



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

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17 November 2020

Edward Argar MP
Minister for Health
Department of Health and Social Care
39 Victoria Street
London SW1H 0EU

Dear Edward,

Nutrition Labelling, Composition and Standards (NLCS) framework

Thank you for your letter dated 2 November 2020 and for the extension to the formal parliamentary scrutiny period. Through our scrutiny of the Provisional Framework, we have identified three areas where we have concerns and one specific recommendation that we believe would facilitate future parliamentary scrutiny of this framework.

First, we have serious concerns about the process for scrutinising this framework. While the Provisional Framework was laid in Parliament on 9 October, in line with the process outlined in the letter from the Minister for the Constitution and Devolution on 1 June 2020, it is clearly an unfinished document. In addition to small mistakes, there are sections that are highlighted as incomplete and subject to further discussions between the four administrations. Even once it is implemented, it will continue to be refined in the months to come. We believe that this undermines our ability to conduct effective parliamentary scrutiny and renders the formal scrutiny period meaningless.

Second, there are clear issues related to the development of this Provisional Framework alongside the Internal Market Bill. While the Provisional Framework states that it “will link into any future arrangements to enable the functioning of the UK Internal Market”, it remains unclear how it will do so. There appear to be clear tensions between the framework and the Internal Market Bill as currently drafted; the mutual recognition principle in the Bill would allow businesses to circumvent any divergent rules that could be jointly agreed through this framework. This has made it difficult to understand how the framework will operate in practice and further undermines the process for parliamentary scrutiny.

Third, we are concerned that the Provisional Framework does not sufficiently account for the Northern Ireland Protocol. Although Annex 2 of the Northern Ireland Protocol states that EU nutrition rules will continue to apply to Northern Ireland, this is not referred to anywhere in the Provisional Framework. While you state in your letter that you “do not currently anticipate any issues arising as a result of policy divergence at the end of the transition period”, the likelihood of such divergence will increase over time and could have serious implications for the future operation of this as a UK-wide framework.

These three observations underscore the importance of this framework being subject to regular reviews and for there to be future opportunities for parliamentary scrutiny. In this context, we welcome your statement that you “would be happy to invite further opportunities to review the updated framework after it has been implemented.” However, in order to conduct effective scrutiny, parliamentarians will need to have adequate information about the operation of the framework and in particular the work of the NLCS Policy Group that it establishes. Within the Provisional Framework, there is already a reporting function to Ministers provided by Part D Section 7.1:

“The NLCS Policy Group will collate quarterly information on meetings relevant to this framework, held between the parties, including supplementary information on: attendance; the nature of discussions and decisions taken; levels of divergence; and whether and to what extent the dispute resolution process has been utilised. An annual report will be submitted to Ministers and may be used to inform any reviews that take place in accordance with Part D Section 8.”

We believe that this annual report should be shared with the UK Parliament and devolved legislatures. This would ensure an appropriate degree of transparency of the development of UK nutrition rules after the end of the transition period and would be essential for the purposes of effective parliamentary scrutiny. We believe that this would also be supported by the devolved legislatures and would complement the commitment by the Welsh Government to “lay a report before the Senedd at least annually, which provides an assessment of the functioning of each Common Framework.”

We understand that each of the four governments are currently receiving views on this Provisional Framework from their respective legislatures. We therefore look forward to your response to this letter once these have been received and our recommendations have been considered, together with the final version of the framework. We also expect to be updated as this framework is reviewed at each of the intervals stated in the framework.

I am copying this letter to Chloe Smith MP, Minister for the Constitution and Devolution.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee