



The Rt Hon Dr Vince Cable MP
Secretary of State for Business, Innovation and Skills
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19 August 2013

Dear Vince,

UK Government's Balance of Competences review: Review of the Internal Market: Free Movement of Goods evidence

I am writing in reply to your letter of 17th May, seeking views on the free movement of goods aspect of the review of the balance of competences.

Promoting the free movement of goods is important to prosperity in Wales. The UK's continued full membership of the EU is important to the Welsh economy. It gives access to the world's largest economy, in GDP terms, and is our largest trading partner. Over 600 Welsh companies export over five billion pounds worth of goods annually to Member States and around 150,000 jobs in Wales depend on that trade. More than 450 firms from other Member States are located in Wales, providing more than 50,000 jobs. In addition, global firms with a base in Wales also benefit from our EU membership and access to the Internal Market.

Membership of the Internal Market provides opportunities for our companies to collaborate with European partners operating to the same standards across the Union. A number of companies in the Welsh Life Sciences sector are doing well in developing their European markets through the ability to trade effectively without barriers in a larger market.

The EU has an important role to play in providing a stable and clear framework in which businesses can operate and succeed and creates a more level playing field with rules applying across Member States.

The EU has an important role to play in clarifying law and regulations. It needs to ensure that the correct level of measure, such as a Regulation or a Directive, is applied proportionately and consistently to issues it is seeking to address.

The Welsh Government supports fair competition within the Internal Market and the promotion of common standards to promote business confidence and protect consumers. There are areas where standards could be clarified such as the treatment of VAT on the movement of goods and distance selling regulations, which can present a challenge for businesses in the EU. An example of this is when downloaded software is sold as a product but then treated as a service where different rules apply. It is important that issues like this are identified and resolved in order to support the growth of the digital economy across Europe.

We support simplification to improve consistency of approach in the interpretation and enforcement of EU standards in procurement and other areas so that Welsh businesses can benefit from European opportunities. We would support a review of current controls over importing poor quality goods as there may be scope for making this area more robust. There are also benefits from the proposed EU action to create an external frontier ensuring that goods are subject to the same quality controls, customs tariffs and procedures when entering the Internal Market. We suggest that a call for evidence is published to examine the need for reform in this area including an assessment of the potential value such reform could achieve.

Related to this, we believe that it is important that the EU customs authorities work together to ensure standardisation and share best practice. Harmonisation of customs practices will increase companies' understanding of EU regulation, assisting with the free movement of goods throughout the EU.

In regard to Intellectual Property (IP), there are benefits from EU trade marks and design registrations to provide protection across the EU. National and EU-wide rights give companies the opportunity for more targeted strategies than are available elsewhere. However, it could mean more complexity for the IP system. Greater harmonization across the EU would make it quicker and simpler for businesses to register their IP in markets where they wish to trade.

The pursuit of a single measure could be unsuitable. It is important that registration of rights across all Member States enshrine the strongest protections for businesses and consumers that apply in the best of the national arrangements now. There is a risk that defaulting to the lowest national IP standards operating in Europe could be damaging to Welsh businesses who would have a weaker outcome than if they had simply registered within the UK. The Unitary Patent might convey cost advantages at the application stage. However, there is a concern that the Unitary Patent Court might be out of the financial range of most SMEs. If so, this is at odds with the approach being taken nationally to offer lower costs routes.

The consultation document states that the Court of Justice of the European Union is adding to the body of case law and that this affects or guides national

decisions. It could be beneficial if evaluation could take place of measures or actions affecting or guiding national decisions. For instance, the use of more legal precedent could provide more certainty for IP practitioners.

There is an opportunity for small to medium enterprises to be made aware of the extent to which customs staff at external EU borders can intervene in cases of suspected IP infringement. SMEs also need to be made more aware of what actions they have to take to engage the customs authorities.

Finally, the review document states that there is little EU competence in the management and exploitation of IP. The Patents Office in Newport has much experience which could be useful in making improvements in this area. This is particularly relevant in view of some of the above points concerning the potential and quality of EU-wide standards.

A handwritten signature in black ink, appearing to be 'L. M.', written in a cursive style.