

# Final Proposal stage

## Business and Regulatory Impact Assessment

### Title of Proposal

**Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013**

### Purpose and intended effect

- **Background**

The Commonwealth Games Federation's Host City Contract requires the Scottish Government to introduce legislation necessary to prohibit ambush marketing, eliminate unauthorised street trading and control advertising space, in the vicinity of Games locations, during the period of the Glasgow 2014 Commonwealth Games. As such the Glasgow Commonwealth Games Act 2008 (2008 Act) sets out the broad framework for the regulation of street trading and advertising during Glasgow 2014. The 2008 Act specifies that it is an offence to trade/advertise in the vicinity of a Games location at a prohibited time. The 2008 Act also makes provision for Scottish Ministers to specify exemptions to the trading and advertising offences through regulations.

This Business Regulatory Impact Assessment outlines the evidence to support the proposals for the introduction of secondary legislation, the Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013, which set out the detail of the trading and advertising offences, the vicinity of Games locations within which the regulations will apply, the duration of the restrictions and the circumstances under which trading and advertising may be authorised.

The authorisation criteria and application process will be set out in full in an Advance Public Notice which will be published 6 months before the Games. The Advance Public Notice will give detailed guidance about what the regulations mean and can be used as a guide for affected traders and advertisers as to what is and is not allowed. The aim of the regulations is to ensure the right balance between supporting local traders, minimising disruption for local people and businesses while protecting the safety and integrity of the Games.

**Street Trading** – In Scotland street trading is regulated under the Civic Government (Scotland) Act 1982, administered by local authorities. The 1982 Act provides for a street trader's licence to be required for trading by a person whether trading on his own or as an employee. There are certain exemptions set out, relating to the sale of certain goods, and for activities in respect of which a pedlar's certificate has been granted.

**Advertising** – In Scotland the display of advertisements is controlled by the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984. Local authorities are responsible for the day to day operation of advertising control.

- **Objective**

Governance under the Civic Government (Scotland) Act 1982 is generally not sufficient to meet the key aims of the policy, largely due to the necessity to limit the number of

traders in open spaces near the venues and other key areas to ensure the safe and free flow of spectators.

Equally, although the Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984, give local authorities the ability to require the removal of illegal advertisements on private property, the removal process is too slow to enable local authorities to deal effectively with advertisements installed during or immediately prior to the Games. Ambush marketers in particular are becoming particularly innovative in finding ways to associate their brand, in an unauthorised fashion, with large scale high profile events.

The key objectives of the policy are;

- To protect the revenue generated through sponsorship by ensuring that companies who have paid for Commonwealth Games association rights have their commitment protected. These sponsors have exclusive rights to associate their brands with the Glasgow 2014 Commonwealth Games and it is therefore imperative that ambush marketing can be prevented.
- To protect the character, integrity, safety and security of the Games by eliminating inappropriate advertising and street trading.
- To control street trading in relevant designated areas to ensure the safety of spectators, and the free flow of spectators and traffic to and from the Games venues.
- Ensuring that Games events have a consistent “celebratory” look and feel.
- Ensuring people can easily and safely access Games venues.

The Scottish Government has ensured that the Regulations are targeted and proportionate, developed with significant wider consultation and giving consideration to the experiences from the London 2012 Olympic Games. The proposals to regulate outdoor trading and advertising are intended to allow the majority of businesses to operate as normal, as far as possible, while ensuring that the Games interests and related objectives are not compromised.

- **Rationale for Government intervention**

High profile events attract companies who want to associate themselves with the event. The Commonwealth Games are sponsored by companies who pay for that association right. In relation to both trading and advertising, it is important to protect the investment through sponsorship revenue. Without this essential income large sporting events like the Commonwealth Games simply wouldn't happen. It is therefore imperative that we protect the integrity of the Games by ensuring the value to legitimate advertisers and sponsors is not diminished. Activities such as ambush marketing undermine the value of Games sponsorship.

Additionally, to ensure safety and a free flow of spectators to venues it is also important that the Scottish Government regulates the volume and location of traders. Safety cannot be risked by large volumes of unregulated trading impeding pedestrian traffic flow or obstructing entrances and exits.

In particular, these Regulations support the achievement of the Scottish Government's National Performance Framework outcomes on:

- Business – by ensuring that sponsors investment opportunities are secured and illegal trading cannot be carried out to the detriment of legitimate authorised businesses.
- National Identity – by ensuring Scotland host and safe and secure Games with a consistent and celebratory look and feel.

## **Consultation**

- **Key Stakeholders and Local Government**

The Scottish Government has consulted with a range of key stakeholders including the Glasgow 2014 Organising Committee (OC), Police Scotland, Glasgow City Council, City of Edinburgh Council, Angus Council, South Lanarkshire and North Lanarkshire Council on the proposals prior to drafting the regulations. Their views helped to shape the draft regulations and, in particular, informed the development of the event zones and the necessary periods of restrictions.

- **Public Consultation**

In April 2012 the Scottish Government published advance notice of the intention to introduce regulations restricting unauthorised advertising and street trading activity around all the Games venues. The detailed provisions of the regulations, including the application procedures, decision timeframes, the internal review process and any other relevant information on how the OC can assist, will be set out in full in the publication of an “Advance Public Notice” which will be published 6 months before the Games. A “Plain English Guide” will be also published by the OC in advance of this required Public Notice.

A formal public consultation on the proposed regulations was launched on 15 May 2013. The consultation was registered on the Scottish Government’s Consultation Registration and Evaluation System (CRES). Views were sought from those likely to be affected, such as street traders and their organisations, advertisers and their organisations, Police Scotland and local authorities. The document was further widely distributed to ensure that all organisations with a potential interest had the opportunity to consider the options and respond. This included Equalities and Human Rights Organisations, Business Organisations, Tourism and Media Organisations and the individual venues. A reminder to all these organisations, encouraging a response, was sent out on the 29 July 2013. The consultation closed on the 7 August 2013. The responses received and evidence provided were considered in detail and used to finalise the Scottish Statutory Instrument, including realigning some of the Games locations boundaries, before being laid in the Scottish Parliament.

The 2008 Act provides that Ministers can specify by order, additional sites which are not sporting venues and are not in the immediate vicinity of a sporting event, for inclusion in the regulations. Following face to face consultation with the OC and Glasgow City Council, George Square and the Merchant City were identified as live sites which would act as a central focus for Games visitors. These areas therefore require to be specified as Games locations in order to fall under the governance of the street trading and advertising regulations. As there is a requirement to introduce a separate order designating these sites as Games locations, the Glasgow Commonwealth Games (Games Locations) Order 2013 will be laid in the Scottish Parliament at the same time as the trading and advertising regulations.

As such, George Square and the Merchant City were specifically included in this public consultation for the Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013, with all relevant data for these Games locations having been included as part of this Business Regulatory Impact Assessment.

The trading and advertising regulations will be enforced by designated and experienced enforcement officers appointed by the OC. The enforcement officers will be drawn from local authorities. In order to extend the available resource, it has been agreed in consultation with

the key stakeholders, including local government, that the enforcement officer criteria will be extended further than the definition of, an inspector of weights and measures as set out in the 2008 Act. The extended criteria include additional local authority officers who are authorised to carry out enforcement functions.

As set out in s21(2)(b) of the 2008 Act, Scottish Ministers may specify other criteria by the introduction of further regulation to support the extended criteria. The Glasgow Commonwealth Games (Enforcement Officers) Regulations 2013 will therefore be laid in the Scottish Parliament at the same time to enable this activity. These regulations were also highlighted in the trading and advertising consultation document with specific related questions.

The package of legislation governing trading and advertising restrictions, which has all been consulted on in full, will therefore consist of, The Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013 which is affirmative procedure, The Glasgow Commonwealth Games (Games Locations) Order 2013 and The Glasgow Commonwealth Games (Enforcement Officers) Regulations 2013 which are both negative procedure.

- **Business**

When developing the regulations, the Scottish Government arranged an informal consultation meeting with a number of the traders in Glasgow who could potentially be affected by the introduction of the Regulations. The meeting had two purposes:

- to provide the traders with more details about the proposed regulations, and;
- hear the views of those who could be affected,

Thereby, enabling the Scottish Government to better assess the potential effect of the regulations on small businesses. The meeting took place on 10 January 2013 although only one trader attended. During the consultation period two Brand Protections seminars were delivered, in Edinburgh and Glasgow, to a range of businesses which are likely to be affected by the regulations. These seminars, delivered by Harper McLeod, the legal advisers to the Glasgow 2014 Commonwealth Games, were attended by around 6-8 private organisations and representatives from the Federation of Small Businesses and Edinburgh Chamber of Commerce.

As the company established to deliver the Glasgow 2014 Commonwealth Games, the OC have had a number of face to face meetings with businesses within the vicinity of Games locations and have a range of information, continuously updated, on their website.

<http://www.glasgow2014.com/about-us/glasgow-2014-brand/advertising-and-trading-regulations>

As street trading is governed by the Civic Government (Scotland) Act 1982 and administered by local authorities, information on the number of street trading (business) licences held within the vicinity of Games locations has been gathered directly from the host local authorities to inform the data analysis for this Business Regulatory Impact Assessment.

Advertising space within the Games locations has been identified by the OC who have generated a positive collaboration between the main outdoor advertising firms and media owners. Media owners who have agreed to work with Glasgow 2014 include: JCDecaux, CBS Outdoor, Clear Channel, Forrest Media, Primesight, SPD Media, BlowUp, Ocean Outdoor, Ubiquitous and T4 Media. Although not all these companies provided information, this liaison has still been helpful in providing data on advertising inventory to support this Business Regulatory Impact Assessment.

The consultation responses did not reflect any specific concerns although it was highlighted that it is important that businesses are well informed on what they can and cannot do. This will be assured as the authorisation criteria and application process will be set out in full in the Advance Public Notice which will be published 6 months before the Games. This will translate the Regulations into an easy to follow format suitable for all businesses that may be

affected by the Regulations. It is also the intention of the OC to advertise the event zones in national and local newspapers.

### **Options**

Prior to considering the introduction of the regulations to restrict advertising and street trading in and around the vicinity of Games locations, three options were considered by the Scottish Government.

#### **Option 1: Do nothing and rely on existing legislation**

By relying solely on existing legislation there would be no governance criteria set out that would allow the tailored provision that is needed to act as a stronger deterrent to ambush marketing and illegal trading. Existing legislation was not drafted to support such a large and time critical event such as the Commonwealth Games. It is therefore insufficient for example, to prevent illegal ambush marketers from benefiting from an association with the Games or restricting the volume of traders in key locations.

The Glasgow Commonwealth Games Act 2008 lays the foundations for control of advertising and trading at Games time. Section 2 of the 2008 Act specifies that it is an offence to trade in the vicinity of a Games venue at a prohibited time (the trading offence) and Section 10 provides that it is an offence to advertise in the vicinity of a Games venue at a prohibited time (the advertising offence).

The 2008 Act enables Scottish Ministers to make these Regulations which set out the event zones and timings where the restrictions will apply and the exemptions to the trading and advertising offences to be specified.

Commencing the advertising and street trading provision in the 2008 Act in isolation, without the supporting Regulations, would be ineffective as the vicinity of the Games locations and the prohibited times would not be set out. There would also be a far more reaching effect on businesses and there would be no exemptions or matters to be disregarded.

The 2008 Act, including the option for subordinate legislation was subject to full Parliamentary scrutiny at the time of the passage of the Bill. By not utilising this option to introduce subordinate legislation, the relevant criteria and detail would not be in place to meet the governance and enforcement criteria as required by The Commonwealth Games Federation's Host City Contract.

#### **Option 2: Proportionate and limited restrictions**

In meeting the terms of the Host City Contract the Scottish Government wants to create a backdrop that will be fit to present Scotland's celebration of the Games locally and to the world. This not only includes the fields of play where there are spectators and extensive television camera coverage, but also within the extended Games location boundaries where it is important to create the celebratory look and feel of the Games while ensuring safe and secure routes allowing the free flow of spectators, while also safeguarding sponsors brand association rights.

By being proportionate and limiting the scope of restrictions by introducing legislation which will only restrict specific activity within a limited vicinity in and around competition venues for a short and specified time, Scottish Ministers are delivering the Host City Contract guarantee.

Proportionality is also being assured by creating a number of exemptions where trading and advertising can take place without authorisation. Authorisation will only need to be applied for if the trader does not benefit from any of the exceptions set out in the Regulations. The application process for authorisation will be fair and transparent with the relevant criteria

being set out in detail and communicated widely through direct liaison with businesses, leaflet drops and press advertising.

As outlined above, the 2008 Act already sets out the overarching framework including the enabling powers to make a range of subordinate legislation. By taking the opportunity to introduce secondary legislation which sets out reasonable and proportionate restrictions, it is the intention of the Scottish Government to ensure that for the majority of businesses it will be business as usual during Games time. This option will also ensure that the interests, safety and sponsor's brand association rights are not compromised.

To progress with this option, three Scottish Statutory Instruments (SSI) will be introduced to the Scottish Parliament.

### **The Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013**

This affirmative procedure SSI sets out the scope, exceptions and the detail relating to enforcement, for advertising and street trading during Games time. Most importantly, to ensure proportionality, the Games location maps included in the SSI reflect the boundaries around the Games locations where the restrictions apply and will be enforced. With this option the restrictions within these boundaries will only apply during a specified event period timeline as opposed to the restrictions applying to all Games locations for the extended duration of the Games.

As highlighted these Regulations are intended to allow the majority of local businesses to continue to operate as normal and as such certain advertisements on business premises (such as shop signs and in-store advertising) will not be affected. Likewise there are a number of exemptions set out. For example, advertising on taxis and buses that are not used principally for the display of advertisements. There are also a number of trading exceptions ranging from selling current newspapers to supplying public transport services (excluding Pedicabs).

There are also two linked negative procedure SSIs. During stakeholder engagement, when developing the draft regulations, the importance of being able to restrict and manage advertising and street trading in and around the two high profile key live site areas of George Square and the Merchant City in Glasgow was highlighted. As these areas are technically not in the immediate vicinity of a sporting event, as covered by the 2008 Act, a further negative procedure Order is required to designate these sites as Games locations. This Order;

**The Glasgow Commonwealth Games (Games Locations) Order 2013**, will enable the governing regulations to be applied to George Square and the Merchant City.

The Scottish Government recognises that the effectiveness of enforcement activity is paramount. It is equally important that an undue burden is not imposed on the pool of resource available to carry out this activity. The 2008 Act places certain restrictions on the officers that can be designated to carry out enforcement activity. As such it has been agreed with the OC and local authorities that Section 21(2)(b) of the 2008 Act which provides that Scottish Ministers may specify additional enforcement officer criteria should be enacted.

**The Glasgow Commonwealth Games (Enforcement Officers) Regulations 2013.** These Regulations widen the scope of officers that can be designated by the local authorities to carry out the enforcement activity.

### **Option 3: Enhanced advertising and trading restrictions**

This option would be an extension of option 2 in that there would still be a necessity to

introduce three Scottish Statutory Instruments (SSIs) to the Scottish Parliament. This option would also meet the terms of the Host City Contract. The Regulations would however be far more far reaching and stringent preventing all advertisers and traders from conducting business within a wider space in and around venues and for longer extended periods of time. This could extend to advertising not only on billboards in the restricted areas but also taxis and buses that are exempt under option 2, city streets, train stations and airports.

- **Sectors and groups affected**

As the key purpose of these regulations is to regulate trading and advertising activity for the reasons outlined under the policy objectives, there will be impact on both traders and advertisers. Local authorities will also potentially be affected as local authority enforcement officers designated by the OC will be carrying out the enforcement of the Regulations.

There will also be impact to the OC as the company established to deliver the Games. Responsibility to develop and manage the authorisation process therefore sits with the OC. The OC may charge a fee of up to £70 in connection with the authorisation process in order to cover their administrative costs.

Street trading – In considering how this group could be affected the Scottish Government's aim is to minimise the burden on businesses, maintaining business as usual as far as possible. This was considered along-side the strong commitment to maximise the wider benefits of hosting the Games. As such, evidence from the London 2012 Olympics and Paralympics was considered when drafting these regulations. A post-event review of London 2012 demonstrated that the Olympic Delivery Authority received 729 trading applications and refused authorisation to only 279, with the vast majority of refusals due to applications being made by speculative traders who did not have the pre-requisite licences to enable them to be authorised. As the Commonwealth Games is a smaller scale event, we do not envisage high numbers of traders being affected.

This assumption has been supported by local authorities who anticipate the number of trading businesses affected to be low. Although it is not possible to realistically estimate, the hypothetical analysis reflects that many of the restricted event zones are not actually areas where traders would normally operate on a day to day basis. Although there will be key impact areas around Hampden, Celtic Park and the SECC in particular, even in these cases the traders tend not to habitually operate daily but rather to occupy their stances specifically for football matches or other events.

The cost of an application for authorisation to trade for this group will generally be £70. Charitable collections fall under the definition of trading in the Regulations as charity fundraisers have the same capacity to create crowd blockages as other traders. However, although they will be required to apply for authorisation in the same way as other traders no fee will be charged by the OC for an application for authorisation of public charitable collections.

Advertising - The draft Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013, as consulted on, will only have a limited effect in relation to advertisers in particular. The OC are working in partnership with the main outdoor advertising firms and media owners to mitigate any impact as much as possible, in addition to the exemptions set out in the regulations. The close collaboration between the OC, advertisers and media owners, in liaison with sponsors is likely to result in the majority of the advertising space being sold e.g. to sponsors or Games partners. This mitigates the impact to advertisers and as such it is anticipated that the financial impact to this sector will be minimal, if any. One advertiser responded to the consultation highlighting and welcoming this voluntary collaboration as a matter of good practice.

There is no fee applied to an application for authorisation to advertise.

Local authorities - There will also be implications for some local authorities, particularly Glasgow City Council in delivering their enforcement role. The designated enforcement officers will be experienced local authority officers trained in the detailed provisions of the Regulations. The police may also enforce the Regulations. The enforcement activity will range from a warning being given to ensure the offender is aware how to comply with the Regulations, to the offender having the offending items seized, removed or destroyed. Serious offences could potentially be reported for prosecution.

The Glasgow Commonwealth Games (Enforcement Officer Criteria) (Scotland) Regulations 2013, widen the scope of local authority officers and extend the pool of available resource that can be designated by the OC to carry out the enforcement activity, to help reduce the burden on specific areas within the Councils. Only one of the host local authorities (not GCC) suggested, in their consultation response, there should be financial support to help appoint additional enforcement officers. Local authorities are working together to support the effective enforcement of the Regulations.

In general terms the hosting of the Glasgow 2014 Commonwealth Games is predicted to have a positive impact due to a significant increase in visitor numbers to the host cities and wider Scotland with only short term impact across the board.

- **Benefits**

**Option 1: Do nothing and rely on existing regulations**

Doing nothing would avoid the cost to the Scottish Government of producing the regulations but would result in Scottish Ministers going back on their guarantee to meet the terms of the Host City Contract. By retaining the status quo there would essentially be a free market place in and around the vicinity of Games locations providing the opportunity for companies and individuals to make commercial gain. There would also be less necessity for increased resource from the host city local authorities to enforce the enhanced regulation.

**Option 2: Proportionate and limited restrictions**

There are a number of benefits in ensuring proportionality by restricting the scope of the regulations. Even although the restrictions do not cover a wide area around the venues for extended periods, the Scottish Government is still ensuring that there is a safe and celebratory look and feel where there is Games related activity. Option 2 also secures the vital source of sponsorship funding for the Games by ensuring that sponsors exclusive rights to associate their brands with the Glasgow 2014 Commonwealth Games is safeguarded. Equally in relation to street trading, this option will limit the number of people taking up space on the pavements within the proximity and leading up to the venues, ensuring the free flow and safety of spectators at peak times.

As a consequence of the reasonable level the regulations for this option have been pitched there will be no permanent impact on competition in the affected advertising markets and, as indicated by local authorities, the impact in relation to the number of street traders affected is likely to be low.

Also, under these regulations there is some protection provided to unsuccessful applicants by way of an independent review process. If the applicant is not content, with the decision of the OC in relation to their application, then they can ask for the decision to be reviewed by Scottish Ministers within 21 days of the decision being notified to them. However, it is anticipated that the OC will be able to work in partnership with the relevant local authorities and police, to try to establish safe alternative zones for trading, for the low numbers of



existing traders who have been displaced. This is a requirement of the 2008 Act. This option also ensures that Scottish Ministers will be fulfilling their obligations under the Host City Contract.

**Option 3: Enhanced advertising and trading restrictions**

The introduction of more far reaching and stringent restrictions would exceed the boundaries required to meet the terms and deliver the commitments of the Host City Contract. There would also be a high satisfaction level assured from Games sponsors.

- **Costs**

**Option 1: Do nothing and rely on existing regulations**

If Scottish Ministers breach the terms of the Host City Contract by not taking all the necessary steps to prevent ambush marketing and illegal trading, during the Glasgow 2014 Commonwealth Games, there could be potential for legal action to be taken against the Scottish Government.

Also, without detailed regulation to prevent unauthorised or illegal marketing or trading activity, the OC may find it difficult to secure investment commitment from sponsors. This could potentially have a significant negative financial impact on the Delivery and success of the Games in Scotland.

**Option 2: Proportionate and limited restrictions**

Introduce the three SSIs which limit the restrictions.

The Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013  
 The Glasgow Commonwealth Games (Games Locations) Order 2013  
 The Glasgow Commonwealth Games (Enforcement Officers) Regulations 2013

Related costs have been identified and within that 3 potential scenarios of impact have been assessed.

The potential financial impact to businesses has been measured based on information provided by advertisers, local authorities and wider research. The potential financial impact has been measured by the losses which businesses might incur as a result of these regulations. The losses have been measured based on normal trading and not the losses which might arise from the extra revenues generated by the Games due to increased visitor numbers.

**Note:** The tables set out reflect various scenarios for ease of comparison rather than focussing solely on proportionate and limited restrictions.

**Trading and Advertising Restriction Scenarios**

Scenario	Impact of Restrictions	Restrictions	
		Trading	Advertising
Scenario 1	Most	No trading allowed	All advertising space unsold
Scenario 2	In-between	50% traders	90% advertising space

		disallowed	sold
Scenario 3	Least	20% traders disallowed	100% advertising space sold

**Street Trading** – traders prohibited by the regulations will be those trading in the open public places as defined by the event zone maps set out in the regulations, unless they have been authorised or fall under any exemptions. As outlined above a street trader’s licence is issued under section 39 of the Civic Government (Scotland) Act 1982 to individuals offering goods or services to the public, in a public place for money. These licensed traders will have an entitlement to apply for authorisation to trade in the event zone during the specified time.

It should be noted that an individual street trading business might employ more than one person and as such each business may comprise of more than one individual licence. An estimate of 2 persons per business is used where the actual number of traders was not reported.

The numbers of traders/businesses are based on information provided by local authorities hosting Games venues. The largest impact obviously relates to Glasgow. However the scenarios set out are not meant to be indicative in terms of the number of traders that will be disallowed trading during Games time but rather an estimate of the range of potential financial impact.

In terms of the number of traders that will be allowed to trade in the restricted zones this will be dependent on the number of licensed traders who choose to apply and subsequently the number that the OC authorise. One of the key factors for consideration will be the number of available stances determined by the safety and security overlay in and around the various locations. For some zones it is likely that demand will not outstrip supply. However, where it does there will be a ballot of applicants. The key areas where oversubscription is likely will be Hampden, Celtic Park and the SECC. As already highlighted local authorities are committed, under the terms of the 2008 Act, to working with existing traders to try to identify alternative trading arrangements when the trading offence applies.

Based on information from local authorities it is estimated that 151 licensed businesses may be affected by the regulation.

The BRIA combines earnings and turnover data per affected street trader to estimate income foregone per day. We used two data sources: 2009 Scottish business turnover data <sup>1</sup> and the 2009 weekly earnings data <sup>2</sup> separately to give a lost turnover and a separate lost earnings estimate. The turnover approach encapsulates total lost income to the economy, whilst the earnings approach focuses more on the welfare loss to the affected individuals.

Annual turnover was divided by 365 days for a daily turnover estimate, to reflect the assumption that street trade operates a maximum number of days a year. Weekly earnings were divided by 7 to give earnings per day.

Latest national statistics show the SMEs (with no employees) in the Wholesale, Retail & Repairs sector in Scotland are reported to have annual turnover of £100,740, with weekly

<sup>1</sup> DBERR, SME turnover for Wholesale, Retail & Repairs, 2008 for small enterprises with no employees, for Scotland <http://www.stats.bis.gov.uk/ed/sme/>

<sup>2</sup> ASHE, gross full-time weekly pay for Retail Trade, except of motor vehicles and motorcycles, with a Scottish weighting [http://www.statistics.gov.uk/downloads/theme\\_labour/ASHE-2009/2009\\_gor.pdf](http://www.statistics.gov.uk/downloads/theme_labour/ASHE-2009/2009_gor.pdf)

median earnings per full-time employee of £329. This provides us with estimates of £276 foregone turnover per affected business per day and £47 foregone earnings per affected employee per day in the retail trade in Scotland.

Applying these calculations to the 151 estimated mobile traders thought to be affected during the Games (and over a maximum of 12 days) indicated that approximately £500,112 turnover or £152,844 earnings may be foregone under a 100% restriction. Glasgow City Council reported the number of traders in each trading business. For the other Local Authorities, we have assumed two traders per trading business.

**Advertising** – based on information provided by the OC it has been assumed that the sellers of advertising space are likely to sell their space to Games sponsors, if not other buyers. As this mitigates the potential losses we have estimated a relatively high take up of advertising space.

The price of advertising panels and billboards depends on the size and location of the advertising space. For each site, a list of affected advertising space was identified<sup>3</sup> with the help of the Organising Committee.

Assuming a 100% loss of advertising revenue on any day with restrictions and applying these rates to all listed spaces gives a total cost due to advertising loss of £19,810 per day. This cost would be incurred by sellers of advertising space.

## Results

This gives the following total losses when applying across the scenarios set out above. The estimates are at the upper end of the spectrum with turnover and earning figures taken to be at the upper end for these industries and a maximum assumed impact as a result of restrictions.

### Estimated Total Cost of the Trading and Advertising Regulations

Scenario	Impact of Restrictions	Trading		Advertising
		<i>Turnover Approach</i>	<i>Earnings Approach</i>	
		Scenario 1	Most	£500,112
Scenario 2	In-between	£250,056	£76,422	£23,772
Scenario 3	Least	£100,002	£30,569	£0

By introducing proportionate and limited restrictions it is anticipated the costs will be closest to those set out in scenario 3.

## Other costs

Although there will be some financial impact to local authorities no specific costs have been offered. As highlighted earlier only one host local authority suggested that additional financial resources may be required to ensure locally based enforcement officers are prepared. However, as the enforcement officers will be drawn from teams within local authorities who

<sup>3</sup> From the number of companies providing information on advertising, one did not supply information on the price of the billboards. As a result panels and billboards owned by this company were not included in the calculations. This company reported to have 91 billboards or panels around the venues representing 30% of total advertising space in our sample.

are already familiar in dealing with street trading and advertising offences, for example trading standards officers, they are likely to be local to the venue and familiar with the traders. They will also be knowledgeable in relation to existing legislation and able to use their existing powers if necessary to deal with other related offences. The police can engage in the enforcement process if required.

Additionally local authorities are working together to support the effective enforcement of the Regulations.

### **Option 3: Enhanced advertising and trading restrictions**

Increasing the level of restriction across all advertising and trading activity could have a detrimental impact on enforcement activity. It would most certainly increase the costs to local authorities who would have to increase their enforcement officer resource in order to cover wider geographical areas for longer periods of time.

This option would also potentially increase the number of traders disallowed as a result of the extended boundaries and time. The cost implications of higher numbers of disallowed traders are set out against scenarios 1 and 2.

### **Scottish Firms Impact Test**

Although these regulations will have an impact on a relatively small number of businesses who are currently licensed to trade in and around the locations designated as Games venues and potentially any small firms who maintain billboards (although no small advertising businesses have been highlighted by the OC) the Scottish Government does not believe that the restrictions are substantial or long lasting enough to warrant an assessment more detailed than has been carried out. The consultation responses do not reflect any concerns.

Every effort has been made to engage directly with street traders within the relevant affected vicinities although lack of take up from this sector of the business community has prevented the direct gathering of specific information. However the host local authorities have worked hard to identify licensed street traders potentially affected and as such are working closely with the OC to communicate directly and support them through the process.

It is worth noting that although there will be an impact, the effective enforcement of these regulations will deal with any rogue traders who are trying to capitalise on the Games taking away business from legitimate authorised traders.

During the consultation period two Brand Protection seminars were delivered, in Edinburgh and Glasgow, to around 6-8 businesses which are likely to be affected by the regulations. Invitations were again extended far more widely than reflected in the attendance. Although the private organisations attending were advertisers, the meetings were attended by the Federation of Small Businesses and Edinburgh Chamber of Commerce. No concerns were raised around any financial impact to small businesses.

In relation to the impact on advertisers, the OC are engaging directly and working in partnership with the main companies. The data gathered to support the financial analysis for this BRIA was gathered directly from these companies. This positive collaboration is likely to result in the majority of advertising space being sold to Games sponsors. Due to the high profile nature of the Games there may even be opportunity for some space to be sold at a higher price, potentially resulting in financial gain.

- **Competition Assessment**

In applying the Office of Fair Trading competition filter it can be identified that a number of suppliers could be directly limited within some of the event zones. However, the Scottish Government anticipates that the number of traders affected will be low and this will be offset by support to identify alternative locations to trade. The authorisation to trade process will include fair and open competition that will be set out in advance, including a ballot for any over-subscribed areas. However, the converse could also be argued in that rather than limit the range of suppliers, the high profile nature of the Games may bring an influx of new trade to the wider areas.

As the regulations will restrict trading and advertising in and around the Games venues for specified event periods there will be some impact on competition. Where the regulations do apply it will be for a short time and within a limited geographical area. We are not making a permanent change to business. Within the defined areas the regulations will only apply for a range of periods of between 2 days to just over the two week duration of the Games.

As with the Scottish Firms Impact Test, the Scottish Government does not regard the impact on competition to be substantial, widespread or long lasting and as such it is considered that this policy is unlikely to raise any competition concerns.

- **Test run of business forms**

The 2008 Act already provides that the OC (or someone appointed by the OC) authorise people to trade and advertise within the vicinity of a Games location affected by the regulations. The focus of the authorisation process will be to ensure as far as possible that existing businesses can continue to operate, or operate with conditions attached, without compromising the key policy objectives as set out earlier.

Traders looking to trade in an open public place, within an event zone during the event period will have to apply to the OC for authorisation. The OC are currently working on the development of the authorisation criteria and application process with the support and experience of Glasgow City Council. Additionally, the OC has been able to draw on the processes managed by Glasgow City Council for applications for authorisation to trade at Hampden during the London 2012 Olympics. This acted as a test run of the relevant forms, informing the development of the process for the Games. It is the intention of the OC to keep the process as straight forward as possible. In order to support the process and ensure awareness and understanding is effectively communicated the OC are developing a "Plain English" guidance that will be ready to publish, on line and in document format, when the Regulations come into force, post cards outlining the application process and required forms will be distributed directly to businesses, there will be notification through local and national press and street traders will be leafleted directly at venues.

There will be a right of appeal, to Scottish Ministers, for those traders who are not granted authorisation. Details of the appeals process are being developed in tandem with the authorisation process.

- **Legal Aid Impact Test**

The Legal Aid team discussed the proposed regulations with the Scottish Legal Aid Board who confirmed that there should not be a significant impact to legal aid.

- **Enforcement, sanctions and monitoring**

The Games will be the largest multi-sport event ever hosted in Scotland and will attract an unprecedented level of commercial activity in public spaces in the proximity of the Games venues, unless it is carefully regulated. It is essential that trading and advertising

is managed safely, ensuring there is no congestion or litter affecting the enjoyment of the Games for residents and visitors alike, or, inappropriate advertising affecting the integrity of the Games. These three SSIs strengthen the ability to regulate and enforce activity at the right level to ensure this is the case.

Enforcement of the regulations may be carried out by enforcement officers designated by the OC and/or the Police. The enforcement officers will be drawn from teams within local authorities, who are familiar in dealing with street trading and advertising offences (e.g. trading standards officers). This is already set out in section 21(2)(a) of the 2008 Act. During early engagement it was highlighted that this restriction may place an undue burden on trading standards teams within local authorities and therefore this opportunity has been taken to enact Section 21(2)(b) of the 2008 Act which provides that Scottish Ministers may specify additional enforcement officer criteria. The Glasgow Commonwealth Games (Enforcement Officers) Regulations 2013, provide for this, extending the available resource of experienced officers that local authorities can utilise to undertake enforcement activity.

This means that the enforcement officers are likely to be local to where the venue is or event is taking place and in all likelihood will be familiar with the local traders, will know the local area and will be able to use their existing powers if necessary to deal with other offences. Offenders could face having offending items seized, removed or destroyed. Deliberate ambush offences will be dealt with using the full enforcement powers conferred on designated officers to secure compliance. Although a light touch approach may be taken to minor infringements persistent offenders and more serious offences could potentially be reported for prosecution through the criminal courts.

- **Implementation and delivery plan**

Subject to Parliamentary procedure the three SSI's will come into force at the same time, in early November 2013.

The next stage in the delivery plan will be publishing the "Plain English Guide" of the Regulations immediately after they come into force. It will be published in booklet form and also on line. As outlined above there will also be letter/leaflet drops sent to traders currently licensed to trade within the event zones (and licensed charitable collectors) to ensure the message is cascaded directly to the specific people impacted.

Section 46(b) of the 2008 Act requires Scottish Ministers to publish detailed provisions of the regulations no later than 6 months before the Games begin. (The Advance Public Notice)

The application and authorisation process will commence in November immediately following the regulations coming into force. This will run until the end of February 2014, alongside ongoing communication, to ensure applicants who wish to apply have time to do so.

This process will include liaison with licensing and trading standards at the relevant local authorities, liaison with Police Scotland and any ballots for over-subscribed stances. This will also allow time for any appeals. It is anticipated that authorisation letters will be issued during March 2014. Post authorisation local authorities will seek to work with any existing street traders, who have been unsuccessful, to try to identify alternative trading arrangements during the time when the trading offence applies.

During this authorisation period, the OC will continue to work in partnership with the host local authorities to finalise identification (within every regulated zone, during the relevant period) of the number and location of available stances where traders will be located.

During April/May 2014, Enforcement Officers will be “designated” by the OC and enforcement officer training will be carried out. There will also be a “toolkit” produced to support the officer’s enforcement activity on the ground. Consideration will be given to a “test event” during May 2014.

- **Post-implementation review**

No specific formal review of these provisions is being planned as the restrictions only apply to the one-off event of the Glasgow 2014 Commonwealth Games. The regulations will cease to have effect on the day the 2008 Act ceases to have effect.

If a post Games legislative review is carried out these regulations will be included.

- **Summary and recommendation**

We recommend option 2 – Introduce the three SSIs which are proportionate in setting out the restrictions;

1. The Glasgow Commonwealth Games (Trading and Advertising) (Scotland) Regulations 2013,
2. The Glasgow Commonwealth Games (Games Locations) Order 2013,
3. The Glasgow Commonwealth Games (Enforcement Officers) Regulations 2013.

This will meet the Scottish Government’s obligations in terms of the Host City Contract, will protect against ambush marketing, protect sponsorship rights and proportionately restrict trading activity to meet the key objectives already set out, while ensuring as far as possible that existing businesses can continue to operate as usual.

- **Summary costs and benefits table**

<b>Options</b>	<b>Benefits</b>	<b>Costs</b>
1. Do nothing and rely on existing regulations	Avoids cost to the Scottish Government of introducing secondary legislation	Potential breach of the Host City Contract risking legal action against the Scottish Government. Risk to sponsorship revenue.
2. Introduce the SSIs with proportionate and limited restrictions.	Will ensure there is a safe and celebratory look and feel within proportionate boundaries. Will maintain free flow of spectators and secure the vital source of sponsorship funding by maintaining that sponsors exclusive rights to associate their brands with the Glasgow 2014 Commonwealth Games is assured.	Limited impact as set out.
3. Introduce the SSIs restricting any and all advertising and trading activity	High satisfaction from Games sponsors.	Highest impact as set out.

- **Declaration and publication**

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

**Signed: *SHONA ROBISON***

**Date: 29/08/2013**

**Shona Robison MSP, Minister for Commonwealth Games and Sport**

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