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# The UK Internal Market Bill: A brief overview

*Blog by Anthony Salamone*

Brexit is a constitutional process which is continuing, even though the UK has now left the EU. The publication this week of the new UK Internal Market Bill is a major development in this process. Nevertheless, deep political divisions over Brexit persist and they are clearly evident in this related debate on the UK internal market.

On a general level, the UK internal market is simply the economic space of the United Kingdom. Every state has its own economy and market. When the UK was a member of the EU, its economy was part of the EU internal market, but the UK market was still distinct in many respects. One of the EU's core economic principles is the mutual recognition of national regulations – which demonstrates clearly that national rules still exist.

During the transition period lasting until the end of this year, the UK is still functionally part of the EU internal market. The question turns therefore to how the UK will govern its economy after the transition, when it is no longer part of this EU internal market. This will be determined by two parallel processes: the current EU-UK negotiations on a future relationship, and the UK's domestic policy and legal choices.

The Internal Market Bill is the UK Government's intended centrepiece for regulating the UK economy after the transition. As introduced, the bill seeks to shape the UK internal market in a particular way, by providing **a high degree of regulatory conformity** in practice across the four parts of the UK.

It creates two foundational UK market access principles for goods: mutual recognition and non-discrimination. These principles are similar to EU concepts.

- Under mutual recognition, goods which meet the standards of one part of the UK can be sold throughout the UK.

- Under non-discrimination, goods from one part of the UK cannot be disadvantaged by another part of the UK based on their origin.

The provision of services is subject to similar principles of mutual recognition of standards, and non-discrimination based on location or origin. The bill also allows professional qualifications and experience from different parts of the UK to be recognised throughout the UK. Various exemptions are included for each of these principles. For instance, on professional qualifications, legal professions are excluded from the transferability of qualifications.

**This approach to the UK internal market has significant implications for devolution** – devolved legislation could be limited in practice by these new principles. For instance, Scottish Parliament or Government social, labour or environmental policies which are considered to negatively impact the UK internal market would not apply to businesses, organisations or individuals from the rest of the UK. **The 'lowest common standard' in any part of the UK would in that sense become the standard for the whole UK.** For example, even if Scottish food production standards were higher, food produced to lower standards elsewhere in the UK or abroad could still be sold in Scotland. Distinctly Scottish policies could therefore be undermined and become unworkable.

While the focus of debate is primarily on economics and trade, the bill has the potential to impact any area of policy which is said to be connected to the UK internal market. Existing devolved policies up to the enactment of the bill would not be affected. For instance, minimum pricing for alcohol in Scotland would continue to operate as it does now, since that policy has already been enacted – as long as it was not substantially changed.

However, potential new policies, such as on food labelling or plastic bottle returns, would be impacted by these UK internal market principles. Unless UK-wide approaches were agreed on such areas, new devolved policies would always exist under the uncertainty that they could be counteracted by policy decisions elsewhere in the UK. Since the UK Parliament legislates for England, in practice UK Government policies in devolved areas related to the internal market, would have the automatic effect of being UK-wide policies.

The Internal Market Bill has already been denounced by the Scottish Government and the Welsh Government for its impact on devolution. Given that the purpose of devolution is to enable decisions to be made closer to people, the question now being tested is to what extent the policies of devolved legislatures and governments should be limited by economic principles and standards decided by the UK Parliament and Government.

Given Boris Johnson's large majority, we could have expected the Internal Market Bill to pass relatively easily through the House of Commons. However, its provisions related to Northern Ireland, which by the UK Government's own admission would breach the EU-UK Withdrawal Agreement and therefore international law, have added an additional element of uncertainty to the bill as it currently stands. This major debate on the UK internal market will define the UK's post-Brexit economic governance, and it will reshape the system of devolution as a result.

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