

Brexit: the outlook for consumers

A briefing note by Citizens Advice



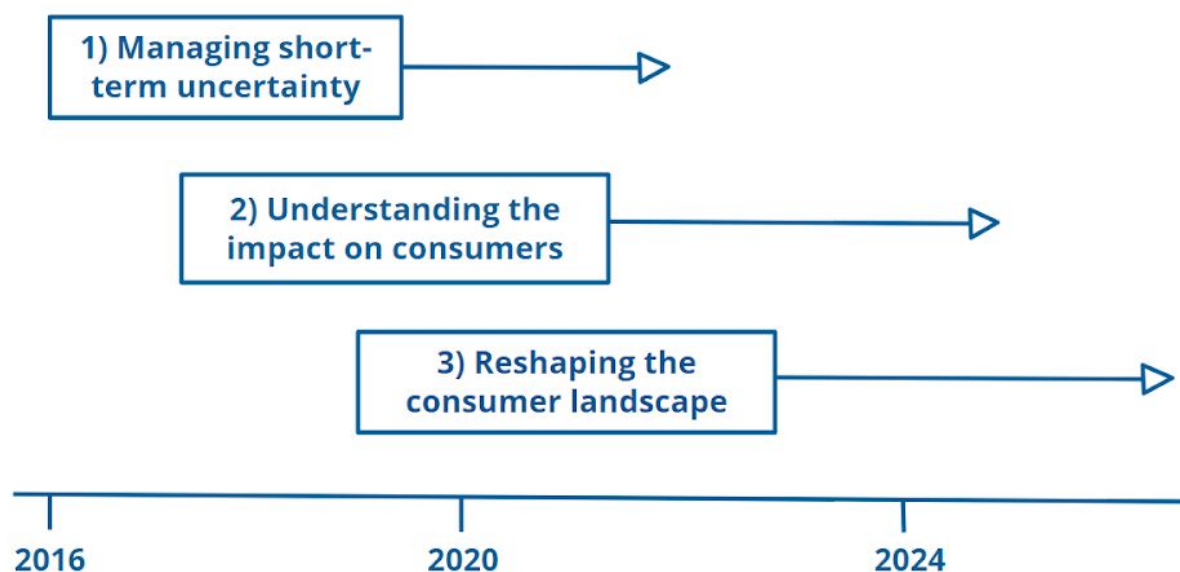
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Summary

The UK's decision to leave the European Union (EU) has wide-ranging implications. Our experience helping 2.7 million people a year makes Citizens Advice well-placed to highlight some of the most significant risks and opportunities associated with Brexit. And as a consumer champion that assists with 778,000 consumer problems annually, we are ideally situated to examine its wider policy implications.¹

This briefing does this in three ways. First, it looks at the short-term uncertainty that our advisers have reported since the referendum result. Second, it sets out some of the possible effects of our departure on essential markets and their consumers. And third, it examines the longer term opportunities for reshaping the wider consumer landscape.



Conclusions

- 1) Short-term uncertainty** - our advisers are experiencing increased demand for Brexit-related advice, particularly at key political milestones. Demand spiked at the triggering of article 50, for example, and after phase one of our negotiations with the EU concluded. Many clients are worried about the effects of Brexit on their immigration status, welfare entitlements and the goods they purchased abroad. Clear, well-communicated advice is essential so that people aren't exposed to risks posed by this uncertainty.

¹ Citizens Advice, [Consumer detriment: counting the cost of consumer problems](#), September 2016

- 2) **The medium-term impact on consumers** - the research we commissioned shows that Brexit could have wide-ranging implications for consumers. This is particularly likely if the government negotiates a partial Free Trade Agreement (FTA) or no deal at all. But regardless of the final relationship, we believe that consumers should not face any reduction in their rights or the range and quality of products which they can purchase. To secure good outcomes for consumers, the government should also engage with consumer organisations such as Citizens Advice during the transition process.
- 3) **Reshaping the consumer landscape in the long-term** - beyond the pros and cons of our decision to leave the EU, there are opportunities to improve outcomes for consumers in the longer term. The UK has historically been a pioneer of consumer rights. Brexit should serve as an opportunity to reinvigorate the consumer landscape going forward and ensure regulators are well-equipped to deal with new domestic policy opportunities in the years ahead.

Recommendations

- 1) **The government should ensure that good quality information and advice are available** in order to reduce - as far as possible - the uncertainty that people face about Brexit.
- 2) **The government should engage with consumer organisations** to ensure any regulatory change and divergence leads to positive consumer outcomes, as it negotiates FTAs and leads Britain out of the EU.
- 3) **The government should seize the opportunities provided by Brexit to reshape the consumer landscape**, making sure that rights are protected, poorly functioning markets are reformed and regulators are well-equipped to carry out enforcement activity.

1) The short-term: managing uncertainty

Our advice

When the referendum was announced, we knew the result could lead to questions and uncertainty for our clients. We also knew that advice would be needed immediately. So we created a new Brexit advice page, which amassed 37,000 views on the day of the result.² And we repurposed our content on social media platforms, reaching over 430,000 people.



Keeping track of people's issues

Because our data reveals the problems that people face in their everyday lives, it provides an insight into Brexit that goes beyond political perceptions and opinion polls. To monitor these problems, we launched a Brexit tracker. This uses data from the 6 million issues we deal with in local Citizens Advice offices, the 43 million visits to our online content, case studies and surveys of our advisers.

Unsurprisingly, the tracker reveals that our advisers have experienced increased demand for 'Brexit-related advice' since the referendum. Immigration advice is particularly sought after, as EU nationals and their children worry about their right to remain. Between February and April 2018, nearly a quarter of our advisers reported a growth in Brexit-related immigration advice. Our immigration webpages also average about 130,000 hits each month, having grown steadily since the referendum.

² Citizens Advice, [Brexit - how it affects you](#), June 2017

Clients are also seeking advice about discrimination, welfare and consumer issues. As Figure 2 shows, our advisers are increasingly assisting people who have been abused at work due to their nationality. They are helping clients who are uncertain about their future welfare entitlements and to challenge incorrect welfare decisions that relate to clients' genuine prospects for work'. They are also telling us that some consumers have been asked to pay more for goods than previously advertised, particularly if they are imported.

Figure 2: The number of Brexit-related discrimination issues seen by our local network since the referendum

Our tracker provides us with demographic insights into Brexit-related advice. It reveals that clients seeking advice on Brexit-related issues are more likely to be non-UK nationals, in work and have dependent children. And it shows which areas have the highest and fastest growth in demand for Brexit-related advice. Between February and April 2018, for example, the highest demand for Brexit-related advice was in London, the South East, the West Midlands and Yorkshire and the Humber (see Figure 3).

Figure 3: Level of demand for Brexit-related advice by region

Some are using Brexit to compel individuals to purchase goods or services before prices go up. And others are using fluctuations in exchange rates to encourage consumers to pay extra to 'insure' against falls in the value of sterling.

We also have evidence of traders cold-calling consumers with misinformation. In the solar panel and loft insulation markets, for example, some traders have told consumers that changes to regulations will require them to purchase certain goods.



Case study: fraud and mis-selling

Sarah's father suffers from Alzheimer's disease. He was recently visited at home by a trader specialising in solar panels. The trader misinformed Sarah's father that he would need several changes to his solar panels because of regulations changing due to Brexit.

Because of the quote the trader provided, totalling several thousand pounds, Sarah's father became quite distressed.

Clearly, good quality advice must be continually available to address such confusion. But our tracker also reveals that advice is particularly needed in key moments of uncertainty. Our advisers and web pages have experienced greater demand at political 'milestones', such as the triggering of Article 50. If people are unable to access impartial information during these periods, then these milestones may become opportunities for further instances of sharp practice.

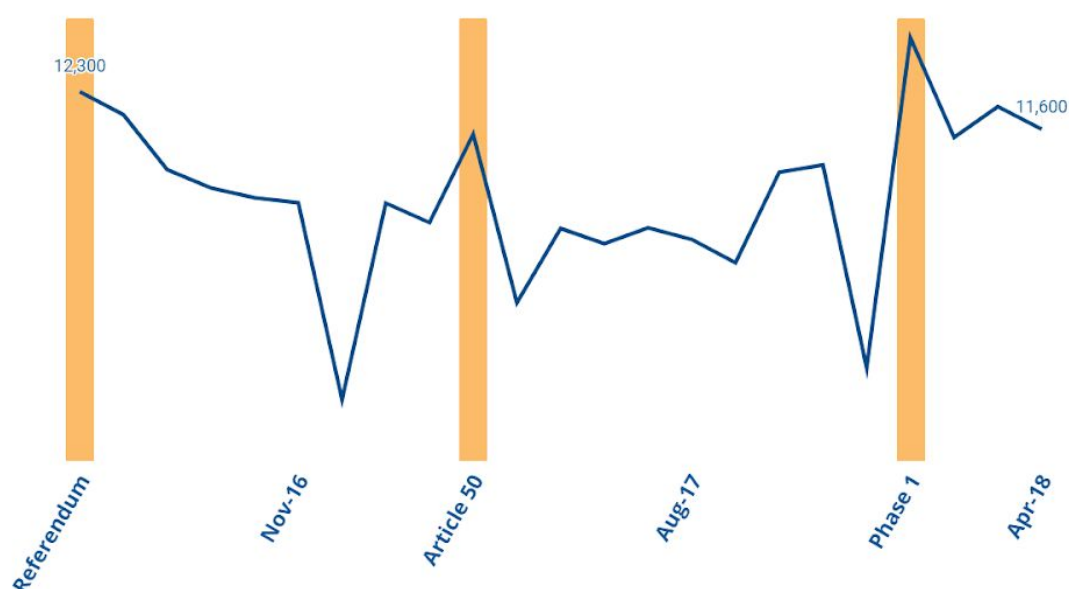


Figure 4: The total number of Brexit-related issues seen by our local network since the referendum, with key milestones (orange bars)

People should not be exposed to exploitation during these periods. **It is therefore essential that the government ensures clear, well-communicated information and advice are available to all consumers at key moments going forward.**

2) The medium-term: impact on consumer policy

In addition to these short-term effects, the country's decision to leave the EU will have wider policy consequences. As a consumer champion, we are interested in the changes to pricing, choice and standards that Brexit could bring for consumers. And as the statutory body for energy and postal consumers, we are particularly mindful of the possible changes that could occur in these markets.

To better understand these changes, we commissioned independent research that examined a number of consumer markets. Drawing on its findings, this section looks at the far-reaching policy and regulatory changes that could result from Brexit. It then examines the effects of these changes on essential markets and, in turn, on domestic consumers.



The extent to which Brexit changes the experiences of UK consumers depends on the details of our departure. Our new relationship with the EU will be particularly important in determining how far these experiences will change.

Towards the 'soft' end of the spectrum, the UK and EU could establish a relationship that replicates many aspects of our current relationship. This would produce less regulatory and policy change, leading to a less significant impact on markets and consumers. Towards the 'hard' end of the spectrum, the UK could seek greater divergence from our current relationship. Since this would entail greater regulatory and policy change, it could lead to more significant consequences for markets and consumers.

For this reason, our commissioned research focused on the outcomes that could arise from relationships on the 'hard' end of the spectrum. First, a Free Trade Agreement (FTA) that facilitates closer cooperation than that of current agreements with non-EU members, but far less regulatory alignment than imposed by the single market. Second, a 'no deal' scenario under which no agreement is reached and the UK falls onto WTO rules. The research found that, under these relationships, Brexit could have significant consequences for consumers as the UK drops out of cross-border institutions and future regulations.

How might consumer policy change?

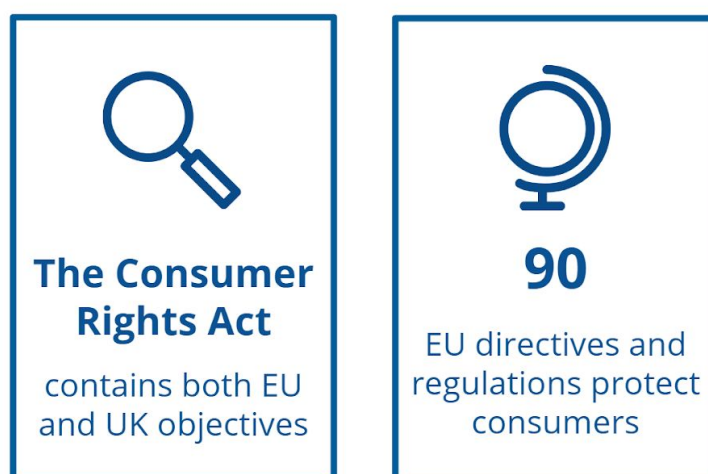
The government, through the European Union (Withdrawal) Bill, has committed

to maintaining existing consumer rights.³ But Brexit still poses risks to our consumer protection and enforcement regimes going forward. Even if existing rights derived from our EU membership can be successfully transposed into UK law, issues could still emerge from our divergence with future EU rights, our departure from cross-border schemes and changes to consumer-related enforcement regimes.

The gravity of these issues depends in large part on the type of agreement which the UK strikes. The government itself acknowledged this in its Consumer Green Paper, when it reaffirmed its commitment to negotiating ‘the best possible deal for UK consumers on cross-border cooperation on enforcement of consumer law’.⁴

1) Consumer rights

Consumer protections stem from a complex interaction of EU and UK law. This means that domestic consumers currently get their rights from the laws prescribed by the EU, as well as those contained in ‘hybrid’ statutes like the Consumer Rights Act 2015 (CRA). It also means that British citizens often have protections that other EU consumers do not. Many of the rights contained in the CRA, for example, stem from previous domestic legislation and case law that contained protections which were introduced independently of EU law.



But because consumer protection is rooted in different sources, there is still a risk that certain rights could be scrapped or weakened going forward. After Brexit, there would no longer be an obligation on government to implement EU directives and so our current regulatory alignment would decrease. UK and EU consumer protection regimes could further diverge, as we leave the jurisprudence of the European Court of Justice (ECJ) and our courts begin to adopt different interpretative frameworks.

³ Houses of Parliament, [European Union \(Withdrawal\) Bill 2017-19](#), accessed April 2018

⁴ BEIS, [Modernising consumer markets: Consumer Green Paper](#), April 2018, point 171

2) Cross-border transactions and schemes

There is also a risk that the enforcement of rights and standards could be affected. The Consumer Green Paper recently stated that ‘the way consumer protections apply when buying across borders in future is a matter for negotiations’.⁵ Accordingly, the ways in which consumers are protected from traders in the EU may change.

Similarly, the UK could withdraw from mechanisms which enforce cross-border protections and facilitate cooperation between member-states. The EU’s Rapid Alert System (RAPEX), for example, provides a mechanism for member-states to alert each other about dangerous, non-food products that pose a risk to consumer health and safety.⁶ Alternative product safety arrangements do exist for non-EU states, in the form of bilateral and multilateral cooperation.⁷ But since direct participation in the scheme is limited to EU and EEA countries, the UK would be excluded from the closest possible enforcement regime under a ‘no deal’ scenario or a limited FTA.

This uncertainty extends beyond product safety. Exiting the EU Consumer Centres Network, which settles consumer disputes - and the Consumer Protection Cooperation Network, which brings together national authorities responsible for enforcing EU consumer protection laws - could also weaken cross-border protections for consumers.

3) Competition policy and enforcement

Strong consumer protections also depend on effective competition policy.

Currently, the UK’s competition laws reflect wider EU competition principles.⁸ There appears to be little appetite for changing these provisions and the Brexit Competition Law Working Group finds that ‘Brexit does not give cause for radical reform of the principal UK competition statutes’.⁹ What could change is the provisions’ enforcement. Currently, the European Commission presides over EU-wide cases, while the Competition and Markets Authority (CMA) handles those which fall within the UK’s

£
127 million¹¹
saved for UK consumers
as a result of a ‘joint action’
in the car rental market

⁵ Ibid, point 170

⁶ European Commission, [Rapid Alert System for dangerous non-food products](#), accessed April 2018

⁷ European Commission, [International cooperation on product safety](#), accessed April 2018

⁸ [The Competition Act 1998](#)

⁹ Brexit Competition Law Working Group, [BCLWG Conclusions and Recommendations](#), July 2017

jurisdiction.¹⁰ To date, the efficacy of the provisions in preventing abuses of dominant market positions - and enforcing consumer protection regimes - have depended on collaboration between the two institutions, underpinned by the EU's Consumer Protection Cooperation Regulation (CPC). This often involves 'joint actions', carried out with the help of other national enforcement bodies, to protect consumers in certain markets.¹¹ If cooperation is reduced significantly, then enforcement gaps could open up.

Similarly, the CMA and other consumer protection bodies will need greater resources to take on cases which would previously have been handled by the European Commission. Because 'these are typically the larger and more complex cases', underfunding regulators could cause consumers to face less competitive pricing, poorer customer service and fewer choices.¹²

How could specific consumer markets change?

Given the uncertainties surrounding our future relationship with the EU, it is difficult to predict how consumer markets could change. Clearly, an FTA that replicates many aspects of our current alignment will produce fewer systemic changes than a 'no deal scenario'. The following insights into certain policy areas - taken from our commissioned research - are therefore inherently speculative. Because policies in these areas are in a state of flux, they are subject to change and by no means definitive.

1) Aviation, food and retail financial services

Since the majority of aviation regulation comes from the International Civil Aviation Organisation, it will continue to apply after we leave the EU.¹³ More substantive change could occur in aviation travel services, as the UK falls out of open skies agreements concluded between the EU and other partners.¹⁴ Whether this has knock-on effects for consumers depends on whether an FTA secures access to the European Common Aviation Area (ECAA), as Switzerland has.



The ECAA

allows UK airlines to operate freely in Europe. If the UK drops out, consumers may have less choice and higher prices

¹⁰ The Competition and Markets Authority, [Brexit and competition inquiry: CMA submission to the House of Lords EU Internal Market Sub-Committee Inquiry](#), September 2017

¹¹ House of Lords EU Committee, [Brexit: will consumers be protected?](#), December 2017

¹² Michael Grenfell (CMA Executive Director), [UK competition enforcement: where next?](#), November 2017

¹³ The [International Civil Aviation Organisation](#) is a UN agency which maintains civil aviation regulations, ensuring local aviation practices conform to global standards

¹⁴ Open skies agreements facilitate the operation of flights between EU member-states and non-EU states such as the United States

The UK currently imposes no duties on food or agricultural products imported from the EU. And its relationship with other countries is set by the EC's common external tariff or, where permitting, by unilateral tariff preferences. Under a 'no deal scenario', most-favoured nation (MFN) tariffs could be applied to imports from the EU.¹⁵ Whether this brings about price increases in food depends on the UK's ability to negotiate FTAs with other exporting countries. However, although the establishment of other FTAs would mitigate price rises, it does seem likely that a reversion to MFN tariffs would raise the price of imported foods overall.¹⁶

UK and EU regulatory frameworks for retail financial services are highly integrated. In fact, the UK has often played a leading role in developing EU-level objectives in financial service markets. This means that change could be less significant in this area for domestic consumers. The second Payment Services Directive (PSD2) 2018, Mortgage Credit Directive 2014 and Financial Compensation Scheme are all examples of EU-led objectives that would probably be maintained after we leave its jurisdiction.

2) Postal services and telecoms

Most EU rules relating to postal services have been written into UK law and will remain in place after Brexit. The Universal Service Obligation (USO), for example, stipulates minimum service requirements and is enshrined in UK law through the Post Services Act 2011.

However, the potential reinstatement of tariff and non-tariff barriers to trade between the UK and EU member countries could make buying and delivering goods across borders slower and more expensive. UK consumers purchasing items online from EU countries may also find it more difficult to have their rights recognised and enforced abroad. And they could lose the benefits of new transparency rules on delivery costs.¹⁷

Changes could also be seen in the telecoms market. It is unclear whether our departure will provide the government with greater freedom to regulate the prices which consumers pay for telecoms products. Similarly, it is difficult to predict the effects of future divergence from the European Electronic Communications Code (EECC). However, it does seem likely that a 'no deal scenario' could lead to the reinstatement of retail roaming charges, which, in turn, would increase prices for consumers abroad.

¹⁵ MFN tariffs are regulated by the World Trade Organisation (WTO) and currently applied by the EU to all trade partners with which it does not have a free trade agreement

¹⁶ Resolution Foundation and UK Trade Policy Observatory, [Changing Lanes: The impact of different post-Brexit trading policies on the cost of living](#), October 2017

¹⁷ European Commission, [Parcel delivery in the EU](#), accessed April 2018

3) Energy

Similar to postal services, much of the EU's legislation relating to the retail energy market has been incorporated by domestic law. This means that some existing schemes such as smart meter rollout are unlikely to be reversed or scrapped on our departure. And it is improbable that EU objectives on energy efficiency would be scrapped going forward.

But a 'no deal scenario' could have knock-on effects for domestic consumers in other areas. Leaving the Internal Energy Market (IEM) could create uncertainty about investment in interconnections to the European continent. Similarly, our departure could lead to concerns about the wholesale trading arrangements that currently underpin the security of energy supply. This uncertainty could lead to knock-on costs for consumers.

Higher prices could also be felt with regards to renewable energy. If the UK drops out of EU-wide emissions reductions initiatives, but remains committed to national and international targets, additional costs could be passed on to consumers.

This is because the government could have to make greater use of subsidies in place of these initiatives - a cost which could be borne directly by consumers or indirectly by taxpayers.



How should government respond?

The difficulties of predicting market-specific change means that Brexit's consequences for consumers are still uncertain. Without knowing the type of deal that the government will strike with the EU, we cannot know with precision what policy and regulatory changes will occur. And without knowing these, it is difficult to predict changes to consumer markets and the consumers who use them.

But what is far more clear are the outcomes that consumer groups, like Citizens Advice, want from Brexit.¹⁸ We want the high standards which were jointly implemented by the EU and UK to be maintained, so that goods and services continue to be safe and of good quality. We want consumer rights to be safeguarded and built upon, so that protections are not undermined by market changes. And we want consumers to be able to access a similar range of products - at similarly competitive prices - as they currently receive.

¹⁸ Which?, [Consumer Charter for Brexit](#), March 2018

Our commitment to these outcomes is shared by political parties, as well as campaign groups, academics and third sector organisations. **To achieve them, the government must listen to consumer champions as it navigates and responds to changes in consumer markets.** We will be working with other consumer organisations to ensure that consumers do not lose out in the medium-term.

3) The long-term: reshaping the consumer landscape

Brexit also brings longer term implications for the UK's competition and consumer landscape. Clearly, much of this will be dictated by the proximity of the relationship that the UK and EU establishes going forward. Assuming the terms of this relationship permit, the landscape will also depend on the trade agreements which the UK strikes with other countries - as well as the domestic direction that the government chooses to follow.

Trade agreements

That the government will have greater control over domestic consumer policy is reinforced by the importance of wider trade policy. Since the transposition of EU-derived regulation will be maintained via the European Union (Withdrawal) Bill, the consumer landscape will not change as dramatically as it could in the short-term.¹⁹ However, looking forward, it is clear that the demands of new trade agreements could have consequences for consumers.

It is therefore essential that government engages consumer groups as it formulates trade policy and begins to negotiate deals. As the Institute for Government points out, 'while the government will sign trade deals, it is businesses and consumer and environmental groups that will make use of them.'²⁰

Consumer groups, such as Citizens Advice, will continue to monitor the medium- and long-term changes to consumer markets. Government should draw on their expertise as it determines the consequences that any agreements could have for domestic regulation and policy. It should also be transparent about the terms of negotiations so that consumer groups can assess the possible consequences for domestic consumers.

Greater flexibility in certain policy areas

As well as losing out on access to certain markets, the UK will have more control over certain policy areas than before. As an example, Brexit could provide the government greater flexibility to intervene in poorly functioning markets via the relaxation of 'state aid' rules. Currently, the EU prohibits its members from giving preference to certain companies or industries, via subsidies, tax relief or state shareholding. And although WTO rules proscribe excessive use of selective subsidising, the government would still be left with more discretion to intervene.

¹⁹ Notwithstanding the policy changes outlined above and potential modifications of EU legislation prior to the end of the implementation period

²⁰ Institute for Government, [Taking back control of trade policy](#), May 2017

Because future governments will be more able to implement regulation which diverges from EU law, outcomes for British consumers could increasingly depend on domestic policy. Government and regulators could potentially choose to implement more interventionist policies with regards to price regulation in the energy and telecommunications markets, for example.

Whether this would benefit or harm consumers clearly depends on their wider market effects. Similarly, the extent to which this would differ in practical terms from current arrangements should not be overplayed, given the current government's intent to maintain current state aid rules²¹ and the exemptions from the rules that currently operate.²² Nevertheless, in certain policy areas, the government could technically be afforded greater flexibility than current EU regulations permit.

Reshaping the consumer landscape

Brexit therefore brings opportunities as well as risks. Crucially, it offers a chance to reshape the consumer landscape, to make sure that domestic markets are well-functioning and to provide consumers with world class protections.

The government has recently made clear its commitment to modernising consumer markets in its Green Paper.²³ It should use our departure from the EU as an opportunity to build on our track record as a leader in implementing strong protections and enforcement. This means that the government must keep an eye on long-term goals, as it addresses the more immediate challenges posed by negotiations.



First, it should build on existing protections to ensure that domestic consumers have an even deeper set of rights than they currently enjoy.

When consumers choose what goods and services to purchase, they should be protected from rogue traders, rip-off deals and punitive forms of credit. This could involve bolder protections in the doorstep-lending market and action against unarranged overdrafts, so that consumers aren't penalised for their financial insecurity.²⁴ When consumers stay on tariffs, the government and regulators should ensure that their loyalty is not exploited by firms. The CMA, for example, could investigate how different solutions to this loyalty penalty could

²¹ Minister for Small Business, Consumers & Corporate Responsibility, [Letter to the Chair of the EU Internal Market Sub-Committee](#), March 2018

²² As an example, the UK government currently provides funding to post offices. This does not contravene state aid rules since it supports services of general social and economic interest in areas where they would not otherwise be commercially viable.

²³ BEIS, [Modernising consumer markets: Consumer Green Paper](#), April 2018

²⁴ Citizens Advice, [Doorway to Debt](#), March 2018

be applied across markets.²⁵ And when things go wrong for consumers after they've purchased a good or service, they should be able to access better remedies against unscrupulous traders, such as more effective alternative dispute resolution (ADR) schemes.

Second, it should ensure that Brexit becomes an opportunity for the UK to pioneer ambitious consumer policies. Our departure from the EU means that consumer policy will be more clearly in the hands of UK government. We should build on the UK's historic role in introducing higher standards and protections. Recognising that greater consumer purchasing power is fundamental to well-functioning markets and the economy as a whole, the government should introduce new ways of transferring power from uncompetitive firms to their customers. It should also use bolder interventions, such as auto-compensation schemes and price regulation, to ensure consumers are able to benefit from Brexit. And it should equip regulators with sufficient resources to examine and implement them.

²⁵ Citizens Advice, [The Cost of Loyalty](#), February 2018

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