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Cherry-picking is reality of the single market

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Despite Barnier's protests, the EU's four freedoms are negotiable — the question for Britain is how to get the best bits



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Any readers planning a holiday in Italy this summer should remember to pack painkillers. We in Britain are used to buying our paracetamol and ibuprofen for pennies at supermarkets or corner shops. At the pharmacy in Gamalero, my wife's home village in Piedmont in northern Italy, a pack of ten aspirin costs a stonking €5 — about £4.50. Faced with that in Britain, I would head to the next-door newsagents and get 16 for 50p. Not here. Under Italy's restrictive pharmacy laws, other retail outlets are forbidden from selling even the mildest medicines. Nor can I order them over the internet.

Where, you might ask, is the single market in all this? Buying and selling goods across the European Union should, in theory, run with billiard-table smoothness, enforced by the zealous guardians of the European Commission. Our refusal to see this is, supposedly, why the Brexit negotiations are in trouble. According to Michel Barnier and his allies, Britain is "cherry-picking" — trying to get the benefits of the single market where it suits us, while securing exemptions from the bits that don't, such as the free movement of people.

The single market's principles are indeed rigorous. But, in reality, it is still a work in progress, barnacled with imperfections and opt-outs. Powerful pharmacists' lobbies in Austria, Germany, Italy and other countries have fought a highly successful rear-guard action to protect their cosy niches from what they regard as dangerous competition. Pill-

pushers argued that their outlets should be seen not as shops, but as part of the healthcare system. The European Court of Justice, in 2009, agreed with them.

In Britain, we have been careful liberalisers. Paracetamol and other pills are available at even the smallest retail outlet, though you can buy only small blister packs, and only two at a time. That can be irritating if you are shopping in preparation for a family holiday in Italy, so on my trips to the US I load up with “value” jars: for example, 1,000 ibuprofen for \$22 (£17). These pharmaceutical monsters make our medical friends flinch. Selling pills in big pots increases the danger of overdoses (which, in the case of paracetamol, are frighteningly easy). Britain’s reform in 1998, which placed mild restrictions on the size and quantity of sales, created enough inconvenience to cut the number of suicides significantly.

On some fronts, Britain is pushing back against the possibilities created by the single market. Our Care Quality Commission is mulling a crackdown on mail-order cross-border internet pharmacies. These outfits use doctors in Romania and Bulgaria to approve prescriptions remotely. Patients need only fill in a simple questionnaire to get pills that ought to be prescribed with extreme caution, such as addiction-inducing opioids. In a few minutes on one controversial site, I was able to order a costly but hefty dose of codeine for my fictitious back pain.

The point here is that the freedom of national and international markets is a matter of negotiation, not theology. Different countries have different approaches. Italy places a high value on its pharmacies and preserves their lucrative monopoly in simple painkillers and other preparations. Greece used to think the same way but was crowbarred into liberalising parts of the pharmaceuticals market in reforms linked to the international bailout. In Britain, we decided decades ago that the social benefits of easy access to mild painkillers outweighed the danger of poisoning and the dents to pharmacists’ revenues. Alceste Santuari, a law professor at Bologna University specialising in deregulation, says that so long as healthcare and social welfare remain the competence of national governments, a full European-wide single market is impossible.

The European Commission, though, has not given up. It is trying again to liberalise professional services, with proposals that would ease the restrictions around jobs from pharmacy to tourism. In Italy, being a guide is a tightly regulated profession involving exams, licences and fees. In Britain, any Oxbridge undergraduate (or anyone who looks like one) can spout nonsense about the dreaming spires to gullible tourists. The reform proposals have been inching through the European parliament, and are now out for consultation with the member states. As Frederik Roeder of the free-market think tank Vocal Europe told me, the national governments are busy “cherry-picking” the proposals. Nobody is claiming that this is outrageous behaviour.

The message for our Brexit negotiations is clear. The single market is the product of haggling and always will be. Its four freedoms — the movement of goods, services, capital and people across borders — are aspirations, which are inevitably qualified by national, political and cultural preferences. There are no unambiguous answers to the trade-offs between competing priorities: promoting choice and low prices for consumers, protecting public health, maintaining social stability, financing professional training schemes and other important things. Settling these disputes is what our political and legal systems are for, or at least should be, if our leaders were not distractedly squabbling about burkas and the definition of antisemitism.

The real question is not whether cherry-picking happens, but how we can pick cherries most effectively. Within the EU, we had a permanent seat at the table. Negotiating our exit will bring matters to a head, but not necessarily to our advantage. Headaches loom. I hope our negotiators remember to stock up on pills, at British prices, before the showdown in October. They may wish to slip some to Mr Barnier, too.