

Consultation Response

Department for Business and Trade Unlocking Business: Reform Driven by You Business Questionnaire

Submission date: 17th December 2025

Summary

Which? welcomes the opportunity to respond to the government's questionnaire. Consumers rely on effective regulation - and effective regulators - to ensure that they are treated fairly and can engage confidently across a broad range of markets. Unnecessarily burdensome, unclear or ineffective regulation is not in consumers' interests as it can put consumers at unnecessary risk or lead to additional costs being passed on to consumers, whose participation and welfare are fundamental to economic success. Any regulatory reforms must therefore be driven by a robust, evidence-based approach that prioritises consumer protection and safety.

There is likely to be scope to streamline some requirements on businesses, including removing duplication and making regulatory processes more efficient. This will make compliance easier for the benefit of businesses and consumers. The focus should, however, shift from a quantitative "counting exercise" of administrative burdens to ensuring regulation is well-designed and enforced to achieve its policy goals.

In some sectors, an increased focus on outcomes or principles-based regulation can help to future-proof the obligations that are placed on businesses. But greater prescription will also be needed so that businesses are clear what they need to do to comply and consumers can have confidence that the broad range of businesses they engage with understand their obligations. There are also opportunities to ensure a level playing field where some businesses are caught by the rules and others are not (eg. online marketplaces do not currently have the same responsibilities for ensuring the safety of the products sold on their sites as more traditional retailers) and where some businesses ensure that they are compliant with legislation and others are able to get away with non-compliance because of the weaknesses of the enforcement regime.

The primary indirect cost to businesses, that has serious consequences for consumers, is not the rules themselves, but the lack of effective, risk-based, and predictable enforcement. This allows unscrupulous businesses to thrive and undercuts compliant firms, leading to a loss of consumer trust. There are significant opportunities to reform consumer enforcement so that it better serves both consumer and business interests, particularly in the case of Trading Standards Services (TSS) and their relationship with national regulators. Our

response highlights a "postcode lottery" as a result of the long-term decline and fragmentation of these Services. Some fundamental structural reforms will help to ensure that the regime is more appropriately resourced, risk-based and predictable for both businesses and consumers:

- Greater responsibility should be moved to national regulators for the most complex businesses operating nationally.
- 'Black holes' in consumer protection and business support should be addressed by the consolidation of resources into strategic regional/ national hubs that have the resources and expertise to tackle local crime and proactively address consumer harms.
- The remit of national expert teams should be reviewed and strengthened so that they address the areas of highest detriment and have the necessary powers.

There are some short term actions that we think will help lay the foundations for these reforms and ensure that they are effectively targeted:

- All local authorities should be required to collect data and share intelligence on the enforcement action they are undertaking and risks that are emerging locally.
- Cross-government priority national outcomes and metrics should be agreed and local authorities should be required to report on how they are delivering against these, including providing regular public data on staffing levels and enforcement action.

As it stands, the government does not collect data on how many Trading Standards Officers are operating in any given area, the enforcement action these officers are prioritising, and the number of criminal prosecutions these teams are undertaking. Without a clear understanding of this foundational data, it is impossible to measure the effectiveness of how national regulations are being enforced locally as per the terms of reference of this call to evidence. These reforms are essential to restore the consumer trust upon which all legitimate businesses rely.

While supporting economic growth, regulators must also maintain their independence and statutory duties to put the public interest first. The proposed 'growth duty' must not be confused with industry promotion, which could repeat past failures (eg. the Bovine Spongiform Encephalopathy (BSE) crisis or 2008 financial crisis).

Introduction

Which? welcomes the opportunity to respond to the government's questionnaire. Consumers rely on effective regulation - and effective regulators - to ensure that they are treated fairly and can engage confidently across a broad range of markets. Unnecessarily burdensome, unclear or ineffective regulation is not in consumers' interests as it can put consumers at unnecessary risk or lead to additional costs being passed on to consumers, whose participation and welfare are fundamental to economic success.

Any reforms must carefully consider the long-term implications of removing or changing regulatory requirements on businesses in terms of consumer safety and protections. There

is likely to be scope to streamline some requirements on businesses, including removing duplication that exists in the regulatory rulebook and making regulatory processes more efficient. This will make compliance easier for the benefit of businesses and consumers. We have, however, had concerns that previous administrative burden reduction targets have not had the intended effect of leading to more effective regulation, but have instead led to too much focus on an over-simplified and over-generalised counting exercise that has failed to fully consider the long-term benefits as well as costs of regulation. The move to outcomes or principles-based regulation in other areas (such as the Financial Conduct Authority's Consumer Duty) has often not been accompanied by hard evidence that sufficient enforcement is taking place to safeguard consumer interests.

It is therefore important that there is a robust evidence-based approach to reviewing regulation, as well as the need for any new measures through comprehensive regulatory impact assessments, that fully considers how the desired policy objective can best be achieved, taking into account the interests of all relevant parties, including consumers. It is also important that there is a full understanding of how any changes to regulation will impact on different groups of consumers to understand whether any changes would exacerbate inequalities. In this context, post-implementation reviews (PIRs) on particular legislation are very important and a statutory requirement in many cases. We note that the government is behind with many PIRs on particular legislation, and we hope that this backlog can be addressed¹.

In some sectors, an increased focus on outcomes or principles-based regulation can help to future-proof the obligations that are placed on businesses. But in our experience, this is rarely enough and greater prescription will also generally be needed to complement the overarching duties concerned so that businesses are clear what they need to do to comply, and consumers can have confidence that the broad range of businesses they engage with understand their obligations. Recent examples of where this has been the case include industry calls for greater guidance ahead of the implementation of the Consumer Duty in the financial services sector and calls for more detailed guidance from the Competition and Markets Authority (CMA) on application of price transparency provisions within the Digital Markets Competition and Consumers Act 2024 to different sectors.

Independent regulation and independent regulators are the cornerstone of UK consumer protection. From approval processes for food ingredients and processes to financial services policy and airline safety and rights - as well as recent high profile issues such as mid-term contract rises by telecoms companies or secondary ticketing sites allowing touts to thrive - consumers need to know that regulators will always put the public interest first and not short-term interests of some businesses with the resources to lobby. Regulators need to understand the impact of any measures on businesses and their competitiveness, but any conflict of interest that appears to prioritise a particular sector of the industry over people could undermine the consumer trust that is essential for a well functioning market.

¹ See, for example, [the evidence given by the Regulatory Policy Committee Chair](#) to the House of Lords Secondary Legislation Scrutiny Committee, 23 January 2024.

Regulation also needs to ensure that there is a level playing field for businesses as well as for consumers. Businesses performing similar functions should be subject to similar regulations. Where this does not exist, there is a legitimate role for regulation to address this. One fundamental gap that is undermining both consumer safety and legitimate businesses' ability to thrive is, for example, the fact that online marketplaces are not subject to the same regulatory requirements for product safety and liability as more traditional retailers. We welcomed the adoption of the Product Regulation and Metrology Act 2025 which gives Ministers powers to address this - and it is crucial that secondary regulations are urgently adopted and enforced. Ninety per cent of consumers have made purchases on platforms like eBay, Amazon Marketplace, Etsy, and AliExpress within the last two years and 24 million consumers are regular users². There are also opportunities for greater collaboration between regulators where they are dealing with common challenges, such as this need to ensure compliance by online marketplaces.

Where regulations exist they should be enforced appropriately so that firms can't obtain a competitive advantage by non-compliance. We have found through our work investigating pricing practices, for example, that some retailers are being placed at a competitive disadvantage because they comply with the law but the consumer enforcement landscape is not fit for purpose and frequently does not punish non-compliance, as we regularly find with businesses that are using misleading practices.

The enforcement of well-designed regulation is therefore crucial. It is important across all policy areas that enforcement and supervision is seen to be working effectively to deter bad actors whilst boosting consumer confidence. Whilst the Consumer Duty in financial services regulation makes sense in principle, it is not always evident what difference it is making on a day to day basis. In other areas of consumer regulation, we think there are significant opportunities to reform consumer enforcement so that it better serves both consumer and business interests, particularly in the case of Trading Standards Services and their relationship with national regulators, and that is addressed in detail in response to Section 3.

Section 1: Identifying Regulatory Burdens to Business Growth and Innovation

There is clearly scope to clarify and simplify some regulatory requirements. It is however crucial that the issues raised in the responses to this call for evidence are carefully considered in order to understand any wider impact changes to requirements will have for other stakeholders including consumers. Sometimes the benefits that regulation delivers will be long-term although businesses may experience the costs of complying in the shorter-term, for example measures to support public health, strengthen product safety or enable more effective redress.

² Online Poll with 2,096 UK adults. The data is weighted to represent the adult population of the UK by age, gender, region, social grade, working status and housing tenure. The survey took place from 5th to 6th November 2025. The 24 million figure is based on 44% of UK adults buying from an online marketplace at least once a month.

We appreciate that setting an administrative burden reduction target provides a focus for cutting unnecessary regulation. However, we think that the focus should be on making sure that regulation is well-designed and meets the needs of the policy goal, rather than on a counting exercise.

We are aware of some areas of regulation where there can be a lot of overlap and complexity, as well as gaps in regulation, that can make it difficult for businesses and other stakeholders to understand the legal obligations and which regulators are responsible. An example of this is recent work that Which? has initiated looking at food and health supplements. In this case the borderlines between food, medicine and general product safety requirements and as a result which regulator is responsible, particularly where there is a devolved element, is highly complex. It is important that any ambiguities in areas such as this are clarified and that regulators (eg. the Food Standards Agency (FSA), Food Standards Scotland (FSS), Medicines and Healthcare products Regulatory Agency (MHRA) and Office for Product Safety and Standards (OPSS) are clear about their responsibilities, rather than feeling unable to act because they are unclear about their responsibility.

Section 2: Direct costs of regulation on business

It is important to ensure that a proportionate approach is taken to reporting requirements on businesses. While there may well be some reporting requirements that are outdated and no longer needed, it is important that regulators are able to take the steps that they need to understand how businesses are complying with legislation and to ensure that they can take enforcement action when needed. Proportionality is important, but in assessing what is overly-burdensome, a full understanding of why the requirements are in place and any wider public interest they serve must be ensured. Businesses may for example be subject to monitoring requirements which in the short term may take up time they think is unnecessary, but ultimately they can help to identify any emerging risks that help protect consumers and the sector more widely. Transparency in enforcement is also vital for reasons of deterrence and maintaining public confidence.

It is also important that regulators in carrying out their enforcement functions have the ability to undertake appropriate risk-based investigations and have the information gathering powers that they need. This includes for example, the ability to make unannounced inspections where an announced inspection may give a different picture of the standard practices of the business.

We are aware of the government's intention to reform the growth duty. It is important that regulators operate in a way that does not undermine growth and enables responsible businesses to thrive. However, many regulators were created in order to ensure that there was independent oversight of sectors and that they were able to take an arms' length approach that prioritised the public interest. We recognise that economic growth is in the public interest, but this should not be confused with industry promotion if it undermines

consumer protection³. The Food Standards Agency was for example established with a clear duty to put public health and other consumer interests first. It has to have regard to growth and be proportionate. It is essential that it has this clear consumer interest duty. The BSE crisis led to its creation because measures to protect the public were delayed because of concerns about the short-term economic impact on the meat sector. This had devastating consequences for consumers, but also the food sector as a whole. Similarly the move to create the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) was a direct result of what was seen as inadequate regulation in the run-up to the 2008 financial crisis.

For this reason, we also think that caution is needed about giving regulators binding government guidance on how to weigh up competing priorities. It is a legitimate role for the government to guide the priorities of regulators through strategic steers, but these must not undermine the independence of regulators or conflict with their statutory duties. While regulators need to be accountable, it is important that they can act independently using robust evidence and in the broader public interest. Many arms' length regulators were established precisely so that they were able to develop expertise and maintain a focus on issues within their remit beyond the political cycle.

There are opportunities to improve how regulators cooperate where there can be overlap, borderline and concurrency issues. Bodies such as the Digital Regulators Cooperation Forum (DRCF), UK Regulators Network (UKRN) and Consumer Protection Partnership (CPP) have important roles and so it needs to be ensured that they are functioning strategically, effectively and supporting risk-based interventions. Reform of the CPP should be prioritised to ensure this.

Section Three: Indirect costs of regulation on business

This part of the questionnaire includes a focus on regulators' operational processes and behaviours. We think that there is an enormous opportunity to review the split of responsibilities between regulators for enforcement - and in particular to look at how responsibilities are shared between local authorities and central regulators. We were pleased to see that a review looking at this was announced as part of the regulatory action plan update.

It is important to recognise that the indirect costs of regulation often stem not from the presence of rules, but from the lack of effective, risk-based and predictable enforcement of them. This can be to the detriment of consumers as well as responsible businesses that do abide by the rules. It is vital that the enforcement system is robust enough to prevent unscrupulous competitors from undercutting compliant businesses. Effective enforcement ensures a level playing field where legitimate enterprise is not penalised for adhering to the rules.

³ See further, '[Consumer Protections and Economic Growth](#)', Which?, September 2022 and '[Consumer policy for economic growth](#)', Which?, November 2024.

Trading Standards Services, based within local authorities, have a crucial role to play in enforcing a broad range of legislation, much of which is about consumer protection. National regulators, such as the CMA, OPSS and FSA also have enforcement responsibilities that cross over with Trading Standards Services - and we think that there is an opportunity to review roles, responsibilities and accountability to ensure a more effective system that better supports consumers and businesses. This includes enabling a more appropriate split between enforcement of national issues and businesses, while ensuring that there is a focus on tackling high street and door-step crime.

It has been known for some time as a result of work conducted by the National Audit Office, Public Accounts Committee and surveys by Trading Standards professional bodies, that Trading Standards Services have been in steady decline over a number of years and increasingly having to take a more reactive approach to enforcement. At the same time, the complexity of the trading environment, driven for example by online marketplaces, Artificial Intelligence, and digital goods, has exploded.

There is however a dearth of publicly available data on how these Services are performing, including level of resourcing, prioritisation and ultimately whether they are delivering on the enforcement of legislation that impacts on consumers and businesses nationwide.

Which? therefore conducted [a freedom of information \(FOI\) request](#)⁴ to gather data that enabled us to gain a fuller picture of what is happening on the ground from across all 187 local authorities that deliver Trading Standards Services across Great Britain. This revealed a complete 'postcode lottery'.

- Resources vary drastically between different Trading Standards Services, with some operating with clearly inadequate resource levels. The FOI data uncovered extreme examples of Trading Standards teams of just one or two qualified staff members serving hundreds of thousands of people and businesses, particularly in populous areas like London boroughs. Across England, Scotland and Wales, 101 of the 187 services have eight or fewer staff. Budgets are similarly inconsistent - 12 services reported a 2023-24 budget of more than £5 per head of the population, whilst 14 services reported less than £1 per head. Extreme variation in resources exists even between areas that are similar in terms of characteristics like population, business numbers and authority type, indicating a disconnect between resource allocation and need.
- There are swathes of Trading Standards responsibilities that appear to have very limited focus. The most commonly prioritised activity is illegal tobacco and alcohol (including vapes) and this appears to take up a substantial share of Trading Standards resources. Nearly a third of all criminal prosecutions reported to us were related to this issue. Whilst undoubtedly a very important issue responsible for a high level of societal harm and requiring substantial intervention, it is one part of a vast remit of Trading Standards responsibilities. Other areas of responsibility such as

⁴ Trading Standards resources and activities: Findings from freedom of information requests to local authority Trading Standards Services, Which? Policy Report August 2025

counterfeit goods as well as weights and measures have been deprioritised by a large number of services. Many services also reported deprioritising proactive surveillance, such as routine inspections, which can also be a source of intelligence for Services, picking up on issues that may otherwise have gone undetected.

- There is an overall lack of accountability in the system. Because of the lack of comparable data reporting and agreed metrics to capture the key outcomes needed from Trading Standards Services, it is impossible to draw firm conclusions about delivery and to fairly compare services. Metrics that capture the breadth of the activities that should be carried out by Trading Standards teams are needed to understand performance and formulate best practice.

These findings paint a concerning picture: Trading Standards Services are fragmented, under-resourced, and operating without the data infrastructure needed for effective intelligence-led enforcement. The result is that harmful beaches of consumer law go unchecked and unscrupulous traders and businesses are able to thrive while responsible businesses who play by the rules are undercut. Our data makes clear that [urgent reform](#) is needed⁵.

A proportionate approach to regulation must include the provision of adequate support and certainty for businesses operating in complex markets that enables them to comply. While the disparity in local resources, such as the severe staffing shortages noted in our report, may seem like an issue for local decision-making alone, it directly impacts the private sector by creating a fragmented regulatory environment. It is important that businesses receive consistent guidance. Without sufficient regulatory expertise to identify risks and support compliance, responsible businesses face unnecessary volatility that complicates long-term investment planning. While historically, businesses relied on Trading Standards for guidance on navigating technical legislation, with teams now so depleted that many are solely reactive, this advisory pipeline has fractured.

The wider public interest in maintaining consumer trust must be central to assessing the impact of the current regulatory landscape. While our report suggests a "tipping point" regarding unsafe products and scams, the cost of this is not borne by consumers alone, but by the business sector as a whole through eroded confidence. Some fundamental structural reforms will help to ensure that the regime is more appropriately resourced, risk-based and predictable for both businesses and consumers:

- Greater responsibility should be moved to national regulators for the most complex businesses operating nationally. This builds on the approach that the Food Standards Agency will be adopting to national level regulation, for example, as announced in the 2025 Budget.
- The drain on Trading Standards resources should be addressed and 'black holes' in consumer protection and business support addressed by consolidating resources into strategic regional/ national hubs that have a 'critical mass' of resources and expertise to tackle local crime and proactively address consumer harms.

⁵ Trading Standards in Crisis: rebuilding an effective and accountable consumer enforcement system, Which? Policy Paper, August 2025

- There should also be a review and reform of the remit of the national expert teams within National Trading Standards, as well as Trading Standards Scotland, so that they have a statutory basis and necessary powers. This should be informed by evidence of areas of highest consumer detriment (eg. rogue traders), where local authorities have deprioritised issues with national consequences and where national regulators need to take a greater lead because of the expertise required and multinational dimension.

There are some short term actions that we think will help lay the foundations for these reforms and ensure that they are effectively targeted:

- Local authorities should be required to collect data and share intelligence (including from surveillance activities, investigations, enforcement activity and complaints data) to ensure a much more complete picture of risks and market/sector developments at a national level. A system does exist but is incomplete.
- National cross-government priority outcomes and metrics should be agreed and local authorities should be required to report on how they are delivering against these.
- Trading Standards work should be made more visible and accountable to the public by making this reporting public and showing how consumer and business complaints are being responded to.
- The data from local authority reporting, as well as the more complete intelligence picture (building on our FOI) should be used to identify key gaps where consumers and/or businesses are put at risk because local authorities are not dealing with these priorities and find ways to reallocate resources/expertise to safeguard them.

We think that by consolidating fragmented local efforts into formalised strategic regional hubs the system can achieve the critical mass of expertise required to eliminate the postcode lottery of risk that currently hampers investment. Furthermore, elevating national regulators such as the CMA, FSA and OPSS to oversee complex, cross-border commerce ensures that businesses benefit from consistent, national-level guidance, while a shift to a data and intelligence-led approach allows for targeted enforcement that minimises friction for compliant firms. These reforms are essential to future-proof the marketplace, ensuring that resources are strictly focused on high-harm non-compliance, thereby restoring the consumer trust upon which all legitimate businesses rely.

Section Four: Opportunity costs of regulation

It is important that regulatory processes support responsible innovation, but it is important to recognise that in the early stages of the development of a technology or innovation, there is likely to be uncertainty about what its impact will be on society, including consumer interests - both positively and negatively. Regulatory frameworks need to be designed so that they enable a full understanding of any potential risks and benefits, including any gaps in knowledge and that a proportionate, but also precautionary, approach is adopted.

The precautionary principle is an important principle that helps regulators anticipate developments and implement appropriate protections where there remains uncertainty and

there is a high risk of consumer harm, rather than taking action retrospectively when consumer harm could have been prevented. The precautionary principle is too often falsely juxtaposed with proportionality, when regulators should be guided by both and see them as complementary. Being precautionary is about being transparent about uncertainties and being able to have an open and explicit consideration of what is an appropriate way to manage them and the nature of any risks, given the implications for different interest groups.

The public should be able to expect that independent regulatory processes provide appropriate oversight of the use of new technologies and innovations before they become available on the market and, as is often necessary, once they are available, but still need to be monitored.

The UK government has recently repositioned regulatory sandboxes at the heart of its AI and innovation strategy. Framed as a mechanism to reduce regulatory friction, this approach draws on the UK's established expertise, notably the FCA's sandbox. Government and regulators emphasise that sandboxing provides businesses with the necessary 'safe space' to navigate uncertainties regarding liability and risk.

Central to this strategy is the AI Growth Lab, a cross-economy sandbox designed to oversee the deployment of AI-enabled products where existing regulations are perceived as barriers. These pilots will serve as an evidence base for streamlining specific rules and speed-up regulatory approvals. However, while identifying regulatory barriers is important for some innovation, focusing solely on deregulation is a missed opportunity. Sandboxes should also be utilized to identify regulatory gaps where new protections may be required to ensure those innovations truly benefit UK citizens and do not impose unmanageable risks on them.

The UK has a proud history of making use of independent experts to help assess the risks and benefits as part of wider regulatory approval processes, usually through scientific committees or panels that report to regulators. It is important that these processes continue to remain independent in order to give the public confidence and generate trust in the innovation. Innovations will also often involve wider ethical or broader societal considerations and it is important that these are carefully assessed and considered at the appropriate stage in the evolution and application of an innovative technology, including engaging the public to help determine what is an appropriate level of risk.

There are undoubtedly opportunities to look at how these independent oversight processes operate so that they are as efficient as possible. Businesses also need to have clear guidance so that they are able to generate and provide the evidence that is required in a timely way. But these processes will inevitably delay the adoption of products and services - and that is necessary in order to protect the public and ensure they are developed responsibly.

Transparent decision making, including in how a regulator assesses, manages and communicates risk (ie. its approach to risk analysis) is essential. This includes avoiding any conflicts of interest by requiring declarations of interest and having processes in place for

how interests are managed, including those of external experts. This is particularly important as the nature of scientific and broader academic funding makes it increasingly difficult to find experts that are truly independent and are at the top of their field, without having undertaken work for some of the business interests that the regulator oversees.

For British businesses, the UK's standard of compliance and regulatory oversight has historically been a marketable asset. Any erosion of the independence of our regulatory processes and failure to address the need for an effective safety net devalues this reputation.

We therefore urge the government to carefully consider the responses that it receives on this section and ensure that short-term expediency does not store up longer-term risks to the public and responsible businesses that it will subsequently be impossible to control.

About Which?

Which? is the UK's consumer champion, here to make life simpler, fairer and safer for everyone. Our research gets to the heart of consumer issues, our advice is impartial, and our rigorous product tests lead to expert recommendations. We're the independent consumer voice that works with politicians and lawmakers, investigates, holds businesses to account and makes change happen. As an organisation we're not for profit and all for making consumers more powerful.

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