

Pre-ARM briefing

Trade and privatisation



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This briefing:

- outlines the potential impact of future trade deals on healthcare in the UK;
- identifies some of the key issues members may wish to consider in developing and submitting motions on international trade for the 2020 ARM; and
- signposts to further useful information.

Background

For over 45 years, the UK's international trade policy has been determined through its relationship with the EU. The EU agreements the UK has traded under protect the NHS, safeguard the UK's right to regulate to protect public health and ensure high health and safety standards on imported products.

Even before Brexit, the UK was coming under pressure to open its market of goods and services in ways that could negatively impact the healthcare sector and public health.^{1,2} The UK is now preparing to negotiate independent free trade agreements in earnest.

Safeguards are needed to ensure that short-term economic benefits are not given priority over health in trade deals with the United States or other countries.

Impact of future trade agreements

Protecting the NHS

The UK must retain its ability to ensure that, across all four nations, the NHS is publicly funded, publicly provided and publicly accountable.

In England this status is already threatened by domestic legislation that enforces competition and allows the private sector – including foreign private companies – to win substantial contracts for the provision of NHS care. This has a destabilising and fragmentary effect on NHS services, and frequently represents poor value for money. In contrast, the devolved nations have imposed significant limits on the role of the market in their respective health systems, emphasising co-operation between providers.

While trade agreements do not require governments to privatise services, they make it extremely difficult to reverse privatisation. Trade agreements can include investor protection standards and dispute resolution mechanisms, which allow foreign companies to sue future governments if they attempt to bring services back under public control.

There is a significant risk that if the healthcare sector is part of future trade agreements, it could lock in current or higher levels of privatisation within the NHS in England, and potentially lead to privatisation in the devolved nations.

A post-Brexit trade deal with the United States or any other country must not tie the hands of future UK or devolved nations governments that may wish to restructure the health and social care sectors towards a more collaborative model. It is essential that both health and social care be exempt from future trade agreements, including from both services and investment chapters.

Cost of medicines

Currently the NHS controls medicines pricing through a range of voluntary and statutory schemes negotiated with the pharmaceutical industry. NICE (National Institute of Health and Care Excellence) and its equivalents in the devolved nations also use cost-effectiveness assessments to set limits on what the health service will pay for new medicines.

These control mechanisms are a stated target of US trade negotiators, and may also be targeted in other future deals.³ Weakening current cost containment mechanisms would increase overall spend on pharmaceuticals, necessitating either increased funding or restricting the medicines the NHS can afford.

Further information

You can find out more about these issues in our [Beyond Brexit briefing on trade and health](#).⁴ For further information on this policy area please contact Arielle Nylander, senior policy advisor (global health) anylander@bma.org.uk.

Key issues to consider

In submitting motions to the ARM, members may wish to make proposals or set out views on the following key issues.

- Adequate powers for UK Parliament to guide and scrutinise trade negotiations, including setting a negotiating mandate ahead of discussions, full access to negotiating texts and an automatic positive vote on final agreements.
- A guaranteed, meaningful role for devolved administrations in trade agreements that affect devolved matters, including provision of healthcare services and environmental policies.
- A hard 'carve out' on the health and social care sectors which excludes them from future trade agreements, including services and investment chapters.
- Exclusion of investor protection and dispute resolution mechanisms, which could lock in privatisation as well as delay or deter the introduction of new public health measures, from all future agreements.
- Retention of the current precautionary approach to setting safety standards and a government commitment to rule out entering into any agreements that go beyond WTO (World Trade Organization) rules on regulatory cooperation, risking a race to the bottom for profit.
- Retention of the existing mechanisms the health service uses to control medicines prices, ensuring patient access to essential and life-changing medicine is not compromised.

References

- 1 The Times (April 2018), [Australia to demand Britain accepts hormone-treated beef](#)
- 2 BBC News (January 2019), [US firms seek changes to UK standards on beef and drugs](#)
- 3 Office of the US trade representative (February 2019), [United States-United Kingdom negotiations – summary of specific negotiating objectives](#)
- 4 BMA (September 2018), [Beyond Brexit – international trade and health](#)

British Medical Association
BMA House, Tavistock Square,
London WC1H 9JP
bma.org.uk

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