IN OR OUT?

The implications of a Brexit for the retail and consumer sector

The stage is set, the campaigning underway and, in less than three months, the UK must decide on whether its future lies within or outside of the EU. Initial polls, so far, suggest a closely-run campaign with results too close to call.

Apart from a significant re-shaping of the political landscape, the exit of the UK from the EU (the so-called 'Brexit'), would surely have a substantial impact on businesses in the UK.

It is impossible to say exactly what the full business implications might be, as they depend almost entirely on how the UK's withdrawal from the EU is negotiated. However there are some key areas likely to be affected and we have explored how these would specifically impact upon businesses in the retail and consumer sector.

Currency uncertainty

As soon as London Mayor, Boris Johnson, announced his intention to campaign for a Brexit, the value of sterling dropped. Given many retail and consumer businesses are significant importers, their costs will have risen overnight. This highlights the risk that continuing uncertainty over Brexit or, post-June 23, potential uncertainty over the precise terms governing a Brexit, pose for retail and consumer businesses.

Tariffs

Depending which poll you read and which Brexit model you look at, if the UK leaves the EU it may be subject to significant tariffs on goods and services going into or out of the EU. If it were to join the European Economic Area, like Norway, it may avoid tariffs, but until we know more about the specific Brexit model the UK would adopt, the possibility of tariffs remains an unwelcome prospect for many retail and consumer businesses.

Recruitment

Many businesses in the retail and consumer sector rely significantly on unskilled labour from other countries in the EU to fill roles such as warehouse pickers, distribution centre staff, production line workers and drivers, amongst others.

If the UK left the EU, again, depending on the model of its ongoing relationship with the EU, it may no longer be party to the free movement of people obligations, making it much harder to recruit foreign workers for these crucial but often undervalued roles. Conversely, some argue that this would create more opportunities for UK job seekers.

Agriculture and food

The common agricultural policy, or CAP, is often held up as a totem for all that is wrong with the EU, with its overbearing complexity and bureaucracy. Opinions are polarised on whether the UK would save significant sums of money by leaving CAP, or whether it would, in fact, be detrimental to British farmers. The UK is a significant importer of food, so if we were to leave CAP, we would need to find another framework for collaborating with the EU.

Longer term volatility

Article 50 of the EU Treaty sets out a 2-year negotiation period to negotiate the terms of departure from the EU, although many commentators expect discussions to last much longer than that. The UK will also need to negotiate with non-EU states to establish trade deals, though again views differ as to whether this can be done readily and quickly, Whatever model is negotiated, leaving the EU is likely to lead to a period of disruption of several years while consultations progress and the new model is established. For any business, trying to operate effectively through years of uncertainty brings significant challenges.

Overseas territories

An exit from the EU poses additional challenges for the three Crown dependencies (Isle of Man, Jersey and Guernsey) and the British Overseas Territory of Gibraltar each of whose relationship with the EU derives from the UK's accession, (although some of the islands already have direct agreements with certain Member States (e.g. in relation to free movement of goods and tax). In a complex re-negotiation of Britain's relationship with the EU there is likely to be less appetite to address the specific practical priorities of these territories, whose residents and economies will have different concerns to mainland UK.

Legal impact

There are unlikely to be few sudden changes across swathes of legislation if there was a Brexit, because most legislation originating in the EU is incorporated into UK law. But as the UK asserts its 'independence' from the EU, there is likely to be a gradual divergence. In turn, that could lead to more flexibility and opportunities for UK businesses. Equally, it could leave them out in the cold if the EU legal framework continues in one direction, while the UK heads in another.

Without knowing which new UK/EU relationship 'model' would be implemented in the event of a Brexit, there will be continued uncertainty for businesses as to the potential fall-out. Whether the UK remains within Europe or strikes out alone, retail and consumer businesses need to make sure they are fully apprised of any developments, together with the challenges and opportunities ahead. Whether those come, and in what form, lies in the hands of the British people.

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View from Norway

The 'Norwegian model' is often touted as one of the most likely paths the UK could take if it left the EU. We spoke to Eivind Vesterkjær at Advokatfirmaet Thommessen, Addleshaw Goddard's Norwegian contact firm, about the country's relationship with the EU, and the UK's potential Brexit.

"Many think that it's been good for Norway not to have been a member of the EU during the last few years. There's a belief that it protected us from the worst of the global recession, so Norwegians are generally happy with our existing relationship with the EU, the agreement on the European Economic Area (EEA).

The main advantage with the EEA agreement is that we have access to the EU single market, just as if we were a full member. On the other hand, we are not involved in the decision-making processes that govern that single market. So we have limited influence on the policies, agreements and so on that define that market.

As a member of the EEA, we must implement all the EU rules relating to the internal market - things like free movement of goods, services, capital, and labour. But there are key areas where we can choose to retain control, such as fisheries and agriculture. For these, we negotiate our own bilateral trade agreements.

Unlike the UK, we've never been a member of the EU. We are used to being 'on the outside', geographically as well as politically. If the UK – one of the EU's major powers - were to leave the EU, it would probably require a huge readjustment, politically, culturally and economically.

If the UK were to join the EEA, the internal market rules would continue to be the same, so the retail and consumer sector would probably not be much affected. However, any industries not covered by the EEA agreement (or bilateral UK/EU agreements) would be likely to see the significant changes.

From Norway's perspective, it would be great if the UK joined the EEA. It would certainly make the EEA more powerful in its dealings with the EU. But whether it would benefit the UK is much harder to say. It's up to you to decide in the referendum!"

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