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National Transport Authority of Ireland  
Hartcourt Lane  
Dun Sciene  
Dublin 2

28<sup>th</sup> July 2017

### **Consultation on Draft Vehicle Clamping and Signage Regulations 2017**

Dear sir/madam,

By way of background, the Society of Chartered Surveyors Ireland (SCSI) represents over 5000 chartered surveyors in Ireland, some of which are property managers working in both the residential and commercial property sectors. Our members provide professional advisory and management services to Owners' Management Companies (OMC's) and are keen to share with you our thoughts and concerns regarding the proposed amendments to this legislation. The SCSI also works in the public interest by promoting and maintaining best practice technical guides for professionals and also consumer information for the public. The SCSI provides factual evidenced based research and data for the property, land and construction sectors.

In respect of the proposed amendments to the vehicle clamping and signage regulations, SCSI supports the regulation of the clamping industry. Our members feel that regulation in the industry is required to help control parking regimes on private and public access lands throughout the country and supports consumer protection. Whilst the clamping industry is perceived in a negative light, in reality it provides much needed enforcement and is a valuable service, when carried out correctly.

#### *Comments on the proposed legislation*

Whilst we are largely supportive of the proposed legislation, we have some concerns which we feel requires further consideration:

1. Clamping vs. Ticketing

In advance of discussing the specifics of the proposed legislation we believe that the drafting of this legislation was a missed opportunity to fundamentally change, and improve, how parking control works in Ireland. At present, parking penalties are only enforced by way of clamping on private land. However, given the various Councils have the ability to issue parking tickets, we believe that enabling private operators to run a similar ticketing process is a far more effective and efficient way of conducting business. It is also less confrontational and speeds up the correction of the parking breach by allowing the person who committed the offence to remove their vehicle immediately upon returning to their vehicle.

Similar systems are operated in the UK and have proven very successful.

2. Operating Costs & the MUD Act 2011

The operating costs of providing clamping services and the setting of maximum clamp removal fees needs to be carefully considered.

We believe there is a possible conflict with the MUD Act 2011. The Multi Unit Development Act 2011 s23(11) provides that;

*(11) Where a person, who by reason of subsection (1) is obliged to comply with house rules, commits a material breach of such rules, the owners' management company of the development concerned may recover the reasonable costs of remedying such breach from such person which costs may be recovered as a simple contract debt in a court of competent jurisdiction.*

The parking rules on a multi-unit residential site will always form part of the house rules and the house rules are voted on by the members of the Owner Management Company (OMC). Incidentally, any breach by a resident's invited visitor would also invoke s23(11).

This means, in effect, that if the clamp removal fee is set at an unrealistically low level, costs are no longer covered off in the service contract fee, the clamping operator may apply additional charges to the OMC. This may have the net effect of making parking control unviable in many areas.

*We believe that the financial penalty for parking breaches should fall to the trespassing motorist rather than the OMC or the members of the company.*

### 3. Appeals Process

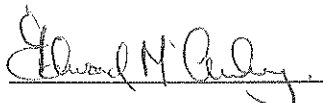
*We believe that a clear and fair appeals process is essential to ensure correct governance going forward. An independent board of appeal should be established in order to process appeals which are not resolved in the first instance by the complainant and the parking control operator.*

### Conclusion

We conclude by affirming our support for this legislation and believe that parking control is an essential service. Poorly managed parking controls and enforcement can lead to serious issues and OMCs are mindful of this. Emergency service access is essential and must be achieved through proper enforcement and policing.

We hope that you will find the content of this submission constructive and if you require any further information, please do not hesitate in contacting me.

Yours sincerely,

*BP* 

**Finbar Mc Donnell MCSI MRICS**

Property Management Chairperson, SCSi