

UK Internal Market: consultation response

August 2020

General observations:

Plaid Cymru fundamentally disagrees with the UK Government's approach to the UK Internal Market. In the era of devolution, the white paper and consultation should be a joint effort between the Welsh, Scottish and UK governments and the Northern Ireland Executive on an equal basis.

At only four-weeks long, the length of the consultation is inappropriate for the nature and impact of the proposal and suggests the UK Government sees its proposal as a *fait accompli*. This breaches the UK Government's own guidance that states that "consultations should last for a proportionate amount of time".

The questions on which consultation is being sought are narrowly framed and are not central to the fundamental issues of the white paper, which adds to our suspicion that the principles of the UK Internal Market have already been unilaterally decided by the UK Government. This is deeply unacceptable and reflects an approach that is incompatible with the principles of devolution.

Frameworks created in relation to the UK Internal Market must provide the devolved governments with regulatory autonomy in devolved policy areas. For that autonomy to be meaningful, the UK Government should not be able to force the devolved governments to accept goods produced according to lower standards in other parts of the UK, as would be the case under 'mutual recognition' and 'non-discrimination' as proposed in the white paper.

Whilst the scope of the white paper states that "pre-existing differences" will be excluded; it goes on to claim that divergent approaches to building regulations could be a barrier to design and plan projects across the UK. Welsh building regulations have diverged significantly from English building regulations since their devolution in 2011, and companies are currently required to follow the regulations in the nation in which they are operating. Their inclusion in the white paper implies that construction companies would no longer be required to observe devolved building regulations, a clear example of how the proposals will undermine the current devolution settlement.

The white paper states that "key decisions will be put to the UK Parliament for approval, rather than resting exclusively with the UK Government." Given the impact proposals will have on devolved competences, all decisions relating to the UK Internal Market must be subject to approval by the devolved parliaments as well as the UK Parliament.

We are concerned that the white paper does not state how dispute resolution mechanisms will be delivered under the UK Internal Market, nor does it commit to establishing parity between the four governments in relation to those mechanisms. It is vital that bodies and structures created to oversee the Internal Market must be fully independent and equally accountable to Senedd Cymru, the Scottish Parliament, the Northern Ireland Assembly and the UK Parliament.

We urge the UK Government to fundamentally reconsider its approach to the UK Internal Market and to start a meaningful discussion with the Welsh and Scottish governments and the Northern Ireland Executive about the future of governance across and between the nations of the UK.

Consultation questions:

- 1. Do you agree that the government should seek to mitigate against both 'direct' and 'indirect' discrimination in areas which affect the provision of goods and services?***

In the context of devolution, it cannot be the UK Government's role to seek to mitigate against non-discrimination, whether direct or indirect. The devolved governments and the UK Government should have an equal voice in deciding whether non-discrimination and mutual recognition mechanisms are needed, and if so, they must jointly agree the details of what constitutes 'direct' and 'indirect' discrimination.

- 2. What areas do you think should be covered by non-discrimination but not mutual recognition?***

Following a joint decision on whether these measures are required, each government should jointly decide the areas covered by them, given that powers over many areas such as agriculture and food standards are devolved.

These areas should not be decided until common frameworks and dispute resolution mechanisms have been unanimously agreed between all four administrations.

- 3. What would be the most effective way of implementing the two functions outlined above? Should particular aspects be delivered through existing vehicles or through bespoke arrangements?***

Plaid Cymru disagrees with the UK Government's approach on the governance of the UK Internal Market.

If non-discrimination and mutual recognition are enshrined into UK law – which should only be done upon the unanimous agreement of the four administrations – a robust independent dispute resolution system must be jointly agreed between all four administrations.

Any legislation that sets minimum, maximum or unitary standards across the UK must be agreed unanimously by all four legislatures.

- 4. How should the Government best ensure that these functions are carried out independently, ensure the smooth functioning of the Internal Market and are fully representative of the interests of businesses and consumers across the whole of the UK?***

An unelected panel appointed by UK Government Ministers would not be appropriate to oversee and/or enforce the functioning of the Internal Market. All governments of the UK must have an equal say in deciding what type of body is appropriate.

All bodies and structures created to oversee the Internal Market must be fully independent and equally accountable to Senedd Cymru, the Scottish Parliament, the Northern Ireland Assembly and the UK Parliament.