



## **MRS Policy Unit**

### **Submission to BIS Call for Evidence–Protection of Small Businesses when purchasing goods and services**

#### **Introduction: About MRS and the research market**

1. The Market Research Society (MRS) is the world’s largest research association. It’s for everyone with professional equity in market, social and opinion research and in business intelligence, market analysis, customer insight and consultancy. MRS supports best practice by setting and enforcing industry standards.
2. The UK is the second largest research market in the world (second to the US) and the UK research sector is recognised as leading the way in the development of creative and innovative research approaches. According to the Office for National Statistics’ (ONS) Annual Business Survey<sup>1</sup> it is estimated that the total UK turnover of the 3,143 enterprises involved in market research and opinion polling to be £3,401 million in 2010. Further in 2012, MRS with PWC undertook an assessment of the size and impact of the UK research and evidence market, producing the MRS report *The Business of Evidence*<sup>2</sup>. One of the main findings from this report is the that the UK ‘business of evidence’ market is substantially larger than previously estimated, employing up to 59,000 people and generating £3billion in annual gross value added (GVA).
3. MRS represents both large businesses and SMEs and we have a range of research suppliers included in our membership. However the research supplier market is dominated by SMEs. The MRS 2013 League Tables which are the MRS Intelligence industry statistics detailing the largest suppliers of market research, analysis and intelligence ranked by individual company UK-based turnover (£m) reported in 2013, indicates that once outside the Top 15 companies, all other suppliers are SMEs and there is a considerable number of small and micro business suppliers.<sup>3</sup> This report is available at [MRS Intelligence Industry League Table](#).

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<sup>1</sup> Office of National Statistics (ONS), (2011) Annual Business Survey. Standard Industrial Classification (SIC) 73.2: Market research and opinion polling.

<sup>2</sup> See [www.mrs.org.uk/pdf/The\\_Business\\_of\\_Evidence\\_Final\\_08102012.pdf](http://www.mrs.org.uk/pdf/The_Business_of_Evidence_Final_08102012.pdf) for a copy of the full report.

<sup>3</sup> Based on EU definition of SME using sole turnover criteria of 50 million euros.



### **About this response**

4. We have taken into account the questions posed in the Call for Evidence and provided a high level consolidated response that considers applicability of consumer protections to smaller businesses in the market and social research sector.
5. We confirm that no parts of the response are confidential and that the information may be attributed to MRS.

### **Purchase of Goods and Services by micro and small market researchers**

6. The MRS is generally in favour of extending consumer protections to smaller businesses especially sole traders and micro businesses however we agree that the costs and benefits need to be carefully weighed in light of the risk of unintended consequences of extending protections to smaller businesses.
7. Legal problems with terms and conditions applied to their provision of goods and services to customers is a significant area of concern to smaller researchers. The imposition of terms and conditions by larger suppliers (both public and private sector) in contracts with smaller businesses poses risks for these types of businesses with their inequality of bargaining power evidenced in the limited ability of researchers to unilaterally influence or change unfair terms. MRS has been involved in advocacy for our members and gathered evidence on standard public procurement terms and conditions which caused considerable problems for research suppliers. These practices are also potentially likely to also be an issue with business to business relationships i.e. between research suppliers and commercial clients and can contribute adversely to a business culture that is unhelpful to commercial viability of small suppliers.<sup>4</sup>
8. In contrast, the extent of any problems in purchasing goods and services, in the context of the market research industry, is difficult to ascertain and discussions with members did not highlight trends or structural issues in particular sectors.

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<sup>4</sup> See further (2014) Improving Market Research Procurement: MRS Recommendations on the Creation of Framework 2 for research service; (2012) Improving Market and Social Research Procurement and Commissioning within the Public Sector: The Market Research Society (MRS) Report: Lessons Learnt from the Creation of the Pan-Government Framework for Market Research Services available on the MRS website at: <https://www.mrs.org.uk/article/item/576>

Although as research is based on intellectual capital rather than use of high value capital items in production of goods or delivery of services, it may be that the problems are less pronounced than in other sectors.<sup>5</sup> Expenditure by market researchers on purchase of goods is likely to be on stationery items, IT equipment and software licences with purchase of professional and financial services such as accountancy and professional indemnity insurance and support research services such as transcription. Decision-making for their purchases in this context is likely to be similar to individual consumer due to a range of factors.<sup>6</sup>

9. A body of evidence also suggests that small businesses often experience similar problems to consumers in regulated markets.<sup>7</sup> Similarly, the markets of possible concern referenced by members are largely in regulated markets such as communications or financial services, which are outside the purview of this consultation, but are important markets for enhanced protections for small businesses.
  
10. Micro small businesses are likely to have a greater unmet legal need as they may not recognise the needs and also as they may be unable to do access legal services due to financial considerations. Additionally, discussions with micro and small businesses engaged in market and social research highlighted general unfamiliarity with the current legal framework for rights and available remedies when purchasing goods and services. In particular, anecdotal evidence provided to MRS suggests that micro businesses are generally unaware of the fact that there are different legal frameworks for business and consumer purchases and that this has implications on the type and level of protection afforded for their purchase of goods and services.

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<sup>5</sup> See further on prevalence of legal problems by business sector LSB (2013) In need of Advice? Findings of a Small Business Legal Needs Benchmarking Survey (<https://research.legalservicesboard.org.uk/wp-content/media/In-Need-of-Advice-report.pdf>)

<sup>6</sup> CCP/FSB (2014) Small Businesses as Consumers : are they sufficiently well protected? [http://competitionpolicy.ac.uk/documents/8158338/8264594/fsb+project\\_small\\_businesses\\_as\\_consumers.pdf/f1ed4da5-14cf-4b80-a1d8-ff76a0781def](http://competitionpolicy.ac.uk/documents/8158338/8264594/fsb+project_small_businesses_as_consumers.pdf/f1ed4da5-14cf-4b80-a1d8-ff76a0781def)

<sup>7</sup> Citizens Advice (2014) The experience of small businesses as consumers in regulated markets – A report for Citizens Advice by BMG Research [https://www.citizensadvice.org.uk/global/migrated\\_documents/corporate/the-concerns-of-small-businesses-as-consumers-in-regulated-markets-final.pdf](https://www.citizensadvice.org.uk/global/migrated_documents/corporate/the-concerns-of-small-businesses-as-consumers-in-regulated-markets-final.pdf)



11. The key point to emphasise is that regardless, as to whether changes are implemented to the current legal framework to align rights and remedies with those of individual consumers, efforts need to be undertaken to develop legal advice and support services and networks with a core education programme with guidance provided to micro small businesses on how to exercise their legal rights in the event of disputes on purchase of goods and services. Limited availability of legal information portals targeted at providing advice to these businesses. Education on rights and remedies including online publications is pivotal in ensuring raised awareness and ability to take appropriate action regardless of the legal framework in place.
  
12. Application of consumer protections to small businesses is a balancing act that needs to ensure clarity in both the definition and type of "micro small business" and the type of transactions any new protections should be applied to (including whether it should cover transactions between smaller businesses). Sole traders or single person businesses are likely to be the business type of greatest need with closest affinity to issues experienced by individual consumers. In practice these businesses may also make only limited delineation between purchasing goods and services for business and/or consumer purposes and there will be often be shared usage especially for small home office based enterprises.
  
13. In light of these considerations extension of the consumer protection framework to smaller businesses needs to weigh competing considerations and carefully consider:
  - Differences in type of small businesses considering sole traders, micro-businesses and small businesses and level of likely detriment at each level
  - Adequacy of consumer remedies to cover business losses such as damages for loss of earnings
  - Impact of the extension of protection on larger businesses supplying to a range of small businesses

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