Select Committee on the European Union

Justice Sub-Committee

Corrected oral evidence – Brexit: consumer protection rights

Tuesday 25 April 2017

10.45 am

Watch the meeting

Members present: Baroness Kennedy of The Shaws (The Chairman); Lord Cromwell; Baroness Hughes of Stretford; Lord Judd; Earl of Kinnoull; Lord Oates; Lord Richard; Baroness Shackleton of Belgravia.

Evidence Session No. 1 Heard in Public Questions 1 – 9

Witnesses

I: Mr Matt Upton, Head of Consumer Policy, Citizens Advice; Mr Pete Moorey, Head of Campaigns, Which?

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on www.parliamentlive.tv.

Examination of witnesses

Mr Matt Upton and Mr Pete Moorey.

Q1 **The Chairman:** Thank you so much for coming. We are really grateful to you. I will just mention a few things. First, I know that one or other of your expressed reservations about whether it was a useful time to start taking evidence from you, given that we in this House are about to say goodbye and depart for an election that will take us out of operation effectively for a couple of months. We felt that it was still valuable for both of you to come, because we do not stop thinking, and some of our team carry on doing work on subjects even when the elected politicians are off doing the business of getting themselves re-elected, or not.

We will continue to think through some of the issues here—I certainly will look at the legal implications of some of this—so the time will not be wasted. We want both of you to lay out the ground for us in relation to the concerns and the enthusiasm that you might have and the opportunities that you might see in our coming out of the European Union. We want an overview so that we can do some thinking before quite a number of us come together again when we reconvene later in June.

This session is, of course, open to the public. There will be a webcast of it that goes out live and is subsequently accessible on the parliamentary website. A verbatim transcript will also be taken and put on to the parliamentary website—I know this is familiar to you. You will be sent a copy of the evidence in the next couple of days which you will have the opportunity to check for accuracy and supplement with anything that you would like to add in writing. Let us know about any of those matters as soon as possible.

For the record, please introduce yourselves one after the other.

Matt Upton: I am Matthew Upton. I am the head of policy for consumer and public services at Citizens Advice.

Pete Moorey: I am Pete Moorey. I am the head of campaigns at Which?

The Chairman: Thank you, and welcome. We are grateful to you for giving your time to us.

What are the most important aspects of the European Union's consumer protections acquis that currently apply to the UK, and what role has the UK played in establishing the consumer protections that there are across the European Union?

Pete Moorey: Thank you for inviting us. We are very pleased to give evidence this morning, and we are really pleased that the Committee is conducting this inquiry.

It is important to note that the UK has played a very important role in consumer protection, not only in the EU but, you could argue, globally. As an organisation that is a large member both of the European Consumer Organisation and of Consumers International, I think that other countries around the world frequently look to us and to Citizens Advice but also to the UK consumer protection and competition regime, and often draw from it. An awful lot of that goes back to the 1970s, when a significant range of legislation and new consumer rights were introduced in the UK. Of course, the Office of Fair Trading and the Competition Commission were also created at that time.

We know that the EU in particular continues to look to the UK and to UK consumer rights legislation. An obvious example of that in recent times has been the digital single market proposals, which have drawn very much on the new rights that UK consumers have had since 2015 through the Consumer Rights Act when they have issues with digital content. So, yes, we believe that the UK has played a very important role.

On the important aspects of the acquis, the six core directives and the consumer rights directive are, we think, all important, and they are important across a whole range of issues, such as: unfair commercial practices, which come under the unfair commercial practices directive; ensuring better information provision through a number of regimes under the consumer rights directive; distance shopping, which comes under the consumer rights directive, and so on.

It is also important to note that while the EU provided a really important basis for a lot of the rights and protections that we have here, the UK has often decided to go beyond those and to introduce further rights. A good example of that is the short-term right to reject. As you will know from previous evidence that you have heard on the tangible goods directive, in the UK we have the right to reject a product for up to 30 days if there is something wrong with it. Under that directive at EU level, that is limited to 14 days.

Going forward, we are pleased that the Government have committed to lift and shift these important protections and to put them into UK law, but there will be a number of critical things for us to do, particularly given that an awful lot of the legislation sits in secondary legislation. Therefore, beyond the great repeal Bill, we are clearly concerned that there should be no watering down of those rights. It is also really important that we consider sectoral legislation. An awful lot of consumers' rights, both in the UK and in Europe, are not related to the acquis but to other pieces of legislation, whether food safety rights, air passenger rights or things to do with basic accounts.

Beyond that—we will probably touch on this a bit later—the critical element of a lot of how we introduce EU law at the UK level will be enforcement and ensuring that enforcement agencies have the powers to take action when breaches of consumer law are found.

The Chairman: That is very helpful. Thank you.

Q2 **Lord Cromwell:** I just want to put a statement to you, whether or not I believe it, and see what your response will be. UK law either incorporates EU law or is better than it in the level of protection that it offers, so actually consumers have nothing to worry about. How do you respond to that statement?

Pete Moorey: I hope that will be true from a domestic point of view. It is right to say that as things currently stand the UK has a very strong consumer protection regime, although perhaps not the best in Europe; there are other member states that have equally strong regimes—Portugal is a good example.

The critical issues for UK consumers broadly in the negotiations will be how we maintain rights in relation to cross-border purchases and UK consumers' rights when they are holidaying abroad, as well as issues of enforcement, market surveillance and the relationship that we have with EU agencies. We as a nation have worked very closely with other competition and consumer authorities across Europe, and we are of the view that that must be maintained in some way. Also central to the negotiations is some kind of assurance that consumers will continue to have strong rights when they are trading abroad.

Lord Cromwell: So for this Committee, the whole area of reciprocity and cross-border rights is a focus that you would want to underline.

Pete Moorey: Yes, and not only for this Committee; clearly it must be a focus for the negotiations.

Matt Upton: I echo a lot of what Pete said. Very quickly, in respect of Citizens Advice's interest in this, we are obviously a well-established 77 year-old charity, and we are probably associated more traditionally with our top advice issues such as welfare, debt issues, housing and employment. We have a very specific role in the consumer landscape, in which we are the consumer champion for energy and post consumers. We run the consumer helpline, through which we get about 1 million calls a year, and I am sure that we will get more and more call about things like this, as people get confused about their rights. We have always had a keen interest in consumer rights, as in some ways we see it as the missing pillar in the living standards debate. There is so much focus on incomes, whether it is the minimum wage or whatever else, but there is much less focus on what happens to the money that we spend out of our pockets. We therefore see this as absolutely critical.

In answer to your question, no, it is not as simple as your statement suggests. Lift and shift is a fantastic start, and as Pete said the UK has always played a willing and leading role in strengthening consumer rights. There are lots of complications with regard to how this will apply. It is one thing to say that the rule of law applies, but if there is no right to compensation when travelling abroad, or purchasing from an EU trader, if the cross-border agreements are not there to back it up it is not worth as much as it would suggest. So it is obviously a great start but not as simple as the statement suggests.

Lord Cromwell: To come back slightly on-piste, is there any bit of the current legislative set-up that you will be glad to see the back of as Brexit bites?

Pete Moorey: Clearly, we have been concerned about the tangible goods directive. It has not been introduced yet. I know that you have heard previously from my colleague Lucy Rigby on that, and we will be pleased to be able to retain our short-term right to reject as it currently stands.

The negotiations also come at an interesting time, given that the Commission is conducting its refit of consumer law. We have been doing an awful lot of work to input into that and to suggest improvements to the existing directives. There could be improvements to things such as the price indication directive, Which?, you may remember, made a super-complaint to the Competition and Markets Authority about supermarket pricing. One of our concerns has been about the way supermarkets price their food through unit pricing.

The price indication directive leaves things perhaps more open than it should with regard to supermarket pricing. There is an opportunity to clarify that and to ensure that the Price Marking Order, which governs how supermarkets do unit pricing, is clarified. There are a number of examples, such as the unfair commercial practices directive and the unfair contract terms directive, where changes could be made. We have submitted a briefing to the Commission and others as they conduct their refit, and it might be useful for me to submit that to you as supplementary evidence on this. I would be happy to do that.

The Chairman: That would be very useful. I would be grateful.

Q3 **Lord Richard:** I will come at this question from the other side of this equation and ask you how worried you are at the Government's position on this. Were you surprised, for example, that there was no mention of consumer rights in the White Paper? Do you think that the Government are really serious and enthusiastic about preserving the consumer rights that we have in this country in the event of Brexit? How concerned are you?

Pete Moorey: Yes, we were surprised that it was not in the February White Paper, and we were also surprised that it was not one of the 12 negotiating principles for the Government on Brexit. That should be added so that we have a 13th principle for the negotiations, which should endeavour to maintain and enhance consumer rights. We are very pleased, however, that in the great repeal Bill White Paper there is a strong commitment to consumer protection and consumer rights and, as I said, to lift and shift on existing rights.

Lord Richard: Was that as a result of representations that you made to the Government?

Pete Moorey: We have had very good contact with the Government throughout the process, since the vote last year.

Lord Richard: At ministerial level?

Pete Moorey: Both at ministerial level and at an official level, where there has been a lot of contact, both with BEIS, which is the main department with which both Citizens Advice and Which? engage, and with the Department for Exiting the European Union, which seems to take the issue of consumers seriously. Clearly, we have been concerned about the prominence given to consumers, which is why Which?, Citizens Advice and MoneySavingExpert wrote to the Prime Minister and said that more should be done to make this a priority. We were very pleased that within a day or two we had the great repeal Bill White Paper, which made some strong commitments. However, there is a lot more that they now need to do to reassure us.

Lord Richard: Did you ever receive a reply from the Prime Minister?

Pete Moorey: No, we have not received a reply yet. We understand that a lot of work is being undertaken and that we will receive a reply. I imagine that purdah may well have disrupted that.

Q4 **Baroness Shackleton of Belgravia:** What advice will you give to the Government in their conduct on the consumer protection-related aspects of these Brexit negotiations? What precisely would be on your shopping list of what you would want to get, and how would you go about negotiating it?

Matt Upton: One of the big things that we have been saying is that it is obviously right and good to have this long-term discussion about how rights should be lifted and shifted over, and so on, but they cannot take their eye off the potential short-term risks. People on the street find Brexit incredibly confusing with regard to what it will mean in reality. For example, in the four days after the referendum, just over a quarter of a million people came to our website to read our Brexit advice pages. Obviously, nothing had changed overnight, but people do not realise that. They think, “Does this mean that we are suddenly out of the EU?” We had the same situation with Article 50.

Where there is confusion, as we know from other experiences, people will exploit that. This is more anecdotal evidence than strong quantitative evidence so far, but for example particular employers may say that someone is not entitled to a job because they are EU citizens and Brexit means that they do not need to any more. When you get that, and scams start to emerge, one big bit of advice that we would give to government is to reinforce the message that nothing has changed yet. If someone is telling you that it has, it is not true.

Baroness Shackleton of Belgravia: So kill the uncertainty.

Matt Upton: Yes, absolutely. Obviously we are not naive, and we accept that there will clearly be a degree of uncertainty throughout the negotiations. However, there are areas where they can be very clear that it has not changed, and people should not listen to anyone who says otherwise. Therefore within that there is a role for greater advice from organisations like us, Which? and others, to help them convey that message. A lot of the evidence that we have seen shows that, on issues such as Brexit, organisations like us and Which?, which consumers trust for their information when there is a lot of it kicking around, can play a vital role.

On the question of the longer-term advice that we can give, the best way for me to articulate this is that it is great that we are being asked for our views now, and we should be. But, as Pete said, what is most important is that government sets up the forums and ways of gathering our views over the next two or three years. It is incredibly complicated and difficult to see what the exact impact will be. I have been on numerous round tables, where people who are a lot more experienced, cleverer and better at trade negotiations and whatever else have been scratching their heads, desperately trying to figure out what the implications for consumers may be. A lot of those may emerge only as other parts of the deal and the negotiations start to unravel. They therefore need an ongoing dialogue with organisations like us. Going out and talking to consumers directly to hear their concerns is absolutely essential.

Pete Moorey: I echo everything that Matt said. Monitoring the impact on consumers throughout the negotiation period is critical, as is the involvement of organisations like us, Citizens Advice and others.

On the negotiations themselves, there are a number of baskets of areas where government should be prioritising. Relationships with other agencies clearly need to be a priority, such as the European Food Safety Authority and the medicines and aviation agencies.

The whole issue of co-operation with other enforcement bodies has to be a priority for the negotiations. We currently work very closely with the Consumer Protection Partnership at EU level, as well as with bodies such as RAPEX on product safety. Establishing new relationships with those new bodies is really important, as is the status of UK consumers' rights when they are buying goods from abroad. They also need to prioritise a whole range of specific sector rights, an awful lot of which relate to travel, such as compensation for delayed flights and denied boarding rights, and issues such as the EHIC—the European Health Insurance Card—and whether consumers will continue to have access under it.

Baroness Shackleton of Belgravia: And presumably when they buy things from us.

Pete Moorey: Absolutely.

Baroness Shackleton of Belgravia: That is our negotiating tool.

Pete Moorey: Yes. That is definitely an important issue. Both Citizens Advice and Which? have been working very closely with BEUC, the European Consumer Organisation, of which we are both members, to ensure that we look at that issue from both sides and that we work very hard to get a good deal that is good not only for UK consumers but for EU consumers, because that will be in all our best interests.

Q5 **Baroness Hughes of Stretford:** I want to ask you about the so-called great repeal Bill—accepting that it will not actually repeal anything, we hope—and how realistic you find the Government's aspiration that it will preserve relevant consumer protection law in UK law properly. You have already mentioned the Bill and welcomed its strong reference to the need to do that and to protect consumer protection.

Secondly, you mentioned several issues in response to other questions, particularly the last question when you went through a list of priorities. How far will what is in the great repeal Bill sweep up some of those issues, and what is the boundary between those issues and issues that will not be swept up in the Bill, which the Government have to put on the table in the negotiations so that we can get an understanding of that delineation? That question is for both of you.

Pete Moorey: We are all still working to understand that delineation. It is really important that we understand what is critical not only to the great repeal Bill but to the process of reviewing any secondary legislation. We are probably more concerned about that. We do not want to see Brexit being used as an opportunity to deregulate very important existing consumer protections. We must all work towards ensuring that it is an opportunity not only to maintain but to enhance our consumer protection laws at the UK level and to ensure that they are working more effectively.

So our concerns are what will be in the great repeal Bill basket, what will be in the negotiations, and what the critical elements are that will sit outside the negotiations and be a priority for future trade deals with other countries around the world. We, Citizens Advice and others are currently putting pressure on the Government to be really clear about how things are delineated and what precisely will be in the great repeal Bill and in the associated review of any secondary legislation, and which of the existing rights that we hold will be a central part of the negotiations—my view is that an awful lot of those negotiations will be about our rights as UK consumers abroad and when we are purchasing from abroad—and what will be left of future trade deals.

Matt Upton: Likewise, given the complexity and despite the Government's strong statement that they want to protect consumer rights, we share the potential concern that things could, as you say, be subtly unpicked over the next couple of years. I would not say that we have had a huge amount of engagement with business, but businesses that I have spoken to and been involved in round-table discussions with about Brexit have been more vocal in recognising the benefits of our strong consumer protection regime, and not just in terms of the more obvious argument that consumers shopping confidently is good for them and for business; it is more that they have been trying to imagine the complexity if, as big exporters into the EU, our regime starts to diverge too much from the EU's. What will it mean if they have to abide by numerous different product standards and whatever it might be? In lots of ways, people say that they like things as they are; they like the simplicity of consumer protections being strong.

In the same way as Pete's organisation, Citizens Advice is working to try to understand the delineation and to push government for answers.

Baroness Hughes of Stretford: Just to summarise, you have helpfully identified for us four possibly consecutive routes through which we need to be clear about what the Government are doing. One is the great repeal Bill and what is in it. Another is the necessary review of secondary legislation that sits underneath it and that itself seems to be very complex. The third is what needs to be included in negotiations, which is in neither of those. The fourth is what can be dealt with only in future trade deals, when we get there. That is a helpful way of thinking about the various areas of activity that we need to be mindful of. Thank you.

Matt Upton: This is a separate point in some ways, but I would add a fifth, which is being mindful of the interim impacts on consumer confidence and awareness, and things like that. But that is a good summary.

Lord Richard: I have a follow-up question. Are the Government consulting you about the way they will deal with secondary legislation?

Pete Moorey: We have not started a process on that yet. We have had some conversations about the great repeal Bill, but perhaps to be fair to the Government it feels as though they themselves are in the very early stages of that process. There is no indication that they are giving preferential treatment to any other stakeholders over us.

Lord Richard: To what extent are they consulting the stakeholders, and to what extent are the stakeholders themselves unified in their approach to the Government?

Pete Moorey: That is a very open question in that we are right at the beginning of the process of talking to the Government about the great repeal Bill and the process that we will go through. Clearly, if we had not had the election we would all have expected to see a Bill sooner, and perhaps some of those questions would have been answered.

Matt Upton: It is one of the reasons why we, Which? and MoneySavingExpert wanted to send a letter: to increase the prominence of organisations such as ours in those discussions. In a broad sense, the Government have said themselves that there have been over 150 meetings with various stakeholders in the lead-up to the White Paper, and various working groups have been set up on things like universities and skills, which is obviously a very good thing. That is why we would like to see the same sort of prominence given to consumers.

The Chairman: I thank Baroness Hughes for giving us that very crisp analysis of what the considerations must be, the four aspects, including the great repeal Bill, the underlying secondary legislation and what should be in the negotiations. That was really helpful to us and to any report.

Q6 **Lord Oates:** My question follows on from Baroness Hughes' question. Do you think there are significant aspects of the consumer protection acquis that are not amenable to incorporation into UK law via the great repeal Bill? Without those alternatives in place, do you foresee major gaps in the UK's consumer protection?

The second question that follows on from one of your answers to Baroness Hughes is whether you think there is a risk that in the Government's desperation to sign trade deals with other countries they may be tempted to dilute consumer protections.

Pete Moorey: Starting with whether there is anything that is not amenable, in terms of UK domestic law that is not my understanding. My understanding is that it is entirely practical for the acquis to be lifted and shifted—I apologise for continually saying that—and to be adopted into UK law. The critical issue, as I have stated before, and where the gap will potentially be introduced, is in relation to UK consumers and cross-border transactions. This is where the complicated issue of private international law comes in, which I imagine will be a central part of the negotiations. If one removes our adherence to Rome I and the Brussels recast, questions will emerge about what consumers' rights are in contract law in those EU member states. I will not delve into a huge amount of more detail on that at this stage, but that is a very important area that must be considered by the Government, and which the Committee should look at.

The Chairman: As you probably know, we have already had an inquiry into the implications of Brexit for civil law, which covers the Brussels II recast. One of the things that has arisen is the whole business about enforcement; you mentioned the word "enforcement" in one of your answers. That kind of protection involves reciprocity—"We will immediately respect any judgments made in your courts about matters to do with consumers' rights and contractual failures"—so if I buy a washing machine from Germany and it is not up to snuff, I can return it very quickly, and so on. How does the great repeal Bill help us on that? It does not, does it?

Pete Moorey: I do not imagine that the great repeal Bill will. That was kind of my point in that the acquis is entirely amenable and can be introduced into UK domestic law. The critical issue with regard to consumer protections will relate primarily to cross-border and things like that. An obvious example may be car hire. Spain is the most popular destination for—

The Chairman: Car hire is one of the things that came up in our civil litigation inquiry, and you might want to tell us about the problems.

Pete Moorey: Clearly many UK consumers will use car hire firms from abroad, particularly in countries like Spain. Which?, the Competition and Markets Authority and others have undertaken numerous investigations into the kind of sharp practices that people often face in those countries. The CMA in particular has led the way in working with other enforcement agencies across Europe to take action, and as a result of that action it can ensure that Spanish competition authorities can take action with Spanish car hire companies.

Obviously that raises big questions about whether those issues will be addressed in the same way once we have left the EU, and indeed whether there is a body in Spain that will enforce on behalf of UK consumers. There is also the question of whether, if you have an issue with a Spanish car hire company, you will be able to get any kind of redress when something goes wrong. As a result, that may leave us with a situation in which our advice to UK consumers going to Spain—this might also apply to Citizens Advice—would be to use a big multinational car hire company and not a local Spanish car hire company, because they will not be guaranteed to exercise their consumer rights. That is an obvious gap that may well emerge.

The Chairman: For members of the public who are watching, the sort of thing we are concerned about is when someone gives their credit card details to a company, they get home, and on their credit card bill they find that they are paying far more than they thought they were going to be paying because they returned the car somewhere without signing off on the final charges.

Pete Moorey: It could be unfair fees and charges that they struggle to reclaim as a result. It is perhaps more likely that they will be hit with a huge fine as a result of a scrape, or something like that, which may not have been their fault. We see this an awful lot with car hire companies; they appear to fabricate problems when UK consumers return the car at the end of the holiday. It may well be very difficult for you to exercise your consumer rights in those circumstances if the Government do not ensure in the negotiations that we have some level of reciprocity.

Lord Oates: Can you come back on this issue of future trade deals and whether you are concerned that consumer rights might be sacrificed?

Matt Upton: My worry is less that the Government are consciously considering that and more, as you say, that it may be a side effect of the sheer pace at which things have to move. As you said, a lot of consumer rights on anything from product or food standards, or whatever it may be, will start to emerge only as those negotiations take place. That is why for us it is incredibly important that, as I said earlier, engagement is not just at the start and that groups like ours are kept informed and involved. The reality is that we may not have the resources of businesses or other organisations to move at pace and consider these things very quickly, so we need to be kept in the loop as early as possible so that we can help government to think through those implications. But, yes, it is a risk, depending on how government approaches it.

The Chairman: It is important for people who might be interested in what we mean when we talk about consumer rights to point out that you see it in areas like food safety, as you just mentioned. It is particularly important that food for infants and young children, for example, is properly labelled and that people can read the contents properly. The same applies to food for medical purposes, which is sometimes produced in other countries or used when people are in other countries. It is important that it is properly labelled so that people can know what the contents are.

There are similar issues when it comes to how we are protected with regard to travel. You mentioned car hire, but it can also be civil aviation, security—on which we have made incredible agreements across Europe—package holidays, and compensation and assistance to passengers who are denied boarding; there have been a lot of issues to do with that in the United States, where questions have arisen. There are lots of areas of protection to do with transport, bus companies, financial services—where there are high standards—and energy, such as labelling and standard product information on the consumption of energy and energy-related products that we buy that have been produced in other parts of Europe. A lot of stuff is covered by this.

Matt Upton: There are huge amounts. When I talk about consumer protection and consumer policy, I am talking less in a technical sense about the acquis and in a much broader sense about everything and anything that may affect consumers in their daily lives.

Pete Moorey: The important thing is that the UK has often led the way on all those areas. Our hope is that we will continue to do that—that we will use Brexit as an opportunity to be the leading nation globally on consumer rights and protections. That is exactly the attitude that we want the Government to take, not only in the negotiations, ensuring that we have good reciprocal rights with Europe, but out into these trade deals.

The Chairman: Before we move on, you mentioned that you are involved in global organisations that are about protections for consumers. The great flourish now is that we will be involved with many more trade deals with China, India, Latin America, and so on. We have 40 years of working with Europe in creating high standards and drawing Europe towards our desire for high standards. We are not going to be able to have reciprocity with China or with bits of Latin America and with very great ease say, "I want to return my goods because they are not up to snuff". We do not have those arrangements with China, Taiwan, or any of the other places we might want to do trade deals with in greater numbers. Do we start at the beginning with them, or are we already trying to work with them?

Pete Moorey: I think there is a good opportunity for the UK Government as they start any trade deal, whether with China, the US, Australia, New Zealand or anywhere, to ensure that consumer issues are at its heart. The consumer movement globally would probably say that that has not been done often enough, and there is an opportunity for the UK—

The Chairman: But we are starting at a lower base.

Pete Moorey: Absolutely. We start from a good place as an organisation, and we will have to step into a whole range of new relationships globally, not only with other countries but with the WTO and with bodies such as the International Organization for Standardization. Our hope is that the regime and the strong consumer protection system that we have here will be the starting point that we go in with.

I should just say that beyond that there is a particular UK enforcement issue that must also be addressed. UK enforcement is under an awful lot of strain—as a Committee, you are probably aware that bodies such as trading standards are increasingly under strain—and many organisations have now reviewed the UK enforcement regime and have raised questions about how trading standards work, how the Competition and Markets Authority works, and so on. That also has to be addressed here in the UK first. Enforcement will undoubtedly become more complex as we leave the EU, so having a system in the UK first that is fit for the future and for a Brexit world but that also allows us to establish new relationships with the EU and globally on cross-border enforcement will be important.

The Chairman: Big challenges.

Pete Moorey: Yes.

Matt Upton: What is interesting is how government approaches consumer protection in trade negotiations. The White Paper talks, understandably, about the need to achieve a balance between a stable regulatory framework and reducing the costs of unnecessary regulation. The risk, as ever, is that consumer protection sounds inherently restrictive, almost like something that could be considered a burden on business rather than a benefit to the economy, so how the Government approach those decisions mentally is really important, as is their recognising it as a strength rather than a burden on trade.

Lord Cromwell: May I come in on exactly that point? A common theme in our inquiries has been what we keep and what we get rid of now. The other issue, of course, is the divergence post Brexit. Have you had any feedback from businesses that they fear that we will end up becoming uncompetitive through that divergence process if we accept the story that typically our consumer rights are ahead of what other countries in Europe very broadly speaking might expect? Have you picked up soundings from businesses that they are worried about that?

Matt Upton: Pete might have other examples, but the example I can give is the one I mentioned earlier: the very large business that trades a lot in the EU and elsewhere in the world that said that it was worried about the sheer complication. If I remember rightly, our earlier conversations were very much about maintaining current practices and standards anyway just because they work for it. It would be very worried about divergence for that very reason.

Pete Moorey: I agree with Matt.

Lord Judd: I want to underline something that the Chair has stressed in her last few interventions. We have taken a lot of evidence on civil law, as she said. One of the things that has made me feel very depressed in a way, but also very concerned, is the total misconception that has been swallowed by so much of society, the media and other people that we have to free ourselves from the burden and the yoke of international interference in our law; that we want to have our own law.

Listening to the practical evidence that has been given to us by very experienced people over and over again and the point that has been stressed is that because of the intricate and frequent interrelationships between business, commerce and people at a human level it is simply not possible to look to the interests of people in

Britain without looking to the relationships with the rest of the world and at the kind of systems that are in place to handle that.

The second point stressed by the Chair is that she has begun to think of examples of how this matter can be brought to light, and I am so glad that she has done that, because it can all become rather theoretical and abstract but it is actually very real. People do not understand. They have this conception that somehow they will be better off with their own untrammelled systems than they will be by having sensible international relationships. You are both campaigners. Do your organisations take responsibility for informing the public seriously on this issue, giving practical examples of exactly how people will be affected, and do you pursue them? It is crucial to the national debate that you should. It should not just be an exchange between us in this Committee. You have, I think, a historical responsibility to inform the debate.

The third point that I would like to emphasise is that quite a lot of people, I hope, would say that one of the great things about having been in the European community is that it has been a community, with ordinary people with lots of aspirations and needs facing all kinds of potential hazards in their future. You said in your opening statements that we have had terrific influence on how all this has been emerging, not only in the EU but more globally, and I was very glad to hear you make that point.

Can you give us a couple of concrete examples of how you think people elsewhere in the European community will be at a disadvantage after we endorse Brexit?

Pete Moorey: I take your first point about our role. You are absolutely right that both Citizens Advice and Which? play an important part here, and both organisations take that very seriously. Matt mentioned the number of calls that Citizens Advice has received. Very similarly, we have had an awful lot of engagement with our 1.5 million members and supporters, and we are continually updating the information that we have available on our website, in our magazines and in other publications to ensure that people understand what is happening right now, the impact that the decision to leave the EU is having on them and what the potential impacts will be in the long term.

Your general point about the issues at a national and an international level is also interesting. In a way, this takes us back to Baroness Hughes' point about us identifying where we can critically change things at a national level. You are absolutely right that international relationships will remain incredibly important. If I can address the national point of view, I do think that Brexit has to be used as an opportunity for us to ensure that we have an enforcement regime in the UK that is fit for purpose. Trading standards, the Competition and Markets Authority and other agencies, for a number of understandable reasons, are not working as effectively as they should and will be under greater pressure as a result of Brexit. That must be addressed at a national level. Clearly, however, UK consumers, perhaps more than any other consumers, given the amount that they shop online, are global consumers, so international relationships will be really important, and that is an issue that both our organisations take very seriously.

On the examples of how people in the EU will be disadvantaged, perhaps I might request that we write back to you on that. As I mentioned earlier, both Citizens Advice and Which? have worked very closely with BEUC, the European consumers association, through a task force to identify how we will work together and what the key issues are for EU and UK consumers in the negotiations. As part of that, we set out in detail what some of the implications might be both for UK consumers in the EU and vice versa. I do not have those examples to hand right now, but that is certainly something that we have published and could give to the Committee.

Q7 **Earl of Kinnoull:** I, too, would love to follow on from Baroness Hughes's point. I have two pretty short questions to put to you. The first concerns what you have been saying about lift and shift. You have been talking about the importance of getting that right so that you do not unintentionally remove rights and you preserve everything fully. Obviously, however, that is a process with some risk involved in it. Can you tell us which sectors you thought were at risk, so that we could watch those more carefully?

Matt Upton: I find it difficult to pick individual sectors.

Pete Moorey: We should watch financial services quite closely. Matthew mentioned that both our organisations have been on an awful lot of round tables and discussions on these issues. I know that that has come up in round tables that both Citizens Advice and Which? have taken part in, and concerns have been raised that certain parts of the financial services industry, for example, may want to use Brexit as an opportunity.

Earl of Kinnoull: That is a vast area, of course. Any clues as to which part?

Pete Moorey: To be honest, that is not something I have heard directly from anyone in the financial services industry.

The Chairman: It is about credit agreements, where ordinary folk buy something on a credit agreement and have difficulty with enforcement. It is the mutuality thing; the reciprocity problem. They get involved in those kinds of agreements on credit, which may get them into hot water.

Pete Moorey: It may well be. There are a range of EU regulations and rules with regard to financial services, just like in other sectors, where consideration would need to be given to what happens once secondary legislation is reviewed. Some regulated markets such as financial services, energy and telecoms are an interesting area with regard to divergence from the EU, because the UK has increasingly taken a more principles-based approach to regulation, which we have welcomed. That has allowed the Financial Conduct Authority in particular to act in quite a definite way where it has identified firms that are not treating their customers fairly, whereas at an EU level you are increasingly seeing a push perhaps to more prescriptive regulation. We are currently seeing this with energy. There may well be opportunities before us, as I said, because this process may well allow us to maintain this new approach to a more principles-based policy by UK regulators. If that is the case, we would welcome that.

Matt Upton: As we have said a lot today, we see the risks as more thematic than sectoral. Enforcement is a key issue. One issue that I will pull out, which is not a hugely traditional one for Citizens Advice, is travel, because by definition it is one of the things that you will be less able to lift and shift; it is more about mobile roaming through to getting refunds abroad. There is probably some risk there, which the Committee may want to be aware of. We see the opportunity as less of a technical one and more of a statement-of-intent opportunity for the Government. We have been very ambitious and strong with regard to consumer rights protection in the last number of years in the UK. In a sense, there are many ways in which being part of the EU or not being part of the EU has not had a huge bearing on that.

However, there is an opportunity for the Government to follow up their saying, "We want strong consumer protections. We see the value to the economy and the value of confident consumers and the role they can play in fuelling the economy". It is right for them to go further in a number of areas of consumer protection on issues that are less to do with the EU and more issues that we have been advocating for quite some time. You talk about things such as energy and the protections that may or may not be brought in to protect consumers. There is the opportunity to extend those protections to other essential markets such as telecoms and insurance. We think that there are a number of areas, such as compensation, where the Government could go further and should take the opportunity from leaving the EU, regardless of whether it is technically related to it or not, to make a positive statement about consumer rights.

Q8 **Earl of Kinnoull:** Those are very helpful thoughts. Following on from Lord Judd's point just now, I want to ask about the effects in the other EU 27 countries. We like to think that we have been very much champions of consumer legislation. What do you think the direction of travel is likely to be in consumer protection in the EU 27 after we have left? Do you think that that likely direction of travel will have impacts on UK consumers in any way?

Pete Moorey: There has definitely been a direction of travel towards maximum harmonisation, which has raised some concerns with us and others at a UK level.

Earl of Kinnoull: Those concerns are that you harmonise down rather than up.

Pete Moorey: Absolutely. The obvious example is the short-term right to reject, but also the guarantee period, which would have been introduced under the tangible goods directive and which would have limited to two years rather than six the time people have to be able to return faulty products. There have been some areas at the EU level where we have had concerns about the impact that would have had on UK consumer rights. In general, it is fair to say that there is clearly an ongoing commitment from the European Commission to this agenda. We see that coming through things like the refit of the consumer acquis at the moment, where there seems to be no question that that should necessarily lead to any watering down of existing rights; it may well lead to some improvements by each of those important directives. All of that, however, suggests that in time there may well be some divergence, which clearly the Government may have to have front of mind. That will start to introduce a level of complexity for UK consumers as they choose to buy things from abroad or go on holiday in the EU.

Matt Upton: I echo what Pete said. Divergence is clearly a risk. In our conversations with the Government, they have been aware of the risk. I have nothing more to add to what Pete said.

Q9 **The Chairman:** Do you have any particular concerns about the impact of Brexit on the operation of the EU's product liability directive? As lawyers, we think of tortious liability: your ability to sue, particularly with regard to health. Think about thalidomide, for example, or another drug that is developed by a pharmaceutical company in the rest of Europe, becomes available, people access it, something terrible happens as a consequence of taking it, and they want to sue the company. The liability directive is of great assistance on that. Have you put your minds to the implications of that at all? It relates particularly to things like defective products that come out of pharmaceuticals and the development of products that might lead to personal injury or even injury of property.

Pete Moorey: That needs to be addressed in the negotiations. That is one of the areas where we would expect the Government to be very clear about what the new arrangements will be and therefore what UK consumers' rights will be if they purchase something defective from the EU.

The Chairman: Perhaps you could also put that on your list.

Pete Moorey: We are responding at the moment to the EU consultation that is open on this issue, and we will be very happy to share that with the Committee.

Lord Richard: What is the timetable for that consultation?

Pete Moorey: I do not know. We are responding right at this moment, but I am not sure when it closes.

The Chairman: This has been a very helpful and illuminating hour. Thank you both for coming. It has been very helpful to us and it will help us to develop our ideas on the direction of this inquiry as it proceeds. You were our first enlightening testifiers. You mentioned the possibility of adding to your evidence. Please do. It would be very helpful to us. Thank you both for giving us your time.