccurate and not well based, do not yield expected results and with no capped limit are likely to serve only oppressive regimes to help with the pay off for hiring sub-contractors.

ANSWER TO QUESTION 20: NO
Do not agree with the principle or effectiveness of FPNs as the Magistrates Association do not in principle agree with FPN's and for the reasons outlined above in Q19 and with responses made by the pedlars joint response document, which details that FPNs have no effective impact on diminishing the rate of crime <http://www.pedlars.info/bis-consulatation.html>

ANSWER TO QUESTION 21: NO
Is what "*list of offenses in respect of FPNs*" complete and correct?
The detailing of "Street Trading Offences" and "Pedlars Offences", as somehow actionable by the same process: - is WRONG.
Pedlars have the aegis of the law, of magistrates, and of police. LAs can write what they like into their adopted LG(MP)A and the scale of fees. penalties, licences, and charges is of their own devising. They choose to favour their own and their licensed street traders are not so likely to loose their goods by seizure & forfeit unless counterfeit & are more likely to be on a lower scale than pedlars who are not favoured at all by all LAs - as well publicised by the LAs PR media.To force pedlars out of statutory protection into the unregulated maw of the LAs need for extra income that LAs misguidedly assume will be more efficient, of cost benefit & potential revenue generating, is not only **not correct** – it is vicious & absurd.

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ANSWER TO QUESTION 22: ZERO & **REASONS** are for pedlars: **bias,** as the view to be taken by this consultation resulting in only "the minister" signing off **on an Impact Assessment that is not capable of being affected by the respondents** and has been designed essentially to revoke the Pedlars Act and introduce a phalanx of LAs, not all who have agreed or can agree & who may be incapable of introducing a costly & swingeing attack on pedlars

QUESTION 23: answer agrees <http://www.pedlars.info/bis-consultation.html>
REASON: "*the Department's* ***general perception***" sets itself nicely into the subjective "*desired outcome*" WHEN IN FACT THE PRESENT AND CURRENT LAWFUL SITUATION IS that "*those certified pedlars*" - note the lack of *those with Pedlars* ***C****ertificates* – DO TRADE LEGITIMATELY.. not "*would be*" or "*in addition to properly*.." - note the introduction of and emphasis on the false distinction between pedlars.. and "*street traders*" as: - PEDLARS ARE STREET TRADERS AND EXEMPT BY PROPER AUTHORITY OF A WELL REGULATED LG(MP)A REGIME, but not by this extravagant and tortuous government attempt to cobble together some sort of effective regime across the UK by harnessing a collection of possibly subservient but demanding Local Authority .

QUESTION 24: answer agrees <http://www.pedlars.info/bis-consultation.html>
REASON: constant use of hypotheses by this consultation with such as: "***would*** *also be important*" is in context of pandering to LAs prejudices but is not helpful and "Clearly this **would** require further work.." for the department..(!) while pedlars have to consider the absurdity of the suggestion that it is better for them not to attend gatherings of people - to be "*given a reasonable time in advance*.." to decide what to do with themselves (not to go somewhere where they are likely to be fined, arrested, prosecuted, have their goods seized and most probably destroyed...(?!).. There is the effective law of the PEDLARS ACT which permits pedlars to trade ANYWHERE throughout the UK and here in this document there is no substantive evidence nor any made at Parliament about "*unreasonable numbers of pedlars*"; more than that: there is in the law of the ***Market & Fairs Clauses Act 1874*** provision for pedlars not to be prevented from being at public gatherings that have access for the public. See also all other pedlar comment on "***unfair trading and competition***"

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QUESTION 25: NO agree with http://www.pedlars.info/bis-consultation.html
REASON: pedlars are lawful and there is sufficient law for them to be accommodated within any public gathering as much as any other member of the public - as pedlars are members of the public and not some secretive or arcane body that needs to be hidden away from the public to prevent an outbreak of some hideous and hitherto unknown scourge, but often local authorities and associations have been the cause of terrible events - such as Hillsborough, and the City of Manchester "Rangers" event. NOTE: **BIAS** in the list of questions - all of which are to do with **INCREASE** TO LA POWER AND PENALTY AND NONE TO DO WITH THE BETTER REGULATION OF LAs DESPITE DEMAND OF PARLIAMENT**. Point 105** that follows has no comment box, HOWEVER THE QUESTION ARISES: **How can HMG "in consultation" insist LAs enter domestic premises without hurt to the HRA & ECHR? POINT OF LAW.**

QUESTION 26: NO agree with http://www.pedlars.info/bis-consultation.html

NOT MUCH CRITICISM IS REQUIRED FOR THIS CONSULTATION TO BE ABNDONED UTTERLY ON THE BASIS OF IRRESOLUTION: '**assuming the rationale for prohibiting static street trading' applies equally to trading as a pedlar**" – "rationale" (p27) or ILLOGICAL – "static street trader"/ licensed static street trader / "trading as a pedlar" / mobile pedestrian.. pedlar...? DUH?

QUESTION 27: umm.. so agree with http://www.pedlars.info/bis-consultation.html

OBSERVATIONS: "**aired**"..? "**methodology**"..? "**notice**"..? consistency of approach..? "**restrictions were properly communicated**"..? who is *PRIMUS INTER PARES* with this fabulous UNCOSTED "**further work... in the light** of this consultation"..? This "this" as presented in this "consultation" is so little considered it APPEARS so far VERY **OBSCURE**

QUESTION 28: NO agree with http://www.pedlars.info/bis-consultation.html

REASON: pedlars as referred to throughout this response to this document are and always should be under the aegis of law, magistrates, and police; if this question is aimed at pedlars "in the light of" pedlars becoming licensed vassals of local authority then pedlars in a real, traditional, customary, social, economic, and public sense **will have ceased to exist**.
THIS ISSUE IS TO BE DETERMINED BY THE SUPREME COURT, wait & see

QUESTION 29: YES & NO agrees with http://www.pedlars.info/bis-consultation.html because pedlars are investigating the conditions used by the SI to bring in the SD:

- this issue has been moved towards being determined arbitrarily during this consultation AND ON THE BASIS "**of no evidence**" which suggests further review in both domestic & European courts. HMG has not made PROPORTIONATE response and there is thus "**detriment**" to upwards of more than 48 million people

QUESTION 30: NO and agrees with http://www.pedlars.info/bis-consultation.html
REASONS: As above & outlined by my response in answer to Q.1 - there has been only a very conditioned set of questions throughout this consultation which directs towards only a single result: -THE SCRAPPING OF THE PEDLARS ACT & THE DESTRUCTION OF PEDLARY.

QUESTION 31: YES & NO – it's impossible to answer other than to agree with http://www.pedlars.info/bis-consultation.html
The public the main "*target audience*", a mass of people, have not been sufficiently contacted. Criticism has been made from the beginning at Q.1 and throughout this response to the "consultation": that terms as set out by the authors of this strange document are frequently WRONG. So it is with this "Draft Guidance" which may well meet its **"needs of the target audience**", particularly "**enforcers**", but doubt persists as to why there is, as here: "traders", which then has to be conditioned by the addition of "pedlars" - who are traders and only exist as such but who are also **denied lawful authority** by the composition of this URN 09/1074 and of its maladroit application which certainly denies any "degree of consistency of interpretation"

QUESTION 32: YES and agree with responses made by the pedlars' joint response document at http://www.pedlars.info/bis-consultation.html
and for government to employ the wisdom of years:
- for this consultation to be based on any FAIR level it needs to give to pedlars appropriate support with the same equality of opportunity enjoyed by all other respondents:
- given equal portions of access for time & facilities required for guidance to be "**reformatted**", pedlars as with Q33 will then be able to agree they "are happy to receive them", but pedlars need to know about point 45: SCOTLAND, is it in UK?

ANSWER TO QUESTION 33:
ZERO COMMENT – unless all responses made so far by pedlars in reply to BIS questions are given full value, and agreement is made to responses in the pedlars' joint response document http://www.pedlars.info/bis-consultation.html and put to good use to preserve the wisdom of years, with assistance given as required and made available with access to the cost basis of the Impact Assessment which is restricted by **no comment** box other than the minister signs off in agreement;
"pedlars, tellers of tales and retailers"... it's their life & a good gift to M&S!

njm