

Select Committee on the European Union

Justice Sub-Committee

Corrected oral evidence

Brexit: consumer protection rights

Tuesday 11 July 2017

10.40 am

[Watch the meeting](#)

Members present: Baroness Kennedy of The Shaws (Chairman); Lord Anderson of Swansea; Lord Cashman; Lord Cromwell; Lord Gold; Lord Judd; Earl of Kinnoull; Baroness Neuberger; Lord Oates; Lord Polak.

Evidence Session No. 3

Heard in Public

Questions 20 – 28

Witnesses

[1:](#) Mr Leon Livermore, Chief Executive of the Chartered Trading Standards Institute; Dr Scott Steedman CBE, Director of Standards, the British Standards Institution.

USE OF THE TRANSCRIPT

1. This is a corrected transcript of evidence taken in public and webcast on <http://parliamentlive.tv>.

Examination of witnesses

Mr Leon Livermore and Dr Scott Steedman.

Q20 The Chairman: Good morning. Welcome to this evidence session of the European Union Sub-committee on Justice, and thank you for giving of your time. We are very grateful to you for coming. I will explain the procedure, although you probably know it. This session is open to the public. A webcast goes out live and is subsequently accessible on the parliamentary website. It is also being televised, so you will be televised to the world. A verbatim transcript of the evidence will be taken and will be put on to the parliamentary website. A few days after today's session, you will be sent a copy of it. It is an opportunity for you to check it for accuracy and to decide whether you would like to add any other material. Any subsequent submissions can be made to us in writing. We would be very grateful if you could do that, and send us any corrections, as quickly as possible. For the record, please introduce yourselves.

Leon Livermore: I am Leon Livermore. I am chief executive of the Chartered Trading Standards Institute.

Dr Scott Steedman: I am Scott Steedman. I am director of standards at BSI, the British Standards Institution.

Q21 The Chairman: Lovely. As I say, welcome to both of you. You will appreciate that this is an inquiry into consumer protection in light of our decision to leave the European Union. I will start by welcoming Lord Judd, who is just joining us.

First, what role does the Chartered Trading Standards Institute play in protecting consumers, both nationally and across the EU single market, and what role does the EU play in facilitating your task?

Leon Livermore: We are the representative body of the trading standards profession, which is employed primarily in local government. There are approximately 220 trading standards services, which enforce the breadth of domestic and European legislation, protecting consumers and supporting businesses. We deal with approximately 250 different pieces of legislation on issues ranging from scams and fair trading, through to weights and measures, all the way up to food and animal health.

The Chairman: Before you go on, just to give people who are listening an understanding of that, people have been given the idea that regulation is a bad thing. What kind of regulations are we talking about, for example in relation to food and waste?

Leon Livermore: We do not cover waste, but food covers food standards. The other year there was the horsemeat scandal. That was a food standards and consumer protection issue. We work with the Food Standards Agency to make sure that sampling is being done for allergens. There have been a number of very sad cases in the past couple years of people dying from nut allergies from undeclared nut products in food. It is the coalface, the front line—interpreting legislation but also supporting businesses as well as protecting consumers.

There were a couple of examples of that last week, in fact. Colleagues up in Glasgow secured and seized dangerous fidget spinners—the latest craze among young people. They are little toys, and these ones were found to be unsafe. At the same time in the same week we had officers raiding Europcar head offices because of its potentially misleading practices. That gives you a sense of the very local issues that we deal with while dealing with a maze of cross-border issues.

I will give three examples of the role played by the European Union, to give you an idea. Obviously the first is setting the legislative framework within which we work. The harmonisation of that framework and of standards facilitates the free movement of goods, but it also facilitates the free movement of information. A lot of consumer protection is based on relationships with colleagues abroad.

Secondly, the National Trading Standards scams team looks in particular after vulnerable people who become prey to telephone and postal scams. It cleanses the information and passes it through to the local authorities, which look after the victims, but on the other side it collects that information and passes it to colleague enforcement agencies in the rest of Europe to tackle, so there is the benefit of it being tackled at both ends.

The third way in which the European Union helps to facilitate our work is in investing in infrastructure. At the chartered institute we run a very small contact centre that deals with about 17,000 consumers every year who have a dispute with a trader based in Europe. The idea is that we deal with the consumer end and our colleagues in Germany deal with the trader, if the trader happens to be in Germany—and vice versa; if a German consumer has a problem with a UK trader, we have our reciprocal arrangement. We find that on average we save UK consumers £600 for every complaint that we get engaged with. It is that kind of infrastructure that underpins the legislation.

The Chairman: That is very interesting. What you are describing is mutuality in that there are two ends if you are doing things cross-border, and while you can deal with what is happening at one end you need someone to mirror it in the country where the trading is.

Leon Livermore: If you want effective enforcement and you do not want the UK to become a soft target for rogue traders—the internet has been a wonderful thing for facilitating so many things in life, but it has also facilitated a lot of criminal activity that knows no boundaries—we need to maintain the protections that we have now, and we fully support the Government’s stated aim not to lose any of our current protections.

Q22 The Earl of Kinnoull: Dr Steedman, I have analogous questions for you. What role does the British Standards Institution play in protecting consumers nationally and throughout the EU single market? And what role does the EU play in facilitating that protection?

Dr Scott Steedman: Thank you for the question. The BSI is a royal charter organisation, so we are appointed as the UK’s national standards body. It might well be worth taking a few minutes to unpack some of that, because the landscape is

very complex and the work is rather invisible and frequently misunderstood, so I hope that in exploring the subject this morning we can clarify some of the issues relating to the role of consensus industry standards and the participation of consumers and the protection that that effects.

I have primary responsibility for the activities of the national standards body appointed by government. Every country has one. Our role is to provide an infrastructure that enables UK experts to participate in the international, European or national standards-making structures as they choose. We do not write the standards ourselves; we provide a framework for UK experts to do that.

The standards that we develop are voluntary in the European system, with very few exceptions. They provide best-practice knowledge for industry, consumers and Governments to use as they see fit. A small proportion of those—less than 20% of European standards—are used in association with regulation, but the vast majority are just enablers for business to perform to a higher level. So some of those standards—as I say, less than 20% of the European standards—provide a means of compliance with the law, such as for the safety of toasters or kettles or furniture fire resistance, but the vast majority are used simply in B2B activities as best practice.

What we want to achieve with consumers is to ensure, through our responsibility for the national standards body infrastructure, that we provide a neutral, independent platform and that we engage with consumers as far as possible as part of our obligation to ensure that all participants with a legitimate interest are participating in the standards-making process.

The BSI has had a long history of involving consumers in the national standards work. A women's committee was formed 60 years ago, which over time became the Consumer and Public Interest Network. That group sits in my team at the BSI. The role of the CPIN network is to provide the independent consumer voice into the standards system on whatever it sees fit.

For us, the work of the industry standards structure that supports policy delivery in the UK and across Europe is all about consumer protection, both with regard to safety and to consumer rights and their broader interests. There are multiple examples of how standards are used to deliver that. The essence of the journey which the EU has been on is that it is towards the regulatory model known as the 'new approach', now the 'new legislative framework', whereby standards are used as voluntary tools to support a performance-based regulatory framework, which is the system that we have in the UK today.

We have very little prescriptive regulation, so we say things like, "Make a safe toy", or, to be more precise, "Toys must not pose a risk of strangulation". The regulation does not say how that may happen. Instead, how it may be done would be set out in an industry standard, for example. That is not necessarily the only way to do it, but it is a way for a manufacturer to claim compliance with the regulation. They could do it some other way if they saw fit. This approach of performance-based regulation creates a market framework where the voluntary standards provide, in some cases, a means of compliance with the regulation, market surveillance

provides a structure of post-market compliance checking by Member State authorities, and conformity assessment—the third leg, if you like—provides the way in which manufacturers are required to demonstrate conformity with regulations. So there are three distinct spaces in this landscape.

The EU, then, does not make standards; it uses the standards made by the 34 countries in the European system. The two main European standards organisations are called CEN and CENELEC. The BSI pays the UK subscription to CEN and CENELEC and indeed the third organisation, ETSI.

The Chairman: You mentioned the name of the standards-setting organisation that we pay a subscription to and contribute to. What is it called?

Dr Scott Steedman: There are three organisations in Europe that are designated as European standardisation organisations. The biggest one is called CEN, the European Committee for Standardization, which covers general standards. The second organisation is called CENELEC, which deals primarily with electrotechnical standards. There is a third organisation called ETSI, which is in the telecoms area and covers a much smaller body of work. These three European organisations mirror in a sense the global international organisations ISO, IEC and ITU.

Lord Anderson of Swansea: Would you define Europe in that sense? Are there countries outside the EU that are part of the same system?

Dr Scott Steedman: Yes. There are 34 countries in the European industry standards system. All 34 countries are full members of that system and they participate as they choose in the development of European standards, including harmonised standards.

Lord Anderson of Swansea: Which are the countries outside the EU that are part of the same system?

Dr Scott Steedman: The EFTA countries, including Switzerland, as well as Turkey, Macedonia and Serbia.

The Chairman: Places that want to do a lot of trading with Europe are trying to reach the same sort of standards that would be operating on costs?

Dr Scott Steedman: That is certainly one interpretation. The global model is to develop one standard for use everywhere. Industry is seeking one standard that is used everywhere rather than the historic approach of multiple standards, multiple lines and factories, and different sizes of this, that and the other. The global trajectory is towards one single standard, preferably a global standard used everywhere. The UK is top of the international league table of participation in international/European standards-making, and some 95% of the standards adopted by BSI—as the national standards body—as British national standards are international/European. Really, we hardly make British standards any more because we want to write the international standards and, where appropriate, the regional standards for the European region. Some of those European regional standards,

called ENs, are used by the EU, through the Commission, as part of its policy delivery. But that is only part of its activity.

The Earl of Kinnoull: Just to be clear, the three organisations that you mentioned are not structurally part of the EU; they are separate European organisations that have 34 subscribers?

Dr Scott Steedman: The three European standards organisations, of which only two—CEN and CENELEC—are really relevant to the discussion today, are private organisations with a joint back office in Brussels, but they are effectively a co-operation mechanism for the 34 members to share some functions, to co-operate. They are not part of the EU.

The Earl of Kinnoull: My point is that Brexit will not affect membership of those entities.

Dr Scott Steedman: It would be nice if it were that simple. As I have already tried to explain, the EU makes use of the European standardisation system of the 34 countries. It issues requests to those organisations to develop standards to support policy delivery, so in the end around 20% of the ENs are listed as providing a presumption of conformity with some European regulation. The EU, the Commission, has quite a keen interest in the two private organisations, CEN and CENELEC, and the third telecoms organisation, ETSI, but it has no membership in the sense of being on the board of those organisations. It provides them with some funding, but the prime connection between the Commission and the European standards organisations is that it grants them the exclusive right to label a business standard an “EN”. Once it is given the EN label, accepted by the European standards organisations, then we, the 34 members, are committed to adopting and implementing that standard and, critically, to withdrawing any conflicting standards in order to ensure that we are all operating to a single standard with no barriers to trade across the 34 countries.

Lord Cashman: May I sum up? The common denominator between CEN and CENELEC is that those 34 countries trade together, while the six trade within or to the 28 EU member states. The common denominator is that they are trading together.

Dr Scott Steedman: Yes, but it goes way beyond that. European standards are developed for and used in many other countries.

Lord Cashman: But in terms of looking at the EU and Britain’s role within it and outside it post Brexit, I am interested to learn that, yes, they have influence beyond the 28, but the 34 are advised on these standards because they wish to operate within a single market of 28 plus six.

Dr Scott Steedman: The 34 countries co-create industry standards because there is a regional need for it. Their first choice, and indeed the stated position of the Commission and all our member countries, is to write the international standard first. We do not write European standards because we think that is an advantage; we would rather write the global standard and then draw it down into Europe.

The Chairman: Are you saying that the ambition is to set the bar high enough and export it worldwide because that makes for better trading standards for everyone, because the EU trades with the rest of the world as a bloc and we do not want to be buying unsafe toys from China either, so you are trying to raise the bar globally but here you are doing it and setting it to a higher standard within the European network first and foremost?

Dr Scott Steedman: Not necessarily. The position is that globally we operate as a very close community. In the ISO world—I am vice-president (policy) of ISO—there are now 164 member countries. Six of them have permanent seats: the UK, France and Germany—which are also far and away the biggest in the European context—along with the UK, China and Japan. We operate extremely closely. I know the director of standards of all the leading countries, and we talk frequently about our issues and our joint collaboration, either through the international organisations or bilaterally and multilaterally. Our ambition is to come to one standard. The only reason for writing a European standard is that there is some European specificity, perhaps a policy interest or perhaps some particular technology or issue that is not of interest to the rest of the world. We do not write European standards to make them more difficult for others; we write European standards where we have to, to support the delivery of policy, or because there is an industry demand to do something that is not reflected in the rest of the world.

Lord Polak: I am trying to keep this really simple. You said in answer to Lord Cashman that it was complicated. Whether Britain is in or out of Europe, why is it relevant to your organisation? Why can Britain not just continue its membership of your organisation, whether we are in or out?

Dr Scott Steedman: My ambition, my expectation, is that the UK will remain a full member of CEN and CENELEC post Brexit, because we fulfil all the obligations of membership of those two private organisations and there is no reason why we would not want to. To Lord Cashman's point, were we excluded from CEN and CENELEC, not only would that be damaging to them but it would leave consumers and our industries with no voice in the European standards domain. That would be extremely damaging.

Lord Polak: Do you believe that those two organisations want us in or want us out? Have you had discussions?

Dr Scott Steedman: We are in the midst of discussions with individual members, which is the way it will be decided in the end.

Q23 **Lord Cromwell:** I think my question has been beautifully lined up. It is essentially that in most of these discussions and inquiries about Brexit the real issue boils down to reciprocity cross-border and what happens when the door shuts. What is the plan B? Refreshingly, we seem to be hearing from you that actually—perhaps I am putting far too shiny a gloss on this—it is all fine because we are in CEN and CENELEC and we will carry on anyway. There will be no cliff edge—the *mot du jour* that one hears so much about in relation to Brexit—in standards and you will just continue to offer protection in the same way you always have through these other

bodies, or is that a grossly simplified and overoptimistic understanding?

Dr Scott Steedman: Not at all. It is precisely about reciprocity of market access. The whole global standards industry mantra, one standard that is used everywhere, is all about reciprocity of market access. In the European countries, and indeed in others, that is provided through common industry standards. Provided we remain a member of CEN and CENELEC, we will immediately carry on as today, working on the European standards and influencing them for the benefit of consumers and industry. Were we not in CEN and CENELEC, there would be quite a serious risk that our industries would use European standards because they provide the easiest market access route to the EU but they would have had no influence over the shaping of those industry standards used across the European bloc. There is a risk of that occurring. We would most likely adopt them anyway in the UK, because that would be the simple thing to do.

Lord Cromwell: Let us drill down. Is there any danger—and, if so, how big is it out of 10—that we will not continue membership of those bodies? Could you and your colleague say a bit about our ongoing ability to input into standards? It is fine to go on being a member and saying, “We’ll follow the standards”, but will we write those standards any more or will we just be standard-takers?

Dr Scott Steedman: On the second question, being a full member of CEN and CENELEC provides UK experts with full access to participate. It is a voluntary activity. I have been working to maintain confidence among our 10,500 or 11,000 UK experts, who do this voluntarily, to carry on as they are, because this is the only way they will get the protections that they want. The UK consumer voice in the European system is one of the strongest in Europe, not just from a national perspective but through ANEC, the European consumer body. That is a very important dimension in making sure that European standards are influenced by UK consumer interests.

The Chairman: I am anxious to hear from Dr Livermore, who needs a bit of air time as far as I am concerned. Dr Livermore, do you share that view? Lord Cromwell asked whether we should feel perfectly happy that here is one area where we need not be anxious and that everything will be hunky-dory. Is that your view?

Leon Livermore: I share Dr Steedman’s view. I just need to put on record that I am not a Dr, just a plain old Mr.

The Chairman: The microphone was disguising the “M”.

Leon Livermore: There are two challenges. Scott completely outlined the one about membership—in and out. That will be decided, and it will be a shame if we lose that voice of influence. The second challenge for us as a profession and how we feed into this is our access to expertise. One of the big challenges here is that Brexit will be such a big focus that we might take our eye off some of the domestic issues facing market surveillance and consumer protection. Our own workforce survey showed that 60% fewer trading standards staff are employed now than six or seven years ago. As people cut back, their ability to volunteer and engage in an activity that supports our profession as well as the wider community goes. We have had

conversations about our struggle to get some of our technical expertise into those discussions.

The Chairman: That is one of the things that we have heard evidence about: that the UK enforcement system is under an awful lot of strain, and the fear is that Brexit, and because resources are not being put into it, will put it under even greater strain. You both seem to be nodding at that.

Leon Livermore: The Government's own National Audit Office report showed that that there is around £15 billion of consumer detriment in the system and that roughly £165 million of resource is being thrown at that. Add to that all the structural issues, such as 220 local trading standards services, and you begin to find a system that is creaking, and it will not take a lot to push it over the edge.

Think of something very simple like product safety. A lot of our work is done at ports of entry. Obviously the fact that we are part of the single market means that our colleagues who work at Felixstowe and other docks only have to focus on what comes from outside the European Union. If you suddenly change that and there is the chance of a different standard, that, again, adds complexity to market surveillance. One thing that my experience over the last few years of doing this job has taught me is that when you sit outside the club—someone mentioned Serbia earlier; we have done work in Serbia helping them to get their consumer protection systems and market surveillance systems up—you have to have much higher demonstrable levels of market surveillance to access that club when you are not a member.

One of the challenges here, as the Government's own report shows, is that our market surveillance system is under stress. So we would urge a focus on domestic issues as well as Brexit at the same time.

The Chairman: I have to move this on, because there is a whole set of questions and people lining up to ask them.

Q24 **Lord Polak:** I have another simple question. Could you give me one example of an aspect of an EU consumer protection regime that you would be delighted for us to say goodbye to when we leave, and one that you think we should keep?

Leon Livermore: The one we would propose to keep is probably slightly simpler. There is a system called RAPEX, which is a really good example of European co-operation. The idea is that it is an early-warning system about unsafe products. If our colleagues in a European country find an unsafe product, they put it on RAPEX and colleagues in this country are immediately notified.

The Chairman: It sounds terrific.

Leon Livermore: It is a terrific system. One of the opportunities as we come out of Europe and reshape our legislative framework relates to some of the information requirements placed on businesses. When you get a compromise in 28 countries, that can place an undue burden on businesses, especially when you are talking about products and services that are not designed to be exported. We think there is

a real opportunity to rationalise some of that and perhaps take some of that away from business, as well as looking at the possibility that not every case of non-compliance needs to be a criminal offence. We think there are real opportunities to have that kind of conversation.

Q25 Baroness Neuberger: You have answered part of the next question, because you have made it clear that, should we still stay part of CEN and CENELEC, some of the problems might not be as severe as some people have suggested. Given what you have just said, Mr Livermore, about how well some of it works with the EU, are you worried that none of this stuff about trading standards has come up in any of the Brexit discussions thus far, and would you want to say to government, “Come on, you’ve got to say something about it now”?

Leon Livermore: We would always like to prod government to say things about our profession and consumer protection. It is nicer to be mentioned in a White Paper, but, after all, whatever we do in our lives we are consumers of goods and services. Whatever trade deals we put in place, consumer protection and market surveillance are key elements of that. What we do not want three years down the line is to attempt to retrofit a system to match whatever trade deals we have. That is our concern.

We genuinely believe that Brexit gives us an opportunity to have conversations that perhaps we have not had before. I have noticed the views of business and consumer groups on legislation getting much closer together, so we would encourage government to put this front and centre of their thoughts and to use the expertise available to them. I know that this Committee has heard from colleagues from Which? and Citizens Advice, among others. We all lay our expertise at your table, but we would encourage government not to have single bilateral conversations. This is a real opportunity to fill the room with experts on both sides of the consumer and business table and have a proper conversation about what we want consumer protection to look like in the UK.

Baroness Neuberger: And you want to see that as detail, because at the moment it is just rather vague?

Leon Livermore: Yes.

Lord Anderson of Swansea: Are you happy with your current access to government? What assurances have you been given about the consultation during the course of the negotiations?

Leon Livermore: It is like most things: in certain areas we have strong relationships with civil servants and Ministers, while in others it is an issue. Unfortunately, tragic events relating to fire from domestic products bring us closer to government on those issues, while in some areas we are further away. The challenge for us here is that there is no sense of anyone owning the whole system. I mentioned horsemeat earlier, and it is a really good example. Horsemeat was fraud, so at its very heart it was an issue of consumer protection, yet you could not talk to the Consumer Affairs Minister about it; you had to go and talk to the Food Standards Agency and its chain of command. So there needs to be a strong voice for the consumer in all this,

perhaps a lead government agency and a Minister with the word “consumer” in the title—Margot James might be the starting point—who could look after the whole system and had the ability to speak on behalf of all the other government departments.

Lord Anderson of Swansea: And assurances during the negotiations?

Leon Livermore: We have had assurances that we will be listened to, which is very positive, and we have had assurances from the Government that we are not going to lose the protection that we have. I would probably argue that the protections that we have are not aspirational enough anyway when we have a system that has £15 billion worth of consumer detriment in it. That does not seem to be sending out a very positive message to UK consumers, especially the more vulnerable ones, given that the impact on them is not purely financial; it can be emotional and social harm.

The Chairman: I see Dr Steedman nodding.

Dr Scott Steedman: I say to Baroness Neuberger that we do not feel that the standards dimension is well understood or even visible. Many Government members and civil servants think that it is just part of some sort of regulatory thing that they do. There is a general weakness across the country in education about the role of standards in the economy. This is a very serious issue and has meant that, while we have good relations with individual civil servants in different departments, we have surprisingly little connection with Ministers, who do not pick up the phone and ask what is going on, how something works, how standards work with regulation or how market structure or market surveillance works. We hardly ever have those conversations.

The Chairman: So your expertise could be drawn on more effectively.

Dr Scott Steedman: We have offered to support the Government in negotiations to ensure that we avoid sleepwalking into problems. This is the main issue that we face: we could sleepwalk into problems in our enthusiasm to do deals. Other countries have resolved this, and Switzerland is a very good example of how you can do that, but we need to avoid sleepwalking, which is why we would like to be—probably with Leon—more visible in the discussion.

Q26 **Lord Gold:** This is your golden opportunity to go one step further. The Government need all the help they can get right now, so here is your job: you can go off and negotiate. It is what you do. What are you asking for? What would Europe lose if we and you guys said goodbye? Is that a negotiating position?

Dr Scott Steedman: From my perspective—I am sure Leon will make his own comments—the UK is a global thought leader in the shaping of business activity. We hold the secretariats for almost all the major business standards used in the world: anti-bribery, CSR, quality, risk management—all of them. We are a global thought leader in that space. Equally, we are a thought leader in the European community space, the European standardization system. To cut ourselves off from that because we thought something else was preferable would be very risky for UK industry

competitiveness and for consumers, who would be faced with a lot of problems. That would happen only because of some major policy shift in the UK market structure itself, which, as I have been discussing, would not be to anyone's advantage. Given the way that resources are already stretched in market surveillance, Leon could not sustain a more fragmented system. That would be very difficult to manage. Provided one maintains the principle that we have a performance-based regulatory framework in the UK supported by standards, there is no reason why we would have to exit—or be exited from—the CEN and CENELEC standards bodies.

Lord Gold: I am not sure that that deals with the “how you would negotiate” point. You have the job. Now off you go from here to negotiate.

Dr Scott Steedman: What we want to negotiate on is reciprocity of market access and to offer a commitment on behalf of the UK, as we ask from other countries, to the use of international standards. With that simple commitment in place, that piece of the negotiation actually falls away.

Lord Gold: That is the big point.

Lord Oates: I wanted to ask for your view on the Government's pledge that the national legislation dealing with Brexit is going to preserve the benefits and protections of existing EU consumer protection law and ensure that UK rights continue to be robust. What is your view of that pledge, and how in reality it will turn out for UK consumers?

Leon Livermore: Our view is that it is a very good starting point. There are some challenges in that you cannot simply transpose the legislation. There are two reasons for that. Some of it relates to how it has already been transposed into UK legislation, where on occasions we have gone beyond the mere requirements of the directive. There is also the bigger challenge in relation to some of the specific references in some legislation to European bodies of which we will cease to be members. Some of the health claims on food, for example, have a specific reference to the European Food Safety Authority. Obviously we need to make sure that those references get transposed across as well.

However, legislation is just a starting point. It is underpinned by the mechanisms that we put in place, mechanisms that we co-invest in with European partners. We run contact centres on behalf of the UK Government. Half of that is funded by the EU, so as the Government take the money back, if they do not reinvest it, the 17,000 consumers I have already spoken about will be left exposed when they are trading across borders. Our consumers and businesses will still trade with and visit Europe. Whatever anyone voted for on 23 June last year, no one voted for more lead in toys or to put our consumers at more risk when they travel abroad. So for me it is a starting point, but we need to go beyond that and have that fundamental debate about the system of consumer protection in the UK.

It is not just about what the public sector does; it is about the vast amounts that UK businesses put into compliance. We have some of the best businesses in the world,

which want to be market leaders and to raise standards in their sectors because that creates fair competition. If we have a marketplace in which the UK is not influencing others and there is a lower standard elsewhere than here, our businesses will still access raw materials from those marketplaces, but that will place UK business at a competitive disadvantage. So we are fully behind the BSI's call for that common approach.

Dr Scott Steedman: We have been talking a lot about identical standards being adopted, but actually not all standards are completely identical. In the influencing process there are plenty of examples, not just from the UK but from other countries, where deviations are included in a standard perhaps to accommodate a higher regulatory requirement in one country over another—Switzerland with electro-magnetic radiation, the UK with fire safety in some aspects of nightwear, and so on. It is therefore possible to have an identical standard that at least has an annex in the back or a foreword in the front that says, “In this national context, this applies”, or, “We don't recommend this”. That happens quite routinely. It is not one-size-fits-all precisely.

Lord Oates: I have a follow-up question for Mr Livermore. You mentioned earlier a system called RAPEX. Is that an EU system or one of these membership organisations?

Leon Livermore: It is a European system, but the UK element is funded by colleagues in BEIS.

Lord Oates: One quick question to Dr Steedman. You made the point that the standards bodies are independent private bodies and that they have membership who are non-EU members, but you also said that there is a discussion about whether we should continue to be a member. Given that they are independent bodies and have non-European members, why is there even a discussion about them?

Dr Scott Steedman: These bodies have statutes, and the eligibility for membership is described in those statutes in the form of, ‘an EU member, an accession country or an EFTA country’. The statutes were not written imagining that there would be a country in the situation of the UK. So I may need to propose, with our colleagues across the European system, minor amendments to the statutes. Word changes may be small, but they will still need to be approved by a good number of the members, and were any of those countries politically motivated there may be questions. Still, I am optimistic that we will be able to make the word changes if need be. The challenge and the risk comes if we do not achieve that in time. A gap may open up where the statutes have not been changed, the status of the UK is unclear and our activity and participation may then be questioned. So clear guidance from the Government on the direction of travel on the market structure that we have been talking about today would be very helpful in order to reassure European members that the BSI, representing the UK, should continue as a full member.

The Chairman: I want to bring in Lord Anderson, because he has to leave any

minute.

Lord Anderson of Swansea: As I understand it, the Government's undertaking is to preserve the relevant EU legislation on consumer protection. That relevant EU legislation is not static but dynamic. The question is: how will you ensure that the UK voice will be heard in the dynamic situation after Brexit?

Leon Livermore: Our members, as law enforcement practitioners, will still engage with the various networks that we are already engaged with, so our voice will be heard through that. When it comes to standards, how influential that voice will be will often be dictated by much broader and bigger matters. When we are sitting here in three years' time, our members will still be engaging with those networks because they are loose practitioner networks designed to influence policy but also to make sure that we are sharing best practice. We engage with the National Consumer Federation, which has great representation, and with ANEC regarding European standards-making. So we have loose arrangements in place. The question then is whether that will be sufficient for the UK in future.

The Chairman: So there will be informal influencing, almost like lobbying?

Dr Scott Steedman: There is a formal dimension to it through the standards structure. The Commission, committed to the 'new approach', will consult the standards bodies of the European system very early on around the role of standards to support the delivery of new regulatory policy. So there is an opportunity for any member country of the European standards system to participate in that discussion very early on when policy is shifting, before it turns into regulation.

Lord Gold: I want to pick up on what you said earlier about changing the statutes. Who is to negotiate that? If it is your organisations, why not just get on with it? If it is the Government, that is of course a different matter.

Dr Scott Steedman: It is not the Government's role; it is the BSI's. It is my responsibility to negotiate those words, and we are doing that now.

Lord Gold: Has that started?

Dr Scott Steedman: Yes it has.

Lord Gold: Hence your optimism.

Dr Scott Steedman: My optimism arises from discussions with quite a number of members of the European system, particularly the more important and larger ones. They are also looking for a commitment from the UK at a general level that we are going to continue in the market structure that we have today, and that we will accommodate divergence in one way or another. With that, I am confident that we will secure a form of words. There is an interesting twist to this, in that once you change statutes about membership you may unwittingly open the door to other countries—maybe even faraway ones—aspiring to membership of the European system, which perhaps the European system does not want as members. So there is

an interesting twist as to how these words are precisely crafted to respect the intention that it is the UK, not others, that is going to benefit from those changes.

Q27 Lord Cashman: Suffice to say that the work that your institutions represent impacts on people's everyday lives. You have talked about the free movement of information, working cross-border and reciprocal arrangements to protect consumers, but key to this, it seems to me, is reciprocity of market access. Will Brexit lead to a diminution or an increase in consumer protection standards, not only for consumers in this country but for those who also consume from within the 27 member states of the EU? That is a question to both of you.

Dr Scott Steedman: I would argue on the basis of the discussion this morning that there will be no change. They will, as the consumers of our country, seek to influence the standards of consumer protection that are put in place supporting manufactured goods or products.

The Chairman: So there will be no change?

Leon Livermore: I think that on day one there will be no change. If we have those reciprocal arrangements in future, that is all well and good. The more divergence we have in legislation and in structures, though, the harder it will be to underpin that. That is even before you think about devolved powers coming back and consumer protection issues within the devolved nations. At the moment we have a nice common market—that old phrase—where we have shared standards and arrangements, and that has been in the best interest of UK consumers and businesses.

Dr Scott Steedman: It is a fact that there is a lot of divergence already at the regulatory level, even if the industry standards are identical. In the construction space, for example, building regulations are different in Scotland, England and Wales, let alone in Germany and France, but the products and the product standards that underpin them are the same. So there is a decision to be made there.

Lord Cashman: Without reciprocity of market access, is there still no change?

Leon Livermore: That will be driven by market factors and by what businesses want to do. You only have to look at the issue that we had with hover boards a few years ago to realise that we are in a new dynamic in the way goods are imported into the UK. About two Christmases ago they were charging unsafely and a number of them were exploding. The traditional way of importing goods is that you have a big importer that ships over container loads. What you now have is consumers sourcing their own goods from all around the world, bringing in maybe two or three to sell on to their friends. The more those arrangements break down, the more you open up the UK market to that type of importation, which is a lot harder to monitor and to stop things going wrong. Another example is the issues we have had with tumble dryers and whether to recall them. Imagine trying to recall them in that kind of system, without the kind of arrangements that we have.

Lord Cromwell: Which exactly underlines the point that it means more work with

fewer resources. I want to focus on the ability of organisations to deliver effectively in future. You made an interesting comment that if you are not in the club, higher levels of surveillance are likely to be required of you, so that means more work. However, when asked if there was something you would be glad to see the back of, you said we might be able to simplify some bits. I am concerned about the trend towards internet importing, the lack of resources that you have already underlined, and the fact that being in some sense outside the club is likely to impose more regulation on us rather than less. How the heck are you going to deliver?

Leon Livermore: That is the question that we have been asking the Government for three or four years now.

Lord Cromwell: Have you had an answer?

Leon Livermore: They did a review into trading standards about two years ago that we have still not seen published. If you look at all the work that has been done on the current state of trading standards—some fantastic work is being done by colleagues up and down this country, looking after consumers and supporting businesses—everyone says that larger shared services are the way forward. The challenge is how you get there. Local government colleagues turn round and say that this should be done voluntarily. Our argument is that voluntary takes quite a while in the political world, and we know from our survey last year that 60% of services are not looking to have any shared arrangements.

This is where we need to understand that where you have regulation on place, that should sit within the most local layer of the public sector, because it is about a particular community and place, such as building control and planning. It is about that local community. When you are talking about a person or a product that has free movement so that someone can access them, that should be done at a much higher level so that you can have that strategic oversight and appropriate performance framework. We lack a performance framework for market surveillance and consumer protection in the UK.

Lord Cromwell: But would you agree that basically we are looking at a need for resources?

Leon Livermore: Yes.

Lord Cromwell: And have you had any sense that that has been understood at government level?

Leon Livermore: I think it has been understood by the people who are very close to regulation on consumer protection. Once you start going to Treasury colleagues and beyond, there is a slightly different dynamic.

There are challenges. Think of vulnerable older victims of scams. This is not the most robust research, and it is quite old, but it is the only research out there: if you are a victim of doorstep crime in your own home, you are two and a half times more likely to need support from the state or to die within the next couple of years. That support from the state is a very expensive way of dealing with this. The public

sector is absolutely brilliant at having resources at the point of crisis. We are less good at working out where to intervene up that chain. My colleagues are primarily intervening up the chain.

Think about foot and mouth in 2001. We have had foot and mouth since then, but we know how to control it because we have learned the lessons. Would we have the infrastructure now to be able to deal with it? I think we would struggle, to be honest, because those resources have gone. How do you quantify that? How do you sit in front of a politician who needs to be re-elected and say, "We're doing something that will stop a one-in-20-years event and make it a once-in-40-years event"? It is a catastrophic event when it hits and it is an £8 billion cost to the UK. The challenge is the same when you look at waste and other infrastructure. Our budget and political and outcome cycles are not aligned.

The Chairman: That is very interesting. Thank you.

Q28 Lord Judd: I have been fascinated by what you are saying. I have spent a good deal of my life in international development, and it is not just about formulations of words and the outcome of the negotiations; it is about building a culture. Does the culture that has developed in the European community help in a wider way, in the sense that there are people in the discussions and development policy who have a culture of co-operating in the common interest?

Dr Scott Steedman: From a standards perspective, absolutely. We have very strong relationships, particularly with Germany and France, and we work at a global level on international issues. Lots of new issues are emerging—autonomous vehicles, the internet of things—in all sorts of areas where it is very important to work globally, so there is a very strong common interest in trying to achieve high-level but dynamic standards that can evolve as society wishes them to evolve in a common and purposeful way. I will ask Leon to talk about the implementation.

Leon Livermore: What is really interesting about the process of constructing legislation in Europe is that it is much more consultative. Sometimes the process takes a frustratingly long time, but you tend to end up with a much better set of principles. A really good example is the unfair commercial practices directive, which has a list of banned activities.

The Chairman: What sort of activities?

Leon Livermore: Misleading prices, unclear contract terms. It sits in every contract, making sure that it is fair. We probably started with a list of three or four. The list is now a dozen-plus at least, and it is all the better for all those conversations. Secondly, when you get past that, when you get implementation, it is about sharing best practice. A good example of that is a project, which we are participating in as an institute, with colleagues in Spain and Northern Ireland, about how to get better market surveillance online. It is about training officers. At the end of this there will be a training package in common across the European Union that will be accessible to market surveillance authorities in the European Union. It is about raising those standards. We could not have that without that relationship. There is sometimes a frustration in dealing with so many, but there is a willingness on the part of the

partners in this sector to work together, if nothing else because we have a very strong consumer voice in Europe that holds us to account.

Lord Judd: With the very cold winds blowing from across the Atlantic now and a very different culture being advocated in relation to trade, commerce and national interests, would it not be quite dangerous if, as part of your wider membership, one lost that cohesion, which is so important because it has developed a different kind of culture?

Leon Livermore: It has certainly developed a different kind of culture. Regulation used to be, "Thou shalt not"; it used to be about control. Now it is about a really good, clear set of principles that underpin fair and safe trading and that enable UK businesses to compete and to protect UK consumers. That principle-based legislation, while sometimes a challenge for our members to interpret, creates that flexibility. Regulation is a blunt tool. Some of the legislation that protects us from computer harm predates Google and Twitter. This is where colleagues such as Scott's organisation come in. Codes of practice and principle-based legislation are easier to adapt, and it is always criminals who seem to adapt more quickly than the regulators. We need to create those principles and those tools so that we can do that going forward.

Dr Scott Steedman: Were the UK not to continue to co-operate with our European colleagues, particularly the major nations, we would quickly become very isolated in the world of international standards. The US operates a very different model from any other country in the world. The federal Government do not control the market structure; it is controlled at state level. So when they negotiate or try to negotiate a free trade agreement, they cannot guarantee reciprocal market access, whereas we can. If we gave away market access but got no reciprocity in return, we would find ourselves very exposed in that situation. I tried to describe earlier how the international movement, particularly with countries such as China which is very alive to this now, is towards single standards, common standards, for industry trading; one standard used everywhere, supporting regulation where appropriate. That is the global model. We see that in Africa, we see that all over. But the US remains different. Our US colleagues are very determined about that, and I have heard claims that it is to do with the constitution, so we are not going to change that easily.

The Chairman: I want to take us back to something that you said earlier, Mr Livermore: that on the one hand you can create consumers' rights, but in fact you have to have the reciprocity of the other side dealing with the trade. For example, I buy something online from a German electronics company, and it comes but it does not work; it is useless. You are saying that this is not just a question of looking at how we make things better for consumers, enabling them to return their goods under the Sale of Goods Act and so on, but of speaking to the trader about the standard and quality of what they are producing and trying to deal with it, because it is lowering standards and bringing people into disrepute. That reciprocity is what I am wondering about. Will it be as strong if we are not in there? Do we have to negotiate that with every one of the countries?

Lord Cashman: That is what I find confusing. How can it remain the same if we are outside? If we are not directing the unfair commercial practices directive, how can it remain the same?

Lord Gold: Can I just confuse things even more? You spoke about differences in regulation. In answering the question that has just been raised, looking at the system now, does each country enforce in the same way, or is there some variation, so that we are already not achieving the reciprocity that we would like?

The Chairman: It all comes down in the end to the fact that harmonising through nice standards is one thing, but enforcement is another and is one of the key issues. Quite a number of us here are lawyers and so on and are concerned about enforcement. What do you have to say about that before we conclude?

Leon Livermore: To pick up on your last point, enforcement is different in every country. I have often seen market inspectors abroad armed. I do not for one moment think that we should arm our members. That would be a recipe for disaster. But where enforcement relates to the movement of goods across borders, the same standards apply. If you want to access the UK market with a product that carries a CE mark, you must have a technical file that demonstrates conformity with the latest standards, and our regulators, my members, must be able to access that information and say, "Yes, this can come on to our marketplace because of that arrangement".

The Chairman: It meets our standards.

Leon Livermore: Yes. Domestically, yes, it is completely different, but it happens where it relates to the movement of goods. Informally, a lot of this good practice-sharing will go on. The UK has a very good reputation for standards and market surveillance. I know that colleagues in Regulatory Delivery, which is part of BEIS, do a lot of work cross-border and outside the EU advising other countries on how to get regulation right, so it is a business enabler, and that will go on. The question for the UK Government is: do they want to invest in formal mechanisms of cross-border support? The example I gave you is a formal EU-funded mechanism. If we want to be part of that club, we have to pay the fee for membership of that one part and we will have to be allowed in. If you want to be allowed in, do that right at the start when our reputation is good. We are seen as one of the most high-performing, if not the highest-performing, of the network. Obviously I have a vested interest in saying that because it sits within my organisation. Do not wait six months or a year—

The Chairman: Get it into the negotiation document now.

Leon Livermore: Get it in. Say that we want to retain our membership of these networks. Make that part of any negotiation and any trade deal. Then you have to invest in that. Our greatest fear is that if we do not do that now, if your focus is on legislation rather than infrastructure and you try to deal with the infrastructure later, we will have missed the boat.

The Chairman: So the message that you are giving us all the way down the line is

that while these systems are operating and we are trying to spread them globally and so on, there will be an issue here, and that in this trade deal it should be right on the agenda and should be one of the bullet points that we advise the government to address.

Baroness Neuberger: There is a further risk that if we do not do it early, we will become isolated. Is that what you are saying?

Leon Livermore: Yes. A commitment to retain membership of CEN and CENELEC would be extremely helpful. It is not only a European thing.

Lord Cromwell: Can I pull the pin on a different grenade? In the brave new post-Brexit world, a Trade Minister decides that we need to get rid of this ridiculous European red tape and build a relationship with country X, but country X requires us to dilute some of our standards in a particular product area in order to develop a thriving and happy relationship with its economy. What happens at that point?

Leon Livermore: I would argue that there is not a great deal of European red tape in relation to consumer protection issues. I am not sure that any business would class the Consumer Rights Act, for example, as a piece of tyrannical legislation. It sets out some clear principles, but I am not getting any pushback from businesses that is anything other than supportive of the vast majority of the framework.

The Chairman: Some of our tabloid newspapers would present a rather different picture.

Leon Livermore: But when you look at those examples, it is often UK-based or UK-derived legislation that is the issue.

Lord Cromwell: But you can imagine a situation where country X says, “OK, you want cheap oil from us. We want access to your food markets and our lobsters are as good as anyone’s in the world”—I am making up the detail, obviously—“so come on, let us in”. I can see the pressure on a Minister to sign that deal.

Leon Livermore: You have to be aware of the kind of market you want to create. For example, the New Zealand regulatory framework for food is geared to accessing the European market. It prioritises the exports into the European markets over its domestic ones, because that is the market that it wants access to. Our advice to the Government would be, “Is it worth it? Is it going to be such a boon for the UK economy that it is worth while undermining this relationship over here?”

Dr Scott Steedman: The essential negotiating opportunity is to say, “We remain a gateway to the European market for your lobsters, so why would you want us to dilute our standards and lose that opportunity?” Secondly, to take Leon’s point earlier about more lead in the paint, BSI’s standards committees would say, “We’re not going to write a new lower standard”. If the Government want to accept lower quality products that they will have to write a regulation saying these are acceptable, but industry is going to keep operating to the common international or European standard. If government wants to draft a regulation to let some less safe product into the country, that simply undermines the UK manufacturing base.

The Chairman: What about hormone-laden beef from the United States?

Lord Cromwell: Or GM?

The Chairman: Presumably those issues will arise. Will they just be dealt with one at a time?

Leon Livermore: You need to get your relationship with the club right first and then deal with each one of those on a case-by-case basis. What it cannot be is one-way. It cannot simply be a case of opening up our marketplace to these goods or products without some kind of reciprocal arrangement where UK businesses have the access going back. As I said earlier, the market economics will dictate whether we want that.

The Earl of Kinnoull: I wonder if can just go back half a point to when the Chairman was talking about the importance of bullet points for the negotiation on being members of a certain lists of things. Have you actually fed that into DExEU or Ministers in some way, and, if so, where is it being fed in—or are we coming across this for the first time today?

Leon Livermore: We are feeding in through the Consumer Protection Partnership, which sits as part of BEIS. I know that it has just appointed a director or deputy director responsible for looking at consumer protection as it goes through Brexit. We ourselves have also established a high-level think tank. We have technical expertise that we have placed at the service of the Government's departments. My colleague sitting behind me is the expert; we have brought him in to work with our lead offices. So we have an opportunity to feed in. What we are struggling with is that connection to the high-level debate.

The Earl of Kinnoull: So on your side you are confident that they have the knowledge of the point, but you are not confident that they are giving it enough prominence. Dr Steedman, it sounded more worrying on your side, but are you at least confident that Ministers are aware of the issues of CEN and CENELEC, whether or not they have the right approach?

Dr Scott Steedman: No, I am not confident about the full understanding and awareness amongst Ministers of the discussion that we have had this morning. We are briefing the European team in BEIS—we collaborate closely with BEIS, DExEU and the Department for International Trade at a range of levels—and there are some excellent individuals there who certainly understand it. Whether those messages are really being comprehended at a higher level, I do not know. As I said earlier, we have next-to-no access at the moment.

The Chairman: I thank both of you. It has been an illuminating and interesting session. Your evidence has been invaluable. Thank you for giving your time to us.

Lord Judd: Can I just ask: do you ever wake up in the night and say, “My God, there are actually political forces at work in Britain who want us to be like the United States?”?

The Chairman: Do you want to expose your dream world? Your nightmares?

Leon Livermore: If I were sitting in America, I could now plead the Fifth Amendment.

The Chairman: All I can tell you is that I would allow you to plead it.

Dr Scott Steedman: The question of whether life is better in America is raised whenever one has a conversation and I am always delighted to answer it. I was heavily involved in the TTIP discussions on the standards side with the European Commission and I have some information to share from that experience.

The Chairman: You would be happy to share it, but not at this moment. Thank you again. It has been very useful. I thank all my colleagues for their contributions today.