Hardcopy Open Letter to Clive Maxwell CEO Office of Fair Trading – Subject as page 1
Initially sent by email for speed to ceo@oft.gsi.gov.uk **also emailed to OFT Reporting Centre** (enquiries)

David Chapman
[redacted]

FAO Clive Maxwell CEO – OFT

28th January 2013

SUBJECT : TO DRAW OFT ATTENTION TO A COMPETITION BIAS AGAINST A PARTICULAR CLASS OF TRADER AND TO SEEK CORRECTIVE ACTION BY THE OFT TO RECTIFY THE SITUATION

The writer will be a responder to the Government BIS (Business Innovation & Skills) consultation document URN12/605 and the associated impact assessment URN12/606, however being only a part of a small group of aware individuals the writer will not have the necessary clout to impact upon this poorly contrived government policy.

Only a few of the persons actually affected by this consultation have been made aware of the consultation in any practical way and this is a disgrace.

The writer does not consider the government practice of ignoring stakeholders concerns and placing a consultation document on the BIS website to be a fair way of consultation and representations to BIS have been made in this respect.

The writer is in contact with a selection of stakeholders that are affected by the consultation and it is the general view of all of those I have contacted (regarding the Government's intention as described in the consultation) that the Government intention is directly against a certain class of trader.

Whilst the BIS openly declare the right of those certain affected traders to trade, they state there is no option other than to repeal the Civil Act of parliament that allows those traders to exercise that right. Instead the BIS intend to change other laws adopted by some LA's (Local Authorities) to include descriptions that purport to offer that same right, whereas the wording proposed does not offer that same right at all and actually limits the opportunity of the trader to trade whilst also subjecting the trader to criminal liability for any perceived failure at the LA's subjective view.

It is clear in my mind that once the BIS is successful with their mal-intentioned direction and biased view point to pass the regulatory responsibility over to LA's (who incidentally wholeheartedly wish to take on that responsibility in order to restrict market competitiveness in favour of another class of trader) that the proposed new law will be found so unworkable in that any and all persons will unchecked be able to trade without control and without identification such that customers of those persons can expect **no** redress from those uncontrolled trading activities. This will lead to the (as yet unstated but in the writers mind government planned) next step of changing/deleting that openly declared right as it will then stated by authorities that 'the right' has been abused and needs amending/deleting and with the Act of parliament already repealed nothing will prevent this from happening. This government undeclared two stage approach will exacerbate the initially proposed travesty against the traders concerned.

All this, whilst the presently concerned BIS department is determined not to understand nor appreciate any of the stakeholder advice and comment offered to them.

An extremely important point not yet admitted by BIS is that the present BIS department that has been selected (selected by whom is not known) and under whose purview the consultation has been released has been incorrectly chosen as a more appropriate choice would be the 'Strategy, Analysis and Better Regulation Section' under the Director General: Tera Allas who from the documents available on the web has the following brief. The below extracted from BIS web document see (1) in the references at end of this letter

ACTIONS 5.13 Establish a rigorous approach to tackling EU regulations on their journey from inception to UK implementation in order to minimise unnecessary burdens & ensure that UK businesses are not disadvantaged relative to their European competitors	START	END
ACTIONS	START	END
i. Monitor Departments‟ progress in ending gold-plating, including using copy-out, getting right timing, applying review clauses, aligning EU obligations with domestic policy and using alternatives to regulation	Started	Dec 2012
ii. Work with EU institutions to embed smart regulation, contributing to Commission report on overall burden reductions and exemption of micro-businesses. Including areas for possible micro-business exemption or lighter regime identified through Red Tape Challenge	Started	Dec 2012
iii. Work with EU partners to set target for reducing the overall burden of EU regulation by the end of 2014	Started	Dec 2014

The traders being victimised by this government approach are indeed micro entrepreneurial businesses that would certainly be exempted from EU Directives under 5.13ii shown above but ignorance or refusal to acknowledge that fact by the presently concerned BIS department is causing distress to those affected.

The BIS are ignoring European legislation such as 'The Small Business Act for Europe' that anchors the 'Think Small First' principle in 'national policymaking' enabling Member States to disregard the Services Directive for any policy contradictory towards micro-enterprises.

The stakeholders, having been ignored for the last six months (proof is available) by lower levels in the BIS, have recently contacted the Secretary of State for 'Business, Innovation and Skills' and respectfully requested that a decision be taken 'to call-in the consultation and begin the missing procedural step of publishing an unbiased evidence-based consultation and a proper impact assessment' on the correct understanding of the above paragraph. This hoped for action by the Secretary of State is still awaited.

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The writer has noted with great concern that the OFT (Office of Fair Trading) is not within Annex E of the consultation and is at a loss to understand why this glaring omission exists. The writer believes that to omit the opinion of the OFT is not reasonable especially considering the wording in a certain section of the OFT website the below is extracted from an OFT web document see (2) in the references at end of this letter

"*It is important that policymakers recognise the impacts of government policies and regulation on markets and competition. Policymakers are required to take account of the impact of new policies on competition as part of the Impact Assessment. More generally, understanding competition and markets can help design policy which works with the grain of markets, delivering more effective outcomes.*"

Highlighting the specific point of impact assessment; thorough reading of the BIS URN12/606 indicates that this 'impact assessment' only pays lip service to the true information that should be offered by a document having such a title as there is clearly no Impact Assessment on competition.

QUESTIONS that need answering
Why are OFT not within the list of bodies in Annex E?
Are the OFT not on the mailing list from BIS?
Have the OFT not been requested to participate in this published incomplete Impact Assessment?
What can the OFT do to assist potential victims of bad policy discussions as described herein.

CLARIFICATIONS BY THE WRITER
In this document the class of traders that the BIS are intending to victimise are pedlars who operate with a Pedlars Certificate under the civil law enacted as The Pedlars Act 1871 & 1881 wherein a pedlar in modern day parlance is "any person" eligible to vote who, by sworn affidavit to the Crown, declares "I will act in good faith as a pedestrian trader in any part of the UK". The Pedlars Act (the PA) provides a national certificate that is fundamentally different from a local licence to trade in the street. The Crown provides a certificate for a pedlar to have unfettered "discretion" whereas a local authority licence provides regulated "restraints". A pedlar's trade is categorised pedestrian whilst the other is static requiring approval of fixed trading locations by the Highways Department for public safety. A pedlar is more akin to any other pedestrian who goes shopping in public. Some carry their goods and others use pedestrian means. Any trading person found without a certificate or without licence is categorized under street trading legislation as unlicensed and unlawful unless exempted. There are several other categories of exempted activities and many jurisdictions where no street trading legislation exists.

Although HMG/BIS present this consultation as proposed "national legislation" it does not extend to jurisdictions with private Acts nor to jurisdictions with no interest in regulating how people behave in public and do not share HMG's enthusiasm. BIS wrongly submit the LGMPA as national legislation but it is more correctly an adoptive legislation for less than half of all major economic jurisdictions.

Maybe the OFT are wondering how many people are affected by government consultation URN12/605 on street trading and pedlary? In response the writer would include the voting public of some 48 million UK residents who have a right of access to this unique British civil liberty that provides total entrepreneurial freedom to enter into private contract with any other person in public without interference are affected. BIS has not investigated to determine how many persons are practicing or are considering trading as pedlars but in such difficult times the numbers are increasing. BIS has not consulted widely but has "efficiently" in their mind included 9 LA's that sought to get rid of pedlars through private Acts amongst those others which are most probably thinking along the same lines along with the Roll A Parliamentary Agent who spearheaded their action.

Concerning these Private Acts it appears that Sharpe Pritchard a Roll A parliamentary agent who (incidentally Sharpe Pritchard has been invited to comment i.e. included in Annex E of URN12/605 web document see (3) in the references at end of this letter) has been spearheading the drive of the LA's for each one by one (or in very small groups) to expunge pedlary from their Local Authority area in what could be considered by them to be a gravy train of multiple legislation that causes each LA to pay from their charge payers account. This means that the charge payer's public purse i.e. council tax is being used by the LA's without remit to deny the rights of each of their own charge payers to the civil right of pedlary.

This is akin to "I force you, without given reason, under penalty of law to give me your gun – then I shoot you with the gun and I also won't tell you why I have shot you."

One of these Private Acts was recently given a third reading in the House of Lords; here follows a much curtailed extract of that reading the writer has CUT the initial words of **Baroness Knight of Collingtree** denoted by the word "CUT" however the rest of the Baroness's dialogue is reproduced in full.

Some text has been highlighted in yellow by the writer to bring OFT attention to the gravity of the situation.

Below extracted from web document see (4)) in the references at end of this letter

"Canterbury City Council Bill — *Third Reading*
3:09 pm 3 December 2012

Moved By Lord Bilston

That the Bill be now read a third time.

Baroness Knight of Collingtree (Conservative)"

CUT

"Basically, as the noble Lord, Lord Bilston, has said, these local authority Bills were seeking the total eradication of pedlars from their streets. The supporting counsel said that pedlars caused unacceptable congestion. The members of the committee asked for evidence and they produced photographs of their streets, which of course were very crowded. We scrutinised them carefully and asked questions. We concluded that nothing we had been shown, or told, proved the case that the local authorities were making.

We reached the conclusion, as the noble Lord, Lord Bilston, has touched on, that the local authorities were at least partly motivated by a desire to protect licensed street traders who pay a lot more for their licences than the pedlars pay for their permits. We did not accept the claim that pedlars should be banished because the quality of their goods might be inferior to that being sold in the shops or on the fixed stalls. We felt rather outraged by this; it has never been the business of local councils to set up as experts on what is unfair or fair trading, as regards the quality of the goods. So that claim went by the wayside.

The representatives of the councils then assured us that the public were much against pedlars, that they could not stand having pedlars in their streets and that we really should listen to what the public

said. The committee asked for evidence on that issue. They could not produce a single letter or newspaper campaign in support of their contention. However, the pedlars gave us acceptable and valid reasons to say that there was good evidence of public approval.

The members also reflected that pedlars had been on the streets of England prior to Shakespeare. Even Chaucer mentioned pedlars and we saw no reason to go to war with them or to change history. However, as has been said, we felt that some changes should be made in the way in which pedlars operate. Some of the pictures submitted by the promoters showed that the small trolleys that pedlars are allowed to use to carry and display their wares were sometimes very much extended. The base was small with four little wheels, rather like those that we all wheel about when we come to London for the week. But enormous adjuncts, including poles, were put on and where the trolley started quite small, it finished up yards wide with, for example, pashminas and scarves hung all along it. We felt that those were not acceptable and could cause obstruction.

Therefore, the committee suggested amendments. We have heard a little about the changes but I have the exact measurements. The trolley used to carry the goods must not be more than 0.75 metres in width; 0.5 metres in depth; and 1.25 metres in height. The overall size of the trolley also is constrained. We gratefully accept the small amendments, which were necessary, on different subjects, about which we have heard from the noble Lord, Lord Bilston. Clearly, great care has been exercised on the whole of these applications by the councils.

However, we had several other concerns. So great was the interest of the members of the committee that one brought a pedlar's base to the Committee Room. We had it on the desk where we gazed at it, walked around it and figured out how it would look when it was dressed. We really concerned ourselves with how things were to work.

I am delighted to receive the news that other changes are to be made, because we felt that the four Bills presented would undoubtedly have given councils a disproportionate power in relation to suspected street trading offences. The pedlars were very worried about that, particularly the suggestion that almost at the drop of a hat all their goods could be confiscated for such a period of time that many would be useless when that time was up-they would have gone past their sell-by date by a long way. We have reduced these powers to the issuing of fixed penalty notices and we have made it a requirement that councils train all officials who exercise the remaining powers. We decided it would be best to put in place a statutory duty on councils, rather than just relying on an undertaking given under private Bill procedures.

The most important change of all is the piecemeal modification of national law by scores of individual little bits of private legislation that has gone on until now, but is now-thank heaven-to be changed. It really is extremely unsatisfactory. There are people who very much support the right of local authorities to put forward their own Bills-and long may that continue-but here we have a silly situation where the same objective has so far been put forward by 40 local authorities through their own legislation. There are some 300 others waiting around the corner to see when they are going to have their chance. These Bills would have come to this House, causing more time-wasting and money-wasting for the local councils, who have to employ counsels to put forward their case.

We heard a little about the arrests that this has led to, which are quite wrong and totally unfair. If a pedlar gets his certificate to trade, say, in Newcastle, that gives him the right to trade just as legally in Brighton, Bodmin, Birmingham or anywhere else; he can use the one certificate. However, a certificate in one place gives powers that are quite different from those in another place which has brought in its own rules. This is very confusing, and I am glad that we now see a light at the end of that tunnel and that this, too, will be altered. Incidentally, we heard evidence from a woman pedlar who had received

her certificate quite legally, but who was arrested by the police in a town other than the one which had granted the licence and taken her money for it. She had no idea that she was breaking the law. That really must stop, and I am delighted that it will not be long before we see the change that we have all asked for.

It may be worth throwing in another point. We understand that there have been at least four other occasions when this House has held a Select Committee on very similar Bills. None of those committees came to the same conclusion that we did. They thought that the local authorities were right. That will have to be sorted out: they came to totally different conclusions, and those conclusions were wrong. Suffice to say that all the Bills were after the same thing: getting rid of pedlars."

At this point **Baroness Knight of Collingtree** (Conservative) gave opportunity for others to speak.

OVERVIEW OF HISTORY AND EXPECTATION

Since 2008 pedlars have been campaigning and defending their rights using the information source http://www.pedlars.info and in order to have the opportunity to defend themselves a few of their number have become 'Roll B Parliamentary Agents'. These pedlar Agents have attended Select Committee meetings etc. at their own expense to defend the rights of both pedlars and the UK voting population as a whole.

Up until recently BIS has sought to modify the Pedlars Act however a significant turn of events occurred with issue of URN12/605 in that the BIS now seeks repeal of the Pedlars Act.

This BIS impending travesty of justice cannot be allowed to proceed and with this in mind the writer lobbied his MP on 26th January 2013 as have others recently and others have indicated their plan to do so. However the practicalities of politics and government hot topics such as re-defining marriage, re-defining rules concerning succession to the throne in the light of a single pregnancy of a UK national, the 'well tied up' and tortuous access to an EU referendum [which if the UK had the referendum now this consultation would be a non issue] are taking MP's and law makers away from their duty to protect the civil rights of individuals.

The public have the right to expect that the OFT shall become involved and make the same determination as the pedlars i.e. that in addition to the two options indicated by the BIS a third option shall prevail and that third option is **modification of the Pedlars Act.**

NOTE with simple modifications the Pedlars Act will comply with the Services Directive. This simple wording is not attached for this submission however it has been issued to the BIS but to proceed with such a solution, the consultation must be recalled, modified and reissued.

Original signed by the writer (David Chapman) & sent by Royal Mail

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Referenced documents

(1) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/31960/12-p58-bis-2012-business-plan.pdf
(2) http://www.oft.gov.uk/OFTwork/public-markets/competition-impacts-gov-policy/#.UQVLJ2eHNmx
(3) http://www.pedlars.eu/cons.html or http://www.bis.gov.uk/assets/biscore/consumer-issues/docs/s/12-605-street-trading-compliance-with-services-directive-consultation
(4) http://www.theyworkforyou.com/lords/?id=2012-12-03a.442.7

Letter posted to

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PEDLARY & PEDLARS ACT

FAO FAO Matt Lacovara
Office of Fair Trading
Enquiries and Reporting Centre

From
David Chapman
[redacted]
11th February 2013

Ref: EPIC/ENQ/E/141273

SUBJECT : TO FURTHER EXPLAIN THE MECHANICS BEHIND A COMPETITION BIAS AGAINST A PARTICULAR CLASS OF TRADER AND TO SEEK CORRECTIVE ACTION BY THE OFT

Dear Sir,

I am in receipt of your letter by email dated 8th February 2013 and I thank you for the same and would ask that you also forward this letter on to the same relevant area of the OFT office as per my original letter 28th January for their action as deemed appropriate following detailed analysis and consideration of both letters.

Firstly you correctly note that contact has been made with the BIS – I understand that this has been done in the following way 'a number of questions have been passed by stakeholders to BIS both before and again after the date of issue of the URN12/605' and as of today's date the status on www.pedlars.info is 'questions have not been answered'.

This has indeed led to a series of complaints to the BIS with the present position being that the BIS complaint procedure appears to be virtually exhausted and with the 'BIS complaints department' standing firmly and I suppose 'as expected' behind their colleagues. Thus you will understand that the **action of the Office of Fair Trading (OFT) is still relevant, necessary and much needed**.

ATTACHMENT A

I attach a letter originally from Mr John Conway of the BIS complaints department - who has only thought to reply to a complaint whilst his department remains unmoved and unrepentant - this has allowed the consultation to continue along the route BIS desire. Within the attachment (A) please note the following (i) Robert Campbell-Lloyd is the Roll B Parliamentary Agent supporting the stakeholder position (ii) the black text is the fully complete and original letter from John Conway (iii) the blue text and red text is the reply to John Conway (submitted by email) by Robert Campbell-Lloyd (the Roll B Parliamentary Agent supporting the stakeholder position). Mr Campbell-Lloyd has inserted his comments within the letter for ease of reference for BIS staff, who always complain of being too busy to read what is sent to them and will therefore have no time to refer back to what they sent). The document and justification is in the public domain on www.pedlars.info.

The stakeholders suggested amendment to the Pedlars Act appears only to be available with BIS – I should imagine that contact by OFT with BIS or www.pedlars.info may obtain access to the suggested stakeholder amendment if it would be considered helpful to OFT aims.

ATTACHMENT B

The second attachment is the document referred to in paragraph 2 of Attachment A, and is supplied herewith as 'Attachment B' - it has the title "Briefing Document" 11 January 2013 (i.e. post URN12/605 issue) this briefing can be seen to be an update of the stakeholder's briefing of 29th September 2012 (i.e. pre URN12/605 issue). This most recent briefing document (attached) details the questions that stakeholders have required BIS to answer concerning the BIS complete about turn (180 degree change in position) which up to the date of issue of the URN12/605 they had in the words of Christopher Chope MP "kept close to their chests". (Refer Hansard). The Briefing document is in the public domain on www.pedlars.info.

Recent Parliamentary proceedings

On 31st January 2013 and 6th February 2013 the House of Commons debated the Canterbury Private Bill (regarding pedlary and touting) and unanimously praised the Noble Lords for their amendments mentioning the very pertinent words of Baroness Knight of Collingtree and selecting some of the most important words of the Baroness (Refer Hansard) highlighted in yellow in my original letter to the OFT dated 28th January 2013.

Philip Davies MP spoke eloquently and at length on 6th February 2013 explaining to the House the **OFT** position regarding "touting" and referred many times to the committee's special report (the committee that he sat upon) and quoted the **OFT** position stated within that report:

Philip Davies MP - 6th February 2013: I hope I have been able to make the case that ticket touting is, as far as I am concerned, a perfectly legitimate part of the free market and people's freedoms. People should not be prohibited from touting per se. As the Office of Fair Trading found, touting acts largely in the interests of consumers, and if somebody asks a price way in excess of the face value, people do not have to pay that price if they do not want to. Nobody is forcing them to; it is their free choice. I hope that people will not object to this amendment on the basis of principle, because I hope people will think that touting is a principle worth supporting.

Philip Davies MP - 6th February 2013: My hon. Friend asks a fair question. In effect, he stumbles—whether intentionally or not—on to quite an interesting point about this Bill. In many respects, this part of the Bill has nothing to do with pedlars, because it need not be a pedlar who is selling the tickets. The term "pedlar" has a legal definition—it refers to someone who needs a licence—whereas the Bill as it stands, if Lords amendment C15 was not accepted, would apply to anybody, whether a pedlar or not.

It is worthwhile at this point to explain that there is no appreciable difference between 'touts' and 'pedlars' with regard to 'exposing items for sale' except as to say that touts maybe exposing for sale football tickets, concert tickets, access to private taxi's etc whereas a pedlar maybe exposing for sale self-made craftwork, toys, balloons etc. The word "licence" is used in error and should actually be the word "certificate" in law.

Therefore as 'prevention of touting' was accepted by OFT as denying consumers rights to avail of a fair and freely available competitive market, then in same way prevention of pedlary must be accepted as denying consumers rights to avail of a fair and free competitive market.

The debate then considered the difference between the Reading Bill and the Canterbury Bill regarding touting.

Jacob Rees-Mogg MP - 6th February 2013: I want to ask my hon. Friend a question on the specifics of the amendment that we are considering. As I understand it, someone with a ticket in Reading would need to go to Canterbury to do their touting, because it would be illegal in Reading but not in Canterbury thanks to their lordships' wise amendment. Is that correct?

Philip Davies rose—

Mr Deputy Speaker (Mr Lindsay Hoyle): Order. The good news is that we are dealing only with Canterbury. I am not worried about Reading, and neither is Mr Davies.

Philip Davies: I am grateful, Mr Deputy Speaker, and you are right that I am not worried about Reading—except in the sense of trying to find some guidance about why their lordships decided that this particular clause should be deleted from the Canterbury City Council Bill but not deleted from the Reading Borough Council Bill when they are virtually the same. All we can do is consider how the detail in this particular clause is different from the other one.

Therefore 'prevention of touting in Reading' (touting stated above to be illegal in Reading) should be seen by the OFT as a Local Authority denying consumers rights to avail of a fair and freely available competitive market with regard to touting and possibly also regarding pedlary in Reading. In my mind such unjustifiable laws having different effects in different places throughout the UK is making a mockery of the legal system that is certainly to be misunderstood by potential victims (the members of the public who should reasonably expect that for at least 'England as a whole' the law will be equal everywhere).

The government in a rush **not** to consider the matter properly used the whip and brought in some 300 MP's who had not been part of the debate (debate only undertaken by approximately 15 MP's). Those who suddenly appeared had not heard or read previously what was being discussed but were obliged by the whip to follow the party line. The result of this whipped action commended the Canterbury Private Bill for Royal Assent with the clause 'touting' being deleted as recommended by the Lords (thus making touting in Canterbury a totally uncontrolled activity by the authorities – which is in total opposition to the desire of Canterbury authorities that launched the Bill). Also pedlars are accepted within Canterbury under certain circumstances e.g. providing that if they used a trolley, that trolley must not be of a size exceeding (as stated in the amendments to the Private Bill) again in total opposition to the desire of Canterbury authorities that launched the Bill. ALL this being possibly further subject to 'street designations for trading' that are determined by Canterbury alone without reference to any other party. So what was the gain for Canterbury - they had their persecution and eradication of pedlars and touts partly curtailed. Were they worried? Did they withdraw the Bill? **NO!** Why did they let it roll on? The matter will become clear below.

This virtual sweeping up exercise continued on with the "Ayes" majority accepting the Lords Amendments to the Bill and totally ignoring Christopher Chope MP's information to the House on the 31st January 2013.

Christopher Chope - MP 31st January 2013:
My hon. Friend has referred to the Committee stage of the Bills in the other place. He will be aware that since then, on 27 November last year, the Government issued a consultation paper that proposes to repeal the UK-wide Pedlars Act in order to comply with the European services directive. How is that consistent with the rewriting of clause 5, which still purports to amend the Pedlars Act?

The actual date should be 23rd November however this is a minor point - whilst the major point to consider is that the government are at odds with their own actions with the possibility that if the BIS consultation (as BIS are expected {based upon their activities so far} to analyse the responses fully in

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their favour) finds for their repeal recommendation - then the Pedlars Act may be repealed by Statutory Instrument. I am not sure yet how the SI mechanism works and what the actual procedure is, however it is possible that the Pedlars Act will not again be subjected to debate within the Houses of Parliament under Private Business and remember it has never been discussed under **Public Business (Public Business is the only venue where the Pedlars Act should have ever been discussed)**. Is this the point why Canterbury Roll A Parliamentary Agents Shape Pritchard did not withdraw the Private Bill?

Looking to the possible future, pedlars (after repeal and unprotected by the Crown and unprotected by their elected representatives) will become uncertified and persecuted as unlicensed street traders whilst touts may continue to operate with impunity until another piecemeal Private Bill is raised by Sharpe Pritchard on behalf of Local Authorities spending more public money to clean up their initial mess (the gravy train possibly reinvigorated- see my previous letter).

Towards the closing of the debate the Parliamentary Under-Secretary of State for Business, Innovation and Skills (Jo Swinson) who had remained silent so far rose and was heard.

The Parliamentary Under-Secretary of State for Business, Innovation and Skills (Jo Swinson): As the hon. Member for Shipley (Philip Davies) has just said, this Bill has been discussed over the past six years, although this is the first contribution I have been able to make to it. Last Thursday, the Under-Secretary of State for Skills, my hon. Friend the Member for West Suffolk (Matthew Hancock) was an able contributor to the debate. As he said then, the Government do not usually seek to intervene in private legislation and we have done so on this occasion **only** in order to clarify the issues relating to the European services directive. The Government believe, and have already said to the House, that some aspects of the Pedlars Act 1871 are inconsistent with that directive. We therefore launched a consultation on a change in the national law concerning street trading, and the consultation includes a proposal to repeal that Act. As my hon. Friend told the House on Thursday, the four local authorities whose Bills we are discussing—in this group, this applies to Canterbury in particular—are aware of the consultation. The House will be interested to know that we have decided this week to extend the consultation by a month to allow more time for people to respond, so it will now close on 15 March. The **four authorities are aware** that they may need to amend their legislation to take account of any changes that the Government propose on street trading. Having provided that useful information to the House, I just say that the Government are content for the Bills to proceed and for these Lords amendments to be made.

So there it is an admission of rushed debate and knowingly not to consider the matter properly with the USoS BIS referring that the proposers of the Bills already know that the Bills may need further amendments (depending upon the outcome of the URN12/605) so it can be assumed this has been discussed with them, those amendments will need more tax payers money for modification of these what may now be considered to be 'piecemeal and interim Private Bills'.

The important piece of information from the USoS BIS is that stakeholders **may** have had an impact in that the closing date is now extended by one month to 15th March 2013 allowing the Office of Fair Trading (OFT) enough time to make investigations and contact the BIS with respect to my initial letter to OFT of 28 January 2013 and additional information contained herein. This may also signal among other things the fact that a response to the stakeholder questions is imminent and that a face to face meeting BIS/stakeholders may occur for discussions of the reply. If this does occur I am sure the stakeholders would welcome OFT participation, and to further this course of events, if I may, I would consider it a privilege to keep your offices informed, please advise.

My analysis of the closing part of the debate (debate can be found at the following web address) http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130206/debtext/130206-0004.htm is that MP Christopher Chope and MP Phillip Davies indulged in mutual praise of each

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other and the position that they held over the last 6 years and highlighted to the 15 or so other MP's present who took any interest in the debate at all, that a number of years before, they were on the other side of the house and required (whilst in opposition) amendments to the Canterbury Bill whilst all (the majority of their colleagues unread except by virtue of the whipped party line) were against that view so the Canterbury Bill was passed to the Lords **without any amendments** required by Chope/Davies, now they rued the fallacy of their colleagues position that now whilst in a majority coalition government (their colleagues, again unread except by virtue of the whipped party line) were voting in favour of the Lords amendments that they themselves in essence had argued against previously. Whilst also in this debate the whipped members then appearing and filling the chamber were now not aware of the government intention (promoted in URN12/605 and stated to the minister by Christopher Chope MP 31st January to repeal the Pedlars Act and that the determination of the whipped vote was to pass the Canterbury Bill for Royal Assent in the knowledge that sooner or later Her Majesty the Queen would be requested to Repeal the Pedlars Act should the decision go that way.

So in my personal view which I am sure you could appreciate - the BIS appears to have in deviated from their duty, without broad investigation and without the necessary proper analysis turned government policy about face to promote 'repeal of the Pedlars Act' instead of maintaining the previous position of modification, and moreover proceeded (whether by desire or not) in line with the requirements of Private Business, not realising or caring that this is a Public matter **that should be discussed in Parliament as a Public matter as it affects the whole of the UK population.** Maybe the writer's impression of the BIS action can circuitously be shown not to be the case however this perceived BIS skewed vision may eventually succeed by the devious route of firstly selective reading of EU law, not even attempting to comply with that law in the most efficient way (modification of a UK statute) but to, in a heavy handed way, decide upon repeal (as the simplest way for BIS) and when the matter is explained (if BIS cared to read correspondence) ignores the present constitutional right of the UK population as a whole and their offspring and those yet to come. The BIS has remained unmoved and battles on to shore up the URN12/605 stated position – this has so far succeeded thanks to a whipped vote along party lines 6th February – that party line being a statement that the BIS department responsible has placed before MP's via the Secretary of State BIS Vince Cable. **Sadly this is democratic government at work - can anyone not sympathise with the discouraged voter who sees the majority of MP's acting only for politics sake and not for the sake and benefit of the population**.

<u>BIS bone to pedlars</u>

Here as an essential aside I must reinforce a point made in my initial letter - the BIS have proposed to insert (as a bone to pedlars) within the Static Street Trading Regulations a new definition of what a deskbound BIS officer considers an uncertified pedlar may do. This silly definition 'move 50 metres after 10 minutes and not return within 3 hours to any point so far visited' is of no benefit to an uncertified pedlar as no such restriction is within the Pedlars Act and therefore would restrict unreasonably the business opportunities of the pedlar then unprotected without certificate. Static street traders pay substantial sums to the Local Authority are 'accepted' and have the licence to prove it. From what I understand the fixed position licensed Street Traders oppose both 'unlicensed street traders' as well as the 'BIS definition of an uncertified pedlar'. I believe they are thinking that a

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number of uncertified pedlars either singly or in a group maybe standing by their fixed stall taking their business, only to be replaced by another group of uncertified pedlars 10 minutes later and then again and again ongoing ad infinitum. This unclear thinking of the BIS is at fault, pedlars want certificates and to be left alone, Static Traders want pedlars to have certificates and for themselves to be left alone. For example - -it may be that small groups of OFT employees decide to go to the nearby sandwich shop for their lunch and on their way (in line with the BIS proposed definition) they expose for sale trinkets to the general public as they walk in a group past static Street Traders on a daily basis – the authorities having no right but to let that happen until the error of 'repeal of the Pedlars Act' is blatantly obvious and the 460 Local Authorities decide to raise their own Private Bill as a workaround.

Pedlary, an oral tradition and a profession

To many pedlars (being unable to read and write) pedlary is an oral tradition. Pedlars identities are only known to the separate Area Police Forces (as the police issue pedlars certificates - details of course are kept private in accordance with data protection law) and therefore most of those pedlars are not aware of this consultation as there is no way for any other 'body' except the police to directly consult them via their contact details. The general public (48 million voters) who are also affected are also not aware of the consultation and therefore the **majority** are not aware that the Government is allowing piecemeal Private Bills about street trading to circumvent the national statute of the Pedlars Act that provides Crown protection for budding entrepreneurs.

The Following Regulation (2007) shows that BIS continues to fail to consider pedlars as true stakeholders when considering implementing 'EU Services Directive' even though pedlary was and remains recognised as a profession in European law. In the UK pedlars are a self-regulating profession subject to the Crown Prerogative and Crown protection. The European Communities (Recognition of Professional Qualifications) Regulations 2007

BIS realising that they have no public and not even the Noble Lord's support (see my initial letter and 3rd reading of Canterbury Bill) to hamper pedlars nationally have seized on a European Union Directive the Services Directive as a quick-fix solution to hand over control of pedlars to local councils by 'spurious deregulation' and by getting rid of the national social contract of the Pedlars Act. I am sure you will be able to appreciate the stupid and un-enlightened move of the BIS to put the 'fox in charge of the chickens' which undoubtedly would be wholly accepted by the local councils. (both time and the replies to URN12/605 will tell, as according to Attachment B it can be noted that nine Local Authorities already against pedlary have been consulted by BIS, with possibly the other Local Authorities listed in Annex E of the URN12/605 of a similar frame of mind – other Local Authorities are not consulted specifically or are being organised by the body encompassing www.local.gov.uk of Smith Square Westminster with twitter @LGALicensing and bio. 'LGA regulation helps councils to improve licensing practices and lobby for improvements to legislation' what is missing from this bio following the word legislation are the words 'for our own mutual benefit to the detriment of all others'.

Transactions with pedlars

In the absence of a Pedlars Certificate (if repeal instigated by BIS actions came to pass) how could the general public be sure that they were trading with a genuine honest pedlar and not potentially trading with an illegal street trader, rogue, vagabond or thief who has just taken his stock from the 'back of a lorry' - the answer is 'they cannot' and therefore the honest public would rightly consider to 'not complete the transaction'. Therefore the genuine honest pedlar would be constrained by law to work in an uncompetitive market and discriminated against by honest citizens for lack of instant proof of identity and honesty. The Area Police Forces would no longer need to check the honest credentials of a pedlar for issuing the then 'null and void certificate' and the enforcement function would pass to local authorities and their hyper zealous trading enforcement officials who have been victimising and seeking to rid the country of pedlars for years.

Unashamedly BIS is **touting** a policy to strip away the only protection that exists for pedlars - the Pedlars Act. The Pedlars Act according to parliament in 1871 was vital to give pedlars security and to separate them from being accused as rogues, vagabonds, beggars or to be associated with any part of criminal gangs operating on the streets. In Westminster today the rogues and criminal gangs continue but honest pedlars are gone.

National Database of Pedlary

From what I understand from reading the www.pedlars.info website the pedlars who are aware of the consultation seek to retain the Pedlars Act and to also have official systems in place with appropriate fees much the same as Firearms certificates where firearms owners are issued certificates by the Police Authority and firearms owners kept on a National Register. Can you realistically equate the simple act of 'pedlary in public' with that of 'owners of dangerous weapons'? - maybe not, then consider that Amateur Radio Licensees are kept in a National Register along with their residence details. Can you equate the 'simple act of pedlary' with a person 'interfering with state security prohibited radio frequencies', also maybe not – then you must be able to equate pedlary with 'those persons owning a television receiver' who again are licensed and have their details within a National Database.

Why is the writer so much concerned over the issue of pedlary

What you may question are my motives and my interest in this matter, will I benefit like those raising Private Bills, what will I (the writer) get out of it, the answer is **nothing -** I am approaching retirement (7 weeks away) and using my own time and money (neither of which is abundant) attempting to prevent the government from making the grave mistake of repeal of the Pedlars Act. I am a Chartered Engineer, a Fellow of the Institute of Mechanical Engineers and **not** a pedlar, however over the last two months I have become an avid reader of www.pedlars.info, which I found by chance when searching for ancestors (I suppose at my time of life many of us start researching family trees, who died and when, what they did etc. and I stumbled upon 'petty chapman' in the Pedlars Act (my family name is Chapman). Reading on www.pedlars.info I became aware of the growing constitutional crisis that will affect the present public at large by removing forever the statutory right to access pedlary not only for us and our children, but all of the nation's successive progeny.

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So fired up with what I consider to be 'justifiable contempt' at how government will ruin the lives of the smallest businessperson I made the website www.pedlars.eu, I started tweeting @PedlarsNews and I made a Facebook page https://www.facebook.com/RetainPedlarsAct all in an attempt and partly succeeding to bring this situation to the notice of the population - 'the silent majority'.

In closing

In closing I trust that the OFT are able to appreciate this looming constitutional crisis, the continuing unfair treatment of a certain class of trader/micro-businesses, the prevention of consumers to purchase conveniently with free access to a fair competitive market frequented by pedlars and that the OFT have the definite intention to rescue the situation from the brink of disaster for all concerned. I have drawn your attention to the consultation document and consider part of the OFT action to protect competition in the market be that the OFT make a reply to URN12/605 suggesting modification of the Pedlars Act and complaining against the missing competition aspect in URN12/**606** in addition to other more **direct** but possibly behind the scenes actions.

You (the reader) possibly in tune with me, hope and pray that our children and their children will always have better propositions facing them than those considering starting in pedlary. However we all must consider the various events in history and to remember the depression, the food lines, the recurring stock market crises, the situation that many found themselves in after the wars, austerity, the present 950,000 unemployed persons under the age of 24 years (NEET - young people **N**ot in **E**ducation, **E**mployment or **T**raining) mostly on benefits of some kind) some of them being high flyers and raring to go but unable to avail the opportunity to work, others disadvantaged socially, economically, educationally, physically or mentally who could usefully use the Crown protection provided by pedlary to learn the ways of business, to give them an outlet for their energies, to sell their craftwork or other items for a profit and make a contribution to society and reduce reliance on benefits.

The baton is passed to you….. I trust that you accept it.

Yours faithfully

D L Chapman Original hardcopy signed & sent by registered mail to Office of Fair Trading

David Chapman

Copied to

Baroness Knight of Collingtree
Under Secretary of State BIS Jo Swinson
MP Christoper Chope
MP Phillip Davies
MP Jacob Rees-Mogg,
MP Daniel Byles

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