

PRESS RELEASE - Monday 11th February 2002

Government in Court Over Tax Plans

A legal challenge was launched today, in the High Court, London, against the Government's plan to introduce a massive new tax on the quarrying industry, from April 1st. The British Aggregates Association, which represents small independent quarry companies throughout the UK, will argue that the new Aggregates Tax is illegal.

The levy, which represents a 35% average price hike, is set at £1.60 per tonne on all sand, gravel, hard rock and marine dredged aggregates. The cost of this levy is estimated to be around four times profit margins. Small companies, in particular, would find it extremely difficult to recover this amount of money in a market which has seen a tremendous amount of consolidation over the past few years and is now dominated by 5 large companies.

The BAA believes that the levy contravenes both EC law, by distorting competition, and the European Convention on Human Rights, as the tax cannot be justified. In addition, with just seven weeks before the tax begins, the Government is in disarray. Changes to the levy have been promised but not delivered and regulations to implement it have not been published. The uncertainty created by the levy is already causing chaos within the quarrying, civil engineering and construction industries, where materials supply contracts can be fixed up to 5 years in advance.

The Association have retained Herbert Smith, London's leading litigation law firm, along with Gerald Barling QC, a leading practitioner in the field of EC Competition Law and who has already successfully challenged Government under the new ECHR legislation.

Association director, Robert Durward, comments, "It is apparent that decisive action is now necessary to end the present state of confusion. The UK quarry industry already complies with the strictest environmental regulations in Europe and there is absolutely no justification at all for this levy. It will cause damage to the environment by reducing the number of operational quarries which will in turn cause construction materials to be transported further. More trucks, more congestion, more greenhouse gasses. It will also cause irreparable damage to our fragile rural economy by destroying jobs and driving up imports. Government would appear to have caved in to ill-informed environmental pressure groups but will now have to justify its unwarranted actions before a court of law."

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Notes for Editors:

- The levy in the UK would be far greater than anything imposed elsewhere in the EU. For example, our nearest competitor, France, taxes aggregates at 6p per tonne.
- The levy will be particularly damaging to manufacturers of aggregates based products, such as concrete. Their products, made using taxed aggregates, will in many cases be unable to compete with imported products which are untaxed and have used untaxed aggregates.
- Increased costs resulting from the levy will hit small rural quarries the hardest. The main markets are easily supplied by sea-borne aggregates and we already import substantial amounts from Norway, France and Eire. (It often now costs less to ship aggregates in bulk from overseas than to deliver by road from our own quarries.)
- The public sector buys almost 40% of all aggregates meaning that not only will we have the poorest infrastructure in Europe we will now have the most expensive construction and maintenance costs as well.
- Although the stated aim of the levy is “to promote the use of recycled and alternative sources of aggregate”, the Government’s own research shows that only a 1 – 3% increase might result since almost everything is already being recycled as a result of Landfill Tax and the cost of transport.
- The levy will greatly reduce the ability of small operators to compete with large vertically integrated companies.
- The levy was strongly criticised in a House of Commons Select Committee report, which stated that the Government’s research “does not withstand scrutiny as a rationale for discouraging aggregates extraction and encouraging recycling” (Northern Ireland Affairs Committee, First Report, 5 December 2001, “Introduction of the Aggregates Levy in Northern Ireland”).
- The postponement of the Budget to 17th April has added a further complication; the Government has agreed to make changes to primary legislation, which should have been made in the Budget, before 1st April. This will not now be possible.

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