

## International Trade Committee Written Evidence

# UK trade negotiations: Agreement with Australia

### Summary

1. Which? welcomes the opportunity to submit evidence on the implications of the UK's Free Trade Agreement (FTA) with Australia. The focus of our evidence is on the extent to which the trade deal will deliver for UK consumers. The success of the UK's trade negotiations will ultimately be judged by what they deliver for people in their everyday lives.
2. Overall, the UK-Australia FTA has the potential to make some products imported from Australia, such as wine, cheaper for consumers if the removal of tariffs feeds through into lower consumer prices. The in-depth consumer research that Which? has conducted over the last two years, has found that while opening up markets to provide more choice and lower prices for consumers is seen as an opportunity, the overwhelming priorities that people expect the government to address as part of trade deal negotiations are: upholding food and consumer product safety standards; upholding data protection and digital rights; ensuring trade deals support environmental protection; and ensuring regional equity, so that all parts of the country can benefit. It is therefore essential that the trade deal also delivers on these issues.
3. On food standards, it is positive that the government has made it clear that the trade deal maintains the UK and Australia's rights to apply their current food standards to imports and therefore means that the ban on beef produced using hormones will, for example, still be in place. It also needs to be ensured, however, that provisions within the Sanitary and Phytosanitary (SPS) Chapter, including those relating to determining equivalence of standards and taking account of regional conditions, do not result in a longer-term unwinding of the standards UK consumers expect.
4. We also have concerns about how the market access provisions within the trade deal, which will remove tariffs and quotas on agricultural imports, will undermine standards and the UK's focus on a shift to a more sustainable food system. Australian producers are subject to lower environmental and animal welfare standards than apply in the UK. The government's impact assessment, for example, recognises the higher carbon impact likely from increased Australian beef imports relative to UK production. It is important that the government therefore acts on the recommendation of the Trade and Agriculture Commission, as well as Henry Dimbleby within his National Food Strategy, and establishes a set of core standards, including environmental and welfare standards that will apply to this and other trade deals.
5. Digital trade has been a government priority for this and other FTAs and the provisions opening up data flows could be beneficial for consumers by providing access to a wider range of goods and services – but only if underpinned by robust data protection and digital rights. The FTA includes welcome provisions to enhance cooperation on consumer protection, but we are concerned that the data protection provisions reference

international guidelines and principles which would be weaker than our own UK General Data Protection Regulation (GDPR). It must be ensured that UK consumers' data will be handled according to UK regulation once it is transferred to Australia and then potentially onward to another jurisdiction.

6. In terms of consumers' priority that the FTA upholds environmental protection, it is positive that the FTA sets out a desire for cooperation on environmental issues and will establish an Environmental Working Group. The impact assessment, however, shows that UK emissions are likely to increase in the short term as more products are transported from Australia.
7. More generally in terms of promoting consumer interests, it is disappointing that unlike the New Zealand Agreement in Principle, the Australia deal does not include a specific consumer chapter. Which? has called for a specific consumer chapter to be included within all UK trade deals to set out key guiding principles for promotion of consumer rights and protections and reinforce provisions that are relevant for consumers within specific chapters. The FTA includes a Competition Policy and Consumer Protection chapter and emphasises the importance of consumer protection legislation and access to redress in key areas. It also refers to the importance of cooperation on competition and consumer protection. The Telecommunications chapter also makes reference to the potential to cooperate to reduce roaming charges which would be a clear benefit for consumers, but further negotiations will need to be instigated to make this happen.

## **Introduction**

8. Which? welcomes the opportunity to submit evidence to the International Trade Committee's inquiry into the recently signed free trade agreement (FTA) with Australia. As a champion of UK consumer interests in trade deals and wider trade policy, we have focused our evidence on the Committee's questions about
  - a. the impact of the agreement on UK consumers; and
  - b. how well the government has communicated its progress in negotiations, listened to stakeholders and communicated the possible impact of the FTA.

## **The impact of the deal on UK consumers**

9. The government has emphasised the benefits that the FTA will bring for consumers in terms of the removal of tariffs on a range of Australian imports. In the consumer impact section of the government's impact assessment of the deal, it is stated that the provisions of the FTA aim to benefit UK consumers through increased consumer choice, better product quality and lower prices for imported products. The extent to which consumers will benefit from the reductions in tariffs that are included will depend on the rate of 'pass through' of lower import costs to consumers. These reductions are estimated to be the highest for alcoholic beverages including wine and then for food (largely semi-processed) and non-alcoholic beverages.
10. Our consumer research shows that while consumers see this as a clear benefit, they expect standards to be protected and prioritise a much wider range of issues that should be addressed as part of the government's new trade deals. It is less clear how effectively the government has delivered on these as we set out below.

## Consumer priorities for trade deals

11. In 2020 Which? conducted the 'National Trade Conversation' (NTC) – a series of public dialogues around the UK, with people from a wide range of backgrounds, to understand in greater depth what mattered most to people about trade deals when they had a detailed understanding of the issues that could be part of the negotiations – including greater access to a range of goods and services<sup>1</sup>.
12. The Conversation took place in Northern England, the East Coast of Scotland, Northern Ireland, South Wales and Southern England. Over five virtual workshops people learned about what we trade, how trade deals are negotiated and what the key issues are for the government's priority trade deals. After much debate and questioning, four issues emerged as the overall priorities for most of the people who took part. These four issues were identified as priorities by the majority of participants across all of the locations after hearing a wide range of evidence and in-depth discussions:
  - a. Maintain health and safety standards for food and products
  - b. Maintain data security regulations that protect consumers' digital rights
  - c. Protect the environment
  - d. Help address regional inequalities by protecting and promoting jobs, skills and industries across the UK.
13. Four core principles also underpinned the way that people explained what mattered most to them:
  - a. Fairness and trade for good
  - b. Longevity – deals that are future-proofed
  - c. Deals should represent the whole of the UK
  - d. Transparency in trade negotiations.
14. A year on from our NTC, Which? reconvened some participants from the NTC in a multi-day online research community to understand their views on the development of the government's approach since the first conversation, and to see if their priorities had shifted<sup>2</sup>. Which? also supplemented this deliberative research with a survey<sup>3</sup> in June 2021 that was representative of the UK population to find out people's views on how trade negotiations were progressing and what they considered to be most important. This new research reinforced the importance of the four priorities and in the case of environmental protection, showed that people felt even more strongly that the government needed to ensure trade deals supported efforts to tackle climate change.
15. When we specifically discussed a potential trade deal with Australia with people in our public dialogues in 2020, based on the published negotiating objectives, participants generally felt the trading objectives of Australia and the UK were broadly complementary and that a trade deal with positive outcomes for consumers seemed feasible. People were pleased to see the potential benefits of reducing or removing tariffs on a range of Australian consumer goods such as wine and food and were positive about strengthening rules on digital trade and its promotion. They were also positive about the possibility of a future deal including sustainability provisions about the environment and climate change.

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<sup>1</sup> <https://www.which.co.uk/policy/euexit/6731/nationaltradeconversation>

<sup>2</sup> <https://www.which.co.uk/policy/euexit/8502/consumer-priorities>

<sup>3</sup> Yonder, on behalf of Which?, surveyed 3,263 UK adults online between 23rd and 24th June 2021. Data was weighted to be representative of the UK population by age, gender, region, social grade, tenure and work status. We boosted the number of respondents from the devolved nations to ensure we had a large (500+) sample for each.

16. The main risks that people were concerned about fell into three categories and were consistent with their overriding priorities. Some participants were concerned about the environmental impact of increasing the trade of goods with a country on the other side of the world. People, particularly those from rural communities such as in our South Wales location, were concerned about the impact on UK farmers if quotas for meat imports were increased by a large margin. Many participants were surprised to learn that Australia permits some food production methods which are currently banned in the UK and they did not want to see food produced in these ways to be allowed into the UK as a result of a trade deal.

### **Food and product standards**

17. A number of chapters across the FTA will determine the extent to which people's expectations that food and consumer product standards will be upheld in the short as well as longer-term. Reflecting our wider consumer research, people taking part in the National Trade Conversation expected the UK to maintain food and product safety standards and most would be concerned if the UK allowed imports produced to lower standards. Our survey also found that 91% of people thought that the same standards relating to safety and health should be applied to imports as to food produced in the UK – and 87% and 84% respectively in relation to standards for animal welfare and environmental protection.

18. People recognised that price was an important consideration for many consumers, heightened by the pandemic and by food price inflation since we conducted our research. But they felt strongly that the longer-term impact of reducing standards, on health for example, also needed to be taken into account and those on the lowest incomes, who would also have to buy based on price, needed to be protected.

19. Specifically on food standards, the government has made welcome commitments that the FTA will not lead to any lowering of UK standards, including the current ban on beef hormones. It states for example that the Sanitary and Phytosanitary Measures (SPS) Chapter "*does not create any new permissions or authorisations for imports from Australia. All products imported into the UK must, as they do now, comply with our import requirements*".

20. We are still concerned, however, that some aspects of this chapter could potentially lead to a shift in approach further down the line. It needs to be ensured that the following provisions within the SPS chapter do not lead to standards being weakened as the FTA is implemented. The Food Standards Agency and Food Standards Scotland, set up to protect public health and other consumer interests in relation to food, need to have a more explicit role in assessing and communicating their implications.

- a. *How regional conditions are taken into account*: The adaptation of SPS measures to recognise regional conditions is set out as an important means of facilitating trade and the Parties state that they will endeavour to cooperate on the recognition of regional conditions. This could be a concern if, for example, it resulted in the UK importing products that included residues of pesticides not permitted in the UK or above a permitted level.
- b. *How equivalence of standards is determined*: The Parties acknowledge that recognition of the equivalence of SPS measures is an important means of facilitating trade. In determining equivalence of an individual measure, group of measures, or measures on a systems-wide basis, each Party shall consider the relevant international standards, guidelines and recommendations. It also states that "*the*

*importing Party shall recognise the equivalence of SPS measures, even if the measures differ from its own, if the exporting Party objectively demonstrates to the importing Party that the exporting Party's measures achieve the importing Party's appropriate level of protection. The final determination of equivalence rests with the importing Party".* How this is applied will be important because many of the standards that matter to consumers are about how the level of protection is achieved, ie. the production process, not merely the end result. International standards established by the UN's Codex Alimentarius Commission, if used as a reference, may also mean a lower level of protection than is currently required under UK law.

- c. *The lack of reference to precautionary measures:* The Chapter has a strong focus on science-based principles and risk assessment, without referencing the importance of precautionary measures when faced with scientific uncertainty (as the BSE crisis brought to light for example) and as article 5.7 of the WTO SPS Agreement (covering cases where scientific evidence is insufficient and provisional measures can be adopted) allows for.

21. The FTA also includes a specific chapter on animal welfare and antimicrobial resistance which is welcome. On animal welfare, the chapter recognises the importance of high animal welfare and says that the Parties will exchange information, expertise and experiences with the aim of improving understanding of each others' approaches and establishes a Working Group. On antimicrobial resistance, there are also commitments to cooperate in international fora and support efforts towards global harmonisation of surveillance and data collection.
22. As well as these chapters, the provisions for the removal of tariffs and quotas - which will significantly increase market access for Australian agri-food products - also need to be considered in terms of the UK's broader food system and efforts to transition to a healthier and more sustainable system. Henry Dimbleby in his National Food Strategy<sup>4</sup> for the government, emphasised that there is a real risk that the Australia deal could undermine the government's focus on getting UK farmers to raise their environmental standards further – and that our true carbon footprint, including that from imports, would be larger than ever, as would the impact our food has on biodiversity. He also highlighted examples of how Australian animal welfare standards can be lower than those considered acceptable in the UK. In line with the Trade and Agriculture Commission,<sup>5</sup> he therefore also recommended that, as well as maintaining the current standards that apply to imports, the government should develop a set of core standards that it can use for all future trade deals and explained how it would enforce them and thereby help to raise standards both here and abroad. It is important that the government acts on this recommendation.
23. The Technical Barriers to Trade (TBT) chapter is important in terms of delivering consumers expectations of standards for both food and non-food products. As with the SPS chapter, how the provisions are implemented will be crucial and in particular:
  - a. *How equivalence will be determined:* The TBT Chapter states that each Party shall give positive consideration to accepting technical regulations of the other Party as equivalent to its own, even if these regulations differ from its own, provided that it is satisfied that these regulations adequately fulfil the objectives of its own regulations.

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<sup>4</sup> The Plan, National Food Strategy independent review, Henry Dimbleby, July 2021.

<sup>5</sup> Trade and Agriculture Commission, Final Report, March 2021.

- b. *Reference to international standards:* It also states that each Party shall use international standards, guides, and recommendations (or the relevant parts thereof) as a basis for its technical regulations and conformity assessment procedures. International standards generally reflect a standard where international consensus can be reached, rather than the optimum standards. While this may be appropriate where British Standards Institute (BSI) standards are aligned with International Standards Organisation (ISO) standards and offer the same level of protection, other standards, such as Codex standards for food for example, may differ from the UK's standards or regulations and mean a lower level of consumer protection.
- c. *Conformity assessment:* The UK and Australia have agreed to exchange information on the range of mechanisms relevant to conformity assessment procedures in their respective territories with a view to facilitating the acceptance of conformity assessment results.

## **Data protection and digital rights**

- 24. Our research found that people were positive about the opportunities enhanced digital trade could provide, but expected the government to ensure that any opening up of data flows was underpinned by effective data protection and that measures included within trade deals did not undermine the UK's approach to regulation of online harms and digital rights.
- 25. Chapter 14, which covers digital trade, includes valuable provisions that will provide direct benefits for consumers, such as recognising the validity of electronic contracts and signatures and removing obstacles surrounding electronic transactions. As with the government's approach to digital trade in its trade deal with Japan, we have concerns about the balance that has been achieved in terms of facilitating international data flows, which can benefit consumers through improved access to goods and services, and the robustness of the data and digital rights provisions that underpin this.
- 26. The data protection provisions (Article 14.12) state that "*each Party shall adopt or maintain a legal framework that provides for the protection of the personal information of the users of digital trade. In the development of its legal framework for the protection of personal information, each Party shall take into account principles and guidelines of relevant international bodies, including collection limitation, data quality, purpose specification, use limitation, security safeguards, transparency, individual participation, and accountability*".
- 27. It also states that "*Recognising that the Parties may take different legal approaches to protecting personal information, each Party shall encourage the development of mechanisms to promote compatibility between these different regimes. These mechanisms may include the recognition of regulatory outcomes, whether accorded autonomously or by mutual arrangement, or broader international frameworks*".
- 28. Although it is positive to see provisions that promote the protection of personal data protection through legal frameworks, UK consumers expect their personal data to be protected to the same high standard of personal data protection they experience domestically under UK GDPR when it is transferred internationally to trading partners.
- 29. References made to data protection without specific detail combined with language used that seeks to promote compatibility or interoperability between UK GDPR and weaker rules for data transfers or rules that only satisfy international guidelines, introduce

flexibility into the well-regulated UK GDPR regime, which is detrimental to consumers. Rules that do not offer a prescriptive strong level of data protection are not compatible with UK GDPR as they do not offer consumers an equivalent level of protection as UK law, and therefore require additional safeguards when personal data is transferred into jurisdictions governed by them.

30. The recognition of '*different legal approaches*', the encouragement of '*development of mechanisms to promote compatibility between these different regimes*', combined with the footnote to Article 14.12 which outlines that Parties may comply with the data protection requirements through different measures, including '*laws that provide for the enforcement of voluntary undertakings by enterprises relating to data protection or privacy*' create cause for concern.
31. Allowing for voluntary undertakings to be on equal footing to the prescriptive regulatory framework the UK has through UK GDPR creates the possibility for UK consumers' data, when transferred to trading partner countries, to be subject to lower levels of protection. It must be ensured that UK consumers' data will be handled according to the UK's high data protection standard when it is transferred to Australia and then potentially onward to another jurisdiction.
32. More positively, we welcome the focus on online consumer protection within the digital chapter – as well as within the Competition Policy and Consumer Protection Chapter (see below). Importantly, this includes recognising the importance of cooperation, improving awareness of and providing access to consumer redress mechanisms to protect consumers engaged in digital trade. The Telecommunications chapter also makes reference to the potential to cooperate to reduce roaming charges which would be a clear benefit for consumers, but further negotiations will need to be instigated to make this happen.

### **Environmental Protection**

33. Our consumer research has highlighted that environmental protection has become an even greater priority for consumers over the past year and they expect the government to be ensuring that trade deals support this.
34. The government's impact assessment indicates that overall greenhouse gas emissions associated with UK-based production are estimated to be largely unchanged from the agreement with Australia, but it is expected to lead to an increase in transport related emissions as a result of the increase in trade with Australia. The estimates suggest a 31-40% increase in transport emissions associated with trade with Australia. The assessment stresses that these estimates do not account for the future decarbonisation of international shipping – and that the agreement preserves the UK's right to regulate to meet its climate commitments. The DIT impact assessment also considers carbon leakage, as a result of higher levels of trade in sectors where climate change mitigation policies are less stringent in Australia than in the UK. It sees the main risk relating to beef production – although stresses that climate mitigation policies are unlikely to remain constant.
35. More positively, the specific environment chapter includes commitments to cooperate and recognises the importance of mutually supportive trade and environmental policies, including each party's right to establish its own levels of domestic environmental protection. The UK and Australia also agree to cooperate in a number of areas including

on emission reduction opportunities, cost-effective low and zero emissions technologies, energy efficiency, climate change adaptation and resilience.

36. It is also positive that the Parties recognise the importance of a transition to a circular economy – and the role that trade in second hand goods, end of life products, secondary materials, processed waste and trade in related services can play. They recognise the importance of eco design and also recognise the importance of encouraging environmental labelling, including eco labelling.
37. An Environment Working Group will be established. It is important that this operates transparently and that there are regular updates provided on how discussions are developing and the extent to which they are delivering meaningful outcomes. The Chapter emphasises the importance of public consultation and so it is important that mechanisms are established to ensure that this is conducted in a meaningful way.

### **Regional equity**

38. The fourth priority that emerged from the Which? dialogues related to ensuring that trade deals deliver for people across all parts of the UK. The priorities set out above were consistent across all of the dialogues that we held. As highlighted above, National Trade Conversation participants in more rural parts of the UK raised particular issues about how the Australia deal would impact on their communities and local farming.
39. Unfortunately, the Impact Assessment of the UK-Australia FTA gives little indication of how this deal will impact the nations and regions of the UK. The paper simply notes “The output of the West Midlands and North East of England could be set to expand the most in relative terms as a result of the agreement. This reflects a relative concentration of manufacturing of motor vehicles and machinery. Scotland, Wales and Northern Ireland could see a combined long-run, annual increase in GVA of around £200 million. The sensitivity analysis in section 7 shows that the impacts on Northern Ireland and West Midlands are sensitive to assumptions regarding the presence and scale of local economic effects. Large local economic effects could increase the GVA gain in West Midlands and result in a net GVA loss for Northern Ireland.”<sup>6</sup> This is followed by a scenario based GVA table which predicts West Midlands (0.14% change in Gross Value Added) and North East (0.12% change in GVA) will benefit the most, and Northern Ireland the least (0.5% change in GVA).
40. Given the importance of this issue, we strongly recommend that further focus is given to understanding the potential impact on the nations and regions, and that for future agreements this is conveyed in a more thorough manner.

### **A consumer chapter**

41. Which? has called for an explicit consumer chapter to be included within trade deals. This would set out key guiding principles for promotion of consumer rights and protections, reinforcing provisions within specific chapters that have implications for consumers, including health protection, technical regulation, competition policy and sustainable development. Our survey found support for this type of approach, with eight in 10 (81%)

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<sup>6</sup> Department for International Trade, [Impact assessment of the Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and Australia](#)

of respondents agreeing there should be a specific section within trade deals supporting consumer interests.

42. Unfortunately, the Australia FTA does not include a specific Consumer Chapter, unlike the Agreement in Principle with New Zealand, but there is a Competition Policy and Consumer Protection Chapter within the deal.
43. This chapter includes standard provisions to promote open and fair competition. Positively, it also promotes cooperation between UK and Australian competition authorities and emphasises the value of making competition enforcement policies transparent. The importance of consumer protection policy and enforcement is also emphasised, along with maintaining laws and regulations to protect consumers (eg. from misleading, deceptive and fraudulent commercial practices). The importance of improving awareness and access to redress mechanisms, including the benefits of alternative dispute resolution (ADR) mechanisms is also highlighted.
44. The chapter also recognises the importance of cooperation on competition policy and consumer protection, including notifications, information exchange and coordination of investigations, as well as cooperation through international bodies. No formal cooperation mechanisms are however set out in the agreement. It states instead that "To implement the objectives of this Article, the Parties may enter into separate commitments or arrangements on cooperation and coordination which may provide for, among other things, enhanced information sharing including confidential information, and mutual assistance in competition and consumer law enforcement".

### **Communication and engagement**

45. Our consumer research has shown that most people are unaware of the status of the government's trade negotiations. But this does not reflect a lack of interest in trade. People support greater transparency – and when issues relating to trade deals were explained in depth through our public dialogues, participants became very engaged and remained so when we reconvened discussions through our online community last year.
46. Our survey conducted in June last year found that most people did not know the current status of trade negotiations between the UK and a variety of countries. The majority of survey respondents (67%) felt that the UK government currently provides 'too little' information about new trade deals it is negotiating.
47. We asked participants in our online community how the government should further engage with consumers on trade negotiations and deals the UK is making. We suggested some potential ways, such as a dedicated website, roadshows, press releases and targeted communications with a consumer perspective, and expanding the current regional trade and investment hubs to have a consumer facing role. Participants were generally very keen for the government to do more to proactively communicate details of trade deals with consumers in a variety of ways. Participants were most enthusiastic about the government increasing their online activity as this would be accessible and potentially wide reaching. Participants also wanted any communications to have consumers in mind, both in terms of the language used and the presentation of facts.
48. People thought that it was important that consumer interests were represented in discussions about the government's approach to trade deals: 83% of respondents felt it was important that consumer groups are included when discussing UK trade policy. Over

half of respondents (57%) thought consumer groups would be invited to take part in expert discussions to provide input on the UK's trade negotiations and trade strategy.

49. Which? has welcomed the opportunity to represent consumer interests on the DIT Strategic Trade Advisory Group (STAG), Civil Society Roundtable and Technical Barriers to Trade thematic working group. However, despite efforts by the DIT to increase its engagement and provide updates at key stages of the Australia negotiations on a confidential basis, there was limited engagement on the detailed aspects of the negotiations and developing text. This is something that the government needs to improve on in its negotiations more generally. We also think that there would be enormous benefit in improving consumer engagement throughout the negotiations, building on the types of deliberative dialogues that Which? has conducted, so that the government can hear and respond to people's priorities.

**Which?  
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50. **Which? is the UK's consumer champion. As an organisation we're not for profit - a powerful force for good, here to make life simpler, fairer and safer for everyone. We're the independent consumer voice that provides impartial advice, investigates, holds businesses to account and works with policymakers to make change happen. We fund our work mainly through member subscriptions, we're not influenced by third parties and we buy all the products that we test.**