

**Department for Environment Food & Rural Affairs: Consultation Banning UK Sales of Ivory
Response from NAVA Propertymark
December 2017**

Background

1. NAVA Propertymark is a professional body that protects and guides consumers, promoting the highest standards of professionalism throughout the auctioneering and valuation industry, from property to fine art and chattels and everything in between. We work to promote high standards through education and qualifications within the sector. NAVA Propertymark experts meet higher standards than the law demands and through this we offer greater protection to consumers.

Comments

Conservation

Q1. Do you agree with the proposed ban?

2. NAVA Propertymark does not agree with the proposed ban. Existing legislation is sound and ensures a total ban on the trade of modern ivory. New legislation banning the sale of pre-1947 antique ivory will not stop illegal trade and deliver the goal of saving elephants. It would, however, reduce the number of items of historical and cultural significance that are in existence. The solution is to enforce existing legislation by giving more resources to the UK Border Force.

Q2. Do you have any evidence to present on how our proposed ban will affect elephant conservation and the natural environment, including wider species conservation?

3. We do not have any evidence on how the Government's proposed ban will affect elephant conservation and the natural environment, including wider species conservation.

Q3. Do you have any evidence to present on the impact of bans in other countries or justifications on elephant conservation and the natural environment, including wider species conservation?

4. We do not have any evidence on the impact of bans in other countries or justifications on elephant conservation and natural environment, including wider species conservation.

Q4. Do you have any evidence to present on how protecting elephants through the proposed ban would be economically beneficial?

5. We do not have any evidence on how protecting elephants through the proposed ban would be economically beneficial.

Q5. Do you have any evidence to present on how protecting elephants through the proposed ivory ban would be culturally beneficial?

6. We do not have any evidence on how protecting elephants through the proposed ivory ban would be culturally beneficial.

UK business

Q6. Do you have any evidence on how our proposed ban would affect the arts and antiques sectors, or individuals who own ivory items?

7. Yes, the proposed ban will affect virtually every field of antique collecting. Ivory is a material that has been used for centuries on furniture, silver, pictures, and works of art, jewellery and many other items. The proposed ban, without an exemption for pre-1947 objects, will deny collectors from preserving our cultural heritage when many institutions are commercially unable to do so.

Q7. Do you have any evidence about the value, or number, of sales of items containing ivory in the UK?

8. No, we do not have any evidence about the value, or number, of sales of items containing ivory in the UK.

Q8. Do you have any evidence about how many UK-based businesses, e.g. those in the fine art, antique or auction sectors, specialised in ivory products/

9. No, we do not have any evidence about the value, or number, of sales of items containing ivory in the UK.

Exemptions

Musical instruments

Q9. Do you agree that the government should include an exemption to allow the continued sale of musical instruments containing ivory? Please provide evidence to support your view.

10. Yes, we do agree that the Government should include an exemption to allow the continued sale of musical instruments containing ivory. Without this exemption these highly valuable and unique musical instruments, crafted to produce the best possible sound, would become devalued overnight.

Q10. Do you have a view on what the scope of this exemption should be? Should it be qualified, or refined, further than proposed?

11. We agree that allowing the continued sale of musical instruments that contain ivory, as proposed by the Government, should be exempt from the ban.

Q10 (a). If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.

12. We do not know what proportion of the existing trade in items containing ivory would we expect to be exempt from the ban.

Q11. Do you have any evidence about the current trade in musical instruments for professional use made wholly, or partially, of ivory?

13. We do not have any evidence about the current trade in musical instruments for professional use made wholly, or partially, of ivory.

De minimis

Q12. Do you agree that the government should include a de minimis exemption to an ivory ban? Please provide evidence to support your view.

14. No, we do not agree that the Government should include a de minimis exemption to an ivory ban. Current legislation is clear and does not provide for a sub-category of de-minimis. Rather, it provides a simple exemption for those items over 70 years old or pre-1947, which covers the cultural and collectors' field and remit of the antiques trade, industry and profession. If the proposed ban has exemptions it should be exactly as set out under current legislation with a date line of 1947 objects.

Q13. Do you have any views on what the scope of this exemption should be? Should it be qualified, or refined, further than proposed?

15. If the Government introduces a de minimis exemption we believe that it should be 50 per cent ivory content in an object or less. De minimis is already an implied term for

tax, representing an exemption of 50 per cent for the value of all supplies. Therefore, if the Government's proposals become law, the scope of a de-minimis exemption should be consistent with industry and reflect existing terminology.

Q13 (a). If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.

16. We do not know what proportion of the existing trade in items containing ivory would we expect to be exempt from the ban.

Q14. What thresholds of ivory content should be set for a de minimis exemption, by either percentage, volume or weight? What evidence do you have for this?

17. As outlined in our response to question thirteen, de minimis should be set at 50 per cent or less as the threshold for ivory content.

Q15. Do you think that a de minimis exemption could also capture the majority of musical instruments containing ivory?

18. Yes, we do think that a de minimis exemption set at 50 per cent or less would capture the majority of musical instruments containing ivory.

Q16. How should this exemption operate in practice?

19. The de minimis exemption should operate via a licence or passport that remains with the object for its lifetime no matter how many times it is bought or sold.

Items of significant artistic, cultural or historical value

Q17. Do you agree that the government should include an exemption to our ban to allow the continued sale of items containing ivory of artistic, cultural, or historic significance? Do you have any evidence to support your view?

20. The Government should replicate existing rules and exempt all items containing ivory that date before 1947.

Q18. What do you think the scope of this exemption should be? How should artistic, cultural, or historic significance be defined?

21. The scope of the exemption should be as per existing legislation, meaning that it must be an antique object and dated before 1947.

Q18 (a). If this category of exemption were implemented as you suggest, what proportion of the existing trade in items containing ivory would you expect to be exempt from the ban? Please provide evidence.

22. We do not have sufficient information to answer this question.

Q19. How do you think such an exemption should operate in practice?

23. The Government should allow for the trade of pre-1947 objects by issuing a lifetime passport which stays with each object and subject to its sale. By issuing a lifetime passport this will mitigate against requirements for licensing objects each time they change ownership, which is already a system that fails to address similar problems with other restricted items.

Allowing the continued sale of ivory to museums

Q20. Do you agree that the government should include an exemption to allow continued sales of items containing ivory to museums or between museums? Please provide evidence to support your view.

24. Yes, we do agree that the Government should include an exemption to allow continued sales of items containing ivory to museums or between museums. Museums in the UK rely on and work with the sector to continue to develop their collections and any restrictions could prevent future partnerships.

Q21. Should any other form of institution/s or organisation/s be covered by this exemption? If so, please state which and provide evidence for your view.

25. Yes, if the proposed ban is implemented it should be extended to regulated auction houses and antiques trade dealers.

General questions on exemptions

Q22. Do you think we should consider any other exemptions to this ivory ban? Please provide evidence.

26. Yes, as stated previously in our response, all items pre-1947 should be exempt from the Government's proposed ban because these objects are already covered by existing legislation.

Q23. Do you have any evidence on the scale, in terms of value and/or volume, of any of these exemptions?

27. No, we do not have any evidence on the scale, in terms of value and/or volume, of any of these exemptions.

Enforcing the ban

Q24. Do you have any views as to which public body should be responsible for enforcing the ban?

28. The UK Border Force should be responsible for enforcing rules that prevent or restrict the sale of products containing ivory. They have professional staff with specialist detailed knowledge. As an example, of the specialist work that the UK Border Force does, NAVA Propertymark has a partnership with the agency on an initiative to remove endangered species items which lack provenance from circulation in a responsible manner. The scheme is designed to remove items that are made from or include ivory or other endangered species material such as rhinoceros horn or tortoiseshell (marine turtle). With a focus on the items that cannot legally be sold.¹ The scheme is well known amongst members of NAVA Propertymark and should be promoted widely across the sector.

Q.25. Do you have any views as to the sanctions that should be applicable to those found to be in breach of this ban?

29. We believe that the current sanctions for breaches of the rules are sufficient. However, there is a distinct lack of enforcement of current rules, which is allowing unscrupulous traders to buy or otherwise obtain, ivory items and illegally export or sell them.

Q.26. Do you think that it should be for those involved in the sale to demonstrate that an item falls into an exempted category? Do you have any evidence to support this? How might this be enforced?

¹ <http://www.nava.org.uk/news/october-2017/amnesty-for-endangered-species-items/>

30. Yes, we do think that it should be for those involved in the sale to demonstrate that an item falls into an exempted category.
31. All items of pre-1947 ivory should be catalogued to the International Convention of Object ID rules. The international standard, Object Identification (Object ID), conceived by the Getty Information Institute in 1997, gives essential information about archaeological, artistic and cultural objects in order to facilitate their identification in case of theft. Everyone in the industry should be working to these standards.
32. Professional bodies and regulated auction houses have a role to play and the Government should be doing more to promote the use of a qualified and regulated auctioneers. There should be a minimum qualification set at Level 3 Award in Chattels Auctioneering² or a comparable qualification in order to practice in the industry. The Level 3 qualification is a requirement for membership of NAVA Propertymark. It is an Ofqual regulated qualification ideal for Auctioneers and Valuers actively working in the industry. This qualification is broadly equivalent to A-Level standard and has been designed and developed over a number of years by practitioners, lawyers and academics to provide Auctioneers and Valuers with a comprehensive knowledge and understanding of the industry, best business practices and the legislative framework in which they practise. Its syllabus contains everything that those academics, lawyers the industry leaders believe are necessary for an Auctioneer and Valuers to practice to a high professional standard. Broken down into four key themes the qualification teaches:
- Health & Safety, Security & General Law Relating to Chattels Auctioneering
 - Law Relating to Chattels Auctions
 - Chattels Auctioneering Practice & Procedures
 - Chattels Appraisal & the Auctioneers Duties and Liabilities
33. Individuals should also be required to undertake at least 12 hours of Continuing Professional Development (CPD) per year. This will ensure that in addition to meeting initial requirements to join the industry, agents continue to learn and develop their skills and understanding as the industry and its associated legislative requirements change. NAVA Propertymark's Autumn Forum and specialist regional events give members the opportunity to network with fellow professionals and to discover new and developing techniques, strengthening their knowledge.³

² <http://www.propertymarkqualifications.co.uk/qualifications/auctioneering-valuation/england-wales-level-3-award-chattels-auctioneering/>

³ <http://www.nava.org.uk/events.aspx>

Q27. Do you have any other comments about this proposed ivory ban?

34. The UK Government's emphasis must be on enforcing current legislation and closing loopholes that allow illegal trade to continue rather than banning all ivory sales. NAVA Propertymark is extremely concerned about the illegal killing of elephants for their ivory. However, we do not believe there is a clear link between the UK antiques trade and the poaching of elephants.
35. A distinction must continue to be made between genuine antique objects and other ivory. Current legislation makes it illegal to sell ivory which is less than 70 years old, creating a ban on modern ivory sales. NAVA Propertymark does not support the poaching of elephants and we do not support the trade of raw ivory from post-1947 sources.
36. Rather than seeking a complete ban, the UK Government should be working to increase the number of checks and improve enforcement to ensure that only genuine antique items are sold. With proper controls and enforcement, the illicit trade of ivory would be reduced and discourage poaching, which continues to decimate elephant populations.