

Consultation: UK trade negotiations with Australia

Which? is the largest consumer organisation in the UK with more than 1.3 million members and supporters. We operate as an independent, a-political, 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.

Summary

Trade has brought many benefits for consumers, including greater choice and lower prices, within frameworks of regulation, rights and standards that valued highly and are important for consumer confidence. The opportunity should be taken to deliver greater benefits for consumers, but without undermining these frameworks.

Standards and rights need to be decided by the UK, in line with people's expectations and priorities. People in the UK need to determine the safety and standards regimes that underpin the food they eat and products they buy, rather than the UK regime adapting, or becoming a bi-product, of trade negotiations.

The fear that a desire to facilitate trade would put core consumer at risk was at the heart of the backlash against the Transatlantic Trade Investment Partnership (TTIP). The UK must therefore ensure that it does not repeat this mistake as it approaches trade negotiations with Australia. Transparency and an open dialogue as negotiations progress are essential in order to ensure public acceptability and deliver tangible benefits for consumers.

Which? has set out four inter-related consumer tests for a successful Brexit and future UK trade policy. The government needs to ensure that **standards** are maintained and ideally strengthened, **choice** of quality products needs to be enhanced, consumer **rights** must be promoted and opportunities must be taken to lower **prices**, provided that the other three tests can be met.

The opportunity must be taken to shape a positive trading relationship that will promote consumer confidence. This includes advancing mutual consumer rights and co-operation between public authorities to help ensure compliance and to enable consumers to have access to redress when something goes wrong. The inclusion of a specific consumer chapter within any free trade agreement (FTA) would help to reinforce this.

Agri-food products are likely to be a key part of the negotiations. There are significant differences between the Australian and UK regulatory frameworks and approach allowed for certain production methods. Trade negotiations must not lead to any lowering of domestic standards or allow food products produced to lower standards of quality or safety to be imported into the UK. While there may be opportunities to lower tariffs and review tariff rate quotas on certain products, including meat and meat products, the implications for consumers ability to continue to be able to choose UK produced products, without them being priced out of the market must be addressed.

What would you want the UK government to achieve through a free trade agreement (or related trade talks) with Australia, and why?

Which? welcomes this opportunity to comment on UK trade negotiations with Australia. Consumer confidence will be critical to the success of our future trade policy. Placing a strong emphasis on consumer interests from the beginning of these negotiations will be in line with the government's vision set out in the White Paper to "build a future trade policy that delivers benefits not only for the UK's economy, but for businesses, workers and consumers alike".

Which? has set out four consumer tests for a successful outcome from Brexit and these apply as the UK shapes its wider trade policy.

- **Standards:** Safety and quality standards must be maintained and ideally enhanced.
- **Choice:** People should have greater access to high quality products and services.
- **Rights:** Consumers need to be supported by consumer rights and effective redress.
- **Price:** Opportunities to lower prices should be taken, if the other three tests are met.

Through trade negotiations with Australia, there are opportunities to bring consumer benefits in terms of access to a broader range of consumer products at lower prices, as well as to enhance reciprocal consumer rights. But it must be ensured that standards of consumer and public health protection are not jeopardised.

Consumer expectations

Our consumer research¹ has found that most people are not very knowledgeable about trade issues. 66% either feel not very knowledgeable or not knowledgeable at all. People are sceptical about the extent to which their interests as consumers will be reflected in trade policy. Half (51%) of respondent said that they did not think that the government would be open and honest about the consumer impact of new trade deals. Respondents also thought that consumers were the group least likely to be represented in future trade deal negotiations. One in five (19%) think that consumers would not be represented at all.

Respondents are, on balance, relatively positive about the idea of the UK creating new trade agreements with non-EU countries. The most common view was to see it broadly as an opportunity, but with some chance of risks. Food standards are a particularly sensitive issue, as set out below.

¹ Populus, on behalf of Which?, surveyed 2078 UK adults online between 18th and 19th July. The data were weighted to be demographically representative of the UK population.

Choice of quality goods

Our consumer research shows that consumers would generally be positive about increased access to goods. This should be a goal for negotiations, where there is no risk of standards and the level of consumer protection being undermined.

The main UK exports to Australia are currently vehicles and aircraft, machinery and electrical equipment and chemicals. In contrast, Australia's largest exports to the UK are pearls and precious metals, based metals and prepared foodstuffs. Agri-food is likely to dominate a large part of the negotiations, as Australia will be seeking greater access for its products, and is a highly sensitive issue for consumers.

It is essential that the negotiations recognise each other's ability to maintain their respective approaches to consumer and public health protection in key areas and work together to use trade negotiations as a means to enhance, rather than weaken these.

Discussions around future tariff policy, including greater scope for liberalisation, also need to carefully consider any wider implications on the UK's ability to maintain standards at national level, as well as for imports. This is likely to be a particular issue in relation to agriculture and food products, but applies to wider consumer goods.

Access to services

Travel services are the main services exported between the UK and Australia, followed by transport, other business services (eg. auditing, accounting and legal services) and financial services. Providing the UK retains established regimes for mutual recognition of qualifications, there are also likely to be opportunities for greater liberalisation of service provision that involves the transfer of staff. Access for services, a stated UK government priority, must not, however be at the expense of any undermining of standards for goods.

Opportunities where consumers could benefit, given the significance of services in travel, include:

- **Roaming** - agreeing to mechanisms that would ensure no additional roaming charges when travelling within Australia (and the UK); and
- **Access to home purchased content in digital services** - when UK travellers visit Australia and vice versa.

Consumer rights and protection

The government should also take the opportunity to build an effective reciprocal consumer protection and rights framework between the UK and Australia.

Consumer rights could be integrated in to trade negotiations in several ways:

- The opportunity should be taken to incorporate consumer protection and rights within the over-arching Objectives of any FTA.
- There should also be a specific Consumer Chapter which more explicitly highlights the importance of consumer rights and protection, as part of trade. Recent trade deals

established through the UK's membership of the EU have included specific chapters on labour, environmental and competition policy. The UK-Australia FTA could go further and also address consumer protection including public health protection.

- The inclusion of such a Chapter should complement and enhance more specific reference to relevant consumer protections within individual chapters (including chapters on Sanitary and Phytosanitary (SPS) measures, technical barriers to trade (TBT) and digital and data protection rights for example.
- The agreement should include a standstill provision on existing consumer rights and protections to create a floor on consumer rights and protection that the UK and Australia, will not fall below. Provisions should be included to require enhancement of those established rights and protections.
- Reciprocal market surveillance and enforcement co-operation mechanisms should be incorporated into any FTA or future trading relationship. This could include:
 - More formalised cross-border consumer enforcement co-operation between enforcement and public protection bodies – from sharing of information to the potential for joint actions, building on more informal relationships that already exist
 - Early warning, intelligence-sharing and alert systems between public authorities (eg. on product safety).
 - Co-operation through alternative dispute resolution (ADR) platforms that enable private enforcement of consumers' rights.
 - Judicial co-operation that will enable consumers to enforce their rights and pursue private legal action when necessary from their country of residence.

Examples of specific reciprocal cross-border rights that should be included within the future trading relationship with Australia are:

- **Flight compensation:** establishing mechanisms that would provide meaningful compensation for consumers in the event of a flight being cancelled, delayed or them otherwise being denied boarding.
- **Access to healthcare:** reaching an agreement on reciprocal healthcare arrangement for emergency treatment while travelling on a short-term basis in each other's countries.
- **Access to local mediation:** agreeing to enhanced and speedy mechanisms to allow easy access to local consumer mediation/protection agencies for citizens of countries in any agreement.

What concerns, if any, does your organisation have about a free trade agreement (or related trade talks) with Australia, and why?

Maintaining high food standards

Which?'s main concern is the risk of trade negotiations with Australia leading to a lowering of standards and consumer protection for food products because of some areas where Australia takes a different and, in some cases, a weaker approach. This is a concern in relation to standards that would apply to imports, as well as any wider consequences for domestic products and services. Equivalency decisions need to reflect the production methods and processes that are in place for food safety, quality and animal health and welfare, and not merely the desired outcome. Beef hormones are for example permitted in Australian beef production, but not in the UK.

Which?'s consumer research has shown that consumers expect high standards to be maintained after Brexit – with nine in 10 (90%) in agreement.² 71% of people would not buy food produced to lower standards, even if it was cheaper. This is consistent across socio-economic groups³.

Eight in 10 (79%) of people said that they would be uncomfortable eating beef produced using growth hormones. Fewer than a quarter (23%) were willing to accept hormone treated beef, even if it was labelled in supermarkets. 83% would also be concerned if foods produced using these methods were sold in other outlets where food is not usually labelled, such as restaurants, cafes and take-aways. Two-thirds (66%) said that it should not be allowed to be sold in the UK, regardless of whether it would be cheaper. This was also consistent across all socio-economic groups.⁴

Consumer product safety

Australia operates a different regime to the UK (and EU) in relation to product safety (other than food), as well as wider technical standards, with some strengths, but also weaknesses. It will therefore be essential to fully understand the potential risks and opportunities to ensure that any move towards regulatory alignment strengthens, rather than weakens consumer protection.

The role of international standards

Caution is also needed in relation to the emphasis that is placed on alignment with international standards as part of any trade negotiations with Australia. The level of consumer protection provided by current UK/EU regulation exceeds international standards in many important areas, including food. This is not therefore an appropriate mechanism for regulatory alignment. It depends very much on the specific issue. As set out above, the aim should be to ensure that any alignment is upwards, rather than seeking to weaken existing UK standards and protections.

Data protection

Any agreement with Australia must not reduce consumers' level of data protection, or put access to the EU market at risk.

Competition policy

Any discussions on competition policy must not have any impact on how the UK operates its competition regime.

² Populus, on behalf of Which?, surveyed 2399 online between 17-18th October 2018. The data were weighted to be demographically representative of the population.

³ Populus, on behalf of Which?, surveyed 2073 UK adults online between 17th and 18th January 2018. The data were weighted to be demographically representative of the UK population. <https://consumerinsight.which.co.uk/articles/brexitandfood>

⁴ Populus, on behalf of Which?, surveyed 2399 online between 17-18th October 2018. The data were weighted to be demographically representative of the population.



Is there anything else that you would want to say about the UK's future trade relationship with Australia?

Transparency and scrutiny

It is essential that UK-Australia trade negotiations are held openly and transparently. We welcomed the Department's commitment to developing mechanisms to ensure effective stakeholder and parliamentary scrutiny. It is essential that consumers, and their representatives, are consulted as negotiations progress.

Engaging consumers

It is essential that the government conducts effective public engagement in order to ensure that its negotiating strategy and 'red lines' are in line with UK consumer expectations.

Exploring a range of mechanisms

There are a range of possibilities for the mechanisms by which the UK and Australia can enhance trade. These may or may not result in an FTA. All options should be considered, in line with meeting the key tests that we have set out for a successful outcome for consumers.

Pursuing a pro-active consumer agenda

The success of trade negotiations will ultimately be judged by what they can deliver for consumers and how it impacts on their day to day lives. There is a real opportunity for the UK government to shape a positive trade agenda focused on promoting consumer interests.

Which?

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