

Company & Business Names Consultation: Red Tape Challenge

Response form

The Department may, in accordance with the Code of Practice on Access to Government Information, make available, on public request, individual responses.

The closing date for this consultation is 22 May 2013.

Name: Beck Collins
Organisation (if applicable): CORE 50 Limited
Address: St Paul's Community Development Trust,
Hertford Street,
Balsall Heath,
Birmingham,
B12 8NJ

Please return completed forms to:
Catherine Crowsley, Spur 2 Level 3, BIS, 1 Victoria Street, London SW1H 0ET

Telephone: 020 7215 3137
Fax: 020 7215 0227
E-mail: catherine.crowsley@bis.gsi.gov.uk

Please tick the box from the list of options below which best describes you as a respondent. This allows views to be presented by group type.

	Business representative organisation/trade body
	Central government
	Charity or social enterprise
	Individual
	Large business (over 250 staff)
	Legal representative
	Local Government
	Medium business (50 to 250 staff)
	Micro business (up to 9 staff)
	Small business (10 to 49 staff)
	Trade union or staff association
√	Other (please describe)
	Independent and Provident Society for Community Benefit

1.1 Community Renewable Energy (CoRE) 50 is an Industrial and Provident Society (IPS) set up to help reduce Birmingham's carbon footprint via renewable energy. It is a member of the CoRE federation of communities working together across England to generate community owned renewable energy.

Question 1

Do you think all regulations relating to names should be repealed?

Please give reasons for your answer.

- 2.1 No, CoRE50 does not believe that all regulations relating to company and business names should be repealed.
- 2.2 CoRE50 is supportive of the agenda for better regulation and the principles that have been established over a number of years. We understand the aim of ensuring that businesses are not restricted or burdened by unnecessary regulation.
- 2.3 In our experience there is an expectation and an understanding among those starting co-operative enterprises that to use the term "co-operative" means being in line with the co-operative values of democracy, equality, equity, self-help, self-responsibility and solidarity. It also means the enterprise adheres to certain principles; namely voluntary and open membership, democratic member control, member economic participation, autonomy and independence, education training and information, co-operation among co-operatives and concern for community. Co-operatives are hence understood to operate in a fundamentally different way to other sorts of enterprises.
- 2.4 As well as this, in comparison to other countries, the UK is actually already at the most liberal end of international regimes on protection of the name co-operative. In most countries, to be a co-operative requires separate registration, whereby only co-operatives can be called by that name and all that are registered have to call themselves a co-operative. There are a range of international policy frameworks which underpin this protection, and the International Labour Organization has produced guidelines on co-operative legislation.¹
- 2.5 We are concerned that repealing this regulation would remove important protections both for consumers and co-operative businesses. For these reasons, we believe that the inclusion of the word "co-operative" (and its derivatives, such as "coop" and "co-op") on the "sensitive words" list provides important protection for such businesses and should be retained. We are therefore keen to ensure that:
 - the correct regulatory balance is achieved,
 - important protections for co-operatives are not diluted, and
 - the removal of regulations does not lead to negative unintended consequences.
- 2.6 Please see the response to question 3 for more information.

¹ [Guidelines for cooperative legislation](#), International Labour Organization

Question 2

Do you think regulations relating to names should be retained but reduced and simplified?

Please give reasons for your answer.

- 3.1. As stated above, CoRE50 believes that the word “co-operative” should be retained on the sensitive word list. We would also like its derivatives, such as “coop” and “co-op”, to be *added*, as well as the “cooperatives” (without the hyphen), which would encompass European and international forms.
- 3.2. We make a suggestion in our response to question 4, as to how the current process for prior approval could be improved and updated, thereby making it more efficient, robust and transparent.

Question 3

Do you think the list of “sensitive” words should be reduced?

If so, which words would you recommend for removal and why?

4.1 As stated above, CoRE50 supports the agenda for better regulation, which protects business and consumers, without imposing unnecessary burdens. We are also understanding of the government’s concern that “Excessive regulation can slow down or prevent processes – hurting business and damaging the economy”.²

4.2 Our experience shows that there is actually an understanding and expectation amongst those starting new co-operatives that to use the term means adhering to the abovementioned values and principles. When compared with other countries, the UK is already at the liberal end of international regimes relating to protection for the term.

4.3 Given that the evidence does not suggest that the process is onerous for business, and actually provides benefits through the protection it brings, CoRE50 strongly believes that the word “co-operative” and its derivatives should remain on the list of sensitive words.

4.4 We are concerned that failure to protect these terms could run counter to consumer protection measures, and also tarnish the reputation of these businesses - thus damaging a sector that has shown resilience throughout the economic downturn:

- Between 2008 and 2011 the number of co-operatives grew by 23 per cent.
- In 2011, the co-operative economy grew by 1.5 per cent, outperforming the UK economy for the fourth consecutive year.
- The co-operative economy has grown by 19.6 per cent since 2008 whilst the UK economy in 2011 is 1.7 per cent smaller than in 2008.

² [Company and business names consultation: Red tape challenge](#), BIS, February 2013

4.5 These figures not only demonstrate the strength of this sector, but highlight how co-operatives – if properly supported – can contribute to the economic recovery. It is therefore important that decisions relating to regulation do not have unintended consequences and actually work to:

- maintain protection of the co-operative identity,
- ensure clarity about what constitutes a co-operative, and
- protect consumers.

4.6 Co-operative identity:

4.7 The consultation document states that the current rules exist to “protect members of the public from being misled, as a result of the use of a name which falsely conveys authority, status or pre-eminence”. It then goes on to suggest that ‘Words, which may have been considered worthy of protection at the time, may no longer be considered such a risk’.³ CoRE50 believes that the word “co-operative” (and its derivatives) are still worthy of a robust and adequate level of protection.

4.8 The co-operative form is well established, with a clear definition that is recognised by the UN; an autonomous association of persons united voluntarily to meet their common economic, social, and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise. Co-operative businesses also invest in the maintenance of the brand and the integrity of the word “co-operative”.⁴ The demonstrable resilience of co-operatives throughout the economic downturn suggests that these initiatives are proving to be successful.

4.9 We note that the consultation document proposes alternative protection, in that companies could register their name of choice, with action being taken if a justified complaint is then made about the use of the name.

4.10 CoRE50 believes the protection offered by this proposal would be wholly ineffective, as recognised in the consultation document itself “In some cases, this would mean that action would be taken after the harm had been suffered...”⁵

³ [Company and business names consultation](#): Red tape challenge, BIS, February 2013

⁴ For example through common marketing initiatives such as Co-operatives Fortnight

⁵ [Company and business names consultation](#): Red tape challenge, BIS, February 2013

4.11 Clarity:

4.12 There is often confusion about what constitutes a co-operative, and how it differs from other organisations, such as social enterprises. Providing clarity is therefore important as it enables the co-operative sector to be more readily identifiable, and allows certainty about its size and impact on the economy. This knowledge helps our understanding of the particular issues and barriers that co-operatives face, providing evidence to formulate practical policy solutions. It also allows us to raise awareness of this form so that it is seen as a true alternative to other business models.

4.13 In the UK, co-operatives and mutuals are not legally defined and come in a variety of different legal structures – offering flexibility that we regard as a strength. For co-operatives, it is adherence to internationally agreed values and principles⁶ that forms the basis for identification. The values and principles include member economic participation, democratic member control and self-responsibility. As explained in the International Co-operative Alliance's Blueprint for a Co-operative Decade, the co-operative "values of participation and sustainability are not just bolted on to a conventional business model, but structure how they are owned, governed, managed and evaluated".⁷ This means that the values and principles inform the structure of co-operatives, the way they are run and their aims.

4.14 Currently, companies have to provide evidence against certain criteria, which acts as a "check" to guard against non-co-operatives registering with the term in their name. CoRE50 recognises that there are certain limitations with the process as it stands, but we would like to see this protection *improved*, rather than removed.

4.15 For example, the criteria a company must evidence is misleading and does not adhere to Co-operatives UK's preferred practice of checking the company's governing document to ascertain how its governance echoes the co-operative values and principles.

4.16 Co-operatives UK would therefore be willing to suggest suitable criteria for use of the word "co-operative" in a company name, so that this word could be maintained on the sensitive words list, whilst improving the prior approval process and increasing transparency for businesses.

⁶ Co-operatives UK is committed to being the UK guardian of the internationally agreed co-operative values and principles.

⁷ Blueprint for a co-operative decade, International Co-operative Alliance, January 2013

4.17 Consumer protection:

4.18 Co-operatives UK's report 'Good business? Public perceptions of co-operatives'⁸ showed that co-operative businesses are widely perceived to be:

- local (81%),
- share their profits (79%),
- fair (75%) and
- customer owned (73%)

4.19 As well as this, around two in three adults surveyed also associate cooperative businesses with being "trusted" and "for public good" (66% and 65% respectively). At least one in two adults surveyed also associated co-operative businesses with being honest (63%), open (59%), democratic (53%) and involving (52%).

4.20 While these results are extremely positive, and help to explain the resilience of the co-operative economy, they also demonstrate that the word "co-operative" continues to convey "authority, status or pre-eminence". This signals the importance of protecting what it means to be a co-operative business in order to ensure that consumers are not misled. This is particularly important to CoRE 50 as we attempt to enter the energy industry. The industry is currently dominated by the Big 6 energy companies, who have been much criticised of late for poor customer service⁸ and possible overcharging of energy⁹. As such, they may be presumed to suffer from a poor reputation. CoRE 50 is distinguishable to consumers from these companies by its co-operative status.

4.21 CoRE50 are concerned that insufficient protection would therefore mean that it would be relatively easy for rogue or misguided enterprises to mislead the public by claiming to operate as a co-operative when they do no such thing. These businesses would be trading off the value of the co-operative identity, but also undermining it in that they are making essentially false claims as to the nature of their business.

4.22 Successive consumer investigations by the Department for Business, Innovation and Skills and agencies, such as the Office for Fair Trading, have pointed to the risk of consumer detriment where exploitative practices are masked by a context designed to win consumer trust and inertia. This is exactly what rogue companies operating in the guise of co-operatives may lead to – if the protection is removed.

4.23 Examples of abuse:

4.24 Finally, CoRE50 is aware of examples where co-operative terms are being used incorrectly by companies that are not operating in adherence with the values and principles. These examples highlight the need to retain and strengthen the existing protection:

⁸<http://www.ofgem.gov.uk/Media/PressRel/Documents1/SSE%20Press%20Release.pdf>

⁹<http://www.guardian.co.uk/money/2009/jun/25/energy-prices-bills-overcharging>

- Co-operative gardeners ltd: Registered by one sole Director, which is clearly therefore a one person company not a co-operative under international guidelines.
- The consumer co-op: The rules have no signs of co-operative principles whatsoever, and is therefore taking advantage of the name to benefit from consumer trust it does not warrant. See <http://www.consumerco-op.co.uk/>¹⁰

4.25 As stated above, once a business is registered, it can be difficult, time- consuming and costly to address such problems. It therefore makes sense to improve the start of the registration process.

4.26 Co-operatives UK's proposals are about making the market work better – where the minimal burdens of operating a protected name in a more consistent way (as we propose covering derivatives of the term) are outweighed in very significant terms by enabling the market to operate on the basis of clear information and choice when it comes to consumer understanding of the nature of the businesses they deal with.

5 Definition of a co-operative

5.1 Co-operatives are businesses owned and democratically controlled by their members. Whether the members are customers, employees or residents they can have an equal say in what the business does and share the profits.

5.2 As well as benefiting members, co-operatives share internationally agreed principles¹¹ and act together to build a better world through co-operation.

This response is based on a template provided by:

Denise Morrisroe, Policy Officer

denise.morrisroe@uk.coop

0161 214 1775

Co-operatives UK

Holyoake House

Hanover Street

Manchester

M60 0AS

¹⁰ http://www.uk.coop/sites/storage/public/downloads/good_business_-_new_insight_4.pdf

¹¹ www.uk.coopwww.uk.coop/identity

Question 4

Do you think the list of words on the “same as” list should be reduced?

If so, which words would you recommend for removal?

No, see above

Do you have any other comments that might aid the consultation process as a whole?

Please use this space for any general comments that you may have, comments on the layout of this consultation would also be welcomed.

Thank you for taking the time to let us have your views. We do not intend to acknowledge receipt of individual responses unless you tick the box below.

Please acknowledge this reply

At BIS we carry out our research on many different topics and consultations. As your views are valuable to us, would it be okay if we were to contact you again from time to time either for research or to send through consultation documents?

Yes

No

© Crown copyright 2013

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. Visit www.nationalarchives.gov.uk/doc/open-government-licence, write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email psi@nationalarchives.gsi.gov.uk.

This publication is also available on our website at <https://www.gov.uk/bis>

Any enquiries regarding this publication should be sent to:

Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET
Tel: 020 7215 5000

If you require this publication in an alternative format, email enquiries@bis.gsi.gov.uk, or call 020 7215 5000.

BIS/13/648RF