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Dear Baroness Kennedy,

**House of Lords European Union Select Committee: ‘Brexit: will consumers be protected?’ (9th Report, Session 2017- 19, HL Paper 5 I)**

I would like to thank the European Union Select Committee for its report considering the implications for consumer protection arising from the UK’s withdrawal from the EU. I am grateful for the Committee’s interest in this important area and its thoughtful analysis of the issues.

Today, UK consumers benefit from a wide range of rights when they buy goods and services. Maintaining a comprehensive framework of consumer rights alongside an effective enforcement regime is crucial for prosperity. This is and will remain a priority for this Government.

From the day the UK leaves the EU, the Government is committed to maintaining high standards of consumer protection, delivering the stability and continuity consumers need to continue to make purchases. It is our objective to have effective protections in place for consumers purchasing goods and services cross-border in future. It is our intention to cooperate closely with our EU partners on these matters after we leave the EU.

The Government has carefully considered the Committee’s conclusions and recommendations and I enclose our response.

**ANDREW GRIFFITHS MP**  
Minister for Small Business, Consumers & Corporate Responsibility

## **GOVERNMENT RESPONSE TO THE HOUSE OF LORDS EUROPEAN UNION COMMITTEE REPORT: 'BREXIT: WILL CONSUMERS BE PROTECTED?'**

The Committee's recommendations and conclusions are in bold and are followed by the Government's responses.

**We agree with the Minister that the cooperation between the EU and the UK on the development of the consumer protection acquis has played an important role in shaping this area of law. The UK's influence is illustrated by the recent proposal introducing pan-European consumer protection rights addressing the sale of digital content, which draws heavily for its inspiration on the rights introduced in the UK by the Consumer Rights Act 2015. (Paragraph 19)**

**As a result of this interaction, the EU's consumer protection acquis and UK national law are interwoven in a complex and interconnected fashion. Citizens' legal protections are strengthened by a harmonised system of consumer protection. While the many items of EU law provide the basis for consumer protection in the UK, our national law often provides for a higher degree of protection. (Paragraph 20)**

### **Government response**

The Government welcomes the Committee's agreement on the important role the UK has played in developing the consumer protection acquis. The UK has worked closely with the European Commission and in the Council to develop a comprehensive and robust consumer protection framework. For example, and as the Committee noted, we have been able to share our expertise, experience and insights to ensure the Digital Content Directive safeguards consumer rights and maintains consumer confidence in e-commerce.

We agree that this interaction has helped to strengthen consumer protections both in the UK and the wider EU. It is also true that while we have worked hand-in-hand with the EU to deliver high levels of consumer protection, on a number of issues, the UK has chosen to go further, providing additional protections for UK consumers. In 2015 in the Consumer Rights Act, we actively chose to go beyond EU minimum standards by, for example, establishing the consumer's right to reject a faulty good for 30 days.

Furthermore, the UK has a history of delivering high standards and strong protections for consumers, long before the EU acted in this area. Making sure that consumers are adequately protected, wherever and however they buy, will continue to be a priority for this Government.

**All our witnesses praised the Government's commitment to robust consumer protection rights post-Brexit and welcomed the European Union (Withdrawal) Bill as the means for achieving that end. The weight of our evidence suggests that the consumer protection acquis can be incorporated here via the Bill. (Paragraph 59)**

## **Government response**

The Government welcomes the positive views on the EU (Withdrawal) Bill expressed to the Committee. The Government is committed to maintaining high standards of consumer protection after we have left the EU to ensure that consumers continue to be protected from dangerous and unsafe products and unfair trading practices.

As a result of this Bill, UK consumer protections that are based on EU law will be retained. This means that after we leave the EU, when buying from UK-based traders, UK consumers will be able to rely on the same rights they have now, delivering the stability and continuity consumers and businesses need. This will protect the majority of purchases by UK consumers; by value, most purchases are still made in physical shops<sup>1</sup>, while the majority of online purchases by UK consumers are still from UK-based traders<sup>2</sup>.

**Witnesses with diverse areas of operation and expertise have highlighted the range and significance of individual items of EU legislation. It is clear that beyond setting the baseline for the consumer protection standards that individuals enjoy, EU legislation also plays a crucial role in facilitating a range of cross-border cooperative mechanisms designed to police consumer protection within the Single Market. (Paragraph 38)**

**While the range of legislation identified by our witnesses is broad, another theme is the importance of the agencies, networks and infrastructure, largely created by EU law, which, cooperate on a reciprocal basis, develop policy and facilitate information sharing and exchange between national and EU bodies as a means of protecting consumers across the EU. (Paragraph 39)**

**Of particular importance in this regard is the Consumer Protection Cooperation Regulation which encourages cooperation between national bodies tasked with protecting consumers. We note that the latest iteration of this legislation which is due to be agreed by the Council shortly, includes a provision that encourages cooperation with non-EU Member States. (Paragraph 40)**

**We also welcome the Minister's promise that the UK system will guarantee the rights of those UK consumers who have made cross-border purchases. However, a significant question remains about the protection and enforceability of the consumer protection**

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<sup>1</sup> The majority of retail sales in the UK still take place offline. Offline sales make up around 82 per cent of domestic retail sales. (Office for National Statistics Retail Sales, Great Britain, December 2017)

<sup>2</sup> In 2014, 82% of UK online purchases came from the UK, 12% from the EU and 6% from the outside the EU. (Office for National Statistics Retail Sales, Great Britain, August 2017, and Consumer Perceptions of (Cross-border) e-commerce in the EU Digital Single Market)

**rights of those UK citizens who visit the EU27 post-Brexit. We ask the Minister to address this specific point in the Government's response to this report. (Paragraph 60)**

**The Minister offered us repeated, clear and unambiguous statements that the UK's departure from the EU will not lead to any reduction in the standards of consumer protection currently enjoyed by consumers in the UK. But, she did not address the question as to how the Government will maintain access to the cooperation mechanisms that facilitate the protection of European consumers which are intrinsic to the maintenance and development of standards across the EU. We ask the Minister to address this question when the Government responds to this report. (Paragraph 64)**

**The Minister was sympathetic to the concerns of our witnesses about the loss of the EU based reciprocal arrangements that police EU consumer protection law, of which the Consumer Protection Cooperation Regulation is particularly important. Nevertheless, she was unable to provide us with any detail as to how the Government might secure their application to the UK post-Brexit and we question whether the Government has given any thought to finding a solution to this problem. (Paragraph 73)**

**Reflecting the evidence we received throughout this inquiry, both the Minister and the Deputy Director in the Department acknowledged the importance of the Consumer Protection Cooperation Regulation and classed its post-Brexit operation in the UK as a high priority for the negotiations. We agree. (Paragraph 74)**

**We call on the Government to make every effort to engage the provision in the reformed Regulation (which will shortly be agreed by the Council) that encourages cooperation with non-EU Member States. (Paragraph 75)**

**Our evidence also pointed to the important role played in consumer protection by a number of the EU's Regulatory Agencies. We are concerned that when pressed, beyond advocating a "special and deep relationship" the Minister was unable to offer us any plan as to how the UK might secure access and/or membership of these agencies post-Brexit. (Paragraph 76)**

**We ask the Government to provide us with a clear approach as to how it will secure the UK's post-Brexit access to the EU's reciprocal cross-border mechanisms, resources and infrastructure that police European consumer protection standards. (Paragraph 77)**

### **Government response**

The Government agrees with the Committee in recognising the importance of effective cross-border protections for UK consumers buying goods and services across borders.

Reflecting this, the Government is fully committed to securing the very best possible deal for consumers. Our aim is that UK consumers can continue to buy with confidence from traders in the EU and vice versa. We think there will be substantial benefit on both sides if we can agree suitable future arrangements for cooperating on cross-border enforcement. We can reassure the Committee that the Government has given substantial thought to how this might be

achieved. We have considered, in depth, a wide range of options for future cooperation and we are continuing to undertake detailed work on this. The way consumer protections apply when buying across borders in future, and the way the range of current reciprocal arrangements could work in future, are clearly a matter for the negotiations and will form part of the Government's wider negotiating strategy. The Committee will understand that this cannot therefore be discussed in any detail in this response.

We are optimistic, though, that EU member states will also see the benefits to their citizens of future cooperation. It is not in anyone's interest for rogue traders to target citizens based in the UK or EU.

We start from a good place with the arrangements which exist under the Consumer Protection Cooperation (CPC) Regulation. More recently, the UK has worked with the European Council to agree an ambitious new CPC Regulation which strengthens cross-border cooperation and enforcement for the new digital environment. We are pleased that progress was made to agree this file by the end of 2017.

The Government recognises the importance of other systems of cooperation and intelligence sharing such as RAPEX, the EU Rapid Alert System for dangerous non-food products; and the European Consumer Centre Network, an EU-wide network of advice centres for consumers shopping across borders. Intelligence sharing will remain important post exit and we are already working to explore options for maintaining information sharing across borders.

Securing a good deal for consumers with regard to cross-border purchases also means obtaining clarity on matters of applicable law, so traders and consumers know where they stand if something goes wrong when a purchase is made cross-border. As the Government's position paper on Civil Judicial Cooperation set out, we are seeking an agreement with the EU that allows for close and comprehensive cross-border civil judicial cooperation on a reciprocal basis, which reflects closely the substantive principles of cooperation under the current EU framework.

In seeking a new future economic partnership with the EU, we will also discuss how best to continue cooperation across the range of policy areas affecting consumers. Our future relationship with EU regulatory agencies such as the European Medicines Agency and the European Aviation Safety Agency will be subject to the negotiations. However, we can say now that the UK is fully committed to continuing the close working relationship we enjoy with our European partners.

**With regard to the international standards organisations CEN and CENELEC, we acknowledge that they are not formally EU bodies, and understand that the resolution of the UK's individual membership of these bodies post-Brexit is not directly within the Government's gift. Nevertheless, we call on the Government to support the BSI's efforts to amend these bodies' statutes to accommodate the UK's new status outside the EU and invite the Government to provide an update on this important issue when it responds to this report. (Paragraph 41)**

### **Government response**

The Government recognises the role of standards in ensuring the safety of products sold on the UK market, supporting consumer confidence and enabling a fair market for businesses and consumers. BSI has made clear its preference to remain a member of CEN and CENELEC. Given BSI's independence from the UK Government and CEN and CENELEC's independence from the EU, BSI must determine how and when it negotiates with its fellow members of CEN and CENELEC.

The Government will remain in close contact with BSI as it seeks to make these changes. We are working with BSI to ensure that the UK's future relationship with European Standards Organisations, including CEN and CENELEC, continues to support a productive, open and competitive business environment in the UK.

**At the outset of our inquiry, witnesses were clearly concerned that the Government had not yet engaged sufficiently with bodies that deal with consumer affairs. However, by September, when the Competition and Markets Authority gave evidence, there was a marked change in tone and the CMA suggested that the Government had improved its contact with relevant stakeholders. This increased level of engagement was confirmed by the Minister in October. (Paragraph 48)**

**We welcome the Minister's and the Department's promise to engage with stakeholders and consumer groups throughout the Brexit process on a regular and systematic basis, and hope that they are able to fulfil this wish. (Paragraph 49)**

### **Government response**

We are listening and talking to as many organisations, companies and institutions as possible as part of our preparations for the UK's exit from the EU.

The Government, both Ministers and officials, frequently meets a range of consumer groups and stakeholders, including Which?, Money Saving Expert and Citizens Advice. For example, in November, Margot James MP, the then Minister for Small Business, Consumers and Corporate Responsibility, and Robin Walker MP, Minister for Exiting the European Union, co-hosted a roundtable meeting to discuss consumer protections and EU exit with several consumer groups. During the meeting, Ministers affirmed the Government's commitment to maintaining high standards of consumer protection and delivering the stability and continuity

consumers require, as well as discussing steps the Government could take to ensure consumer voices continue to be heard. We look forward to continued engagement in 2018.

The Government also chairs the Consumer Protection Partnership, which brings together consumer advice groups, trading standards and other enforcers. These organisations help ensure consumers are protected from significant problems and the Partnership helps them to work together to pool information, identify new issues and make the best use of their combined resources. We are drawing on the operational experience and expertise of these organisations to understand the range of impacts of Brexit on consumers. We will also work with them to give clear information to consumers and businesses once the outcomes of the negotiations are known.

**We are concerned by the clear evidence from the national regulatory and trading standards bodies that they are already struggling to fulfil their important roles because of financial restraints even before the additional complications and challenges of Brexit. We were particularly struck by the implications of the Financial Conduct Authority’s testimony that coping with Brexit will “involve some very hard choices”. (Paragraph 84)**

**Despite placing the responsibility on local authorities, the Minister seemed sympathetic to our witnesses’ views, but we are concerned that she was not able to offer us any solutions to this important problem. We encourage the Government to come forward with a plan to address this problem urgently. (Paragraph 85)**

**We urge the Government, when it responds to this report, to set out a clear plan aimed at alleviating the pressures on national regulators, and addressing how they will continue to interact in the interests of consumers, post-Brexit, with other national regulators in the EU’s remaining 27 Member States. (Paragraph 86)**

## **Government response**

The Government recognises the valuable role played by national regulatory and trading standards bodies in protecting UK consumers. We are engaging with a broad range of stakeholders from across the consumer protection landscape to ensure that cross-border cooperation on enforcement can continue and that the potential impacts of EU exit are understood and planned for.

With this in mind, we have committed to providing our regulatory and delivery partners with as much certainty as possible for future years. For example, the Government is working closely with the Competition and Markets Authority (CMA) to ensure it is appropriately resourced for any new responsibilities after the UK leaves the EU. The Government will continue to work with the CMA on this as the negotiations with the EU proceed.

The Government is also working with the Financial Conduct Authority (FCA). The FCA is an independent body funded entirely by a levy on financial services firms and must act within its statutory objectives as set out in the Financial Services and Markets Act (2000). In their 2017-

2018 Business Plan, the FCA highlight that they have dedicated resource to co-ordinate and manage EU exit work, and that they are liaising closely with HM Treasury and the Bank of England to ensure a smooth transfer of EU rules and legislation into the domestic framework, and to ensure that the regulatory framework continues to operate without interruption following the UK's withdrawal from the EU.

With regard to trading standards, at a national level we have ensured that resources for trading standards bodies are at least maintained. National Trading Standards and Trading Standards Scotland core funding from the Department for Business, Energy and Industrial Strategy has remained steady at just under £15 million per year for the two organisations since they were created in 2012.

Local Trading Standards services, funded at the local level, received approximately £124 million in 2015-16. Local authorities are independent from central government and are, therefore, responsible for their own finances and recruitment, and accountable to their local electorate. This means spending and resourcing decisions are for individual local authorities. Officials from several government departments are working together with the Chartered Trading Standards Institute to identify and plan for future impacts on trading standards.

Most recently, the Government announced the creation of a new national oversight body, the Office for Product Safety and Standards, with a budget of around £12 million per year when fully operational. This new body will enable the UK to meet the evolving challenges of product safety by responding to expanding international trade, the growth in online shopping and the increasing rate of product innovation. In addition to providing support and advice for local authority trading standards teams, the office will co-ordinate work across local authorities where action is needed on a national scale and will ensure the UK continues to carry out appropriate border checks on imported products once the UK leaves the European Union.