



## DEBATE PACK

Number CDP-2017-0169, 5 October 2017

# Effect of UK leaving the EU on consumers and consumer protection

**Westminster Hall, Tuesday 10 October 2017, 2.30pm**

A Westminster Hall debate on the “Effect of the UK leaving the EU on consumers and consumer protection” is scheduled for Tuesday 10 October 2017 at 2.30pm. The Member leading the debate is Vicky Ford MP.

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The House of Commons Library prepares a briefing in hard copy and/or online for most non-legislative debates in the Chamber and Westminster Hall other than half-hour debates. Debate Packs are produced quickly after the announcement of parliamentary business. They are intended to provide a summary or overview of the issue being debated and identify relevant briefings and useful documents, including press and parliamentary material. More detailed briefing can be prepared for Members on request to the Library.

# 1. Introduction

The UK consumer law framework is a complex combination of national and EU derived law. Following a recent overhaul, it is now dominated by the [Consumer Rights Act 2015](#) (the CRA 2015) and other UK-initiated laws, but a huge amount of our consumer protection law is derived from the EU. A vast range of EU Directives and Regulations implemented in the UK deal with consumer protection rights from: unsafe products, unfair practices, misleading marketing practices to distance selling.

The [EU Charter of Fundamental Rights](#) and the [European Treaties](#) since the [Single European Act](#) guarantee a high level of consumer protection in the EU. Promoting consumers' rights is also a core value of the EU, enshrined in Article 12 of the Treaty on the Functioning of the European Union ([TFEU](#)).

Following the Referendum, the triggering of Article 50 of the [Treaty of Lisbon](#) on 29 March 2017 has started the formal process for the UK to leave the EU. This has cast doubt over the continued application of this significant body of EU-derived consumer protection law. For consumers, there is concern that Brexit may lead to a 'watering down' of their existing rights and protections. For businesses, who have just got to grips with the new requirements of the [CRA 2015](#) and a new consumer landscape, there is concern that Brexit will bring more uncertainty and change.

The [European Union \(Withdrawal\) Bill](#), currently progressing through Parliament, would repeal the [European Communities Act 1972](#), which took Britain into the EU. All existing EU legislation would be copied across into domestic UK law to ensure a smooth transition on the day after Brexit. The UK Parliament could then "amend, repeal and improve" the laws as necessary.

From a consumer perspective, the fact that the Government wants to avoid a "black hole in our statute book" by converting directly applicable EU laws into UK laws, will avoid disruption to individual consumers and businesses as the UK leaves the EU. However, in the longer term, it is difficult to predict the impacts for consumers of withdrawal without knowing what the UK's future relationship with the EU will look like and, crucially, whether the UK retains any sort of access to the European Single Market. There are three possible, and very different, scenarios:

- a future EEA membership of the UK (the Iceland, Liechtenstein and Norway Model);
- a relationship governed only by WTO rules (the WTO Model); and

- a relationship governed by a “tailor-made agreement” (the bespoke model)

All these models are based on existing relationships other countries have with the EU.

It should be noted that the EU Justice Sub-Committee, under the chairmanship of Baroness Kennedy of The Shaws, has launched an inquiry into [Brexit: consumer protection rights](#).

Commentators have argued variously that whatever form Brexit takes, the laws governing relations between consumers and businesses are of vital importance to the future success of the UK. Consumers will be much more likely to purchase goods and services, whether domestically or across borders, if they can be confident of their rights and their ability to enforce those rights.

## 2. Media

### 2.1 Press releases

Financial Services Consumer Panel

[Consumers should be at the heart of Brexit negotiations says Panel](#)

23 February 2017

European Council

[Consumer protection in the digital age: Council agrees to strengthen EU-wide cooperation](#)

20 February 2017

### 2.2 Articles and blogs

European Parliamentary Research Service

[Consumer protection cooperation \[EU Legislation in Progress\]](#)

4 October 2017

BBC news

[EU Withdrawal Bill: a guide to the Brexit repeal legislation](#)

7 September 2017

Prospect

[Preparing for a new trading regime beyond Brexit](#)

1 September 2017

Telegraph

[Will Brexit remove holidaymakers' safety net when tour operators collapse?](#)

11 July 2017

Independent

[Brexit drives UK consumers to buy British but only if the price is right](#)

12 April 2017

Guardian

[UK holidaymakers must keep EU rights after Brexit, says Abta](#)

3 April 2017

Financial Times [Registration required]

[WTO rules after Brexit would unleash 'Pandora's Box' warns CBI](#)

2 March 2017

## 3. Parliamentary Business

### 3.1 Debates

#### [European Union \(Withdrawal\) Bill](#)

HC Deb 11 September 2017 c476-7 [Extract]

#### **Vicky Ford:**

In last year's referendum I and many others warned of the risk of uncertainty. That risk has not gone away, but we can work together to reduce it, which is why the Bill is needed. Businesses need legal certainty to trade, create jobs and generate taxes, and the laws that govern our businesses are important. For the past 40 years or so, many of those laws have been agreed at European level. In my time in the European Parliament, I saw how those laws often cover important areas: consumer rights, copyright, product safety, even counterfeit medicines and data protection.

In my constituency of Chelmsford there are about 2,000 jobs in the insurance sector. The UK is home to the world's largest insurance market, and we provide insurance for airline crashes, cyber-attacks and even to clear up after the horrific hurricane that is raging across the Atlantic today. Our insurance companies can offset such risks by re-insuring with others in the industry, and the industry is governed by the European regulations. Our companies do not want to scrap their rulebook, and the Bill will enable those rules to be moved into UK law; it will help avoid a legal vacuum, which is important. Many laws cannot be directly copied across; technical changes are needed, and Ministers need the powers to make those technical decisions.

The Bill is not perfect; there are many areas where decisions are not technical and policy decisions will need to be made. In the insurance sector we see that the devil is in the detail. Article 16 of the insurance distribution directive says that European insurers can only redistribute their risk to others that are regulated in the EU. We cannot just cut and paste that into our rulebook, as it would cut us out of our own market. Dealing with such examples is not straightforward; policy decisions are needed, and they could affect real jobs. The companies concerned want to be consulted, as will regulators in other countries, and such decisions deserve proper scrutiny.

Other sectors also have concerns. The Bill exempts the charter of fundamental rights, but the tech sector points out that article 8 of the charter is crucial because it underpins data protection laws, which enable the free flow of data. TheCityUK asks what is happening to the level 2 decisions, which are important in implementing much of our financial services law and many of which will arrive only after the date of exit. The consumer organisation Which? points out that EU directives provide not only consumer protection, but product standards and the networks for sharing information on things such as dangerous toys and dodgy electrical goods. What is to happen to those after Brexit?

It is important that stakeholders can raise their concerns, and significant decisions deserve to be properly debated. The statutory instrument mechanism does not give confidence to stakeholders or future trading partners that issues will be properly scrutinised. Some 3,500 statutory instruments are laid before this House every year, yet only eight have been annulled since world war two. The rest of the world is watching us. As a British Conservative, I have spent years working with Ministers, championing the cause of better regulation; we have told legislators all across the EU that before they change laws they should consult those who will be affected, address the impact and make sure that decisions are not just taken behind closed doors. Now is not the time to drop the ball on that at home, because if we are to get deep trading partnerships with Europe and other parts of the world, we need to retain their trust. Where decisions have an impact on other countries, our future trading partners need to know that we are open to listening to their suggestions.

## 3.2 Parliamentary Questions

[Aviation: Brexit](#)

**Asked by: Tom Brake**

To ask the Secretary of State for Transport, what contingency plans the Government plans to adopt in the event that no replacement for the single aviation market and open skies agreement is available when the UK leaves the EU.

**Answered by: John Hayes | Department for Transport**

We want our future relationship with the EU to be based on mutual economic and security interests.

To which end, it will be in the interests of all parties to maintain closely integrated aviation markets. The opening up of access to air services helps to deliver connectivity, choice and value for money that benefits consumers and businesses both here and abroad.

The Government continues to work closely with the aviation sector to ensure this industry continues to be a major success story for the British economy. As well as seeking suitable aviation arrangements with the EU, the Department for Transport is also working closely with the aviation community to ensure that this global industry continues to be a major success.

**20 September 2017 | Written question | 10160**

[Brexit](#)

**Asked by Baroness Hayter of Kentish Town**

To ask Her Majesty's Government what meetings they have held with the Chartered Trading Standards Institute with regard to Brexit over the past six months, particularly in respect of their undertaking to "continue to engage with...consumer organisations", as set out in their position paper published in August, Continuity in the availability of goods for the EU and the UK.

**Answered by: Baroness Anelay of St Johns | Department for Exiting the European Union**

Officials from the Department for Business, Energy and Industrial Strategy (BEIS) have regular contact with the Chartered Trading Standards Institute (CTSI) as part of the Consumer Protection Partnership (CPP). CPP is an operational and strategic group, chaired by BEIS, and CTSI are fully engaged in all partners' discussions, including on EU exit.

With the negotiations underway, officials from HM Government will continue to engage widely with consumer organisations. We will reach a successful outcome by drawing on the expertise of these groups, understanding their perspectives and working with them to test and validate positions as we prepare to leave the European Union.

**18 September 2017 | Written question | HL 1489**

[Consumers: Protection](#)

**Asked by: Carolyn Harris**

To ask the Secretary of State for Business, Energy and Industrial Strategy, whether he plans to protect and strengthen consumer rights when the UK leaves the EU.

**Answered by: Margot James | Department for Business, Energy and Industrial Strategy**

The UK has a strong history of protecting consumer rights, and this will continue after we leave the EU.

UK consumer protections that are based on EU law will be retained through the EU Withdrawal Bill. This means that when buying from traders based in the UK British consumers will be able to rely on the same rights they have now.

The way consumer protections apply internationally in future (for example when purchasing goods online from an EU trader) is a matter for negotiations. We are carefully considering how best to cooperate on these issues with our EU partners after our exit.

**11 September 2017 | Written question | 8623**

[Consumers: Protection](#)

**Asked by Baroness Hayter of Kentish Town**

To ask Her Majesty's Government, further to the answer by Lord Prior of Brampton on 9 February (HL Deb, col 1854) stating that his "right honourable friend the Secretary of State for Business, Energy and Industrial Strategy is having regular meetings with consumer representatives", what meetings concerning Brexit have been held, what were the agendas for those meetings and who participated in each meeting.

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

My right hon. Friend the Secretary of State for Business, Energy and Industrial Strategy continues to raise consumers in the wide range of meetings he is having with stakeholders. Details of ministerial meetings are published quarterly on the Gov.uk website.

For example, on 19 December 2016, the Secretary of State chaired a roundtable with representatives from a range of consumer bodies, charities and academics to discuss, amongst other issues, the impact of EU exit on consumers. Organisations invited to this meeting were: Which?, Citizens Advice, Citizens Advice Scotland, Money Saving Expert, Age UK, Consumer Council Northern Ireland, Chartered Trading Standards Institute, National Trading Standards, Trading Standards Scotland, University of East Anglia, and the University of Oxford.

**1 March 2017 | Written question | HL 5449**

[Brexit: Consumer Rights Policy](#)

**Asked by: Baroness Hayter of Kentish Town**

To ask Her Majesty's Government what plans they have to protect consumer rights after the United Kingdom leaves the European Union.

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

My Lords, we are working with a range of stakeholders to understand the impact that withdrawal from the EU will have on consumers. We will work to ensure the best possible outcome for UK consumers. Wherever practical, the great repeal Bill will convert current EU law into domestic law to give consumers as much certainty as possible.

**HC Deb 9 February 2017 c1854**

[Brexit: Consumer Rights Policy](#)

**Asked by: Baroness Hayter of Kentish Town**

My Lords, the EU has been good for consumers: we have the European health card—there are some 26 million in the country—safe food and products, because of the European rapid alert system; lower mobile roaming charges; and compensation for delayed flights. But despite what the Minister says, none of those can be entrenched in the great repeal Bill, because they depend on our negotiations with the remaining 27. Regrettably, consumer interest does not appear in the 12 negotiating principles in the Government's White Paper. Will someone in the Minister's department or another department undertake to set up the same meetings with consumer reps as are taking place with industry, so that consumer interests can be embedded into our negotiations for our relationships with the EU 27 after we leave?

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

My Lords, the great repeal Bill will incorporate consumer protections in the European Union into UK domestic law, wherever it is practical. Noble Lords may shake their heads at that but of course it is "wherever practical"; if we were to say that we would incorporate it where it is

impractical, the noble Baroness would be the first person to point it out—this is a perfectly common-sense approach. In terms of ensuring that consumer interests are properly represented, my right honourable friend the Secretary of State for Business, Energy and Industrial Strategy is having regular meetings with consumer representatives and we will ensure that consumer interests are properly represented in the negotiations.

**HC Deb 9 February 2017 c1854**

[Brexit: Consumer Rights Policy](#)

**Asked by: Lord Dykes**

My Lords, is not the Minister being, unusually, a little complacent in his answers? The total apparatus of EU protection and consumer laws is more extensive and robust than in any single member state, with very few exceptions. If it all has to be unpicked through the very questionable repeal Bill process, it will take a long time anyway. If we end up bringing all these things back in—which we will have to do—then we might as well stay in the single market and under the consumer protection laws, instead of favouring a dodgy view of national sovereignty that last existed in 1910.

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

I do not underestimate the complexity of the Brexit negotiations, which is why we all accept, I think, that the implementation of those negotiations will be phased over time. However, in a number of areas of consumer protection the UK regulations are stronger than those in the EU.

**HC Deb 9 February 2017 c1854-5**

[Brexit: Consumer Rights Policy](#)

**Asked by: Baroness Crawley**

My Lords, online scams and internet fraud are rapidly increasing, as my colleagues in trading standards know only too well. Will the Minister tell the House what protection will be offered to UK consumers buying faulty goods across borders once we are no longer part of the EU and no longer involved in developing the EU's digital single market?

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

My Lords, the noble Baroness raises an interesting point. It is going to be difficult. I cannot foresee the outcome of the negotiations; all I can say is that we understand the issue she raises. We have already demonstrated through our support for the alternative disputes resolution and the extra money we are putting into the Chartered Trading Standards Institute that this is an issue that we take very seriously.

**HC Deb 9 February 2017 c1855**

[Brexit: Consumer Rights Policy](#)

**Asked by: Lord Foster of Bath**

My Lords, the EU is currently planning the digital content directive, which will give EU-wide protection to consumers on digital content. Unfortunately, the current draft conflicts with UK consumer rights legislation. Since, after we leave, we will have to continue to sell into the EU, can the Minister assure us that the Government are putting all their resources into getting this right, to end the current legal uncertainty?

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

I can assure the noble Lord that we are doing everything we can to clarify the situation. He mentioned the consumer rights legislation. The Consumer Rights Act is generally recognised by consumers here as an extremely good piece of legislation, and we will be working to have as much of a free market within Europe as we can.

**HC Deb 9 February 2017 c1855**

[Brexit: Consumer Rights Policy](#)

**Asked by: Lord Forsyth of Drumlean**

My Lords, does my noble friend not think that it is very sad, and a counsel of despair, that with all the expertise in this House and the other place, it is not possible for this Parliament to devise a scheme that will protect the rights of British consumers?

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

My noble friend is right: there are legitimate concerns over such a big change. However, we should be relatively optimistic that we can sort them out in the best interests of British consumers.

**HC Deb 9 February 2017 c1856**

[Brexit: Consumer Rights Policy](#)

**Asked by: Lord Hain**

My Lords, will there need to be a separate agreement on air flights into European Union countries to replace the existing one within the single market, which allows Ryanair, EasyJet, British Airways—all the British carriers—to fly millions of people in over the years cheaply, successfully and easily? Unless a separate agreement is negotiated with the European Union we will not be able to do that.

**Answered by: Lord Prior of Brampton | Department for Business, Energy and Industrial Strategy**

My Lords, there is such a mutuality of interest in continuing the existing arrangements that it would be very surprising if we could not negotiate an agreement. I cannot tell the noble Lord whether we will need a separate agreement to do that but I will write to him.

**HC Deb 9 February 2017 c1856**

## 4. Further reading

### *Library briefings*

[Impact of Brexit on UK consumer regime](#), Commons Library briefing paper 8102, 5 October 2017

[Brexit: civil judicial cooperation](#), Commons Library briefing paper 8092, 5 October 2017

[Statistics on UK-EU trade](#), Commons Library briefing paper 7851, 17 August 2017

### *Parliament*

House of Lords EU Justice Sub-Committee, [Brexit: consumer protection rights](#), Oral evidence, 2017

House of Lords European Union Committee, [Brexit: justice for families, individuals and businesses?](#), HL 134, 20 March 2017

### *EU*

European Parliament, [Consumer protection cooperation](#), Briefing; EU Legislation in Progress, 3 October 2017

European Commission, [Judicial cooperation in civil and commercial matters: position paper](#), 12 July 2017

European Parliament, [Consequences of Brexit in the area of consumer protection: study for the Internal Market and Consumer Protection Committee](#), April 2017

[Agreement on the European Economic Areas](#), Official Journal of the European Union, L1, 3 January 1994

European Commission, [Digital single market](#)

### *Government*

Department for Exiting the European Union, [Providing a cross-border civil judicial cooperation framework - a future partnership paper](#), 22 August 2017

Department for Exiting the European Union, [Continuity in the availability of goods for the EU and the UK - position paper](#), 21 August 2017

HM Treasury, [Future customs arrangements – a future partnership paper](#), 15 August 2017

*Others*

Financial Inclusion Centre, [The impact of Brexit on consumer protection and financial market regulation](#), Financial Inclusion Centre seminars

Bar Council Brexit Working Group, [Consumer law](#), Brexit papers 10, March 2017

Which? [How will Brexit affect my consumer rights?](#)

Citizens Advice, [Brexit's happening... but what does it mean for energy consumers?](#)

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