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The Rt Hon Alok Sharma MP
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William Wragg MP
Chair, Public Administration and
Constitutional Affairs Committee
House of Commons
London
SW1A 0AA

Our reference: MC2020/10766

3 September 2020

Dear William,

Thank you for your letter of 10 August on the UK Internal Market White Paper. We are glad to read that you also place great importance on the strength of the UK's internal market and the economic ties which bind our Union. We will address each of the key points from your letter in turn.

As you note in your letter, it is essential that safeguards are in place well before the end of the transition period to enable businesses and citizens in all four nations of the UK to trade freely with one another as they do now. This inevitably places time constraints on the drafting of the Bill and its passage through Parliament. However, this work builds on conversations we have had with the devolved administrations over the past several years, as well as the valuable contributions they have provided to us during the consultation period. These will be carefully considered along with consultation responses from businesses and citizens in all four parts of the UK as the Bill is drafted. Alongside this we welcome the views of your Committee and others, and will make sure you have time to scrutinise and report on the Bill as it makes its way through Parliament.

We believe the Bill's purpose is not constitutional but economic - to maintain the status quo of seamless internal trade and support the prosperity and welfare of people and businesses across the UK. However, we agree that any constitutional elements should be properly addressed and debated during the Bill's development. It is for this reason that our colleague Chloe Smith MP, Minister of State for the Constitution and Devolution, will lead on these aspects of the Bill.

As you know, under the terms of the Sewel Convention the UK Parliament does not normally legislate on matters which touch on areas of devolved competence without the legislative consent of the relevant devolved legislatures. We are committed to close cooperation and engagement with the devolved administrations on this work.

We are grateful for the Committee's support on the Government's view that independent

monitoring should be part of internal market protections. We will be publishing further detail on the proposals in this regard within the Government response to the consultation. We can, however, assure you that the Government has prioritised involvement for the UK Parliament and devolved legislatures in the delivery of the independent functions set out in the White Paper.

We fully agree with the need to conclude the review of intergovernmental relations without delay, not only to ensure effective mechanisms are in place to support engagement on the UK Internal Market, but to facilitate effective IGR across all policy areas. As you know, this is a joint review with the devolved administrations and therefore we continue to work closely with our counterparts to progress this work as a priority. On 12 August, Ministers from all four administrations met to discuss next steps, which included endorsing a proposed detailed delivery plan to conclude as soon as possible. The UK Government welcomes interactions with parliamentarians and the value added from transparency and parliamentary scrutiny. We are therefore looking at a number of options for reform to improve accountability and reporting of IGR, and look forward to engaging with parliamentarians to hear their perspectives on our progress on the review in due course.

We can assure you that we are carefully considering the recommendations in Lord Dunlop's review on UK Government Union capability and we intend to provide a further update in the Autumn.

Thank you again for your letter, and we hope these clarifications have been helpful. We look forward to hearing the Committee's views as these proposals develop.

With every good wish,



Rt Hon Michael Gove MP
Chancellor of the Duchy of Lancaster
and Minister for the Cabinet Office



Rt Hon Alok Sharma MP
Secretary of State for Business, Energy &
Industrial Strategy



PACAC (Public Administration and Constitutional Affairs Committee)

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Rt Hon Michael Gove MP and Rt Hon Alok Sharma MP
(by email)

Monday 10th August 2020

Dear Michael and Alok,

The White Paper on the UK Internal Market

I am writing in regards to the White Paper on the UK Internal Market. As the White Paper sets out, the British and then UK internal market has been at the heart of economic social prosperity of this country dating back to the Acts of Union in 1706/7. The arrangements of the UK's internal market will continue to be of importance to the UK's prosperity now we have left the EU. As such, how the internal market is maintained and regulated is a matter of great importance, and requires careful consideration, not least because it will impact on the UK's devolved governance arrangements. The Committee has a number of issues which it feels should be raised in response to the consultation and in advance of the introduction of a UK Internal Market Bill.

On the consultation process, the Committee is concerned at the timing and length of the consultation period for the White Paper. The Government's Consultation Principles state that "Consultations should last for a proportionate amount of time". The White Paper was published on 16 July and responses are due by 15 August. This one month consultation is not proportionate to the importance of the issues dealt with, and is not in line with other important consultations. For example, the Online Harms consultation lasted for 12 weeks between April and July 2019. Added to this the consultation was launched one week before, and concludes during, the summer recess preventing Parliament and, in particular select committees, giving adequate consideration to the proposals and form responses to the consultation. However, the Committee is aware that it is a matter of prime importance that proper arrangements are in place well before the end of the transition period, for regulating the country's internal market. As such the Government is now faced with time constraints in introducing this legislation that has meant the consultation period is shorter than would be expected. ***Therefore, it is essential that when the Bill is introduced to the House there is an appropriate amount of time for Committees to consider, take evidence, and report on the Bill.***

The main subject matter of the Bill in making provision for protecting the flow of goods and services in our home market clearly falls within the remit of the Department of Business Energy and Industrial strategy (BEIS). However, the effects of the Bill as outlined in the White Paper will engage with and alter the UK's devolved governance arrangements. This is a significant constitutional effect. As it currently stands, many of the areas for which the devolved institutions have legislative and policy competence

are governed and restricted by EU law.¹ At the end of the transition period, EU law will no longer restrict devolved institutions from legislating and setting policy in the areas for which they have competence. As the White Paper identifies, this creates the possibility that different regulatory systems could be put in place in England, Northern Ireland, Scotland and Wales, potentially creating barriers to the flow of goods and services. The White Paper addresses this issue by proposing to set in law the principles of mutual recognition and non-discrimination. This will effectively create new reservations in areas of devolved competence. **Given the constitutional nature of the proposals set out in the White Paper, it is important that these are openly acknowledged, considered and debated, as the Bill makes its passage through Parliament. The Committee believes that a Cabinet Office Minister should be attached to the Bill, alongside a Minister from BEIS.**

Given that the Bill involves areas of devolved competence and potentially reserves new powers, it would be preferable for legislative consent to be given by each of the devolved legislatures. To aid this, in line with the recommendation of the predecessor Committee to which the Government agreed, the Draft Bill should be shared and developed with devolved administrations “*far enough in advance for a devolved government to identify and work through any issues in the legislation with the UK Government*” before first reading.² If there remain differences as the Bill continues its passage, the Government should provide regular updates to the Committee, outlining the outstanding points and providing the UK Government’s position. However, the Committee is not insensible to the politically-charged atmosphere, which may mean such legislative consent is not forthcoming. ***The Government should indicate whether, in such circumstances, it would intend to override the Sewel convention.***

The Committee welcomes the Government’s inclusion of an independent monitoring body for the UK internal market. Given the timing of the consultation, the Committee is not at this point in a position to comment in detail on what such a body should look like. This is an issue to which we would expect to return once the Government have set out its proposals. **We would, however, expect that any proposals for the independent monitoring Body will involve direct reporting to House of Commons.**

As this Committee has made clear – and which has been stated by other Westminster and devolved committees – there is a need to establish new functioning inter-governmental relations mechanisms. **Given the nature of the proposals in the White Paper, and the Governments statement that the internal market arrangements will need to “account for the Review of Inter-governmental Relations”, the Government cannot continue to delay on the review and reform of inter-governmental relations. This review and accompanying draft reform proposals must be published as a matter of urgency to allow for proper scrutiny to take place.**

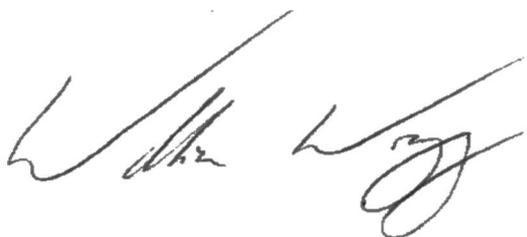
¹ See for example Scotland Act 1998, section 29(2)(d)

² Public Administration and Constitutional Affairs Committee, Eighth Special Report of Session 2017-19, Government Response to the Committee’s Eighth Report: Devolution and Exiting the EU: reconciling differences and building strong relationships, [HC 1574](#)

Further to this the Government must be transparent about future inter-governmental relations and devolution policy. **Whatever the motives, the continued refusal to publish the Dunlop review risks casting suspicion on the actions and motives of the Government.** The UK Government has previously resisted establishing formal arrangements to report to the House on inter-governmental relations.³ Given the increased importance intergovernmental relations will have now the UK has left the EU, for example in relation to the UK internal market, the Government should consider including reporting responsibilities in new arrangements.

The Committee will return to this issue in the Autumn, but I would be grateful for your thoughts on these points before the House returns in September. As is customary, I will be placing this letter and your responses in the public domain.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'William Wragg', written in a cursive style.

William Wragg MP
Chair, Public Administration and Constitutional Affairs Committee

³ Public Administration and Constitutional Affairs Committee, Eighth Special Report of Session 2017-19, Government Response to the Committee's Eighth Report: Devolution and Exiting the EU: reconciling differences and building strong relationships, [HC 1574](#)