

# Risky business: managing through the uncertainty of Brexit in telecoms

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With so many areas affected by the potential British exit from the EU (Brexit) and the accompanying uncertainty, it is premature to form firm views as to how telecommunications players should react. Impact will depend largely on terms associated with withdrawal yet to be agreed between the UK and EU. Therefore, strategic planning and risk analysis will be critical. With both UK and EU bodies placing such high importance in the development of the digital economy, many common goals may be set, though loss of ‘passporting’ and immediate access to international labour markets may cause concerns for larger firms seeking improved industry scaling. In technical standards, policy and harmonisation, we see little advantage for UK entities to deviate materially from EU set objectives. However, most would agree that national markets and cultures differ widely across Europe; national regulatory policies and commercial strategies should account for these, enabling most effective conditions for innovation, commercial execution, and economic welfare.

## The EU Referendum and Brexit

On 23 June 2016, the United Kingdom (UK) and its territories voted in a referendum to address the question as to whether the UK should ‘*remain a member of the European Union (EU)*’ or whether it should leave.

The outcome<sup>1</sup> of the referendum was split as: Leave: 17,410,742 (51.9%) and Remain: 16,141,241 (48.1%).

Immediate market reaction has been clear, essentially amounting to panic, as firms try to get to grip with understanding impacts in the face of widespread uncertainty across numerous areas.

If Article 50<sup>2</sup> of the Lisbon Treaty (on European Union) is triggered, the UK would leave the EU following a two year notice period, and negotiations would proceed around trading deal options. Various scenarios exist such as the Norwegian model, involving membership of the European Economic Area, or looser options such as Swiss style bilateral accords across particular sectors, or global free trade agreements with potentially better fit with domestic priorities but lower leverage.

In broad terms, Brexit has the potential to impact both UK and EU economies significantly in areas such as trading balances, foreign direct investment, competition and

regulation, industrial policy, labour markets, and in regional collaborative ventures. Whilst the impact of Brexit will depend on the withdrawal arrangements and conditions of the future relationship to be agreed between the UK and the EU, effective action lies in preparedness.

## How might Brexit impact telecoms?

With high levels of uncertainty around the potential for UK withdrawal from the EU, markets have already reacted, with significant fluctuations in currency exchange rates and market capitalisations. Whilst many consider telecommunications to be an essential utility relatively immune to economic downturns, evidence proved contrary following the 2008 economic crisis. If Brexit triggers a prolonged weaker economy, we expect to see reduced demand. But where are telecoms firms exposed, and where can a level of control be exerted to deflect risk? We examine these questions across selected areas below.

### ‘Passporting’ and Scaling

Prior to Brexit, UK firms can avail of the rights to free movement of goods, services, capital and people under the Treaty on the Functioning of the EU (TFEU)<sup>3</sup>. As such, any UK incorporated entity has ‘passporting’ rights to provide services in other EU states. With Brexit, this is likely to change; UK based firms may find themselves competing for talent, and multinational firms may incur extra overheads in

<sup>1</sup> See: <http://www.electoralcommission.org.uk/find-information-by-subject/elections-and-referendums/upcoming-elections-and-referendums/eu-referendum/electorate-and-count-information>

<sup>2</sup> See: <http://www.lisbon-treaty.org/wcm/the-lisbon-treaty/treaty-on-european-union-and-comments/title-6-final-provisions/137-article-50.html>

<sup>3</sup> See: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012E/TXT>

rolling out services internationally. The same principles will apply to EU firms wishing to trade in the UK market.

There is also likely to be some impact with non-EU companies, which often see the UK as a 'springboard' for developing and operating wider European business.

#### *Regulatory Frameworks*

Since the Telecommunications Act in 1984, privatising British Telecom and establishing an independent regulator – Oftel, now Ofcom, the UK has a history of effective policy making in telecommunications regulation; Ofcom is often seen as a model for good regulatory practice around the world. The EU Electronic Communications Framework, originally agreed in 2002, underpins telecommunications aspects of the UK Communications Act 2003.

The current situation is close alignment between UK and EU regulatory policy. There is now heightened uncertainty, however, as to whether expected changes to the Framework<sup>4</sup> will be reflected in the UK Communications Act.

If the UK were not confined to the EU Framework, it would be at liberty to develop its own regulatory policies. This raises the interesting question as to where the UK might choose to deviate from European regulation. The UK has been a strong participant in shaping the EU Framework so a radical shift away is unlikely. However, forbearance in selected areas and improved agility with Brexit could enable UK firms to gain competitive advantage.

#### *Roaming and Cross Border Portability*

*Prima facie*, one could argue that with advancement in pro-competitive regulation in any one jurisdiction, associated commercial and economic benefits might arise. However, international factors (e.g. existence of multinational firms, consumer roaming, cross border portability) complicate this argument; divergence could make it more difficult for users to consume services across international borders.

UK consumers have benefited directly from the recently introduced mobile roaming rights EU regulation, capping roaming prices. Whilst this has arguably raised issues for UK based operators, it is not clear whether, going forward, being outside the 'EU club' will bring any relief for operators. At the same time, it is uncertain as to whether UK consumers will continue to benefit from the regulation.

With some firms having already developed some services in line with European regulations, with market precedent set, it may be difficult to backtrack. On the other hand, it may be possible for some UK based players to extract additional

revenues from EU users visiting the UK, though with UK users visiting EU states countermeasures could arise.

In some respects, telecoms firms may be buffered from the effects of Brexit relative to some other sectors as consumers tend to engage with communications service providers at a national level.

#### *Spectrum Management*

With the potential for radio interference across neighbouring countries and the need for firms to leverage scale across the European and global market places, we expect an ongoing need to maintain coordination on spectrum issues. UK participation in key radio spectrum policy bodies such as CEPT and ITU-R and adherence to radio regulations is unlikely to change.

However, with EU withdrawal, the UK may not be party to EU policy groups such as the Radio Spectrum Policy Group (RSPG), the 5G Public Private Partnership (5GPPP) and DG Connect – responsible for development of policy towards the European digital single market. This would exclude the UK from EU debates on emerging policies and plans (such as 5G band harmonisation and sub- 700 MHz spectrum decisions). Although the UK would be free to develop its own positioning into key global bodies, it is an open question as to whether these would be considered with adequate weight.

#### *Net Neutrality*

New EU regulation came into force in April 2016 on the issue of net neutrality – the principle of treating Internet traffic equally; in essence, access providers are required not to block or throttle traffic that would cause distortions in the provision of Internet services and content, with some exceptions.

The EU Regulation is closely aligned with the existing voluntary code of practice presently in place in the UK, although in places the regulation goes further. With commercial challenges faced by telecommunications operators, ready availability of policy management solutions and developing views on service based regulatory policy, this is an area ripe for continued debate and innovation.

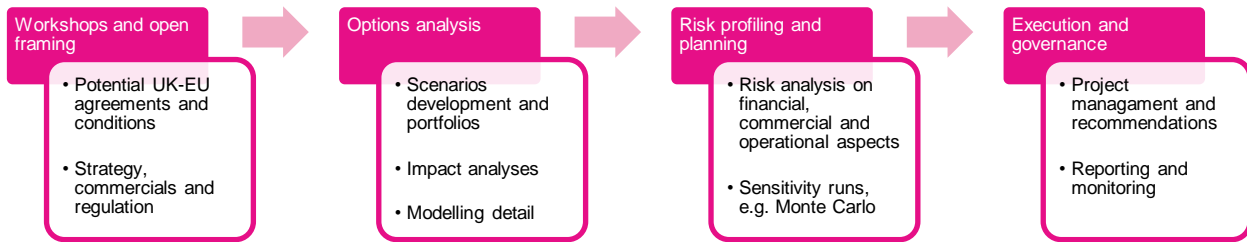
If Ofcom were to maintain its more relaxed view on net neutrality and post Brexit, move away from the EU Regulation, this could open the way for the development of new business models such as zero rating – where service providers offer preferential tariffs and differing levels of quality for particular services.

#### *Universal Service Obligation (USO)*

In its policy paper of March 2015, the UK Government set out strategy for growth in the digital economy enabled by a robust and internationally competitive digital communications infrastructure. The need for ongoing

<sup>4</sup> The EU Regulatory Framework is presently under review with proposed changes expected to be announced in September 2016.

Figure 1: Plum’s framework for commercial scenario planning and risk analysis



development, driven by market demand and economic value added, is being supported by Government in under-served areas with significant investment via the Broadband Delivery UK (BDUK) programme, aiming to provide effective broadband coverage to 95% of UK premises by 2017.

In Europe, the European Commission, in setting the Digital Agenda for Europe (DAE) (one of the seven flagship initiatives of the Europe 2020 Strategy) underlined the importance of broadband deployment to achieving its strategic objectives of more jobs, greater productivity and increased social cohesion. The DAE strategy aims to overcome the digital divide; it achieved 100% broadband coverage for all European states by 2013 through deployment of Ka-band satellite broadband services. It also sets aspirational targets for high-speed broadband by 2020 and for rolling out efficient, new-generation networks.

In the case of USO, the very existence of under-served regions is evidence of market failure. Therefore, it is typical to develop subsidies to induce investment in such regions. If the UK withdraws from the EU, established EU rules around state aid and USO may not be applicable. However, the UK has been an advocate of the competition principles in the EU state aid regime and therefore we do not envisage major shifts.

**Managing effectively through risk**

With so much uncertainty surrounding Brexit, firms will be wise to adopt effective measures to mitigate risk.

Critical steps will include taking stock on existing programmes, some of which may exhibit heightened and now unacceptable levels of risk, whilst surveying the environment in alignment with review of ongoing business needs and strategic imperatives. Firms should focus on tangible risk areas and assess these via scenario planning across key dimensions, reflecting on where control can be exerted.

Plum has established experience in strategic planning and risk advisory underpinned by a depth of experience in the telecommunications sector; our scenarios and risk analysis

framework (see Figure 1) can be used to support firms in assessing business risk against a backdrop of key dimensions.

*Workshops and open framing*

It will be important to blend understanding of the complexity in changes in the environment with business issues and strategic imperatives. Agility, independence and cross-functional approaches will be essential.

*Options analysis*

Detailed analysis guided by deep sector experience and a strategic mind set will be important in setting out key scenarios for the business.

*Risk profiling and planning*

Effective risk analysis is developed through modelling and options work, assessing variations in key dimensions over different scenarios such as Brexit trade deals coupled with strategic plans. Our experience in real options and systems thinking can be deployed to support understanding of potential scenarios, informing on key decisions.

*Execution and governance*

Leverage of steady and trusted hands will be essential in executing on any strategic path with continued uncertainty in the environment. In times of crisis, independent support able to bring proven experience and cross-functional leadership can be vital.

Only with application of effective methods to secure clarity in key business decisions and develop understanding in risk and impacts can firms navigate through the challenges that Brexit will bring.

Ian Corden has extensive experience in supporting telecoms operators on strategic planning and investment level risk analysis. Grant Forsyth has advised firms extensively on complex engagements in emerging regulatory policy and change.

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