

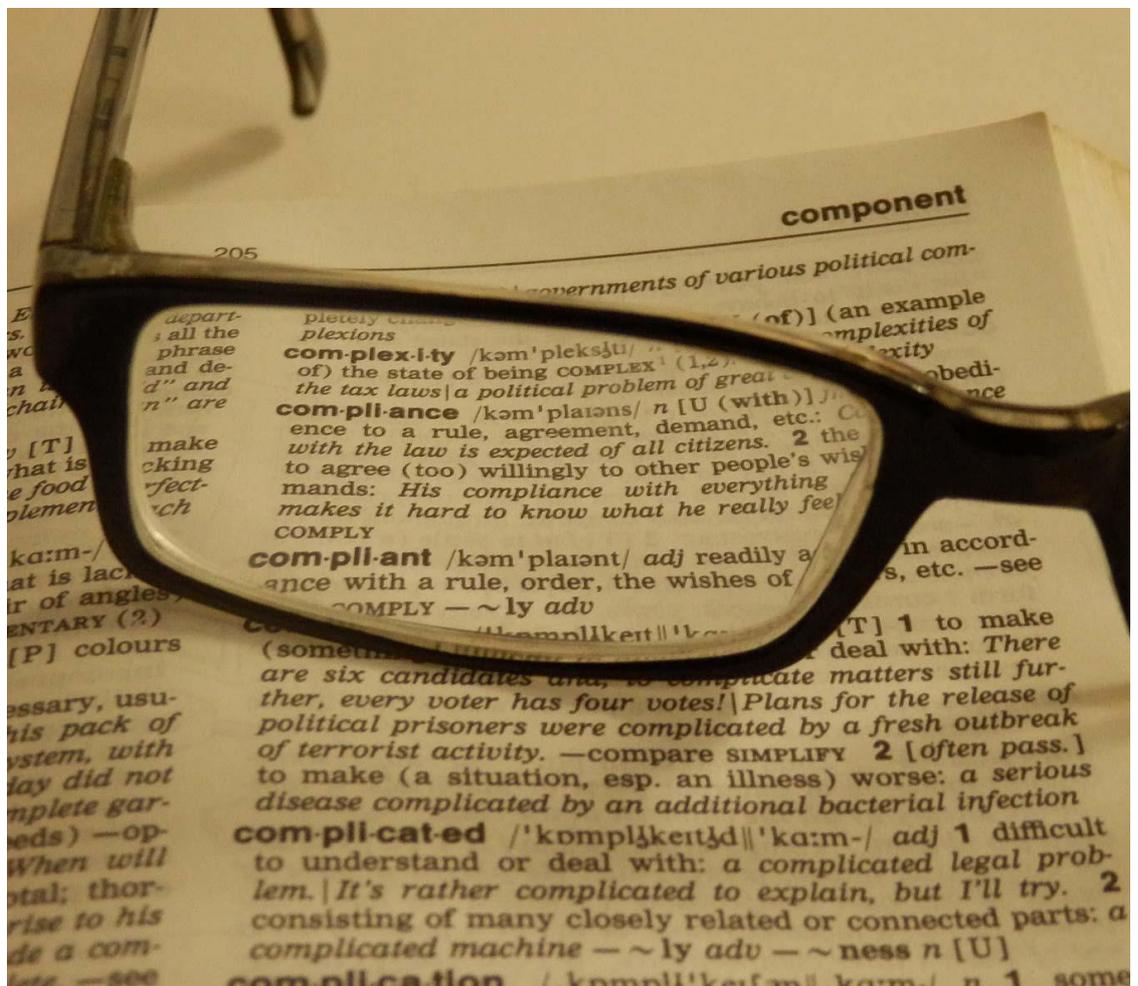


# UK Business Views of the Balance of Competences between the EU and the UK

## Final report

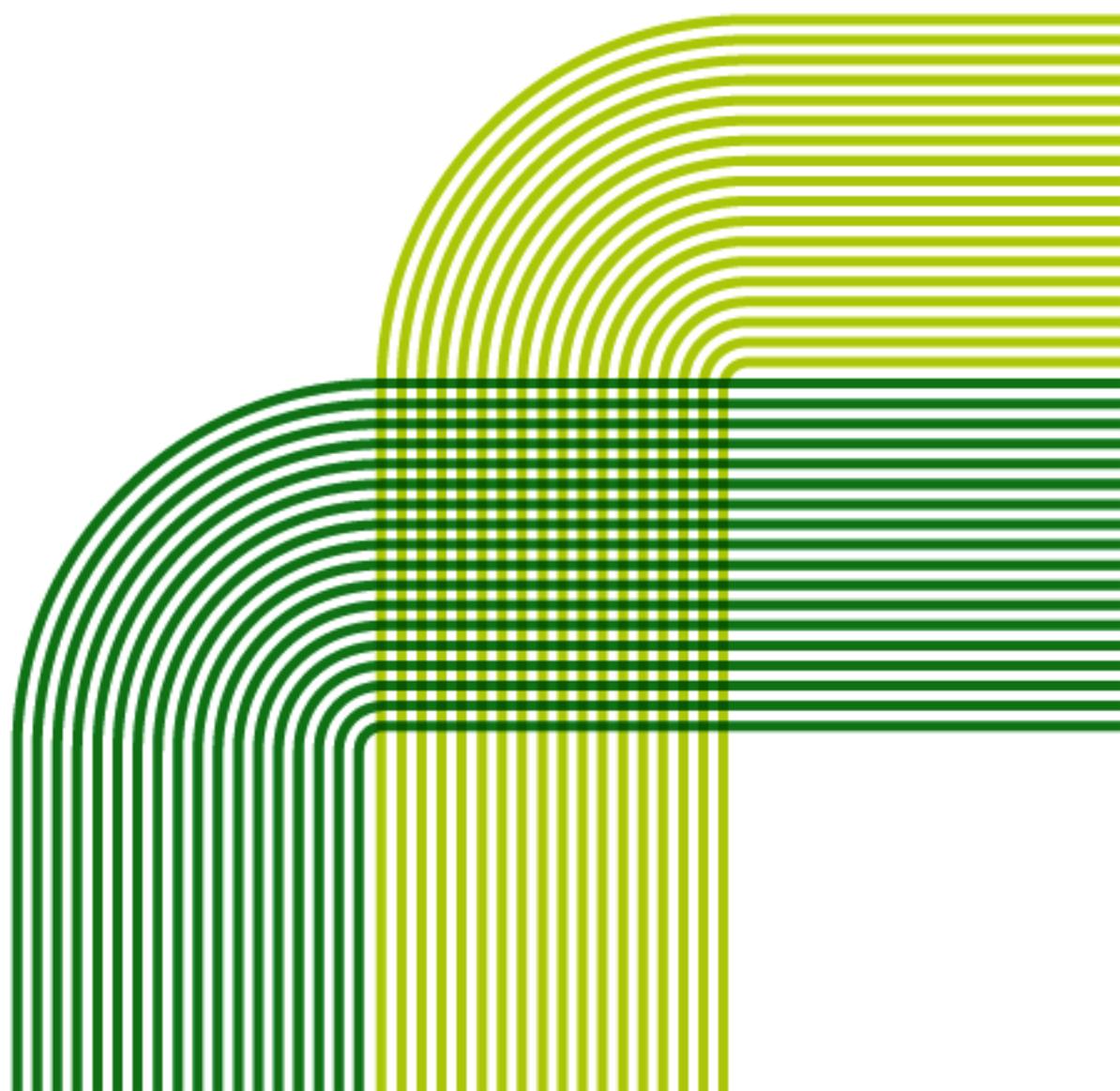
Prepared for the Department for Business, Innovation and Skills  
By IFF Research

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**IFF Research**



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# 1 Executive Summary

## Introduction

- 1.1 This report describes the findings of qualitative research conducted across the UK to understand business perceptions of the balance of competences between the EU and the UK. The 'Balance of Competences' is the balance of powers or responsibilities that exist between the EU and the UK, i.e., the extent to which EU action affects the UK.
- 1.2 The Coalition Government is committed to exploring the impact EU competences have on the daily lives of UK citizens. To this end, in July 2012, the Balance of Competence Review was launched. This Review is divided into four Semesters, each containing six to ten reports on individual areas of competence<sup>1</sup>.
- 1.3 As part of this review, the Department for Business, Innovation and Skills (BIS) has responsibility for delivering a number of reports into specific policy areas across the four Semesters. In Semester 3, the Department is tasked with gathering evidence to input into this review in four broad policy areas: Employment and Social Protection, Competition and Consumer Policy, Free Movement of Services and Cohesion. This report has been commissioned to provide evidence regarding the first three of these.
- 1.4 This report details the findings of research to establish how businesses feel about the EU's influence on UK laws within these areas, and - crucially - what is driving their views. The qualitative nature of the research means that, while findings may be *indicative* of other businesses' views, the results relate to the 45 business included in the research and cannot be extrapolated to the business population in general. Findings are from 45 face to face qualitative interviews with a cross-section of UK businesses. The respondent was recruited as the person with the best overview of how UK and EU laws and regulations affect their business.

## A business-wide view?

- 1.5 Among the businesses interviewed, it is unusual for the business itself to have an 'official' or consistent view on the EU and its powers. Businesses spoken to report that the extent to which particular legislation is controlled by the EU or the UK, is not something that is generally on the agenda for discussion at a 'business' level. While in some instances these businesses have a company-wide view on certain aspects of legislation, in terms of whether it is more or less beneficial for the business, businesses do not tend to have an official view on where the rules come from. The views expressed within this research are primarily a personal response, albeit rooted in how the regulations affect their business, and expressed by decision-makers who (in nearly all cases) are the most senior individual dealing with these issues on behalf of the business.

## Overall stance on the EU's influence on the UK

- 1.6 Views on the EU's influence were nuanced and fell on a continuum. While some felt more positively and some more negatively about the EU overall, most expressed the same positive *and* negative views, and the same rationales for these views, albeit with a varying emphasis on either the positive or the negative aspects (with this emphasis determining their overall stance). The positive and negative rationales that were expressed are described below.

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<sup>1</sup> <https://www.gov.uk/review-of-the-balance-of-competences>



## Rationales for overall stance

- 1.7 Some of the rationales that emerged were more influential and underpinned many businesses' views across a number of policy areas, while others were mentioned by fewer respondents.
- 1.8 The central theme running through this piece of research was that of 'a level playing field' for businesses throughout the EU. Regardless of their overall stance on the EU, nearly all respondents said the only way to ensure a fair and competitive common market within the EU was for at least some laws (particularly those relating to competition, services and treatment of employees) to be controlled centrally. Even amongst those with concerns about the EU's influence on UK law, there was an acknowledgement that some EU influence was necessary to ensure member states would not gain an unfair competitive advantage over one another. This dominant view, that EU competence ensures an essential level playing field, is based on practical, commercial considerations.
- 1.9 A secondary, pro-EU, theme was the EU's perceived stability as a body that does not experience political change or upheaval in the same way that individual member states do and therefore that laws made by the EU could be considered more 'fixed' making it easier for businesses to plan ahead. The EU was also perceived to be less susceptible than the UK government to lobbying pressure, for example from UK businesses or banks. That said, this did not appear to be a perception that was based on experience; these business did not mention any experience of lobbying the EU, or indeed any proclivity to do so.
- 1.10 The other arguments that emerged throughout the interviews, were raised as caveats:
- **Many felt that the *idea* of a level playing field, while excellent in principle, did not happen in practice.** It was perceived that the UK would abide by EU laws 'to the letter' whereas other states would be likely to fail to enforce the regulations. This perceived failure in enforcement led some respondents to say that the UK was at a disadvantage compared to other member states, and (on the assumption that enforcement would never be 'perfect' across 28 states) felt that the UK government should have more influence over the extent to which EU laws are implemented in the UK.
  - **A common perception was that regulations stemming from the EU would by default be more complicated than those made in the UK,** due to the perceived 'extra layers' of regulation stemming from the multiple countries involved in EU decision making, as well as the perception that the UK would have to create additional laws on top of its own legislation in response. This was almost always a presumption rather than the result of experience.
  - Several made the point that they would prefer more influence to lie with the UK, because they feel that **businesses and citizens in the UK have more influence on the rules brought in by the UK government than those made by the EU.** Domestic MPs were felt to be relatively visible and accessible whereas MEPs were perceived to be less so.
  - Others felt that **the UK would legislate in a way that was more tailored to the UK and its own economic environment,** without needing to take into account the welfare or economies of a number of other countries.
  - The principle of individual nations' sovereignty was a justification for some respondents feeling **the UK should determine its own rules and regulations, simply because it was 'right' for a country to be self-governed in reference to its own interests and culture.**
- 1.11 These views regarding the influence of the EU were predominantly based on existing preconceptions. During the course of the interview, respondents were first shown a description of the three broad policy areas (Employment and Social Protection, Competition and Consumer Policy, Free Movement of Services), and then a more detailed briefing on EU



and UK influence within each of these policy areas. In response to this more detailed briefing, a few individuals changed their overall position on the EU's influence as follows:

- A few became more positive about the EU's influence. This was primarily because – after reviewing the detailed policy briefing on employment regulations – they realised that the UK was able to negotiate different rules and that the UK actually goes further in some respects than the EU stipulates.
- On the other hand, others became more negative. Reasons given for this included a realisation – after reviewing the detailed policy briefing cards – that the EU was responsible for a greater number of regulations (that they felt to impact negatively on their business) than they had previously supposed; and an increased awareness of the EU's attempts to standardise working conditions (when they felt that this standardisation did not suit cultural differences in working patterns or ethos between member states).

### Views on competence within specific policy areas

1.12 The study also explored respondents' awareness of specific areas of legislation within each of the three main policy areas, the extent to which they were aware of the current balance of competences within each, and how the rationales for competence residing with the EU or UK applied to each area.

1.13 Respondents were more aware of the regulations themselves than of whether the regulations were UK or EU-driven; indeed most said they had never thought about where the regulations originated from:

- **Employment legislation** was the area with which respondents were most familiar (though very few were aware of whether the laws originated from the UK or the EU), and generally respondents felt it was advantageous for there to be a 'level playing field' within this policy area, to ensure member states could not gain an unfair advantage over one another by treating their staff differently. It came as a surprise to some that the UK's laws did not automatically mirror those of the EU, and a few said this lack of consistency put UK businesses at a disadvantage compared to other member states, who for example could offer less maternity and parental leave. One commented, however, that member states in fact *should* be able to respond to a highly mobile labour market by dictating the benefits and treatment of employees in their own country.
- Respondents were also largely aware of the **Competition and Consumer Laws**, but again had very little knowledge regarding the origin of the legislation. There were few arguments for Competition and Consumer Laws to be controlled at a member state level, because a level playing field in these areas was seen as critical for healthy trade throughout the EU; this included the idea that the largest firms must not be able to destabilise the marketplace by abusing their dominant position, and consumers must feel protected by standardised rights regardless of where in the EU they decide to purchase.
- **Services Laws** were, of the three policy areas, the least immediately relevant to businesses (to some extent due to SMEs' apparent low awareness of overseas competitors). Nevertheless, respondents acknowledged that the EU's Treaty principle of the right (but not the obligation) to establishment was a cornerstone of EU trade and competition and that this was something that, by the nature of the regulation, had to be controlled centrally. Other advantages to central EU control in this area included standardised design and product specifications, and standardised paperwork when importing and exporting – both of which were perceived to facilitate trade. Nevertheless, a few respondents disagreed with this broadly positive stance and felt individual countries



should be able to impose restrictions to protect their own interests - views generally driven by arguments related to UK sovereignty and a related preference for self-determination.



## 2 Introduction

2.1 This report describes the findings of qualitative research conducted across the UK to understand business perception of the balance of competences between the EU and the UK. The 'Balance of Competences' is the balance of powers or responsibilities that exist between the EU and the UK, i.e., the extent to which EU action affects the UK.

### Background

2.2 The 'Balance of Competences' (the balance of authority to act) between the UK and the European Union (EU) and the influence the latter has on the former has been the subject of much debate on the political stage since the UK joined the then European Economic Community in 1973.

2.3 In 2011, the Coalition Government sought to safeguard against unwanted transfer of the UK's governance to the EU when they passed the European Union Act. This included 'a referendum lock' – stipulating that any further EU Treaties involving the reallocation of competences between the UK and the EU would first have to be the subject of a national referendum.

2.4 The Coalition Government is committed to exploring the impact EU competences have on the daily lives of UK citizens. To this end, in July 2012, the Balance of Competence Review<sup>2</sup> was launched to examine where the balance of competences and power resides between the UK and the EU; how the UK currently benefits from this; and how this balance can add value moving forward. This Review is divided into four Semesters, each containing six to ten reports on individual areas of competence

2.5 As part of this review, the Department for Business, Innovation and Skills (BIS) has responsibility for delivering a number of reports into specific policy areas across the four Semesters. In Semester 3, the Department is tasked with gathering evidence to input into this review in four broad policy areas: Employment and Social Protection, Competition and Consumer Policy, Free Movement of Services and Cohesion. This report has been commissioned to provide evidence regarding the first three of these.

2.6 Within the policy areas, this study specifically investigated:

- Businesses' comprehension of the balance of EU / UK competences – including exploring and understanding any respects in which there is a discrepancy between perceptions and reality;
- Whether businesses perceive the current balance to be advantageous (or otherwise);
- Understanding the reasons for their stance – for instance, whether this is based on objective views of tangible benefits to their business; on perceptions of whether the EU or UK government is likely to pursue a preferred policy direction; or on wider political ideologies, allegiances or prejudices.

### Scope of the research

2.7 The purpose of this particular piece of research is to explore qualitatively businesses' perceptions of EU influence within each of these three broad policy areas. This type of methodology enables views and perceptions to be explored at length and in depth, among a relatively small number of participants: because this involves relatively small samples (rather

<sup>2</sup> <https://www.gov.uk/review-of-the-balance-of-competences>



than the larger, often randomly probability samples used in surveys), it should be noted that the views expressed by businesses within the research cannot be extrapolated to the business population as a whole. This report does not therefore try to give a definitive answer regarding what 'businesses in the UK' think, rather it explores in considerable depth the perceptions of a cross-section of UK businesses, in order to better understand the range of views that exist as a basis upon which further research can be built.

### Methodology

- 2.8 Forty five face to face depth interviews lasting around one hour were conducted with UK based businesses. Most were UK-owned but a minority reported having a Japanese, Australian or Spanish parent company.
- 2.9 The interviews were audio-recorded with respondent permission, and a detailed summary written by each interviewer. The interviews were analysed by entering the details and themes from each interview into an analysis matrix; the matrix allowed the responses given to be compared across many interviews in order to identify recurrent themes; as well as sorted by business details such as size and sector; in order to explore patterns of response by these characteristics.

### Sample

- 2.10 The sample was purchased from commercial listings company Dunn and Bradstreet, which provide a comprehensive database of head offices/single sites within the UK.
- 2.11 It was agreed that the structure of the sample, in terms of sector and size procured and made available for the research, would be based both on what was representative of the UK, and based on an equal split of size and sector.
- 2.12 The selected number of records is then drawn to ensure a random cross section within each cell. However, because no database is perfect, the research also involved a screening stage during which the size and sector of the business was verified by the business itself, and other details pertaining to the business were recorded. This process is described below.

### Screening

- 2.13 The screening process ensured a number of things: that the business was of the size and sector listed on the purchased database, and that the most suitable respondent (with the best overview of how UK and EU laws and regulations affected the business) was recruited to be interviewed.
- 2.14 This process involved an initial, short, semi-scripted telephone calls to businesses on the database (the script used is shown in Appendix A). During this call, senior recruiters confirmed the size and sector of the business, identified the most suitable person to speak to, and explained the purpose of the research.
- 2.15 If the respondent was willing to take part, the recruiter took the respondent through a small number of additional questions. These included whether the respondent was broadly *in favour of*, *against* or *ambivalent* towards the EU, by simply asking the respondent which of these three broad categories they felt was most closely aligned with their own opinion (at this screening stage there was no further exploration of the topic).
- 2.16 This question was asked because it was important to guard against solely interviewing those with strong leanings one way or the other. However, it was also important to allow this range of opinion on the EU to fall out naturally, in order to avoid skewing the sample. In practice,



monitoring the number of businesses stating they were in favour, against or ambivalent towards the EU was sufficient to reassure that a whole spectrum of views was represented within the research.

2.17 Additionally, the screening process established whether the businesses interviewed were exporters, or had any competitors or any physical presence overseas. Again, this was monitored to ensure a range of businesses were interviewed, and to add context to the discussion.

2.18 To ensure a good range of views, businesses of a range of sizes and from a range of sectors were included in the research. These splits are shown in table 1.1.

**Table 2.1: Size and sector of businesses interviewed**

Business sector	Business size (number of employees)			Total
	10-49	50-249	250 +	
Primary / production	2	3	1	6
Construction	1	1	5	7
Transport, Retail and Distribution	6	1	5	12
Business Services	2	4	2	8
Other	4	3	5	12
<b>Total</b>	<b>15</b>	<b>12</b>	<b>18</b>	<b>45</b>

2.19 Businesses were mostly private sector and a small number were social enterprises. None were public sector or in any way related to government.

2.20 Following the telephone screener, the interview discussion was carried out face to face at a time and place convenient to the respondent; invariably this was the respondent's place of work. The discussions lasted around one hour. The structure of the interview ran as follows:

- Asking the respondent for their spontaneous, top-of-mind reaction to the EU itself (whether they were positive, negative, ambivalent, and some brief reasons);
- Introducing respondents to the three policy areas to be discussed in the interview and discussing which were relevant to the business;
- Asking the respondent what they knew about the balance of competences between the EU and the UK within each of these policy areas, and asking whether they felt positively or negatively about this perceived balance;
- Using briefing cards to take the respondent through a summary of the actual areas of EU and UK influence within each of the three policy areas;
- Discussing with the respondent their thoughts on the actual areas of EU and UK influence and how, if at all, they would like the balance of influence changed, and the reasons for their views;



- Using some pre-prepared statements on the balance of competences as aids for further discussion if necessary.

### Pilot

- 2.21 The first five interviews formed a pilot stage of the research. This was to test the discussion guide to ensure the content was engaging, easy to understand and was eliciting all necessary material. The pilot interviews lasted around 90 minutes, comprised of the standard 60 minute interview, followed by a 30 minute discussion during which the interviewer and respondent talked about how the guide and interview materials could be improved.
- 2.22 Following the pilot stage small changes were made to the phrasing of some questions and stimulus material, though the structure of the guide remained largely unchanged.

### A note about this report

- 2.23 The report is structured into the following sections:
- Businesses' overall positions on the European Union: Discussion of the first section of the guide in which the respondent's initial views about the EU are explored;
  - Rationale for balance of competence preferences: Discussion and rationale of business preference with regards the balance of competences between the EU and the UK;
  - Views on competence within specific policy areas: Discussion of what businesses think of the balance of competences between the EU and the UK within each of the three specific policy areas;
  - Differences by sector and size: Exploration of specific differences in business perception or preference related to a business's size or sector;
  - Conclusions: summary of the main research points, discussion of gaps in the research, questions for future research.
- 2.24 As noted above, the qualitative methodology used for this study enables views and perceptions to be explored at length and in depth, among relatively small numbers of participants: because this involves relatively small samples (rather than the larger, often randomly probability samples used in surveys), it should be noted that the views expressed by businesses within the research cannot be extrapolated to the business population as a whole.
- 2.25 This report does not therefore try to give a definitive answer regarding what 'businesses in the UK' think, rather it explores in considerable depth the perceptions of a cross-section of UK businesses, in order to better understand the range of views that exist as a basis upon which further research can be built.



### 3 Businesses' overall positions on the European Union

#### A business-wide view?

- 3.1 Among the businesses interviewed, it was unusual for the business itself to have an 'official' or consistent view on the EU. Businesses reported that this is something that is not generally on the agenda for discussion at 'a business' level. Only a handful of the 45 businesses interviewed said there was a consistent "company view". This small number of businesses demonstrated different 'levels' of consistency within the company. For example:
- One was a father and son firm, with both family members occupying a senior position, such that their family view created a unified business view;
  - Another felt that other senior colleagues in the business were 'likely' to informally share their views, though this wasn't something that was discussed often, and in a business context;
  - One respondent did appear to be the 'spokesperson' for a deliberate, company-wide view.
- 3.2 Therefore the views expressed within this research are primarily personal, albeit rooted in how the regulations described affect their business's work, and expressed by (in nearly all cases) the most senior individual dealing with these issues on behalf of the business.
- 3.3 In addition, respondents generally reported that they feel that their colleagues within the business would broadly share their views. While there does not, therefore, appear to be an 'official' company consensus, it would appear that those in senior positions who are making strategic decisions are likely to be of a similar mind on this subject.

#### Overall stance

- 3.4 Before respondents were interviewed, they were asked simply whether they felt their views were positive towards the EU, negative, or ambivalent. At this stage there was a relatively even split between those considering themselves 'negative' and those considering themselves 'ambivalent / positive'.
- 3.5 When discussing the EU's influence in more depth however (during the interviews themselves), it became obvious that views on the EU's influence were more nuanced and fall on a continuum. While some felt more positively and some more negatively about the EU overall, most expressed the same positive *and* negative views, and the same rationales for these views, albeit with a varying emphasis on either the positive or the negative aspects (with this emphasis determining their overall stance).
- 3.6 Overall, amongst those interviewed, the prevailing view tended to be that operating as part of the EU (even if there were some concerns, as described later) was ultimately beneficial for UK businesses, and it was necessary for certain powers to be held by the EU to ensure no individual member state was disadvantaged. There did not seem to be any particular businesses (in terms of size or sector) that gave this view, rather it appeared to be businesses across the board.
- 3.7 The respondent's overall stance on the EU did not appear to change a great deal during the course of the interview, however several did express surprise that the actual balance of competence between the EU and the UK does not necessarily reflect the media picture of it - for example the perception gathered from media coverage that the EU is trying to bring in laws that the UK is not happy with, or that the UK cannot act as it would like because of an overriding EU directive.



- 3.8 Respondents felt that if a more accurate account of the balance was made more public - for example that the UK often negotiates some form of opt-out from EU regulations, or that the UK's laws are largely the same as, or go further than, what the EU stipulates anyway, then this would encourage a more moderate public view of the EU's influence.

*When you do hear something it's always from the viewpoint that we're kicking against Europe and they're forcing us to do something that we don't want to do. You never hear the other side; you never hear that we give people 18 weeks parental leave when Europe says we only have to give 16.*

**TRAD, 10-49**

*I discovered today that the EU is more positive than perhaps I had been led to believe. If they want us to stay in the EU, they need to talk up some of the things in the EU that are not as restrictive as some people would have us believe.*

**TRAD, 10-49**

- 3.9 It is important to note that, for many of the respondents, it did not greatly matter whether legislation came from the EU or the UK. They tended to be concerned far more with the content of the legislation and how this would affect their business. Indeed many commented that, regardless of where the law came from, its effect on the 'people on the ground' – UK citizens and businesses – was likely to be much the same.

*I don't ask 'was the legislation made in the UK or Europe?' I just need to know the regulations that impact on us but where they are made is of no concern, well... not my priority, on the basis that as a very small employer I can't change the rules.*

**Business Services, 50-249**



## 4 Overarching rationale for balance of competence preferences

4.1 This section explores the *arguments* for competence residing mainly with the EU, and the *arguments* for competence residing mainly with the UK. Some of the arguments that emerged were more influential and underpinned many businesses' views across a number of policy areas, while others were mentioned by fewer respondents.

4.2 To obtain these views, interviewers explained (and provided a written explanation of) the three policy areas that the interview would cover, as below:

- **Employment regulations:**

Employment regulations cover things like working conditions (minimum rest breaks, night work, annual leave), rules for agency or part time workers, maternity / parental leave, rules around redundancy and rules about consulting and providing information to employees.

- **Consumer and Competition regulations**

Consumer regulations define many consumer rights and information that must be provided to consumers. This includes things like the length of product warranties; when businesses must refund, repair or replace goods and services; and product labelling information.

Competition regulations control whether firms can merge with other firms; the forming of cartels (where a cartel involves agreements between firms in an industry to fix prices); and whether individual country governments can subsidise local businesses.

- **Services regulations**

Services regulations cover things like the ability to deliver services to other EU member states without the requirement for a local establishment (i.e. a site in the state in question); the right to establish operations (factories, offices, sales teams) in EU member states; and the ability to compete for public procurement contracts in EU member states.

4.3 The interviewer then used the following questions and prompts, to establish the respondent's initial perceptions and knowledge:

- *How do you think the EU and the UK government are each involved in making and enforcing these rules? Who do you think controls what? Who has the most say?*
- *In what specific ways, if any, is this balance of involvement between the EU and the UK government positive for your business? Why?*
- *In what ways, if any, is this balance of involvement negative for your business? Why?*

4.4 Following this discussion, the interviewer then showed the respondent three briefing cards, one for each policy area. The cards summarised certain areas of legislation within each of the policy areas and explained to what extent the legislation was EU-driven or UK-driven (these cards, and the full discussion guide, are shown in Appendix B). After the respondent had read these policy cards, the interviewer used the following questions:

- *What difference does this make to your views about how EU involvement affects your business? Why?*
- *How (if at all) would you ideally like the balance of power between the EU and the UK to change? Why?*



4.5 These questions were probed very heavily by interviewers, in order to identify the genuine rationale behind businesses' views. Interviewers were briefed to explore and differentiate between:

- Views based on a political ideology or leaning
- Views influenced by friends, family, or their preferred media (newspapers etc.)
- Views based on the perceived relative likelihood of the EU or UK government changing these regulations in a way that is favourable to their business, in future
- Views related purely to where the influence / responsibility lies (i.e. about whether rules are made at a state or an EU-wide level, because this has an impact on the business in some way).

4.6 This discussion enabled the following arguments and rationales to be identified:

### Arguments for competence to reside mainly with the EU

#### Level playing field

4.7 The central theme running through this piece of research was that of the EU providing a level playing field for businesses throughout the EU. Nearly every respondent mentioned that this was essential for present and future trade within the EU, and that the only possible way of ensuring the EU could continue to trade in the way that it did was to have a central body ensuring that all states comply with certain areas of legislation to ensure one member state could not gain a competitive advantage over another. This was felt to be the case within each of the three policy areas examined within this piece of research:

- Employment Law - so that some member states cannot gain a competitive advantage by treating their employees less fairly in terms of wages or working hours;
- Consumer and Competition Law - such that member states cannot put others at a disadvantage by treating consumers less fairly or taking unfair advantage of their position in the marketplace;
- Services Law – across the board it was seen as a huge advantage that member states had the right to establish a physical presence in another state, but also that there was no prerequisite to do so if trading with another state.

*Ultimately I want to protect my business by remaining competitive, and only a truly level playing field can achieve this... so by default EU regulations are the only way to ensure this.*

**TRAD, 50-249**

*Any business would say they are looking for a level playing field and don't want to find they are competing against a country that is playing by different rules, that is one major advantage [of EU legislation].*

**Primary/Production, 10-49**

#### EU stability

4.8 A further argument for the balance of power lying more with the EU, was the EU's perceived stability as a body that does not experience political change or upheaval in the same way that individual member states do. It was therefore felt that laws made by the EU could be considered more 'fixed'. Fewer changes to legislation made it easier for businesses to plan



ahead and entailed less time and resource to keep track of and respond to legislative changes.

*The big advantage that EU membership brings is a reasonable degree of certainty for employers as to the legislative landscape they operate in ... when shifts in government [in individual member states] take place there is still certainty as to how operate your business.*

**Construction, 250+**

- 4.9 A related point made by one business was that by dint of being a central body representing many different states, the EU was perceived to be less susceptible than the UK government or other member states would be to lobbying pressure, for example from businesses or banks. Again this was perceived to ensure greater stability of legislation.

### Arguments for competence to reside mainly with the UK

- 4.10 As noted above, the prevailing view tended to be that operating as part of the EU was ultimately beneficial for UK businesses, and it was necessary for certain powers to be held by the EU to ensure no individual member state was disadvantaged.
- 4.11 That said, many respondents also presented caveats to this overall stance, and expressed concerns about competences residing with the EU. These views were expressed by respondents, to varying degrees, regardless of whether they had previously said they felt negative or positive about EU influence overall. Those with a negative overall stance tended to simply place greater emphasis on these caveats than respondents in general. These caveats are as follows.

### The realities of a level playing field

- 4.12 Several felt that, while some controls must come from the EU in order to guarantee a level playing field, the UK is at a disadvantage compared to other member states because in practice the UK will 'roll over' and stick to the letter of the law laid down by the EU, whereas other member states will legislate to minimise the influence of the EU, or simply fail to enforce EU requirements in practice, for their own benefit.
- 4.13 Some respondents perceived states in Southern Europe, for example Spain or Italy, to be particularly prone to failures to enforce.
- 4.14 Several felt therefore, that the idea of a level playing field, while excellent in principle, did not happen in practice, and thus UK businesses were at a disadvantage and so should have more influence over the extent to which EU laws are implemented in the UK.

*We seem to be following guidelines set by the EU and none of the other EU countries seem to be doing it. We've got to do the right things and no one else has. Our government has got the wrong idea, they won't stand up for themselves.*

**Construction, 50-249**

- 4.15 The perception here wasn't necessarily that the rules themselves (or indeed the current balance of competences) were incorrect or 'bad' for the UK, rather that inconsistencies in enforcement meant that other states might not be following the rules as the UK was perceived to do: 'to the letter'. For some, there appeared to be an assumption that a genuinely 'fair' level of enforcement across all member states was unrealistic and, in this



context, respondents suggested that this issue be addressed by allowing the UK government to have more say in which EU-driven laws were adopted in the UK.

### Levels of bureaucracy

- 4.16 A common perception was that regulations stemming from the EU would by default be more complicated than those made in the UK, due to the perceived 'extra layers' of regulation stemming from the multiple countries involved in EU decision making, as well as the perception that the UK would have to create additional laws on top of its own legislation in response.
- 4.17 This was almost always a presumption rather than the result of actual experience. Many claimed that their perceptions of this were driven by negative media coverage of EU legislation; while one firm argued that the EU would inevitably be more bureaucratic because they perceive it to be primarily influenced by a more detail-fixated, less pragmatic (French and German) legislative tradition than the UK's own. Very few respondents were able to draw on personal experiences as a basis for this perceived greater bureaucracy: for instance, one cited the "terrifically complicated" experience of having to set up a European Entity via an accountant in order to employ one employee based in France; another cited as evidence a perceived failure to sufficiently standardise and simplify tax and employment regimes, which (in their view) made it difficult to structure collaborations between partners based in different member states.
- 4.18 A few also made the point that the task of decision making within the EU will inevitably happen very slowly as a result of the greater number of states involved, whereas UK-driven decision-making would be able to react much more quickly to (for example) a changing economic climate; one used the metaphor of an EU oil tanker versus a UK speedboat.

### UK control over UK law

- 4.19 Several made the point that they would prefer more influence to lie with the UK, because they feel that businesses and citizens in the UK have more influence on the rules brought in by the UK government. Domestic MPs were felt to be relatively visible and accessible whereas MEPs were perceived to be less so. In addition, some felt that EU decision making involved their own views being diluted by the views of people from 27 other countries, meaning an inevitable reduction in UK businesses' influence.

*If we're going to have to abide by them, then we should be at the heart of making these rules, surely.*

**Construction, 250+**

- 4.20 A couple of firms in particular mentioned a 'democratic deficit' in that they feel the UK must abide by laws put in place by the EU, while perceiving UK firms to have little or no influence over them, by comparison with domestic legislation. This view remained even once the detailed briefing cards on the UK's and EU's respective influence within each policy area had been shown (it is worth noting that this argument was based on a perception of how the EU arrives at legislation in the first instance, rather than whether the UK has the ability to modify legislation subsequently).
- 4.21 Others felt that the UK would legislate in a way that was more beneficial to the UK and its own economic environment, without needing to take into account the welfare or economies of a number of other countries. Therefore it was felt that to make laws that were truly tailored to the UK's situation, it would be necessary for the UK government to take the lead in making these laws.



## UK Sovereignty

- 4.22 The principle of individual nations' sovereignty was a justification for several respondents feeling the UK should determine its own rules and regulations simply because it was 'right' for a country to be self-governed in reference to its own interests and culture.
- 4.23 There were also more nuanced opinions in regard to this sovereignty argument. Some respondents suggested that a blanket set of regulations could not be applied to the whole of the EU due to cultural differences. Other respondents suggested they would be satisfied if the EU were to control certain areas of legislation but that employment regulations should be dealt with by member states because cultural differences are more pronounced in this area.

*It's self-determination in our culture. That's why I would rather have the UK regulating than the EU. The EU are giving these directives across a number of member states with completely different cultures - one size doesn't fit all*

**Primary/Production, 50-249**

## Evolving views over the course of the interview

- 4.24 These views regarding the influence of the EU were predominantly based on existing preconceptions. During the course of the interview, respondents were first shown a description of the three broad policy areas (Employment and Social Protection, Competition and Consumer Policy, Free Movement of Services), and then a more detailed briefing on EU and UK influence within each of these policy areas. In response to this more detailed briefing, a few individuals changed their overall position on the EU's influence.
- 4.25 A few became more positive about the EU's influence, primarily because – after reviewing the detailed policy briefing on employment regulations – they realised that the UK was able to negotiate different rules on issues such as the provisions for parents and that the UK actually goes further than the EU stipulates in certain respects.

*The over-arching thing from all of this is that a lot of things that Europe gets blamed for - actually we've established - are things that the UK's gone over and above. In that sense, you couldn't say that you need to change things in the opposite direction because it's not Europe that's the driver.*

**Other, 50-249**

- 4.26 Other, individual rationales for becoming more positive about the EU's influence after reviewing the detailed policy briefings were that: the EU-driven service regulations would be likely to facilitate the firm in its ambitions of establishing itself within other EU member states; and a realisation that *it was the EU* that guarantees free trade without the need for establishment and without the necessity to comply with different laws to the 'local' businesses in other member states.
- 4.27 On the other hand, others became more negative. Reasons given for this included a realisation – after reviewing the detailed policy briefing cards – that the EU was responsible for a greater number of regulations (that they felt to impact negatively on their business) than they had previously supposed; and an increased awareness of the EU's attempts to standardise working conditions (when they felt that doing so did not suit cultural differences in working patterns and working ethos between member states).



## Contradictory views

4.28 Aside from individuals' views evolving over the course of the interview, some individuals held views that were (arguably) contradictory to one another about the EU, or EU-driven legislation. Many generally acknowledge that a level playing field is essential for fair and future trade, though caveat this with concerns about differing levels of enforcement across member states:

- A company that deals with the customisation and translation of technical documents had mixed views on the EU but felt the benefits outweighed the drawbacks. For this company, freedom of access to markets is essential to allow them to work for key clients (Rolls Royce in Germany and Airbus elsewhere in EU). However they also felt that EU-driven legislation is stringent and from a more detail-fixated / less pragmatic (French and German-influenced) legislative tradition than the UK's, which can 'burden' businesses and make the economy less competitive. They also feel it is difficult to influence the rules that the EU brings in, and consider the EU to be 'inwards looking' in that it fails to consider whether its regulations are making its businesses less competitive worldwide.

*Having that freedom of access to those markets is obviously very important, and for [international clients such as Rolls Royce] to see that there are no barriers to giving work to the UK.*

*You never feel that the EU takes into account competition from developing markets. Culturally and historically the UK has always had a more outward-looking view.*

**Other, 250+**

- A public school had mixed views but felt that on balance the impact of EU-driven legislation was negative for the UK (though the respondent acknowledged the school itself was not affected). They felt that in theory the single common market was excellent because it meant it would be as easy to trade with a country in Europe as it was to do business in the UK which was seen as beneficial for competition and the economy generally. However, the respondent also felt there was too much variation in political and tax regimes of member states for it to be truly a level playing field, that economically 'weaker' states burdened the stronger ones, and that EU-driven legislation created a 'burden of bureaucracy' simply by dint of including so many different states:

*If you're trying to comply with rules based on your area as opposed to rules based on... twenty-plus different areas, it's going to be simpler... The more people you try and accommodate... it has to be more burdensome because you're dealing with a greater spread.*

**Other, 50-249**

- A privately run care home supported the principle of EU influence in creating a 'level playing field' but at the same time perceived that the UK places itself at a competitive disadvantage by 'over-implementing', where other states do not:

*My perception in general is that there are directives from the EU and often the UK over-legislates and goes further than necessary, especially in the areas of maternity & annual leave and also Health & Safety. In all these areas, the UK is offering to go further than required and it affects our competitiveness.*

**Other, 10-49**



## 5 Views on competence within specific policy areas

5.1 This section looks at the three specific policy areas for which the Department for Business, Innovation & Skills is responsible within Semester 3 of the Balance of Competences Review: Employment Law, Consumer and Competition Law, and Services Law. It will look at respondents' awareness of the policy areas, their understanding of the current balance of competence within each and explore how the rationales for competences residing with the EU or the UK apply to each area.

5.2 As described in Chapter 4, these policy areas were described in the discussion guide as below:

- **Employment regulations:**

Employment regulations cover things like working conditions (minimum rest breaks, night work, annual leave), rules for agency or part time workers, maternity / parental leave, rules around redundancy and rules about consulting and providing information to employees.

- **Consumer and Competition regulations**

Consumer regulations define many consumer rights and information that must be provided to consumers. This includes things like the length of product warranties; when businesses must refund, repair or replace goods and services; and product labelling information.

Competition regulations control whether firms can merge with other firms; the forming of cartels (where a cartel involves agreements between firms in an industry to fix prices); and whether individual country governments can subsidise local businesses.

- **Services regulations**

Services regulations cover things like the ability to deliver services to other EU member states without the requirement for a local establishment (i.e. a site in the state in question); the right to establish operations (factories, offices, sales teams) in EU member states; and the ability to compete for public procurement contracts in EU member states.

5.3 As aforementioned, the interviewer then showed the respondent briefing cards on each policy area, and asked to what extent, if at all, the respondent had been previously aware of the relative influence of the EU and the UK within these policy areas.

5.4 Overall, respondents were more aware of the regulations themselves than of whether the regulations were UK or EU-driven; indeed several said they had never thought before about where the legislation had originated from.

### Employment Law

5.5 This was the policy area respondents were most familiar with, with many reporting that they dealt with this kind of legislation every day (parental leave, rest periods, employee consultation, etc.) and so were aware of the majority of the laws listed. However, almost none were aware of whether the laws were EU or UK in origin.

5.6 Generally respondents felt that it was advantageous for there to be a level playing field within this policy area so that businesses overseas did not gain a competitive advantage by treating staff less fairly, and it was felt the only way to ensure this level playing field was to have the EU controlling these aspects centrally. This was a view expressed to varying extents, and it was not a view that generally altered a great deal during the course of the interview.



- 5.7 It came as a surprise to some that the UK's laws did not necessarily fall into line with the EU's laws, for example that the EU minimum period for maternity leave is 14 weeks, yet the UK's standard offer is far higher. Likewise in relation to the EU stipulation that temporary workers should be entitled to the same rights as permanent workers from day one at a company, there was surprise that the UK had negotiated for this to come into effect after 12 weeks; this confounded respondents' previous supposition that the UK would automatically 'fall into line' with EU law.
- 5.8 A few respondents commented negatively on the difference between EU and UK laws, for example small numbers felt the longer maternity leave period offered by the UK could put UK businesses at a disadvantage and felt that ideally the EU and UK laws would be more consistent. One commented that member states (even the UK) having the ability to alter EU law (for example by not offering temporary employees the same rights as permanent workers until they have been working for 12 weeks) undermines the EU and the 'level playing field' which is perceived to be one of its prime advantages.
- 5.9 However, many felt it was advantageous that, while there is central control to keep extremes in check, member states can still make adjustments or negotiate alternative arrangements beneficial to that state, to a limited degree, in the area of Employment Law.

*Personally, I would sit on the fence as far as the EU goes; they're good in some parts and not so good in others. As long as the government can make concessions and fight for what's right for us, I think the balance of power is ok.*

#### **Business Services, 250+**

- 5.10 Some respondents felt that member states should have more discretion over this area of policy:
- One argued that it would be more suitable for the UK to determine rules on aspects like rest periods, because a blanket rule from the EU would not take into account the various working patterns and cultures of each of the member states.
  - Another commented that if Employment regulations were controlled more by the UK, they perceived that the UK would cease to legislate that sub-contractors have the same rights as employees (though they were unable to provide concrete reasons for this belief), which would be considered a potential competitive advantage.

*We would take on more subcontractors... and if they didn't perform you could get rid of them.*

#### **Primary/Production, 50-249**

- One also felt that that, particularly when it comes to Employment Law, businesses in the UK should be consulted by government and have more of a say in what regulations are introduced, due to the huge impact these regulations can have. For this reason they felt it would be preferable if more of the laws were UK-driven, their rationale being that it would be easier for UK businesses to input into domestic consultation processes on laws than to influence EU Directives.
- The Transfer of Undertakings (Protection of Employment) regulations, known colloquially as 'TUPE', were raised by many of those interviewed as an area of Employment Law that they felt was disadvantageous to their business. Examples given included:
  - Having to take on public sector staff on their existing terms and conditions (when taking over contracts that had previously been run within the public sector), which caused



dissatisfaction among the firm's existing workforce regarding their (perceived to be inferior) employment terms;

- Firms having to surrender sections of their workforce delivering public sector contracts to a competitor, following the loss of these contracts. Respondents were, however, unable to form a coherent view as to whether it was preferable for the EU or the UK to drive this area of legislation, or to substantiate any notions as to whether the EU or UK would be more likely to amend this legislation in businesses' favour.

5.11 One business felt that member states would benefit from increased domestic regulation in this policy area; it was felt that member states should be able to respond to a highly mobile labour market by dictating the benefits and treatment of employees in their own country.

### Competition and Consumer Law

5.12 As with Employment Law, respondents were often aware of the *legislation* within Competition and Consumer Law, for example anti-collusion laws, and laws relating to consumer rights and cooling off periods, but tended to be unaware that these were *EU-driven*.

5.13 These laws (particularly those related to competition) were seen as less immediately relevant to respondents than the Employment regulations, because very few of the businesses spoken to perceived themselves to be large enough to dominate a marketplace, and very few had received government subsidies (though respondents appreciated they were still affected by these laws indirectly as part of the wider economy). Respondents tended to see the Consumer Laws as more relevant partly because they *themselves* were consumers, both at a business and a personal level.

5.14 To a greater extent than with Employment Regulations, respondents felt it was essential that laws in the area of competition and consumer rights were controlled centrally because non-compliance to these laws could be particularly damaging to EU trade and competitiveness:

- Many argued that, for EU trade to grow, consumers needed to feel 'safe' making purchases from any country in the EU and therefore needed to be sure that their rights, the information they receive surrounding the purchase, and product quality and pricing, would remain consistent regardless of the member state they are purchasing from.
- It was considered essential that the largest and most dominant firms are prevented from distorting the marketplace by abusing their position to reduce competitiveness.

5.15 There were, therefore, fewer arguments for laws to be controlled at member state level within this policy area.

5.16 That said, some respondents assumed (citing the media as their information source) that businesses in other member states *would* receive state subsidies, despite the EU directive stating this to be illegal, and expressed concerns that the UK would comply with this regulation when other states would not, thus meaning that the playing field was not truly level.

5.17 Furthermore, one respondent argued that state subsidies regulations *may* level the playing field *within the EU* but could also make EU member states less competitive within global markets, citing that State Aid provided to the car industry in the US has allowed US businesses to survive while making European and Asian manufacturers less competitive.

### Services

5.18 Respondents tended to say that the services laws were, of the three policy areas, the least immediately relevant to their business, and this view did not appear to change throughout the



interview. This appears to be driven by low awareness of overseas competitors, particularly among SMEs. This tended to be true even of those within the business services sector (see section 6, differences by sector and size).

5.19 That said, respondents acknowledged that the EU Treaty principle stipulating the right (but not the obligation) to establishment was a cornerstone of EU trade and competition, and was something that, by the very nature of the regulation, had to be controlled centrally. In addition:

- A few mentioned that the EU's imposition of standardised design / product specifications was hugely advantageous and meant for instance one set of drawings or forms could be prepared for multiple member states rather than the need to comply with several different standards – something that would otherwise be a considerable time and resource burden, particularly for smaller businesses. It was considered right that the EU had central control here, because the alternative would be for one particular member state to impose its own particular specifications on others, which was considered unfair.
- In a similar vein, several respondents cited that the paperwork required when trading between member states was more uniform and less arduous than the paperwork involved with trading with countries outside the EU. One commented that this standardisation meant buying something from Germany was as easy as buying something from Birmingham, but cited an occasion when an order had been received from Madagascar and the extra administration required to process it had resulted in the company deciding it would not be cost effective for the order to go ahead.

5.20 Nevertheless, a few respondents disagreed with this broadly positive stance and felt that individual countries should be able to impose restrictions on businesses coming from overseas in order to protect their own industries (despite what this would mean for international trade). These tended to be the respondents who were concerned with maintaining the UK's sovereignty, and who felt that laws in general should be made in the UK. These individuals felt the UK government was far more likely to legislate in a way that would be beneficial for UK people and businesses (though could not necessarily provide examples of what these laws might be, or substantiate why they perceived this to be the case).



## 6 Differences by sector and size

- 6.1 The qualitative sample was \_\_\_\_\_ to ensure coverage of a broad mix of UK businesses in terms of size (albeit those with 10 or more employees) and sector. This also gives us some scope for investigating differences by size and sector.
- 6.2 In doing this, however, it is important to note that qualitative research is characterised by its ability to explore in depth and detail the views of relatively small numbers of participants: because this involves relatively small samples (rather than the larger, often randomly probability samples used in surveys), we need to be cautious in the extent to which we make claims about these size and sector differences.
- 6.3 There were very few relevant differences by sector. Sector-specific comments tended to relate to the perceived advantages and disadvantages of individual pieces of legislation, rather than to views on whether control over these should rest primarily with the EU or with the individual member state. These examples were usually raised spontaneously, before the respondent had been shown summaries of regulations in the specific policy areas with which this study is concerned. Examples of these (less relevant) types of sector-specific comments included:
- A food manufacturer's perception that, while EU food labelling requirements are 'strict', other regions of the world have equally complex, or more complex requirements (with the US being cited as an example of the latter);
  - A music venue's argument that the EU had influenced the UK to progress from 'archaic' licencing laws;
  - A residential housing developer's perception that, since the introduction of EU-driven consumer law, obtaining National House Building Council approval for new homes has become 'more onerous'.
- 6.4 However, there were a small number of sector-specific comments made that have a bearing on whether influence lies with the EU or the individual member state.
- 6.5 Firstly, there was an argument made by a financial services provider that the UK financial services sector is relatively dominant within the UK economy, and therefore has greater political influence on the UK government, than the financial services sector has on the EU. In this context, EU influence on consumer and competition regulations was perceived to be a positive, on the grounds that the EU would be better able to withstand lobbying pressure and thus legislate in a manner that would moderate the financial services sector's 'short term' profit motive – thus acting in the sector's long-term interests.

*The UK is too soft and the Financial Services lobby too powerful... [It has] a disproportionate amount of the economy...and has so much lobbying power that any government will cede to the City's will.*

**Business Services, 250+**

- 6.6 Secondly, a few businesses dealing with products (manufacturing them, designing them, or providing product-related support services such as technical manuals or training) were in favour of the EU's influence on product quality specifications, arguing that it had led to greater consistency between member states and thus made it easier to export either their products or product-related services due to the adoption of common standards.
- 6.7 A final point regarding differences by sector, is that – compared with businesses in general – those in the business services sector were *not* noticeably more likely to be aware of services



regulations and their implications. Only one business services organisation – involved in public procurement – reported having high levels of pre-existing awareness of, and engagement with, services regulations. They argued that services regulations should be EU-controlled in order to facilitate a ‘level playing field’ in competing for public contracts; and expressed concerns that the UK was more diligent in enforcing current services regulations than some other member states (thus enabling firms from other member states to compete for UK opportunities more easily than was always the case when UK firms bid for work elsewhere in the EU).

- 6.8 Considering differences by size, these were not clear-cut, and were apparent only when comparing the smallest firms (those with 10-49 employees) with the largest ones (those with 250+ employees).
- 6.9 With this caveat, the largest firms appeared to be more likely to claim pre-existing knowledge of elements of the consumer, competition and services regulations than the smallest firms. Regardless of size, nearly all firms claimed knowledge of employment regulations, saying that knowledge in this area was essential for their job role.
- 6.10 There were also some points of view that appeared to be raised more by the largest firms than by the smallest ones.
- 6.11 The largest firms appeared to be more likely than the smallest ones to raise concerns about inconsistent implementation of EU regulations across members states, and the UK implementing EU regulations ‘to the letter’ while some other member states implement only the aspects that benefit them.
- 6.12 The largest firms also appeared to be more likely than the smallest ones to argue that EU influence was beneficial in protecting the legislative environment from ‘local’ political pressures – i.e. due to the influence of multiple member states, EU-driven legislation was perceived to be ‘better rounded’ and less susceptible to change than legislation driven by the individual member state.



## 7 Conclusions

- 7.1 Among the sample of businesses interviewed, overall views on the EU do not tend to fall into binary 'favourable' or 'unfavourable' positions but fall on a continuum, and – irrespective of the overall stance – it is not uncommon for businesses to hold a number of positive and negative views at the same time.
- 7.2 Among these businesses, it is relatively common for businesses to argue that EU influence is positive in that it creates a 'level playing field', which in turn was essential to ensure a fair and competitive common market within the EU. In this, businesses are often making a case for EU influence that is rooted in practical, commercial considerations (a second pro-EU theme, of EU influence protecting the legislative environment from politically-driven upheaval and lobbying pressure, was less commonly raised).
- 7.3 However, these businesses also express various concerns about the EU influence, which often co-exist alongside more positive views – for instance, that the aforementioned 'level playing field' does not happen in practice due to an assumption that some member states would always adopt EU regulations more loosely and self-interestedly than others; about EU influence leading to increased bureaucracy; and regarding EU laws being arrived at via a process that appears to be less accessible and more difficult to influence than that used for domestic legislation.
- 7.4 The fact that these positive and negative views on the EU's influence coexist partly appears to be a result of mixed positive and negative attitudes to the various areas of EU legislation that were discussed; and partly because the businesses interviewed appeared to be unused to having to formulate a coherent viewpoint on the balance of power between the UK and the EU (for many, although they routinely interacted with EU-driven legislation, particularly employment regulations, the advantages and drawbacks of who was responsible for this legislation was something that was rarely discussed and there were few instances in which the business had arrived at an 'official' view). Any attempt to measure the incidence of these views would need to take account of the seemingly contradictory viewpoints that co-exist within the same individual.
- 7.5 Many of the views expressed about the EU's influence were not based on direct experience but were either:
- Based on media coverage of EU 'over-regulation'; or
  - Based on the business taking some assumptions and extrapolating a view of the EU from these (for example, the notion that – because multiple member states are involved – EU regulation must necessarily be more complicated; or that – because MEPs were perceived to be less visible – the process via which EU regulations are arrived at must necessarily be less accountable).
- 7.6 A recurring theme among many of the businesses interviewed was that the relative influence of the EU and the UK on these areas had been misrepresented to so great a degree in the UK's media and in its political discourse. They expressed surprise at the extent to which the UK has the power to modify EU regulations and has clearly done so; and at the instances in which the UK has exceeded minimum EU requirements. In these instances, businesses felt that there needed to be fairer representation of the true balance of influence between the EU and the UK, in order to enable a more informed debate to take place. Any future consultation on changes to this relationship would need to be preceded by a phase of information-giving in order to enable businesses to give feedback without relying upon premises which they may, upon further scrutiny, consider to be flawed.



## 8 Appendix A – screening document

This was the script used by recruiters when approaching businesses from the sample for the first time. The aim was to ascertain that the business was in the required size and sector, and to identify the person at the company most suited to take part in the research

### WHEN SPEAKING TO RECEPTIONIST AT COMPANY

1. **Good morning / afternoon. I'm calling from IFF Research; we're doing some research for the Department for Business, Innovation and Skills that involves speaking to businesses about their views on how EU regimes and regulations affect UK businesses.**

**Can I just check that this is the Head Office of [Company name from sample]?**

Yes	1	CONTINUE
No	2	ASK TO BE TRANSFERRED TO HEAD OFFICE

2. **Can I please speak to the person who is likely to have the best overview of how UK and EU laws and regulations affect the business? This could be the owner, managing director, chief operations officer, or the head of finance.**

**IF NECESSARY: We're looking for the person that deals with how your business manages regulations around employees' rights, consumers' rights, or business competition.**

Yes	1	CONTINUE
No	2	THANK AND CLOSE

### WHEN THROUGH TO CORRECT PERSON:

3. **Good morning / good afternoon. I'm calling from IFF Research, we're an independent research company and we are doing some research for the Department for Business Innovation and Skills, to feed into a current government review of the balance of EU powers.**

**We are conducting face-to-face interviews with the person who has the best overview of how UK and EU laws and regulations affect your business. This might be the owner, managing director, or the head of finance, for example.**

**The interview will cover regulations around employees' rights, consumers' rights and business competition.**

**There is no need to have detailed knowledge of the actual regulations as we would talk you through these in the interview, but we do need to speak to a senior individual who'd have an informed opinion on how these regulations might affect the business at a 'big picture' level.**



Does this sound like you?

Yes	1	CONTINUE
No	2	ASK TO BE TRANSFERRED / TAKE CONTACT DETAILS OF ANOTHER AND REPEAT NAME: _____ JOB TITLE: _____ TEL: _____

4. **Great - the interviews would take about an hour and we are offering £50 per interview to thank you for taking part. We could offer this to you personally or to a charity of your choice.**

**If you wanted one or two colleagues with experience of the research areas to join the interview and give their input also, that would be fine. (NOTE – WE CANNOT OFFER MULTIPLE INCENTIVES PER INTERVIEW). READ OUT: In the interview, we will be interested in the extent to which your own views reflect the views those of your business as whole.**

**Would you be interested in taking part?**

Yes	1	CONTINUE
No	2	THANK AND CLOSE

5. **Great - could I just check a few initial things with you, to make sure we interview a good mix of businesses?**

Would you classify your organisation as...? **READ OUT. CODE ONE ONLY**

<b>MAINLY seeking to make a profit / a social enterprise</b>	1	CONTINUE
<b>A charity or voluntary sector organization</b>	2	THANK AND CLOSE
<b>A local-government financed body</b> ADD IF NECESSARY: such as a service provided or funded by the council such as social care, waste or environmental health services	3	THANK AND CLOSE
<b>A central government financed body</b> ADD IF NECESSARY: such as the Civil Service, any part of the NHS, a college or university, the Armed Services, an Executive Agency or other non-departmental public bodies	4	THANK AND CLOSE
<b>DO NOT READ OUT: None of the above, other (SPECIFY)</b>	6	REFER TO RESEARCH



6. We have on our records that your main business activity to do with \_\_\_\_\_ [READ OUT SECTOR FROM SAMPLE]?

Does that sound about right?

Yes	1	CONTINUE
No	2	WRITE IN MAIN BUSINESS ACTIVITY, THANK, ARRANGE CALL BACK, AND REFER TO RESEARCH:  _____

7. And we have on our records that your business has \_\_\_\_\_ employees in total [READ OUT FROM SAMPLE]?

Does that sound about right?

Yes	1	CONTINUE
No	2	WRITE IN NUMBER OF EMPLOYEES, THANK, ARRANGE CALL BACK, AND REFER TO RESEARCH:  _____

8. And just to make sure that we speak to people with a range of viewpoints, would you say that you are, in general:

“Pro” the EU being involved in regulations that affect the UK	1	INTERVIEWER MARK WHICH AND REFER TO QUOTAS  WE WANT AT LEAST <b>8 IN EACH CATEGORY</b> IF POSSIBLE  <b>INTERVIEWER – WE NEED TO RECORD THE OUTCOME FOR EACH RESPONDENT LOST AT THIS QUESTION</b>
“Against” the EU being involved in regulations that affect the UK	2	
You don’t mind either way about the EU being involved in regulations that affect the UK	3	



## 9. Does your business trade its goods or services overseas?

Yes – EU only	1	
Yes – non-EU only	2	
Yes – EU and non-EU	3	
No	4	
Unsure	5	

## 10. Would you say you have direct competitors overseas?

Yes – EU only	1	
Yes – non-EU only	2	
Yes – EU and non-EU	3	
No	4	
Unsure	5	

## 11. And does your company have a presence overseas (either by having sites or a stake in another business)?

Yes – EU only	1	
Yes – non-EU only	2	
Yes – EU and non-EU	3	
No	4	
Unsure	5	



12. Thank you very much for your time so far, we would very much like to interview you, can we book a date and time?

If you use reading glasses, please have to hand during the interview.

13. I will send you an email or letter just confirming the time, date and location of the interview, and giving you our contact details in case you want to get in touch for any reason – can I take your contact details? [RECORD IN TABLE BELOW]

<b>BUSINESS NAME</b>	
<b>DESCRIPTION OF MAIN BUSINESS ACTIVITY (RECORD IN FULL)</b>	
<b>CONTACT NAME (RESPONDENT 1)</b>	
<b>JOB TITLE (RESPONDENT 1)</b>	
<b>CONTACT TELEPHONE</b>	
<b>ALTERNATIVE CONTACT TELEPHONE</b>	
<b>DOES RESPONDENT WANT CONFIRMATION EMAIL OR LETTER?</b>	EMAIL 1 CONFIRM THIS WITH LETTER 2 RESPONDENT
<b>EMAIL ADDRESS</b>	
<b>ADDRESS WHERE INTERVIEW TO TAKE PLACE</b>	
<b>INTERVIEW DATE</b>	
<b>INTERVIEW TIME</b>	
<b>ANY OTHER INSTRUCTIONS FROM RESPONDENT</b>	
<b>CONTACT NAME (RESPONDENT 2)</b>	
<b>JOB TITLE (RESPONDENT 2)</b>	
<b>CONTACT NAME (RESPONDENT 3)</b>	
<b>JOB TITLE (RESPONDENT 3)</b>	
PLEASE NOW CHECK ALL DETAILS BY READING THEM BACK TO RESPONDENT, THEN THANK & CLOSE	

Thank you. As I said, I will send you an email shortly confirming these details and giving you some more information about the research.

THANK AND CLOSE



## 9 Appendix B – discussion guide and policy briefing cards

This was the discussion guide used during the interviews with businesses.

### 1 Introduction

- **Introduce self, IFF Research and the work we are conducting for the Department for Business, Innovation & Skills (BIS)**
  - *IFF Research, an independent research company, has been commissioned by the Department for Business, Innovation & Skills to explore the views of UK businesses on the various powers the EU has that affect the UK.*
  - *We will be discussing whether you think certain areas of legislation should be controlled by the UK government or by the EU, and talking through your reasons for having these opinions. There are no right or wrong answers; we are interested in what you honestly think.*
  - *The research is focusing on areas of legislation that might affect your business, for instance, employment law, competition law, company law and consumer law.*
  - *The research results will be used as part of a government review of EU powers (called the review of the balance of competences). This research is to gather evidence to understand businesses' views – it will not make recommendations about how responsibilities should be shared between the EU and UK in future.*
  - *The interview will take around 60 minutes depending on your answers.*

- **Confidentiality**

- All the information we collect will be kept in the strictest confidence and used for research purposes only.
- We will not pass any of your details on to any other companies. It will not be possible to identify any individual or individual company in the results that we report to BIS.

- **Permission to record – for researcher use only**

ALL:

- **Background to the business and respondent – warm up:**

- Background to the business – in brief, what does it do? When was it founded and how has it evolved over time?
  - Probe for any mergers or acquisitions
- What is its legal status? For example – a Partnership, A Limited Company, A Limited liability Partnership, Community interest Company?
- How many employees does it have, and roughly how many of these are full-time vs. part-time?
- To what extent does it use temporary workers? PROBE: Roughly how many, how often, and in what sorts of roles?
  - What is the average length of assignment of your temporary workers?
  - [If unsure, PROBE:] Would you say more or less than 12 weeks?
- How many sites does it have? Does it have any sites or interests overseas (for instance, stakes in an overseas business)? IF SO: Where and of what sort?
- Does the business import or export products or services? IF SO: What type(s) of products or services, and roughly what percentage of turnover does this account for?



- PROBE: To what extent is this importing / exporting activity to or from the EU?  
INTERVIEWER – PROBE FOR DETAILS

## 2 Spontaneous perceptions of EU/UK powers (15 minutes)

- **First of all, what's your overall view of the EU's influence on UK businesses?**
  - PROBE: In what ways is it positive?
  - PROBE: In what ways is it negative?
  - PROBE: To what extent is this view shared by others in your business? Why do you say that?

*INTERVIEWER NOTE: This is designed as a warm up to engage them with the topic, and to get an initial read on the business's stance, to help us unpick from where their views originate.*

- **Now I'd like to introduce three specific areas in which the division of responsibilities between the UK and EU might apply to your business. Some may be more relevant than others, and some may not apply to your business at all.**
- INTERVIEWER TO READ OUT AND PRESENT THESE AREAS TO THE RESPONDENT ON CARDS, ONE AT A TIME.

### 1. Employment regulations:

- Employment regulations cover things like working conditions (minimum rest breaks, night work, annual leave), rules for agency or part time workers, maternity / parental leave, rules around redundancy and rules about consulting and providing information to employees.

### 2. Consumer and Competition regulations

- Consumer regulations define many consumer rights and information that must be provided to consumers. This includes things like the length of product warranties; when businesses must refund, repair or replace goods and services; and product labelling information.
- Competition regulations control whether firms can merge with other firms; the forming of cartels (where a cartel involves agreements between firms in an industry to fix prices); and whether individual country governments can subsidise local businesses.

### 3. Services regulations

- Services regulations cover things like the ability to deliver services to other EU member states without the requirement for a local establishment (i.e. a site in the state in question); the right to establish operations (factories, offices, sales teams) in EU member states; and the ability to compete for public procurement contracts in EU member states.

INTERVIEWER TO EXPLORE, WHILE STILL SHOWING ALL THREE CARDS:

- **To what extent do these types of rules affect your business in a practical sense?**  
**PROBE: Which of these areas affect you more? Why?**



*INTERVIEWER NOTE: For follow-up questions please focus more on areas that affect the respondent's business*

- **How do you think the EU and the UK government are each involved in making and enforcing these rules? PROBE: Who do you think controls what? Who has the most say?**
- **In what specific ways, if any, is this balance of involvement between the EU and the UK government positive for your business? Why?**
- **In what ways, if any, is this balance of involvement negative for your business? Why?**

*INTERVIEWER NOTE: If necessary, please remind respondent that the focus is on who makes the regulations and why that's a good or a bad thing, not on what the regulations actually are, or might be in the future.*

### **3 Prompted perceptions of EU/UK powers, future preferences, and in-depth exploration of reasons (30 minutes)**

*INTERVIEWER NOTE: Throughout this section, we again want to focus on where responsibility lies and how the balance of responsibility between the EU and UK government should or shouldn't change, not on what the regulations actually are.*

*We then wish to understand in-depth the underlying reasons for the respondent's view on the EU's influence on each area. **This is the single most important element of the discussion.** Please probe thoroughly to identify these reasons and to distinguish between:*

- *Political ideology*
- *Views influenced by friends, family, or their preferred media (newspapers etc.)*
- *Views based on the perceived relative likelihood of the EU or UK government changing these regulations in a way that is favourable to their business, in future*
- *Views related purely to where the influence / responsibility lies (i.e. about whether rules are made at a state or an EU-wide level, because this has an impact on the business in some way*
- **I'm now going to take you through each of these three specific areas in which the division of responsibilities between the UK and EU might apply to your business, and brief you on where the balance of responsibility lies. Then I'll ask you about whether this changes your views on how this balance is positive or negative for your business.**
- **Not everyone is familiar with the EU's specific role in these areas, and not everyone needs to be. As we go through these, please can you indicate how familiar you were with each of these areas of EU influence, and to what extent they affect your business**
  - **INTERVIEWER: give respondent highlighter and ask them to highlight the regulations that they were aware of (if any) before the interview, even if they were unsure of the EU's influence (green) as well as any that they think affect their business (orange).**



- Please brief respondent to shade to shade phrases or sentences in full, so we can understand their situation regarding specific parts of each section (i.e. rather than shading a whole section or bullet-point)

INTERVIEWER SHOW INFORMATION CARDS ONE BY ONE AND TALKS THROUGH EACH OF THEM IN TURN. PLACE VISUAL 'KEY' IN FRONT OF RESPONDENT.

- What, if anything, is a surprise here? Why?
- **\*\*\*KEY QUESTION: Thinking about the parts you already knew about – to what extent were you aware of the EU and the UK's influence over these? PROBE TO ESTABLISH ANY SPECIFIC AREAS IN WHICH THE RESPONDENT PREVIOUSLY HAD A VIEW ON WHO WAS RESPONSIBLE, AND CHECK WHETHER THEY BELIEVED THE EU OR UK TO BE BEHIND THESE.**
- What difference does this make to your views about how EU involvement affects your business? Why?
- For each of these three areas, how (if at all) would you ideally like the balance of power between the EU and the UK to change?
  - PROBE: In what specific ways would you want the EU to have more influence?
  - PROBE: In what specific ways would you want the UK government to have more influence?
  - PROBE: In what specific ways would you prefer the EU's influence to stay as it is described here?

*INTERVIEWER NOTE: Again, we want to focus on where the responsibility lies and how this balance should or shouldn't change, not what the regulations actually are.*

*Now refer back to each of the respondent's opinions on the balance of power, i.e. each way which they think the balance of power should be changed; and each way in which they actively want it to remain as it stands now.*

- Now I'd like to talk in a little more detail about your thoughts on these areas and where your views are coming from. I'm going to go into a lot of detail here – please bear with me as it's the most important part of the interview.
- In relation to [SPECIFIC POLICY AREA], you said...

*[Remind respondent of their views on*

- *Current balance of power*
- *How they would like to see this change, if at all]*

- Why do you feel this way?

*INTERVIEWER: Use laddering technique – following each reason by probing with a follow-up question (e.g. if respondent says “because it would be good for business”, probe “why would it be good for business?” Then if respondent answers “because it would create a level playing field”, probe “in what ways would it create a level playing field?” Then if they say “because competitors in other countries would have the same regulations”, probe “what*



*specific difference would that make?”. Probe until you are confident you understand where their views come from, and the respondent has nothing more to say.*

*ALSO PROBE TO ENSURE YOU UNDERSTAND HOW THE REASONS GIVEN RELATE TO **WHO IS RESPONSIBLE (EU OR UK)** AND WHAT DIFFERENCE IT WOULD MAKE IF THE EU WAS NO LONGER RESPONSIBLE...*

*IF RESPONDENT IS COMMENTING THAT THEY DON'T LIKE A CERTAIN POLICY THAT THE EU HAS BROUGHT IN, YOU CAN PROBE:*

- **What difference would it make to you / your business if the UK was responsible for this instead?**
  - **How likely do you think the UK government would be to instigate such a policy**
  - **Why do you think this?**



*Then, if any of the views below have not already been expressed, please further explore their views by using the following prepared statements:*

- **I'm going to show you some statements. Please tell me to what extent these reflect your personal views about what we've been discussing..**
  - It makes it easier to do business in other countries if we can be confident the rules will be the same.
  - We can be sure that competitors in other countries don't gain competitive advantage by treating staff less fairly.
  - We can be sure that competitors in other EU countries don't gain competitive advantage by treating consumers less fairly.
  - We can be sure that competitors in other EU countries don't gain competitive advantage by being offered unfair state subsidies.
  - We can be sure that competitors in other EU countries don't gain competitive advantage by unfairly exploiting their influence within a market.
  - It makes us confident that we can do business in other EU countries without unfair interference or restrictions by the authorities there.
  - I feel that a country should be able to impose its own restrictions on businesses that come from other EU countries.
  - I feel that EU legislation is more burdensome on UK businesses than UK legislation would have been in the same area.
  - It is useful to have access to standardised online services throughout the EU, so businesses have access to all the same resources necessary to operate overseas.

*FOR EACH STATEMENT THAT RESPONDENT IDENTIFIES WITH, PROBE TO UNDERSTAND **WHY** THE RESPONDENT IDENTIFIES WITH THIS STATEMENT.*

*IF RESPONDENT AGREES WITH "I feel that EU legislation is more burdensome on UK businesses than UK legislation would have been in the same area", PROBE: **What do you think the UK would have done instead, in the** [CITE SPECIFIC AREAS THAT RESPONDENT HAD MENTIONED AS BEING A BURDEN ON THE BUSINESS]?*

- **Reflecting on these views, to what extent is this view shared by others in your business? Why do you say that?**
  - PROBE: In what ways, if any, would others share these views?
  - In what ways, if any, would others disagree?



#### 4 Prioritisation and reflection (5 minutes)

- We have talked about what changes you would like to see in terms of whether the EU or the UK is in control of certain regulations

*INTERVIEWER NOTE: If necessary, remind respondent of changes they would like to make (Section 4)*

- Which of these changes would have the most positive impact on your business? Why?
  - PROBE: So if you had to put these changes in order of importance to your business, how would you rank them, and why?

#### 5 Reflection and final comments

- That is the end of the discussion – is there anything further you would like to say on this topic?
- Reflecting on all of this, what advice would you want to pass to the government to consider as part of its review of EU influence in these specific areas?
- Are there any questions you would like to ask?
- Thank you very much for your time

*Incentive information – £50 “thank you” gift - whether personal or confirm which charity they wish it to be paid to (according to respondent preference)*

<p>Finally I would just like to confirm that this survey has been carried out under IFF instructions and within the rules of the MRS Code of Conduct. As a thank you, a £50 donation will be made to a charity of your choice, or a £50 personal cheque. I'll just need to confirm some details:</p>	
Personal cheque	<input type="checkbox"/>
Charity donation	<input type="checkbox"/>
Name of charity <i>(if applicable)</i>	_____
Name on Cheque & Postal address For personal donation <i>(if applicable)</i>	_____ _____ _____



## 6 Permission to re-contact / Thank and close

Thank you very much for taking the time to speak to us today.

Would you be willing for the Department for Business, Innovation & Skills (BIS) or their contractors to contact you in the future about other research studies?

Yes	
No	
Unsure	

ALL: Finally, the Department for Business, Innovation & Skills will also be inviting firms across the UK to submit their views on this subject in writing as part of the government review. The email address, if you want to contribute additional thoughts, is [balanceofcompetences@bis.gsi.gov.uk](mailto:balanceofcompetences@bis.gsi.gov.uk).

IF HAVE BIS CONSULTATION CARD TO HAND OUT, PLEASE GIVE THIS TO THE RESPONDENT AND EXPLAIN THAT IT GIVES THEM FURTHER DETAILS OF HOW TO SUBMIT FURTHER COMMENTS TO THE GOVERNMENT'S REVIEW.

IF **DO NOT** HAVE BIS CONSULTATION CARD TO HAND OUT, READ OUT: **Further details of how you can do this are not available yet, but we will be happy to send you further details in a few weeks' time, if you would like. Would you like us to do this?**

Yes	WRITE IN EMAIL ADDRESS TO SEND THESE DETAILS TO:
No	
Unsure	

### THANK RESPONDENT AND CLOSE INTERVIEW

I declare that this survey has been carried out under IFF instructions and within the rules of the MRS Code of Conduct.		
Interviewer signature:	Date:	
Finish time:	Interview Length	Mins



## Employment Regulations controlled at EU level

### Provision for Parents

#### Pregnant Workers Directive

- **The EU** sets the minimum level of maternity leave and pay that member States must provide. Currently this is 14 weeks, paid at least at the rate of statutory sick pay. There are also Health and Safety provisions to ensure work is not unsafe for expectant mothers, for example altered working hours, or providing different kinds of work.
- **In the UK** women can take up to 52 weeks maternity leave. This was the case in the UK before the EU rule came in, and remained unchanged.

#### Parental Leave Directive

- **The EU regulations** entitle workers to at least 16 weeks parental leave on the birth or adoption of a child up to a certain age (defined by the individual country).

### Information and Consultation

#### Information and Consultation Directive

- **The EU** sets out that employees in organisations with 50+ employees have the right to be informed and consulted on a regular basis about issues in the organisation for which they work (i.e. issues that might affect job security or the nature / amount of work carried out by employees).

#### European Works Council Directive

- **The EU** established European Works Councils in companies of 1000 + employees: these groups represent workers across all member states, ensuring all EU workers are given the same information about upcoming changes in their company, and to provide a direct line of communication from workers to top management.

### Restructuring of Enterprises

#### Collective Redundancies Directive

- **The EU** guarantees a minimum standard of treatment for employees in the event of large scale redundancies including minimum consultation periods with staff, of 30 days. The UK's consultation period is 45 days.

**Acquired Rights Directive** protects employees' rights when part or all of a business is taken over. The UK has introduced legislation called TUPE (Transfer of Undertakings) in \_\_\_\_\_ yeas  
have the **legal right** \_\_\_\_\_ and  
**conditions** of empl \_\_\_\_\_  
**liabilities** intact. \_\_\_\_\_ing employment rights and

### Atypical Workers

#### Agency Workers Directive

- **The EU** gives all agency workers equal treatment in relation to access to facilities and information on vacancies from day 1 and creates rights to the same basic working and employment conditions, including pay and annual leave, as directly recruited employees.
- **In the UK** the Trades Union Congress (TUC) and Confederation of British Industry (CBI) came to an agreement that to qualify for these rights relating to pay and annual leave workers were required to work for at least 12 weeks on the same assignment.

#### Part-time and Fixed Term Workers Directives

- **The EU** stipulates that part time workers must not be treated less favourably than full time workers, and fixed term workers no less favourably than permanent workers, unless different treatment is justified on objective grounds.

#### Working Time Directive

- **The EU** sets minimum rest breaks (a worker must have at least 11 hours rest in any 24), annual leave (20 days minimum per annum for full time workers) and restrictions on night work (8 hrs maximum in any 24). The EU also sets a weekly working time limit of 48 hours a week.
- **The European Court of Justice** has also made rulings that affect
  - The interaction of sick leave and annual leave: workers who fall sick during their annual leave are entitled to take corresponding paid annual leave at a later date.
  - On-call workers: hours spent on-call but away from the workplace are only considered 'working hours' when the employee is actually working on-call. However all time spent on-call at a place of work is considered to be working time.
- **In the UK** workers are allowed more annual leave than the EU stipulated minimum (this was the policy in the UK before the EU regulation on annual leave was introduced, and remained unchanged when the EU regulation was introduced), and workers can opt out of the 48 hour maximum working week if they choose.

## Competition and Consumer Regulations influenced at EU level

### Competition regulations

#### **A ban on agreements that distort competition**

- **This EU rule** bans firms from colluding to the disadvantage of consumers, for example through establishing price fixing or agreeing not to compete with one another.
- **The UK** (and all Member States) must abide by these rules.

#### **A ban on dominant firms abusing their position**

- **This EU rule** bans firms that dominate a market from abusing that position, by for example charging unfair prices, by limiting production, or by refusing to supply competitors.. This disadvantage can be either direct, for example through high prices or indirect, for example through stopping future competitors from emerging
- **The UK** (and all Member States) must abide by these rules.

#### **EU influence over mergers of firms**

- **Under EU rules**, mergers involving companies with such high turnovers that the resulting merger could affect the economy of the EU, must be notified to the European Commission, who will assess the merger. The merger must conform to competition laws.
- **The UK** would regulate a merger if the companies' turnovers were sufficiently low for the above rule not to apply. In practice, the UK and EU laws on mergers are very similar in terms of preventing distortion of competition and firm dominance.

#### **State Aid (financial assistance given selectively by a public body to a company or organisation engaged in economic activity)**

- **The EU** declares that state aid, in whatever form (money / beneficial terms), which could distort competition and affect trade by favouring certain organisations, is illegal. A member state cannot grant aid until the Commission has deemed it legal.

### Consumer regulations

EU legislation gives uniform rights to consumers across the EU (statutory rights), that are independent of the contract between a consumer and a trader.

#### **Before buying: correct product / service information / awareness of withdrawal rights**

- **The EU** stipulates that consumers must have access to clear and accurate information about the product or service before they buy, including the main characteristics of the product or service, contact details of trader, total price and any additional costs, arrangements for payment and delivery, withdrawal rights, existence of any after-sales care, duration of contract and ways to terminate. The information must be provided in plain, intelligible language.
- **The UK** can provide additional information to consumers, but must meet the EU minimums.

#### **During buying: Correct price**

- **The EU** stipulates that consumers pay a reasonable price, and should not pay excessive payment surcharges, for example Credit Card fees. A consumer should not be subject to excessive phone charges when ringing a seller about an existing contract.
- **The UK** (and all other Member States) must comply with reasonable pricing laws.

#### **After buying: Good quality of product**

- **The EU regulations** stipulate that a consumer who buys a product that turns out to be faulty or inadequate for its purpose as described by the seller, is entitled to have it repaired or replaced, and if these are not possible then a price reduction or a complete refund should be available.
- **The UK** (and all other Member States) must comply with product quality rules.

#### **After buying: Access to remedies and redress**

- **The EU regulations** stipulate that a consumer can change their mind about purchasing a product or service in a 'cooling off' period during which they are entitled to withdraw from the agreement or return the goods and receive a refund. The EU gives a minimum cooling off period of 14 days.
- **In the UK** a seller can put additional consumer rights in place or lengthen the 'cooling off' period but must observe the EU minimums.



## Services Regulations influenced at EU level

### The ability for service providers to trade across borders, and the right to get established locally

- **The EU** stipulates that a businesses can provide services or good to other member states without needing to be physically established (e.g. with a shop, office, factory or employees) in those states
- The EU also stipulates that a business can establish a site in a different member state, and won't be subject to any rules on top of what local businesses must abide by (i.e. there are no additional regulations or licenses required for businesses setting up sites in other member states beyond that required of a business in that Member State.)
- However, certain requirements can still be imposed under very limited circumstances, i.e. when they are non-discriminatory, justified for reasons of public policy, public security, public health or the protection of the environment and do not go beyond what is necessary in order to achieve their objective.

### The rights of service recipients

- **The EU** stipulates that consumers in one member state can use services or buy products from other member states, without being subject to more or different regulations than if they were purchasing from their own state.
- **The UK (and all other member states)** must evaluate their own regulations to ensure they conform to these non-discriminatory processes.

### Guaranteeing quality of services

- The EU encourages businesses to:
  - strengthen the quality of services by encouraging, for example, voluntary certification of activities or drawing up quality charters;
  - encourage European codes of conduct to be drawn up, in particular by professional bodies or associations
- **The UK** (and member states) do not have to do this, but an increase in the number of service providers doing so potentially means there is a disadvantage in not doing so.

### Administrative cooperation among member states

- **The EU** lays down a legal obligation for Member States to cooperate with each other and give mutual assistance in the supervision of service providers.
- **The EU**, along with Member States, have developed an electronic system for the exchange of information (the International Market Information System - IMI). The authorities within Member States are obliged to exchange information with each other and carry out checks, inspections and investigations into certain services on request. Member States also have to send an alert to other Member States if there are cases of a service activity that could cause serious harm to the health or safety of people, or to the environment.
- **The EU** has set up “points of single contact”, i.e. online governmental one-stop shops through which service providers can obtain all relevant information and complete all procedures relating to their activities, e.g. applying for licenses and completing administrative procedures online.
- **The EU** requires Member States to ensure that all these procedures and formalities can be completed at a distance and by electronic means.
- **The UK** (and all other Members States) must conform to these requirements.



