

## Briefing

# Trade Bill and Taxation (Cross-border Trade) Bill

### Second reading briefing

**Which? is the largest consumer organisation in the UK with more than 1.7 million members and supporters. We operate as an independent, apolitical, social enterprise working for all consumers and funded solely by our commercial ventures. We receive no government money, public donations, or other fundraising income. Which?'s mission is to make individuals as powerful as the organisations they have to deal with in their daily lives, by empowering them to make informed decisions and by campaigning to make people's lives fairer, simpler and safer.**

Which? welcomes the Government's vision to "build a future trade policy that delivers benefits not only for the UK's economy, but for businesses, workers and consumers alike". It is critical that consumers, in particular, are central to the Government's approach on trade. Consumers and consumer confidence are key to the prosperity of the UK and integral to the economy. Every month consumers spend £100 billion in the UK and, in doing so, support UK businesses, manufacturers and employees. Delivering a Brexit which works for consumers will be vital to maintaining this support. This includes ensuring that future trade policy works for consumers, delivers meaningful benefits and ensures that important standards and protections are upheld.

### Key issues across both Bills

#### 1. Delegated Powers and consumer interest

As with the EU (Withdrawal) Bill, the Trade Bill and Taxation (Cross-border Trade) Bill include enhanced powers for the Secretary of State to make changes to primary legislation in order to implement existing Free Trade Agreements and other international agreements. It is essential that, given the high level of consumer and public interest in trade policy, there are mechanisms for effective public scrutiny and that these powers do not extend beyond narrow technical changes which do not have wider policy significance.

#### 2. Ensuring a fit for purpose customs regime

An integral part of any trade regime is the customs arrangements that accompany it. For consumers it is vital that this regime is effective. This requires the customs process to be as smooth as possible through limiting any potential disruption and additional costs for consumers by ensuring a steady flow of goods across borders to meet consumer demand. However this must also ensure consumers are properly protected.

### 3. The Remedies Regime

The future remedies regime is pertinent to both Bills with the Trade Bill creating a Trade Remedies Authority (TRA), and the Taxation Bill setting out how this Authority will work and conduct investigations (schedules 4 and 5). Which? recognises the need to develop a trade remedies regime and establish a new TRA which will be able to consider the need for remedies objectively, on a case by case basis.

In creating the TRA, as the Trade Bill does, it is important that its governance and operational framework ensures it operates transparently and independently in the public interest. This includes for example a clear duty to advance the interests of consumers and ensure effective consumer representation, including having a consumer interest representative on the Board of the TRA.

Transparency of decision-making is crucial to ensure it is clear how the interests of domestic producers have been considered alongside consumer and other interests, and how a decision has ultimately been reached. While legitimate requests for commercial confidentiality should be respected, the presumption should be on disclosure.

When turning to the Taxation Bill, the introduction of an “economic interest” test in Schedule 4 paragraph 35 and paragraph 21 is notable and important although we think reference to a “public interest” test along similar lines to the current “Union test” within the EU regime would better reflect its intention and the need to also take in to account the impact on consumers when determining the need for remedies.

Which? would support the strengthening of Schedule 4, Part 6, Paragraph 25 (4 a ii) and Schedule 5, Part 5, Paragraph 21 (3 a ii) of the Taxation Bill in this regard by changing the requirement to “take in to account” the criteria including the “likely impact on effected industries and consumers in the UK”, with a requirement to “quantify, model and publish” the likely impact.

The views of specialist regulators should also be sought when considering the likely impact on consumers and the state of competition in the markets concerned. This could be done for example by including a requirement in the Bill that “The behaviour of firms, as viewed by the CMA and other concurrent competition authorities, in relevant markets, regarding any abuses of competition either in the UK or abroad, will be taken into account”.

### 4. Preferential trade with Developing Countries

Which? supports the maintenance of a trade preferences scheme that will, as a minimum, provide the same level of access as the current EU trade preference scheme and seek opportunities to support developing countries, while also having the advantage of benefiting consumers through lower prices. As set out above, this must be developed, taking into account the importance of ensuring that standards are not compromised.

#### Taxation Bill

With regards to how these issues apply specifically to the Taxation Bill:



- Inclusion of consumer interests and competition (Part 1 8 (5)) - Which? welcomes the specific inclusion of important criteria in relation to the interests of consumers as well as reference to competition. Further clarification is also essential with regard to how these will be interpreted in practice and who will have responsibility for doing this.
- We consider it is also to ensure that the issue of personal import limits is also adequately covered within the Bill with provision for them to be created. For example imports below a certain level being exempt from duty or VAT.

For more information, contact Jane Wallace on 020 7770 7238 or [jane.wallace@which.co.uk](mailto:jane.wallace@which.co.uk)

January 2018