CEEAC/S6/25/11/1

Constitution, Europe, External Affairs and Culture Committee
Thursday 27 March 2025
11th Meeting, 2025 (Session 6)

UK Internal Market Act 2020: Consultation and Review

1. The UK Government has announced a review of parts of the UK Internal Market Act 2020 and, as part of that review, is consulting stakeholders on the operation of the Act to date. The review consultation was launched on Friday 23 January 2025 and closes on 3 April 2025.

2. The Committee has agreed to carry out a short inquiry with a view to submitting a response to the consultation.

3. On 6 March we heard from academics and stakeholders (including NFU Scotland and Scottish Environmental Link).

4. This week we will be hearing from

   Panel 1

   - David Thomson, CEO, Food and Drink Federation Scotland (FDFS)
   - Marc Strathie, Senior Policy Advisor for Devolved Nations, Institute of Directors
   - Mags Simpson, Scotland Deputy Director of Policy, Scotland, CBI Scotland

   Panel 2

   - Angus Robertson, Cabinet Secretary for Constitution, External Affairs and Culture, Scottish Government
   - Euan Page, Head of UK Frameworks Unit, Scottish Government

5. A SPICe summary of the written evidence is provided at **Annexe A** and a written submission from FDFS at **Annexe B**.

Clerks to the Committee
March 2025

Annexe A

Constitution, Europe, External Affairs and Culture Committee

11th Meeting, 2025 (Session 6), Thursday 27 March

Review of UK Internal Market Act 2020: analysis of written evidence

Introduction

At its meeting on 6 February 2025, the Committee considered its approach to the UK Government review of the UK Internal Market Act 2020 announced on 23 January 2025. The Committee decided to undertake a short inquiry in order to inform its response to the review, taking oral evidence on 6 March and 27 March 2025.

A general call for views was not issued as part of the inquiry, but those invited to give oral evidence were invited to provide written evidence. As such, some written evidence was received from organisations which were unable to appear before the Committee to take part in oral evidence sessions. Written evidence is published on the Committee's webpage for the inquiry.

A SPICe background briefing on the UK Internal Market Act 2020 is also available on the inquiry webpage.

Submissions received

The Committee received six written submissions from the following: [1]

[1] Those marked with an asterisk appeared as witnesses at the Committee's meeting on 6 March 2025.

- Dr Coree Brown Swan*
- Professor Thomas Horsley*
- Professor Jo Hunt*
- Professor Aileen McHarg*
- National Farmers Union (NFU) Scotland*
- Scottish Retail Consortium

Scottish Environment Link* did not provide written evidence but did publish a report "The UK Internal Market Act: a challenge to devolution" in January 2025. This report has been included in this analysis of written evidence.

Submissions from business organisations appearing at the Committee's meeting on 27 March 2025 are not included in this analysis as the submissions had not been received at the time of writing.

Summary of submissions received

The importance of the UK internal market

The Scottish Retail Consortium highlighted the importance of the UK internal market in enabling retailers to offer the best possible range, value and quality of products:

> Scottish consumers benefit enormously from open and frictionless trade within the United Kingdom. That sizeable open market allows retailers to operate at scale across the four nations. They are able to develop business models which can be replicated at scale, and in doing so are able to benefit significantly from economies of scale (thus lowering business costs and in turn prices for consumers).

NFU Scotland also emphasised the importance of the UK internal market and of a level playing field across the UK for agricultural producers:

> The UK Internal Market is critical to the interests of Scottish agriculture and the vitally important food and drink sector it underpins […] The free movement of goods and services and the regulations governing agricultural production, animal welfare, the environment, etc. must be aligned so there is no competitive (cost) advantage or disadvantage from farming in one part of the UK over another.

The design of the UK Internal Market Act 2020

Grounds for restrictions on internal trade

The Scottish Retail Consortium expresses support for the overall design of the UK Internal Market Act 2020 (UKIMA), arguing that it is both possible and desirable to avoid regulatory divergence within the UK, and that UKIMA supports this goal:

> Our experience suggests home nation governments often have similar or reasonably similar policy goals and so a collegiate approach is optimal. However, we believe there is significant value in ensuring the underlying

> principles of the Internal Market Act, of non-discrimination and mutual recognition. Those principles open up trade opportunities within the United Kingdom, making it simpler for businesses to sell products as widely as the market allows. Whilst the Act is not perfect, we believe the underlying framework is valuable and continues to be advantageous in delivering relatively frictionless trade within the United Kingdom.

The submission from Professor Horsley suggests that the principles of mutual recognition and non-discrimination contained in the Act (referred to as the Market Access Principles, or MAPs) are "highly deregulatory", and that the range of public interests specified in the Act which override the MAPs is too restrictive. Professor Horsley suggests this is an "inherently problematic" aspect of UKIMA's design:

> By default, [the MAPs] prioritise intra-UK trade over the protection of non-market policy objectives (e.g. environmental protection; animal welfare etc). The UKIMA recognises only a very limited set of grounds justifying regulations that fall within the scope of the MAPs. This contrasts, for example, with EU internal market law, which recognises space to defend an open-ended list of proportionate non-market policy objectives.

The paper submitted by Professor Hunt likewise contrasts the restrictions on intra-UK trade that existed under EU market access arrangements with those imposed by UKIMA[2]:

> UKIMA defines exceptions to the principles of non-discrimination and mutual recognition considerably more narrowly than under the EU Treaties. For example, with respect to goods, UKIMA permits only the justification of indirectly discriminatory regulatory measures that are considered necessary to protect public safety or security and/or the protection of the life or health of humans, animals or plants. Previously, under EU law, it was open to the devolved governments to justify policies that interfered with the Treaty provisions on intra-EU movement, including in relation to intra-UK trade, using a more expansive framework of express derogations or an open-ended list of overriding public interest requirements recognised by the EU Court of Justice […] The effect of the UKIMA's narrowing of justification grounds is to prioritise economic efficiency over competing public interest concerns, accentuating the deregulatory qualities of the UK internal market post-Brexit.

Professor McHarg's submission likewise notes that "UKIMA as enacted gave significant priority to the principle of market access over protecting the ability to regulate local markets in accordance with local democratic choices". Professor McHarg highlights what are described as the "adverse consequences" of this, including:

- An "all or nothing" approach to balancing market access and regulatory divergence, which may have encouraged "the narrow approach to granting exclusions that we have seen so far in practice".

[2] Professor Hunt's submission is a co-authored piece with Professor Thomas Horsley.

- "Political control by UK ministers in areas of devolved policy competence […] with very little opportunity for legal challenge", leading to "considerable political tension between the UK and devolved governments".

- Incentivising UK-wide regulatory decision making, which – if "compelled", rather than "voluntary" – is "incompatible with devolved legislative autonomy", may "undermine the ability of the devolved legislatures to effectively scrutinise decisions", and "reduces the ability of devolution to act as a policy laboratory".

Relative positions of the UK and Devolved Governments

According to Professor Horsley, UKIMA "positions the devolved governments as junior partners" in the management of the UK internal market, with the UK Government exercising "ultimate responsibility to determine the application of the MAPs" across the four UK nations. Professor Horsley argues that this hierarchy between the UK and devolved governments is also "inherently problematic".

Professor McHarg similarly argues that the "asymmetry" of the arrangements created by UKIMA is a "problem":

> The devolved governments and legislatures are significantly more constrained by the market access principles than the UK Government and Parliament when legislating for England. This is partly […] because of the operation of parliamentary sovereignty, which means that the UK Parliament can override the market access principles in order to protect regulatory choices for England, in a way that the devolved legislatures cannot […]
>
> And it is partly because UKIMA itself places the UK Government in a privileged position compared with the devolved governments, for instance in the exercise of secondary legislative powers to amend the list of exclusions […] from the scope of the market access principles […] Amendments cannot be made unless the UK Government wishes to do so, whereas it may proceed in the absence of consent from any or all of the devolved administrations.

Observed/practical effects of UKIMA

Devolved policymaking

Professor McHarg's submission draws a distinction between UKIMA's effects on the "validity" of devolved legislation (which is not affected by the MAPs) and on the "effective operation" of that legislation. Similarly, Professor Horsley's submission notes that while the MAPs do not restrict devolved competence, they do pose a "practical limitation" *[his emphasis]* as they "restrict the ability of the Scottish Government to apply its regulatory preferences to goods and services".

- Professor Horsley suggests that the MAPs "reduce the effectiveness of unilateral policymaking in devolved areas" – giving the example of the Scottish Government's decision to delay its deposit return scheme (DRS)

following the UK Government's decision not to exclude glass containers from the MAPs.

- In addition, Professor Horsley suggests that the MAPs also "restrict the ability of the Scottish Government to respond to regulatory changes" in other UK nations. The submission highlights recent changes to regulations on precision breeding of plant and animal products in England, where the MAPs mean that – despite the changes being opposed by the Scottish Government – products bred to the new standards must be allowed into the Scottish market.

- Professor Horsley concludes that:

> Initial experience indicates that the MAPs have had a chilling effect on devolved policymaking. The Scottish Government's decision to pause its introduction of a DRS in Scotland and the Welsh Government's approach to implementing its ban on single-use plastics[3] evidence this clearly. In both instances, the UKG's refusal to grant exclusions from the MAPs resulted in the devolved governments […] reshaping (and lowering) their policy ambitions in areas of devolved competence.

Scottish Environment LINK, in its January 2025 report, argues that:

> There can be no question that the design and operation of the Act limits the powers of the devolved institutions to below the level set in the relevant devolution legislation. When the Scottish Parliament passed its deposit return regulations in 2020, if the launch date set in those regulations had been prior to the commencement of the Act, the system would have come in exactly as designed.

The Scottish Retail Consortium' submission suggests that the Act is having a (potentially positive) impact on devolved policymaking, but also raises concerns about the levels of uncertainty that accompanies this under the current framework:

> Our experience in the devolved nations indicates the Act has an effect on regulatory policy in those nations, eventually encouraging a more considered approach. However, it is also true the Act has created some uncertainty in policymaking. At the moment the Act provokes significant debate on whether a policy is applicable to the internal market principles which creates a level of uncertainty about whether a policy will be enacted, whether an exclusion is required, or whether and under what terms an exclusion may be granted.

Intergovernmental working

Professor Horsley's submission notes that, in order to "navigate the practical effects of the MAPs on devolved policymaking", the devolved governments have worked with the UK Government to develop UK-wide approaches in some devolved policy

[3] Bans on carrier bags and oxo-degradable products, neither of which are covered by the existing single-use plastics exemption in UKIMA, were included in the Environmental Protection (Single-use Plastic Products) (Wales) Act, passed by Senedd Cymru in 2023, but have not yet been commenced.

areas, such as tobacco and vapes and wet wipes. Professor Horsley suggests this trend "is likely to strengthen" in line with the new UK Government's commitment to 'reset' intergovernmental relations. However, the submission highlights that this approach "inevitably dilutes devolved policy ambitions", and "disempowers the Scottish Parliament" (as it prioritises deliberation between governments, rather than within legislatures).

Relationship with Common Frameworks

NFU Scotland's submission describes Common Frameworks as "integral to the functioning of the UK Internal Market". It expresses a preference for common frameworks as a means of regulating the UK internal market, and concern at UKIMA's potential to "override" relevant common frameworks:

> Common Frameworks would ensure that the UK Internal Market effectively continues to operate as it does now – providing a level playing field of minimum regulatory standards to enable the free movement of goods and services without unfair distortion. Common Frameworks would manage policy differences on the basis of agreement and founded on respect for devolution.
>
> However, the UK IMA 2020 appears to limit the devolved administrations' ability to act if any standards were lowered and give the UK Government a final say in areas of devolved policy. [UKIMA] potentially undermines the Common Frameworks process […] by removing the incentive for the UK Government and devolved administrations to agree ways to align and manage differences when mutual recognition and non-discrimination rules require acceptance of standards from other parts of the UK.

The paper submitted by Professor Hunt argues that common frameworks inherently acknowledge the potential for policy divergence between the UK nations, while also enabling governments to pursue harmonisation where they choose to do so. They contrast this with UKIMA:

> The Frameworks effectively cast the UK internal market as being a shared regulatory space. In theory, there is scope for cooperative, consensual joint policymaking in this space […] However, the Common Frameworks speak not just to policy coordination, but to the management of regulatory divergence, and to the defence of legislative autonomy. It should be recalled that the first of the grounds for Common Frameworks – enabling the functioning of the UK internal market – explicitly includes acknowledging the potential for policy divergence […]
>
> Whereas the Common Frameworks exist to coordinate policy divergence politically by consensus, UKIMA establishes a legal framework to scrutinise the regulatory preferences of individual governments for compliance with a set of directly enforceable norms: non-discrimination and mutual recognition […]

Professor Hunt and Professor Horsley argue that whereas common frameworks "provide a potential structure for the UK and (in particular) devolved governments to enhance self-rule through cooperation on policy", the MAPs represent "potential threats to self-rule". They suggest that UKIMA "injects what might be considered a

missing element into the newly reconstituted UK internal market – an instrument of negative harmonisation"[4] – but that while this "represents a partial replication […] of the limits that EU law previously placed on the power of the devolved governments", the MAPs "do this in a more absolute, unconditional way".

Professor Horsley's submission notes that the new UK Government "would appear now to be explicitly prioritising the Common Frameworks" as the principal vehicles for dealing with UK internal market issues, with UKIMA "relegated" to the background. Professor Horsley suggests that this can be seen as a positive development, as common frameworks have "distinct advantages" over the MAPs, including their basis in the consent of the devolved governments and legislatures. The submission does however also highlight three limitations of common frameworks :

- Common frameworks "require further work". Most are not finalised, but they currently focus more on procedural matters rather than policy substance.[5]

- Using common frameworks to manage future policy divergence may "shift decisions over the scope, depth and timing of legislation in devolved areas into an intergovernmental space", with the Scottish Parliament's ability to shape policy outcomes "significantly narrowed".

- "Without legislative change, the Common Frameworks remain formally subordinate to the UKIMA", and it "remains open to the UKG (or a future UKG) to reassert its gatekeeping functions under the UKIMA at any time".

Scottish Environment LINK's January 2025 report recommended that the UK and Devolved Governments should "consider negotiating possible improvements" to the process by which new areas can be excluded from the application of the MAPs by mutual agreement between the four governments via the common frameworks process. It suggests "greater clarity is needed" on issues including timescales, and what information should be required to support an exclusion request.[6]

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[4] "Negative harmonisation" is a term used by the authors to refer to a "deregulatory impulse […] which involves the removal of national rules violating the free movement" of goods and services.

[5] The paper submitted by Professor Hunt likewise claims that "Initial practice points to development of the Common Frameworks primarily as mechanisms that impose largely procedural obligations (e.g. to share details on parallel regulatory initiatives), rather than as forums to negotiate more substantive policy coordination".

[6] As SPICe has previously highlighted, the MAPs continue to apply even when an agreement to diverge has been reached through a common framework, until that agreement is formalised by adding the new exclusion to UKIMA. The power to add the new exclusion rests with UK Ministers alone, and involves laying a statutory instrument in the UK Parliament. It is also a discretionary power, meaning UK Ministers do not have to implement such an exclusion even where there is support and consent from the devolved governments.

Procedural reforms to UKIMA

Reforming the exclusions process[7]

Professor Horsley suggests the "burden of proof" for the process of agreeing policy areas to be excluded from the application of the MAPs should be reversed. At present, the nation seeking the exclusion must request it, with that request subject to the UK Government's agreement. Professor Horsley argues that the Scottish Parliament "has primary responsibility for legislative policymaking in devolved areas", and that the UKIMA exclusions process "ought to reflect (and protect) this core manifestation of devolved autonomy". As such:

> It should fall to the UKG [UK Government] – in its role as UK-wide regulator – to adduce evidence that Scottish legislation interferes (or is liable to interfere) with intra-UK trade. Only where this is established […] should the Scottish Government be required to commence bilateral discussions with the UKG through the Common Frameworks with a view to securing an exclusion.

Professor Horsley also suggests procedural reforms to the exclusions process are needed, including "an agreed workflow to manage the exclusions process" covering the format, content and timing of exclusion requests. Dr Brown Swan's submission likewise suggests developing a "clearer" exclusions process, with requirements for the timing and format of requests, and evaluation of "an agreed evidence base" by "an impartial body" such as the Office for the Internal Market (OIM)[8]. On timing in particular, Dr Brown Swan notes that, in response to previous exclusions requests:

> The UK Government has awaited the completion of devolved legislative processes prior to making decisions, on the basis that only then can an assessment of their impact on the internal market be made. This is clearly unsatisfactory and has increased uncertainty among businesses and other stakeholders. It is not unreasonable, in our view, to expect a decision […] whilst the legislation is underway within the devolved parliaments. Indeed, it is arguably vital to enable parliamentarians, and other stakeholders, to make informed decisions on the Bill or regulations before them.

The Scottish Retail Consortium also called for procedural improvements to the exclusions process, particularly with regard to transparency:

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[7] As noted in the previous section, proposals for new exclusions are principally expected to come out of common framework discussions. Policy areas not covered by common frameworks can also be excluded from the scope of the MAPs. For example, during a consultation on exclusions in early 2021, a request was made by the Scottish Government for heat networks to be excluded. The SI was made in November 2023. Matters not covered by common frameworks have also been discussed through the exclusions process. It was, for example, agreed that this would be the case in relation to glue traps. This section therefore considers the process for considering prospective new exclusions more generally.

[8] Dr Brown Swan's submission notes: "*The following evidence originates from Westminster Rules? The United Kingdom Internal Market Act and Devolution, a 2024 report written by C. Brown Swan, T. Horsley, N. McEwen, and L.C. Whitten. The report considers the challenges of UKIMA on devolution and intergovernmental relations."*

> The exclusions process for goods works reasonably when governments agree, but where there is disagreement it becomes challenging. There is little transparency on whether an exclusion is required, how it is applied for, and the timetable for it being granted. This tends to lead to uncertainty which is challenging for businesses who simply wish to implement policy.

Professor McHarg likewise notes that a "more detailed" exclusions process could help address uncertainty in how the process operates. Professor McHarg's submission notes the potential for "more ambitious" process reforms, such as "stakeholder consultation and scrutiny by the UK and devolved legislatures before exclusions are agreed". However, rather than just reforming how the process works in practice, Professor McHarg suggests that statutory reforms would be "more difficult to achieve, but could be more satisfactory":

> UKIMA could be amended to create a formal process for requesting exclusions, subject to the agreement of all four governments, with a duty on UK ministers to lay amending regulations if agreement is reached, and duties to give reasons for failure to agree […] A more formal exclusions process would, however, be more cumbersome and time consuming to operate, opening up the potential for decisions to be challenged via judicial review.

Other reforms

Both Dr Brown Swan and Professor Horsley's submissions call for a more formalised process of information-sharing between governments in relation to legislation that may lead to future regulatory divergence. Dr Brown Swan argues that "a new framework for legislative tracking would support coordination and planning between the UK and devolved governments", which could be especially useful "in areas of shared regulatory concern at an early stage of policy development". Both Professor Horsley and Dr Brown Swan suggest the OIM could oversee this process.

Legislative reforms to UKIMA

Changing the reach and scope of the MAPs

The submissions by Professor Horsley and Professor McHarg note that UK Ministers could use their existing delegated powers under UKIMA to exclude more devolved policy areas from the scope of the MAPs, or to expand the list of public interest requirements justifying restrictions on intra-UK trade. Professor McHarg argues this would "significantly tilt the balance of the Act away from market access in favour of regulatory divergence, thus reducing the constraints on devolved law makers and reducing their exposure to political control by UK ministers". However, they both note that the UK Government could also reverse these decisions at will.

Dr Brown Swan further argues that while UK Ministers could modify UKIMA in this way, this would be "an insufficient mechanism for addressing the grievances and concerns that the UKIMA has posed for devolution", as changing the Act in this way

only requires UK Ministers to seek the consent of devolved Ministers,[9] and not the devolved legislatures. Dr Brown Swan also notes that this mechanism could be used to make changes to the Act that are "the outcome of an agreed intergovernmental process, backed by the consent of the devolved legislatures".

Scottish Environment LINK's January 2025 report notes that it has previously called for a "qualified automatic exemption for legislation" in the areas of environmental policy and public health to be added to UKIMA. It suggests this would be "more akin to the way in which devolved policy making operated under the EU Single Market", and would have the advantage of going beyond a "product by product" approach.

Proportionality and subsidiarity tests

The submissions from Professor Horsley, Dr Brown Swan, and Professor McHarg all suggest that "proportionality" and "subsidiarity" principles could be introduced into UKIMA to help balance devolved autonomy and the promotion of specified public interests with the protection of intra-UK trade. According to Professor McHarg:

> A proportionality principle would mean that benefits of any particular regulation would have to outweigh any adverse impacts on internal trade, while a subsidiarity principle would place the burden of proof on those seeking to challenge the application of divergent devolved regulations.

Dr Brown Swan argues that introducing a proportionality test into UKIMA – alongside an expanded set of public interests recognised in the Act as justifying restrictions on intra-UK trade (such as environmental protection or public health) – would "create additional space to moderate the impact of the market access principles on a case-by-case basis through a structured, evidenced-based assessment". Likewise, Dr Brown Swan argues that introducing a subsidiarity test into UKIMA would "help to rebalance the commitments to market access alongside the principles of devolution":

> The presumption would be in favour of maintaining the authority of the devolved legislatures to pass laws as they see fit, removing the veto power UKIMA gives to the UK Government over the exercise of those law-making powers that intersect with the market access principles. It would leave open the possibility of common standards and regulations, but the burden of proof to demonstrate the necessity of these would fall to the UK Government.

Professor McHarg suggests that the effect of introducing these tests would be that:

> The courts rather than the UK Government would become the final arbiters of where the balance is to be struck between market access and regulatory divergence. This would have the benefits both of depoliticising disputes and – over time – fostering greater clarity over the meaning and application of the market access rules.

[9] Dr Brown Swan also notes that while the use of these powers requires UK Ministers to seek the consent of devolved Ministers, there is no requirement to secure that consent, meaning that the UK Government can make changes to the Act in this way without devolved Ministers' consent.

Repealing the Act

Dr Brown Swan's submission also notes the option of repealing UKIMA altogether. However, it suggests that while this step "would demonstrate a commitment to devolution and to more cooperative intergovernmental working", it "would not remove the challenge that [UKIMA] was designed to address: the risk of regulatory difference between the four administrations creating barriers to trade and mobility". Moreover, Dr Brown Swan argues that repealing UKIMA would require those challenges to be managed through intergovernmental processes, placing "a heavy burden on a machinery of intergovernmental relations that is, as yet, ill-equipped to cope".

Duncan Sim and Sarah McKay, SPICe Research

20 March 2025

Annexe B

Food and Drink Federation Internal Market Act response
Scottish Parliament Constitution, Europe, External Affairs and Culture Committee

What are your views on the UK Internal Market Act?

The Food and Drink Federation are strong supporters of the principle of the Internal Market Act. A clear and stable regulatory environment across the whole of the UK is critical to ensure that food and drink businesses can strategically and financially plan for the long term.

The Internal Market Act is also critical to international trade deals through ensuring clear shared standards across the UK. Trade deals are of importance to our exporting members.

However, the way the Act has been used to date has created uncertainty for businesses on devolved lawmaking. The Deposit Return System decision for Scotland meant businesses lost money and confidence; the ongoing lack of clarity on the introduction of Deposit Return in Wales adds to this. We therefore think that the future use of the Act by governments should be much earlier in the legislative process and/or with a much longer implementation period for business planning purposes. This would allow businesses to have long term clarity and build confidence in the legislative system.

We also believe that the Common Framework system – which includes a range of regulatory policy which directly affects the food and drink industry – could be improved. The frameworks are not transparent to business on what is being discussed, and there appears to be no direct way for businesses or their representatives to input into these discussions.

What are your views on the operation of the market access principles for goods to date?

FDF members have been directly affected by decisions, particularly the decision on the Deposit Return System for Scotland. This decision was made very late in the day, costing significant amounts of money to those who had invested in their compliance responsibilities under Scottish Parliament legislation. We therefore think that the future use of the Act by governments should be much earlier in the legislative process and/or with a much longer implementation period for business planning purposes. This would allow businesses to have long term clarity and build confidence in the legislative system.

What improvements could be introduced to facilitate more pragmatic management of the UK Internal Market Act's exclusions process?

Businesses need as transparent and clearly timetabled regulation across the four UK nations as possible to allow them to plan effectively. Early decisions and realistic

implementation times are critical to this, ideally agreed in conjunction with affected industries and their representative groups.

How should we ensure proportionate engagement with interested parties in relation to potential exclusions?

We would like to see an expectation that clear business engagement has been evidenced before exclusions are considered. Ensuring business views are understood from individual businesses and their representative organisations should be critical all the way through the legislative process. Business and representative insight can be particularly important when considering the realities of practical implementation of legislation. This will of course vary for each potential exclusion, but we would expect any piece of legislation to have long term established mechanisms for business engagement.

What evidence should be provided in support of an exclusion proposal by the proposing government, so the proposal can be fully considered (for example, information on potential impacts on businesses' ability to trade within the UK and the policy implications of not having an exclusion)?

We would expect that business impact would be transparently considered. This should include a consideration of the impact on all sizes of business (so different impact on small, medium and large businesses). It should also cover cost to implement, monitor and report on any change, the ongoing cost of regulatory compliance, and any costs required to deliver the change (for example new software or physical infrastructure).

Should there be a different process to consider exclusions proposals which could lead to potentially significant economic impact, compared to those likely to lead to smaller economic impact?

From a business point of view, even 'small' decisions can have significant impact. We would expect governments to be able to clearly evidence the impact on businesses no matter their estimation of the size of the economic impact.

What do you think constitutes a potentially significant economic impact?

This will vary based on impact of regulation and business size. If the different impact on small, medium and large businesses is to be considered as part of the evidence required for an exclusion then this should give a reasonable measure of its economic significance.

Is there anything else you want to tell us about the operation of the UK Internal Market Act?

The Common Framework system could be improved to make it more transparent to business.

From a business perspective there is little insight or communication as to what potential upcoming legislation is being considered and on what is being discussed.

There appears to be no direct way for businesses or their representatives to input into these discussions or provide their views. When issue do emerge out of these discussions, as is the case with the Deposit Return System, then it can appear unclear why and what decision making and evidence has led to this outcome. In addition, with the example again of Deposit Return, this was very late in the implementation of the legal requirement. This does not build confidence, ensure business impact is taken into account, nor allow businesses to plan strategically.

We would therefore propose that the frameworks are clear in their communication to and engagement with businesses and representative organisations to ensure there is clarity for businesses on upcoming regulation, timing and exclusions.