

# THE IMPACT OF BREXIT ON CONSUMERS

---

Report prepared for Citizens Advice

28 February 2018



---

The Frontier Economics network consists of two separate groups, Frontier Economics Limited (incorporated in the UK) and Frontier Economics Pty Limited (incorporated in Australia). The two groups are independently owned, and legal commitments entered into by one group does not impose any obligations on the other group in the network.

# CONTENTS

Executive summary	5
<b>1 Introduction</b>	<b>12</b>
1.1 Background and context	12
1.2 Objectives and scope of the analysis	13
1.3 Approach and methodology	14
1.4 Structure and format of this report	16
<b>2 Cross Cutting Topics</b>	<b>17</b>
2.1 Introduction	17
2.2 Consumer protection	17
2.3 State Aid	19
2.4 Competition policy	22
2.5 Data regulation	23
2.6 Summary on cross-cutting issues	24
<b>3 Energy</b>	<b>25</b>
3.1 Introduction	25
3.2 Participation in the Internal Energy Market	25
3.3 Price regulation	28
3.4 Smart meters	30
3.5 Renewable energy targets	31
3.6 Energy efficiency	33
3.7 VAT on energy	34
3.8 Summary of findings on Energy	35
<b>4 Telecoms and audiovisual</b>	<b>36</b>
4.1 Introduction	36
4.2 Roaming	36
4.3 Retail price regulation of certain telecoms services	38
4.4 Wholesale regulation	39
4.5 Consumer protection under the European Electronic Communications Code (EECC)	40
4.6 Audiovisual and media services (AVMS)	41
4.7 Summary of findings on telecommunications and audiovisual sectors	42
<b>5 Postal services and cross-border e-commerce</b>	<b>43</b>
5.1 Introduction	43
5.2 Universal services obligation (USO)	43
5.3 Postal services and consumer protections	44
5.4 Cross border e-commerce transactions	45
5.5 Summary of findings for the postal sector	47
<b>6 Retail financial services</b>	<b>48</b>
6.1 Payment Service Providers Directive (PSD)	48
6.2 Mortgage credit	50
6.3 Financial compensation scheme	51
6.4 Summary of findings on retail financial services	52

<b>7</b>	<b>Aviation</b>	<b>54</b>
7.1	Introduction	54
7.2	Regulation and safety standards	54
7.3	Traffic rights and connectivity	55
7.4	Summary of findings on aviation	56
<b>8</b>	<b>Food</b>	<b>57</b>
8.1	Customs duties on foods	57
8.2	Non-tariff effects	59
8.3	Summary of findings on food	60
<b>9</b>	<b>Conclusions</b>	<b>61</b>

## EXECUTIVE SUMMARY

In March 2017, the UK government formally notified the European Union (EU) of its intention to leave the EU under the provisions of Article 50 of the Lisbon Treaty. The UK and the EU subsequently entered into negotiations on the terms of the UK's withdrawal, and also agreed to start negotiations on the future arrangements between the two parties.

The nature of these future arrangements remains unclear at the time of writing this report. The UK has called for a "deep and comprehensive" free trade agreement. This would replicate large aspects of the UK current participation in the EU's single market, notably in services, while allowing the UK greater autonomy on the question of free movement of people and on matters of law. The EU's position is that the four freedoms (goods, services, capital, and people) are indivisible, and that participation in the single market is subject to accepting the jurisdiction of EU courts. And that in the absence of commitments to these principles, any arrangement between the UK and the EU would resemble more closely the free trade agreements that the EU currently implements with non-EU members.

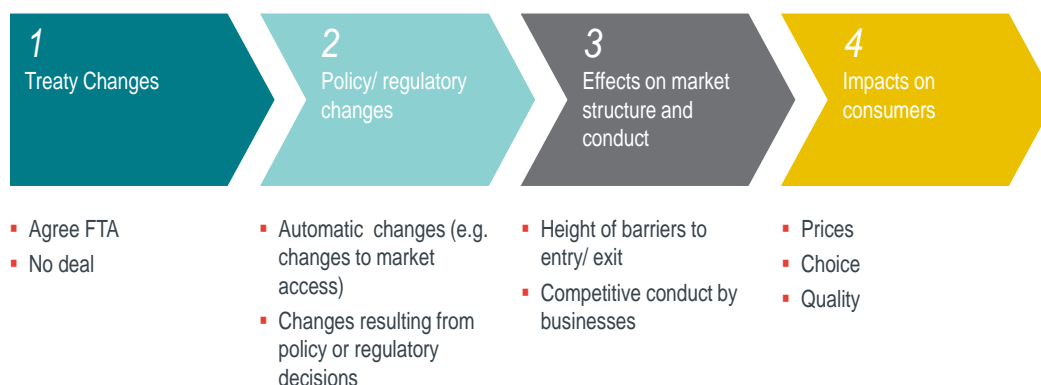
The difference between the UK and the EU's position can be described as the difference between the upper and lower bounds of a trade deal. Negotiations will determine where between these bounds both parties will end up. It is of course possible that negotiations fail, in which case trade between the UK and the EU would follow the most-favoured nation principles of the WTO.

The purpose of this report is to examine the possible consequences for consumers of future treaty arrangements between the UK and the EU. Specifically, we consider:

- An outcome under which the UK and the EU agree a specific arrangement, but which falls short of current single market arrangements. This is consistent with the idea that the UK will stick to its positions on movement of people and legal enforcement, and that consequently, the negotiated outcome will fall somewhere between the UK's and the EU's stated positions as described above.
- An outcome in which negotiations fail, and relations revert to Most-Favoured Nation (MFN) terms.

In order to consider the impact of treaty changes on consumers, it is important to trace the transmission mechanism through which such changes affect consumers. The schematic below sets out the basic process

**Figure 1** Transmission mechanism between future UK-EU arrangements and consumer impacts



Some changes to treaty arrangements have automatic consequences. For example, a no-deal scenario would involve an increase in tariffs on imports, or a loss of access to aviation markets. In most cases, changes to treaty arrangements change framework of rules within which policy or regulatory decisions are made. Whether or not policymakers or regulators actually enact changes to policy or regulation will depend on their own assessment of the need to do so.

Changes to policy and regulation affect market structure and the conditions of competition in markets. These changes in turn affect decisions made by businesses on variables of interest to consumers: prices, choice, quality.

We apply this framework to a range of cross-cutting issues and sectors. The cross cutting issues we have chosen are: consumer protection; state aid; competition policy; and data.

The choice of these topics is motivated by the fact that they relate particularly closely to activities that can be described as taking place within “essential markets” (see below). Consumer protection is a particularly wide-ranging area, involving cross-cutting and sector specific provisions. State aid can be a policy tool for stimulating development in infrastructure sectors, and industrial policy more generally. Competition policy is of particular importance in sectors characterised by relatively high levels of concentration and significant merger activity. And finally, data flows are fundamental to activities in the modern economy, and to most of the sectors considered in this report.

We focus on sectors that are “essential” (i.e. high-impact) in terms of consumers, and that are also exposed to cross-EU trade and investment flows, and therefore cross-EU rules. These sectors are: energy, telecoms and audio-visual; postal services and cross-border e-commerce; retail financial services; aviation; and food.

For the cross-cutting issues and the sectors we rate the potential impact of alternative treaty scenarios (i.e. FTA scenario and a “no deal” scenario) using a traffic-light system. Green implies no adverse impact or potentially advantageous impacts; Amber means that the overall impact is ambiguous, because the impacts on UK policy are not certain, and/ or because the effect of possible policy

changes on consumer welfare are not certain; Red means that the exit scenario provides grounds for substantial concerns.

## Results – Cross-cutting issues

### Consumer protection

Consumer protection is a shared competence between the EU and its member states. The Treaty on the Functioning of the EU identifies consumer protection as a fundamental right, and pursuant to this the EU has enacted a range of regulations and directives. The latter are required to be transposed into domestic law. In the UK, the cornerstone of consumer protection is the Consumer Rights Act of 2015. Because of the sharing of competencies, the implementation of consumer protection in the UK reflects a complex interaction between UK and EU law.

While there are few incentives for the UK to deliberately reject fundamental aspects of EU consumer protection law, there is the possibility that UK and EU regimes will diverge over time, especially if the UK is reluctant to apply the jurisprudence of EU courts. Progressive divergence would increase compliance costs to businesses, affecting competitive conduct in markets, with possible negative effects for consumers.

**Rating: Amber.**

### State Aid

EU law contains a general prohibition on measures that fall under the definition of state aid. But it allows for exemptions for specific activities (e.g. broadband infrastructure, airports) and to meet justifiable social objectives. The UK has already availed itself of exemptions relating to state aid for broadband infrastructure.

If the UK were to seek a FTA with the EU, it is highly likely that it would need to follow EU rules on state aid. Indeed, this position has been stated in the EU's negotiating guidelines. If the UK were to leave the EU, this would not necessarily imply that the UK would expand the scope of government financial intervention in markets. For a start, the UK would need to respect WTO rules on subsidies which, though different to state aid disciplines in various respects, nevertheless constrain intervention in favour of specific sectors. Secondly, the UK has generally rejected interventionist approaches to industrial policy that favour "picking winners".

It is therefore unlikely that the UK would adopt a more expansive use of state aid under any exit scenario. Moreover, attempts to do so that go beyond objectives justifiable by market failures and social objectives (and that are therefore currently permissible) are likely to have distorting effects on markets.

**Rating: Amber.** Exit scenarios are unlikely to materially change the UK's approach to state aid; and to the extent a more interventionist policy is chosen, this could adversely affect consumers by introducing market distortions.

## Competition law

Competition law is a key plank of the EU single market and is central to protecting consumers. Neither of the exit scenarios are expected to lead to fundamental changes in the ways in which the UK approaches competition policy. However, there may be increased enforcement costs to UK authorities and increased compliance costs, though both could be addressed through collaborative arrangements between jurisdictions.

**Rating: Green.** We do not expect significant adverse effects on consumers.

## Data

The core of data regulation in the EU will be addressed through the General Data Protection Regulation (GDPR) that comes into force in May 2018. The UK is due to implement the GDPR when it comes into effect. Once outside the EU, under a no deal scenario, the UK would be free to deviate from the GDPR's provisions. However, this would affect the flow of data to and from the EU. The more pertinent scenario to consider is less one of deliberate rejection, and more of progressive divergence over time. Were this to eventuate, the UK could lose its adequacy status. This would have an effect on data flows, and knock-on effects on sectors of interest to consumers, including cross-border e-commerce.

**Rating: Red.** Data are a critical element of many business operations, and constraints to data flows under exit scenarios could have adverse effects on consumers.

## Results – Sectors

### Energy

Based on the history of reforms in both the UK and the EU, we consider the following channels through which changes to the relationship between the UK and the EU could affect consumers in the energy sector:

**The UK's participation in the Internal Energy Market: Red.** The risks reflect reduced access to EU wholesale energy prices, and possible effects of uncertainty on investment in inter-connection. These factors could place upward pressure on prices.

**Price caps: Rating Amber.** Price caps are typically a temporary measure reflecting transient concerns over the extent of effective competition in markets. In the short term, it is not clear that either exit scenario modifies the ability to cap prices. In the longer term, authorities will assess the possible adverse effects of price regulation on market structure and conduct, and hence on consumers, alongside distributional concerns – an approach they would have followed regardless of the UK's position vis a vis the EU.

**Smart Meters: Green.** It is unlikely that policies reversed following Brexit.

**Renewable energy: Amber.** Brexit will not affect the UK's climate targets, but could affect how these are met. The resource cost of abatement may increase, especially under a no-deal scenario, and these costs could be passed on to consumers.



**Energy Efficiency: Green.** The UK has indicated it will keep current EU regulations within EU law. Major changes are unlikely over the medium term.

**VAT: Green.** Any reductions in VAT could reduce energy prices for consumers.

### Telecommunications and audio-visual

We consider the following channels through which consumers of telecommunications and audiovisual services could be affected.

**Roaming: Red.** The UK is currently party to EU arrangements that have abolished roaming charges. On exit, it will no longer be party to those arrangements, and UK consumers travelling in the EU would be subject to any roaming charges applied by operators. A bespoke agreement could be concluded between the UK and the EU, but there is no precedent for the EU having done this in its FTAs with non-members.

**Retail price regulation: Amber.** Greater freedom for national regulators to impose price regulation could discipline pricing behaviour, but it is not clear that exit scenarios would materially increase this freedom. There are also possible adverse effects of regulation on the development of competition, and hence on consumers, in the long run.

**Wholesale price regulation: Amber.** Structural separation between wholesale and retail activities is not currently allowed under EU law. An increased freedom to impose vertical structural separation could improve service-based competition, but could also adversely affect the incentives for investment in network facilities, and hence affect facilities-based competition.

**Consumer protection under the European Electronic Communications Code: Amber.** Under future arrangements it may be possible for the UK to tailor regulation to UK circumstances whereas code prescribes harmonised standards. But it is unclear whether changes will be material. There is a possibility that regulatory fragmentation raises costs for businesses that are then passed on.

**Audiovisual media: Amber** Outcomes are dependent in part on the UK's policy towards freedom of re-transmission for EU operators and toward EU-content requirements. More restrictive approaches could reduce consumer choice; but government could choose not to differentiate between EU and non-EU content, potentially increasing choice.

### Postal services and e-commerce

We consider the following channels through which future arrangements could affect consumers.

**Universal Service Obligation (USO): Green.** The USO exists to guarantee certain levels of services to specific customer groups, in a context of liberalised postal services. It is unlikely that under any configuration of future arrangements that either the overall model or the USO would be abandoned.

**Consumer protections: Red.** UK consumers are likely to lose powers of recourse on cross-border transactions. This could reduce the attractiveness of cross-border B2C transactions, affecting those consumers that rely on these transactions, and all consumers by reducing the intensity of competition in B2C e-commerce in the UK.

**Posts and cross-border e-commerce: Red.** For the same reasons as above, as well as the possibility, under a no-deal arrangement, of tariffs on certain frequently traded e-commerce items (clothing, textiles and footwear).

### Retail financial services

We consider the following channels through which consumers could be affected:

**PSD2: Amber.** The Payment Service Providers Directive -2 (PSD2) is an EU Directive designed to regulate payment services and payment service providers throughout the EEA. The PSD2 “goes live” in 2018, and it is likely that it will be transposed in to UK law. The aim of the directive was to increase pan-European competition and to harmonise consumer protection. It is unlikely that the UK would abandon PSD2, since it has been one of the main driving forces behind its development. A more subtle problem would lie in divergence with EU regulation, including on data protection, which is not directly under the scope of PSD2 but nevertheless central to pan-European competition. This could, over time, hamper cross-border trade.

**Mortgage Credit: Amber.** The Mortgage Credit Directive of 2014 was implemented in the UK to comply with EU directives in the area. The UK secured some limited exemptions to certain provision to reduce compliance costs. The UK is unlikely to change its regulatory framework on exit. But lower levels of cross-border trade and integration in this sector could dampen competition.

**Financial Compensation Scheme: Green.** The UK has internalised EU objectives in this area, and the authorities have stated their intention to maintain current policy settings.

### Aviation

We consider the following channels through which consumers could be affected:

**Regulation and safety standards: Green.** The majority of regulation comes from the International Civil Aviation Organisation and will therefore continue to apply. It is unlikely the UK would reduce safety standards or alter regulation significantly.

**Traffic rights and connectivity: Red.** Unlike many other services sectors, there is no default set of multilateral rules for aviation travel services. There are therefore substantial concerns given the lack of a fall-back position in the event of a no-deal exit. In the short term the UK would also fall out of open-skies agreements concluded between the EU and other partners. A FTA may help to secure access to the European Common Aviation Agreement (ECAA); though the only example of this is the agreement with Switzerland, which is linked to the acceptance of free movement of people, a principle the UK wishes to abandon.

### Food

We consider the following channels through which consumers could be affected:

**Customs tariffs: Red.** There may be significant effects, in the short to medium term, of tariff increases raising food prices under a no deal scenario, or a FTA that does not address agriculture (e.g. as in the EU-Switzerland case).

**Non-tariff measures: Amber.** The possibility of deregulation may put downward pressure on prices, but not necessarily in quality adjusted terms. There may be concerns about the ability of consumers to discriminate on the basis of quality.

# 1 INTRODUCTION

## 1.1 Background and context

In March 2017, the UK Government formally notified the European Union (EU) of its intention to leave the EU. Under the provisions of Article 50 of the Treaty of Lisbon, the UK's departure would occur by March 2019. Through 2017, the UK Government and EU undertook several rounds of negotiations on the terms of the UK's departure. In December 2017, both parties agreed that "sufficient progress" had been made on these issues to allow negotiations on future arrangements that would replace the UK's membership of the EU, to begin in 2018.

The outcome of these negotiations remains uncertain. The UK Government has called for a deep and comprehensive Free Trade Agreement (FTA) with the EU, and for preserving "friction free" trade as far as possible. It has indicated that it wishes to leave the EU Customs Union, and also wishes to withdraw from certain fundamental aspects of the single market, notably the commitment to free movement of people and the jurisdiction of the ECJ. It has called for a two-year transition time period following March 2019 during which current arrangements between the UK and EU would apply. The Opposition in the UK has proposed that the UK remain within the EU Customs Union, which would allow for free trade in goods between the UK and the EU, and would also mean that the UK continue to implement the EU's Common External Tariff on imports from outside the EU.

The European Union for its part has stated that there can be no 'cherry-picking' of aspects of the single market and that, under any transition period, the UK would continue to abide by all aspects of EU membership (including its common commercial policy, and application of EU laws), but without having a formal voice in the workings of the Union. The negotiating guidelines adopted by the EU in March 2018 reflected the EU's position that given the UK's stated "red-lines" a FTA more along the lines of those in force between the EU and third countries was the more likely outcome.

From the point of view of both producers and consumers in the UK, a key variable relates to the depth of the future arrangement, if any, that may be implemented between the UK and the EU. By "depth" we mean the extent to which trade in goods and services between the two are liberalised, the extent to which the movement of people is free of restrictions, and the extent to which both parties implement a common framework of laws and regulations.

A spectrum of outcomes may be considered. At the most integrated end is continued single market access, in which the UK continues to apply the four freedoms (trade in goods, trade in services, movement of capital and movement of labour) and implements EU law. An intermediate solution lies in a bespoke free trade agreement between the two parties, which include some of the elements mentioned above, notably free trade in goods and services. Finally, the most radical break with current arrangements would be a departure without a specific

agreement, and in which the UK and the EU trade on Most-Favoured Nation (MFN) terms under the World Trade Organisation (WTO)<sup>1</sup>.

If we treat the UK's current position and the EU's position, as reflected in its negotiating guidelines, as opening "bids", we can see that they both lie at different ends of the FTA "depth spectrum". The UK's starting position is at the deeper end, and aims to be as close as possible to the current single market. The EU is at the shallower end. Bargaining between parties will turn around where between these end points the actual outcome will fall. There is also the possibility that the negotiations will fail.

## 1.2 Objectives and scope of the analysis

Citizens Advice wishes to understand the full range of impacts on consumers that Brexit may have. Impacts on consumers are usually classifiable in terms of price effects, and qualitative effects. The latter cover a range of issues but essentially relate to the attributes of a product on the market: e.g. its quality, provenance, production and processing methods, and so forth.

In this case, the task is to find a way of linking these consumer impacts to changes to the architecture of the relationship between the UK and the EU. In section 1.3 we set out a framework for considering such linkages. It maps out the relationship between changes to treaty arrangements, changes in domestic policy, and changes in to market structure and the conduct of firms. It is these last set of changes that will determine consumer outcomes<sup>2</sup>.

Before developing the framework for analysis, we present the scenarios we have in mind for future relations between the UK and the EU. As already observed, a variety of outcomes are possible.

Obviously, the greater the difference between future trading arrangements and the status quo, the greater will be the likely consumer impacts. Consequently, Citizens Advice has commissioned Frontier Economics to assess the impacts of Brexit on consumers under the following EU-exit scenarios:

- An outcome in which the UK and the EU agree on a free trade agreement that covers goods and services that resemble recently concluded agreements between the EU and other countries (such as Canada or Korea). We call it a "FTA outcome". We distinguish this from the Deep FTA outcome sought by the UK.
- An outcome in which the UK and the EU do not agree a specific arrangement, and trade in goods and services come under MFN provisions. We call this a "no-deal outcome".

The first of these scenarios has been contemplated by the EU's chief negotiator, Mr. Michel Barnier. As already observed, the EU sees this as the logical outcome of the "red lines" declared by the UK government, and the EU's refusal to countenance selective commitments to the key principles of the single market.

<sup>1</sup> MFN means that the UK and the EU apply the same conditions of trade to each other they would normally apply to third parties that have not agreed a free trade agreement with them

<sup>2</sup> Assuming that consumer preferences remain fixed.

As to the second scenario, neither the UK government nor the EU have advocated this as a solution. However, both have accepted that this is the default to which both parties may have to revert should negotiations prove inconclusive.

The scenarios focus on the “harder” end of exit scenarios, in the sense that they represent substantial departures from existing arrangements. We wish to stress that the choice of these scenarios is neither an endorsement of them, nor a prediction that they will occur. Rather, we are seeking to understand what could be the impacts on consumers of outcomes that represent the greatest degree of departure from the status quo.

Given the scope of consumer effects, we focus on the following sectors that are consistent with Citizens Advice’s mandate:

- energy;
- telecommunications and media;
- post;
- retail finance;
- transport; and
- food

As explained in greater detail below, the effects of the Brexit scenarios on consumers in these sectors could be mediated through sector-specific policy measures or regulation. Effects in these sectors (and others) could also take place through changes to cross-cutting policies or regulation. We therefore consider the following cross-cutting issues before turning to the sectoral analysis:

- Consumer protection
- State Aid;
- Competition Policy; and
- Data Protection.

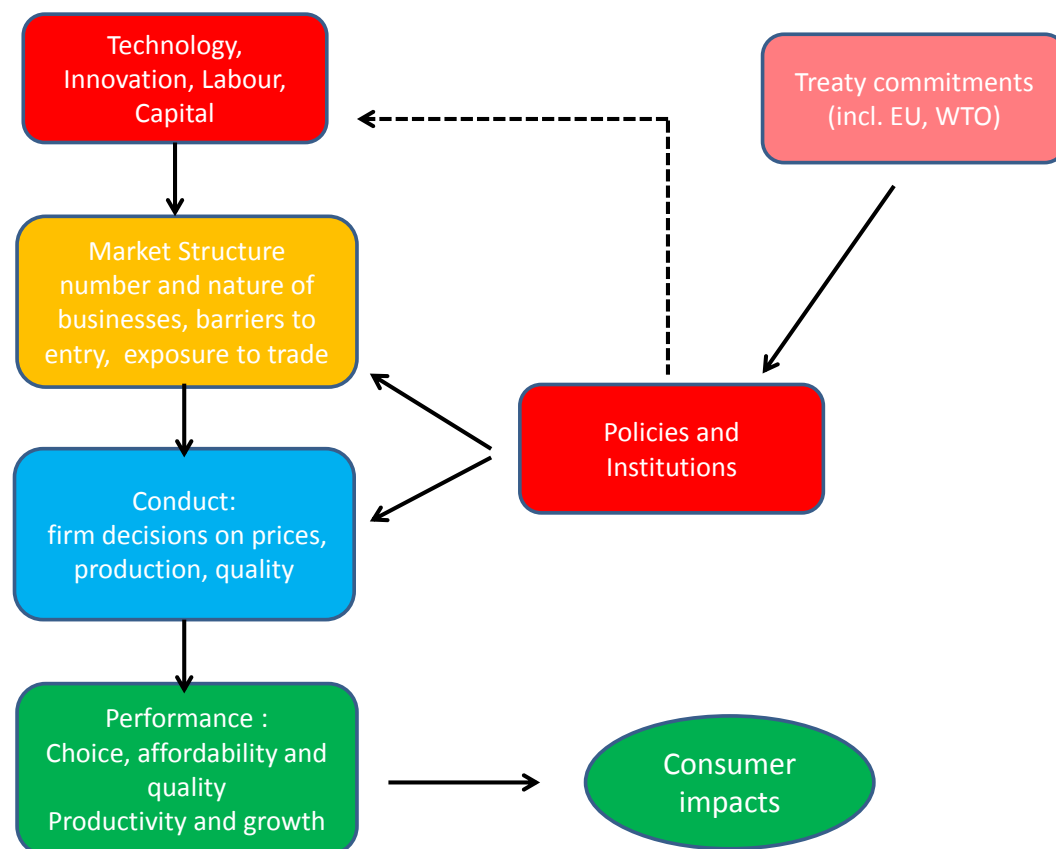
### 1.3 Approach and methodology

Analysing the effects of Brexit scenarios on consumers is complex. This is because multiple steps are involved. For any Brexit scenario, we need to:

- trace the effects of treaty changes to policy changes in the UK;
- assess the effects of policy changes on the markets and the economic agents operating in them; and
- assess the effects of changes in competitive interaction in markets on variables of interest to consumers (price, quantity, and qualitative characteristics of goods and services).

A commonly used framework in the theory of industrial organisation is the structure-conduct-performance paradigm. Its application in the context of our analysis is summarised in figure [2] below.

**Figure 2** Structure-conduct-performance framework adapted to EU-exit scenarios



The approach builds on the basic proposition that market structure is a fundamental determinant of firm conduct, and this conduct generates impacts on consumers. Market structure and competitive conduct can be influenced by factors of production such as labour, technology and capital. But they will also be influenced by policy and regulation. What is of interest to us is the extent to which changes in treaty commitments, depicted by the red box in the top left-hand corner, flow through to policy and regulatory changes, and as a result to structure and conduct.

The mapping of treaty commitments (i.e. in this case, a FTA or a no-deal outcome) to policy/ regulatory changes and then markets is not necessarily 1 to 1. Some changes to treaty arrangements may indeed have automatic impacts: For example, in the absence of an agreement on aviation rights, the rights of UK-registered airlines to operate in, within, and out of the European Common Aviation Area would lapse. A reversion from zero-duty to MFN tariff rates on food and agricultural products will have an automatic impact on food prices.

But in many, if not most, cases, the implications of changes to treaty arrangements could be that there are now different (usually wider) ranges of policy and regulatory settings within the UK that could be considered, including

the possibility that nothing will change. The options selected could depend on a number of factors, including the preferences of the government in power. This range in turn will generate a range of market structure and conduct outcomes, and thus a range of potential impacts on consumers.

In order to address these indeterminacies, and in order to avoid a purely speculative approach, we have drawn on the revealed preferences and statements of the authorities and regulators to date. For the most part, therefore, we do not consider radical policy changes that could arise as a result of Brexit scenarios, but are unlikely to do so. Rather, we focus on those changes that are more likely to occur.

## 1.4 Structure and format of this report

The report is structured as follows:

- Chapter 2 analyses the three cross-cutting themes;
- Chapters 3-8 assess each of the individual sectors;
- Chapter 9 provides some conclusions.

The sections on cross-cutting issues and on specific sectors follow a common structure.

- We present each of the topics, how they are treated in EU rules and in the UK, and their relationship to exit scenarios;
- We then consider the effects of exit scenarios on market structure and conduct, in keeping with the framework set out above; and
- Finally, we consider the effects on consumers that take place as a result of the changes to market structure and conduct that could arise out of the exit scenarios.

We use a “traffic- light” system to identify the nature of the projected impact of the exit scenarios on consumers:

- Green implies no adverse impact or potentially advantageous impacts
- Amber means that the overall impact is ambiguous, because the impacts on UK policy are not certain, and/ or because the effect of possible policy changes on consumer welfare are not certain.
- Red means that the exit scenario provides grounds for substantial concerns.



## 2 CROSS CUTTING TOPICS

### 2.1 Introduction

In this section we consider four cross-cutting policy topics. The choice of these topics is motivated by the fact that they relate particularly closely to the specific sectors and markets considered in this study. Consumer protection is a particularly wide-ranging area, involving cross-cutting and sector specific provisions. State aid can be a policy tool for stimulating development in infrastructure sectors, and industrial policy more generally. Competition policy is of particular importance in sectors characterised by relatively high levels of concentration and significant merger activity. And finally, data flows are fundamental to activities in the modern economy, and to most of the sectors considered in this report.

### 2.2 Consumer protection

#### 2.2.1 Consumer protection and exit scenarios

Consumer protection is a competence shared by the EU and member states. Reflecting this, consumer protection is enshrined in both EU regulation, and also in EU Directives. The EU directives need to be transposed into domestic law in member states. Consumer protection is a treaty obligation under the Treaty on the Functioning of the European Union and Article 38 of the Charter of Fundamental Rights of the EU. Based on these provisions, the EU has identified five fundamental consumer rights:<sup>3</sup>

- The right to protection of health and safety;
- The right to protection of economic interests;
- The right to claim damages;
- The right to an education; and
- The right to legal representation.

Some 90 EU directives cover consumer protection matters. These Directives are required to be transposed into national law. Disputes are arbitrated by national courts on the basis of national laws that apply the directives.

According to the European Parliament, product safety is the “cornerstone of consumer safety and confidence”<sup>4</sup> The General Product Safety Directive of 2001 is the main cross-cutting instrument, and is complemented by sector specific legislation. Specific safety rules apply to toys, electrical and electronic goods, cosmetics, pharmaceutical chemicals and other specific product groups. (For an analysis of consumer protection in telecommunications, posts and e-commerce, and food safety, please refer to the relevant chapters of this report).

---

<sup>3</sup> European Parliament (2015), *Consumer Protection in the EU – an overview*.

<sup>4</sup> Ibid, p. 8

The Rapid Alert System (RAPEX) is a system allowing 31 States (the 28 EU members plus the members of the European Economic Area) to alert each other on non-food products that pose a risk to consumer health and safety. Under RAPEX, states have an obligation to alert the European Commission to dangerous products.

In the UK, the cornerstone of consumer protection is the Consumer Rights Act of 2015. The UK, as with all EU member states, complies with EU directives. Because of the mixed competence nature of consumer protection, the application and enforcement of consumer protection reflects a complex interaction between UK and EU law. A House of Commons Briefing Paper describes the influence of EU law and the jurisprudence of the EU Court of Justice as “all pervading”.<sup>5</sup>

On exit, the UK will continue to apply a consumer protection regime aligned with the EU, unless it consciously chooses to depart from its provisions. Under the Great Repeal Bill, EU consumer law (inter alia) is enshrined in UK law. The question then becomes how aligned the regimes will be over time. The House of Commons briefing paper referred to above cites the Bar Council, which describes EU consumer law as a moving target. The likelihood of divergence will be high unless efforts are made to transpose EU law and follow EUCJ jurisprudence.

These observations apply regardless of the exit scenario. The FTA scenario may open the possibility of formal mechanisms for cooperation on consumer protection law and policy. It should be noted however that the RAPEX programme only applies to EU and EEA countries, and so a reasonable assumption would be that under the exit scenarios envisioned it would not apply to the UK.

## 2.2.2 Effects on market structure and competition

The effects will depend on the extent and manner in which the UK might deviate from EU consumer protection law and policies. It is likely that UK businesses would align themselves with EU standards in order to sell into the EU regardless of the exit scenario. A more stringent level of consumer protection in the UK relative to the EU may limit the extent of competition by making it more difficult for EU producers to sell into UK markets. That could have negative consumer impacts in terms of price, though overall welfare effects would depend on the balance between these and the objectives sought to be achieved by more stringent levels of protection.

A lower level of consumer protection in the UK relative to the EU could, all else being equal, lead to more competition from low cost sources, but the benefits from this would need to set against any detriment to consumer safety.

It is unlikely though that the public would accept a lowering of consumer safety standards relative to the EU. What may be more likely is divergence (in a manner seen for example, between the EU and non-EU trading partners in areas such as automotive safety and environmental standards) in the nature of the standard and conformity assessment. Such fragmentation could add to business compliance costs and dampen competition by creating technical barriers to trade.

---

<sup>5</sup> House of Commons Library (2017), Impact on Brexit on UK Consumer Regime, p 7

Whether these can be addressed depends on how far the UK and the EU could agree equivalence regimes – which is more likely under a FTA scenario.

### 2.2.3 Effects on consumers

A divergence in consumer protection regimes can create compliance costs and reduce competition. This would have negative effects on consumers. Were the UK to adopt higher levels of protection, the negative consequences of these on competition would need to be weighed against social preferences on risk that could justify higher levels of protection.

### 2.2.4 Conclusion on consumer protection

We propose an amber rating for this issue. The UK has largely incorporated the EU's approach to consumer protection in its law. But because the EU framework depends on a patchwork of directive and regulation and because EU and UK consumer law are currently deeply intertwined, a departure from the EU could increase the likelihood of divergence between the approaches. The chances of divergence will be greater if there is resistance to align with jurisprudence of the ECJ. A FTA scenario may mitigate, but not eliminate, these risks.

## 2.3 State Aid

### 2.3.1 State Aid and exit scenarios

For a measure to qualify as “State Aid”, it needs to meet the following criteria:

- There must be an intervention by the state or through state resources. This could include subsidies, but also tax relief, government guarantees, state holdings of part or all of a company; and the provision of goods and services on preferential terms.
- The measure must have an element of selectivity – i.e. it must have been granted to specific companies or industries, or companies in particular regions. This means that broad-based interventions, e.g. general infrastructure investment; or regional development grants may fall outside the scope of state aid.
- The aid must give rise to potential or actual distortions of competition.
- The aid must affect trade between Member States.

Under EU law there is a general prohibition on state aid. But the legislation allows for exemptions from this prohibition. In particular, the following sectors or activities are covered by exemptions: regional aid, aid to small and medium enterprises; aid for research, development and innovation; aid for broadband infrastructure; aid for culture and heritage conservation; and aid for regional airports and ports.

The EU has also enacted specific rules for services of general economic interest. The rules recognise that the pursuit of social objectives, such as universal service, will require compensation to operators from public funds. The rules

attempt to balance the pursuit of these objectives with the objective of maintaining a level playing field. State aid for the pursuit of social objectives are exempt from notification obligations provided certain specific conditions are met, including that member states follow proper processes for identifying social needs, that there be a specific contractual arrangement between the state and operator for the provision of the services, and that the operator maintain separate accounts funds received for the delivery of the stipulated services (to address risks of cross-subsidisation).<sup>6</sup>

Under the no deal exit scenario, the UK would no longer be subject to EU rules on state aid. That does not mean, however, that it will change its approach to intervention. For a start, the UK authorities have generally subscribed to the view that selective interventions (“picking winners”) is undesirable as it distorts competition, encourages rent-seeking, and consumes state resources. The recent Industrial Strategy White Paper published by the UK government persists with the rejection of selective intervention<sup>7</sup>. Clearly, governments and paradigms can change, but a trend towards a strategy based on selective intervention would require very significant changes to the institutional culture of policymaking in the UK.

Under a FTA scenario, it is probable that both the UK and the EU would agree disciplines on the use of public funds that resemble state aid rules. For example, Clause 9 of the EU Council’s Negotiating Guidelines call for disciplines on, inter alia, state aid. While the guidelines are an opening negotiation offer, it is quite likely that the UK will see this as an acceptable (and relatively costless) request in exchange for market access guarantees.

Finally, the UK, both within the EU and outside the EU, would be subject to WTO rules on subsidies. These rules have points of resonance and divergence with EU state aid rules. WTO rules apply to financial measures that provide an advantage to specific firms, industries or sectors. Export subsidies and subsidies that are contingent on using domestic inputs over imported ones are per se prohibited. All other subsidies are actionable, in that WTO members may either challenge them through dispute settlement proceedings, or impose retaliatory measures (countervailing duties) if the subsidies in question have caused them injury. Unlike with the European Commission and state aid, there is no general surveillance mechanism that will challenge particular measures. All challenges need to be initiated by a particular member.

But the WTO rules mean that any measure taken by the UK would, in order to avoid challenge, need to be non-specific and general. Which in that respect creates a situation that resembles the disciplines currently imposed by EU state aid rules.

Current discussions on state aid in the UK primarily focus on areas such as infrastructure, notably broadband<sup>8</sup>. In fact, the state aid for broadband rollout has

---

<sup>6</sup> In practice, this could nevertheless occur through cost allocation processes that are not easy to detect

<sup>7</sup> HM Government (2017), Industrial Strategy White Paper, p 165 notably.

<sup>8</sup> A question has also been raised as to whether State Aid rules might prevent policies aimed at re-nationalising certain industries. However, it is clear that many forms of infrastructure ownership across the EU are compatible with State Aid rules. For example, in Ireland the State owns the electricity, gas water and rail networks, and continues to own energy supply companies. Consequently, it is less clear that the non-application of State Aid rules would impact policies around nationalisation.

been explicitly approved by the European Commission, largely on the grounds that it complied with exemption requirements. Investment in smaller regional airports may also come under scope of exemptions, which in June 2017 were reformed to specifically make it easier for state aid to airports carrying up to 3 million passengers per year.

By and large, the overarching reasoning underpinning rules on government interventions via public finances – whether these rules are at the EU or the multilateral level – is that such intervention is desirable only in substantiated cases of market failure (such as the provision of public goods, or the supply of goods such as health or education that have positive externalities) and the pursuit of specific social objectives related to equity and distributional concerns. The more policies drift away from such objectives, the more constraining the rules are likely to be. The UK has been generally at the forefront of efforts to develop frameworks for analysing the value for money from public interventions, and supporting rules that ensure that interventions are efficient in addressing market failures.

### 2.3.2 Effects on market structure and competition

The definition provided for illegal state aid suggests that the primary effect of such interventions is to have some distorting effect on competition. The process for enforcing WTO rules is weaker than within the EU (for the reasons described above), and hence there may be more latitude for governments to try and “get away with what they can” if they feel they are unlikely to be challenged. Consequently, in a scenario where the UK was subject to less stringent WTO rules regarding state intervention and subsidy one might expect to see an increase in interventions that had a distorting effect on competition.

However, as we noted earlier, the UK has historically taken the position that ‘picking winners’ is bad policy, and unlikely to be in the long term interests of the UK economy. Consequently, while in theory the government could have more freedom to intervene in a way that distorts competition, in practice it may be unlikely to do so. Moreover, while the WTO rules and processes are less stringent than state aid rules, they still provide a limit on the interventions that the UK government could consider.

### 2.3.3 Effects on consumers

Under a FTA scenario, the UK and the EU are likely to agree disciplines on state aid.

Under a no-deal scenario, it should be recalled that the comparison is not between a scenario in which state aid is not feasible and one in which it is. But rather one in which state aid is possible given certain disciplines that by and large are consistent with economic efficiency, with a counterfactual case in which greater discretion would be allowed for intervention. The economic desirability is not clear: should the UK government choose to be more expansive in terms of selective state intervention, it is possible that this could generate costs notably in terms of competition and “level playing fields” (concerns which lie at the heart of

current disciplines on state aid). This may not advantage the consumer over the long run.

### 2.3.4 Conclusion on State Aid

We rate the potential effect on consumers as Amber. It is unclear that exit will substantially increase the likelihood of government intervention through state aid. First, a FTA scenario is likely to include disciplines on state aid, and multilateral rules will continue to apply to the UK under a no deal exit. Second, as described above, a trend towards a strategy based on selective intervention would require very significant changes to the institutional culture of policymaking in the UK.

But, if the UK were, under a no deal scenario, to attempt to take advantage of greater latitude to intervene via public finance, this could leave consumers worse off in the long run by distorting competition.

## 2.4 Competition policy

### 2.4.1 Competition policy and exit scenarios

Competition policy is a cornerstone of effective consumer protection in both the UK and the EU. The European Commission handles EU wide competition policy cases, under the supervision of the Competition Commissioner, while in the UK the Competition and Markets Authority (CMA) handles cases falling under the UK's jurisdiction. The EC and national competition authorities regularly collaborate on cases, and have developed detailed procedures for cooperation.

UK Antitrust provisions are relatively similar to EU ones. There are some differences between the UK's approach to mergers, and that of the Commission, but the core objectives of the two regimes are the same. The UK's approach to competition policy is unlikely to change as a result of Brexit. In its findings on the matter, the Brexit Competition Law Working Group found that "Brexit does not give cause for radical reform of the principal UK competition statutes, nor of the role of the competition authorities".<sup>9</sup>

Under a no deal scenario, however, there could be risks of some enforcement gaps: (i) for cases that straddle the date at which Brexit takes effect; and (ii) in terms of coordination and cooperation since the UK would not be part of the European Competition Network. There will also be a need to ensure sufficient resourcing of the CMA.

On the latter point, a FTA may help if it includes specific provisions on cooperation and coordination, as the arrangement with Switzerland currently has.

### 2.4.2 Effects on market structure and conduct

Significant deviations from current practices are not expected<sup>10</sup>, and hence the exit scenarios are not expected to generate significant impacts. At the margin,

<sup>9</sup> <http://www.bclwg.org/activity/bclwg-conclusions>

<sup>10</sup> Various theoretical possibilities have been advanced as to how UK and EU merger clearance may diverge over time, but these remain speculative.

the possibility of enforcement gaps, and uncertainty about processes under a no deal scenario could have some impact on business certainty, which could affect investment decisions.

### 2.4.3 Effects on consumers

Significant effects are not expected.

### 2.4.4 Conclusions on Competition Policy

We propose a Green rating. Subject to appropriate measures taken by the UK government, negative impacts on consumers are unlikely.

## 2.5 Data regulation

### 2.5.1 Data regulation and exit scenarios

The core of data regulation in the EU will be addressed through the General Data Protection Regulation (GDPR) that comes into force in May 2018. The GDPR updates previous data regulation. Perhaps the biggest change relative to previous legislation is its extra-territorial application. It explicitly applies to all businesses and institutions that hold personal data on data subjects that reside in the EU, regardless of whether these businesses and institutions are within the EU. This means that if a business or institution is involved in the selling of goods and services within the EU, and this involves the use of data, compliance is required. Key requirements of the GDPR include the right of data subjects to access data; the right to be forgotten; data portability and privacy by design i.e. privacy is fully integrated into data systems.

Non-EU jurisdictions that comply with GDPR requirements are deemed to be found “adequate”, which allows the transmission of data to these jurisdictions from the EU.

The UK is due to implement the GDPR when it comes into effect. Once outside the EU, under a no deal scenario, the UK would be free to deviate from the GDPR’s provisions. However, this would affect the flow of data to and from the EU. A FTA could include provisions relating to data, but this may be limited to a commitment to recognise UK regulations as equivalent – and to achieve that the UK would probably need to demonstrate compliance with GDPR.

In the event that over time the UK’s approach to data departs from that developed by the EU (a process in which the UK would not have a say), then the UK’s status as “adequate” may be thrown into question.. This could in turn affect the costs of data flows between the EU and the UK.

### 2.5.2 Effects on market structure and conduct

In the short run, more stringent data requirements increase business costs. However, given public demand for privacy and data protection, the stringency of data requirements – in Europe at least – looks set to increase. If that is the case,

businesses costs will increase the more their operations straddle jurisdictions with diverging regulatory requirements. Moreover, if there is uncertainty as to whether the UK is able to retain its adequacy rating, this may deter investment, or it may force firms to take contingency measures e.g. relocating data storage.

### 2.5.3 Effects on consumers

The centrality of data to business operations, including in essential consumer markets such as telecoms, finance and energy, mean that disruptions to data flows or increased costs of compliance as a result of regulatory fragmentation could have significant adverse effects on consumers.

The effects may be particular pronounced for e-commerce transactions. For example around 20% of UK Business to consumer (B2C) transactions are currently on a cross-EU basis. Constraints on data flows would have a direct effect on consumers with a particular propensity to participate in cross-border transactions. They would have indirect effect on all consumers by reducing the intensity of competition in goods and services that are marketed through B2C e-commerce (see also section 5.3).

### 2.5.4 Conclusions on Data Regulation

We propose a Red rating. The UK will continue to implement the GDPR, but under a “no deals scenario, and probably under a FTA scenario, unlikely to be party to revisions. This may raise questions about future findings of adequacy. Loss of adequacy likely to have adverse effects on choice and price.

## 2.6 Summary on cross-cutting issues

**Table 1** Summary of consumer impacts: energy markets

Issue	Status	Commentary
Cross-cutting consumer protection	Amber	UK and EU approaches are deeply intertwined. Exit unlikely to lead to major changes, but there could be divergences over time, especially if the UK is resistant to applying ECJ jurisprudence
State Aid	Amber	FTA scenario likely to have disciplines on state aid. A no deal scenario may allow greater formal flexibility but UK authorities likely to keep to approach of remedying market failures, which is in line with current practice. Shift to more selectively interventionist policy may create distortions to competition and level playing field
Competition policy	Green	Major changes unlikely. Main points of focus are CMS resourcing and ensuring cooperation with EU bodies.
Data	Red	Data are a critical element of many business operations, and constraints to data flows under exit scenarios could have adverse effects on consumers.



## 3 ENERGY

### 3.1 Introduction

Energy market reform in the UK began in the 1980s, and over time involved the separation of network activities that had natural monopoly characteristics (such as transmission and distribution) from other supply activities such as generation and retailing; the development of frameworks for efficient regulation of network activities; and the introduction of competition in non-network activities. The aims of the reforms were to encourage efficiency in production, while guaranteeing the security and affordability of supply.

The UK was an early leader in energy market reforms in the EU, and had a strong influence on EU-level reforms. The latter were undertaken in the context of efforts to implement the single market initiative, and were promoted by three energy directives (“packages”) in, respectively, 1996 (1998 for gas), 2003 and 2009. The EU required these directives to be transposed into national law. The principles behind the directives were similar to those that drive the reforms in the UK, with the added requirement of facilitating cross-border trade through the development of interconnection and principles of non-discriminatory access to network infrastructure.

In both the UK and the EU, climate policy objectives have progressively become an integral part of energy policy, with targets for emissions reductions, renewable energy and energy efficiency being set. Based on this history of reforms in both the UK and the EU, we consider the following channels through which changes to the relationship between the UK and the EU could affect consumers in the energy sector:

- changes to the UK’s participation in the Internal Energy Market (IEM);
- the issue of price caps, which face constraints under current EU law;
- smart meters, the rollout of which is underpinned by EU policy;
- renewable energy;
- energy efficiency; and
- VAT on energy.

The following sections explain each of these issues, the policy implications of exit scenarios, the impacts of these on markets structure and conduct, and hence on outcomes for consumers.

### 3.2 Participation in the Internal Energy Market

#### 3.2.1 The IEM and the exit scenarios

The Internal Energy Market is a policy framework and set of rules governing the production, transport, distribution and sale of electricity and gas. It opens up these markets in member States for competition, and seeks to eliminate barriers

between member States to investment and the transmission of electricity and gas. It encourages greater interconnection between member States to increase the efficiency and security of energy supply.

Where possibilities for competition are limited, because activities have the characteristics of natural monopoly (typically network activities such as transmission and distribution), the IEM moves towards a common framework for the economic regulation of these activities. It also harmonises technical regulation (i.e. standards of conduct and performance operators must follow) across the member States. Of particular importance are the Electricity Network Codes, developed by the European Network of Transmission System Operators for Electricity (ENTSO-e) and European Network of Transmission System Operators for Gas (ENSTOG). These are essential for the integrated operation of energy systems across the EU.

Under a “no-deal exit scenario”, the UK would cease participation in the institutions that govern the IEM. It would be free to apply the IEM’s overall policy framework should it choose to. Historically, the principles that underpin the IEM have been long advocated by the UK, notwithstanding a recent trend toward retail price regulation (see separate section). However, in the event that the regulatory frameworks between the UK and the EU diverge, the interconnectedness between the two may diminish. Import and export tariffs on electricity and gas are not expected to be a material issue since the UK and the EU have by and large bound their tariffs (i.e. made formal commitments at the WTO) on these at zero.

Under a FTA, a key question is whether an agreement on energy will feature as part of such an agreement. A bilateral agreement on energy between the EU and Switzerland has been in negotiation, suggesting both that it is possible to include energy in a trade deal outside the single market, but also that its inclusion may depend on negotiations in other areas.

### 3.2.2 Policy implications for market structure and conduct

The policy implications depend both on the consequences of exit scenarios for energy costs, and the impact on these costs of potential policy changes in the UK.

Key issues are:

- Whether the cost of wholesale energy in the UK will increase because it becomes more costly to import electricity through interconnectors. Under a no-deal scenario this may be possible if the UK loses the benefit of certain exemptions that EU interconnectors (transmission infrastructure carrying electricity or gas between jurisdictions) currently receive.
- The IEM framework provides policy certainty over the long term, which is important for investment in electricity supply assets that have a long economic life. To the extent that leaving the IEM removes an established framework for energy policy, this may increase the level of policy risk investors associated with the UK. This may be the case if investors perceive that policy stances taken by future governments could reverse key aspects of UK energy policy

developed over the last three decades. Uncertainty in investment can reduce the extent of competition in energy markets with effects on price and quality.

### 3.2.3 Effects on consumers

The main risks stem from a no deal scenario. In this scenario, we might expect to see less interconnectedness between the UK and EU energy markets. This could lead to an increase in energy costs, particularly in the longer term, if the UK is unable to fully achieve the benefits associated with being part of a large integrated market.

These risks would be mitigated under a FTA scenario that includes a specific chapter replicating the IEM. Under this outcome it is unclear whether the UK would have a say in the institutions and policies governing the future direction of the IEM. This in and of itself is unlikely to disadvantage consumers, as long as the direction of policy development in the EU follows the trend of the last two decades.

### 3.2.4 Conclusion on IEM

RED: A no deal exit scenario could have material adverse impacts on consumers. These could be mitigated under a FTA that replicated the IEM.

## 3.3 Price regulation

### 3.3.1 Price caps and EU exit scenarios

Over the last number of years the clear direction of EU regulatory policy has been towards the liberalisation and deregulation of retail energy markets. The EC have clearly signalled that the competitive market should ensure that prices charged to consumers are appropriate, and that producers have incentives to seek operational efficiencies to reduce costs.

In the last few years, there have been concerns in the UK that standard variable rate tariffs (charged to roughly 17 million households) may be too high, on the basis of the estimated differential between this tariff and fixed price deals offered by suppliers. There have been suggestions that this is attributable, in part at least, to the inability or unwillingness of customers to shop around for the best deals. Consumer inertia is considered to have stifled competitive forces that would otherwise have driven down prices.

The current UK government is seeking to enact price cap regulation to protect customers that do not switch suppliers. On 26 February 2018 it introduced the Domestic Gas and Electricity Bill into Parliament, which would provide the regulator (OFGEM) with the ability to cap prices until 2020, with the possibility of extending the cap until 2023.

EU energy policy and law limit the extent of price regulation. The reasoning is that price caps can ultimately stymie the development of a competitive market. This is because it can remove the incentive for energy suppliers to develop competitive price offers for the more engaged sector of the consumer market, especially if regulators set price caps too high. Equally, if they set price caps too low, this will discourage entry and competition in the long run.

The ability of regulators to set prices at the efficient level is constrained by the fact that they have less information than producers on supply costs – hence historically the reason for relying on competitive forces where possible.

In practice, the EU allows price caps on a time limited basis, and only on the basis of specified public interest grounds. Recent trends in EU policy suggest a tightening of the stance against price caps. The jurisprudence of the European Court of Justice, in the case of gas, also emphasises that regulated prices are inconsistent with the requirements of EU directives.

Under a no-deal exit scenario, the UK would no longer be bound by the EU's energy directives or by ECJ case law. It would therefore be able to implement price restrictions without constraint, notably on duration. This is not current UK government policy, and it is important to note that a full exit scenario would not necessarily make a difference to current proposals. However, should the current government or another one seek to implement price caps indefinitely, a no-deal exit is likely to give it more freedom to do so.

Under a FTA, the key issue is whether a chapter on energy would be included in any deal. If that is the case, it is likely to include a commitment to full retail competition, and hence limitations on the use price caps.

### 3.3.2 Policy implications for market structure and conduct

Whether price caps are an efficient mechanism to lower energy prices depends in part on how they compare to alternative policy responses to underlying problems (e.g. increasing consumer switching directly through information; partial protections; or support to vulnerable groups of consumers) and on the long term effects of price regulation on entry and competition in the market. On the last two fronts, price caps may discourage the long term contestability of retail markets, and remove incentives for cost reduction.

### 3.3.3 Effects on consumers

In the short term, a no-deal scenario will not substantially alter the ability of the government to enact short term price regulation. It would remove constraints on the ability of the UK to implement price caps should it wish to do so on a longer term basis than currently envisioned. A FTA that includes the energy sector is likely to leave in place EU constraints on the freedom of the UK to implement price regulation as is.

The introduction of price caps (or the threat to do so) can act as a discipline on pricing behaviour in the short term. Regulatory Authorities may consider this beneficial in scenarios where they determine that competitive forces are too weak to provide such a discipline. This may benefit some customers who would otherwise have faced higher prices.

In the longer term, the authorities will review the desirability of maintaining price regulation. In particular, they are likely to consider the extent to which continued regulation introduces distortions in market structure and conduct, and therefore hinders the development of competition. These effects would be considered alongside any on-going distributional concerns the authorities may have about the exposure of consumer groups to prices.

### 3.3.4 Conclusion on price caps

For these reasons, we rate this policy question as “amber”. It is not clear that either exit scenario modifies the short term ability to cap prices. In the long term, the willingness of authorities to maintain price regulation will reflect their assessment of the efficiency effects of regulation, and of distributional concerns, an approach that they would have followed regardless of the UK’s position vis a vis the EU..

## 3.4 Smart meters

### 3.4.1 Smart meters and EU exit scenario

Smart meters provide real (or near-real) time information to consumers and energy producers on energy usage. Their rollout is mandated by the third energy package, which commits member States to a rollout target of 80%. Smart meter objectives have been transposed into UK law. The intention is that smart meters should enhance the efficiency of energy systems, by sending more accurate information to both producers and consumers.

The UK has transposed EU legislation on smart meters into domestic law. It has also, from a policy point of view, internalised the policy objectives the EU seeks to promote by mandating smart meter rollout.

In principle, a no-deal exist scenario would give the UK flexibility to reverse the rollout of smart meters should it determine that the relative costs and benefits justifies such a reversal. There is no evidence to suggest that such a possibility is under consideration, and to date over 9 million meters have been installed.

However, it should be noted that the progress of smart metering in the EU has been slower than expected, with various governments having evinced a certain level of scepticism about the actual benefits of the policy.

A FTA in which the UK signed an agreement on energy may mean that the UK will be committed to the requirements of the third energy package. But given the slow pace of implementation in the EU, it is likely that the impetus to maintain smart meter rollout will lie with the government.

### 3.4.2 Policy implications for market structure and conduct

Given the low probability that government would reverse the smart meter roll-out it is highly unlikely that there will be any impact. To the extent that smart meters may give rise to increased competition, reversal of the rollout would prevent such increased competition from materialising.

### 3.4.3 Effects on consumers

Limited, given the low probability of a change in policy.

### 3.4.4 Conclusion on smart meters

We rate this green in that we do not foresee adverse impacts of either exit scenario, given the low likelihood of a UK government reversing policy.

## 3.5 Renewable energy targets

### 3.5.1 Renewable energy and exit scenarios

The EU has set itself a target of ensuring that by 2030, at least 27% of energy consumption is from renewable sources, as part of its wider climate policy objective of cutting greenhouse gas emissions by that year to 40% below 1990 levels. These follow on from targets of 20% cuts in emissions and a 20% share of renewables by 2020. The targets for 2030 are intended to be met collectively; unlike the 2020 targets there will be no national level targets.<sup>11</sup>

The Renewable energy target for 2030 is to be underpinned by a revised renewable energy directive. The Directive mandates action at a national level, in particular, the Directive specifies that policies need to be aligned to state-aid principles, and that national renewable energy schemes should be progressively opened to partner countries. This is intended to facilitate least cost abatement and EU-wide efficiencies in achieving greenhouse gas emissions reductions.

The UK's climate targets are fixed by the Climate Act. This mandates a reduction of 80% in greenhouse gas emissions of 1990 levels by 2050. The Act also requires the UK to set five-year "carbon budgets" (permissible levels of emissions) to ensure progress towards the 2050 target. By 2032, at the end of the fifth carbon budget, emissions are supposed to have fallen to 57% below 1990 levels.<sup>12</sup> Under the EU's 2020 renewable energy target, the UK had adopted a national target of 15% for the overall share of renewables in total energy consumption.

Under both a no deal scenario or a FTA, the UK is unlikely to be constrained by EU climate targets, or renewable energy objectives agreed pursuant to EU renewables targets. However, as noted by the Committee on Climate Change, leaving the EU does not change the overall emissions reductions targets and pathways, which are set in national legislation. The EU-wide target for emission reductions would be met by the UK, if it follows its own carbon budgets, sometime between 2020 and 2025.

The exit scenarios may, however, change how the UK could achieve its targets. The UK Committee on Climate Change notes both that (i) EU-wide policies account for nearly half of projected reductions out to 2030 and that (ii) new policy measures are required in the UK as the pace of reductions has been flagging. Key questions include the extent to which the UK is able to link into the EU's emissions trading scheme, and access energy sources (including renewable ones) from EU sources. The latter is more likely under a FTA with an energy chapter.

### 3.5.2 Implications for market structure and conduct

The possibility of accessing different sources of low-emissions energy helps to attain abatement targets at lower costs. This is one of the factors motivating the

<sup>11</sup> <https://ec.europa.eu/energy/en/topics/energy-strategy-and-energy-union/2030-energy-strategy>

<sup>12</sup> <https://www.theccc.org.uk/tackling-climate-change/reducing-carbon-emissions/carbon-budgets-and-targets/>

more flexible approach pursued by the UK to its 2030 targets compared to previous initiatives. Moreover, the entry of low cost renewable sources may reduce wholesale electricity prices.

The UK may or may not retain a specific target for renewables after 2020; it would not have been required to do so even had it remained part of the EU. The main concern for it is if exit scenarios required the UK to place more reliance on domestic policy measures than pan-EU measures, and these proved to have higher resource costs.

### 3.5.3 Implications for consumers

If the UK cannot link to EU-wide emissions reductions initiatives, this may increase the resource cost of achieving the UK's targets. This could impact the consumer if higher costs are passed on. If the government makes extensive use of subsidies, this will ultimately be paid for either directly by the energy consumer or indirectly through the taxpayer.

### 3.5.4 Conclusion on renewable energy targets

We propose an Amber rating. Exit will not affect the UK's climate targets, but could affect how these are met. The resource cost of abatement may increase, especially under a no-deal scenario, and these costs could be passed on to the consumer.



## 3.6 Energy efficiency

### 3.6.1 Energy efficiency and exit scenarios

The EU has set a target of energy savings of 27% off business as usual by 2030. Energy efficiency objectives to date have been underpinned by several legal instruments including:

- The Energy Efficiency Directive (EED);
- The Energy Performance of Buildings Directive (EPBD);
- Product regulations laying down minimum energy performance standards and putting energy performance information on labels;
- CO<sub>2</sub> performance standards for cars and vans;
- The roll-out of smart meters following the Internal Electricity Market Directive; and
- The EU Emissions Trading System (ETS).

The UK, as part of its carbon budgets, sets sector emissions reductions targets that depend to a substantial amount on energy efficiency measures (e.g. insulation targets for buildings, targeted energy efficiency improvements for cars).

Under exit scenarios, the UK will likely not be bound by most EU energy efficiency directives. Though some, like product labelling and performance standards for cars will be relevant if the UK is to sell goods on the EU market (regardless of whether this is under MFN conditions or under a preferential deal). In general, the fact that the UK's climate targets are fixed in law and are more ambitious than the EU's, and the fact that energy efficiency is seen as a cost-effective way of reducing emissions, means that the UK is unlikely to change its approach to energy efficiency. On some aspects of regulation e.g. performance regulations, it may seek to adapt regulations more to national circumstances, though it will be mindful not to allow divergent regulation to jeopardise access to EU markets.

### 3.6.2 Impacts on market structure and conduct

There are unlikely to be significant changes to market structure and conduct under either of the exit scenarios under consideration. The ability to tailor some forms of regulation to domestic conditions could reduce costs in those markets, but the extent to which this is likely is debatable.

### 3.6.3 Impacts on consumers

There seems to be few risks of adverse impacts to consumers of exit scenarios – principally because the UK has already internalised in its own policy framework the objectives the EU seeks to pursue.

### 3.6.4 Conclusion on energy efficiency

We propose a green rating. There is unlikely to be a short term negative impact of exit on consumers. The longer term affects are less certain and depend on the UK government's future position

## 3.7 VAT on energy

### 3.7.1 VAT and Exit scenarios

The UK currently applies VAT on domestic energy at a rate of 5%. Its approach to VAT is in conformity with the EU VAT directive, which allows a lower rate of VAT on certain essential products and services.

Under both exit scenarios, the UK would be able to set its own approach to VAT. This could include reducing or eliminating VAT on energy. Any decision to do so would need to weigh effects on consumers, against the exchequer costs of reduced VAT.

### 3.7.2 Effects on market structure and conduct

Eliminating VAT on energy is unlikely to have substantial effects on market structure or conduct.

### 3.7.3 Effects on consumers

Reducing or eliminating VAT is likely to reduce the price paid at the point of sale by the consumer on energy consumption.

### 3.7.4 Conclusion on VAT

We propose a green rating: any reductions in VAT could reduce energy prices for consumers.

## 3.8 Summary of findings on Energy

**Table 2** Summary of consumer impacts: energy markets

Issue	Status	Commentary
IEM	<b>Red</b>	A no deal exit scenario could have material adverse impacts on consumers. These could be mitigated under a FTA that replicated the IEM
Price caps	<b>Amber</b>	Short term: not clear that either exit scenario modifies the ability to cap prices. Longer term: authorities will assess possible adverse effects of price regulation on market structure and conduct, and hence on consumers, alongside distributional concerns, and approach they would have followed regardless of the UK's position vis a vis the EU.
Smart Meters	<b>Green</b>	Unlikely that policies reversed following exit
Renewable energy	<b>Amber</b>	Exit will not affect the UK's climate targets, but could affect how these are met. The resource cost of abatement may increase, especially under a no-deal scenario, and these costs could be passed on the consumer
Energy Efficiency	<b>Green</b>	UK has indicated it will keep current EU regulations within EU law. Unlikely to be major changes over medium term
VAT	<b>Green</b>	We propose a green rating: any reductions in VAT could reduce energy prices for consumers

## 4 TELECOMS AND AUDIOVISUAL

### 4.1 Introduction

We consider the following areas of regulation and policy through which exit scenarios could affect consumers:

- The regulation of roaming, which is a form of retail price regulation, but enacted through the EU's Digital Single Market initiative;
- Retail price regulation more generally, which come under the scope of the EU's telecoms directive;
- Wholesale price regulation;
- Consumer protections under the European Electronic Communications Code (EECC); and
- Audio-visual and Media Services regulation

### 4.2 Roaming

#### 4.2.1 Roaming and exit scenarios

Roaming refers to the ability of mobile subscribers to make or receive phone calls or data transmissions when they visit another country. In such cases, they connect to a network other than that normally used or operated by their service provider. The latter is charged by operator of the foreign network (based on bilateral arrangements between the two), and these costs are then charged on to the consumer at rates that are usually specified in the customer's contract.

Retail roaming charges makes the use of voice and data services more expensive for travellers. In order to reduce costs associated with cross-border travel in the EU, member States have (since June 2017) abolished retail roaming charges within the EU. The UK is currently party to that arrangement, as are all members of the European Economic Area (EEA).

On exit, the UK will no longer be part of roaming arrangements. The UK government could still continue to legislate that travellers from the EU are not subject to roaming charges, but UK travellers to the EU would, in the absence of an agreement on roaming, be charged according to the terms agreed between UK and EU-based service providers.

In principle, a bespoke roaming arrangement could be agreed between the UK and the EU regardless of whether there is trade agreement of any sort between the UK and EU i.e. even under a no-deal arrangement. In practice, the EU has not agreed to abolishing roaming arrangements with jurisdictions that are not within the EEA. Switzerland, which has a series of bilateral arrangements (including on free trade in industrial goods, the free movement of people and on transport) does not have an agreement with the EU on roaming charges.

## 4.2.2 Effects of market structure and conduct

Roaming arrangements are entered into reciprocally by operators. The charges for roaming are part of an overall bundle of prices that mobile operators charge for the bundle of services they provide. Like with any other component of the bundle, operators may compete with each other on the basis of prices charges for roaming (e.g by offering special plans that provide reduced rates for a certain quantity of calls or data). From an economic point of view, one reason explaining why roaming charges were high is that users may be less sensitive to these prices – the choice of subscribers and plans tend to be based on the cost of regular calls and data transmission.

In the absence of regulations to end roaming charges, operators are likely to continue charging these for providing roaming services as part of their general strategy of recovering costs. If the ability of operators to explicitly charge for roaming is eliminated, operators may try and recover the costs associated with this activity by raising prices on other components of the service bundle they provide. This is known as the “waterbed effect”. The empirical evidence on the extent of this effect is not clear; if operators do not raise prices on other services to fully offset the suppression of roaming prices, then there will be at least some transfer of surplus from operators to the consumer.

## 4.2.3 Effects on the consumer

Consumers are considered to have benefited from the EU’s removal of roaming charges, even if their removal may have been offset to some extent if prices for other types of services increased. By the same token, the exit scenarios (which increase the likelihood that roaming charges will be levied on UK customers) can be expected to leave UK consumers worse off. The magnitude of this impact is uncertain, as certain companies have committed to keeping roaming free in Europe regardless of what happens (e.g. Three). However, it is unclear whether all networks will do this. Consequently, consumers may see roaming charges increase.

## 4.2.4 Conclusion on roaming

We propose a Red rating given the possibility of exit scenarios leading to the reinstatement of roaming charges on UK consumers.

## 4.3 Retail price regulation of certain telecoms services

### 4.3.1 Regulation and exit scenarios

Under the EU telecoms directive, the focus of regulation is on wholesale activities (see next section). Retail price regulation is only countenanced in exceptional circumstances. The EU's philosophy is to allow competitive forces to provide incentives to keep prices in line with costs and to seek cost-reducing efficiencies. (The discussion on the pros and cons of price regulation in section 3.3 is relevant to the discussion here). Under its current approach, retail markets do not feature in the list of markets regarding which national regulators are mandated to investigate the extent of market power. This does not stop a national regulator from investigating market power in retail markets and imposing remedies. But any remedies require prior approval from the European Commission.

The UK largely shares the EU's approach to telecoms. Indeed, as an early liberaliser, the UK has had an important impact on the direction of EU reforms. The UK regulator, OFCOM, has considered the possibility of regulating stand-alone landline services, on the grounds that competition for these is weak, and that users belong to vulnerable socio-economic categories (notably aged people on lower incomes). This proposal was met by a voluntary pricing proposal by the BT.

The EU sees retail price regulation as constraining the development of competition. It is permissible only if the national regulator can provide a public interest argument in its favour. The requirement to seek prior approval from the Commission for any remedies could be seen as a constraint to the extent to which OFCOM can use the threat of regulation to discipline pricing practices by operators in areas where competition is weak.

### 4.3.2 Effects on market structure and conduct

A greater ability to regulate may discipline pricing behaviour in market segments in which competitive forces are weak. That is to say, operators, knowing that the regulator can credibly threaten to impose regulation may discipline their own pricing behaviour, by propose undertakings in this regard.

### 4.3.3 Effects on consumers

Bearing in mind that regulators can regulate retail prices in permissible circumstances under EU law, and that this approach is internalised by OFCOM, the benefits of exit scenarios to consumers via a greater scope for regulatory action are likely to be minimal. The effects of retail price regulation on the development of competition, and the long term benefits of this to consumers, also need to be taken into account.

#### 4.3.4 Conclusions on retail price regulation

We propose an Amber rating. The ability to regulate retail prices can provide a discipline on pricing in markets where competition is found to be weaker. The imposition of retail price regulation could have longer term implications for the development of competition.

.

### 4.4 Wholesale regulation

#### 4.4.1 Wholesale regulation and exit scenarios

Full structural separation of telecoms service providers is not mandated by EU law, and this constrains the extent to which OFCOM could follow such a policy. By structural separation we mean that the operator of telecoms network infrastructure cannot also at the same time own and operate retail services (even if the latter are done through a separate business operation). Proponents of structural separation say that this prevent operators of networks (which tend to be monopolistic in nature) from using their market power to favour affiliates in more competitive retail markets. Opponents of structural separation say that it is possible to remedy anti-competitive effects through other means; and that allowing for some degree of vertical integration creates incentives for investment in network activities (e.g. the rollout of next generation networks).

Either exit scenario would potentially afford the UK the possibility of implementing full structural separation on BT, to increase the competitiveness of downstream retail activities. OFCOM has in the past expressed concerns on the ability of BT's network operation (Openreach) to discriminate against retail competitors, and in 2016 notified BT that legal separation (i.e. a requirement to operate as separate legal entities) between BT and Openreach was required. The ability of OFCOM to threaten credibly full structural separation could be seen as a further disciplining mechanism.

#### 4.4.2 Effects on market structure and conduct

Market structure could clearly be impacted if OFCOM were to use their greater regulatory freedom to impose full structural separation. Indeed, it is possible that acquiring the ability to do so, after the UK left the EU, could lead to a change in the behaviour by large incumbents such as BT and Openreach.

#### 4.4.3 Effects on the consumer

It is not possible to determine unambiguously the impact on consumers of requiring full structural separation. On the one hand it could be argued that such an approach might stimulate services based competition, leading to benefits for consumers. On the other hand, it might reduce investment incentives and/or weaken the strength of facilities-based competition. The promotion of facilities based competition was one reason motivating the current EU approach to ruling out mandated structural separation.

#### 4.4.4 Conclusions on wholesale regulation

We propose an Amber rating. Greater scope for structural separation under exit scenarios could have pro-competitive effects of services; but these need to be set against possible adverse effects on market conditions, and of effects of structural separation on investment incentives.

### 4.5 Consumer protection under the European Electronic Communications Code (EECC)

#### 4.5.1 The EECC and exit scenarios

The European Commission has proposed a new regulatory framework that harmonises existing sector directives. This includes consumer protection (or “end-user rights”). The EECC marks a transition from setting minimum standards which national regulators can build on, to prescribing a harmonised standard from which regulators are required not to deviate (article 94). It prescribes standards in relation, notably, to contract information and transparency, bundling of services, termination, quality of service, price and quality comparison tools, safeguards for disabled people and “must carry” provisions.<sup>13</sup>

The proposed code brings over the top services (such as Skype, WhatsApp, etc) within the scope of aspects of end-user regulation, and increases reliance on horizontal consumer protection laws. Universal Service provisions are updated to include basic broadband provision and voice communication.

As already observed, the EECC aims to harmonise approaches to consumer protection across the EU. This has the potential to reduce costs created by a more fragmented approach to regulation. But these advantages need to be set against any loss in the ability of national authorities to adapt regulation more specifically to their national context.

Under either exit scenarios, it is likely that the EECC would cease to apply unless it is transposed into UK law. Nothing in either exit scenario would prevent this from happening. Whether the UK would want to depends on its view as to whether it would be desirable to revert to the former approach to regulation i.e. in which national authorities developed their own standards. A number of submissions to the European Commission made by national regulators have stressed the value of adapting regulation to national circumstances..

#### 4.5.2 Effects on market structure and conduct

The implementation by the UK of consumer protection standards developed on an EU-wide basis is not expected to have an impact on market structure, or to dampen the incentives providers have to compete. A strategy more adapted to the national context could, if it deviated significantly from the EU approach,

---

<sup>13</sup> Must carry provisions are obligations applicable to network operators that require them to carry content supplied by specific entities.



create regulatory fragmentation and increase business costs, though the materiality of this effect is not known.

### 4.5.3 Effects on consumers

The EEC provides a number of significant protections for consumers, notably those that consume services for which competition is weaker and have less capacity to exercise an informed choice. It is not clear that any UK adaptation would lead to a watering down of these protections. The cost effects of regulatory fragmentation may adversely affect consumers.

### 4.5.4 Conclusions on consumer protections through the EEC

We propose an Amber rating. Exit may create possibilities for the UK to tailor consumer regulation to UK consumer needs, but it is unclear that this improves on flexibilities in proposed code. Regulatory fragmentation could impose costs.

## 4.6 Audiovisual and media services (AVMS)

### 4.6.1 AVMS and exit scenarios

The audiovisual and media services sectors in the EU are governed by a directive that stipulates, inter alia, that:

- A provider that meets the regulatory principles in particular member state is free to broadcast across the EU as a whole; and
- There are local content requirements in the broadcasting of film and music, in order to stimulate European content.

Under either a no deal or a FTA, it is likely UK-licensed broadcasters will no longer be guaranteed freedom of retransmission in other Member States. They may be required to comply with additional regulation in at least one of the Member States in which they are active. The same would apply to EU broadcasters. UK content would no longer be considered EU-content, and would therefore no longer benefit from preferential access to the EU market.

Under a FTA, it may be that the UK and the EU come to an agreement to replicate current arrangements. But this may be difficult. The EU has to date shown little inclination to address AVMS activities outside the framework of the single market.

The UK for its part would in principle be free to continue to allow EU broadcasters the same freedoms and access as they currently enjoy; to follow a more UK-centric strategy (e.g. with UK-based quota); or to follow a liberalised strategy (allowing freedom of service provision and content to all or a range of trade partners). Given the UK's ambition to be a broadcasting hub, a narrowly nationalistic agenda is unlikely.

## 4.6.2 Effects on market structure and content

An approach that favours national preferences for UK-specific content may reduce competition in the market. A broader liberalisation strategy would have the opposite effect. A separate question concerns the effects of loss of access to the EU market for UK broadcasters and content providers. This could adversely affect their ability to compete domestically (e.g. by removing the benefits of scale effects).

## 4.6.3 Effects on consumers

A narrowly nationalistic strategy could affect viewing choice and quality. A more broadly liberal strategy may have the opposite effect. But a broad-based liberalisation strategy could also run into opposition if, for example, it involves relaxations to other aspects of regulation (e.g. restrictions on advertising). Such changes are more likely to be on the table if the UK seeks to negotiate access in non-EU markets in return for access to the UK's markets.

## 4.7 Summary of findings on telecommunications and audiovisual sectors

We summarise the main findings according to the “traffic light” system

**Table 3 Summary of consumer impacts: telecoms and audio-visual**

Issue	Status	Commentary
Roaming	Red	Likely adverse effects if retail roaming charges at reinstated
Retail price regulation	Amber	Greater freedom for national regulator to impose price regulation could discipline pricing behaviour, but it is not clear exit scenarios would materially increase this freedom. Possible adverse effects of regulation on development of competition in the long run
Wholesale price regulation	Amber	Increased freedom to impose vertical structural separation could improve service-based competition, but could also affect facilities-based competition.
Consumer protection under EECC	Amber	Possibility for the UK to tailor regulation to UK circumstances whereas code prescribes harmonised standards. But unclear whether changes will be material. Fragmentation of regulation may have cost impacts
Audiovisual media	Amber	Dependent on UK's attitude towards freedom of re-transmission for EU operators and toward EU-content requirements. More restrictive approaches could reduce consumer choice; but government could choose not to differentiate between EU and non-EU content, potentially increasing choice

## 5 POSTAL SERVICES AND CROSS-BORDER E-COMMERCE

### 5.1 Introduction

We address two issues relating to the EU Postal Service Directive in this section: universal service obligations; and consumer protection provisions. We also consider the question of cross-border e-commerce. Though a separate policy areas, the two are closely connected. This is because postal services are a key facilitator of e-commerce; and the growth of e-commerce is an important factor determining demand for postal services.

### 5.2 Universal services obligation (USO)

#### 5.2.1 Postal USOs and exit scenarios

The EU's postal policy is to "complete the internal market for postal services and to ensure that efficient, reliable and good-quality postal services are available throughout the EU to all its citizens at affordable prices." The Postal Services Directive helps to implement this policy. It aims to promote efficiency by liberalising postal services.

The Directive seeks to balance this competitive objective with social objectives. In particular, in a liberalised environment, service providers will target high-revenue/low-cost activities. This means that higher cost customer segments (notably in rural areas), might be disadvantaged in terms of service. In the past, services to these segments could have been supported by cross-subsidies implemented by a monopolist postal service provider.

The Universal service obligation stipulates minimum service requirements to ensure that customer segments are not disadvantaged. It notably prescribes thresholds in terms of frequency of service.

The UK enshrines the principles in the postal directive through the UK Postal Services Act of 2011. The act would not be affected by either exit scenario in the short-run. In the longer run, the UK would have the flexibility to alter minimum service provisions. These currently are more stringent than the minima set by the EU. There does not seem to be any revealed preference for reducing these protections.

A more wholesale rejection of the current framework – notably a return to a state-owned monopoly provider model, with reduced competition in postal markets, is largely a matter of conjecture. and would face a number of challenges. Under a FTA scenario, both the UK and the EU would have an interest in replicating as far as possible current levels of liberalisation and integration in postal services.<sup>14</sup> This is because such an arrangement would secure reciprocal market access to

---

<sup>1414</sup> The current opposition has made clear its desire to retain a deep level of integration with the EU.

each other's service providers, and also because agreement in this area will facilitate agreement in other areas.

Under this and a no-deal scenario, the UK has stated its intention to negotiate FTAs with other major trading partners. Given that the postal sector is of interest both to the UK and to prospective trading partners, and given the importance to the UK of negotiating FTAs with non-EU members, it appears unlikely that the UK would adopt an economic model that would make it difficult or impossible for the UK to negotiate commitments in the postal sector.

Finally, it is possible in theory that postal services could be re-nationalised, but that they continue to be operated on a commercial basis within a competitive framework. From a consumer perspective, the impacts depend less on ownership per se, and more on: whether any change in ownership affects internal operational efficiencies, and the depth of competition in the market. Negative impacts on both fronts depend on how far the state is influenced by pressure to run the newly renationalised entity in pursuit of non-economic objectives.

## 5.2.2 Effects on market structure

A rejection of the USO would lead to competition and service provision being focused on certain market segments. But such a policy outcome does not seem likely. Neither does a rejection of the liberalisation model look a likely outcome.

## 5.2.3 Effects on consumers

Because most of the principles of the EU approach have been internalised by the UK – indeed the UK has been one of the main proponents of the model adopted by the EU – adverse effects on consumers are not expected. However, some consumers might be expected to be particularly adversely affected were the UK to move away from the USO model in the future.

## 5.2.4 Conclusion on universal service obligation in postal services

We propose a green rating. There is unlikely to be any immediate impact and it is unlikely that there will be a material change which the EU would have prevented in the near future.

# 5.3 Postal services and consumer protections

## 5.3.1 Consumer protections and exit scenarios

One of the aims of the EU's Postal Services Directive is to protect consumer rights. Some areas which it focuses on include: the right of return within a 14 day period; the establishment of complaints procedures; transparency of delivery costs. The requirements are transposed into national legislation, but apply across the EU as a whole.

These protections play an important role in facilitating cross-border trade that relies on postal delivery, and specifically e-commerce. This is because these protections increase the confidence of consumers that they have rights of recourse in relation to goods purchased online.

These principles are already enshrined in UK law. This would not change as an automatic consequence of leaving the EU per se, regardless of the exit scenario. What would change is that UK consumers would lose the ability to invoke these protections on a cross-border basis in relation to EU deliveries. It is unlikely that these protections would be re-established in a FTA; there is no precedent for the EU having negotiated such protections in any of its free trade agreements.

### 5.3.2 Effects on market structure and competition

The main effect would be to reduce the attractiveness of cross-border e-commerce transactions. These currently account for around 20% of business-to-consumer (B2C) e-commerce transactions (by number of transactions) in the UK, compared to 16% for the EU as a whole.

Cross border B2C transactions facilitated by e-commerce are a subset of B2C transactions as a whole. Even if a consumer does not engage in cross-border B2C transactions he or she benefits from these transactions because they impose a competitive discipline on e-retailers generally. A loss of protections may thus have cascading competitive effects.

These could be exacerbated under a no-deal scenario if customs duties are imposed on transactions that are current duty free (e.g. apparel or footwear).

### 5.3.3 Effects on consumers

The loss of consumer protections with pan-EU applicability could have a significant adverse impact on consumers directly and indirectly if it leads to a reduction in competition which could decrease choice and increase price. These effects could be compounded under a no-deal scenario in which customs duties are imposed.

### 5.3.4 Conclusion on consumer protections

We propose a Red rating. Consumer Protections within the UK are unlikely to be affected by exit; but the loss of protection on cross-border transactions may reduce the attractiveness of EU B2C e-commerce, weakening overall competition in the UK over time.

## 5.4 Cross border e-commerce transactions

### 5.4.1 Cross-border e-commerce and exit scenarios

The current Digital Single Market initiative contains multiple proposals to enhance e-commerce on a cross-border basis within the EU. Some of these proposals relate directly to postal services, notably provisions to increase regulatory

oversight and pricing transparency in relation to postal delivery. E-commerce is also underpinned by the EU's treaty provisions, notably the commitment for free movement of goods and services within the EU.

Under a no deal scenario, the UK would no longer have access to the single market. This means both tariff and non-tariff barriers that apply to goods are likely to apply to cross-border e-commerce transactions<sup>15</sup>, raising the costs associated with cross-border e-commerce. The regulation aiming to improve price transparency would cease to apply following Brexit unless it is formally transposed into UK law prior to leaving.

A FTA would address tariffs and some non-tariff measures. But it is unclear that such an agreement would include provisions resembling the e-commerce package under the DSM initiative. For example, provisions on e-commerce in the free trade agreement between the EU and Canada are largely confined to transactions via electronic transmissions. It is also unclear whether a FTA would contain provisions on non-discriminatory access to certain cross-border parcel delivery services and infrastructure.

#### 5.4.2 Effects of market structure and competition

A no deal scenario is likely to have a restricting effect on cross-border e-commerce transactions between the UK and the EU. As already observed in the preceding section on consumer protections, B2C e-commerce between the UK and the EU accounts for around 20% of total B2C transactions. A drop in cross-border transactions is likely to reduce the level of competition within B2C e-commerce within the UK as a whole. Some of these impacts could be attenuated through a FTA, which would in particular remove any tariff effects. But a FTA would in all likelihood not replicate the other e-commerce facilitating requirements currently in place within the EU, including ones emanating from the postal services directive. Consequently, we would expect some reduction in competition, for reasons similar to those set out in section 5.3.

#### 5.4.3 Effects on consumers

Consumers are likely to suffer adverse effects under both scenarios, but especially under a hard exit. The adverse effects may not be limited to those consumers that currently benefit from cross-border B2C e-commerce. As explained in section 5.3.3, all consumers could be affected if constraints to cross-border e-commerce affect the level of competition in the UK of B2C activities generally.

#### 5.4.4 Findings for postal services and cross-border e-commerce

We propose a Red rating, reflecting the likelihood of adverse consumer effects.

---

<sup>15</sup> For example, e-online purchases of clothing articles or footwear on a cross-border will attract tariffs associated with the normal importation of these products.

## 5.5 Summary of findings for the postal sector

**Table 4** Summary of consumer impacts: postal services and e-commerce

<b>Issue</b>	<b>Status</b>	<b>Commentary</b>
Universal service obligation	<b>Green</b>	It is unlikely that any exit scenario would lead to material changes
Consumer protections	<b>Red</b>	Adverse impacts as reductions in cross-border B2C affect those consumers that rely on these transactions, and all consumers by reducing competition in B2C e-commerce in the UK.
Posts and cross-border e-commerce	<b>Red</b>	See above, plus tariff and non-tariff effects under a no-deal scenario

## 6 RETAIL FINANCIAL SERVICES

### 6.1 Payment Service Providers Directive (PSD)

#### 6.1.1 PSD and exit scenarios

The Payment Service Providers Directive -2 (PSD2) is an EU Directive designed to regulate payment services and payment service providers throughout the EEA. The PSD2 “goes live” in 2018, and it is likely that it will be transposed in to UK law. The aim of the directive was to increase pan-European competition and to harmonise consumer protection. PSD2 is an update which will come into force in 2018. The new rules aim to better protect consumers when they pay online, promote the development and use of innovative online and mobile payments through for example open banking, and make cross-border European payment services safer. For example, a cap on consumer liability for fraudulent payments limited at EUR50 (down from EUR150 in PSD1); zero consumer liability if there is no strong customer authentication (e.g. contactless payments without PIN code); and unconditional refund right for direct debit payments.

Beyond enhanced protection measures, the most significant change brought in by PSD2 is the introduction of provision governing third party providers (TPP). TPPs are authorised online service providers that are separate from the institution with which the customer has a formal relationship, but that participate in online transactions that are carried out by the customer. For example, a Payment Initiation Service Provider (PISP) may enable customers to execute payments without needing to provide credit card or debit card details. The PSD2 requires member states to implement rules that allow third party access to banking data, subject to the customer’s consent.

The UK played a significant role in developing the PSD2. Moreover, the UK authorities have listed “open-banking”- the ability of third party developers to build applications and services in relation to a financial institution – as a priority area. The PSD2 is therefore likely to remain a part of UK legislation under either exit scenario. The scope of open banking will depend on the ability of the UK to access cross-border data flows. If these are restricted (see also the section on data), then the scope of open-banking will be more limited as consumers will be constrained in their access to EU third party applications.

#### 6.1.2 Effects on market structure and conduct

The PSD2 aims to enhance pan-European competition. Together with open banking principles, this may stimulate competition by providing consumers with information and incentives to seek out better terms.

The UK is likely to adhere to PSD2 and open-banking principles – but competitive forces may be affected if exit scenarios constraint the extent of cross-border data flows.



### 6.1.3 Effects on consumers

Constraints on data flows could have some adverse effects at the margin.

### 6.1.4 Overall conclusion on PSD2

We propose an Amber rating. Given the UK's role in developing PSD2 and CMA's desire for open banking, it is unlikely that the UK would abandon PSD2. However, divergence with EU regulation (including on data protection) over time could hamper cross-border trade.

## 6.2 Mortgage credit

### 6.2.1 Mortgage credit directive and exit scenarios

The Mortgage Credit Directive of 2014 was developed by the EU with two objectives in mind:

- To strengthen rules on lending for real estate purposes, in response to the global financial crisis, of which a catalyst had been imprudent mortgage credit.
- To enhance cross-border provision of mortgage lending in the EU, with the aim of stimulating the development of a single market in this area.

The main components of the directive are as follows:<sup>16</sup>

- an obligation for lenders to provide clear and detailed information on loan conditions to consumers;
- an obligation for lenders to assess the creditworthiness of consumers according to common EU standards;
- common quality standards and business conduct principles for all EU lenders;
- the right for consumers to repay credit earlier than determined in a contract; and
- an EU passport scheme that allows credit intermediaries authorised to operate in any EU country to deliver services across the EU.

The UK (along with 26 other EU members, Spain being the exception) notified the EU that it has transposed the Directive into EU law, and began implementing the Directive in March 2016.

The implementation of the directive in the UK led to a change in the regulation of second-charge mortgages, which had been previously under the scope of the lighter-touch consumer credit regulation framework, but are now brought under the mortgage credit regulation framework of the FCA. The UK government also secured an exemption from implementing full Directive requirements for the regulation of buy-to-let lending.

Overall, the implementation of the Directive in the UK did not lead to major change in the framework for consumer protection in the area. In introducing the draft bill, the Minister commented that the bill did not introduce major enhancements to consumer protection relative to the existing framework, but did have the possibility of increasing burdens on business, which the government would try to minimise. The Minister commented that the changes to the regulation of second-charge mortgages reflected a long-standing policy commitment and had been well received by stakeholders.<sup>17</sup>

Given these observations, it is unlikely that either exit scenarios would lead to major changes in the regulatory framework. It is possible, especially under a no-

<sup>16</sup> [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/consumer-financial-services/credit/mortgage-credit\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/consumer-finance-and-payments/consumer-financial-services/credit/mortgage-credit_en)

<sup>17</sup> UK Parliament (2016), *Mortgage Credit Directive*, Briefing Paper, p5

deal scenario, that the regulation of buy-to-let mortgages may be relaxed – thus far the government’s approach has been to implement the minimal level of regulation consistent with legal obligations.<sup>18</sup>

Given that one of the objectives of the Directive was to stimulate integration in mortgage-related financial services, a no-deal exit scenario may affect the UK’s participation in such integration over time if regulatory frameworks diverge. Specifically, the passporting arrangements may cease to apply. If this limits the ability of EU-based institutions to supply the UK market for mortgages, that could limit deepening in these markets, with potentially negative impacts on UK consumers.

## 6.2.2 Effects on market structure and conduct

Passporting facilities associated with enhanced harmonisation in regulation should deepen competition in the relevant markets. These effects would need to be set against any cost impacts of the regulation, an issue about which the UK government appears to have had some limited concerns.

Exit scenarios are unlikely to lead to a major change in regulatory architecture, but a no-deal scenario may adversely affect the extent of cross-border trade and integration, reducing competition.

## 6.2.3 Effects on consumers

The implementation of the Mortgage Directive seems to have been largely in line with consumer interests by enhancing the regulation of certain services previously subject to lighter regulation, and because the government has managed to secure exemptions in areas it had deemed that the benefits did not justify the costs involved. The potential for the directive to deepen competition is also positive for consumers.

The primary effects on consumers of the exit scenarios would be via any dampening effect on competition, especially under a no-deal scenario. Large scale changes to the regulatory framework are unlikely as a consequence of exit.

## 6.2.4 Overall conclusions on mortgage credit

We rate this Amber. It is unlikely that there will be major changes to the regulatory framework. A dampening of competition under a no-deal scenario could go against consumer interests.

# 6.3 Financial compensation scheme

## 6.3.1 Financial compensation scheme and exit scenarios

EU law sets statutory requirements on the minimum levels for deposit guarantees. These refer to the sums up to which depositors are protected in the event their financial institution were to become insolvent. Current compensation

---

<sup>18</sup> Ibid.

limits that apply under The Financial Services Compensation Scheme (FSCS) were set in 2010 in line with the EU's directive on deposit guarantees. For example deposits of up to €100,000 per savings account are protected and this translates to £85,000 per account in the UK. It also covers investment, insurance, mortgage and broking business, including financial advice. The limits were increased to bring them in line with EU law.

Under either exit scenario, the UK would no longer be bound by EU legislation on the matter. In relation to a FTA, it should be noted that prudential financial regulation tends to be carved out of free trade agreements (this follows the model of the WTO's GATS annex on financial services). It is unclear whether the UK and the EU will seek bespoke agreements on prudential regulation under a FTA. However, pronouncements by the Bank of England suggest that deposit protection will not be scaled back.

### 6.3.2 Effects on market structure and conduct

The role of deposit protection has long been the subject of debate among economists. Such protections may be rooted in concerns for fairness, particularly regarding more vulnerable depositors who do not have sufficient information to distinguish between financial institutions on the basis of financial soundness. Guarantees can also be seen as a way of mitigating the possibility of systemic collapse through "runs" on banks. At the same time, guarantees could contribute to systemic risk because they encourage banks to take more risks and weaken the incentives for depositors to monitor the behaviour of banks. Hence the overall effects of such guarantees on depositors are not necessarily uniformly positive.

### 6.3.3 Effects on consumers

It appears likely that there will be little change to the financial compensation scheme. In the longer run, there may be revisions. A weakening of protections could expose more vulnerable consumers to financial failure, but the risk appears low and speculative.

### 6.3.4 Overall conclusions on deposit protection

We propose a Green rating given the low likelihood of material changes to policy

## 6.4 Summary of findings on retail financial services

We summarise our findings across the two issues under consideration in the table below.

**Table 5** Summary of consumer impacts: retail consumer financial services

<b>Issue</b>	<b>Status</b>	<b>Commentary</b>
PSD2	<b>Amber</b>	It is unlikely that the UK would abandon PSD2. Divergence with EU regulation (including on data protection) over time could hamper cross-border trade.
Mortgage Credit	<b>Amber</b>	UK unlikely to change regulatory framework on exit, but lower levels of cross-border trade and integration could dampen competition
FCS	<b>Green</b>	Low likelihood of any policy change

## 7 AVIATION

### 7.1 Introduction

We consider two sets of issues in aviation. The first of these is regulation and safety standards. The second set of issues concerns are traffic rights, which set conditions of market access, and play a large role in determining air connectivity between the UK and EU member states.

### 7.2 Regulation and safety standards

#### 7.2.1 Regulation and safety standards and exit scenarios

Air traffic services are underpinned by a network of rules on security, safety, air traffic management and the environment. These have been developed on a global basis under the aegis of the International Civil Aviation Organization (ICAO). Parties may also set their own rules governing flight operations, such as restrictions on noise, flying times, and the allocation of landing rights.

These principles are reflected in the European Common Aviation Area (ECAA). Should the UK exit the ECAA, it would have a multilateral framework on which to fall back, at least as far as regulation is concerned. Under a FTA, it may be possible for the UK to negotiate the equivalent of the ECAA.

#### 7.2.2 Effects on market structure and competition

On paper, a more deregulated approach lowers the height of barriers to entry, and costs of operation. However, deregulation of standards and technical regulation is likely to create safety risks, and there seems little appetite for that. Moreover, common frameworks for safety and regulation facilitate cross-border traffic, and reduce compliance costs to airlines.

#### 7.2.3 Effects on consumers

In practice, the existence of multilateral rules should provide a reasonable safeguard for operators and consumers. There appears to be little appetite on the part of government or industry to lower regulatory standards.

#### 7.2.4 Conclusion on regulation and safety standards

We propose a Green rating. It is unlikely the UK would reduce safety standards or alter regulation significantly.

## 7.3 Traffic rights and connectivity

### 7.3.1 Traffic rights, connectivity and exit scenarios

Airlines' rights to offer services between any two locations in two different countries are governed by specific agreements between the governments concerned. For multinational companies, these agreements relate specifically to the nationality of the owners of the airlines involved.

At present, the UK is a member of the European Common Aviation Area (ECAA) which includes all the EU states plus some others including Norway and the Balkan states. Any airline predominantly owned by companies based in a member state is free to operate anywhere within the ECAA, without any restriction as to frequency, capacity, and so forth.

In particular, one of the central features on the ECAA is that it covers the full range of aviation freedoms. Of particular interest to consumers are the 7<sup>th</sup>, 8<sup>th</sup> and 9<sup>th</sup> freedoms. These allow, respectively: transport between two countries by an operator that is based in neither (e.g transport between the UK and Spain of an airline based in France); the right to transport passengers within two points in a country as part of a flight that originated elsewhere (e.g. a flight originates in the UK and drops off/ picks up passengers in two different cities in Spain); and the right of a transporter not based in that country to transport people and goods between two points in that country (stand-alone cabotage).

In comparison, airlines owned by non-member companies have restricted rights. Typically they can operate services into and out of the ECAA but cannot carry passengers within the ECAA.

Under a no-deal scenario, the UK's membership of the ECAA would lapse. This means all UK based airlines (e.g. EasyJet) would lose all their automatic rights to operate to, from and within the ECAA. Additionally, all the rights held by UK airlines to fly to the US are governed by the EU-US "Open Skies" agreement which would no longer automatically apply.

In theory, if no deal is reached, rights would revert to those embedded in the last treaty in force prior to the EU agreements. In the UK-US case, this would be Bermuda II which was last revised in 1997 and is not fit for purpose. It is more likely that MoUs will be signed extending current arrangements until new deals can be reached.

A FTA would increase the chances of the UK participating in the ECAA through a specific agreement to that effect (as with Switzerland). But note that in the Swiss case a key linked agreement concerns the free movement of people.

The UK could attempt to negotiate agreements with individual EU countries, as well as open-skies agreements.

### 7.3.2 Effects on market structure and conduct

The main effects of changes to air traffic right and associated freedoms on market structure and competition is via changes to connectivity. For example, in

the UK, Heathrow is a major connected hub. This means that passengers fly to Heathrow and switch onto a connecting flight to get to their final destination. The benefit of this is it allows local demand to be supplemented with demand from connecting passengers. This has two benefits to consumers: Firstly it can enable more routes to be flown as routes which would otherwise have been flown by a half empty plane and which would therefore not be economically viable are now able to attract more passengers and therefore fly. Secondly the increased number of passengers enables airlines to keep the price down on these flights.

Connectivity also plays another role in encouraging more flights and reducing costs. The demand for a flight between the UK and another EU country may be small, such that only one flight each way is required a day. Rather than having the plane waiting on the tarmac, airlines can currently add additional journeys between two third party countries in the EU. This increased utilisation can lower the costs for airlines and thus passengers.

### 7.3.3 Effects on consumers

In any agreement that does not replicate the ECAA, consumers are likely to suffer a range of adverse impacts. The number of flights, the number of locations and the number of airlines that consumers can choose between will fall. Prices are likely to rise due to a less competitive aviation market and due to greater inefficiency in certain routes. Price sensitive/ budget travellers may be the most affected.

### 7.3.4 Conclusion on traffic rights

We propose a Red rating. There has been little progress in ensuring the UK remains in the ECAA, and the consequences of no longer having membership for consumers would be significant

## 7.4 Summary of findings on aviation

We summarise our main findings in the table below

**Table 6 Summary of consumer impacts: aviation**

Issue	Status	Commentary
Regulation and safety standards	Green	The majority of regulation comes from the ICAO and will therefore continue to apply. It is unlikely the UK would reduce safety standards or alter regulation significantly.
Traffic rights and connectivity	Red	There are substantial concerns given the lack of a fall-back position in the event of a no-deal exit. In the short term the UK would also fall out of open-skies agreements concluded between the EU and other partners... A FTA may help to secure access to the ECAA; though the only example of this is the agreement with Switzerland, which is linked to the acceptance of free movement of people.



## 8 FOOD

### 8.1 Customs duties on foods

#### 8.1.1 Customs duties and exit scenarios

The UK currently imposes no duties on food and agriculture products imported from the EU. Its duties vis-à-vis other countries are set by the EC's common external tariff, by duties agreed in reciprocal preferential trade agreements with non-EU members, and by unilateral tariff preferences applied to products from developing and least-developed countries.

Under a no deal scenario, the UK would revert to applying Most Favoured Nation (MFN) tariffs on imports from the EU<sup>19</sup>. These are the rates the EU currently applies to non-EU partners with which it does not have a preferential tariff arrangement (reciprocal or unilateral). The UK could unilaterally choose to reduce or eliminate MFN tariffs (i.e. across the board for imports from all sources) on all or any food imports. But this may encounter political resistance from protected producer groups and could weaken the UK's future bargaining power in trade negotiations.

Under a FTA, the UK could retain zero tariffs on food products. However, in general free trade agreement involving the EU feature very limited tariff liberalisation in agriculture (for example, the free trade agreement between the EU and Switzerland only covers industrial goods).

Under both scenarios, a key question is UK policy toward non-EU members. In the short term, UK could lose reciprocal free trade arrangements with non-EU members. In the longer term it could negotiate free trade agreements with agricultural exporting countries e.g. in South America, or with Australia.

#### 8.1.2 Effects on market structure and conduct

A reversion to MFN tariffs will raise the price of imported products. The price of domestically produced food products is also likely to rise in line with the increase in import prices. A free trade agreement with the EU that includes agriculture would mitigate this outcome. A decision to remove food tariffs on a MFN basis would increase imports relative to the status quo and lower prices. Finally, a decision to strike free trade agreements with non-EU trade partners may mitigate price increases that arise from applying MFN tariffs on imports from the EU, depending on the degree of substitutability of the products involved.

---

<sup>19</sup> MFN tariffs are those applied by the EU to all trade partners with which it does not have a free trade agreement. The UK has inherited the EU's commitments by virtue of being a EU member and because it has entered these commitments at the WTO, of which the UK is a member in its own right

### 8.1.3 Effects on consumers

Modelling conducted by the UK Trade Policy Observatory and the Resolution Foundation project the following price impacts following the introduction of MFN tariffs on EU food imports:

- +8.1% in dairy,
- + 7.8% oil and fats,
- +5.8% meat,
- +4% vegetables
- +3.1% fruit.
- +2.3% sugar, jam and confectionary,
- +1.8% bread and cereals,
- +1.5% Fish,

These effects could be amplified if the UK loses access to current EU free trade agreements with the rest of the world.

Implementing a free trade agreement with every other non-EU member could mitigate around 2/3rds of hard exit effect, according to modelling done by Frontier Economics.<sup>20</sup> But, it is highly implausible this would be achieved in under a decade.

Resolution Foundation/ UKTPO modelling suggests that under a no deal scenario, average annual household expenditure on food could increase by around £260; for around 3.2 million households this could be around £500 or more. The impact on household income of the bottom two deciles is projected to be around 1/3rd higher than impact on top two.

### 8.1.4 Conclusions on customs duties

We propose a Red rating. There may be significant effects, in short to medium term, on food prices under a no deal scenario, or a FTA that does not address agriculture. Food price effects are expected to have regressive impact on income distribution. Unilateral liberalisation of MFN tariffs would offset price increases that would occur under a no-deal scenario, but a unilateral move to free trade in agriculture is difficult to contemplate in the short-medium term for political economy reasons.

---

<sup>20</sup> <http://www.frontier-economics.com/publication/changing-terms-trade/>

## 8.2 Non-tariff effects

### 8.2.1 Non-tariff effects and exit scenarios

Food regulation and safety in the EU reflects the strong influence of the precautionary principle. The latter allows restrictions on the distribution and sale of products where the available state of scientific knowledge does not permit one to establish that these products are safe for consumption by ruling out adverse effects. The precautionary principle is not widely shared by jurisdictions outside the EU. The EU also has various rules on animal welfare that affect the production of food products.

Under a no deal exit scenario, the UK would be free to develop its own approach to regulation that may involve departing from the precautionary principle. But this may impede market access opportunities in the EU. A FTA is likely to require mechanisms for agreeing harmonisation or equivalence with the EU. The depth of these measures depends on how far the UK and EU wish to agree on food and agricultural trade, and how far the UK wishes to align its policies with the EU or instead pursue a less regulatory approach to strike deals with other partners.

### 8.2.2 Effects on market structure and conduct

A more deregulated approach could increase the supply of food products from sources that are currently impeded by EU regulation. This could have lower prices. It may also lead to an increased dispersion in quality e.g. between organic produce at one end, and hormone or chemically treated products on the other.

### 8.2.3 Effects on consumers

A more deregulated approach could reduce costs and increase supply, tending to reduce prices. However, consumers may be concerned about product quality. If discerning quality is not straightforward, there may be concerns about low-quality food emerging on the market, and more generally a “race-to-the-bottom” on food standards. An outcome in which lower quality or less safe food products substitute for more expensive, but higher quality food products is unlikely to be an acceptable outcome to either consumers or the authorities. An overall cost-benefit calculus would need to measure how much consumers value qualitative factors such as production and processing methods, and traceability.

### 8.2.4 Conclusions on food safety

We propose an Amber rating. Overall effects on consumer welfare are ambiguous. Possibility of deregulation may put downward pressure on prices, but not necessarily in quality adjusted terms. There may be concerns surrounding the ability of consumers to discriminate on the basis of quality.

## 8.3 Summary of findings on food

We summarise our overall findings on food in the table below.

**Table 7 Summary of consumer impacts: aviation**

<b>Issue</b>	<b>Status</b>	<b>Commentary</b>
Customs tariffs	<b>Red</b>	Significant effects, in short to medium term, on food prices expected under a no deal scenario or a FTA that does not address agriculture.
Non-tariff measures	<b>Amber</b>	Possibility of deregulation may put downward pressure on prices, but not necessarily in quality adjusted terms. Concerns surrounding ability of consumers to discriminate on the basis of quality

## 9 CONCLUSIONS

For all of the sectors studied, with the exception of retail financial services, there is at least one issue that triggers a red light indicator i.e. concerns about adverse consumer impacts. These concerns are most likely to arise when exit scenarios trigger changes with a high degree of automaticity, and where there is no or reduced scope for the UK authorities to undertake mitigating action. This is the case, for example, in reduce/ more costly interconnectivity in energy markets; loss of access to roaming arrangements; loss of access to protections on deliveries and e-commerce; or the effects of customs tariffs on food.

A significant number of issue areas are marked amber. These are areas in which there is some uncertainty regarding the policy response and, often, where the proposed policy or regulatory framework (post exit) itself has ambiguous effects. For example, food safety regulation may increase prices, but may also be desired by consumers if they worry about quality and their ability to discriminate between products on qualitative grounds.

Finally, issues marked green and where consumer concerns are not material tend to be ones in which the UK has already internalised the approaches that have been taken in the EU and been of benefit to consumers. Or where there is an appropriate fall back option, such as in the case of multilateral rules on aviation safety and regulation.

A point of interest is that in none of the sectors do we find instances of issues in which current EU regulation or policy materially constrains the UK from pursuing an unambiguously optimal policy i.e. in which an exit scenario of the type considered could lead to a “green” outcome because the UK could remove a constraint or requirement that currently adversely impacts consumers.



