

Which?

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Ensuring trade deals work for consumers

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The UK is in the unique position of designing its trade policy from scratch. To be successful, it needs to have the public's trust and support.

People will measure the success of trade policy decisions by how they impact our everyday life, rather than by export and other trade statistics. What products and services are available? What's the quality of the products we buy? How safe are they? What choices can we make? How sustainable are they? How far does the pound in our pocket go? And what are our rights, particularly when things go wrong?

To help the government as it develops its approach, this paper sets out how the UK's trade policy should truly deliver for consumers.

Which? wants to see the government take the opportunity to build on the UK's world leading consumer rights and standards by pursuing an ambitious trade agenda for consumers in line with their needs and values including sustainable development.

The UK trade agenda must look after the carefully crafted rights and standards that reflect people's expectations. We are consistently told how important food standards, animal welfare, data protection and the safety of consumer products are for consumer confidence. The agenda should also be ambitious for the consumer using trade to deliver tangible benefits for people in areas such as cross border rights when travelling, whether using their mobiles, facing flight disruption or accessing digital services.

Public support needs to be earned and maintained, and so the government must not only fight on behalf of UK consumers through its trade agenda, but also actively involve the public as it develops its priorities.

An open dialogue with people across the country is the only way to ensure the government develops a well-informed trade policy that takes account of people's views and expectations and, in turn, earns their support.

Caroline Normand
Director of Advocacy

Deliver what matters most to consumers

The UK will have its own trade policy when it leaves the EU, which includes how it approaches trade deals with other countries. The true mark of the policy's success will be the extent to which trade positively affects people's everyday lives.

Trade policy therefore needs to be developed in an open, transparent way that ensures it works for consumers, as well as wider society, businesses and workers, and in line with sustainable development.

People need to be fully engaged in shaping the UK's negotiating priorities and the government must have a clear understanding of what to advance that will deliver real consumer benefits

Which?'s consumer research' suggests, however, that many people are disengaged from trade and don't know what it means for them.

The majority (70%) don't feel they are particularly knowledgeable about how the UK trades with other countries. People think that compared to the UK government, businesses and the UK workforce, consumers are the least likely group to be represented in the future trade negotiations. Around one in five (18%) think consumers won't be represented at all.

To create a successful trade policy, the government's approach to securing new trade deals, as well as carrying over or renegotiating existing agreements that it currently has as part of the EU, must focus on meeting the same four tests that Which? set out to ensure a successful Brexit for consumers.



Maintaining standards



Improved choice



Consumer rights



Lower prices

- **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, subject to the other three tests being met.

This paper sets out an approach that will mean trade deals work for consumers, including:

- ensuring meaningful consumer benefits, including greater choice, availability and affordability;
- maintaining consumer protections and ensuring that trade negotiations build on UK values, standards and protections;
- exploring options to enhance reciprocal consumer rights and enforcement with trading partners;
- developing trade deals openly and transparently and involving people in setting the objectives; and
- embedding consumer interests in the objectives of any future trade deals and through the inclusion of a specific, cross-cutting Consumer Chapter.

1 Populus, on behalf of Which?, surveyed 2269 UK adults online between 17 and 18 July 2019. The data were weighted to be demographically representative of the UK population.

Ensure meaningful consumer benefits

Trade with countries across the globe has brought many benefits for consumers in terms of greater choice, availability and affordability of goods and services. Future trade deals, beyond the future UK-EU deal, provide an opportunity to expand trade, where this does not compromise on the standards or rights people expect. This includes removing some of the barriers to market access for goods or services from other countries, for example, by lowering import tariffs, and therefore prices, for some consumer goods.

Which?'s consumer research has shown that consumers see this as an important benefit that can be achieved through trade policy.

In a 2018 survey,² the most widely anticipated impact of increased trade with non-EU countries on UK consumers, by 48% of people, was the wider availability of products from non-EU countries.

People 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. While consumers anticipate both positive and negative impacts of increased non-EU trade, they anticipate more positives than negatives.

The recently agreed deal reached between the EU and Japan,³ which the UK was part of and wishes to carry over, is an example of how trade deals can potentially lead to lower consumer prices. It includes progressive lowering, and in some cases removal, of tariffs on important goods for consumers – including cars, car parts and electrical and technology goods. If the UK negotiates similar terms outside of the EU, and the reductions in tariffs are passed on, it should mean prices falling for consumers on these Japanese goods.

Trade policy therefore needs to focus on what can be achieved in terms of imports that truly benefit consumers, as well as seeking greater access to markets in other countries for exports produced by UK businesses.

Build on UK values, standards and protection

Trade policy will always involve trade-offs as countries seek greater access for certain types of products or services that play to their strengths and benefit their dominant or emerging industry sectors. In negotiating trade deals, it is important that the government ensures that these trade-offs are not damaging to consumers.

Some countries will have different standards for production – whether that is the regulations and standards that underpin production and marketing of, for example, consumer white goods, toys or medicines or those covering issues such as privacy and data or environmental protection. They will also have different types of public enforcement regimes for overseeing business compliance with these standards.

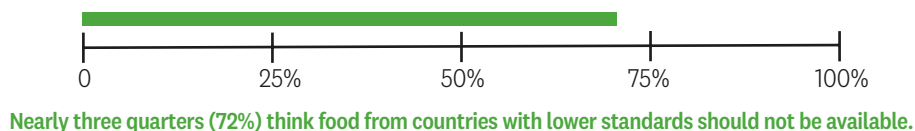
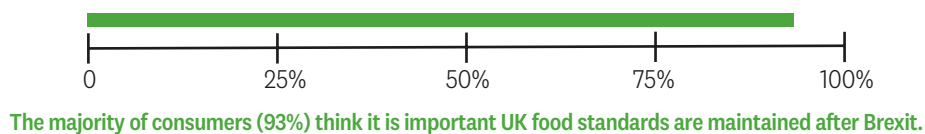
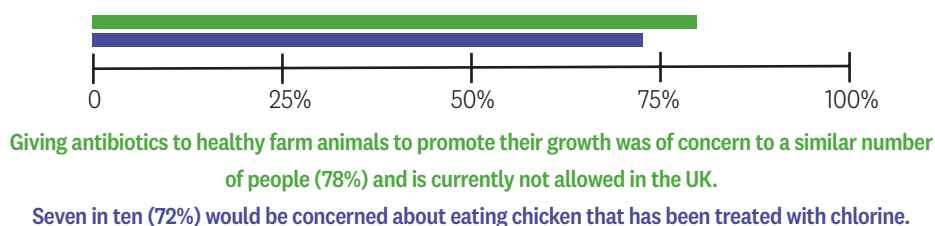
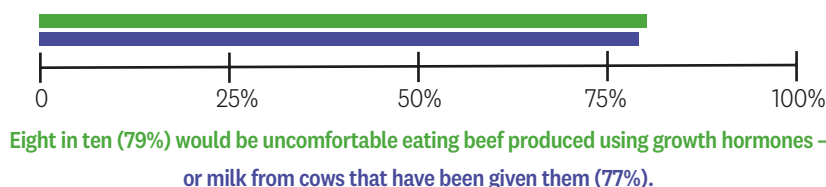
² Populus, on behalf of Which?, surveyed 2078 UK adults online between 18 and 19 July 2018. The data were weighted to be demographically representative of the UK population.

³ EU-Japan Economic Partnership Agreement, which entered into force on 1 February 2019.

Trade negotiations will therefore often focus on the extent to which governments are willing to compromise on their own domestic standards or laws to allow goods or services from other countries to be available on the market. There may also be a focus on recognising different approaches as providing an equivalent level of protection. These “non-tariff barriers” have dominated trade deal negotiations in recent years. This included the last attempt between the EU and US to reach a trade deal, through a Transatlantic Trade and Investment Partnership (TTIP).

Food standards are one example of this. Countries that the government has consulted on as priorities for trade deals (the United States, Australia, New Zealand, Japan and potential accession to the Comprehensive and Progressive Trans Pacific Partnership (CPTPP⁴)), use food production methods that are not currently permitted in the UK. This includes hormone treated beef and antibiotic growth promoters in the case of the US, Australia and New Zealand for example. The US allows certain end process treatments for poultry production that are not allowed in the UK, including chlorine washes. These issues dominated a lot of the TTIP trade talks and led to a loss of consumer confidence in its aims.

Our consumer research⁵ has shown that most people would feel uncomfortable eating food produced using methods that are allowed in some countries, but not currently in the UK in the future.



It is essential that the government does not accept imports produced to lower food standards as part of trade deals as this would reduce food safety, quality and consumer protection, and undermine consumer expectations and therefore confidence.

4 The following countries are part of the CPTPP: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.

5 Populus, on behalf of Which?, surveyed 2269 UK adults online between 17 and 18 July 2019. The data were weighted to be demographically representative of the UK population.

Respect, rather than dictate, national policy and regulation

Trade deals must therefore build on UK standards and regulation. In the case of food, the starting point for negotiations must be the standards that UK consumers expect – and which have developed over many years based on the lessons of food scares such as Bovine Spongiform Encephalopathy (BSE) and horsemeat contamination of beef products – as well as issues that UK consumers feel strongly about, such as animal welfare. Trade deals need to build on these, not trade them away to gain market access for other types of goods or services.

Opening up the market to imports produced to lower standards could also affect consumers' ability to support UK producers, as it may be more difficult for these producers to compete with imported products produced more cheaply to lower standards.

Which? research⁶ has shown that consumers want to be able to choose UK-produced food. For all food items, except fruit and non-alcoholic beverages, more than half of consumers said it was important they originated in the UK. Over 7 in 10 thought this for red meat (72%), poultry (77%), dairy products (78%), eggs (80%) and milk (81%).

The government's commitment to maintaining food and animal welfare standards through future trade deals is therefore welcome. It now needs to deliver on this commitment through its trade deal objectives and subsequent negotiations.

The government is currently developing a national food strategy. This work being led by Henry Dimbleby as an independent adviser, but working across government, is intended to ensure that the UK's food system *"delivers safe, healthy, affordable food regardless of where people live or how much they earn, is robust in the face of future shocks, restores and enhances the natural environment for the next generation in this country, is built upon a resilient, sustainable and humane agriculture sector, is a thriving contributor to our urban and rural economies, delivering well paid jobs and supporting innovative producers and manufacturers across the country – and delivers all this in an efficient and cost effective way"*. Future UK trade policy has to be consistent with these objectives and not pursue a different type of food policy that will undermine these aims.

The importance of upholding UK standards also applies to wider consumer goods and services. Trade deals should promote UK regulations and standards, including those developed by the British Standards Institution (BSI), as the underpinning basis of trade, and not undermine them where different approaches and systems, or a poor record of compliance, exists in future trading partner countries.

Countries will operate to different domestic standards and have a very different system of checks and enforcement to the UK. The US, for example, does not have a single national standards body such as the BSI, but instead has a multitude of standards and standards bodies. There are around 275 standards development organisations that are accredited by the American National Standards

⁶ Populus, on behalf of Which?, surveyed 2107 UK adults between 17 and 18 January 2018. The data were weighted to be demographically representative of the UK population.

Institute. Different standards can operate across US states and the US does not adopt International Standards Organisation (ISO) standards in the same way that the UK does. It is therefore important that the government ensures that imports will be able to comply with UK determined standards.

Data protection is another example of how trade deals must look to build on and go beyond UK standards – in this case, the General Data Protection Regulations – rather than accept lower levels of protection in order to improve access to digital services, for example.

The government’s approach to tariff policy can also have a fundamental impact on the types of standards, as well as choice, that consumers can expect. Removing tariffs, or expanding the quotas allowing countries to export certain products to the UK at a particular tariff may be a good thing for consumers as it can increase the amount of products available to consumers at lower prices.

A careful balance is also needed where consumers want to be able to continue to buy UK products and support UK producers who may struggle to compete on a level playing field with cheaper imports.

Enhance consumer rights and enforcement

As well as enhancing choice and lowering prices without compromising standards, trade deals have huge potential to be used to demonstrate that the government is improving consumer protection by promoting cross-border consumer rights.

Consumers are increasingly buying products online and buying products that originate from other countries. When travelling in the EU people currently have a range of rights and protections that have been agreed to protect them when things go wrong and to give them better and cheaper access to certain services, such as healthcare. As the UK shapes its own trade policy, it should put these and other consumer rights on the agenda for negotiations with a wider range of countries, as well as maintaining them with EU countries after the UK leaves.

Depending on the national circumstances and potential for alignment, the following rights could be included within a ‘menu’ of consumer rights to be promoted as part of individual trade negotiations:



Roaming charges



Flight rights



Shopping rights



Digital services

- **Roaming:** enabling free or reduced cost mobile and data roaming when travelling
- **Flight compensation:** establishing mechanisms that will provide meaningful compensation for consumers in the event of a flight being cancelled, delayed or them otherwise being denied boarding
- **Shopping rights:** providing consumers with a means to secure a replacement, refund or other forms of redress where they buy a faulty product or missold service for example
- **Access to digital services:** agreement on access to home purchased content while people are travelling.

Consumers should be able to have confidence that the rights and standards they expect to be in place can be implemented and enforced across borders.

Transparent reciprocal market surveillance and enforcement cooperation should be explicitly incorporated. Issues that should be addressed include:

- Cross-border consumer enforcement co-operation between enforcement and public protection bodies – from sharing of information to the potential for joint actions
- Early warning, intelligence-sharing and alert systems between public authorities
- Co-operation through alternative dispute resolution (ADR) platforms that enable private enforcement of consumers' rights
- Judicial cooperation that will enable consumers to enforce their rights and pursue private legal action when necessary.

There are already examples of trade deals where this has been done for specific issues (eg. on TBT issues in the EU-Canada Comprehensive Economic Trade Agreement (CETA), on telecoms issues in the EU-South Korea Agreement, and on competition enforcement in CETA, EU-South Korea and the Trans-Pacific Partnership (TPP) Agreement. Specific mechanisms relating to individual chapters are important, but general requirements for wider enforcement of consumer rights across borders should also be agreed.

Which? and its sister international organisations are repeatedly finding unsafe, non-compliant products for sale on online marketplaces. These products range from toxic toys through to faulty carbon monoxide detectors and USB chargers that are a fire risk. The marketplaces can be based outside of national jurisdictions and so can their sellers. Opportunities to co-operate and enhance consumer protection in this rapidly evolving market should be taken. Nine in 10 people⁷ in the UK have bought a consumer good from an online marketplace and most people are unaware of the limited legal responsibilities that marketplaces have and how difficult it may be for regulators to hold them to account.

Trade deals should also be used to enhance consumer protection and reciprocal enforcement co-operation on cross-border issues that cannot be dealt with through national jurisdictions alone. This includes ensuring the compliance of products sold through online marketplaces with product safety requirements.

Involve people in setting the UK's objectives

It is only by engaging people and listening to what matters most when they understand what trade deals might mean for them that the government will be able to have a full appreciation of how trade deals will ultimately be judged.

The public must be involved throughout the development of trade policy and the government's approach to trade negotiations.

⁷ Populus, on behalf of Which?, surveyed 2,104 UK adults online between 25 and 26 September 2019. Data was weighted to be representative of the UK population (aged 18+).

Which?'s research has found that only a fifth (20%) of respondents thought that the UK government would be open and transparent about how trade deals would affect consumers.

There have been government consultations on its broad approach to trade policy and on the approach to five priority deals. The government has published a summary of the responses to the first four of these consultations⁸ (with the exception of the later consultation on a deal with Japan) and intends to publish negotiating objectives based on these.

It is essential that the government also consults widely on these objectives, and as negotiations progress, fully involves people in understanding what this may mean for any benefits or risks they could face as consumers, including potential trade-offs. Consumers' 'red lines' on standards and rights must be respected and protected.

A Strategic Trade Advisory Group (STAG) has been established to bring experts representing different interests together to advise Ministers on trade policy. This includes Which? is a member of this group. There are also a range of Expert Trade Advisory Groups (ETAGs) which focus on specific sectors. It is important that these also include a broad range of stakeholders, including consumer interest representatives where it is relevant, and operate transparently.

The government also needs to invest in direct consumer engagement and a programme of consumer research that ensures trade negotiators fully understand and take account of consumer expectations.

There needs to be transparency as the negotiations progress and texts should be shared with consumer interest organisations in order to ensure that consumers' their interests are being taken into account. There is a precedent for this in the way that the EU adapted its approach to negotiations around the TTIP, where negotiating texts were shared with a core group of key stakeholders, including the European consumer organisation BEUC on a confidential basis.

The UK should build on this and demonstrate a world-leading approach to transparency and consumer engagement in its approach to trade policy and specific negotiations on trade deals.

Embed consumers' interests

The UK should also promote the consideration of consumer rights and protections within trade deals at a more fundamental level. This can be done in several ways.

Overarching objectives

Consumer protection and rights should be incorporated within the overarching objectives of any trade deals. Trade deals must include provisions that cement existing levels of rights and protection and contain commitments to advance and enhance these as part of the future trading relationship.

Consumer Chapter

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 government should now go further and also take this opportunity to include a specific Consumer Chapter to reflect the importance it places on consumer rights and protection.

The Chapter should recognise the rights of each country to maintain existing levels of consumer protection, as well as emphasising the role of the deal in furthering these. The inclusion of a Consumer Chapter should complement and enhance more specific reference to relevant consumer rights and protections within individual chapters (for example on Sanitary and Phytosanitary (SPS), and Technical Barriers to Trade (TBT) measures, financial services, trade remedies, data protection – depending on the scope) and embed consumer rights across the whole agreement

Standstill provision

All agreements should include a standstill provision so that there is a 'floor' on consumer rights and protection that the UK, and partners, will not fall below. Provisions should be included to require enhancement of those established rights and protections.

Application to wider agreements

The WTO is hosting talks among interested countries, including the UK, on a potential multi-lateral agreement on e-commerce. This has significant implications for UK consumers – and should be seen as an opportunity to promote consumer rights and interests within any agreement. It must also ensure that important rights and protections, including data protection, are not undermined by provisions within any agreement. There is instead an opportunity to promote cross-border rights and co-operation including addressing shopping rights, redress and product safety.⁹

⁹ Consumers International has set out a consumer 'checklist' that needs to be reflected within the trade talks. <https://www.consumersinternational.org/media/155222/consumerchecklistforinternationale-commerceddeal.pdf>



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