

4 May 2011

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Dear Karin

ACS Response to The Extension of Remedial Action Notices to all Food Establishments (England)

ACS (the Association of Convenience Stores- Annex 1) welcomes the opportunity to respond to the proposed extension of remedial action notices (RANs). ACS represents 33,500 local shops across the UK, many of which have fresh food provision or carry out activities such as in-store baking as part of their service offer. We of course recognise the importance of food hygiene issues and agree that businesses which are posing unacceptable risks to consumers must be tackled and enforced against. However we are concerned that the proposals to introduce further enforcement tools are unnecessary and the suggestion that these powers can be imposed on retailers without acceptable safeguards is disproportionate.

There are already a sufficient enforcement tools available to protect public health, such as Hygiene Improvement Notices and Hygiene Emergency Prohibition Notices. While we recognise that RANs are simpler to introduce for local authorities, this simplicity is at the cost of providing sufficient safeguards and recourse for the businesses involved. The introduction of a RAN, for example closing down an operation of in-store baking, will result in significant loss in revenue. This loss will occur during the period when the RAN applies but also long afterwards because customers quickly change their shopping habits and trade has to be rebuilt over a number of weeks and months. In many cases therefore such enforcement action will have severe repercussions for the viability of the business.

We expect the measure to have a disproportionate effect on smaller businesses who would not have the resources to source alternative equipment and services in the event of a RAN. Therefore it is only right that there are processes in place to protect the business interest and to ensure a RAN is not issued unnecessarily.

We are concerned about the flexibility of RAN as a tool for enforcement against retail premises. For example it is not clear if there is a process for a business to appeal or to demonstrate that the concerns have been corrected before the matter is taken before the magistrate's court. As stated above a RAN would be cause significant damage to the business and there must be a quick process to enable a RAN to be lifted when appropriate.

It is also not clear what compensation provisions would be in place if a magistrate rules in favour of the business with regards an appeal against a RAN, unlike the current provisions for loss of businesses under Hygiene Improvement Notices and Hygiene Emergency Prohibition Notices. This would be another area that would have to be addressed, with additional costs and bureaucracies for businesses and enforcers.

The extension of RANs to all food business would leave businesses vulnerable to disproportionate action and would run counter to Government stated aim to reduce red tape on businesses. It would lead to significant increases in costs for businesses, including compliant businesses, as the changes would lead to greater threat of unnecessary action being taken. We therefore are opposing the legislative changes outlines in this consultation.

Yours sincerely

Jenny Amphlett
Public Affairs Manager