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Dear Patrick,

### **Open Letter to British Parking Association**

This open letter comes from the IPC to the BPA in view of recent comments made by the BPA and members of its executive which we believe are misguided and operate to the detriment of landowners and the private parking profession as a whole.

We are concerned that the BPA is more interested in protecting its own position within the industry and is doing so at the expense of its members whom it should be serving to protect.

The BPA seem to be suggesting that there has been a drop in industry standards since the arrival of the IPC almost 2 years ago. The IPC would remind the BPA that it is the only organisation to audit every sign that its members use to form the basis of parking charges, the only organisation to audit every template letter that its members use to establish keeper liability and the only organisation to audit every site that its members operate upon to ensure that the warning signs are sufficiently prominent. We would also point out that not a single member who has joined the IPC from the BPA has not had to make alterations to its documentation to make it compliant with the Protection of Freedoms Act 2012. The IPC would therefore rebut any assertions that there has been an erosion of standards. The IPC would assert that it requires a higher standard of our members and suggest that the BPA's disgruntled musings are more reminiscent of an organisation that is either unwilling or unable to up their game in order to react to healthy competition.

Worryingly, the BPA is urging the Government to impose regulation in the private parking sector without providing any detailed or reasoned proposals as to how this should work. Rather, it appears to be a blunt attempt to turn back the clock and place their organisation back at the top of the private parking sector as the organisation which sets the code for the entire industry. Preferring to eliminate competition rather than better its own performance.

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The industry will note that the Government recently extended civil enforcement regulation in its Deregulation Bill, prohibiting the use of ANPR technology to serve parking enforcement notices, a step which the BPA criticised in a public statement published on their website on the 19<sup>th</sup> June 2014 where it said,

*“The Government has sprung this amendment on everyone with little notice and without publishing either an analysis of the consultation responses or the Government view. The proposed approach is heavy handed by a Government which is seeking to deregulate. Ironically, it is using the Deregulation Bill to impose further regulation on local government”*

As such, the IPC is surprised at the BPA’s assertions that there should be regulation in the private sector, particularly as the natural consequence of greater harmonisation between the public and private sector would likely be a move towards more stringent controls on private ANPR use. In a statement that is somewhat contradictory to their present stance, the BPA went onto say,

*“the BPA will be working on behalf its members to ensure that the benefits of CCTV and other camera enforcement are not compromised or lost because of this hasty proposal.”*

The IPC would ask the BPA and its members to consider carefully the repercussions of regulation particularly with regards to the impact on ANPR use and the huge implications that this would have on private parking enforcement. The defeatist attitude of the BPA in urging regulation serves to ignore the wider difficulties this would have and the disastrous consequences to members, land owners and ultimately motorists.

It is clear that the BPA is asking the Government to provide it with a position of privilege as a single standard setting body with a single code of practice and a single appeals service, thus restoring its position of absolute authority over the entire private parking sector.

A healthier position would be for the Government to set out clear criteria and objectives that ATAs must meet and then hold the ATAs accountable. This would ensure that no private body controls a monopoly over the entire parking sector. The creation of a defined set of core objectives for ATAs and their members to adhere to would help provide confidence to the consumer, whilst retaining the obvious benefits of competition, which would continue to help drive innovation and efficiencies to the natural benefit of the industry as a whole. The IPC does agree that there is need for greater transparency of the roles of Accredited Trade

Associations (ATA) and their accountability to Government, which is what the organisation is asking the Government to provide as a result of their current consultation.

The IPC reminds the BPA of the difficulties caused when the BPA previously enjoyed a monopoly. The widespread and systematic failings of members led to a strong consumer belief that all parking charges were unlawful causing a lasting damage to the image of the private parking operator. It led to many companies refusing to join your organisation; left land owners without the ability to protect their land properly and many thousands of motorists were issued with parking charges unfairly with no legal foundation. The IPC's robust audit procedures ensure that the charges issued by members have good legal foundation which is reflected in the number of IPC members that have the confidence to litigate on unpaid charges.

The IPC finds it surprising that for an organisation that represents landowners and parking operators, the BPA put the rights of the motorist at the heart of its thinking, as was stated openly within the foreword of the 2012-2013 Master Plan for Parking. At the very least the BPA should consider the views of its members to be of equal importance to that of the motorist and strive to achieve a fair balance between all concerned. Had the BPA done more to support its members in ensuring they were acting lawfully at a time when there was no direct competition, then public confidence in its proposals to sit at the top of the sector might carry more weight. Similarly, had the BPA sought to champion the rights of those that it was supposed to serve, then you may not have seen your membership numbers dwindle so rapidly. This, we suggest is the real reason for the BPA to suggest a return to their monopoly.

The IPC finds it disappointing and rather hypocritical for the BPA to publically ask for one appeals service while sheepishly avoiding our endeavours to engage with yourselves to explore such opportunities within the boundaries of commercial morality and with the oversight of the Government. Whilst the BPA publically champions the need for there to be more uniformity, it appears that privately, you prefer not to entertain the IPC's endeavours to work with you in achieving this. Whilst openly advocating harmonisation to the good of the industry, it appears that in practice, you only want it if it is the BPA that is the sole provider. We would also remind you that every appeal against a parking charge begins with an appeal to the operator. A single independent appeals service does nothing to address the 200 or so variations in appeals that are made to the operators in the first instance. The suggestion that the motorist is confused by there being two (or more) appeals systems affords them little credit. Recipients of charges are provided with details of the applicable service when they receive a charge and the average person is more than able to follow the simple processes to

appeal. By analogy, there is more than one appeals system in the public sector and the public seem to have little difficulty in following the correct one.

With regards to the BPA's inferred criticisms of the IPC's Independent Appeals Service, I feel obliged to point out that it appears almost 50% of appeals submitted by motorists to POPLA are allowed in their favour. As the only consideration is whether the parking charge was lawful the BPA must be as concerned as the IPC that almost 50% of the parking charges adjudicated on are consistently deemed to be unlawful. I invite you to ensure this figure is improved upon by either improving the quality of the adjudications or improving the quality of operations undertaken by your members. It is unacceptable that an ATA permits its operators to issue so many unlawful and unfair charges or alternatively that adjudicators continually ignore land owners' rights by allowing appeals which should not be allowed.

We urge you to accept that competition is healthy and our existence in the private parking sector has led to huge leaps forward in the standards of many operators who issue private parking charges. We invite you to join in our commitment to raise the standards of private car park operators and help protect the rights of land owners and operators which should be at the forefront of your mind.

In joining the race to the top we would urge you to do the following;

1. Begin auditing every sign used by your operators and confirm they provide the correct information to inform the motorists using the car parks of their obligations. Do not continue to audit some signs and allow operators to use other signage which is inadequate.
2. Begin auditing every site where your member wishes to issue parking charges. Do not allow operators to provide you with a sample of their best sites and continue to issue parking tickets on other sites which you have no knowledge of.
3. Ensure when operators routinely lose appeals within your system you make them change their ways to ensure they are only issuing lawful charges which can be upheld in law.

At this time when there is a Government consultation into the private parking industry, the BPA should be standing up for the rights of the land owners and not placing the rights of the motorist or your own self-preservation above them. The IPC urges you to consider your members and be more representative of them. Begin by providing a service they want instead

of asking Government to make it a compulsion for them to join the BPA. Consider that if the Government bring in legislation it could be legislation which adversely affects land owners' rights over their own land which would damage the interests of your members.

If land owners rights are eroded they will be gone for good and both the industry and consumer will suffer as a result.

Yours Sincerely

The IPC