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Kate Hepher
Discrimination Law Review Team
Women and Equality Unit
Department for Communities and Local Government
Ashdown House
123 Victoria Street
London
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Dear Ms Hepher

Response of Saga Group Ltd to "A Framework for Fairness: Proposals for a Single Equality Bill for Great Britain". Our response is not confidential.

Saga built its highly successful British business on niche marketing to the over 50s. The company has become the leading provider of specialist travel, insurance and financial services, designed to meet the needs of older people, and also publishes Saga Magazine, the largest subscription-based monthly magazine in the UK.

Our response is confined to issues connected with discrimination and age, focusing primarily on the issues raised in Chapter 9 of the paper: Age discrimination beyond the workplace. Furthermore we focus on issues affecting older people, albeit we recognise that there are concerns about discrimination affecting younger people. We fully support measures to combat unfair discrimination in any sphere that denies people the ability to live life to the full, and have been active in supporting measures to increase opportunity for older people.

In our original submission to Government we argued: "Robust, compelling evidence of negative experience of discrimination should inform any legislation on equality so as to avoid unforeseen consequences." The Government responded in the Green Paper, "Framework for Fairness" by demanding that there should be three tests to any legislation on age discrimination:

- It must be a proportionate response to a real problem and not create unnecessary burdens on the private, public or voluntary sectors;
- it must not have the unintended consequence of prohibiting positive benefits for either younger or older people, such as youth clubs or clubs for older people, holidays catering for people of particular ages, or concessions and discounts which help younger or older people; and
- it must pass a "common sense" test".

Saga warmly welcomes this approach as being suffused with common sense. Our business model is based on concentrating exclusively on older customers, understanding them and designing bespoke

services to meet their changing needs and demands. Our success depends on marketing direct to people aged 50 and over, offering them specialised services and good value-for-money. Our target market is a demographic group forecast to grow from 20m to 25m people by 2015, and it is a market that is becoming increasingly attractive and competitive.

We firmly believe that market specialisation, whether based on age or based on segmentation, serves the consumer well in the UK, and is demonstrably popular with our target market. We are concerned that a “purist” or insensitive approach to discrimination legislation could have the effect, whether deliberate or unintended, of outlawing such market specialisation, of standardising strands of law. We therefore welcome the stated intention to avoid “preventing different treatment on grounds of age which has positive consequences or is justifiable, for example because it enables services to be delivered more efficiently and effectively”.

Not surprisingly, we particularly welcome the specific reference to “holidays catering for people of particular ages” as being products carrying “positive benefits”. Our holiday business is built around meeting the specific, justified needs of the over 50s. The positive aspects of our holiday products aimed at a specific age group are reflected in their popularity, very high rates of repeat business, and by a plethora of awards for Saga’s customer service. 97% of Saga Holidays customers rate us ‘good to excellent’. Our customers appreciate relaxing in the exclusive company of their contemporaries, and in 55 years of business we have never had a complaint that we discriminate against youth, who, after all enjoy niche marketing from their own dedicated suppliers, as well as access to a plethora of generalist operators.

We also welcome the recognition by Government that insurance companies should be allowed to design and provide products for specific market segments, and to use age as a differentiator in setting premiums, where this is objectively justifiable. We firmly believe that this facilitates more effective and efficient markets, delivering overall benefit to the consumer.

Chapter 9 asks: ***What instances of unfair age discrimination outside the workplace, against people of any age, are you aware of ?***

We have undertaken an extensive review of research sources and have found very little convincing evidence of harmful unfair age discrimination in the provision of goods and services by the private sector. Many research sources focus on the more general issue of ageism in attitudes and behaviours, but do not provide convincing instances of, for example, unfair exclusion from the provision of goods and services. We have seen some reports that purport to provide such evidence, but we would question the objectivity of their methodology.

On the other hand, recent years have seen a considerable amount of privately-funded research published, focusing on understanding the older consumer market and identifying consumer typologies within it. There are also regular seminars and conferences on marketing to older people, while the Market Research Society guide lists 38 research providers claiming to have specialist expertise in the mature/mid-life market. This demonstrates how the private sector’s interest in serving the older consumer market is rapidly growing, as the size and economic importance of that consumer group increases.

We conclude that, for example, any age discrimination legislation that banned the marketing of holidays to specific age groups or banned discounts on goods or services on the basis of age would be addressing a problem that does not exist. We have seen no robust and compelling evidence that these are areas where age discrimination bites and needs to be addressed by legislation. Indeed, we feel that such legislation would be deeply unpopular, and the research we have undertaken would tend to support this view (we can provide detail if required).

Headline Survey Evidence

Saga survey of 500 travel customers

- 78% prefer to go on holiday with others aged 50 and over.
- 97% do not object to holiday companies that offer holidays for particular age groups.

BMRB survey of 2,004 adults

- 93% do not object to goods and services being offered at a discount to people of a particular age.
- 57% think that it would be a bad thing if legislation made it illegal to offer holidays confined to a certain age group. Only 9% thought it would be a good thing.
- 60% thought it would be a bad thing if legislation made it illegal to offer discounts on goods and services to people on the basis of their age. Only 13% thought it would be a good thing.

Saga/Populus online survey of 14,809 adults over 50

- 84% believed it was acceptable to offer discounts or favourable terms on products and services to members of specified age groups.
- 86% feel it acceptable to sell products such as holidays and car insurance that are confined to specific age groups.

Chapter 9 of the Green Paper also asks: ***“Is legislation the most appropriate and proportionate way of addressing the needs of older people and preventing harmful age discrimination outside the workplace against adults of all ages”.***

Given the lack of widespread and clear evidence of harmful age discrimination in the provision of goods, facilities and services within the private sector, there is a coherent argument for holding back from any legislation or regulation in this area, and instead working with the private sector to establish codes of practice, and specific initiatives in given sectors. The Green Paper gives the example of the ABI’s older people’s taskforce (of which Saga is a member), which is working to develop ways to direct older people to insurance firms who are best able to meet their needs. Taking such an approach would obviously not preclude scaling up to a legislative approach if ongoing review produced compelling evidence of harmful discrimination.

It has been suggested that an alternative solution might be to empower an independent body (for example, the CEHR) to monitor and regulate in this area. There is a danger in this approach. Unless it is bound by clear guidelines - such as the “common sense” tests laid out in this Green Paper - there may be a risk that an unelected body could promulgate a more purist, less practical approach to regulation, than that which is envisaged by the Government. If the Government prefers an unelected third party to regulate, then it must at least ensure that this delegated authority is circumscribed by the strictures and common sense approach set out in the Green Paper, in particular : not causing unnecessary burdens on any sector, and not creating unintended consequences of prohibiting positive benefits.

To provide complete clarity to all parties, legislation may be the preferred route, subject to the considerations we set out below. While some reservations have been expressed as to the necessary complexity, it is clearly possible to devise workable legislation to accommodate practical exemptions.

“How if we do legislate, can we avoid unintended consequences and disproportionate burdens”.

It is suggested (section 9.24) that any legislation would need to include:

- an objective justification defence;
- positive action provisions; and,
- specific exceptions to enable beneficial or justifiable differential treatment to continue without fear of legal challenge.

We agree with these principles. To a large extent unintended consequences and disproportionate burdens can be avoided by the common sense actions listed above. Exemptions are not necessarily a sign of inconsistency or dilution. Indeed, an argument could be made that common sense exemptions are what make legislation workable and palatable.

"Addressing Age Barriers (Nov 2004)", a report by AGE Platform looked at anti Age Discrimination Legislation in five countries: Australia, Belgium, Ireland, Ontario and the USA. The key issue across all jurisdictions is the issue of exemptions. It is generally thought that the Irish Equalities legislation works well. The Irish Equality Authority adopts a common sense approach and praises the benefits of niche marketing to older people in its publication "Towards Age Friendly Provision of Goods and Services":

"8. Targeting of Older Customers

Targeting involves the development of goods and services specifically to meet the particular needs of older people. Targeting is a form of positive action. Positive action is allowed under the equality legislation to promote equality of opportunity for disadvantaged persons and to cater for the special needs of persons or a category of persons who because of their circumstance, may require facilities, arrangements, services or assistance. It can address:

- Particular disadvantages experienced by older people due to a history of ageism and age discrimination.
- Needs that are specific to older people in terms of their particular identity, experience or situation.
- The change necessary in the general provision of goods and services to ensure older people are adequately included in this provision.

Targeting can involve:

- The design and delivery of services specifically to older people.
- The organisation of the delivery of services in a manner that specifically addresses the needs of older people.
- Providing resources to older people's organisations to support their roles of advocacy, of participation in decision making and of service provision.

The benefits of targeting include:

- Enhanced independence for older people where their needs are met within their local communities.
- Enhanced equality for older people where imbalances in resources and participation between older people and other groups are addressed.

The Equality Authority argues for elements of positive discrimination specifically for the over 50s in "Implementing Equality for Older People" and refers to S.33 of the Irish Equality Act 1998:

"Positive action permitted.

33.—(1) Nothing in this Part or Part II shall prevent the taking of such measures as are specified in subsection (2) in order to facilitate the integration into employment, either generally or in particular areas or a particular workplace, of—

- (a) persons who have attained the age of 50 years,
- (b) persons with a disability or any class or description of such persons.

The above phraseology could be a simple template for devising a simple common sense exemption in future Equalities legislation for Great Britain. We commend it to the Department.

As to specific exemptions, we would agree with all those set out at section 9.33 of the Green Paper.

Chapter 9 also discusses the issue of age-related insurance provision. It envisages permitting "Insurance companies to design and provide products for specific market segments (for example, younger or older drivers)". Once again, we agree with this common sense approach.

We are aware that there are some complaints that older people find it difficult to buy certain types of insurance. However, it should also be noted that there are a number of insurance providers who specialise in providing policies for older people, and the number of such specialists has been increasing in recent years as the growth in the older market becomes more apparent. Saga is one such provider. By specialising we are able to offer favourable premiums, extra "bonus features", and a style and level of service tailored to meet the needs of older customers. We do not apply upper age limits. The consequence of our focus on the 50+ market is that we are not geared up to cater for all ages, but the efficient UK insurance model rests on an increased emphasis on niche marketing: in so doing it has delivered better benefits and pricing to target customers.

Some campaigners think that all insurers, even those with a self-professed specialism in a niche, should be obliged to offer quotes for all, in the belief this will improve access to insurance cover. This is misguided. Insurers who do not feel confident to cover certain categories of risk will simply over-price to try to dissuade them, but will have to bear the additional costs of providing quotes. This will increase the overall cost base of the industry to the detriment of consumers. 90% of home & motor insurance customers rate us 'good to excellent' for overall satisfaction. If Saga had to cater for all age groups, and all risks less pertinent to those of older age groups, then the structure on which we have built our business would alter markedly.

The benefits of niche marketing and the specialisation of labour should not be denied to the insurance industry. Provided there is not evidence of market failure such specialisation should be acceptable and be encouraged. The ABI claim that with an ageing population more underwriters are seeing value in understanding and covering older people, and upper age limits are being pushed up. Insofar as any would-be customer for insurance cannot obtain a quote from a particular company we see merit in the concept of that company being obliged to signpost other companies that would be able to quote to that market.

Summary

Saga warmly welcomes the common sense approach of the Green Paper to age discrimination, and would like to see this approach translated either into law or into clear guidelines given to the CEHR.

Robust research should identify where the shoe pinches in terms of age discrimination. Positive age discrimination towards the over 50s is perceived as a good thing in Ireland and protection for it is enshrined in simple legislative terms. Saga commends this approach to the Department.

We have not seen good evidence of market failure in providing insurance to older people. We ourselves offer insurance only to older people with no limits on age. The ABI offers practical proposals for those who are finding some difficulty in buying insurance because of their age. It makes no sense to lose the benefits of niche specialism in insurance by forcing insurers to offer a universal product.



Tim Bull
Director, Saga Group Ltd