

Written evidence submitted by Northern Ireland Retail Consortium, relating to the operation of The Windsor Framework

[OWF0012]

Summary

The membership of the Northern Ireland Retail Consortium has been at the forefront of the practical implementation of the requirements of the Windsor Framework and have succeeded in maintaining high levels of compliance.

The Review represents the perfect opportunity to look again at the policy objectives that the Framework was designed to achieve – namely the protection of the EU Single Market and the UK internal market. With the change in UK government and an expressed desire to reset relations and a government committed to aligning with the EU in many areas we need to explore how we move from somewhat dated approach of labelling and paperwork to a truly trusted trader scheme that fully employs technology and acknowledges the robust nature of the retail supply chain in the UK and the EU. NIRC notes that in his letter to the Speaker of the NI Assembly 20th January the Secretary of State Hilary Benn talks (in the context of chemical regulation and labelling) about the need for a ‘consistent regime’ and an ‘approach will ensure that our domestic regime does not undermine the smooth operation of the UK internal market and Northern Ireland’s integral place within it in all circumstances.’

We need to move beyond resolving the immediate problems to a system that reflects not just the current administrative and procedural requirements of the Framework but also the much broader issues of managing the divergence that is likely to develop over time. Without concentrated and coordinated focus and action by both the UK government and the EU there is a real danger that the cumulative burden of the Windsor Framework and further divergence between the UK and the EU will leave Northern Ireland consumers paying the price.

1.0 Introduction

The Northern Ireland Retail Consortium (NIRC) represents all aspects of the retail industry. Our membership includes most large retail businesses across all categories and channels, and thousands of small, independent retailers through our trade association members. Our retailers are represented in every town high street, shopping centre and retail park in Northern Ireland.

In every community, retail is the 'Everywhere Economy' supporting tens of thousands of jobs both directly and in UK supply chains. NIRC members have invested heavily in, and make a significant contribution to, the economy of Northern Ireland.

NIRC is a sister organisation of the British Retail Consortium which represents retailers across the UK. The BRC has worked closely with the Government since the Brexit vote to ensure retailers and supply chains based in Britain were able to continue to supply their stores in Northern Ireland. UK retailers operate UK wide supply chains and the vast majority of food sold in Northern Ireland is transported from depots in Britain.

NIRC and BRC members have been integral to maintaining the same access for Northern Ireland consumers of affordable, healthy, sustainable food since Brexit. That has taken considerable investment in supply chain systems to meet the new requirements under the Northern Ireland Protocol and then Windsor Framework.

During the years since Brexit our members have sought to engage constructively with both the UK and EU administrations. We have consistently called for a system which both respects the EU concerns in preserving its single market whilst maintaining effective, efficient UK supply chains and the integrity of the UK market.

We welcomed the introduction of the Northern Ireland Retail Movement Scheme and the opportunity to use a green lane for transporting food to Northern Ireland. However, we believe compliance with the scheme should be based on the excellent traceability our members use to manage their supply chains rather than additional labelling and other controls. We are concerned that many in government circles appear to believe that SPS (Sanitary and Phytosanitary) alignment with the EU will relieve the pressures on the retail industry and while it would improve matters it would leave many problems unresolved.

We make specific responses to the points raised by the Committee below but in summary, we feel the current system requires unnecessary bureaucracy and costs for retailers which are making it increasingly difficult to maintain the choice of affordable food consumers in the rest of the UK enjoy.

The issues raised by the Windsor Framework and EU divergence need to be addressed at a UK government level involving all relevant departments and in conjunction with other consultations e.g. the ongoing UK Internal Market Act consultation.

2.0 Implementation of Not for EU labelling and parcel movement requirements

Our members recognised quickly the Northern Ireland Protocol would not deliver the controls on the movement of food likely to satisfy the EU's concerns for protection of its single market. During that period, we engaged extensively with the UK Government and officials from the EU to try and persuade them to develop an effective trusted trader scheme based on our traceability systems.

We welcomed the proposals for a new trusted trader scheme and the reduction in friction for retailers moving multiple transports daily through the green lane. We also signaled, however, early in those discussions, that separate labeling of products for the Northern Ireland market to support compliance would be problematic.

UK retailers manufacture and source products for the whole market and segregation on this basis is a logistical problem; both changing labels, including persuading branded manufacturers to do so for a relatively small part of the UK market and segregating products in the supply chain to ensure only those appropriately labelled could be transported.

The intended outcome of the Green Lane was primarily to simplify the movement of goods, however NIRC members would dispute that this is the case. It was promoted on the basis of goods being able to move from GB to NI by furnishing commercial data alone, however it is clear that a customs declaration (albeit a reduced dataset declaration) is still required and must be accepted before goods can be moved.

Furthermore, there are multiple aspects for consideration within the Windsor Framework, notably the operation of the Trader Goods Profile or alternatively whether to provide commodity codes to 6, 8 or 10 digits, the suggested possibility for aggregation of customs entries and/or adopting the use of Entry in Declarants Records (EIDR) either under a UKIMS or simplified procedures authorisation. None of this feels straightforward, and less so a simplification. As such, working out the art of the possible under the Framework has been complex and is still an evolving picture.

Retailers are experiencing sustained practical difficulties with the operation of the green lane. Despite the fact that the inherent risk (i.e. the risk of products destined for Northern Ireland market crossing into the Single Market) is low the industry is subject to a huge amount of administrative paperwork.

These problems have been compounded by the short timescale to ensure compliance. By the third phase of labelling in July 2025 the range of products covered will be vast. This will require thousands of suppliers, many of them small to medium-sized businesses, to be aware of the changes and implement them in time. This will be particularly difficult as the guidance of which products are in scope has been difficult to secure from Government. For example, we are less than six months from the final change, and we are yet to see the final guidance on which products are in or not in scope. To be clear: customers are already seeing a real impact on service (because of inspections) and range and we are expecting this to only get worse when we get to Phase 3.

In addition, the Government has plans to introduce legislation to require, if necessary, manufacturers of certain goods to use the 'Not for EU' label across the whole UK in order to ensure those products are available in NI through the NIRMS. We have not yet had a chance to see the proposals or to understand how they would work in practice to NI customers have the same choice as those in the rest of the UK.

We remain unconvinced that product labelling was justified to meet the objectives of the Windsor Framework. On pack labelling is designed to help consumers make a choice at the point of sale not control traceability, that is done behind the scenes in logistics.

We are particularly concerned labelling will lead to a reduction in choice for Northern Ireland consumers. Many branded food manufacturers have been reluctant to use the labelling as it requires additional controls on production lines for a relatively small part of the UK market. Obviously, retailers do not have control of branded products and are reliant on the decisions made by brands, which could mean popular brands are missing from supply chains and in stores from July.

3.0 Customs procedures and movement of goods and agri-foods GB to NI, including the UK Internal Market Scheme and NI Retail Goods Movement Scheme

We welcomed the introduction of the Northern Ireland Retail Movement Scheme (NIRMS); however, we have experienced problems with controls which have been introduced to meet the EU concerns over its robustness.

These have been introduced to cover issues such as rest of the world goods imported through UK ports for onward transport to Northern Ireland. Retailers have been required to

demonstrate additional controls are in place to meet EU requirements, as if the goods had been imported directly into the EU.

The simple system for operating NIRMS has become more complicated over the years of its use. We are now waiting guidance on a new packing list for each consignment to continue to use the green lane.

Retailers using NIRMS are also not exempt from checks when entering into Northern Ireland. A percentage of all vehicles are stopped to ensure they are complying with the scheme, including product level labelling. Unfortunately, the percentage of vehicles checked increased in 2024 and led to additional delays and, occasionally, the rejection of lorries impacting on retail operations.

Moreover, the NIRMS scheme which has been in force since 30 September 2023, requires the submission of a packing list and a General Certificate in place of the previous STAMNI (Scheme for Temporary Agri-food Movements into Northern Ireland) form. Initially, these forms were quickly validated within TRACES NT (the UK-EU trade platform) but during the last two months, the validation process has been taking a lot longer, typically at least 30 minutes. This has meant that in-house processing times have lengthened and generated inefficiencies within supply chains.

4.0 Parcel movement requirements and customs changes

NIRC members remain concerned about the implications of new regulations and customs requirements relating to the movement of parcels. The new arrangements under the Windsor Framework for parcels and freight movements were envisaged to come into effect from 30 September 2024 did not come into effect on this date. Notification of this postponement was only announced on 19 September.

With respect to B to C (Business to Consumer) arrangements, notably e-commerce operations, where goods are delivered direct to the customer's home address, the onus is upon the parcel carrier to fulfil the necessary data notification requirements. This involves the requirement for them to have registered for the UK Carrier Scheme and have implemented new systems to effectively gather and submit the data.

It is therefore of concern to NIRC members that parcel carriers including Royal Mail, may not be geared up for the introduction of the new requirements from 31 March 2025, which if not smoothly introduced will undoubtedly result in disruption and delays for end customers.

With respect to “Customer collect from store” arrangements, retailers initially received mixed messaging from HMRC as to how these should be treated, whether as B to C, or as B to B (Business to Business), given that the end delivery destination is a retailer’s store.

Post the outcome of the General Election, HMRC subsequently confirmed that retailers may choose how to categorise these movements. The lack of clarity and engagement from HMRC led to a delay in initial preparations and limited time to identify the best possible solution.

The preferable solution is still to treat as B to C, but the requirement to provide a customer address alongside the end delivery address, will require a systems’ upgrades which are significant and disproportionate cost to the business.

If retailers choose to treat these movements as B to B, there is still significant additional cost to the business as there will be a requirement to either outsource the completion of the necessary customs declarations to a third-party provider, or to recruit an extra team member to manage in-house. This appears contrary to the protection of the UK Internal Market.

NIRC and its members require a new detailed timeline for the coming into effect of the new arrangements and more clarity. NIRC are concerned about the level of disruption that may occur if the new deadline of 31 March 2025 is kept in place.

NIRC is concerned that the application of new arrangements may pose a risk to the operation of the UK internal market and, as with the NIRMS, we are not convinced that the system proposed is proportionate to the level of any perceived threat to the EU single market.

Despite the best efforts of the Trader Support Service many retailers are struggling to manage the complexities of the customs arrangements and in the case of Anti-Dumping Duties (ADD) they are at a loss to see the rationale of the system or indeed any logic.

Products that are subject to anti-dumping duties still need to be declared through the Red Lane, which means that even retailers who move the bulk of their goods through the green lane still retain the operational capacity to furnish full EU compliant customs declarations in any event. Furthermore, they must pay duty upfront on such goods, only to have to submit a further application to recover the duty when it is proven the goods remain in Northern Ireland as was always intended. Overall it therefore feels like retailers have to manage more processes and possibilities, which does not feel like a simplification and contrary to the Windsor Framework aim to simplify the movement of goods within the UK internal market.

Retailers spend a significant amount on customs declaration fees each year and these costs are expected to rise post March 31st under the new customs simplifications.

The Duty Off Set mechanism that is used to calculate the excise difference when rates increase is not proportionate to the size of a business and throughput, which results in paying the excise twice on many lines

Retailers believe that, from a customs perspective, these processes are costly, complex and inefficient.

5.0 Regulatory Divergence

NIRC and its members are also concerned about areas where legislative divergence between Great Britain and Northern Ireland is likely to occur and the mechanisms in place to monitor or manage this.

Although the Windsor Framework meant UK regulations apply to food safety, it did not cover regulations in product safety and environment. Retailers are now experiencing problems of managing divergence now as well as extremely concerned about future divergence. For retailers divergence increases cost, complexity and inhibits the ability to invest.

From the 13 December 2024 of Regulation (EU) 2023/988 relating to General Product Safety Regulation applies to all retailers in Northern Ireland, not just food retailers, and they are required to follow the Common Charger Directive for mobile phones and laptops from December 2024.

In product safety divergence, the changes to the supply chain should be relatively small in terms of impact. Most electrical and furniture goods supply chains are manufactured for European and global markets, which means compliance with production should not be too problematic. The problem tends to be, as with the two examples above, different approaches to labelling and consumer information.

In this instance, the Department for Business and Trade (DBT) were helpful in ensuring compliance. They briefed our members a number of times ahead of the introduction of the new Regulations and produced guidance for retailers. However, we are likely to see further product safety divergence in the future.

Going forward government needs to consider the need for visibility for new changes due to EU legislation and the need for sufficient time for UK retailers, many of whom don't operate in the EU to prepare for them.

Retailers also have concerns about the application of new Ecodesign for Sustainable Products Regulations for tumble dryers and their extension to other products possibly including ovens and vacuum cleaners. The requirement for nearly all products being sold in the EU to feature a Digital Product Passport has significant potential to disrupt the flow of goods between NI and GB.

Of more concern is divergence in environmental regulations. These can often introduce additional controls which would not be required otherwise in UK supply chains. The most pressing of these is deforestation regulations which cover the movement of specified commodities where the importer has to demonstrate they do not derive from areas of deforestation. This would require the retailer, potentially, to demonstrate each time they move an eligible commodity between Britain and Northern Ireland it complies with the regulation, a massive, bureaucratic exercise.

To date the UK Government has not confirmed if regulations such as the EU Deforestation Regulations (EUDR) would apply in Northern Ireland nor sought to enforce other EU environmental regulations, such as its new packaging proposals. However, if it did this would add an enormous burden to supply chains between Britain and Northern Ireland. To be clear: if suppliers cannot provide the due diligence retailers will have to de-list products.

The UK Government is bringing forward its Forest Risk Commodity Regulation (UKFRC) however there is a risk of different timetables of introduction and differences in scope between the EU Directive and the proposed UKFRC.

Further environmental regulation is likely in every jurisdiction, such as rules on carbon emissions and waste and resources. If we see further divergence in this area it could mean it is impossible to operate UK supply chains efficiently in the future.

Going forward it may be that the UK government may, via the Product Regulation and Metrology Etc. (Amendment) Regulations 2024 and other measures, keep GB in alignment with European regulations and therefore removing the danger of the NI market diverging from the GB market. This would maintain an internal UK market that is aligned with the EU Single Market. Retailers need greater clarity both on the direction of travel and equally importantly on the timescale envisaged if, for example, a decision to align GB with the EU is made. Retailers cannot be expected to operate according to two different regulatory regimes within the UK and without clarity as to when divergence will be addressed.

6.0 Conclusion

NIRC members remain committed to continuing to serve consumers in Northern Ireland by providing the same broad range of products in a highly competitive market that provides great value for money. NIRC is committing to working with the UK government to try to ensure the continued smooth operation of the UK internal market and to continuing to work to build a trust trader scheme that uses modern technology to enable the EU to assure themselves that the EU Single Market is protected.

The complexities of the Windsor Framework added to the other, as yet seemingly unquantifiable negative implications of divergence, combine to create a significant cumulative burden that adds significantly to the ability and the cost of operating in Northern Ireland.

NIRC believes this Inquiry and the current Review represent an opportunity to look beyond the statistics regarding the implementation of the current administrative arrangements to examine how best to achieve the policy objectives desired.

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