

ONLINE RESPONSES TO THE UK INTERNAL MARKET ACT REVIEW AND CONSULTATION

Where the respondent chose to not answer a particular question, or answered “N/A”, “no comment”, or similar, these have been omitted from the information provided below.

Where the respondent selected the option to treat their response in confidence, these have been withheld entirely.

RESPONSE 1

[REDACTED]

Q20. [REDACTED] represents over [REDACTED] farming families across all sectors of the agricultural industry.

Many of the issues experienced by farmers about the UK Internal Market Act relate to the Windsor Framework however we understand this is not an area the review is covering.

The NI Protocol, and in particular the Windsor Framework, addressed some of the challenges created by Brexit and basically eliminated all problems North-South, but as has been well documented, issues East-West continue to cause trouble for farmers, other businesses and consumers.

As an organisation, however, we highlight the need to address issues that are causing difficulty in East-West trading relationships due to ongoing Brexit-related issues not resolved by the Windsor Framework and UK internal divergence which is adding pressure to the internal UK market.

Regarding many regulatory matters, NI has ended up in ‘no man’s land’. To simplify our problems NI must comply with EU regulations, but is under the control of UK-based regulatory bodies. Local farmers must comply with EU regulations unlike those in GB, This means that if the EU decide to change or amend legislation, NI must adhere to that change whatever it may be. The obvious huge benefit is to be able to trade into the single market, but the disadvantage is being out of step with GB farmers even though NI produce could end up on a shop shelf in GB. On top of this, GB companies have concluded that the NI market is too small to supply goods to different standards and in many cases, have stopped supplying goods altogether. Putting GB on the same regulatory basis as the EU would resolve these issues.

We also continue to have concerns over the direction of travel over the Genetic Technology (Precision Breeding) Act 2023 and its implications for the UK internal market and other matters such as regulations which govern cattle Electronic Identification (EID).

RESPONSE 2

[REDACTED]
[REDACTED]

Q1. [REDACTED]
[REDACTED]
[REDACTED] represents an industry with an aggregate annual turnover of £13 billion, with 56,000 direct and a further 59,000 indirect employees. Members range in size from large multi-national organisations with multiple sites in the UK, to single site SMEs.

There may be occasions where the IMA is judged by the governments to work well but judged poorly by businesses and organisations. That gap is likely to be real, significant and in need of addressing.

Industry needs to be considered, with mutual recognition being the default option, enabling UK businesses to follow one set of regulations and not four.

Q3. A balance must be found between, on the one hand, a desire for devolution and local decision making and, on the other, the risk of unnecessary costs and barriers to trade being introduced. Increased regulatory divergence between the four nations should not make trade more difficult in the current circumstances.

Q4. By and large, the operation has been positive. Looking to the future, businesses also need to have some way to challenge the decisions made by the four governments. This is particularly important to ensure the concerns of business about the operation of the UK single market are heard and acted upon.

We note that such a provision for businesses and others to challenge those policies proposed by national governments is in place within the European Union (EU). It is the Technical Regulation Information Procedure (TRIS) embodied in the EU 2015/1535 procedure. The TRIS procedure ensures obstacles created (deliberately or inadvertently by Member States) to the operation of the EU single market could be investigated by the

EU Commission and actions taken, as required, for the single market to operate as seamlessly as possible without obstacles.

Q13. There may be occasions where the IMA is judged by the governments to work well but judged poorly by businesses and organisations. That gap is likely to be real, significant and in need of addressing.

Industry needs to be considered, with mutual recognition being the default option. Businesses also need to have some way to challenge the decisions made by the four governments. This is particularly important to ensure the concerns of business about the operation of the UK single market are heard and acted upon.

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Q15. The aim should be empowering local regulatory innovation within a balance where decisions are unpinned by maximising the UK's economic growth.

Early guidance from impacted industries and businesses is essential, benefitting from industry's expertise on the economic impacts of the potential decisions.

Q20. [REDACTED] is pleased to have the opportunity to respond to this consultation on the UK's Internal Market Act. We confirm our robust support for the intention of the Act and for initiatives more generally that support businesses and drive economic growth across the UK.

A balance must be found between, on the one hand, a desire for devolution and local decision making and, on the other, the risk of unnecessary costs and barriers to trade being introduced. Increased regulatory divergence between the four nations should not make trade more difficult in the current circumstances.

There may be occasions where the IMA is judged by the governments to work well but judged poorly by businesses and organisations. That gap is likely to be real, significant and in need of addressing.

RESPONSE 3

[REDACTED]

RESPONSE 5

[REDACTED]

Q1. [REDACTED] welcomes this review of the Internal Markets Act 2020 (IMA). The IMA plays a crucial role in maintaining a well-functioning internal market for goods while upholding legislation that serves the public interest. To achieve this balance, it is essential that laws aimed at enhancing animal welfare in response to societal concerns are not weakened by the IMA's provisions. This can be accomplished through the strategic application of exclusions.

There are concerns due to a lack of clear understanding of the relationship between the rules of the IMA and the Common Frameworks Agreement (CFA). Animal health and welfare is a shared framework included under the CFA. Therefore, mutual recognition of animal welfare standards is needed to prevent disparity from these standards. There is a triaged dispute settlement system included in the CFA up to Ministerial level.¹ Animal welfare processes are handled by Defra and equivalent Devolved Authority (DA) Ministries under the CFA. However, the running of the IMA is led by the Department of Business and Trade (DBT). It is unclear as to whether the decision-making structure in different Ministries has hampered the decision-making process on exclusions under the IMA.

The four main criticisms of the IMA are as follows:

1. Control of the process is centralised to the UK Government. It is unclear as to how the exclusions process works, or if there is an economic threshold to clear.
2. Aside from through the CFA, there is no transparent decision-making process under the IMA, and the links themselves between the CFA and IMA process are unclear.
3. Due to a lack of real consultation process, there is little Parliamentary scrutiny in the DAs when legislation is proposed by the UK Government.
4. There is not enough transparency into the decision-making process under the CFA.

Q3. It is essential to strike a balance between local regulatory innovation and UK-wide consistency without triggering a "race to the bottom" in regulatory standards. Achieving this balance is crucial to fulfilling the UKIMA's policy objective, as outlined in paragraph 2 of its explanatory note, which emphasises "maintaining our high regulatory standards."

Animal welfare is one area where the UK must ensure these high standards are upheld. Public opinion strongly supports this, with 71% of Britons believing it is never acceptable to cause pain and suffering to animals and 69% identifying as animal lovers. Given this widespread concern, the IMA must not hinder progress in animal welfare protections. However, as discussed in response to question 4 below, the current approach does not strike the right balance and must be adjusted by applying IMA exclusions more effectively.

Devolved governments must be able to develop policies and laws that suit their nations. However, this should not lead to trade barriers for free movement of goods or professions. This problem was recognised by the EU's single market, and case law has evolved through the European Court of Justice (ECJ) judgements which clarifies the general principles around mutual recognition.

The EU has authority on free movements of professional qualifications and goods in its single market. However, there is not a similar recognised legal process within the IMA nor an equivalent of the ECJ. This leads to less transparency on the products allowed within the UK's single market. Decisions on exemptions do not appear to be under an agreed framework, and although the CFA has a dispute settlement process, it is seemingly a political process rather than a legal one. For example, final decisions are decided by Ministers rather than through a judicial process. These decisions are not published, and it is therefore difficult to assess how they are made and the impact they may have.

In accordance with the IMA, the Scottish and Welsh governments have limited powers to stop the internal trade in a product from another GB country, nor can they discriminate against the import of products by labelling them as such. The non-discrimination principle (Article 5) states that goods produced in one part of the UK must be able to 'travel' to another part of the UK, and these goods cannot be placed at a commercial disadvantage (Article 8). These provisions are seemingly inconsistent with the CFA, leaving devolved governments very little power to restrict the import and sale of certain products which may pose a threat to animal welfare in Scotland and Wales. In addition, it also makes it much more difficult for them to adopt their own standards in devolved areas, such as animal welfare, that may have an impact the UK's single market, regardless of whether there is public or political will. An example of this is the

will of Scottish and Welsh governments to restrict future sale of fireworks in their nations to improve animal welfare. However, the sale of fireworks is seen as a reserved power of the UK Government, meaning that Scotland and Wales can only adopt measures within their devolved competence, such as establishing firework free zones, despite there being public support for an outright firework sales ban in these nations. A more transparent method to solving these issues may lie in applying the CFA, as all four governments can raise issues under this framework, and there is a triage system if an agreement cannot be reached, unlike under the IMA.

There is a balance that needs to be struck in examining the ability of DAs to make divergent policies in devolved matters. For example, it is unclear as to whether the decision made by the UK Government to allow gene editing in England but permitting the sale of gene edited products in the UK via the principles in the IMA was agreed under the CFA with the DAs. The Scottish and Welsh Governments criticized the process as they had not been consulted prior to the Defra legislation being published in Parliament, and discussions only began under the CFA when the Bill had already been introduced. This suggests that the process of the CFA was different to that which applies to the DAs who must propose legislation for ratification under the CFA before it is laid. It is vital that the same rules are applied equally to all the DAs, including the UK Government acting for England.

As of yet there has been no impact assessment on the single market on the different approaches to the sale of puppies. Wales banned the sales of puppies other than from breeders located in Wales in 2021. This differs to the English legislation, adopted in 2020, which allows the sale of puppies from a breeder regardless of their geographical jurisdiction. Scotland has had a licensing system in place since 2021, whilst NI is due to create its own legislation this year. Therefore, the breeding and sale of puppies is covered by four separate and uncoordinated legislative standards in each of the four UK nations. It is not clear whether these differing measures were discussed under the IMA or the CFA, and there has been no review of the impact of these measures on the UK single market. Sadly, the lack of a unified approach is being exploited by illegal puppy dealers. Illegally imported puppies enter the English market from NI and Ireland via Scotland, and from Wales to England. Puppies from Ireland or NI that would be illegal to sell in Scotland or Wales are able to be transported through these countries in order to be sold legally in England.

Legislation on the non-commercial movement of pets into NI from GB will come into effect in June 2025, bringing varying standards on moving dogs from GB to NI compared to moving dogs within GB. The EU's common rules on non-commercial movement of pets are applied in NI, which permits the free movement of dogs through the EU if the dog is vaccinated against rabies, microchipped and has a pet passport. However, the

UK has not yet been afforded Part 1 status under EU Regulation 577/2013. There is therefore a need for the IMA to work more with the EU single market for instances such as these.

Q4. The current application of the IMA fails to achieve an appropriate balance between UK-wide regulatory alignment and the ability of individual nations to innovate in their regulations. As a result, it poses a significant risk to the UK's progress in animal welfare—a policy area in which the UK has traditionally taken a leadership role. The market access principles within the IMA create substantial deregulatory pressures, with these pressures making it considerably more difficult for one UK nation to adopt, justify, and enforce stricter public regulations when another nation adheres to lower standards. A case in point is Scotland's proposed ban on enriched cages for layer hens, which underwent public consultation concluding in June 2024. Under the mutual recognition principle in section 2 of the Act, eggs produced or imported into England or Wales—where enriched cages remain legal—could still be sold in Scotland, regardless of Scotland's stricter regulations. Unless the Secretary of State for Business and Trade invokes his authority under section 10(2) to amend the Schedule 1 exclusions and explicitly ban the sale of caged eggs, England would retain the right to sell such eggs in Scotland. This could result in increased caged egg production in England to supply the Scottish market, offsetting the intended benefits of Scotland's ban and leading to no overall improvement in animal welfare across the UK. Recent polling showed that 94% of the public oppose the use of enriched cages for chickens. Given this overwhelming public sentiment, Scotland should have the authority to prohibit both the production and sale of caged eggs without the ban being undermined by the IMA. Since animal welfare and sales regulations fall within devolved competencies, similar conflicts could arise with any new animal welfare measure. For example, if England were to ban the sale of fur without similar prohibitions in Scotland, Wales, or NI, the IMA's mutual recognition principle would allow fur products legally sold in those regions to be marketed in England, effectively nullifying the English ban. Additionally, the inclusion of NI Qualifying Goods could further weaken any such prohibition, as fur products originating from the EU could still be sold in England. This outcome would be at odds with public opposition to fur farming, which has been banned across the UK for over two decades.

While the Animal Health and Welfare Common Framework encourages UK nations to collaborate on shared policy approaches where feasible, consensus is not always guaranteed. To protect animal welfare effectively, an amendment to the IMA is necessary. This amendment should expand the Schedule 1 list of exemptions to explicitly exclude sales bans based on animal welfare considerations, ensuring that goods produced through poor welfare practices do not benefit from market access protections. Alternatively, Part 1 of the IMA could be revised to align with the Swiss

Internal Market Act, which itself draws on the ECJ's Cassis de Dijon (Case 120/78, 1979) ruling. Such a modification would preserve market access principles while explicitly allowing regulatory restrictions based on public interest concerns, including animal welfare. This would empower UK nations to uphold higher standards without being compelled to accept goods that fail to meet those standards. If no amendment to the IMA is made and consensus among UK nations cannot be reached, the Secretary of State should use existing powers under section 10(2) to amend Schedule 1 and exclude specific animal welfare measures from the market access principles. This would be in line with the precedent set by Schedule 1, Section 13(1) of the IMA, which already disapplies market access principles for bans on single-use plastics.

Ultimately, safeguarding animal welfare within the UK's internal market requires proportionate and effective reforms. Without these changes, the IMA will continue to facilitate a "race to the bottom" in welfare standards, contradicting public expectations. Additionally, it is worth noting that EU law permits member states to justify regulatory restrictions on public interest grounds, including animal welfare, as long as they are proportionate and evidence-based. The precedent set by the Cassis de Dijon ruling and Switzerland's internal market framework ensures that jurisdictions can enforce higher regulatory standards to serve important public interests. The UK should not find itself with weaker animal welfare protections post-Brexit than it had as an EU member. To prevent this, the IMA must be amended, or exemptions must be readily applied by the Secretary of State, to ensure that progress in animal welfare is not obstructed by market access rules.

In addition, the current market access principles for goods within the IMA should be more transparent when it comes to reserved issues, such as the impact of Free Trade Agreement (FTA) provisions, which impact devolved issues such as farmed animal welfare. Devolved governments were effectively uninformed of the FTA provisions that had been negotiated by the UK Government in the UK-New Zealand and UK-Australia FTAs. There was no referral to the CFA on the impact of lamb and beef tariffs in the Australia and New Zealand FTAs on Scotland or Wales. It would improve transparency to ensure that the UK must put such proposals into the Common Framework process under the IMA. Despite the Senedd objecting the UK-Australia FTA, they had no influence over the outcome of the negotiations, which disproportionately impacted Welsh sheep farmers due to the high numbers of these farmers in Wales compared to England.

Q5. We welcome the UK Government's decision to grant an exemption for single-use plastics and its recent commitment to exempt Scotland's ban on the sale of glue traps. These exemptions represent positive steps in strengthening environmental and animal welfare standards in line with public expectations. It is essential that the Secretary of

State continues to grant similar exemptions for measures that enhance environmental or animal welfare protections in any of the UK nations.

The Secretary of State's use of exemptions to safeguard public interest legislation aligns fully with the core policy aims of the IMA. The Act's explanatory note highlights its objectives as: (a) maintaining economic opportunities across the UK, (b) fostering competitiveness and ensuring the UK remains an attractive place to do business, and (c) supporting the overall welfare, prosperity, and economic security of UK citizens. Exempting animal welfare measures from the market access principles does not conflict with these objectives; rather, it helps prevent a regulatory "race to the bottom." Given the strong public support for animal welfare protections, policies that improve conditions for animals also serve the broader welfare of society, reinforcing one of the IMA's fundamental goals.

Greater transparency is needed regarding how decisions are made between the IMA and the CFA on issues such as animal welfare, where competence lies under a different Minister to the DBT. Using glue traps as an example, we can see that England, Scotland and Wales all have differing standards on the use of these traps in their respective nations. England has a licensing scheme, Wales has a ban on their use, and Scotland has a ban on their use and sale. The ban on the sale of glue traps was passed by the Scottish Parliament in May 2024, however the DBT Ministry only clarified that the ban would be permitted under the IMA in December 2024, on the grounds that there would only be a minor impact on the UK's internal market.¹¹ Perhaps if the subject of glue traps had been discussed under the IMA, a common approach could have been agreed as opposed to the varying approach from the different devolved governments.

More transparency is also needed under the CFA. It is unclear if issues such as the gene editing of animals have been raised and resolved. Scotland, NI and Wales all objected to the law on gene editing, yet it was still passed by the UK Parliament. There seems to be a dynamic imbalance between the four nations' ability to pass and adopt legislation – the DAs do not appear to have a veto under the CFA on legislation proposed by England, but DA legislation can be vetoed by the UK Government.

Q9. [REDACTED] agree that exclusions should be made for certain goods, as the UK Government has already done for glue traps, where these do not have an impact on the UK's single market.

There is a lack of transparency in how decisions are agreed between the IMA and CFA. As mentioned previously, there is a triaged dispute settlement system included in the CFA up to Ministerial level. Animal welfare processes are handled by Defra and

equivalent DA Ministries under the CFA. However, the running of the IMA is led by the DBT. It is unclear as to whether the decision-making structure in different Ministries has hampered the decision-making process on exclusions under the IMA.

Q10. Anyone from one of the four nations that has a recognised professional qualification should be able to work in any of the other four nations under the IMA. It is the responsibility of the devolved governments to decide what activities require a professional qualification if that activity is a devolved matter. For example, England permits the licensing of eight different activities under the Licensing of Activities Involving Animals Regulations 2018, which in the future could include the licensing of animal behaviourists. Due to this legislation being devolved, this opportunity might not be available in the other three parts of the UK single market.

Q13. The Office of the Internal Market (OIM) should offer independent monitoring and advice regarding the effects of the Secretary of State's decision to approve or reject an exclusion under the IMA. This monitoring and advice should cover, among other factors, the deregulatory pressures arising from the refusal of an exemption, potential societal harms (such as negative consequences for animal welfare or the environment) resulting from a local measure being undermined by the IMA, and the trade and economic implications of the measure on the functioning of the internal market.

Q15. Animal welfare-based restrictions should be presumed exempt from the mutual recognition principle, given their typically low economic impact on businesses and the strong public support for higher animal welfare standards. This presumption could be established through an amendment to the IMA, as discussed in response to question 4, and/or incorporated into official guidance issued by the DBT outlining its approach to IMA exclusions.

Additionally, the process for evaluating potential exclusions should be more transparent and include greater public participation. This should involve formal written consultations, allowing stakeholders to provide relevant evidence to inform the Secretary of State's decision on whether to grant an exclusion.

Q16. Stakeholders should have the opportunity to submit feedback and evidence regarding a potential IMA exemption. As noted in response to question 15, this could involve a formal written consultation, allowing interested parties to provide relevant information to help inform the Secretary of State's decision on whether to grant an exclusion.

Q17. The evidence should highlight the policy consequences of not granting an exclusion. This may include insights into the significance of the proposed local

measure, potential societal harms (such as negative impacts on animal welfare or the environment) resulting from the measure being undermined by the IMA, and any deregulatory pressures that could arise from refusing to approve an exemption.

Q18. No. Measures that may have a significant economic impact but are fully justified in serving the public interest—such as promoting animal welfare or protecting the environment—are just as valid as those with a lower economic impact but lesser importance in achieving legitimate regulatory goals. Therefore, the same process should be used to assess the merits of an exclusion.

Q19. A measure which causes a significant disruption to economic and trade flows.

Q20. The IMA should reflect the UK procedures, e.g. a judicial process that has the power to assess disputes, as well as transparency within this process and judgements that are consulted on and published. A clear framework needs to be set out between the CFA and the IMA.

RESPONSE 6

[REDACTED]
[REDACTED]

Q1. [REDACTED] is the forum for [REDACTED]
[REDACTED] representing a broad spectrum of
environmental interests with the common goal of contributing to a more
environmentally sustainable society. This response was prepared by [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] members take a keen interest in the UK Internal Market Act (UKIMA) due to the impact of the Act on the Scottish Government's ability to implement pro-environment policy measures. This most notably was demonstrated by the issues

related to the planned Deposit Return Scheme, though we also hold wider concerns around the chilling effect on policy development and implementation, such as in the delays to ending peat in horticulture. [REDACTED] published a recent report on UKIMA, which included recommendations for its improvement.(1)

Following the EU referendum, [REDACTED] argued that the proposal to create a legally recognised single market within the UK based on the principles of mutual recognition and non-discrimination had some merit. However, it was [REDACTED] view that the internal market as designed by the then UK Government was inconsistent with the principles of devolution and that insufficient consideration had been given to the advantages of regulation in the public interest, including to protect and improve the environment.

Government has the right, and the duty, to intervene in the market to achieve objectives in the public interest. Within the UK, responsibility for the environment lies with the devolved administrations. From the establishment of devolution until the introduction of the Internal Market Act, the devolved administrations could, within the limits of their powers, pass environmental measures which could impact on goods.

A fundamental point of importance is that the UKIMA did not simply replace the European single market. It instead created a more centralised and restrictive devolution settlement.

Within the EU, member states are bound by common environmental standards but were permitted to go beyond these, creating a race to the top. UKIMA in practice limits the ability of the devolved administrations to innovate and pursue higher standards. This dynamic is particularly acute due to the asymmetric nature of the UK constitutional settlement, in which the UK Government acts as both the government of England for the purposes of UKIMA and the ultimate arbitrator of the Act itself.

The Scottish Government is now unable to pursue policy choices it would have been able to do so while the UK was a member of the EU. This is disproportionate and an overreaction to the need to harmonise trade across the UK - as this consultation paper itself states, the internal market “has existed for hundreds of years”, including the period in which devolved governments operated with more flexibility than today.

[REDACTED]

[REDACTED]

Q3. Devolution was established on the principle that the four nations of the UK could pursue different approaches in areas within their responsibilities, such as the

environment or public health, but that specific, well-defined issues would be reserved to the UK Government.

Under the EU single market, member states can implement trade-related policies where local regulations can be justified by wider public policy objectives. This principle has been lost to devolution since the introduction of the UKIMA but could easily be reestablished.

Currently, UKIMA requires the devolved administrations to seek an exclusion to take forward a particular policy proposal which would otherwise be blocked by the Act. [REDACTED] instead proposed that a broader systemic exclusion is added to Schedule 1 of the Internal Market Act by regulation. This systemic exclusion would establish the principle that the devolved governments could implement measures which are proportionate and intended to support a legitimate public policy objective, within the limits of devolved powers. In this model, the devolved governments would not be required to ask permission to act, but disproportionate measures could be challenged.

This approach would address the fundamental flaw posed by UKIMA. By requiring devolved governments to effectively ask permission to pursue actions within their responsibilities, UKIMA not only undermines the principle of devolution but causes other issues: establishing unnecessary bureaucratic processes for reasonably minor policy measures; slowing down policy-making; discouraging policy innovation; creating uncertainty over the extent of devolved power; and ultimately creating a significant deregulatory pressure.

This power would be limited by the principles of proportionality and subsidiarity, which are well established principles with a long history in case law, and would not give the devolved administrations an arbitrary licence to act.

Q4. The failed introduction of the Deposit Return Scheme demonstrated that UKIMA is unfit for purpose in its current form.

Deposit return is a well understood and effective scheme which operates internationally. It was, and is, the policy of governments across the UK to introduce such a scheme. The legislative basis for Scotland's DRS was the 2009 Climate Change Act, and the relevant secondary legislation was made prior to the commencement of UKIMA. If Scotland, or another part of the UK, had introduced DRS prior to UKIMA then it would have been allowed to continue. Instead, the scheme was blocked, causing significant disruption and cost to business. This underlines the point that UKIMA is more restrictive than the European single market it was intended to replace.

As a matter of principle, there is no clear reason why a government with significant environmental responsibilities should be unable to introduce a recycling scheme which is clearly in the public interest and proportionate to meeting environmental objectives. The handling of DRS illustrated other fundamental issues with UKIMA. Clarity is lacking on the process and timing for seeking exclusions - in the case of DRS, the Scottish and UK Governments disagreed publicly over whether an exclusion request had even been made. In October 2020 a UK Minister gave public assurances that “we are confident that the deposit return scheme can be brought into effect in full compliance with the market access principles”, only for an exclusion to be denied in 2023.

Q5. [REDACTED] were supportive of the ban on single-use plastic items and believe this is an example of devolved administrations successfully moving at different paces while pursuing environmental objectives.

Q13. Research conducted (1) on behalf [REDACTED] found that “over its short existence, the OIM has developed a reputation as a fair and impartial player on the sidelines of debates around the operation of the Act, and this role could potentially be expanded.” The OIM could be given a role overseeing the exclusions process. However, this would be a limited solution to addressing the flaws of the Act.

[REDACTED]

[REDACTED]

Q15. [REDACTED] proposal to introduce a broader systemic exclusion, limited by the principles of proportionality and subsidiarity, would address the fundamental issues and limit the unnecessary use of the exclusions process.

Q18. As in our answer to question 15, if a broader systemic exclusion was introduced, allowing devolved administrations to act to support a legitimate public policy objective, this would be limited by the principle of proportionality. This would of course be relevant to proposals with significant economic impact, which should not necessarily rule out the ability of government’s to act, but would be a material consideration.

RESPONSE 7

[REDACTED]

Q2. For convenience retailers and the supply chains that support them, there is lots of complexity associated with different regulations across UK nations, even if it is later down the supply chain. In assessing the impact of policy divergence, the government must also look at the volume of business outlets impacted in addition to headline economic impacts. Convenience retailers have to deal with higher levels of

familiarisation activities, such as training staff and changing operating systems, and it is harder to quantify the economic impact of these operational challenges.

Policy divergence across nations is more acutely felt by convenience store operators trading across more than one UK nation because of their integrated supply chains. They must ensure that new suppliers are identified, IT infrastructure is updated and distribution networks can support the delivery of differentiated product requirements. This comes with sizeable administrative costs and complexity.

The decision on how to respond to policy divergence, for example adjusting or removing product lines, will largely be determined by economies of scale of the product impacted. For example, a policy intervention introduced by a national government where a convenience retailer has only a small number of stores means it may make more financial sense to remove the product completely instead of making complex adjustments to a small section of its business.

There are also implications for independent convenience retailers as their stores are often supplied by supply chains that operate across the UK. Disruption to these supply chain will naturally impact convenience retailers via pass through costs or adjustments to product availability.

Q3. We acknowledge that UK nations need the ability to adjust their regulatory frameworks to reflect their circumstances. However, for convenience retailers, regulatory alignment across the UK results in less cost and administrative burdens for their businesses. As outlined in response to question 2, the implications for convenience stores comes from direct impact on store operations and disruption to their supply chain.

We believe that the underlying principles of the Internal Market Act are right. We want to avoid situations where one UK nation can regulate and inadvertently require businesses across the whole of the UK to comply. Where there are cross UK implications of regulations the Act should continue to prevent friction in the UK market.

Q4. We have limited direct engagement on informing the market access principles. The most direct impact that exclusion under the UK Internal Market Act have had on the convenience sector is the use of the temporary exclusion for the Deposit Return Scheme (DRS) in Scotland.

We agreed with not including glass in the DRS, therefore this was a welcome step. However, there was limited opportunity to engage with the process around the exclusion decision or transparency around intergovernmental discussions.

We observe that there is limited understanding from policy makers across the UK about the impact of the Act on different policy areas and how this should be interpreted – this can often create confusion when policy is being developed.

Q5. [REDACTED] submitted evidence to the Office of Internal Market on single use-plastic and highlighted the following points. These points hold true for the application of exclusion for other products in convenience stores.

Different UK nations having different regulatory approaches lead to significant challenges and some opportunities. Retailers have explained to us that there is an administrative burden of understanding and communicating to colleagues where different nations have different rules. This applies to both head offices communicating regulations to store managers, and store managers to their colleagues. Where products are banned in some countries, retailers will need to have different supplier contracts and source alternative products. This can increase costs and staff time. Although non-plastic alternatives are becoming cheaper, they are still generally more expensive and in more limited supply. Further, where regulations require data reporting, collating this for different countries represents a significant administrative burden.

Where stores trade in areas on or near national borders, customers may be frustrated that certain products are not available on one side of the border. This can be a trigger for abuse against staff. 87% of colleagues experienced verbal abuse in the last year. Retailers are sometimes blamed for products not being available, rather than government.

There are some opportunities, for example, where there are different lead times in different countries, the country that goes first can provide a good testing ground for retailers. Retailers can prepare for bans that go-live at a later date by examining what alternative products are available, customer behaviour and the degree of staff training required.

[REDACTED] full submission to the Office of Internal Market is available:

[REDACTED] into regulatory restrictions on single-use plastics in the United Kingdom - [REDACTED] submission.pdf

Q15. We would like to see earlier indication from the Government about whether a new policy requires an exclusion. The Office for Internal Market should have a greater role in providing advice to businesses on these matters.

Q16. See response to Question 15

Q17. All government policy impact assessments should include an analysis of the Internal Market Act implications. The Office for Internal Market should be offering government's advice on the type of information and evidence that needs to be assessed in the Internal Market Act sections of the impact assessments

Q18. The Government could consider developing a similar approach to the Regulatory Policy Committee, whereby an independent evaluation of the quality of a nation's assessment of the Internal Market Act implications. The Regulatory Policy Committee

have used a red, amber, green rating system to assess the quality of impact assessments and made recommendations for improvements.

RESPONSE 8 This is a joint response from a group of named organisations, who have all been counted towards the total number of consultation responses

[REDACTED]

Q1. The UK internal market for goods is best supported using the Internal Market Act ('the UKIMA' or 'the Act') by ensuring that due regard is given to the importance of legislation furthering the public interest. This requires, inter alia, that legislative measures seeking to improve animal welfare in response to societal expectations are not undermined through the operation of the UKIMA. This outcome can be achieved through the effective use of exclusions.

Q3. The balance between local regulatory innovations and UK-wide alignment must be struck in a manner that doesn't generate "a race to the bottom" in regulatory standards. This outcome is necessary to achieve the UKIMA's policy objective, as set out in paragraph 2 of the UKIMA's explanatory note, of "maintaining our high regulatory standards."

Animal welfare is an example of a policy area in which UK must ensure it maintains high standards. Polling shows that 71% of the British public believe that it is never acceptable to cause pain and suffering to animals (One Poll, 2022) and 69% describe themselves as animal lovers (YouGov, 2022). Thus, the operation of the UKIMA must not undermine progress in this important area. As explained in the answer to question 4 below, the balance is currently being inappropriately struck and must be recalibrated through the effective use of UKIMA exclusions.

Q4. The Act as it currently operates fails to strike the appropriate balance between UK-wide alignment and local regulatory innovation. In so doing, it threatens to significantly undermine the UK's progress on animal welfare policy – an area the UK has long prided itself on leading. This is because, as [REDACTED] et al highlight in their article, "Sleeping with an elephant: devolution and the United Kingdom Internal Market Act 2020" L.Q.R. 2022, 138(Oct), 650-676, the Act's market access principles generate significant deregulatory pressures. This makes it "much more difficult for one territory to choose, justify and enforce stricter levels of public regulation in any situation in which another territory follows laxer standards." Further, as the authors note, the UKIMA creates a powerful disincentive to engage in legal reforms or innovations in response to social preferences.

Consider, for example, Scotland's proposed ban on enriched cages for layer hens, which was subject to a public consultation which closed in June 2024. Pursuant to the section 2 mutual recognition principle for goods, any eggs produced or imported into England or Wales and which can be legally sold there, can also be legally sold in Scotland—regardless of whether they were produced in accordance with Scotland's regulatory requirements. Accordingly, unless the Secretary of State for Business and Trade, Mr Jonathan Reynolds, was to disapply the section 2 market access principles by using his powers under section 10(2) (i.e. to amend the Schedule 1 exclusions to include a ban on the sale of caged eggs), English producers would have a right to sell their caged eggs in Scotland notwithstanding Scotland's production ban. Accordingly, the Act could have the effect of causing caged egg production in England to increase as caged eggs units in Scotland close. This would result in there being no net improvement in animal welfare in the United Kingdom – instead, Scotland's caged egg producers would simply be replaced by England's caged egg producers, contrary to the policy objective behind Scotland's proposed ban.

This would be a perverse outcome. Polling from 2022 by Bryant research shows that 94% of the public oppose the use of enriched cages for chickens. Scotland is thus well within its rights to want to ban the practice—and to extend the production ban to a ban on the sale of any caged eggs, should it so desire—without risking the ban being undermined by the operation of the UKIMA vis-à-vis caged eggs from England. Because animal welfare is a devolved matter, and the regulation of sales is also devolved, the adverse outcome detailed above concerning caged eggs could arise in relation to any given animal welfare reform. For example, if England was to ban the sale of fur, without the devolved nations adopting a similar sales ban, the UKIMA would operate to wholly undermine the ban. Pursuant to the mutual recognition principle under section 2 of the Act, fur products that could be legally sold in Scotland could also be legally sold in England—which would, in practice, prevent England from enforcing its ban on the sale of fur. Further, the applicability of the mutual recognition principle to Northern Ireland Qualifying Goods may further undermine the effectiveness of the ban in relation to fur products coming from the EU. Again, this would be an entirely perverse outcome given strong public opposition to fur farming, a practice that was banned UK-wide more than twenty years ago.

We recognise that the Animal Health and Welfare Common Framework aims for the UK nations to develop common policy approaches in making changes to animal welfare legislation, where appropriate. This principle should be applied so that where one UK nation proposes to raise an animal welfare standard, all other nations follow. However, this UK-wide consensus is never guaranteed, and an amendment to the UKIMA is therefore recommended to safeguard animal welfare.

This amendment would involve widening the Schedule 1 list of exemptions so that sales bans based on animal welfare grounds, i.e. of products produced using poor animal welfare practices, are expressly excluded from the operation of the market access principles. Alternatively, Part 1 of the Act could be amended so that it is modelled on the Swiss Internal Market Act—which in turn is modelled on the leading precedent on the internal market under EU law, being the decision of the European Court of Justice in *Cassis de Dijon* (Case 120/78, 1979). An amendment of this nature would involve maintaining the market access principles in Part 1 of the UKIMA but making these principles expressly subject to a widely-drawn list of public interest considerations, including animal welfare. An amendment to this effect would allow a UK nation to raise one or more of these public interest considerations in order to enforce its higher regulatory standards against incoming goods from other UK nations.

In the alternative, if the UKIMA is not amended, and there fails to be agreement between all UK nations to adopt an animal welfare measure proposed by one UK nation, the Secretary of State ought to exclude the measure from the market access principles. This can be achieved through the Secretary of State's exercise of his power under section 10(2) to amend Schedule 1, which sets out the relevant exclusions. This approach would follow the positive precedent set under Schedule 1, Section 13(1) of the Act, which disapplies the market access principles in relation to bans on the sale of single use plastics.

Excluding animal welfare measures from the market access principles is critical to the proportionate, and effective, operation of the UK's internal market. Without these reforms, the UKIMA will continue to encourage a 'race to the bottom' of animal welfare standards, contrary to the expectations of the public.

Further, we note that these reforms are particularly important given that EU law provides member states with the ability to justify restrictions on a range of public interest grounds—including animal welfare—so long as they are proportionate and evidence-based. This approach, as set out by the ECJ in *Cassis de Dijon* (Case 120/78, 1979) and also followed by Switzerland in its internal market legislation, ensures that the host territory can enforce its higher regulatory standards against incoming goods, for the sake of important public interest goals. It cannot have been intended that the UK nations have a lesser ability to raise their animal welfare standards after Brexit, compared to when the UK was still part of the EU. Yet this is the default outcome created by the UKIMA – one that must be palliated through amendments to the Act and/or the ready use of exemptions by the Secretary of State.

Q5. We welcome the UK government's agreement to providing an exemption for single-use plastics, and its recent announcement that it would exempt Scotland's ban on the sale of glue traps. These exclusions will both have positive impacts by strengthening

environmental, and animal welfare, standards respectively in accordance with societal expectations.

The Secretary of State must continue to provide similar exemptions in relation to measures which raise environmental or animal welfare standards in one or more of the UK nations.

We note that the Secretary of State's use of exemptions to protect legislation furthering the public interest is entirely consistent with the overarching policy objectives of the UKIMA. The explanatory note to the UKIMA observes that Act aims a) to continue to secure economic opportunities across the UK; b) to continue to increase competitiveness and enable citizens across the UK to be in an environment that is the best place in the world to do business; and c) to continue to provide for the general welfare, prosperity, and economic security of all UK citizens.

None of these objectives are undermined by excluding animal welfare measures from the market access principles in order to prevent a race to the bottom. Indeed, given the very high level of public concern for animal welfare, measures to advance the protection of animals also promote the general welfare of citizens, and are therefore in furtherance of one of the principal policy objectives of the Act.

Q13. The Office of the Internal Market ("OIM") should provide independent advice and monitoring on the impacts of the Secretary of State approving (or failing to approve) an exclusion to the UKIMA. This monitoring and advice should address, inter alia, deregulatory pressures created by a decision by the Secretary of State not to approve a given exemption; any applicable social harms (for example to animal welfare or the environment) that may result from a local measure being rendered ineffective as a result of the UKIMA; and the trade and economic impacts of a relevant measure on the operation of the internal market.

Q15. There should be a default presumption in favour of excluding animal welfare-based restrictions from the market access principles, given the minimal economic impact on business that typically results from these measures, and the strong level of public support for raising animal welfare standards. This presumption in favour of an exclusion could take the form of an amendment to the UKIMA as suggested in the answer to question 4 above, and/or through inclusion in formal guidance published by the Department for Business and Trade setting out its policy towards UKIMA exclusions. There should also be greater transparency and public participation in the evaluation process of measures being considered for a UKIMA exclusion. These measures ought to include the use of formal written consultations which would enable stakeholders to

submit pertinent information to inform the Secretary of State's decision whether to grant an exclusion.

Q16. Interested parties should be provided with the opportunity to provide feedback and evidence in relation to a potential UKIMA exemption. As stated in the answer to question 15 above, this could include the use of a formal written consultation which would enable stakeholders to submit relevant information to inform the Secretary of State's decision whether to grant an exclusion.

Q17. Evidence should include information on the policy implications of not having an exclusion. This category includes, for example, information on the importance of the proposed local measure, any societal harms (for example to animals or the environment) that may result from the measure being rendered ineffective due to the operation of the UKIMA, and any deregulatory pressure created by a failure to approve an exemption.

Q18. No. Measures which may have a potentially significant economic impact but which are entirely proportionate to the public interest in advancing social objectives such as animal welfare and the protection of the environment, are as valid as measures which have a smaller economic impact but are less important to the advancement of legitimate regulatory objectives. The same process for considering the merits of an exclusion is therefore appropriate.

Q19. A measure which causes a significant disruption to economic and trade flows.

RESPONSE 9

[REDACTED]

Q1. The UK Internal Market Act should ensure that businesses operating exclusively in the UK—such as [REDACTED], which serves UK and US healthcare markets—are not subject to EU State Aid rules unless they actively trade with the EU. The current subsidy classification approach penalises NI-based businesses by limiting grant eligibility while their GB-based counterparts face no such restrictions under MFA.

Q4. The inconsistent application of subsidy control rules demonstrates a misalignment in market access between NI and GB businesses.

- The application of EU de minimis rules to NI-only businesses that do not trade with the EU contradicts the principles of a level playing field within the UK internal market.

- MFA should be the default mechanism for businesses operating exclusively in the UK, unless they have a clear and direct link to NI-EU trade.
- Without action, this divergence creates a structural disadvantage for NI companies, discouraging innovation investment and R&D activity in the region.

The Internal Market Act should be revised to prevent situations where NI businesses lose access to UK funding streams due to subsidy classifications that do not reflect their actual trade footprint.

Q6. Although [REDACTED] primarily develops medical devices (goods), the software, AI-driven analytics, and digital health components of our product fall into services. The current uncertainty surrounding subsidy classification affects not only goods but also service-based innovation in NI, where companies developing digital healthcare solutions may similarly be restricted in accessing UK support due to misapplied EU rules.

To ensure that the UK internal market for services remains competitive, the UKIMA framework should explicitly clarify how subsidy rules apply to service-based innovation in NI to avoid discouraging investment in high-value sectors.

Q13. The Office for the Internal Market (OIM) should proactively assess how subsidy control inconsistencies affect businesses in NI, particularly in high-growth, research-led industries.

Recommendations:

1. Data Collection & Case Studies – OIM should actively gather data on NI businesses affected by funding restrictions due to subsidy classification issues.
2. Guidance & Clarifications – OIM should publish specific guidance on when EU subsidy rules should apply to NI businesses, ensuring transparency and legal certainty.
3. Appeals Mechanism – Establish a process allowing businesses to challenge subsidy classifications that place them at a competitive disadvantage within the UK market.

Q15. The UK Internal Market Act's exclusions process should allow for case-by-case assessments of businesses affected by EU subsidy controls. Specifically:

- A structured process should exist for businesses to demonstrate that their operations do not materially impact NI-EU trade and therefore should not be subject to EU de minimis rules.
- Independent assessment panels could review disputes over subsidy classification, ensuring that NI businesses are not arbitrarily disadvantaged.

Q19. A significant economic impact should be defined as any policy or regulatory divergence that creates a measurable disadvantage for NI businesses compared to GB businesses.

In the case of [REDACTED] this manifests as:

- A direct loss of £100,000 in grant funding, preventing critical R&D activities.
- A reduction in investment attractiveness, as NI-based businesses are seen as riskier due to unpredictable regulatory restrictions.
- A long-term chilling effect on innovation, where companies may relocate to GB to access UK innovation funding more reliably.

The UKIMA framework must ensure that businesses operating exclusively within the UK are not unfairly subjected to EU trade regulations when their economic footprint does not justify such measures.

Q20. The UK Internal Market Act, as currently implemented, does not sufficiently account for the unintended consequences of the Windsor Framework on NI businesses applying for UK innovation funding.

While the framework seeks to balance UK-wide market access with NI's unique position, the way subsidy rules are being applied in practice disadvantages NI-based companies in the following ways:

- EU de minimis restrictions create funding disparities that do not affect GB-based businesses.
- No clear process exists for NI businesses to challenge their subsidy classification when they do not engage in EU trade.
- Inconsistent subsidy treatment discourages investment and innovation in NI, with the long-term risk that businesses will relocate to GB to avoid these constraints.

To maintain a functional and competitive UK internal market, the UKIMA should provide a mechanism to ensure that UK-focused NI businesses are not forced into EU subsidy frameworks unnecessarily.

Conclusion

The interaction between the UK Internal Market Act and the Windsor Framework is creating a significant and unfair disadvantage for NI-based businesses seeking innovation funding. The current classification of subsidies, particularly the automatic application of EU de minimis rules, restricts access to crucial R&D grants that are freely available to GB-based competitors.

Key Recommendations:

1. UK-based businesses in NI that do not trade with the EU should default to MFA rules, not EU de minimis.
2. An appeals or review mechanism should be introduced to allow businesses to challenge unfair subsidy classifications.
3. The OIM should monitor and advise on the practical effects of subsidy divergence on NI innovation funding.

RESPONSE 10

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

RESPONSE 11

[REDACTED]

[REDACTED]

- Q1. Same for all the UK
- Q2. Causes confusion
- Q3. All for one and one for all
- Q4. Differing regs for different parts of the UK which hamper uniform trading!
- Q5. seem to be having a positive effect.
- Q6. Same regulations that we have in England, should be the same in the rest of the UK
- Q7. Same rules
- Q8. Not working
- Q10. Not equal
- Q11. Must be the same regulations for all
- Q12. It works in England, but is flaughted by other parts of the UK
- Q13. Keep things simple and uniform
- Q14. Doesn't seem to apply to NI
- Q15. If we are working as in our case for cleaner burning fossil fuels, WHY is the English Market being flooded by inferior quality fuels from NI
- Q16. Use the same rules for other parts of the uk, especially NI

Q17. Look at the big drive of sales of inferior product on the internet, especially Facebook.

Q18. Your going round in circles, we just need common rules for all, please do not invent more tears of bureaucracy.

Q19. cutting down on bureaucracy, which create loopholes

RESPONSE 12

[REDACTED]

Q1. The UK internal Market Act needs to address illegal products entering the UK

Q2. Anything coming into the uk should be regulated to meet our Rules

RESPONSE 13

[REDACTED]
[REDACTED]

Q1. [REDACTED] acknowledges the IMA may enable the four governments to work through their challenges and issues towards mutual decisions and benefits. However, proposed solutions that may work politically for the governments may not work practically, optimally (or at all) for the various sectors ‘on the ground’. To those ends, there may be many occasions where the IMA is judged by the governments to work well but judged poorly by businesses and organisations. That gap is likely to be real, significant and in need of addressing.

This highlights the need for businesses, citizens and others to have some way to challenge the decisions made by the four governments within scope of the IMA. This is particularly important to ensure businesses’ and citizens’ concerns about the operation of the UK single market are heard, acted upon, and (if necessary) someone has the authority to ask the governments to think again, and/or improve policy proposals.

[REDACTED] notes that such a provision for businesses and others to challenge policies proposed by national governments is in place within the European Union (EU). It is the Technical Regulation Information Procedure (TRIS) embodied in the EU 2015/1535 procedure. The TRIS procedure ensures obstacles created (deliberately or inadvertently by Member States) to the operation of the EU single market could be investigated by the EU Commission and actions taken, as required, for the single market to operate as seamlessly as possible without obstacles.

[REDACTED] advocates that a similar UK system to enable challenges is currently missing from the UK's architecture. As things seem to currently stand, businesses' concerns relating to any policies within scope of the IMA need to be heard and 'championed' by one or more of the governments in order to lead to changing policies and/or implementation plans. That seems, to us, to be a wholly unsatisfactory situation because the governments are unlikely to champion a viewpoint that is out of kilter with what the governments have agreed under the IMA, and respective frameworks.

Q3. The aim should be empowering local regulatory innovation within a balance where decisions are unpinned by maximising the UK's economic growth. [REDACTED]

[REDACTED] believes early guidance from impacted industries and businesses could go some way to help with this, especially leaning on industry's expertise on what economic impacts could be depending on potential decisions to be made.

Q13. As mentioned in our previous response to Q1.

Q15. As mentioned in our previous response to Q1.

Q16. [REDACTED] believes early guidance from impacted industries and businesses could go some way to help with this, especially leaning on industry's expertise on what economic impacts could be depending on potential decisions to be made.

Q17. Evidence could include early engagement/guidance from impacted industries and businesses, as well as an outline how an exclusion proposal delivers the economic growth within the UK.

RESPONSE 14

[REDACTED]
[REDACTED]

Q1. The UK Internal Market Act is designed to ensure the free flow of goods across the UK, but it significantly undermines the devolution arrangements. While the Act's market access principles (mutual recognition and non-discrimination) are intended to simplify the movement of goods, they essentially impose a 'one-size-fits-all' approach that disregards the devolved governments' ability to create distinctive policies tailored to their local needs. The Act limits the ability of devolved administrations, particularly in Scotland and Wales, to set higher regulatory standards, particularly in areas like environmental protection, animal welfare, and public health. These powers are central to the devolution settlements and were designed to allow the devolved governments to

make laws suited to their own specific circumstances. UKIMA effectively overrides these powers, creating a system that prioritises uniformity over regional autonomy. While legislation to underpin the internal market is necessary, UKIMA as it currently stands has created significant tension between the UK Government and the devolved administrations, as evidenced by the refusal of consent. The operational reality of UKIMA has seen devolved governments' ability to innovate or take more ambitious steps in areas like recycling and plastic waste regulation severely curtailed, as illustrated by the collapse of the Scottish Deposit Return Scheme (DRS) due to a refusal of the full exclusion, this was following significant engagement with and investment by businesses effected by the legislation.

Unlike other internal markets, which operate in formal federations or confederal systems, there is little provision made to ensure the powers of devolved governments can be fully exercised. And unlike in the European Union and Australian internal markets, both of which developed over time, and as a result of legal challenges and subsequent jurisprudence, allows for exclusions on the basis of public health and the environment.

UKIMA as it currently stands risks:

1. Perpetuating conflict between the UK and devolved governments as they navigate policymaking under the UKIM system;
2. Stifling regulatory innovation or “regulatory chill” – as devolved governments may be less likely to exercise their powers for fear of conflict. In addition to serving as a constraint on devolved powers, this risks discouraging innovation that would benefit the whole of the UK, particularly around recycling targets.

Rather than reduce uncertainty, the operation of UKIMA to date has created greater uncertainty for stakeholders, including large cross-border or multi-national businesses, particularly in environmental space, where other markets (including the much larger EU single market) are outpacing the UK on policy innovation.

Q2. Regulations pertaining to activities which come later in the production and supply process (ie. labelling, extended-producer responsibility, or handling of returned materials) may be more straightforward for businesses, as they do not require separate production lines or processes (ie. the banning of a specific additive). However, these activities may require the involvement of multiple actors (producers, distributors, retailers, and hospitality) which could add to complexity.

We saw from the DRS experience that the principal concern with the DRS came not primarily from manufacturers of packaged beverages but from the process by which packaging would be returned, either in a retail or hospitality setting. Many of these

concerns were addressed as a result of the stakeholder engagement process, with opt-outs secured for hospitality where beverages were consumed on site and thus entering into the commercial recycling stream, and for retailers below a certain size which makes accommodating returns difficult.

Q3. The current balance between local regulatory innovation and UK-wide alignment under the UKIMA is skewed heavily in favour of the latter, to the detriment of devolution and to policy innovation and learning which might benefit the UK as a whole. UKIMA's market access principles prioritise the ease of cross-border trade, but in doing so, they undermine the devolution settlements by essentially curbing the ability of devolved administrations to innovate and implement policies suited to their specific needs. For instance, Scotland's ambition to develop more stringent environmental policies, such as the Deposit Return Scheme, was stymied by the application of the market access principles, which required harmonisation with UK-wide standards. While mutual recognition and non-discrimination may have their place in supporting cross-border trade, they should not come at the cost of devolved governments' ability to make decisions in the interests of their citizens. The balance has been lost, with devolved governments left with limited room to pursue innovative policies in the face of centralising legislation.

While a degree of alignment is necessary, there is a question of scale and proportionality. The review of the legislation should consider its central objective – is the objective no or minimal barriers to trade, or can barriers be accepted in pursuit of other legitimate policy aims, provided they are proportional to the policy aim and not protectionist in form (ie. by privileging local manufacturers or suppliers) Other internal markets, including the EU and Australia, have worked, over time, to grapple with this question and the UK might learn from their example. Analyses carried out of DRS introduction by Australian states and EU member states found that despite a degree of opposition from industry groups, producers, suppliers, and distributors eventually adapted to the regulations, and DRS has expanded rather than contracted. Barriers to trade might also be time limited, as other units introduce similar programmes, learning from the experience of the policy innovator.

Q4. The operation of the market access principles for goods under the UKIMA has exacerbated the centralisation of powers within the UK Government, directly undermining the devolution arrangements and leading to greater uncertainty for businesses. While the principles of mutual recognition and non-discrimination are designed to facilitate trade, when applied so broadly to suggest that any impact on trade is prohibited, they fail to respect the autonomy of the devolved nations. These principles prevent devolved governments from applying their own laws to goods entering their territories, even if those laws are designed to meet local needs or higher standards.

The practical impact has been felt in areas like environmental regulation, where devolved governments have been unable to set ambitious standards without fear of violating UKIMA's market access principles. The example of the Scottish DRS, which was delayed and ultimately shelved due to concerns about conflicts with the UK internal market, highlights the limitations imposed by the Act.

The exclusion process, intended to allow some flexibility for devolved nations, has proven ineffective and opaque, exacerbating conflict between the governments and leading to significant costs for businesses at a time when economic growth and innovation is paramount. The process as stands appears to suggest that a government might reject anything that restricts trade, even if the measure is proportional with the policy aims pursued, or if the ultimate impact (as was the case with the ban on the sale of glue traps) was inconsequential in monetary terms.

This is detrimental for businesses as well, evidence from the OIM suggests that businesses will adapt and move towards the highest standards due to the reputational risks of lagging behind. Businesses which operate in the UK and the EU, which has made significant progress on waste and packaging regulations, may already be moving to these standards, and as we see from calls by Coca Cola, be keen to see the introduction of DRS. But prolonged and opaque exclusion processes create significant uncertainty for business.

Q5. The use of Part 1 amendment powers, such as the exclusion for single-use plastics, has shown the limitations of the UKIMA framework, undermining relationships between the devolved and UK Governments and creating uncertainty for business. While the legislation allows for some exclusions to the market access principles, these exclusions are subject to the discretion of the UK Government, which can override the decisions of devolved administrations. This creates a system where the UK Government retains significant control over devolved law-making, inconsistent with the devolution settlement.

The UKIMA theoretically allows for exceptions, the process of obtaining them is cumbersome and ultimately controlled by the UK Government, thus infringing on the autonomy of devolved governments. Rather than reducing the risk of uncertainty or inconsistency for business, it has increased it. This was evident in the Scottish ban of sale and use of glue traps, where a very late intervention meant that legislation had been debated and passed within the Scottish Parliament but was later unable to be put into force. While the new UK Government has since remedied this, it illustrates the challenges of devolved policymaking (and planning for businesses) in the shadow of UKIMA as it currently stands.

Q13. The OIM has significant potential as an independent, trusted, neutral actor in the management of the internal market.

1. Greater independence: The OIM should play a more independent role in monitoring and assessing the impact of exclusions and regulations across the UK internal market. It should be empowered to provide objective, evidence-based assessments of how different laws or regulatory approaches in the devolved nations may affect the functioning of the internal market. This would help to increase confidence in the exclusions process, as stakeholders would be able to rely on independent evaluations.
2. Greater transparency:: The OIM should ensure that its research and assessments are fully transparent and accessible to the public, devolved governments, and other stakeholders. This includes providing detailed reports on the potential impacts of regulatory divergence and exclusions, as well as making sure that the evidence and methodologies used in assessments are clearly explained.
3. Engagement with devolved governments: The OIM should engage more directly and regularly with devolved governments throughout the process of evaluating exclusions. It should serve as a facilitator of dialogue between the devolved administrations and the UK Government, ensuring that the concerns and needs of devolved nations are fully considered when assessing the potential impact of regulations or exclusions. Alternatively, this role could be played by the IGR secretariat, although it is in a more embryonic form.
4. Supporting policy development: The OIM could help identify emerging issues and provide early warnings about potential areas of conflict, or policies which might trigger UKIMA.
5. Supporting exclusion requests: The OIM should have a more active role in evaluating and advising on the exclusion requests submitted by devolved governments. This could include providing guidance on the evidence required, conducting independent reviews of the impact of proposed exclusions, and offering recommendations on how to resolve conflicts between regional policies and market access principles.

Q15. A revised process for exclusions must set out clear processes by which exclusion requests are considered and timelines by which assessments and a decision will be reached. Key recommendations are outlined below:

1. Improve transparency and communication: There should be a clearer and more transparent process for requesting and evaluating exclusions. This includes better guidance on what constitutes a valid exclusion request and

- more detailed explanations of decisions made by the UK Government, especially in terms of the evidence used to justify exclusion decisions.
2. Introduce a more robust evidence base: The exclusions process should be underpinned by a more rigorous, evidence-based approach. This involves developing clearer criteria for evaluating the economic, social, and environmental impacts of exclusions and ensuring that relevant evidence from devolved governments is adequately considered. This might include an expanded role for the Office of the Internal Market as a neutral arbiter in this context.
 3. Ensure more effective intergovernmental communication: The reform of the exclusion process should encourage earlier and more proactive intergovernmental communication, through IMGs or Common Frameworks.
 4. Identify priority policy areas: Expand the range of areas that can be excluded from the UKIMA market access principles, particularly in sectors where devolved governments have distinct policy objectives, such as environmental protection and public health. This would allow the devolved governments more freedom to legislate in line with local priorities without undue interference from the UK Government.
 5. Streamline the decision-making process: The process for seeking and granting exclusions should be streamlined to reduce delays. This could involve setting clearer timelines for decisions, with more formal accountability mechanisms in place to ensure timely responses and prevent prolonged periods of uncertainty.
 6. Introduce a process for negotiations and dispute resolutions: Although the UK Government has the final say on exclusions, reform should involve greater involvement from devolved governments in shaping the exclusions process, including the ability to challenge decisions made by the UK Government, to ensure a more balanced approach.

Q17. Devolved governments should be responsible for presenting the evidence supporting the need for exclusions, particularly in relation to potential impacts on their ability to implement policies that align with local needs. However, the process by which they do so, for example, in a letter or form with the collated information, should be set out clearly by the UK Government. This can support timely decision-making as well as disputes over when/whether an exclusion request was made, which has, as we've seen, undermined public and business confidence in policy.

In response, the UK Government should also be required to ensure that the evidence provided is properly evaluated in a transparent and consistent manner. There should be clear guidance on the types of evidence that are acceptable, such as information on economic, social, and environmental impacts. The devolved governments should be

empowered to submit detailed evidence for why certain regulations are needed and how they align with their regional priorities. The onus on demonstrating that the barriers to intra-UK trade are significant and/or disproportionate with the policy objectives pursued should be on the UK Government rather than the devolved governments, as appears to be the case in previous exclusion process.

Here, we can envisage a more robust role for the OIM, in conducting these impact assessments, and collating contributions from stakeholders.

Q18. There should be a differentiated process for considering exclusion proposals based on the potential economic impact. Specifically, proposals that could lead to potentially significant economic impacts should undergo a more rigorous and detailed evaluation process compared to those likely to have a smaller economic impact.

For high-impact exclusions, the process should involve greater scrutiny, more detailed evidence, and possibly a longer decision-making timeline to ensure that the potential economic consequences are fully understood and properly addressed. This would likely involve a more comprehensive assessment of the broader economic, social, and environmental implications, including consultation with relevant stakeholders and a more thorough analysis of the potential risks and benefits.

For smaller economic impacts, the process could be more streamlined, with fewer requirements for extensive evidence and faster decision-making. However, even in these cases, the exclusion process should still be transparent and based on sound evidence, ensuring that the devolved governments are not restricted unnecessarily in their policymaking.

This differentiated approach aims to ensure that the exclusions process is proportionate, with a focus on ensuring that significant changes or risks to the economy are carefully considered while still allowing for flexibility and efficiency in cases of lower economic impact.

Q19. While I am reluctant to quantify a significant or insignificant economic impact, I do think an appropriate measure might be agreed between the UK and devolved governments, to allow for policy innovation with less delay in areas without significant economic impact.

RESPONSE 15 This is a joint response from a group of named organisations, who have all been counted towards the total number of consultation responses

[REDACTED]

Q1. We have welcomed the opportunity to meet with the DBT in person and to provide feedback via this online form. We would like to highlight that divergence once again is inevitable when each devolved region is given autonomy to devise new policies and regulations. However, it should be highlighted that this is not necessarily a negative, for example a devolved agriculture policy. Within Northern Ireland (NI) there has been the opportunity to devise a new policy including various innovative initiatives which are tailored to the specific needs of NI.

We would also like to highlight instances where divergence can create potential for competitive disadvantage and an unlevel playing field. A key example of this is where England can avail of precision breeding and NI cannot until EU brings forth legislation. We acknowledge that that the EU does intend to bring forth this legislation but are yet unsure if any EU legislation is agreed, how divergent it might be. Furthermore, time lags in legislation across different regions also has the potential to create further divergence e.g. CBAM UK v EU. This adds not only to business complexity but also costs.

Q6. As mentioned at our in-person meeting, we would once again like to reiterate our strong desire to reduce regulatory divergence across the four nations as much as possible to avoid trade friction. As such, there is an imminent need to find an effective way to manage divergence. To do so, we recommend that identification of the competent authority for each piece of legislation in Annex 2 is confirmed. As NI is bound to the legislation in Annex 2 this is particularly important, so we know who to engage with. In our own communication to date we have found it difficult to identify the correct contacts and would therefore recommend that the competent authorities are also made aware of their remit(s) as points of contact.

We would also like to again highlight that the cumulative impact of any proposed exclusions from the market access principles (by Devolved Nations) needs to be considered.

Q10. The importance of horizon scanning pertaining to future changes and/or new legislation proposals is imperative. Early notification is important so that the impact can be properly considered thereby providing businesses with time to prepare.

Q13. We would like to acknowledge our interest and support that the Office of the Internal Market intends to publish an interactive dashboard on regulatory divergence. We look forward to receiving access to this and would like to advise that regular updates of the dashboard would be needed in order for it to be a useful tool.

Q15. We would once again stress the importance of maintaining government support services to facilitate businesses bringing GB goods into NI. Maintaining these support services would help to ease the cost burdens of certification and customs. As such, GB manufacturers wouldn't have these additional costs of GB inputs.

As provided in our responses to the previous sections, a mechanism to enable stakeholders to engage with devolved governments on common frameworks is needed. Such a mechanism should enable us to both provide and receive feedback.

Moreover, we once again stress the importance of effective communication and engagement. Effective communication and engagement with stakeholders should occur at both an early stage and throughout the process whilst striking the balance of not overburdening stakeholders with limited resources.

Q20. We appreciate that whilst the UKIM review is not intended to deal with issues surrounding the Windsor Framework and its implementation, it is impossible not to reference it in the content of NI given our unique position regarding EU law. As we have outlined and discussed with you, regulatory divergence is a natural consequence of this unique situation.

We also wish to again acknowledge that common frameworks are not exhaustive and do not cover every issue e.g. feed. Fostering close engagement between stakeholders and competent authorities across all legislation included within annex 2 and beyond is therefore critical to ensure the practical implications of all proposed policies are properly understood and taken into account.

RESPONSE 16

[REDACTED]

Q1. To date, [REDACTED] has encountered very little direct impact from the UKIMA in the trade of goods intra-UK, aside the fact that trade within the UK has been facilitated and enabled, which has been extremely important. Aside the very obvious impacts of trade of goods in agricultural sectors from GB to NI due to the Windsor Framework, the UKIMA has had limited impact in so far that it has not had to be called into question or its provisions relied upon to resolve a legal or policy dispute for [REDACTED] members who operate in all parts of the UK.

Q2. Examples to date have been rare, however one such notable challenge lies in Precision Breeding legislation, introduced in England only in 2023. This has raised significant Internal Market questions and the overall implementation of the UKIMA.

Q3. [REDACTED] firmly believes that local regulatory approaches need to be respected where possible. As we have seen, agriculture is a devolved policy area, and it is notable that fertilisers and agrichemicals have UKIMA exclusions. To date this has not really created a significant issue for UK wide agriculture, although there have been notable divergences in approach that have required UK agricultural businesses to mitigate the divergence. Examples of this include:

- Some fertiliser products have been approved for bans in England (ie Urea) and not rest of UK;
- Individual active substances (such as asulox for bracken control) which have been prohibited in some parts of the UK and not others;
- Regulated products approvals (FSA/FSS/DAERA) and misalignment of approaches and different timings;
- GMO and approaches to feed additives (differences have been implemented in NI and GB)
- Competent authority uncertainties.

Q4. To date the operation of market access principles have functioned well. Where there have been variations in approach, such as urea policy in England, or asulox use in Scotland, it has led to uncertainty for businesses operating and servicing customers UK wide. It may be worth considering the maintenance of a register under the UKIMA of those goods that have been subject to exclusions, so that businesses can refer to it. Like broader EU-UK divergence, it has largely been left to businesses and trade associations to have to manage the divergence themselves.

Q13. [REDACTED] has had a number of interactions with the OIM, across a number of [REDACTED] member sectors, but in particular over the application of the Precision Breeding Act, in which it was covered in a special OIM report. [REDACTED] would argue that it should be there to support trade bodies and businesses who wish to nominate specific issues for further analysis and insight. [REDACTED] would like to see OIM go further and help work between relevant departments in ensuring that adequate guidance can be provided to businesses in ensuring they can comply with the UKIMA. As explained in response to Question 4, it can also help support the Internal Market by keeping a register or log of those goods that are subject to exclusion, and those that may present a risk of exclusion.

Q14. In addition to our response to Question 3, [REDACTED] would argue that the OIM does not enjoy the full visibility that it arguably should do. Therefore, work to publicise its operations and functions would be welcome across all parts of the UK. Task groups are welcome, but there is a difference between very short-term issues that need an opinion at short notice (such as specific product placed on the market), and those longer term structural issues (such as regulatory misalignment and application of exclusions).

Q15. As explained above (Q13), [REDACTED] would welcome a central register of those goods that have been subject to an exclusions process. [REDACTED] experience has found that more often than not, devolved administrations and Westminster recognise the broader benefit of alignment on product availability, but as time goes on it is inevitable more individual products will be subject to exclusions.

Q16. Communication must be made as soon as possible with trade bodies and the wider market. This matters because exclusions cover animal, plant and human health issues, as well as chemicals and fertilisers, which may all have long lead in times for orders, and also may be purchases long in advance by farmers in order to supply them to livestock or apply them to land. As a result, it could be 18 months to two years between an order being generated and its final application. Short term or late decisions must be avoided for business continuity, and this can be achieved by working with industry and its trade bodies who can disseminate that to members and the wider market.

Q17. [REDACTED] would argue that when any exclusion is proposed it should consider:

- Impact to businesses operating in all parts of the UK
- Economic impact to a particular sector (for example an active substance or chemical in one agricultural sector)
- The loss of competitiveness and / or market share to businesses in other parts of the UK
- The opportunity cost

Q18. See 19

Q19. [REDACTED] would broadly welcome this, but would note that in some cases a specific exclusion may seem small as a total figure, but it may be very significant to the sector it relates to., For example if crop protection product is excluded in a specific crop such as strawberries, this will may not be as large as a broadacre crop such as wheat, but would still be very impactful to that supply chain, such is its relative size in the UK and possibly devolved areas. Therefore, a market share or percentage impact should also be considered.

Q20. Certain aspects of food and feed safety and hygiene regulation are managed by FSA, FSA Wales and FSS under the common frameworks programme. This ensures that, for instance, access to regulated products such as feed additives and GMOs is common to all businesses in GB. New policy proposals such as the consultation on amendments to TSE- related livestock feed controls are managed under the common framework but given that the legislation is devolved, risks remain that there is divergence within GB at which point the implications of the UKIMA come into play, particularly for intermediate products which are not sold directly to the end user but which are processed or incorporated into other products prior to sale to the end user.

RESPONSE 17

[REDACTED]

[REDACTED]

Q6. So far as services other than legal services are concerned, [REDACTED] is neutral on what appears to it to be a question primarily of commercial and pragmatic concern best addressed by those in the relevant service industries.

Q7. In a similar vein, [REDACTED] is neutral as regards services other than legal services and considers that, as regards legal services, it remains constitutionally essential for regulation to remain a matter for each constituent jurisdiction of the United Kingdom.

Q8. The [REDACTED] expresses no view on this matter beyond what is stated in answer to Question 10, and it expresses no view on the exercise of these powers in relation to other sectors or industries.

Q9. The [REDACTED] expresses no view on this matter beyond what is stated in answer to Question 10, and it expresses no view on the exercise of these powers in relation to other sectors or industries.

Q10. There are no real barriers to legal professionals in the UK exercising their professional qualifications to provide their respective services across the UK:

The constitutional arrangements since the inception of the United Kingdom of Great Britain in 1707 have at their core the continued independence of the Scottish legal system. The College of Justice, including the Court of Session and the Faculty of Advocates, are central pillars of that system.

The present constitutional arrangements comprise three UK legal systems: England & Wales; Scotland; and Northern Ireland. Admission to practice in one jurisdiction does not generally confer rights to practise in the courts of another jurisdiction. There is, however, generally a freedom to exercise rights of audience before all UK tribunals. These internal UK constitutional arrangements have stood the test of time.

When the UK was a member state of the European Union, the EU internal market rules on lawyers did not apply with full vigour to intra-UK matters. The general EU law MRPQ regime was of limited practical application to lawyers because of the bespoke regime for EU lawyers under the Lawyers' Services Directive and the Establishment Directive. But those regimes were never applied within the United Kingdom. The IMA rightly does not seek to do so. However, the policy purpose of the IMA – at least in so far as it applies to legal services – may be overstated.

The exclusion of legal services (for mutual recognition purposes) in Part II (in terms of section 18 and schedule 2, part I); and, in Part III, in relation to Professional

Qualifications and Regulation (under section 24(2), as read with section 27(5)), is thus firmly justified by measures contained in domestic law which existed long before the UK became a member of the EEC; long before devolution; and long before Brexit.

The Provision of Services Regulations 2009 (SI 2009 No. 2999, as amended) provide a common framework applicable to the provision of legal services in the UK's constituent nations. The Regulation of Legal Services (Scotland) Bill is currently at Stage 3 of its progress through the Scottish Parliament. If passed, the consequent Act would reform the framework for regulation of the legal services sector in Scotland.

Q11. In the case of legal services, standing the three separate jurisdictions which are central to the UK's constitutional settlement, "UK-wide alignment" in relation to legal services and the legal profession is neither practically possible within the policy framework of the IMA nor desirable. Cross-qualification into the various legal systems of the United Kingdom is both available and common. Many members [REDACTED] are also qualified in the law of England and Wales. Many more members of [REDACTED] are dual qualified in England and Wales. The fact that there are further requirements to be fulfilled simply reflects the different content of the laws of the different jurisdictions of the United Kingdom.

Separately, we note that there are proposed 'common frameworks' in place to allow all governments to work together co-operatively to ensure a common approach is taken where powers have returned from the EU which intersect with policy areas of devolved competence. These common frameworks must have regard to the constitutional and regulatory status of [REDACTED].

Q12. The exclusion of legal services from the mutual recognition scheme in the IMA, referred to in the responses to Question 10 above, is based sensibly in the recognition of the three separate jurisdictions and legal systems which make up the United Kingdom. The continued independence of the Court of Session and the Scottish legal system arises from the Treaty of Union 1707 (Articles XVIII and XIX), not from devolution or Brexit.

Q15. An example of inefficient management of the exclusions process may be seen in the delayed deployment of the Scottish Government's Deposit Return Scheme, which now forms the subject of an action for damages against the Scottish Ministers by Biffa Waste Services Ltd, the intended logistics provider for the Scheme (see *Biffa Waste Services Limited v the Scottish Ministers* [2025] CSOH 9). Because the Scheme is intended to deal with goods produced elsewhere in the UK as well as those produced in Scotland, an exclusion from market access principles is required pursuant to s.10 of the 2020 Act. The Scottish Ministers accordingly asked the UK Government for an exclusion. It would appear that the exclusion process was not managed efficiently between the two administrations. For example, the UK Government and Scottish

Ministers differ in their respective positions as to when an exclusion was requested: “The UK Government consider that the request was made on 6 March 2023. The Scottish Ministers say they had commenced the “approval” process earlier” (Biffa Waste Services Limited v the Scottish Ministers [2025] CSOH 9 at paragraph 10). This may suggest a lack of shared understanding between the administrations as to how the exclusions process is meant to operate in practice, including on the timing of when an exclusion has been sought and received for consideration. On 26 May 2023, the UK Government approved a temporary exclusion covering plastic, aluminium and steel cans but not, as had been requested by the Scottish Government, glass. The Scottish Government’s position is that the inclusion of glass is essential to the viability of the Scheme. It is understood that the Scheme has now been delayed until 1 October 2027, seemingly at significant expense to various parties and presumably resulting in uncertainty for businesses. It would seem tolerably clear from the foregoing that the exclusions process was not managed efficiently between the two administrations in this instance. Clear and effective intergovernmental communication between the UK Government and the devolved administrations at an early stage of any project requiring an exclusion under the 2020 Act, including as to: (i) the scope of any exclusion being sought; and (ii) the likely scope of any exclusion to be granted, may mitigate against the risk of similar situations arising in future.

RESPONSE 18

[REDACTED]

Q1. One way to help make the UK Internal market for goods work well would be to remove the uncertainty that the Act creates by broadening the scope of the exclusions. This could be done in a way that normalises how the law should apply in any given jurisdiction. As the body responsible for the provision of advice to Ministers on food and feed safety and standards issues, we consider that at the very least there should be a default exclusion from the Market Access principles for any matter concerning the consumer interest in relation to food and feed safety and standards, which is within devolved competence, in order to better mirror other internal markets internationally. Another option would be to give common framework outputs default legal primacy, with the IMA reconfigured in a way that could potentially deal with any appeals made under framework processes. Currently the policy output in our policy area is determined not by a common framework output, but on whether or not the Secretary of State, exclusively, agrees with that output. We made the point previously that there was no evidence that Common Frameworks would not or could not work, but even so we now have a position where the Secretary of State can just bypass Common Frameworks and

legislate for changes unilaterally without having to consider the effects of that decision in Scotland or elsewhere, on account of the size of the English market.

Q2. The Act makes the understanding of the law very challenging for businesses if differing regulations apply to essentially the same sort of product in any one jurisdiction. On precision breeding (for example) there was clearly a desire by the previous UK Government to change regulation in that area, and it did so unilaterally. A pressure was then placed on other parts of the UK to mirror that change in order to maintain a single regulatory standard. That was clearly outwith the Common Framework arrangements and effectively one administration has determined the internal market standard for GB whilst simultaneously complicating that standard in practice. It makes that which was once straightforward (concept of national law – and only one law applying to any one good in any one nation) far more complex. By way of contrast the frameworks approach was designed to default to trying to find the consensus first and then regulating when a consensus has been reached. The Internal Market Act facilitates unilateral action which runs counter to the Common Framework approach and we risk a “pick and mix” approach which undermines both the Frameworks and the IM Act. Collaborative working across the four nations cannot be based on a very ad hoc approach of using the Frameworks when it suits and the IM Act when it doesn’t.

The implicit narrative associated with the Act considers any non alignment with a UKG position to be the problem rather than UKG unilaterally diverging from standards maintained elsewhere: certainly for the previous UK Government the non aligning driver was England. A frameworks approach (which is simply a good policy making approach) demands engagement because internal market considerations will, as a matter of good policy making, be factored in. That is exactly what was done in when considering whether or not folic fortification of flour should be mandated in Scotland (which could have been done unilaterally in Scotland whilst the UK was an EU member). █████ agreed not to recommend Scotland-only mandation and this was very much due to internal market considerations. Namely, the practicalities of fortifying flour specifically for the Scottish market. It was not because fortification was unwarranted or ineffective, indeed the scientific evidence supported the intervention, but because the impact on the market was considered disproportionate to the public health benefit. Happily this has been now legislated for on a GB basis – but this example was discounted or considered irrelevant by the UK Government when they pressed the ‘need’ for the IMA during its “consultation” phase.

Q3. The right balance would be to provide clear legal boundaries for parties to operate within. The Act currently doesn’t prevent regulatory divergence from happening, instead it provides a legislative environment that increases the likelihood of unilateral

divergence by any UK Minister, without having had to reach consensus with other Ministers in the UK first. It means that the SoS can unilaterally decide to exclude its own policies from the effect of the Act, but that is not a provision accorded to other UK administrations. Indeed the entire process of having to introduce a legal instrument to manage the exclusion process on a case by case basis is particularly convoluted.

Q4. It disincentivises genuine consensus building and it is lop sided. There is a power for the Secretary of State to provide a “thumbs up or down” to Scottish policy – without there being any direct accountability to the Scottish parliament for that additional and overriding power. If that SoS decision is contrary to the evidence supporting the recommendations for the original Devolved Administration decision, there is no mechanism to hold UK Government Ministers to account for over-riding a legitimate devolved decision. As mentioned above it is clearly a complicating factor that presumes devolved Ministers and regulatory bodies such as [REDACTED] should be trusted less with their powers than UK Ministers and equivalent bodies. It also makes enforcement of any dual provision incredibly difficult for enforcement officers. Despite being the central competent authority for food standards in Scotland, we cannot provide clear guidance on the law that applies in any instance if there is divergence elsewhere, nor on how it should be enforced. The UK Government’s own guidance for business and enforcement on the operation of the market access principles simply illustrates the complexity that the Act itself introduces for all parties.

Q5. [REDACTED] has no views on the specific use that has been made of those powers to date.

Q15. There should simply be a recognition that if a policy has been properly assessed in line with good policy making practice, including full and robust consultation and business impact assessment etc then the outcome of that process should be respected – the default should be to allow that policy to proceed and any concerns to be addressed in review on a fair and equitable basis rather than by Secretary of State alone who is not required to be accountable in any direct way to the parliaments they might overrule. Of course, with the IM Act not recognising the principles of "Objective Justification" it means that it is now quite easy for say economic arguments to overcome public health outcomes, because the SoS has no obligation to consider whether there are legitimate public policy aims that would overcome any economic arguments. That, in our view was a significant backward step not least because good policy making practice should focus on a range of concerns not just economic ones.

Q16. As far as we are aware every Government and Government organisation has a requirement to engage with interested parties. There will be exemptions (e.g. national security) but policy development usually requires consultation not least because a lack of it can result in legal challenge. So if the policy under consideration has been

consulted upon and robust evidence processes have been used by the lead department for the matter in hand, then that should always engage with the relevant stakeholders. Having a parallel hotline for industry to bend the ear of the UK Government about a policy proposal in a devolved area undermines devolution and the IM Act implication should not facilitate a “if at first you don’t succeed...” approach which is what it does. Consultation on the matter in hand should always involve the parties affected by it and that requirement is a central tenet of food and feed law and the Food Scotland Act 2015.

Q17. One might argue that the question assumes an absence of process in the first place when good policy making processes will do this anyway. We do not propose regulatory change in relation to food and feed safety and standards without considering how that will affect businesses trading in Scotland, who also trade in other parts of the UK. The IMA adds convolution and twin communication streams with industry, between different governments. It was not needed in relation to consideration of the folic acid issue referenced above, and it is not needed now.

Q18. If government follows its own guidance in relation to policy making and impact assessment then internal market considerations would be taken into account as a matter of course. See: Better Regulation Framework - GOV.UK. Indeed, if a business trading across the UK, knew, as they once did, that a change to the law in one part of the UK meant a change directly applicable to them, then that impact would be a “known known” at the consultation stage. There would therefore be clarity in terms of how any policy proposal would affect them and that effect could be clearly articulated in the options appraisal process. In a Scottish context wider cross border market considerations are always considered simply due to the number of businesses and products that trade across the UK as a whole.

Q19. As per our responses above, economic impacts are considered in the policy making process. The IM Act as currently configured gets in the way of the simple clarity that previously existed for businesses, consumers and regulators. We would argue the premise of the question is flawed. On the basis of this question - and the fact that "Objective Justification" as a principle doesn’t appear to exist - bans on smoking would never have happened and any equivalent eg to tackle dietary health could never be justified either because of the economic impact. If the view is that the economic impact needs to be considered, then the downstream impacts on public services and cost to taxpayers should be considered too. In other words – robust policy development, with a range of evidence sources used before making changes to regulation should apply as a default.

Q20. The Act is a creator of regulatory uncertainty. It undermines accountability to respective legislatures and is very hard to describe objectively to any third party (including third country auditors). From our perspective, the need for it is unevidenced in a GB trading context and by contrast the evidence which demonstrates how good policy making approaches do take the UK internal market into account were discounted during its development. The application of the market access principles should be suspended for goods and frameworks approaches allowed to run their course. That would then provide the evidence base (that common frameworks do/do not work, do/do not properly consider internal market issues). The UK Government could then legislate accordingly.

RESPONSE 19

[REDACTED]

Q20. Going forward one area that needs clarification is whether or not there will be an exemption for plants and plant products produced using precision breeding (Gene Editing) techniques if the devolved countries decide not to follow the changes within the English legislation.

RESPONSE 20

[REDACTED]

Q1. 61% of Scotland's exports are to the rest of the UK, reaching an estimated £48.6 billion in 2021. It is therefore vital for Scotland's economy that trade across the UK remains frictionless and barrier free. In order to enable this, common standards and policies across the UK should be maintained where possible. Where new standards or policies are required, they should be devised and developed through careful collaboration between all administrations and in consultation with the sectors and organisations most likely to be impacted.

Additionally, trade with the EU is also critical for our economy, with Scotland's exports to the EU in 2021 valued at an estimated £15.0 billion, accounting for just under half (48%) of Scotland's international exports. To support UK businesses and the market for goods therefore, common standards and harmonised sector regulations should be maintained including alignment with EU standards. The ability to maintain current standards and regulation is very important to ensure the streamlined movement of goods in and out of the UK. We understand that, following our departure from the EU,

common standards and regulations may sometimes have to be reviewed or introduced. In these cases, it is our view that a formal collaborative process must be initiated between the four nations, and businesses must be consulted.

We would also like to emphasise as a general principle in decision-making around the Internal Market, that each UK nation should have parity and equity of participation, say and decision-making. Furthermore, where changes are proposed, businesses must be consulted, particularly those in the most relevant sectors and regions. Any changes that are made must be done in the interest of streamlining processes, removing barriers to trade, and reducing unnecessary regulatory burdens that only act to add costs to doing business.

Q4. We welcome the commitment to date to maintain a range of existing standards including consumer protections, the Competition & Markets Authority, health & safety and environmental standards. We would encourage the UK Government to continue this approach. However, should the UK Government trigger its “capability to review” and “simplify” these standards, there needs to be a thorough consultation process, including comprehensive engagement with businesses.

Q6. Whilst we would generally reiterate and refer you to the principles outlined in our answer to the first question, we would additionally like to emphasise that over half (55%) of the value Scotland’s exports to the rest of the UK in 2021 came from exports of services, along with 39% of international exports. Services are an often-neglected part of our economy, particularly in relation to exports, and we would like to underline their importance and the need to ensure trade in services is also frictionless and barrier free.

Q8. We welcome the commitment to date to maintain a range of existing standards including consumer protections, the Competition & Markets Authority, health & safety and environmental standards. We would encourage the UK Government to continue this approach. However, should the UK Government trigger its “capability to review” and “simplify” these standards, there needs to be a thorough consultation process, including comprehensive engagement with businesses.

Q10. Again we would like to underline the importance of services to our economy, particularly professional and financial services, which account for 10% of Scotland’s economy. Common standards and policies across the UK are vital where possible, and recognition of professional qualifications internationally is critical for improved international trade in services. We would also like to refer to our answer to the first question, and the underlying principles that:

- Trade between UK nations should remain frictionless and barrier-free.

- Trade with the EU and the rest of world must be accessible with as few barriers as possible.
- Common standards and policies across the UK should be maintained, and where new, should be devised and developed with collaboration between all administrations and in consultation with the sectors and organisations most likely to be impacted.
- Each UK nation should have parity and equity of participation, say and decision-making.
- Where possible, regulatory burdens which add costs to doing business should be reduced.
- Where there are proposals to make changes, business must be consulted, particularly in the sectors most likely to be impacted.

Q13. It is our view that if it does not already (which is unclear), the Office for the Internal Market must have a material localised presence in each of the four nations within the UK and should take into account devolved and reserved contexts in order to be fully effective.

Q16. Each UK nation should have parity and equity of participation, say and decision-making. We believe it is important to recognise and make provisions for devolved policy approaches which may be justifiably introduced and applied in a devolved setting (for example health or environmental policies). Additionally, we would emphasise the need to properly engage with businesses in relevant sectors, including through sectoral bodies and Chambers of Commerce.

Q19. Deviation of regulation that would create an inequitable playing field in different parts of the UK.

RESPONSE 21

[REDACTED]

Q1. The UK Internal Market Act needs to look at the overall picture when it comes to regulating the internal market for goods, you can't have businesses in the UK suffering for following the law whilst other businesses flout the rules and bring banned material into the UK

Q2. I believe anything that shouldn't be supplied into the UK no matter where in the supply process shouldn't be.

Q3. Local authorities already seem to be under sourced so it would need to be UK wide alignment.

Q6. the UK internal market act needs to support the solid fuel service industry by stopping the sale of unapproved briquettes into the UK

Q7. Local authorities don't seem to have the resources to deal with this issue

Q10. Working in the approved smokeless briquette market you should not be seeing unapproved briquettes from Ireland coming into the UK

Q11. Local authorities are over stretched and this needs UK-wide alignment

Q13. The office for the internal market can best support the UK internal market by investigating and making a report of how the illegal trade of unapproved briquettes from Ireland make it into the UK to be resold to end users at a discounted rate making it unfair trading for businesses in the UK who are following the rules

Q15. A system is needed to make it a fair playing field for businesses in the UK to trade and not have to compete with products coming into the UK which are banned this applies specifically to the coal trade

REPONSE 22

[REDACTED]

Q2. It is easier to prohibit the sale of something than to require a change to manufacturing or packaging. Changes to manufacturing and packaging are costly and costs can vary across competing products.

Q3. The right balance is already in place through the existing provisions.

Q4. The principles are clear and explicit in defining possible contraventions. This has allowed the UK Government to make solid decisions about exemptions.

Q5. The amendment shows that the provisions are working, and allowing devolved nations to implement policy differences, provided they are consistent with the market access principles.

Q13. IMA can give the public and industry assurance that the Devolved Nations request for an exemption will be accepted. For example. The issue about the DRS inclusion of glass was known and raised for a number of years before the Scottish Government applied for the exemption, and if the IMO could have given clear advice about the issues, a lot of time and money could have been saved.

Q15. The current process, which requires a formal application and a formal response, but allows policy development to continue in the absence of an exemption generates uncertainty around future policy which can have a negative impact on businesses. The Scottish Government (and businesses that supported it) could have saved money and time on DRS policy and preparedness if they had sought an exemption when they first announced that glass was exempt. The Welsh Government has made it clear that they will apply for an exemption for their DRS but continue to consult with businesses on how to implement a version of a DRS without already having an exemption.

Granted, final details cannot be known until after the policy has been consulted on in the devolved nation, however, if those Governments were able to check decisions as they were made, but well in advance of legislation, then the UKG could highlight any areas that would not meet the IMA in time for further consultation and a workaround to be found. This would mean that policy consultation could take place within the permitted rules, rather than at the final moment, when it is 'too late'.

Q16. Devolved administrations that intend to implement policies that will have a potential impact on businesses, should be able to demonstrate that they have consulted adequately with those sectors before making the application. The Scottish Government did not consult properly with the glass sector before deciding the scope of their DRS. All interested parties should be involved in preliminary conversations with DN and UKG. To ensure that all stakeholders are given the chance to engage on exclusions, the UKG should seek the views of any parties that have suggested they may experience economic impacts from the exclusion, or where anyone has highlighted this on their behalf. For example, those who had responded in opposition to the policy on the grounds of economic impact relating to an issue with the internal market.

Q17. A detailed, independent impact assessment on businesses and sectors within scope should be provided with an exclusion proposal. A list of the impacted parties and details of past engagement and evidence that all other options had been considered and discussed by the Devolved Nation and the interested party why it was not possible to implement these.

Q18. No. The definition and calculation of 'significant economic impact' is subjective and it is impossible to evidence impacts in advance of implementation. Industry

margins differ and absolutes have a different impact depending on the size of the business.

Q19. Any loss of market share of a material, product or product type. Any potential impact which increases or lowers profitability of production costs in one or more nation. Any impact on consumer and buying choice.

Q20. The IMA contains very important provision to maintain conditions for trading standard across all nations. It may be unpopular and by nature is likely to attract criticism when it is used to prevent Devolved Nations from implementing new policies. However, to act on that criticism and amend the exclusion provisions could be detrimental to the future functioning of the UK Internal Market. Issues with exclusions can be solved by having better advice for the public and businesses via the IMO and requiring earlier exemption applications from the time the DN makes a 'minded to' decision or sets out a range of options for public consultation.

RESPONSE 23

[REDACTED]

Q1. There should be a task force for complex goods that cross borders to support innovation e.g. diagnostic devices or investigational medical products for clinical trials as this constrains economic growth.

In addition CE marked goods manufactured in NI and travelling to GB that are supplied to the public sector e.g. hospitals. These require labelling as from NI to ensure they are procured fairly by large organisations e.g. training programmes or policy levers through labelling should be explored

Q2. Differing regulations for grant funding to develop goods have impacted my region, due to EU and UK divergence on minimal financial assistance.

Q3. The Life Sciences sector has a strong potential for local regulatory innovations. Northern Ireland is in a unique regulatory space with access to both UK and EU markets. But where goods cross borders within the UK internal market e.g for clinical trials there needs to be regulatory policy innovation to allow Northern Ireland to capitalise on our position as a benefit to UK firms for growth, revenues and also attract investment that would otherwise be lost to the UK. My organisation submitted a bid to explore regulatory innovation further to UKRI which scored 97% but was not deemed fundable as it was to better understand local regulation

Q5. Potentially negatively. Single use plastics are used in diagnostic tests and should be treated differently to retail items

Q6. A taskforce to review this for Northern Ireland is needed given our unique regulatory position and many services such as software of clinical trials services are impacted differently.

Q7. No divergence for NI from GB services - such as grant funding from government. Difference in de minimis regulation for GB vs NI - the threshold is lower for NI companies and means they miss out on subsidy support

Q13. Set up a Northern Ireland task force to understand how teh UK can capitalise on NI as a testbed for internal market regulatory innovation e.g. with MHRA for medtech

Q14. This office's existence is not widely known in Northern Ireland - it should engage with Invest-Northern Ireland to understand how this could unlock opportunity for Northern Ireland as a regulatory test-bed and support UK-wide growth with

Q15. See how this would apply to innovative products not yet on the market to drive growth

Q16. Impacts on teh businesses ability to attract investment and grant funding to develop innovative products and engage in R&D

Q17. Yes - a regional approach

Q19. Supporting a whole region's sectoral innovation pipeline e.g. clinical trials or diagnostics

RESPONSE 24

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

RESPONSE 25

[REDACTED]

Q1. The UK Internal Market Act can best support the integrity of the UK internal market by actively preventing divergence that is creating an unlevel playing field for business. Businesses, such as [REDACTED], which are compliant with the stricter environmental and safety standards in England are unfairly disadvantaged by less-regulated products from other nations within the UK being able to legally enter the English market. As such, stronger alignment mechanisms and minimum standards across the UK are essential and should be better enshrined into the UK Internal Market Act to support fair competition.

Additionally, the UK Internal Market Act must ensure the mutual recognition principle is balanced with the ability of devolved and central governments to protect public interest, particularly regarding environmental and health targets.

This is not currently the case as evidenced by the fact the production of smoky, high-sulphur domestic solid fuels permitted in Northern Ireland but banned in England are able to freely enter the English market despite not being compliant with English environmental legislation. Non-compliant products are £50 per tonne cheaper to produce which equates to 20% to 25% of production costs.

To deliver fair and a long-term solution to the current unfair divergence which distorts the market and dilutes environmental standards, [REDACTED] would argue for sustainable solid fuels to be excluded from the UK Internal Market Act.

This is needed to maintain the integrity of English environmental legislation and prevent Northern Irish manufacturers from continuing to have an unfair competitive advantage.

Q2. [REDACTED] would disagree that differing regulations which have an effect later in the supply process are more straightforward for businesses to address.

Consumer perception of product legitimacy and environmental impact can still be affected, especially when products manufactured to different standards are marketed in the same way.

By permitting imports of cheaper, smoky and highly polluting solid fuels from Northern Ireland, English consumers could perceive these products as acceptable or even preferable for use in the UK therefore potentially undermining efforts in England to promote cleaner alternatives which could ultimately reduce the effectiveness of environmental legislation in England.

Q3. Local regulatory innovation and economic growth are vital to business but should not be allowed to disrupt national markets or distort competition. Innovations should instead be trialled under strict conditions and subject to Office for the Internal Market (OIM) review before permanent implementation and/or recognition. In instances where local innovations could materially impact UK businesses and create market distortion, the OIM should play an even greater role including instigating and leading a consultation process and economic impact assessment.

The UK Internal Market Act should also work to empower coordination, not fragmentation, of regulatory approaches across the four nations and the OIM should play a greater role in ensuring and enforcing this.

Q4. The current system has created an unfair and distorted market with devolved nations able to apply different regulations in several sectors, including the sustainable solid fuel industry in which [REDACTED] operates.

Currently, no effective safeguards exist to prevent businesses complying with stricter regulations in England. Instead, the current regime incentivises regulatory dumping and lower regulatory standards in one part of the UK, to the detriment of the same industry in another UK nation.

This means the balance of power lies too heavily with market access at the expense of responsible regulation and sustainable competition.

This is clearly evidenced by the import of cheaper, high-smoke and high sulphur solid fuels from Northern Ireland to England which creates noticeable negative environmental consequences and enables market distortion.

To resolve this stronger oversight from the OIM is required including, but not limited to, the introduction of sector-specific impact assessments and automatic reviews.

Q5. The single-use plastic exclusion under the Part 1 amendment powers represents a strong precedent which shows that exclusions can be sensibly implemented to balance environmental goals and market access.

██████████ would argue a similar exclusion is urgently needed for sustainable solid fuels where inconsistent standards are actively damaging compliant businesses and as such submitted an exclusion request with the OIM this week ██████████.

As outlined above, smoky, high-sulphur domestic solid fuels permitted in Northern Ireland but banned in England, can freely enter the English market despite not being compliant with English environmental legislation.

Using the Part 1 amendment powers to exclude sustainable solid fuels from the UK Internal Markets Act would therefore maintain the integrity of English environmental legislation and prevent Northern Irish manufacturers from continuing to have an unfair competitive advantage.

In general, amendment powers must be clarified and simplified to make it more accessible for businesses to engage with and used more proactively and transparently to protect key legislation and prevent an unlevel playing field for businesses within the UK.

Procedures for regular review and sunset clauses to ensure exclusions remain proportionate and justified should also be introduced and amendment powers more clearly linked to instances of market harm or distortion and less focused on achieving public policy goals.

Q13. The Office for Internal Markets should be granted stronger enforcement and investigative powers to allow it to address market distortions such as those impacting the solid fuel industry, most pressingly the import of smoky, high-sulphur domestic solid fuels from Northern Ireland into England. The OIM should also be able to act swiftly when concerns about market distortion are raised by businesses and a clear and transparent system for resolution established.

Q14. We would welcome views in particular on any advantages or disadvantages of continuing with the current arrangements as compared with other possible ways of carrying out the Part 4 functions. (A full list of functions is set out in the Annex).

██████████ would argue the current structure of the OIM is too slow and reactive and must be both revamped and reenergised in order to ensure the most effective and efficient performance of the CMA's Part 4 functions. One potential way in which this could be achieved is through a streamlining of the process and establishment of specialist sub-groups per sector.

Q15. The process for applying for or requesting exclusions must be revamped to make it easier and faster for businesses to engage with, especially when significant harm is being done as is the case with imports of smoky, high-sulphur domestic solid fuels from Northern Ireland into England. More transparent impact assessments are also needed to support this endeavour.

Q18. Yes, a different and fast track process should be implemented for exclusions proposals looking at economically disruptive exclusions or exclusions aimed at ensuring adherence to legislation protecting public interest, particularly regarding environmental and health targets. The current one-size-fits-all approach creates inefficiency and risks exclusions which could have a more sizeable economic impact not being prioritised and analysed at a sufficiently rapid rate.

Q19. ██████████ would argue a potentially significant economic impact could entail loss of market share, regulatory compliance cost imbalance, job losses, or material distortion in consumer pricing.

Q20. Currently the UK Internal Market Act favours theoretical market access over practical fairness. To resolve this, a clearer system for applying for and/or requesting exclusions must be established in order to give businesses a better avenue for engagement with the OIM and greater clarity on how exclusions are granted. The Act also needs urgent reform to prevent businesses in one nation from being undercut by others with looser rules as is currently the case with imports of smoky, high-sulphur domestic solid fuels from Northern Ireland into England.

RESPONSE 26

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Q1. Ireland should not be able to import and sell fuels into England which have been banned for the English Markets and do not meet the new Smoke Control Legislations.

Q4. Ireland should not be able to import and sell fuels into England which have been banned for the English Markets and do not meet the new Smoke Control Legislations.

Q5. The system at the moment puts us in an unfair position as we can't sell coal or non approved smokeless fuels which are generally cheaper for customers to purchase.

Q13. Ireland should not be able to import and sell fuels into England which have been banned for the English Markets and do not meet the new Smoke Control Legislations.
(Same as Q4)

Q20. Ireland should not be able to import and sell fuels into England which have been banned for the English Markets and do not meet the new Smoke Control Legislations.
Letting Ireland continue will put many small independent businesses out of business.

RESPONSE 27



Q1. The UK Internal Market Act ensures free trade across England, Scotland, Wales, and Northern Ireland after Brexit. It prevents internal trade barriers and ensures businesses can operate seamlessly across the UK. Protects UK-wide supply chains and prevents local rules from fragmenting the market

Q2. Representing agri-food members, much of our trade takes place early in the supply process. This may mean the growing of produce or packing. The supply chains can become much more complex post farm gate, however fundamental differences in regulation at the point of precision breeding, for example, could be problematic to resolve.

Q3. There should be clear collaborative benchmarking processes in place for any regulatory innovations between devolved nations when setting any Common Frameworks which does not deter innovation but manages any divergence of regulation. The OIM have a clear role to play in managing the balance

Q4. Due to the relatively small number of exclusions that have a relatively minimal impact on the agri-food sector currently, the market access principles seem appropriate and proportionate.

Q5. It is possible that there may be an issue with Precision Breeding in the Mutual Recognition of goods. Plants produced using gene editing in England, may not necessarily be mutually recognised by devolved nations if there is found to be any form of human health issue.

Q6. For the fresh produce industry, there are few impacts of service providers having divergent requirements.

Q7. There should be a clear mapping process that allows both existing issues and also horizon scanning of potential divergence to be addressed. This would ensure that there could be no discrimination issues that had to be remedied as exclusions retrospectively.

Q8. For the fresh produce industry, there are few impacts of service providers having divergent requirements and the Market Access Principles applying

Q9. In the event of authorisation requirements varying in devolved nations, it would be necessary to determine what impact this may have on SME's living close to borders whom may have the option of working in two nations.

Q11. There should be opportunities for professional qualifications to be clearly benchmarked and horizon scanned by the OIM which allows early communication and awareness of any potential divergence. Local regulatory bodies should have the autonomy to determine proportionate training / qualification needs but with a view to this being reviewed as appropriate.

Q12. During the in-person meeting to discuss this issue, it was raised that apprenticeships may be an area for further investigation. There is also a discrepancy between the Agricultural Wages order which determines a higher rate of pay if a qualification is held. It does not state whether the qualification needs to be undertaken in Scotland or England / Wales.

Q13. By being an independent and unbiased source of technical advice to all 4 nations

Q14. Task groups involving key stakeholders can be an effective way to understand any current or future issues relating to the UKIM Act. Regularly held and focused, industry specific groups can perform much of the horizon scanning required for issues in terms of newly emerging, divergent legislation. This would assist the OIM in any technical decision making or reporting. Key focus areas that have the potential to cause trade disruption should be mapped and communicated to the relevant industry to allow opportunities for engagement and solution based actions.

Q15. Clear communication well ahead of any decisions or implementation with industry is imperative.

Q16. If a clear case is developed, with justified rationale prior to any engagement, it would allow measured responses from industry to any specific questions OIM may have.

Q17. Economic impact assessments on all sizes of business is essential. SME's are particularly at risk and these should be the focus of any assessments. Case studies would be useful to show the specific nature of what the exclusion may look like and how it could have both a positive or negative impact.

Q18. If there is an opportunity to make the processes leaner and use less resource, with no impact to the final fairness of the outcome, then yes.

Q19. This is difficult as an exclusion may impact an individual SME significantly but have a perceived minimal impact on a nation.

RESPONSE 28



Q1. As the consultation document sets out, the UK internal market is critically important to businesses producing goods in each administration, and Scottish pork, lam and beef is no exception. In terms of sales distribution of Scottish red meat by value, in the year 2023/24, 60% of revenue was generated in the to the rest of the UK, with 30% remaining in Scotland and 9% going to the EU. It is clear that the UK is Scotland's main trading partner, with England and Wales remaining the most common first point of sale for Scottish processors. There is a constant flow of goods back and forth across the border, and in some instances, beef, lamb and pork is delivered to processing and packing sites in England, Wales and Northern Ireland before returning to Scotland in shelf-ready retail packs or to be exported overseas. As a result, the sector cannot risk any barriers to trade within UK single market, through divergence in production standards or cost of regulatory compliance.

Broadly speaking, common frameworks present a constructive model for inter-governmental relations. At the top level, they can be viewed as a valuable mechanism to maintain coherent approaches to regulation across the UK following Brexit whilst enabling the UK and devolved administrations to make different choices on how to implement rules in some policy areas.

However, the production of a single product e.g. beef, pork or lamb (such as Agricultural Support (AS), Animal Health and Welfare (AHW) and Food Labelling and Composition Standards (FLCS) frameworks), can intersect with multiple common frameworks and between these, there can be seemingly differences in their purpose and scope. For example, the AS framework has been drafted with the objective of outlining processes for intergovernmental working, whereas the AHW framework is focused on setting out common approaches and minimising diversion as far as possible. It can therefore be confusing when reading them side by side as, although both 'common frameworks' they have very different intentions and therefore purpose and scope. It is not clear whether this is deliberate and due to differing areas of policy or as a consequence of being drafted by different teams.

For example, the AHW framework lacks a clear Review and Amendment process, which is present in the AS framework. The AHW framework makes a distinction between 'decision-making groups' and 'discussion groups' and provides terms of reference for

the former but not the latter, with no explanation given. There are also differences in composition and layout of the frameworks.

This non-uniformity between common frameworks leads to the potential for lack of consistency and ultimately, clarity between them. It would be useful if common frameworks were edited to produce a single style resulting in frameworks being more easily accessed and understood.

It is concerning that the frameworks do not clearly set out measures for assessing whether divergence will be acceptable or not. The precise decision criteria and relative weightings to be applied in the case of policy divergences are not specified.

Consequently, it is not clear what would trigger a disagreement or a dispute, nor how evidence and analysis would be used to seek a resolution.

Transparency around decision making, both at official and ministerial level, is key, however it is also not clear how the process at ministerial level will operate or exactly how the dispute resolution mechanism will function in practice. In fact, it seems to be an almost entirely private inter-governmental process.

We note and welcome the UK Government's statement of intent in the consultation document to:

“develop closer working relationships and increased transparency between the government and the devolved governments on UK internal market matters that impact significantly on devolved responsibilities within Common Frameworks”.

Q2. This is not always the case, such as those regulations that concern food packaging labelling. Labelling is an increasingly complex area to navigate and can be burdensome, both financially and administratively, for businesses to address.

Q3. There should be no opportunity for any administration to regress on minimum standards across all areas, and potentially a legal guarantee should be in place to ensure this. There should also be no opportunity for public health or animal and plant health to be threatened by divergence in policy in another area of the UK.

The possibility of an SPS agreement with the EU however, may narrow the scope for inter-UK divergence within agri-environmental policy, as it will this could arguably create an uneven baseline for UK agri-trade policy. For example, there has been divergence in regulation that impacts upon agri-food trade, including single use plastics, gene editing, bottle deposit schemes and a peat ban.

Q4. The long-term economic viability of primary producers, abattoirs and meat processors in Scotland is heavily dependent on the trading of livestock and meat with the rest of the UK and also globally. We value the current frictionless trade within the UK and it is important to us that it is maintained as far as possible.

It is vitally important for Scotland's food and drink industry (and therefore its agricultural sector) that the UK single market is able to continue to operate as it currently does. Common frameworks provide an effective mechanism by which to facilitate divergence in policy across the UK whilst enabling a united approach to regulatory requirements to maintain the functioning of the UK single market.

Common frameworks must be permitted to respect devolution settlements and agree policy divergences - any nullification of this as a result of the UK Internal Market Act's market access principles is deeply concerning. These principles must not be able to undermine the objective of common frameworks, that is for devolved administrations and the UK Government to agree alignment and manage legislative divergences as necessary, using "common, collaborative approaches".

We therefore welcome the UK Government's commitment, as laid out in the consultation document, to:

"Use common frameworks as the main fora for the 4 governments of the UK to discuss and collaborate on new ideas and policies in the areas they cover, and to consider the impact these may have on the internal market".

RESPONSE 29

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

RESPONSE 30

[REDACTED]

Q1. It isn't...we're seeing prohibited goods being brought into England from Northern Ireland using this law as an excuse...ridiculous

Q2. Nothing in this is straightforward and many businesses aren't aware

Q3. You cannot have one rule for one area superseding the law in another. You also cannot have certain forms of energy (in my sector) like gas and electricity covered by different forms of legislation to solid fuel (my industry)

Q4. Appalling, we have clear breaches of the law and a lot of shoulder shrugging about what can be done. Indeed we've been told there has been a request for better inter-departmental communication...net effect of this? Nil of course

Q5. The idea is good but again isn't enforced. I work in solid fuel, illegal products for the English market are being imported from Northern Ireland even in single use plastic and nobody does or enforces anything

Q6. It's a ridiculous rule. If a product is outlawed then it is outlawed, not suddenly ok as long as it isn't outlawed from a different area. It makes for a two tier system and leaves everybody looking to 'beat the system'

Q7. We're meant to be one country, have one set of rules. If a product is illegal in one area then it is illegal...not illegal unless brought in from a different UK jurisdiction, these loopholes are utterly nonsensical

Q8. Appalling two tier systems have been created and I find it hard to believe we've tied ourselves in these knots. Nobody is taking responsibility and in my industry we have Irish firms flouting the regulations with offices registered to Northern Ireland openly breaking import rules and hiding behind this legislation

Q9. I believe there should be one set of rules and the 'recipient' jurisdiction should be the overriding determination

Q13. I didn't know they existed, they've done nothing for our market. Close the loopholes and become known as they sound like an important resource most people have never heard of

Q14. That I have never previously heard of them should explain their effectiveness

Q15. We were told there would be better inter-departmental communication, as always it was another myth but would help. You simply cannot have items that are banned being legally supplied from a different area, its nonsensical

Q16. It shouldn't be about proportionate engagement, it should be about common sense. If something is banned, don't legally allow supply of it from another jurisdiction.

Q17. If a company in England is working to a different set of rules to a company in another devolved nation, for supply into England, the rules don't work and the system is unfair!

Q18. No, a common sense approach (something sadly it seems no longer in the vocabulary) should always be the way

Q20. On this occasion I am more than happy to repeat myself. I work in an industry where we, as an English based firm, are not allowed to supply products that companies in other UK nations can into England. This is anti-competitive and makes no sense at all. A product was banned for being bad for the environment but not when supplied (and indeed shipped) from Northern Ireland? How is that sensible? Do we simply set up a Northern Irish office as the Irish companies have and supply from that address? Ludicrous I should even have to suggest it, but this is what we are driven to by this act.

RESPONSE 31

[illegible]

Age Group	Percentage Vaccinated
18-24	95%
25-34	85%
35-44	90%
45-54	88%
55-64	80%
65+	25%

[REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



REPONSE 32



No responses to questions.

RESPONSE 33



Q1. The Office for the Internal Market's Annual report on the operation of the UK internal market 2023 to 2024 found that the market access principles, as embodied in the Act, were not how industry tended to prefer to manage divergence: "A notable finding from our case studies of Single Use Plastics, Precision Breeding and Deposit Return Systems is a clear view, particularly among the larger businesses in those sectors with significant operations in the devolved nations, that the Market Access Principles are unlikely to be used as the preferred approach to address regulatory differences."

Q3. The answer to this question will depend on the type of business responding. large businesses operating across GB or UK will have a view which may be distinguished from that of smaller businesses working in a localised market.

Q5. The Scottish Parliament Information Centre (SPICe) has published From single-use plastics to the deposit return scheme: How are Common Frameworks and UK Internal Market Act exclusion processes operating? – SPICe Spotlight | Solas air SPICe

This research highlights that market access principles apply even when an agreement to diverge has been reached through a common framework process. If such an agreement to diverge is reached, the process for seeking an exclusion to the market access principles within a framework involves:

1. The relevant government setting out the scope and rationale for the exclusion.
2. A review of the proposed exclusion and supporting evidence for it by the relevant framework forum; and if the exclusion is agreed.
3. The laying of a statutory instrument by UK Government Ministers in the UK Parliament to implement the exclusion.

UK Government Ministers have a discretionary power to disapply the market access principles by an exclusion. If UK Ministers agree to a request from a devolved administration for an exclusion to be implemented, the role of the Scottish Parliament is governed by the Statutory Instrument Protocol. This protocol means that the Parliament scrutinises the Scottish Government's decision to consent to the implementing regulation rather than the legislation itself. SPICe identifies that the single use plastics exclusion which was the first exclusion from the MAPs: illustrates "the transparency challenges for the Parliament in scrutinising how common frameworks and the associated UKIMA exclusions processes are working."

SPICe narrates the process of the Scottish Government requesting the UK Government to legislate for the exclusion from the market access mutual recognition principle to prevent single use plastics from being sold in Scotland. The process involved inter-governmental discussions which were reported at the Inter Ministerial Group for Environment Food and Rural Affairs meetings on 6 December 2021 and 21 March 2022. The Scottish Parliament was informed of the exclusion on 6 May 2022 when the Minister for Green Skills, Circular Economy and Biodiversity Lorna Slater MSP sought the approval of the Parliament for Scottish Ministers to consent to the UK statutory instrument that would create an exclusion from UKIMA for the single-use plastics regulations. As SPICe point out "This meant that the Parliament was being asked to consent to Scottish Ministers consenting to the UK statutory instrument without any idea of the scope of the exclusion or details of framework discussions that supported the exclusion." The Parliament's Constitution, Europe, External Affairs and Culture

Committee in its UK Internal Market Inquiry | Scottish Parliament highlighted the lack of transparency and accountability (paragraphs 168-172).

It is not satisfactory where transparency and accountability are lacking in such important matters and where democratic institutions, and individuals and organisations lack engagement at the early stages of policy formulation and implementation. As the Constitution, Europe, External Affairs and Culture Committee stated in its report “There is a risk that the emphasis on managing regulatory divergence at an inter-governmental level leads to less transparency and Ministerial accountability and tension in the balance of relations between the Executive and the Legislature.” (paragraph 13).

Q9. The changes which have been made to Schedule 2 UKIMA Part 1 (Services to which Section 19 (Mutual Recognition) does not apply) and Part 2 (Services to which Sections 20 and 21 (Non-discrimination) do not apply) have been implemented through The United Kingdom Internal Market Act 2020 (Services Exclusions) Regulations 2023 under section 18(2) of the UKIMA.

The Regulation had the following effects:

- a. Excluding services connected with the supply of gas and electricity, and water and sewerage and waste sector services from the scope of the mutual recognition principle in section 19 of UKIMA.
- b. Excluding services connected with the construction and operation of heat networks and the supply of thermal energy because of the different ways the service is regulated in the UK.
- c. Excluding services in respect of the award and authentication of academic or vocational qualifications because of the different ways the service is regulated in the UK.
- d. Amending the current social services exclusion in Parts 1 and 2 of Schedule 2 to clarify that the private provision of children’s social care and childcare services are in scope of the existing exclusion.
- e. Removing the current financial services and electronic communication services exclusions in Parts 1 and 2 of Schedule 2, and the current postal services exclusion in Part 2 of Schedule 2 because the exclusions were no longer needed post-EU, and the regulation of these service sectors operates UK-wide.
- f. Removing the current services of temporary work agencies exclusion in Parts 1 and 2, and the current statutory auditor exclusion in Part 2 of Schedule 2 because these exclusions were no longer needed post-EU context and the services reserved for GB and NI generally replicate these laws.
- g. The new exclusions to Part 1 of Schedule 2 will mean that the mutual recognition principle will not apply to those service sectors.
- h. Amending the current social services exclusion will not alter the scope of the exclusion.

- i. Removing the identified current exclusions from Schedule 2 will mean that the mutual recognition and non-discrimination principles will now apply to those service sectors.

Apart from the exclusion of services concerning heat networks the Scottish Government did not agree to the statutory instrument given “its overall purpose of widening the scope of the UKIM Act”.: SG Gaelic Cabinet Secretary for Finance and Economy .

We are not in a position to confirm what effect, if any if the changes made under this statutory instrument have had. We note that the Scottish Government withheld consent. Accordingly, the inter-governmental process did not ensure that the Scottish Government were content with the instrument. Steps should be taken to ascertain in in the light of experience the Scottish Government would adhere to the views expressed in August 2022.

Q11. Professions which operate in the reserved areas under the Scotland Act 1998 will be suited to UK-wide alignment but any proposed changes by the UK Government would require adequate consultations with the professions affected.

Q13. We take the view that the Office for the Internal Market (OIM) can best support the internal market by fulfilling its statutory objectives as contained in the IMA. These include:

- a. providing certainty for businesses that they can trade freely across the whole of the UK.
- b. providing expert, technical and independent advice to UK government and devolved administrations about the Internal Market.

Q16. The process of creating exclusions should be open and transparent. Such an approach will ensure proportionate engagement with interested parties.

Q20. General Comments

We have taken a keen interest over the years in commenting on proposals for legal and constitutional change arising out of the UK’s Withdrawal from the EU including the implications for Scotland and its relationship with the rest of the UK, constitutional developments and changes in the law in connection with Brexit, the relationship of the UK and the EU, Trade Agreements and the impact on Devolution. In particular in relation to the UK Internal Market we responded to the UK Internal Market White Paper in August 2020 and participated by briefing at key stages in the UK Internal Market bill’s parliamentary passage in September-December 2020: United Kingdom Internal Market Act 2020 Stages - Parliamentary Bills - UK Parliament and Briefing on UK Internal Market Bill | 

We also commented on

- a. the Finance and Constitution Committee in the Scottish Parliament Inquiry into Scotland and the UK Internal Market
[REDACTED]
- b. the Scottish Affairs committee in the House of Commons Inquiry into the Relationship between the UK and Scottish Government
[REDACTED]; and
- c. the Public administration and Constitutional Affairs Committee in the House of Commons Inquiry into Devolution and exiting the EU
[REDACTED]
- d. We also conducted a survey of the powers returning from the EU that intersect with the Devolution Settlement
[REDACTED]

The United Kingdom Internal Market Act 2020 (UKIMA) forms part of the then UK Government’s legislative response to Brexit, following the European Union (Withdrawal) Act 2018 and European Union (Withdrawal Agreement) Act 2020.

UKIMA was considered to be a replacement for the European Single Market – by regulating the UK internal market for goods and services. UKIMA sets out the market access principles for the UK Internal Market which have had constitutional implications. As a result of the Act many powers exercised by the devolved administrations require consent of UK Ministers.

We take the view that the UK’s withdrawal from the EU removed the overarching EU internal market legal arrangements and that a UK based internal market legal framework is necessary.

UKIMA has been noted by [REDACTED] as important in connection with “deposit return systems, horticultural peat, glue traps, XL Bully dogs, the phasing out of gas boilers, and minimum unit pricing for alcohol”: [The-Internal-Market-Act-a-challenge-to-devolution-report.pdf](#) UKIMA has implications for many devolved policy areas.

The Secretary of State is required to conduct statutory reviews of the operation of Part 1 amendment powers (section 13) and Part 2 amendment powers (section 22), Services exclusions (Section 18 and schedule 2) and the arrangements relating to the use of the Office of the Internal Market to perform the functions in Part 4 of the Act (covering independent advice and monitoring of the UKIM) during the permitted period which is

the period beginning with the third anniversary of the passing of the Act (17 December 2023) and ending with the fifth anniversary (17 December 2025).

It is appropriate that the Government recognises the importance of considering the operation of the Act beyond the statutory review requirements. We note that the scope of the review has been broadened to include the practical operation of parts 1, 2 and 3 of the Act, including the process for considering exclusions from the Act, and the role and functions carried out by the Office for the Internal Market as set out in Part 4:

Written statements - Written questions, answers and statements - UK Parliament

We do not have data upon which to respond to many of the specific questions raised in the Government consultation. Instead, we think it is important to identify the current academic analysis which is being undertaken and of which is important for Government to be aware. Accordingly, we have identified the undernoted work from respected commentators.

Specific Comments

We note the views expressed by Professor Aileen McHarg in a submission to the Scottish Parliament's Constitution, Europe, External Affairs and Culture Committee [ukima-cosultation-and-review-aileen-mcharg.pdf](#).

Professor McHarg has identified major problems in UKIMA's interaction with devolution such as:

- a. An unsatisfactory intersection with devolved competence. In contrast with the EU internal market rules which they replaced, UKIMA's market access principles technically have no effect on devolved competence. The validity of devolved legislation (primary or secondary) is not affected by the market access principles. However, these may (depending on a range of contextual factors) have very serious implications for the effective operation of devolved legislation, such as to significantly constrain the scope of devolved law-making competence in practice.
- b. Asymmetry. Although formally applicable to legislation passed by all four of the UK's governments and legislatures, the devolved governments and legislatures are significantly more constrained by the market access principles than the UK Government and Parliament when legislating for England. This is partly because of the inherent asymmetry of market size in the different parts of the UK. It is also partly because of the operation of parliamentary sovereignty, which means that the UK Parliament can override the market access principles in order to protect regulatory choices for England, in a way that the devolved legislatures cannot (because UKIMA is a protected/entrenched statute under the devolution statutes).

- c. An unsatisfactory balance between market access and regulatory divergence. UKIMA as enacted gave significant priority to the principle of market access over protecting the ability to regulate local markets in accordance with local democratic choices. Exclusions from the market access principles for goods in particular are notoriously narrow, although these can be extended by amending Schedule 1. Only in the case of the indirect discrimination principle is there any explicit ability to balance market access against competing aims, but again legitimate aims are defined extremely narrowly (ss. 8 and 21).
- d. Uncertainty. UKIMA has added significant uncertainty to the devolved law-making process. This comprises legal uncertainty, regarding the meaning of the market access principles, which have not yet been tested in court; factual uncertainty, regarding the practical impact of the market access principles in any particular regulatory context; and political uncertainty, regarding the operation of the exclusions process, particularly as it intersects with agreements on policy divergence reached via the Common Frameworks process.

Professor McHarg identifies a number of amendments to the UKIMA which are designed to resolve these problems.

- a. Improve the process for seeking UKIMA exclusions. A procedure for seeking UKIMA exclusions was agreed under the Common Frameworks process.³ However, there remains considerable uncertainty around the operation of that process, particularly around the timing of when exclusion requests should be made. A relatively minimal reform would be for the four governments to agree a new, more detailed exclusions process. More ambitious reforms in this space might include a role for stakeholder consultation and scrutiny by the UK and devolved legislatures before exclusions are agreed. Nevertheless, non-statutory reform would not address the underlying legal asymmetry in the exemptions process. Nor is there any guarantee that the process would be followed in practice, and it seems unlikely that it would give rise to grounds for judicial review if not. Statutory reform of the exclusions process would be more difficult to achieve but could be more satisfactory. For instance, UKIMA could be amended to create a formal process for requesting exclusions, subject to the agreement of all four governments, with a duty on UK ministers to lay amending regulations if agreement is reached, and duties to give reasons for failure to agree.

- b. Expand UKIMA exclusions. Regulation making powers under ss.10 and 18 of UKIMA could be used to expand the range of exemptions from the market access principles in Schedules 1 and 2, thus reducing the need for ad hoc exemptions. This would significantly tilt the balance of the Act away from market access and in favour of regulatory divergence, thus reducing the constraints on devolved law makers and reducing their exposure to political control by UK ministers.
- c. Subject the market access principles to tests of proportionality and subsidiarity. A more fundamental reform of UKIMA, requiring primary legislation, would be to subject the application of the market access principles in any particular case to principles of proportionality and subsidiarity, thus returning to something more like the position under the EU internal market rules where the preservation of free trade is balanced against competing regulatory objectives on a case-by-case basis.
- d. Improve processes for considering the effects of UKIMA on proposed legislation. A final reform option that the Committee may want to consider irrespective of the outcome of the UKIMA Review is to seek improvements in the Scottish Parliament's own processes for considering the potential effect of the market access principles when considering proposals for primary or secondary legislation. One possibility would be to require explanatory notes or impact assessments to expressly address the potential impact of the market access principles and what steps are being taken (where necessary) to secure UKIMA exclusions. Standing Orders might also place a "UKIMA reserve" on the approval of Bills or secondary legislation where significant concerns remain.

We also note the report by Dr Coree Brown Swan, Professor Thomas Horsley, Professor Nicola McEwen and Lisa Claire Whitten: Westminster Rules? The United Kingdom Internal Market Act and Devolution

This report sets out a "call on the UK Government to change tack and address the Act directly in collaboration with the devolved institutions."

The Report outlines that the UKIMA and the Market Access Principles (MAPs) pose significant challenges for the devolved institutions. The principle of mutual recognition precludes the devolved institutions from applying devolved policies to incoming goods and services, which significantly erodes the rationale for innovating in the first place.

It also examines the operational challenges that confront devolved administrations when they seek to exclude specific devolved policies from the application of the MAPs. The UK and devolved governments concluded an intergovernmental agreement to manage this process in December 2021, but the process remains ultimately subject to UK Government control.

The Report identified a “recent shift on the part of the devolved governments in favour of policy coordination with the UK Government and other devolved governments to manage the practical effects of the MAPs on devolved competences.”. This highlights improved intergovernmental relations which are vital to “developing a model of governance for the internal market that relies on more than just the relative strength of the UK Government.”.

The Report discusses four options to reform the UKIMA.

Option 1: The Status Quo

Under this option, UKIMA structures would operate in their present form, perhaps bolstered by improved intergovernmental relations between the administrations with the addition of the Council of the Nations and Regions.

Option 2: Repeal the UKIMA

Option 2 is that the UKIMA could be repealed. This option has been supported by the Scottish Government and Parliament. In a symbolic vote on 3 October 2023, a majority in the Scottish Parliament supported a motion to repeal the Act. But repealing the UKIMA would not resolve the underlying problem that it was designed to address: the risk of regulatory difference between the four administrations creating new barriers to trade and mobility. It would also place a heavy burden on a machinery of intergovernmental relations. It could risk destabilising the legal underpinning to Northern Ireland’s role within the UK domestic market whilst implementing the access to the EU single market for goods given by the Protocol/Windsor Framework and raise questions for UK trade policy.

Option 3: Legislative Reform

Legislative change presents a set of options for example UK Ministers may modify aspects of the UKIMA using existing delegated powers or reform the Internal Market regime through a new Act of Parliament.

In the context of managing the UK internal market, the two principles of proportionality and subsidiarity could be introduced in a new Act.

Option 4: Procedural Changes

A final set of options may supplement or act as alternatives to legislative change. These concern the procedural workings of the UKIMA that have been found wanting in the early years of its implementation. The Report offers two suggestions.

A clearer exclusion process could be developed, including the introduction of an exclusion request form, submitted to an impartial body, alongside requirements for timing and format in which the relevant parties are required to respond. This could be

accompanied by an agreed evidence base required to evaluate decisions to grant or withhold an exclusion.

The second proposal for procedural change is to improve legislative tracking. Advanced notice where future regulatory difference is intended, either at a UK-level (legislating for England) or within the devolved legislatures, is essential to the proper functioning of the UK internal market. Yet, the present approach relies on political commitments on information sharing set out in intergovernmental agreements, rather than on any formalised framework.

A new framework for legislative tracking would support coordination and planning between the UK and devolved governments.

Reforming UKIMA

The Report emphasises that reforming the UKIMA should not be for the UK Government alone to determine, nor a matter for UK Parliament alone. The UKIMA was a unilateral intervention by a previous UK Government, backed by the UK Parliament, in the face of considerable opposition from the devolved governments and most opposition parties in the devolved legislatures. Collaborative working across the four administrations – with the engagement and oversight of the four parliaments – will be central to securing consent for the way ahead. As our Report highlights (Report, Part 3), despite continued disagreement on foundational issues, intergovernmental cooperation has improved in recent months. This is visible, for example, with the increased use of joint consultations and intergovernmental agreement on joint regulatory approaches (e.g. on tobacco and vaping). This provides a platform for more ambitious reform to deliver a meaningful resetting of relations with the devolved institutions.

RESPONSE 34

[REDACTED]

Q1. [REDACTED] welcomes the opportunity to respond to this timely review and consultation on the UK's Internal Market Act (IMA). [REDACTED] wholeheartedly supports the government's ambition to support businesses and drive economic growth in the UK.

[REDACTED] appreciates that maximising the UK's economic growth while protecting the significant value of the internal market means finding the right balance between devolved decision-making on regulation. This has to include ensuring that unnecessary

costs and barriers to trade between the four nations do not arise in instances of regulatory divergence.

██████ acknowledges the IMA may enable the four governments to work through their challenges and issues towards mutual decisions and benefits. However, proposed solutions that may work politically for the governments may not work practically, optimally (or at all) for the various sectors 'on the ground'. To those ends, there may be many occasions where the IMA is judged by the governments to work well but judged poorly by businesses and organisations. That gap is likely to be real, significant and in need of addressing.

This highlights the need for businesses, citizens and others to have some way to challenge the decisions made by the four governments within scope of the IMA. This is particularly important to ensure businesses' and citizens' concerns about the operation of the UK single market are heard, acted upon, and (if necessary) someone has the authority to ask the governments to think again, and/or improve policy proposals.

██████ notes that such a provision for businesses and others to challenge policies proposed by national governments is in place within the European Union (EU). It is the Technical Regulation Information Procedure (TRIS) embodied in the EU 2015/1535 procedure. The TRIS procedure ensures obstacles created (deliberately or inadvertently by Member States) to the operation of the EU single market could be investigated by the EU Commission and actions taken, as required, for the single market to operate as seamlessly as possible without obstacles.

██████ advocates that a similar UK system to enable challenges is currently missing from the UK's architecture. As things seem to currently stand, businesses' concerns relating to any policies within scope of the IMA need to be heard and 'championed' by one or more of the governments in order to lead to changing policies and/or implementation plans. That seems, to us, to be a wholly unsatisfactory situation because the governments are unlikely to champion a viewpoint that is out of kilter with what the governments have agreed under the IMA, and respective frameworks.

Q3. The aim should be empowering local regulatory innovation within a balance where decisions are unpinned by maximising the UK's economic growth. ██████ believes early guidance from impacted industries and businesses could go some way to help with this, especially leaning on industry's expertise on what economic impacts could be depending on potential decisions to be made.

Q13. As mentioned in our previous response to Q1, ██████ appreciates that maximising the UK's economic growth while protecting the significant value of the

internal market means finding the right balance between devolved decision-making on regulation. This has to include ensuring that unnecessary costs and barriers to trade between the four nations do not arise in instances of regulatory divergence.

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Q15. As mentioned in our previous response to Q1, ██████ appreciates that maximising the UK's economic growth while protecting the significant value of the internal market means finding the right balance between devolved decision-making on regulation. This has to include ensuring that unnecessary costs and barriers to trade between the four nations do not arise in instances of regulatory divergence.

Q3. Whatever the balance on innovation and alignment, a major issue is the imbalance of power. The UK Government holds all the cards on what is going to happen and on what timescale, as illustrated below in relation to exemptions. This may reflect the legal reality of a devolved rather than federal system of government, but does not match political expectations or good governance in a multi-layered state.

Q4. A fundamental preliminary is establishing awareness of the Act and ensuring that its provisions are “internalised” in Governments’ thinking. Too often one sees announcements on proposed controls on various items (from horticultural peat to knives) that seem to have no regard for the impact of the Act nor for the market access principle which will potentially have a big effect on the practical effectiveness of any new measures. My perspective may be skewed, but this seems especially a case for departments in London which at times proceed without apparently having considered the implications of our devolved state. Moreover, given the dominant size of the English market, it is the devolved administrations that are more likely to see their plans affected.

The position here is significantly influenced by the state of relations between the UK Government (which holds all the power) and the devolved administrations and at present it is difficult to tell how far past problems were the result mainly of poor relations which may be avoided in future.

The situation is made worse by the uncertainty over how the Act’s provisions may affect emerging policy. There are chicken-and-egg elements here - until there are definite proposals and some idea of how other parts of the UK will respond, the precise application of the Act cannot be determined, but detailed measures cannot be developed without knowing exactly how the Act will affect them. Especially when relations are poor between different governments, there seems to be no source of clear, impartial advice, with the Competition and Markets Authority taking on a wholly reactive role rather than acting as an “honest broker” seeking to avoid or minimise problems. The difficulty is shown in the Stage 1 report on the Circular Economy (Scotland) Bill at paras 304, 340, 342 and 347:

<https://digitalpublications.parliament.scot/Committees/Report/NZET/2024/2/28/6c8b7a60-5872-4e8f-8ebf-54f1c51a7111-1#a3c88734-3b35-471a-bd21-2df6c29fcf91.dita> .

This can be exacerbated by delays and uncertainty over the UK Government’s response to requests for an exemption under the legislation; see Glue traps sales ban: letter to UK Government - gov.scot

Even where the need for collaboration and co-ordination is appreciated, the extent to which the requirement for this can cause disruption must be realised. Even the admirable collaborative progress across the UK towards controls on single-use vapes

has been soured by the need for an additional set of regulations in Scotland to cope with the disruption to the planned timetable caused by the 2024 General Election; SSIs 2024/269 and 2025/28. The different electoral cycles and parliamentary schedules across the nations mean that progress can often be interrupted by wholly extraneous factors.

Q5. The debacle over the deposit and return schemes for cans, bottles, etc. shows the Act's provisions at their worst when operating in an area of policy non-alignment. Regardless of views on the appropriate outcome and where the final say should lie, the uncertainty and lack of transparency over process and timescales for decisions are the opposite of good government.

At a very different scale, the initial rejection of an exemption for the sale of glue-traps, following the Wildlife Management and Muirburn (Scotland) Act 2024 again shows the Act not working well. The Scottish Government's concern that the rejection seemed to be based on a view of policy effectiveness rather than any market considerations seems well founded, with the operation of the Internal Market Act thwarting a considered policy decision taken by a devolved administration; Glue traps sales ban: letter to UK Government - gov.scot. It is stated that an exemption has now been agreed, but the lack of transparency on any such progress and of certainty on the timescale for the necessary legislative steps is a further weakness in the system.

Q8. As with goods, there are problems arising from the imbalance of powers and the uncertainty over outcomes and timescales in relation to possible hurdles or exemptions.

Q20. See general comments above.

RESPONSE 36

[REDACTED]

Q1. It is important that all areas of the UK have both a consistent and simplified regulatory regime. The Act therefore should look to align, where possible, rules for business, developers and trade. Maintaining the competitive nature of the UK depends upon this.

Q2. In terms of trade the international nature of supply chain logistics can over complicate things so it is important to maintain rules equally across the UK and, where possible, with our near neighbours and trading partners.

Q3. Where a divergence would have no material impact on the flow of goods or the attractiveness of a region we are relaxed about the regulatory framework. Also we understand that in emergency situations such as the control the spread of ecological diseases like foot and mouth we recognise the need for certain controls.

Q4. The main challenge of late have been differences with GB and Northern Ireland and of course policy makers need to understand that as well as goods themselves, differing rules on the mode of transport such as hauliers and ships can have unexpected consequences. For example the recent rules on the UK Emissions Trading Scheme will impact shipping travelling to Northern Ireland, and the goods they carry.

RESPONSE 37

Q1. The UK internal market for goods is best supported through the Internal Market Act (UKIMA) by ensuring that legislative measures designed to advance the public interest, such as those improving animal welfare (e.g. banning the imports and sales of real fur products), are not inadvertently undermined. This can be achieved through the use of exclusions, allowing for divergence where necessary to uphold ethical and social expectations.

Q3. Striking the right balance between local regulatory innovation and UK-wide alignment is essential to prevent a "race to the bottom" in regulatory standards. Maintaining high standards is noted as a core objective of the UKIMA.

Indeed, animal welfare is a prime example of an area where the UK must uphold strong standards. Public sentiment strongly supports measures to prohibit the sale of products derived from cruel practices, such as fur. A government consultation in 2021 found that 80% of respondents supported a ban on the import and sale of fur in the UK, reflecting widespread public opposition to the trade: in recent years polling has found that 93% of the British public reject wearing real animal fur and 77% of UK voters believe that when a farming practice is banned in the UK for being too cruel, then the imports and sale of products produced the same way abroad should also be banned.

The UKIMA should not obstruct progress in this area of public moral concern. As outlined in the response to Question 4, the current balance is inappropriately skewed and should be recalibrated through targeted exclusions.

Q4. At present, the UKIMA does not adequately balance UK-wide regulatory alignment with local policy innovation, posing risks to the UK's long-standing leadership in animal welfare.

For example, if England were to introduce a ban on the sale of farmed fur products, such a measure would be ineffective unless an exclusion is granted. Under the mutual recognition principle, fur legally produced or imported into Scotland, Wales, or

Northern Ireland could still be sold in England, circumventing the ban. Without an exclusion, fur imports could simply be redirected through another UK nation, undermining England's intended animal welfare improvements.

This is concerning, given that fur farming was banned in the UK in 2000 on the grounds of public morality. It is inconsistent for the UK to correctly prohibit fur farming domestically while allowing the import and sale of fur farmed abroad under conditions that are illegal here. The same applies to the trapping of wild animals for fur, which is widely considered inhumane: the main traps used in fur trapping are illegal in the UK. As long as fur remains available for sale, the UK is complicit in sustaining this cruelty.

While the Animal Health and Welfare Common Framework encourages a coordinated approach to legislative change, unanimous agreement is not guaranteed. To ensure meaningful progress, UKIMA should be amended to exempt sales bans based on animal welfare considerations or modelled on the Swiss Internal Market Act, allowing regulatory divergence where justified by public interest concerns.

Alternatively, if legislative amendment is not pursued, the Secretary of State should use section 10(2) powers to amend Schedule 1 and include animal welfare measures in the list of exclusions, as was done for single-use plastics. Without these reforms, the UKIMA risks facilitating a downward trend in animal welfare standards, contrary to public expectations and international best practice.

Q5. We welcome the UK Government's decision to exempt single-use plastics and Scotland's ban on glue traps, which demonstrates that the amendment powers can be used effectively to uphold environmental and animal welfare standards. This should also be applied to future fur sales bans.

Q15. A presumption in favour of excluding animal welfare-based restrictions from the mutual recognition principle should be introduced. Such exclusions typically have minimal economic impact on businesses but strong public support.

This presumption could be formalised through an amendment to the UKIMA or incorporated into official guidance issued by the Department for Business and Trade.

Q16. Interested parties should be given the opportunity to present evidence on potential exclusions through structured public consultations. These consultations would ensure that decision makers are fully aware of the significant animal welfare benefits of sales bans on products such as fur, the minimal economic impacts such measures have, and the strong public opinion against poor welfare practices, for example as seen in the fur industry.

Q17. Evidence should include:

The necessity and purpose of the proposed measure.

The potential societal harm if the measure is not granted an exclusion (e.g., environmental damage, reduced animal welfare standards).

The impact of not granting an exclusion.

The extent to which not granting an exclusion would generate deregulatory pressures.

Q18. No. Exclusion proposals should be also assessed on their importance in advancing public interest objectives, rather than their economic impact alone. Measures with economic implications but strong public interest justifications should not be disadvantaged.

Q19. A measure that causes substantial disruption to trade flows and market access within the UK internal market.

Exclusions should be allowed for minor industries at odds with public morality, such as the fur trade. The UK fur trade is notably very small compared to other industries. Furthermore, recent ONS retail industry data reveals that GBP 15,702 million of clothing was imported into the UK in 2023. By comparison, fur product imports that year (including all articles of apparel, clothing accessories and other items made of fur) were just GBP 13.3 million. This figure also represents a modest fraction of the UK's overall trade activities. For context, the UK's total imports of goods were valued at £718.4 billion in 2023, making fur imports account for about 0.0056% of this total.

Q20. The UKIMA must be carefully managed to prevent unintended consequences, particularly in areas such as animal welfare. Without a robust exclusions framework, the Act risks undermining high regulatory standards and public trust in government commitments to ethical policy-making. To lose the ability to enforce a fur trade ban across the UK would be an undesirable and unnecessary outcome, and should be avoided by taking the steps outlined in this evidence.

REPONSE 38

[REDACTED]

Q1. The UK IMA works at its best when it applies to issues which are solely concerned with trade between the four nations. It breaks down however where other considerations might be seen as overriding the principle of free trade – for example, where governments would like to act on their devolved powers to legislate on environmental issues such as the sale and supply of peat. In this case it is making unilateral action by devolved governments prohibitively difficult by requiring a specific exclusion to the Act each time such an issue arises - undermining the principles of devolved powers.

Q2. In the case of peat sale and supply, any divergent regulations would necessarily produce effects early in the supply chain. In the case of horticulture this simplifies decision making for businesses: if every business is peat-free (because peat use is prohibited) the result is a level playing field and business certainty.

However, the UK IMA undermines this. By allowing peat supply to continue to enter a nation's market from elsewhere in the UK, it creates an unfairly biased market. The use of historically cheaper yet environmentally-damaging peat allows peat-using businesses to undercut local (peat-free) businesses. This makes any divergent legislation entirely toothless and indeed counterproductive as it puts local businesses at a significant and unfair disadvantage. It is therefore preventing devolved administrations from fully exercising their devolved powers. It also continues and indeed favours business models which are harmful to the environment.

Q3. We believe that there should be a blanket exemption from the UK IMA for all environmental trade policies. Environmental trade issues have been the main cause of difficulties in this area– as well as peat sales, other environmental issues where the UK IMA has caused problems include single use plastics, bottle return schemes and glue traps. This avoids the messy and unwieldy solution of adding single-issue exclusions for every policy which falls into this category and allows devolved administrations to act on devolved environmental issues as they see fit.

Q4. This does not apply in the case of legislation to end peat sales as there has been no legislation in any administration yet (despite policy pledges to legislate made in 2021 and 2022 by governments in the UK, Scotland and Wales) – so intra-UK trade in environmentally damaging peat continues freely, undermining efforts to reach statutory targets on reducing carbon emissions and boost biodiversity.

Q5. We support the use of these powers in the case of environmental trade, such as single-use plastics. However, we feel that the approach, whereby individual exclusions have to be added in to legislation piecemeal each time this issue arises, is unwieldy and unnecessarily time-consuming, requiring extensive staff and Ministerial time and resources in both UK and devolved administrations in each individual circumstance. This approach also fails to address the fundamental principle that devolved powers must ask for such an exclusion from the UK government each time they would like to act unilaterally on an environmental issue, undermining the main principle of devolution and leaving them at the mercy of often ideological decisions by particular administrations in Westminster (as has happened with the glue traps exclusion). We believe that a better approach would be to add a blanket exclusion for all environmental trade policies, leaving devolved administrations free to act on their devolved powers in accordance with their own timetables and priorities.

Q13. The OIM's detailed assessment of the likely impact of the UK government acting unilaterally in ending peat sales (2022) was thorough and provided a balanced assessment of the situation, concluding that, with some caveats, 'there will be limited incentives for manufacturers and retailers [in other nations of the UK] to sell peat-containing growing media in England once the ban takes effect.'

However there has been no similar assessment carried out for Scotland, Wales or Northern Ireland – presumably because there has been no request for one from these administrations. We have heard doubts expressed on more than one occasion about the effect on intra-national trade were Scotland or Wales to act independently, suggesting there is a need for such an assessment: so perhaps it would be useful if the services of the OIM to nations other than England could be better promoted.

Q15. See above response to Question 3: insertion of blanket exclusion for environmental legislation

Q16. There has already been formal consultation following declarations of intent to legislate on peat sales in England and Wales and Scotland (returning large majorities in favour of legislation), plus extensive further discussions in the four years since, including the OIM assessment, regular stakeholder meetings, targeted research projects and a five-year trials programme under the government-funded RHS Transition to Peat-free Fellowship. There has already been so much engagement in fact that further discussion should be unnecessary to include a specific exclusion for ending the sale and supply of peat within the UK IMA.

Were a blanket exclusion for environmental legislation to be added to the UK IMA, engagement with interested parties over an end to peat sales would happen at devolved administration level – which, since such policies most directly affect and are decided by citizens of that administration seems appropriate.

Q17. Evidence should include existing engagements, consultations, reports, discussions and stakeholder input (as outlined in the answer to Question 16) rather than delaying still further by unnecessarily repeating the process of consultation. This tactic of 'reinventing the wheel' has too often been used as a reason for inaction and procrastination. A blanket exemption for environmental issues would render this extra engagement for every issue unnecessary, saving time and resources and enabling devolved administrations to act more nimbly in environmental emergencies.

Q18. If a blanket exclusion for environmental legislation is added this would need just one major assessment and evidence gathering exercise under which potentially significant economic impacts to divergent environmental legislation could be

considered in the round, alongside those less likely to cause harm. This would save time and resources and lead to a robust exclusion which would cover all grades of impact without having to revisit each time an individual issue arises.

Q20.

is working through an extensive partnership to secure legislation to end the sale and supply of peat for horticulture across all four nations of the UK.

This has given us a valuable insight into how the UK Internal Market Act 2020 is currently impacting on the ability of governments to exercise their devolved powers to legislate on environmental issues.

The use of peat in horticulture is an excellent case study to consider for any review of the Internal Market Act, as like other similar issues such as bottle returns, single use plastics and glue traps, it cuts across two areas: one devolved (the environment) and one which is not devolved (trade).

The use of peat in horticulture has a very high environmental impact. Extraction of peat releases hundreds of thousands of tonnes of carbon dioxide each year, contributing to climate change and making it harder for governments to reach statutory net zero targets. Peatlands are important for biodiversity and nature's recovery; they also provide and act as natural solutions to climate resilience, helping absorb excess rainwater from extreme weather events and protecting local communities from flooding.

All four governments agree that legislation is necessary to make the horticulture industry give up peat for good: a voluntary approach between 2010-2021 reduced peat usage considerably but levels of peat in UK horticulture still remain high (950,000m³ in 2022).

The Welsh, Scottish and UK governments all have a stated policy to legislate to end peat sales in horticulture. The Northern Ireland Executive is still in the process of developing its Peatlands Strategy. Yet, four years on from the first stated intent to legislate, there is still no legislation in place anywhere in the UK. This is in no small part due to the dampening effect of the UK IMA on the ability of devolved administrations to take action without deferral to Westminster.

In the case of Scotland and Wales, this is to a large part because were they to legislate unilaterally, as their devolved powers allow them to do, the UK IMA would render such legislation meaningless by continuing to allow peat supplies to cross their borders from elsewhere in the UK. The Scottish and Welsh governments have therefore felt unable to

act on their own policies, constrained by the UK IMA and its perceived consequences for home markets.

We share the Scottish Government's view that the Common Frameworks have been a far more collaborative and equitable way of deciding intra-national matters within the UK than the IMA, especially concerning those issues, like peat sales, where environmental policy impinges on trade policy. We would like to see a Common Framework developed for peat sales to enable agreement on how best to go forward. However, as with exclusions under the UK IMA, relying on individual Common Frameworks for each issue seems a piecemeal, ad hoc approach, so we feel a neater solution would be a blanket exclusion for all environmental legislation within the UK IMA.

At the moment, the only solution to the problems posed by the UK IMA with regard to the sale and supply of peat is to pass pan-UK legislation which would take effect simultaneously in England, Northern Ireland, Scotland and Wales. We understand this is currently under discussion within the EFRA Inter-Ministerial Group. While this is a practical and effective solution to the current difficulty, it is hardly true to the spirit of devolution and is unlikely to allow nations to pass legislation fully tailored to their particular administration.

As it stands, the UK Internal Markets Act effectively asks devolved governments to 'get permission' from the UK Government before they can act. At present, Scotland and Wales (and to a lesser extent Northern Ireland) are dependent on legislation from the UK Parliament on peat sales before they are able to act on their own devolved powers. They have now been waiting four years since announcing their policies to legislate, with still no legislation tabled by the UK Government to end peat sales. This takes away the choice to act on peat sales for both Scotland and Wales, and means Westminster is effectively dictating policy to both devolved nations on this issue.

Our preferred solution would be to add a blanket exclusion for all environmental trade policy, opening the way for devolved governments to legislate in this area at their own speed, and in their own way. Alongside a Common Framework on the sale and supply of peat, this would allow all four nations the freedom to act as they see fit on legislating to end peat sales, enabling them to fulfil their own policy pledges and upholding the spirit as well as the letter of devolution.

RESPONSE 39

[REDACTED]

Q1. The UK internal market for goods is best supported using the Internal Market Act ('the UKIMA' or 'the Act') by ensuring that legislation reflecting public opinion passed by

the different Governments of the UK can have the desired effect on trade, for example to reduce or eliminate the trade in products that cause suffering to animals, as was the case recently with the Scottish Government's intent to ban the sale of rodent glue traps. The Act's principles of mutual recognition and non-discrimination could unintentionally undermine higher animal welfare standards set in one part of the UK if lower standards are accepted in another part of the UK. The UK can maintain and improve its animal welfare standards without jeopardising the principles of a free and open internal market by building a clear and consistent policy for the adoption of exclusions. Such clarity will assist businesses in understanding internal market limitations on trade where they are necessary to protect and reflect public morals.

Q3. Polling in 2022 revealed that 72% of the voting British public would like to see governments pass more laws designed to improve animal welfare and protect animals from cruelty (Focaldata). In order to enable devolved nations to pass laws to properly protect animal welfare, in line with public expectations, it is imperative that higher standards passed in one UK nation are not undermined by the free UK-wide sale of goods produced to lower standards in other parts of the UK or the world. A clear and consistent approach to exclusions would ensure that goods produced to low animal welfare standards deemed unacceptable or not permitted in one UK nation (such as fur or foie gras), or goods leading to poor animal welfare outcomes (such as glue traps or snares), could not be freely sold in markets that have chosen to enforce higher animal welfare standards

Q4. The Act's market access principles generate significant deregulatory pressures, effectively eliminating the freedom for one UK nation unilaterally to elect to introduce and enforce stronger and more progressive laws in response to public morals, including those designed to protect animals from suffering.

The current framework affords too little flexibility for regional policies to adopt higher welfare standards, and doesn't yet provide enough safeguards to protect these standards against potential competition from lower-welfare products in other regions. We recognise concerns that swinging towards fragmentation in different nations' approaches to the sale of goods could be confusing for businesses and consumers. However, in the case of devolved laws that aim to better protect animal welfare at the national level through trade, it is often the case that nations will upwardly harmonise towards a unified internal market. For example, 77% of the public across all UK nations consider fur to be unethical and would support a ban on fur imports and sales. If England were to ban fur sales it is, in our view, highly unlikely that other UK nations would not recognise the societal imperative to follow suit.

We acknowledge and support the aims of the Animal Health and Welfare Common Framework for UK nations to develop common policy approaches in making changes to animal welfare legislation. Clearly the preferable option in an example like UK fur sales

would be for agreement on a sales ban to be reached amongst all nations at the time that the UK legislation is passed, but if consensus could not be immediately reached the UKIMA should not be a barrier to a devolved nation enacting a fur sales ban unilaterally.

Ideally, this amendment would involve expanding the Schedule 1 list of exemptions to clearly exclude sales bans on animal welfare grounds—such as those on products made with poor animal welfare practices—from the market access rules. Alternatively, Part 1 of the Act could be changed to follow the example of the Swiss Internal Market Act, maintaining market access rules but making them clearly subject to a wider set of public interest factors, including animal welfare.

A third, though less desirable option, in the absence of the above measures being introduced, would be for the Secretary of State to use powers under section 10(2) of the Act to amend Schedule 1, and so exclude measures from the market access principles on a case by case basis.

Q5. We welcome the UK government's agreement to providing an exemption for single-use plastics, as well as an exclusion as requested by the Scottish Government to allow for the introduction of a ban on the sale of glue traps.

As noted in previous answers, such exclusions are essential to ensure that the UKIMA does not undermine progress in animal protection and other issues of societal interest.

We also believe that the introduction of greater freedoms to allow different parts of the UK market to improve animal welfare in goods and services at different rates will support the stated policy objectives of the UKIMA. The UK has consistently high levels of public concern for animal welfare, so measures to advance and expedite the protection of animals can help to 'provide for the general welfare, prosperity, and economic security of all UK citizens' from the perspective of alignment with evolving public morals on animal protection issues.

Q13. The Office of the Internal Market (OIM) should offer independent advice to the Secretary of State regarding decisions to introduce exclusions under the UKIMA. It should also monitor the effects, including any unintended consequences, of exclusions being introduced or refused. The advice the OIM provides should include any potential social harms, such as impacts on animal welfare or the environment, that may arise if a regional restriction or requirement is undermined by the UKIMA.

Q15. Part 1 of the UK Internal Market Act could be amended to ensure that animal welfare is explicitly included as a public policy consideration under the Act. This would allow regions to apply restrictions based on animal welfare concerns, provided that these measures are proportionate and do not disproportionately affect trade.

Clear and consistent guidance should be provided on when and how animal welfare exclusions under the UK Internal Market Act can be used, to help ensure that the process is transparent and that regions can effectively apply animal welfare considerations without risking legal challenges. Alongside this, provision should be made for democratic public and stakeholder engagement on the decision making process (such as consultations).

Q16. If the Schedule 1 list of exemptions is not widened so that all sales bans based on animal welfare grounds are expressly excluded from the operation of the market access principles, then interested parties should be provided with the opportunity to provide feedback and evidence in relation to a potential UKIMA exemption. Issuance of written consultations would enable stakeholders to submit relevant information to inform the Secretary of State's decision.

Q17. Evidence should include information on the policy implications of not having an exclusion, including societal harms (for example to animals or the environment) and strength of public interest in and support for a measure. It might also explicitly seek and take into consideration cultural reasons why the exclusions is sought.

Q18. Yes. The level of scrutiny, assessment, and consultation should reflect the likely consequences for trade, businesses, and consumers, as well as potential harms or benefits to animals and the environment. Differentiating the process would ensure that decisions are made proportionately, balancing economic concerns with public interest. Proposals with the potential for major economic consequences should follow a more rigorous and detailed process to evaluate potential consequences. Assessments should incorporate: economic impact assessments (including costs to consumers and impact on businesses); environmental impact assessments; animal welfare harm-benefit; public and stakeholder evidence and opinion. For decisions anticipated to have larger economic impacts, there should be a monitoring mechanism to track the effects of the exclusion once implemented. The monitoring would ensure that any unintended consequences can be addressed quickly.

The process to consider proposals expected to lead to lesser economic impacts should still be subject to robust scrutiny but could be more streamlined, with more limited consultations leading to faster decision making.

Q19. A measure that could substantially influence or distort overall economic performance, trade flows, or market dynamics of a particular sector, region, or the whole UK economy.

RESPONSE 40

[REDACTED]

Q1. The UK internal market for goods should be best supported by the UK Internal Market Act by facilitating the free movement of goods between the four nations and preventing the creation of technical barriers to trade.

The [REDACTED] acknowledges that devolution can be an incubator for policy innovation and dynamism, however the UK Internal Market Act must be designed to prevent any possible fracture of UK internal trade. Brexit has allowed for devolved governments to gain more competencies, but this should not shift the UK from an internal market of 27 member states to another made up of four states.

The UKIMA must be a backstop that can be put into effect when there is devolved government legislation that has the potential to make UK internal trade economically unviable. While solutions may work politically, they may not resolve business issues. This highlights the need for businesses, citizens and others to have some way to challenge the decisions made by the four governments within scope of the UKIMA (such as found in the EU with TRIS notifications, as part of the EU 2015/1535 procedure. We recommend a similar system to enable challenges is adopted by the Department for Business and Trade in the UK Government (recognising that the OIM Regulatory Developments Dashboard is an equivalent system for independent monitoring of the UKIMA). A TRIS-style system used by DBT would ensure thorough consultation of businesses by the UK Government itself.

The UKIMA has not been managed as effectively as it could have been – especially for business certainty. The management of UKIMA in relation to the Deposit Return Scheme in Scotland saw businesses invest significantly before the scheme’s collapse. While the scheme in its design was not fit for purpose, the implications of DRS for the UKIMA should have been considered much earlier in the process. This included the risk of unique labels, and the possibility that businesses would withdraw from the Scottish market altogether. A case study from an anonymised UK SME wine and spirits importer is contained below.

The consideration of UKIMA implications for the development of the Welsh Deposit Scheme must be made much earlier, and as soon as possible after the policy proposals are outlined and/or draft legislation is laid by the Welsh Government.

Earlier intervention in the legislative process, more transparency for business in the operation of the Common Frameworks, a more practical role for the OIM, and a clearer definition of what constitutes ‘significant economic impacts’ for goods are all needed.

Q2. It is conventional knowledge that having differing regulations to meet the same policy goal is significantly costly for businesses. As the study in paragraph 19 confirms, having differing regulations reduces products from being sold in particular nations. In the context of the wine and spirit sector, this affirmation goes beyond just single products being withdrawn but extends to whole businesses withdrawing or committing

to withdrawing from individual nations. Previous plans for a Scottish DRS are a clear example of this. It is essential that significant differing regulations must be prevented through the use of the UKIMA. Having differing regulations later in the supply chain, instead of the beginning, only kicks the cost to another group of economic operators, and vice-versa. It does not resolve the root issue of having implemented a poor policy design.

For example, the specific impact of Scottish DRS is illustrated in the case study below from a UK SME wine and spirit importer (name redacted):

We estimated that the general cost of the scheme would add over £100K of cost to the business.

We estimated that the cost per article would be an additional £0.38 with the £0.20 deposit on top.

We would have to register over 90K articles with Circularity Scotland.

We would need a specific Scotland bar-code and SKU for wines going into Scotland. This will increase production costs as well as increasing our stock holding and warehouse space used to store 2 different SKUs for the same wine.

It would make Scotland a less desirable place to invest and grow the business, due to the additional bureaucracy and cost of doing business.

It would impact the provenance and value of Customer Reserve wines delivered to Scotland, as the cases would need to be opened and bar-coded.

The environmental impacts of the additional logistics infrastructure to collect the bottles and consumers travelling to redeem their deposit, goes against our company sustainability goals for Net Zero.

Q3. Policy and regulatory innovation should be encouraged, while also acknowledging that any UK-wide alignment must be led by central Government through a substantive consultation process.

There should also be acknowledgment of commercial consequences from devolved government deviation from a UK wide system, with decisions always ensuring the UK's economic growth is maximised.

Local regulatory innovations must also be considered in terms of whether the regulatory proposal itself constitutes significant divergence from the position of other UK Governments in that area, or whether the divergence is primarily based on differing speeds in implementation of shared policy goals (the exclusion request for single use plastics is a good example). Regulatory innovations are much less likely to be disruptive to intra-UK trading and supply chains where businesses are aware that alignment is the intended end-goal for all UK Governments, even if there are interim differences.

Q4. The market access principles for goods to date are appropriate, with the four listed exclusions also being understandable. However, the list of exclusions must not increase without proper checks and balances. Industry must play a leading role in any possible exclusion that has the potential to distort the UK internal market, and by extension the UK economy. The previously proposed Scottish DRS system is a good example where a possible exclusion to the UKIMA would have had a detrimental effect on the operation of the Scottish market and wider UK economy.

Q5. The amendment powers as detailed in Part 1 of the UKIMA are appropriate. Although, it does not stress enough the necessity to keep economic growth at the forefront of any kind of policy formulation.

For instance, policy exclusions for devolved governments immediately mean that there will be barriers to UK internal trade because other UK nations would not have the same compliance requirements.

Therefore, economic impact assessments must be made to any devolved government deviation. Within the economic impact assessment, there should be deep consideration for the commercial environment with which economic operators must operate.

Furthermore, the [REDACTED] stresses the need to have UKIMA decisions enabled by Part 1 amendment powers as soon as possible. Any burdensome delay to a final decision risk creating economic uncertainty and costs to economic operators, especially because businesses must price regulatory changes into their business operations years before scheduled implementation. The Scottish DRS proposal is a good example where the delay to coming to a decision resulted in many economic operators investing in costly compliance apparatus which was later not needed. It must be noted that the financial cost to economic operators in this case was in the millions of pounds.

Q13. The Office for the Internal Market (OIM) must continue to provide robust monitoring of the operation of the UK Internal Market, as new regulatory innovations across the four administrations impact the operation of the UK Internal Market Act, and possible exclusion requests. The OIM's role in advising Government and taking evidence on regulatory divergence must be enhanced. The UKIMA review must give the OIM a more practical role in managing the application of the UKIMA for UK Government.

The OIM should be able to define 'significant economic impacts' that are notifiable under the UKIMA, or that provide barriers to the market access principles. The OIM should also be able to actively participate in engagement via the Common Frameworks processes, and the Inter-governmental groups (IMGs). This includes attending these sessions, providing feedback on regulatory issues raised via the Regulatory Developments Dashboard, and other means of engagement, and providing an OIM position on what constitutes a 'significant economic impact'.

As stipulated in the answer to question 1, the EU TRIS notifications system is a useful tool for stakeholder flagging of regulatory divergence and should be adopted and managed by the UK Government via the Department for Business and Trade. A TRIS-style notification system, and the OIM's dashboard should be aligned. Rather than replication, this is to ensure that the UK Government is carrying out proper consultation with stakeholders, alongside OIM's effective dashboard for their own role in providing independent monitoring and advice.

The [REDACTED] welcomes the publication of an updated case study on Deposit Return Schemes (DRS) in the OIM's 2024-25 report on developments relating to the UKIMA. The [REDACTED] also welcomes the launch of the OIM's Regulatory Developments Dashboard – and supports any means of increasing visibility and accessibility of the resource to trade associations (TAs) and businesses. To ensure that possible regulatory divergence impacting intra-UK trade is on the OIM's horizon as early as possible, there must be a straightforward and simple means of flagging legislation and regulatory developments for inclusion on the dashboard. The dashboard usefully segregates between specific legislation/regulations, sectors, and different devolved Governments, but the OIM should also publish details of which items from the dashboard have been escalated to the Department for Business and Trade and UK Government, and via the Common Frameworks process. Where issues are cross-cutting across sectors, they should be raised via multiple Common Frameworks.

Suggestions for defining a 'significant economic impact' are contained in the answer to question 19.

Q14. [REDACTED] supports the breadth of the CMA's authority to undertake a review of any matter considered relevant to the effective operation of the internal market in the United Kingdom on their own initiative.

However, the provision within sections 35 and 36 of Part 4 of the UKIMA that prevents a relevant national authority from requesting a CMA report on the operation of the internal market act where 'any other person or body is qualified to provide an independent report' can provide it, is unnecessarily restrictive. Especially where a regulatory provision risks detrimental impacts to the effective operation of the UKIMA and market access principles, the CMA's authority, and independence of assessment may be of significant benefit to the consideration of the impacts of an exclusion proposal.

The current minimum requirement for the CMA to publish their broader report on the operation of the UKIMA (including common frameworks) every 5 years (section 33, clause 6) is too long and should be shortened to at least every 3 years. The common frameworks are a fundamental means of resolving issues that could lead to a UKIMA exclusion proposal. More regular reporting on the impact of the common frameworks on the operation of the internal market is certainly a priority for the areas that are

mostly/wholly devolved, and/or there is significant regulatory change ongoing. This is because common frameworks for devolved policy areas are not specific to technical regulatory detail. The resources and waste common framework is a good example.

Q15. Early-stage intervention in emerging areas of regulatory divergence is essential – and must improve based on the current operation of the UKIMA. The OIM should be recommending to the UK Government when to commence engagement under the Common Frameworks process, for regulatory issues they are tracking via their developments dashboard. Via active participation in the Common Frameworks process, the OIM should then be sharing their evidence base as gathered via engagement with businesses.

As detailed in the answer to question 13, the OIM requires an enhanced role to define and escalate emerging ‘significant economic impacts’. While it is not the intention of the UKIMA to prevent devolved Governments legislating, the identification of a significant economic impact (as outlined in the answer to question 19) should be a justified means to reject an exclusion request.

Under the Common Frameworks, Inter-Ministerial Groups should be escalating risks of possible regulatory divergence to the Inter-Governmental relations Secretariat within the Cabinet Office at the earliest opportunity, to avoid the need for a formal consideration of a UKIMA exclusion request, and to provide certainty for businesses to operate and invest across the UK.

Using the UKIMA as a mechanism, at a late stage, to overturn unfit for purpose regulation introduced for political gain must be avoided wherever possible. The rejection of a UKIMA exclusion request for the Scottish Deposit Return Scheme was enforced after businesses had invested over £80 million the scheme administrator Circularity Scotland. Significant investment had also been made in scheme infrastructure, such as Reverse Vending Machines (RVMs). Exclusion proposals must be anticipated, and avoided where possible, by regular discussion of emerging regulatory divergence between the UK Governments and via Common Frameworks. Rejection of exclusion requests must not be a tool to manage seamless, intra-UK trading. Early-stage, regular engagement via the Common Frameworks must be maximised.

The only successful UKIMA exclusion request for goods was granted for single use plastics, with the rationale that across the UK Governments shared an end-policy goal of permanently banning the use of certain single use-plastics. Effectively, this was an issue related to the timing of policy rollout. In the event that an exclusion to the UKIMA is under consideration, IMGs, the Common Frameworks, and other means of collaboration on devolved policy areas should provide clear evidence of shared end-goal policy intentions, and the dates by which necessary legislation and/or statutory

guidance will be laid across the four UK nations to ensure policy alignment, and the removal of any barriers to market access/significant economic impacts.

Q16. While it is difficult to ensure that engagement has been proportionate, some suggestions include:

Asking an independent body, such as the CMA/OIM to identify the most affected sectors under a specific exclusion proposal, for targeted stakeholder engagement. For goods, these could include businesses with the largest market share, businesses with significant SKU complexity (most at risk of complexity), and businesses at a stage of the supply chain facing the most difficulty in implementing divergent requirements. This could be retailers and importers within the divergent market who are attempting to move/sell goods into wider UK markets, in addition to wholesalers who distribute a significant number of goods with limited opportunity for extensive traceability from first point of import.

Ensuring that engagement accounts for varying potential impact, based on business size. For example, reporting on SME-specific issues posed by an exclusion request should always be undertaken.

Use of the IMGs and inter-governmental forums ensures that views on exclusion requests are equalised, and there is no risk of engagement forums under the Common Frameworks process, or the OIM, receiving disproportionately high representations or evidence bases from the Government within the UK proposing the exclusion (who are naturally likely to undertake more proactive or earlier-stage engagement with the UKIMA process).

Q17. Exclusion proposals must be able to evidence that extensive engagement via the Common Frameworks, IMGs, and Inter-Governmental Relations Secretariat has taken place to obtain the following evidence (not exhaustive):

A list of regulatory risks, trade barriers, significant economic impacts, any divergence in regulatory obligations, and/or any other market access complications that have been raised. These could even be those present on an interim basis as all four UK nations progress towards policy alignment

Consideration, and identification of any 'significant economic impacts' via the OIM

Agreed positions for eventual policy/regulatory alignment, and a commitment from each UK nation as to when necessary, implementing legislation and/or statutory guidance will be brought forward to enable this alignment

Exclusion requests should be subject to demonstration that all possible barriers to trade, and impacts on market access principles, have been considered as part of possible regulatory divergence. The following tests should be applied (these were

specified by the OIM's 2023-24 operation report as three common responses that businesses face when met with divergent requirements):

Could the exclusion proposal require separation of supply chains at any stage of product development/sale to end-user or the consumer? (This could include separate supply chains for all four UK nations, or even 2 distinct supply chains – one for the divergent market and one for the wider UK)

Could the exclusion proposal require businesses to withdraw from the market? (The threshold for market withdrawal may be difficult to determine, but this could be applicable when a significant number of certain business types or sizes are considering market withdrawal, or when market withdrawal is a common/widespread risk for a certain product type. In the case of DRS, this may be glass containers for certain drinks categories)

Does the exclusion proposal require development of a new, standalone regulatory threshold? (Where businesses are forced, to protect market access principles, to develop a new, standard that is compliant across all markets). Even where it is possible to develop this new standard it may still incur a disproportionate level of business cost, supply chain disruption, and function as a trade barrier (i.e. unique labelling identifiers for different UK markets). In some cases, it may be impossible to develop this standard, or be so operationally complex, that market withdrawal is the preferable option for businesses.

Additionally, the following must be considered as a 'baseline' assessment of the implication of an exclusion request:

Does the exclusion request lead to a 'significant economic impact' (defined in answer to question 19)

The exclusion proposal should be able to prove minimised impact on business in the long-term by presenting evidence that other UK nations are progressing towards a shared end-policy goal, anticipating regulatory alignment that will avoid any barriers to trade, or significant economic impacts (further representations on the definition of this in the answer to question 19).

Where exclusion requests are granted, this disadvantages businesses that are based in the divergent market/UK nation, or where it is the first point of import into the UK for their products. The inability to rely on the mutual recognition or non-discrimination principles will cause disruptions to supply chains, and often increased costs and/or operational difficulties. Exclusion proposals should be able to evidence extensive consultation, with businesses, but preferably a public consultation too (to account for consumer impact). Exclusion proposals should be able to evidence support from businesses, and the general public for an exclusion proposal and identify any trend in

support/opposition. For example, is there correlation between support/opposition for the exclusion proposal, and business size (aka, is the exclusion proposal SME-disproportionate)?

The exclusion should also be able to clearly evidence that failure to apply the exclusion will have disproportionate policy impacts on that UK nation. For example, while the Welsh Government is yet to propose a UKIMA exclusion for the development of their own standalone DRS scheme, it is a reasonable assumption that an exclusion request will be required. The Welsh Government has indicated their intention to include glass within scope of their DRS scheme. Wales currently has the second highest recycling rate for glass (92%) globally, achieved via the existing kerbside collection method. Given the possible impacts on business, exclusion requests should be examined in relation to whether there is the need for urgent action or improvement in a given policy area, with the necessary regulatory changes requiring implementation ahead of wider UK nations. In short, a UKIMA exclusion proposal for Welsh DRS could have been seen as more rational, in the event that Wales had poor recycling rates, disproportionate to the rest of the UK, and felt that these were having a significant, negative environmental impact requiring urgent attention.

Q18. Yes, there should be a separate process, or at least higher evidence threshold required for proposals that could incur a significant economic impact (defined in the answer to question 19). A higher threshold of evidence could include:

Consideration of whether the proposal will lead to market withdrawal by businesses

Proof that Common Frameworks, IMGs and other cross-governmental forums have attempted to agree a joint position on future regulatory alignment (say in the next 3-5 years), and have produced an extensive list of market risks, trade barriers, and possible regulatory adjustments facing businesses

Public and business consultation on the exclusion proposal, with indication that there is support within that UK nation (both the business community, representative bodies, and wider public) for the proposal. For more specific proposals, consultation could be carried out on a sectoral basis.

Proof that the impact of the proposal has been considered in relation to the size of the business (is the proposal SME-disproportionate or are SMEs at higher risk of market withdrawal).

The OIM's research, as part of the 2023-24 UKIMA operation report also specifies a finding that businesses prefer regulatory divergence the later that it occurs within a supply chain. This is a general principle, and for proposals involving significant economic impacts, the stage of the supply chain in which impacts arise should be tested extensively in consultation with business.

There should be no lowering of the evidence threshold required for exclusion proposals with general, or 'non-significant' economic impacts.

Q19. Suggestions for the definition of a 'significant economic impact': While there will be specific definitions for certain policy areas, a significant economic impact may be any market-wide impact that is considered to be consumer or SME-disproportionate, cause market withdrawal, require businesses to develop separate supply chains, or where there is an inability to pioneer a single, universally-applicable regulatory standard to bypass the impact of a divergent regulation, on market access principles.

General Significant Economic Impacts Include (Goods Specific): General application of differing regulatory standards to goods/products: At a headline level. For example, the inclusion of different materials in different DRS schemes across the UK

Unique Labelling Identifiers: Any exclusion proposal that requires a unique identifier on a label, such as divergent in-scope materials for DRS scheme, naturally requires separation of supply chains, and separation of stock as transported between UK markets. The difficulty of applying these outside the normal labelling cycle must be considered. Even if it was possible to apply these via hand-labelling, this is still incredibly cost-ineffective. Hand labelling can cost as much as £2/bottle for wine and spirits products.

Requirement for separation of stock for a specific market: This is important, especially when considering how wholesalers and third-party distributors for goods operate.

Traceability of goods may be complex when sold via a wholesaler

Divergence in data collection requirements: Any divergence in requirements to collect, and report data on the movement and consumption of goods, and/or their characteristics (an industry-specific example may be the type of material that packaging is made of)

Evidence of possible market withdrawal (A judgement could be made as to whether this withdrawal is correlated to the size, or position of businesses within the supply chain). Retailers (that may supply goods to consumers in multiple UK markets) and importers within the divergent market (other UK importers will be protected by the market access principles), will be the most affected business type. A judgement could also be made as to whether market withdrawal could have a significant impact on the consumer, or a particular category or sub-category of goods.

Adjustment to supply chains: Where businesses need to make changes to their supply chain to account for a divergent market, or would need to develop, and invest in, new processes for a divergent market.

Adjustment to a new, commonly applicable regulatory standard, that requires significant expenditure, operational adjustments, and supply disruption to pioneer:

Essentially, even if pioneering a new, universally compliant standard in response to divergence is possible, the extent to which this creates a financial and operational burden on businesses must be considered

Intentions for development of new policy standards, supplementary to those outlined in the exclusion request: The consideration of an exclusion request should be based on the immediate policy proposal and/or regulatory divergence. The possibility of a future development of policy should not be a reason to grant an exclusion request, for example, any exclusion request for Welsh DRS should not be granted based on the future possibility of developing a glass re-use scheme.

Divergence in the delivery method of a policy, even if the intention of the policy is aligned between different UK markets: For example, in the case of DRS, two UK markets may have the same materials in scope but one proposes a physical return point process, while one proposes a digital DRS using evidence of kerbside collection. The divergence in methodology will still place significant burdens on business and consumers to engage with the schemes.

Specific to the DRS Scheme, the below agreed positions for the UK-wide approach to implementing DRS schemes were published in April 2024. Any divergence from the below agreed positions, in implementing a DRS scheme, should be considered a significant economic impact (for the purpose of applying the UKIMA and market access principles for DRS):

In-scope container Size: 150ml-3 litres

Exemption of 'Low Volume Products' (Product lines with <5,000 units on the market)

Labelling Requirements: A scheme logo, and a consistent identification marker

Aligned, UK-wide deposit level

Exemption of retail premises in urban areas that are 100m² or less in size, from operating as a return point

No requirement for retailers to operate online takeback services

The above are not exhaustive. For DRS schemes any divergence between in-scope materials constitutes a significant economic impact and is perhaps the most significant impact for businesses that should be considered.

Labelling: Any difference in required labelling terms that results in the requirement of re-labelling or modification of the label during the supply chain (I.e. hand labelling) should be considered a significant economic impact. If, and when, electronic labelling via QR becomes commonplace in UK markets, divergent labels may be increasingly manageable via the provision of additional content that can be stored digitally and regularly updated. However, QR labels are not currently commonplace or widespread

on drinks containers on the UK market, and they should not be introduced as a requirement of a specific regulation or piece of legislation for the means of managing interoperability. Labelling transitions are significant adjustments that are managed via multiple labelling cycles. Adjustments in consumer behaviour are also required.

Q20. The [REDACTED] feels that the UKIMA process could be improved to achieve earlier intervention on diverging regulatory standards (providing certainty to businesses), a clear definition of a significant economic impact, and an enhanced role for the OIM. [REDACTED] recommendations for the review are summarised below (order does not indicate prioritisation):

As an overarching principle, consider a UKIMA exclusion proposal based on the policy/regulatory proposal under which an exclusion has been requested. Do not use the development of future policy standards, that are not available for scrutiny at the time of the exclusion request, as justification for approving an exclusion request.

Improve Common Frameworks Operation and Transparency: The Common Frameworks process is difficult for businesses to understand, especially time-poor SMEs with limited understanding of the legislative process. There must be greater transparency over the exact regulatory issues (and associated commercial impacts) that are discussed via the Common Frameworks – in an accessible way for businesses and trade associations to digest. The OIM must have a much more active role in inputting into discussions held via the Common Frameworks process and should have the power to define a ‘significant economic impact’ as part of this process.

Expand the evidence base for consideration of UKIMA exclusion requests. Ensure that exclusion requests of possible ‘significant economic impact’ are subject to an expanded evidence base and scrutiny measures.

Expand the definition of a ‘significant economic impact’ and OIM’s use of these, with the OIM to publish clear examples of significant economic impacts for goods. The OIM should also be able to escalate their interpretation or judgement of a significant economic impact to the Common Frameworks process, inter-ministerial groups (IMGs), and all four devolved Governments.

Confirm a separate process, or higher evidence threshold (with key guiding indicators) for exclusion proposals with ‘significant economic impacts’. Meanwhile, ensure that this does not reduce the scrutiny of, or evidence base required for, any and all other exclusion proposals

Give the OIM a more practical role in managing the application of the UKIMA: As detailed across various answers, the OIM should have significant scope to define and escalate significant economic impacts of regulatory divergence at an early stage in the legislative process, to give businesses confidence that the implications or the UKIMA

are being considered. The OIM's Regulatory Developments Dashboard should be as accessible and visible as possible, to ensure that businesses and trade associations can input. Finally, the OIM must have a much greater role in the operation of the Common Frameworks, and discussions that take place via the operation of the common frameworks. The OIM gathers significant representations and evidence from business and devolved Governments and must be able to feed these into discussions to ensure that a balanced evidence base is always presented.

Ensure a proportionate balance between the 'divergent' devolved Government and other governments across the UK in presentation of evidence: When an exclusion request is proposed, or the OIM raises an issue of regulatory divergence they are tracking, the initial evidence base should not wholly be presented by the Government within the UK that is the source of the divergent regulation or policy. The OIM should be tracking issues, and taking business input from an early stage, to ensure that there is always a comprehensive and balanced evidence base for consideration under the UKIMA.

Some minor changes to the regularity, and process to request, CMA reporting on the effectiveness of the UKIMA (Part 4, UKIMA): Detailed in answer to question 14

Background to Respondent [REDACTED]

[REDACTED] is the trade body for [REDACTED] membership has broad supply chain coverage, including producers, importers, wholesalers, glass manufacturers, bulk bottling providers, and retailers (both specialist and major multiple supermarkets). Over 60% of [REDACTED] members are SMEs, and over 30% are micro-businesses.

The UK [REDACTED] industry is both economically significant, and a global hub for the trade. In 2022, the UK wine and spirits industry supported 413,000 FTE jobs (over 60% in the on trade), generated £76.3 billion in economic activity, and contributed £22.6 billion in Gross Value Added (GVA). The industry's largest contribution to economic activity came via the UK supply chain(importers/wholesalers/distributors/bottlers).

[REDACTED] represents c.70% of all drinks industry glass on the UK market.

RESPONSE 41

[REDACTED]

Q20. [REDACTED], established under the 1998 Belfast-Good Friday Agreement, is a North-South Implementation Body supporting cross-border trade and business growth across Ireland and Northern Ireland. Its work aligns with both governments' economic priorities, focusing on increasing exports, boosting SME productivity, and enabling the transition to a net-zero economy.

For 2023-25, its strategic priorities include:

Growing cross-border exports

Enabling collaborative innovation

Supporting business networks and clusters

Since its inception, [REDACTED] supported over 60,000 businesses, generating €1.95bn/£1.7bn in business value and helping entrepreneurs secure over €350 million in investment. Cross-border trade serves as a key step for small businesses to expand beyond domestic markets. As a trusted all-island connector, [REDACTED] facilitates collaboration among businesses, policymakers, and academia to drive productivity, exports, and innovation

Specifically in relation to trade [REDACTED] provides:

Trade information and tailored advice (VAT, Customs, Regulation and Employment) on the island of Ireland through Trade Hub.

Helps grow sales by providing financial assistance to businesses for cross border sales, sourcing opportunities on the island, leading trade missions and delivering accelerator programmes.

Coach businesses in the identification and development of cross border opportunities.

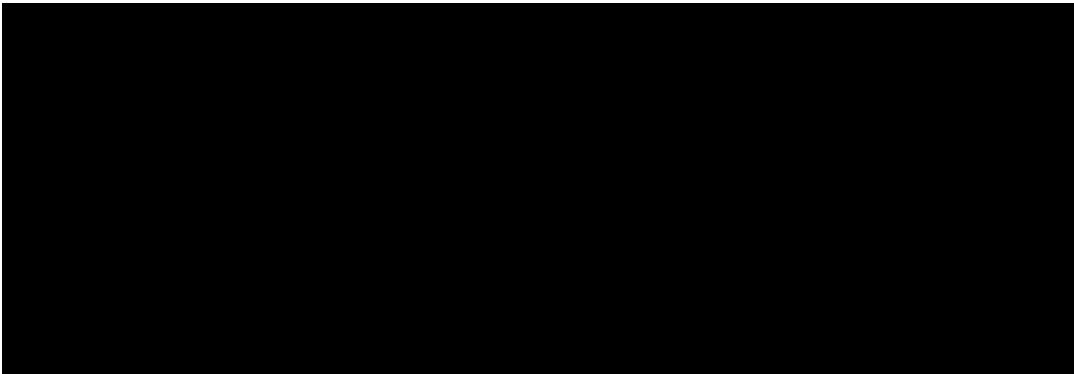
[REDACTED] is developing a Technical Trade Forum to facilitate collaboration between ROI Government and NI Executive to ensure policy decisions are grounded in practical up-to-date information.

Our work focuses on removing trade barriers, primarily under Part 5 of the Act, which is not included in this review. However, we acknowledge the importance of protections that support free movement and trade, ensuring their application is appropriate and transparent. There are valuable mutual lessons to be learned and we would note from our experience where any regulatory divergence is set to occur that it is vital that it is widely communicated and that it is essential for businesses particularly SME's to be given time in advance of any divergence to adapt to new requirements.

RESPONSE 42

[REDACTED]

[REDACTED]



RESPONSE 43



Q5. An exclusion should be applied to solid fuel so that fuels which are not authorised for use in the UK cannot be supplied to the market from the Republic of Ireland, which would undermine the domestic regulations and present unfair competition to UK solid fuel merchants.

RESPONSE 44



Q1. The UKIM Act is a necessary underpinning for the operation of the UK Internal Market in a world where the Windsor Framework creates one regulatory dynamic whereas the UK being in its own regulatory space for many areas after Brexit creates another. Having a clear statutory underpinning of the the two main market access levers of mutual recognition and non-discrimination is vital.

Q2. In terms of packaging regulations later on in manufacturing process different rules can be relatively simple for businesses to follow but for manufactured products themselves having clear advance knowledge and the ability to involve new enforcement processes as early as possible in production chains is more preferred.

Q3. There must be a clear cross-reference between the implications of the Windsor Framework, the operation of the UK Internal Market and regulatory innovation in each of the devolved settlements. The presumption should be in favour of continued alignment across the UK in terms of goods unless there are clear public policy or security or economic interests for not so doing.

Q5. Appropriate so far, but can only ever be exceptional cases and should be limited.

Q6. Best secured by regulatory co-operation and insight between professional bodies where distinct bodies exist in the devolved nations or federal structures operate.

Q7. Some services sectors will be clearly delineated by distinct rules in each devolved nation, whereas others will be regulated via the UK Parliament and Westminster regulatory bodies. Ensuring as full an access as possible to provision of professional services is key to achieving this in Scotland.

RESPONSE 45



Q4. They do not go far enough as far as our industry is concerned

Q5. if it is necessary to stop the sales then it is important, other than that I am not sure if the changes have been effective.

Q15. Making it easier to get a service excluded rather than having to legislate to add an exclusion

Q16. if all interested parties are requesting the same service exclusion it should be taken into account

Q17. The impacts that not having an exclusion are having on the industry because goods which break the law are able to be sold where they trade and it is dessimating the industry.

Q18. yes

Q19. In the coal industry at them moment goods are being sold in England which do not comply with the Air Quality Regulations and they are having a significant economic impact on all those businesses who trade in England and could if not stopped put them out of business. I think that is significant.

Q20. it allows the sale of solid fuels to happen without the solid fuels complying with the local regulations and is ruining the businesses of all those traders in England who cannot compete on price and product. Good businesses will go under leaving the companies who are selling the illegal fuels into England to profit. Also the fuels sold in England are supposed to comply with the Air Quality Regulations but while businesses in England are trading in only Ready to Burn fuels the fuels being sold into England are unauthorised and polluting for the atmosphere thus undoing all the good work that the industry has done over the past 5 years working with Defra.