

Graham Wilson OBE, NABMA Legal and Policy Consultant – Supplementary written evidence (HSC0005)

Mr Graham Wilson (NABMA) was invited to provide the following supplementary written evidence following his attendance at the oral evidence session on 5 March 2024.

Further to the appearance before the Committee on the 5th March I would like to take the opportunity of providing a further written contribution to amplify some of the points made, but also to respond to Lord Faulkner's request for information on car boot sales.

1. MARKETS GENERALLY

There are currently around 1150 regular Markets in the UK. The majority, some 82%, are managed or operated by local authorities. Markets operate under different legislation with the situation in London significantly different to the rest of the UK. Most local authority London Markets operate under Street Trading Legislation. Under such legislation there is a restriction on making a surplus and no Business Rates are applied. In the rest of the UK Markets are operated under a miscellany of powers including Royal Charters, Custom and Practice, Local Legislation and General Legislation particularly Part III of the Food Act 1984. These Markets can make a surplus and generally are liable for Business Rates.

There are some very successful Markets and they are an important part of the fabric of the towns and small cities where they are located. At the same time there are many more Markets facing serious challenges to their future. This is highlighted by the reduced number of market traders and the fact that, based on NABMA's National Retail Markets Survey in 2022, less than half of the Markets outside London recorded a surplus in the previous financial year. Markets are a discretionary service and faced with the current challenges there are serious questions about the continuance of many Markets in the next five/ten years.

2. THE VALUE OF MARKETS

NABMA sponsored research from the Institute of Place Management and Manchester Metropolitan University which was first published in 2015 (Markets Matter - Reviewing the evidence and detecting the market effect). The conclusions of that research are:

"... the literature review conducted as part of this report provides convincing evidence that Markets matter, economically, socially and politically ... Allowing Markets to decline is never a smart move for a town centre as Markets act as a virtual barometer for the vitality and viability of a location. Markets are also a useful proxy of the state of the relationship between town centre stakeholders ... Our research also presents the strongest evidence to date of the market effect. The operation of a Market significantly increases footfall on each of the

homogeneous shopping days by between 15% to 27%, compared to footfall in locations which do not have Markets” Professor Alan Hallsworth, Professor Cathy Parker, Nikos Ntounis and Simon Quinn.

The Committee will recall that, in my evidence, I highlighted the ways in which Markets are responding to the challenges of less retail activity by becoming an important community asset. I gave examples of how this is happening at Markets across the country.

The importance of community value is also highlighted by further research undertaken by Markets 4 People sponsored by the University of Leeds and published in 2021 (Understanding Community Value). This research highlighted that “traditional Markets have played a significant role in the UK towns and cities for centuries but their central community role is being threatened by radical changes in retail trends and public sector cuts”. The research provided case studies to illustrate where Markets are currently playing a significant community role.

3. MARKETS NEED SUPPORT

Markets are a local authority discretionary service and in the current climate many Markets need encouragement and support to survive. I mentioned in my evidence the need for a Markets Champion. So often in the current local government structures Markets are included within mixed portfolios of services without any distinct voice supporting them. Markets should be championed by a senior member of a local authority.

Local authorities also need to take Markets seriously. They need to be professionally resourced and should be part of a strategy/plan/vision for the delivery of Markets.

I have already supplied information on Business Rates and mentioned this in my evidence. It was so disappointing during the recent Covid pandemic that businesses were given substantial Business Rates relief but local authority market operators outside London, because of the requirements of local government finance legislation, received none.

As I said, government has already made one exception to Business Rates liability by exempting Public Conveniences. NABMA would encourage the Committee to urge the government to look at the position of local authority Markets.

Markets are a great place to start a business and there are some wonderful examples of new traders making a success of a new start, but we need government support to help encourage and support more traders. In the last twenty years the markets industry has lost approaching twenty thousand market traders. The age profile of most current market traders is between 50-70 which

means that unless we recruit substantially more in the next few years more Markets are going to close. We need help to bring market trading to a new audience to build on the campaigns that the markets industry currently promotes such as NABMA's Love Your Local Market and the National Market Traders Federation Young Trader Market Campaign.

4. CAR BOOT SALES

In 1990, in a case involving Newcastle City Council, a car boot sale was officially designated as a Market. This ruling is important because it brings car boot sales potentially within various legal requirements relating to Markets.

Originally car boot sales were created to raise money for good causes but they quickly became commercialised and now there are hundreds of car boot sales held throughout the country particularly at weekends. Most big car boot sales are held out of town on green field sites or locations such as racecourses or disused airfields.

The extent to which these car boot sales are undermining traditional town centre Markets has never been quantified, but there is no doubt that the size and number of car boot sales have a detrimental impact on traditional Markets.

Further, there is concern that some of these car boot sales are undermining the reputation of traditional Markets because they are used to dispose of counterfeit and stolen goods. There is considerable evidence of police and trading standards action at car boot sales around the country.

Because a car boot sale is a Market it can currently only operate for fourteen days in a year without formal planning approval. The government is currently consulting on increasing this number of days to twenty-eight. NABMA has expressed concern at the proposal arguing that this extension will remove one of the controls on car boot sales.

Local authority market operators, in receipt of market powers, can establish a licensing regime in respect of all market events held within 6 and 2/3 miles of their own Market. The 6 and 2/3 miles rule goes back to the middle ages but is still good law today. NABMA encourages all local authorities to establish a market licensing system so that it can monitor all market events within its area of influence and, at the same time, impose conditions regarding the way the market event is held. There is evidence that applying such licensing arrangements help to control car boot sales and the standards under which they operate.

There is also a general power, included with Section 37 of the Local Government (Miscellaneous Provisions) Act 1982, relating to Temporary Markets requiring the organiser to give notice to the local authority that an event is to be held. Using

such powers enables the local authority to ensure that a car boot sale is monitored and licensing action is taken as appropriate.

Sadly, many local authorities do not have the resources to implement an effective licensing system and particularly any enforcement action that might be necessary resulting from failure to engage with a licensing process.

It would be of great help if the Committee is able to highlight the importance of licensing arrangements to control car boot sales and ensure that they operate in legitimate way.

13 March 2024