Silver Linings | Update

The implications of BREXIT for the UK Data Centre Sector

September 2017

Abstract

This document provides an addendum to our 2016 report "Silver Linings: the Implications of Brexit for the UK Data Centre Sector" and should be read in conjunction with it. In that initial report we outlined the opportunities and challenges that Brexit presents to the sector and identified the actions that we thought necessary to protect our sector and the wider digital economy that it supports and enables. In this update we re-evaluate the balance of risk and opportunity in the light of UK Government decisions and other developments in the Brexit policy agenda during the intervening months. We revisit the same policy areas we looked at before: data flows, trade, skills, energy costs, inward investment and environmental regulation and take the view that while there have been some minor adjustments, our initial appraisal of the balance of risks and opportunities is largely unchanged. What is clear is that uncertainty regarding the arrangements governing our departure is still of concern across most areas, although we are beginning to see more clarity regarding the Government's intentions in critical areas like data flows.

Scope

We are indeed living in interesting times. The period since our last report has been notable for political volatility – a snap election and major reorganisations not to mention new incumbents over in the White House and the Elysée Palace. In such a rapidly evolving landscape, this update can only provide a momentary snapshot of where we think we are. The following pages revisit the policy areas that we explored in our previous report with the exception of uncertainty. Uncertainty remains a universal problem that pervades every area so is not revisited in its own right. So there are brief updates on data flows, trade, skills, energy costs, inward investment and environmental regulation. In each case we describe the issues, set out the main developments that have taken place, list the actions that techUK has taken and then reassess the balance of risk and opportunity in the light of those developments.

Summary points

Data flows: techUK has lobbied hard on the importance of data flows and Government has listened and made firm commitments. We now have clarity on how GDPR will be implemented. The UK will seek a bespoke data flows model, based on a mutual adequacy agreement and a continued role for the ICO in the EU. It is now for the European Commission to respond.
Risk/opportunity balance: IMPROVED

Trade: trade will not be discussed until the second round of negotiations so there have been few concrete developments. We are unlikely to remain in the Single Market or the Customs Union but a transition period is now being considered.
Risk/opportunity balance: UNCHANGED

Skills and migration: There were Government reforms for non-EU migrants in April and a joint EU-UK Statement in July identifying differences in respective positions. A range of visa and non-visa based options are on the table. techUK is actively lobbying on tech skills.
Risk/opportunity balance: UNCHANGED

Energy costs: Government has made a firm commitment to reduce business energy costs. Steps are also being taken on non-commodity costs. techUK is lobbying for the sector to be given energy intensive status on a par with other sectors.
Risk/opportunity balance: IMPROVED

Inward Investment and UK competitiveness: UKTI's move to DIT should improve its effectiveness but positive outcomes not yet manifest. DCMS has failed to recognise data centres in the Digital Strategy. techUK will alert Government to these omissions.
Risk/opportunity balance: DETERIORATED

Environmental regulation: With scope to reduce regulatory burdens the balance of risk and opportunity is favourable but this is not a priority area for negotiations and the pace of change is likely to be slow.
Risk/opportunity balance: UNCHANGED

Introduction

Although we have seen a great deal of Government activity since the EU Referendum - an election, departmental reorganisation, cabinet and shadow cabinet reshuffles and a plethora of Brexit related publications, initiatives and inquiries - most of the critical areas of uncertainty that we highlighted in our previous report remain unresolved. The Government has stated its Brexit ambitions clearly but not how they will be achieved in detail. The negotiations have started and the timetable has been set out but much depends on how priorities are chosen and how arguments are presented. In the meantime we have to hope that radio silence indicates that progress is being made on this critical topic. So for the moment all we can do is provide an update on what Government has said and done, what we have said and done, and whether we think this changes anything. In the light of these developments we need to reassess the balance of risk and opportunity that Brexit presents to the UK data centre sector. We start by outlining some of the more generic developments and then we revisit the six policy areas in turn. Where we think action is needed we have said so.

Key developments since our last report

- **Brexit White Paper:** Government published their Brexit White Paper on 02 February which sets out the Government's Brexit ambitions but not how they will be achieved.
- **Article 50:** UK Government triggered Article 50 on 29 March 2017, setting our exit date for 29 March 2019.
- **A snap General Election:** Government did not achieve the strong majority it felt it needed to deliver Brexit.
- **Brexit negotiations:** The formal negotiations opened on 10 June. Each week of negotiations will be followed by three weeks of consultation by the parties (member states).
- **The Great Repeal Bill:** The European Union (Withdrawal) Bill was published on 13 July. Second reading is due on 07 and 11 September.
- **Sequence and timetable:** The UK Government has agreed to the order of negotiations: the first part will focus on the amount of money the UK will pay to leave, market access, EU citizens rights to remain in the UK (and vice versa) and the Northern Ireland border issue. No other issues can be discussed in this first round and the negotiations will not proceed to the second round until sufficient progress is deemed to have been made. At that point, second round negotiations can start, which will include the trade deal, data flows and migration post-Brexit.
- **Transition deal:** There is still considerable fluidity on whether or not there will be a transition deal. As things stand we will leave the EU on 30 March 2019 without a period to implement post Brexit arrangements like a free trade deal, since these cannot be implemented until we are formally a "third country". Similarly, new customs arrangements would be hard to implement and deploy overnight. Immigration arrangements will also need time. techUK supports a five year transition period before we move away from current arrangements but a two year period is more likely.
- **Divorce Bill:** Reports suggest that UK Government is expecting a divorce bill in the region of £35Bn.

Key techUK actions

- The Brexit team that we established immediately after the vote to leave has been strengthened with a dedicated Brexit lead supported by specialists in data flows, trade, skills and political liaison.
- We set out the impacts of Brexit for the data centre industry and the policy actions needed to minimise risks and optimise opportunities in October 2016 in our Silver Linings report.
- We also explored the implications for the wider digital technology sector in our January 2017 publication The UK Digital Sectors After Brexit, an economic study commissioned from Frontier Economics .
- We have led a sustained campaign of political engagement and education to alert policy makers to the importance of data flows (see below) and we continue to work closely with officials and politicians in BEIS, DCMS, Treasury, Cabinet Office, Home Office and DEFRA on all Brexit issues.
- We have published papers on the impact of Brexit on skills and migration, on customs and trade, on spectrum and on telecommunications. A major report on Brexit and data flows is due shortly.
- We produced a response to the European Union (Withdrawal) Bill (Great Repeal Bill), made a strong call for a five year transition deal and are publishing a position on the EU Investment Fund and the EU Investment Bank.
- Our priorities looking ahead include further work to ensure Government understands the need for an adequacy agreement, formal responses to the Industrial Strategy and the Digital Strategy, additional work to promote the UK as a location of choice for data centres and a joint initiative with relevant professional bodies to promote data centres as a career destination of choice.

Data flows

> **What did we ask for?**
> Provide an urgent undertaking that UK data governance laws will be adequate for compliance with EU and global requirements.

Brexit has led to uncertainty about the future of UK-EU cross-border personal data transfers. Currently, EU and EEA Member States can transfer data between themselves without additional contractual or procedural safeguards protecting personal data. When the UK leaves the EU those agreements will no longer apply. To avoid uncertainty, additional costs and competitive disadvantage the UK needs to ensure continued free flow of data with the EU and third countries. A clear and robust legal mechanism needs to be established to ensure the continuation of UK-EU cross-border data transfers. techUK members agree that an 'adequacy finding' would be the best way to achieve this. Implementing the EU's General Data Protection Regulation in full, subject to derogations that do not interfere with its fundamental objectives, is key. Post-Brexit the UK will need to be confident that the entirety of its domestic legislation will be considered as adequately protecting personal data.

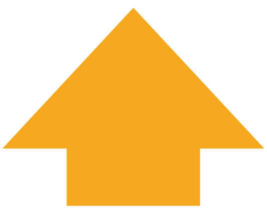
Recent developments

- The UK Government's Brexit White Paper was published in and includes explicit commitment to "maintain the stability of data transfer between EU Member States and the UK".
- Rt Hon Matt Hancock MP, Minister for Digital, has committed to 'unhindered data flows' and has highlighted the importance of maintaining the frictionless free flow of data.
- The House of Lords report recognised that transitional arrangements may be required to avoid a cliff-edge.
- Rt Hon Hilary Benn MP questioned Rt Hon David Davis MP, Secretary of State for Exiting the EU, during a Select Committee on the need for an adequacy decision.
- Daniel Zeichner MP asked a question to David Davis in the House of Commons on cross-border data transfers.
- The House of Lords EU Home Affairs Sub-Committee published their inquiry into EU Data Protection and agreed with techUK's assessment that an adequacy agreement needed to protect EU-UK data flows.
- The Government announced a Data Protection Bill in the 2017 Queen's Speech. Further details of the Bill were published in August explaining how they would implement GDPR and giving further commitments on data flows.
- Government published its negotiating proposals on data protection on 24th August. The intention is to secure a bespoke model based on a mutual adequacy agreement and a continued role for the ICO at EU level. We responded positively to this good news, but offered caution on the remaining challenges ahead.

techUK's actions

- We have conducted a campaign to alert Government to the importance of data flows since the leave vote.
- We published 'The UK Digital Sectors After Brexit' in January 2017 which outlined the importance of data flows. The report found that the UK accounts for 11.5% of global data flows, 75% of which are with the EU.
- We published techUK's Priorities for European Exit Negotiations alongside the report, include the need to ensure a legal and robust mechanism for continued UK-EU data transfers.
- We appeared in front of the House of Lords EU Home Affairs Sub-Committee on the EU Data Protection Package
- We held roundtables with policy makers and Government Ministers to brief them on this issue, including one hosted by Google with DexEU that led directly to Hilary Benn's question to David Davis (qv).
- We published a number of articles in the press, including The Daily Telegraph, and Computer Business Review.
- We published two case studies on the need for an adequacy agreement which were well received.
- We spoke on the implications of GDPR for data centres spoke on the topic at data centre events in March, June, and September and provided interviews including an extended comment for Data Economy.
- We asked Daniel Zeichner MP to submit an oral question to David Davis on action to secure data flows.
- We lobbied the Digital Minister to streamline the Data Protection Bill and welcomed Government announcements on how they intend to apply GDPR derogations. Julian David's comments were widely covered in the media.
- We will shortly publish a major report on Brexit and data flows.

RISK/OPPORTUNITY Re-evaluation: IMPROVED



Government has clearly responded to our concerns and has recognised the importance of unhindered data flows. On the other hand, we now need clarity on how they mean to secure this. Government's intention to secure an adequacy agreement is very welcome, as is the proposal to continue the role of the ICO at EU level Both developments demonstrate that Government has listened to business on this critical issue. It will now be for the European Commission similarly to recognise the importance of this issue.

Trade

What did we ask for?
Provide an undertaking that access to the single market will be a priority in negotiations so that UK operators and their global customers can continue to export digital services to the EU without trade barriers.

The UK currently enjoys free trade with the world's largest market, is a member of the EU Customs Union and Single Market, and benefits from EU level trade agreements with third countries. Leaving the EU means that the UK must establish new trade and customs arrangements with both the rest of the EU and with third countries. This presents a mixture of risk and opportunity for the UK because there of the greater freedom that our new status confers. However, trade deals are complex and time consuming and the UK's negotiating position is likely to be weakened. There have been few substantive developments on trade so far and we do not expect to see significant progress until the second round of negotiations.

Recent developments

- Sequence agreement means that trade will not be discussed until the second round of negotiations.
- Government has confirmed we will not be in the single market[1] or the customs union[2] and although there has been some softening of this stance recently it still looks likely that we will eventually leave both.
- A transition period is now being discussed. Businesses are calling for five years but a two to three years looks likely.
- When we reach that second round we expect Government to scope what a trade deal might look like: the trade deal cannot actually be agreed until we have left and are formally a "third country" so this will be in headline terms only, without detail. This is why a transition deal is important to provide more business certainty.
- Equivalency has been discussed (where an agreement can be struck down by either party with 6 weeks notice) but will not be an adequate basis on which to run a financial sector or data services in the UK. Formal arrangements like TTP or TTIP with dispute settlement mechanisms and a formal authority to confirm breaches are needed.
- Government published its position paper setting out intentions regarding the Northern Ireland border.
- The UK-US Trade and Investment Working Group first met on 24 July. Its focus is to provide commercial continuity for US and UK businesses after Brexit and to strengthen trade and investment ties ahead of the exit.
- Government has published its report on how the customs systems will work and techUK has responded.

techUK's actions

- We submitted evidence to the Culture Media & Sport Cttee on the impact of Brexit on the Digital Single Market.
- We presented oral and written evidence to the House of Lords EU Sub-Cttee inquiry on Trade in Services.
- We ran workshops and briefings such as Brexit: Trade, Tariffs and Customs – What Works for tech?
- We organised a European Parliament event in Brussels to alert MEPs from other member states to the implications for the wider EU tech sector, led by Vicky Ford MEP.
- We published our report: Leaving the Customs Union: Challenges and Opportunities for a Digital Global Britain.
- We published comments on export figures.
- We will outline what a free trade deal for digital would look like.

RISK/OPPORTUNITY Re-evaluation: UNCHANGED

A major concern (see above) is that adequacy could be used as a bargaining chip in the trade deal. Digital industries will not be a top priority in negotiations. UK digital services providers are primarily concerned with non tariff barriers such as GDPR, rather than the Customs Union *per se*. There is concern that the Government lacks coherent thought processes on trade.

1 The single market is based on four freedoms of movement: capital, goods, services and people. No member can block any of those movements. Restricting the movement of people means we cannot remain in the single market.
2 In a customs union members do not pay tariffs on each others goods but they agree common tariffs on goods from third parties. So members benefit from free trade within the union but do not have freedom to negotiate external free trade deals. A free trade deal allows members to trade freely but does not limit their freedom to strike trade deals elsewhere. Norway for instance is in not in the customs union but is in the EEA and has access to the single market. This means that Norwegian goods can enter the EU tariff free but not goods originating outside the EU via Norway.

THREAT	UNCERTAINTY	DATA FLOWS/ DATA PROTECTION	TRADE	SKI
What is the risk?	Paralysis, planning blight. Loss of FDI. Offshoring, relocation, attrition	UK deemed inadequate as data host. Restrictions on data flows to EU. Offshoring, relocation, attrition	Exclusion from trade agreements. Tariffs on physical goods. Non-tariff barriers on services.	Acute skills sho technical skills. business risk. expa
How do we mitigate this risk?	Immediate high level commitment to protect data flows and trade in services.	Adequacy. Legal clarity.	Single market access	Free moven Review Tier 1 & Protect non U
Can we turn this into an opportunity?		Parity = success. Simplified GDPR with user protection possible in theory but unlikely in practice.	Parity = success. Limited scope for additional third party trade agreements.	Opportunit migration rul a wider pool c tal
Recent developments	Government published Brexit White Paper and range of other papers setting out intentions but uncertainty unresolved.	GDPR will be adopted. Government committed to a mutual adequacy agreement and continued engagement of IPO at EU level.	We are unlikely to be in the single market or customs union. Transitional period being discussed. Non tariff barriers likely to be priority issue.	Initial comm citizens righ Further reside published plu statement pub difference
What is techUK doing?	Government published Brexit White Paper and range of other papers setting out intentions but uncertainty unresolved.	Sustained campaign. Multiple consultation responses. Written and oral evidence submitted to Select Cttee Inquiries	Oral and written evidence to HOL EU Sub-Cttee inquiry on Trade in Services. Brussels event in European Parliament.	Oral and wri submitted to E Cttee on impa labour Skills and mi published Marc to MAC fo
Revised Risk	UNCHANGED	IMPROVED	UNCHANGED	UNCH

ILLS	ENERGY and COMMODITY COSTS	INWARD INVESTMENT	ENVIRONMENT & CLIMATE CHANGE	OPPORTUNITY
rtage, especially Operational and Constraint on nsion.	Increased operating costs. Failure to compete.	Loss of FDI. UK competitiveness damaged. Relocation.	Competitive disadvantage. Burdens without benefits	What is the risk?
nent of skills. & Tier 2 criteria. UK employees.	Protection from high energy costs and non-commodity energy costs	Explicit support for sector. Bespoke incentives. Practical help for FDIs	Equivalent standards and targets but greater freedom in how they are achieved.	How do we mitigate this risk?
ty to rethink es and access of international ent.	Better support for priority sectors freed from constraints of State Aid Rules.	Scope to radically upgrade the UK's offering. Incentives can be targeted where they will be most effective.	Unprecedented opportunity to review and streamline a burdensome array of policy measures	Can we turn this into an opportunity?
itment on EU nt to remain. ency proposals s EU-UK joint blished outlining s, July 2017	Unilateral instruments still in place. Non-commodity costs to escalate. Commodity costs rising due to weak pound increasing hardware and other commodity costs.	UKTI now DIT, reorganised as a much better connected entity.	Mixed messages on EU ETS. Consultation ongoing.	Recent developments
tten evidence conomic Affairs act of Brexit on market. gration report h 2017. Evidence rthcoming.	Active dialogue with DCMS, HMT, and BEIS on energy costs. Submission to Select Cttee inquiries and Government consultations. Industry briefings. BEIS has committed to reducing energy costs.	Position paper on UK as location of choice for data centres due Q4, 2017. Export clinics scheduled with DIT	Multiple dialogues with DEFRA, Environment Agency, BEIS and Treasury on streamlining regulation and compliance	What is techUK doing?
ANGED	IMPROVED	DETERIORATED	UNCHANGED	Revised Risk

Skills

What did we ask for?
Provide an urgent undertaking that the UK will be open to free flow of skills and that non British EU employees, on whom we depend for technical and other essential roles, will be protected. Redesign existing immigration policy and replace it with a skills based migration policy.

The impact of Brexit on access to technical skills is likely to be a mixture of risk and opportunity and everything depends on how Government chooses to position itself on this tricky topic. The data centre sector faces an acute technical skills shortage when the EU skills pipeline is shut off in 2019, which presents operational and business risks. On the other hand, Brexit provides an opportunity to completely rethink our migration policy and design it around the free movement of skills and the creation of a new smart migration system. The current system is broken. We now have the opportunity to modernise the migration system, to access a wider pool of international talent, to overhaul Tier 1 and Tier 2 criteria and to protect our non-UK employees.

Recent developments

- Following the initial statement in July 2016 confirming that migrant workers in the UK would continue to be protected, the Government made its formal statement on the right to remain on 26 June 2017 setting out proposed arrangements for non UK residents. All EU citizens have to reapply for settled stated regardless of whether they already have residency status. On the plus side technology will be an important enabler in verifying income records and status. Our concerns include the fact that a two year absence can mean the loss of settled status which reverts to that of an EU citizen without settled status. In a business context where individuals might be assigned to a long term project for this period of time such a provision could be a major barrier to organisations using the UK as a HQ.[3] There are also concerns about the bureaucracy involved.
- On 20 July the UK and the EU published a joint technical note on the comparison of EU and UK positions on citizens rights.
- The independent Migration Advisory Committee was commissioned, and put out a call for evidence.
- Thought is being given to a major review of immigration policy. Four options are theoretically available:

1. Free movement of labour: if you have a job you can come to the UK (unlikely to be implemented)
2. Some form of work-related ESTA visa waiver (most attractive realistic option to businesses)
3. EU visa system broadly modelled on tiers and based on employer sponsorship (may prove very bureaucratic)
4. A system based purely on our non-EU migration policy (least attractive option)

techUK's actions

- We highlighted skills issues in our 2016 report Silver Linings: Implications of Brexit for the UK Data Centre Sector.
- We published our report: Global Tech Talent Powering Global Britain: Navigating Post-Brexit Migration Options
- We have intensified efforts to close both the long term and short term technical skills gap:
    - We are promoting the sector as a career destination of choice and identifying role models
    - We are encouraging students to retain STEM and supporting a bespoke apprenticeship standard
    - We are streamlining the route to professional registration within the sector
    - We are working closely with professional institutions to gain outreach to potential employees.
- We submitted evidence to the House of Lords Economic Affairs Committee on the impact of Brexit on the labour market.
- We are projecting sector growth and employment needs up to 2030 and assessing GVA and sector turnover.
- We are working with DCMS to understand our post Brexit skills needs and how we can meet them.
- We are providing evidence to the Migration Advisory Committee on the specific migration needs of the tech sector.

RISK/OPPORTUNITY Re-evaluation: UNCHANGED

Navigating between the needs of business and political commitments on migration is likely to be very tricky. There is also clear water between EU expectations and the UK's proposed provisions.

3 A visa based system is unattractive: a multinational data centre operator with its EU headquarters in the UK will need to send senior engineers all over Europe at short notice to resolve emergencies. If this involved applying for a visa each time, the UK would cease to be a suitable headquarter location these businesses.

Energy and Commodity Costs

Data centres are energy intensive and data is a highly mobile commodity, so the UK's high energy costs are a constant concern for UK data centre operators trying to remain competitive. Brexit poses the risk that energy prices may rise further out of line with the rest of Europe because of the effect that currency fluctuations and a weakened negotiating position are likely to have on energy imports. That said, around 50% of the price operators pay for energy comprises non commodity costs – levies, charges and taxes – so there is plenty of scope for Government to bring energy costs into line either by exempting energy intensive users from some of these costs or provide targeted compensation. Being outside the EU will confer greater freedom, without the constraint of State Aid Rules, to support priority sectors in this way.

What did we ask for?
Mitigate energy prices by reducing non-commodity energy costs: Facilitate access to compensation for RO/FiTs/CfDs. The UK needs a simpler and more consistent way to identify energy intensive businesses. Current arrangements are complicated, targeted at mitigating industrial decline rather than protecting growth, and are inadequate.

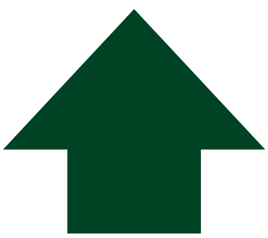
Recent developments

- Government published its negotiation priorities for energy and climate change
- Government launched its Industrial Strategy green paper which committed to addressing high energy costs.
- BEIS has formally announced an Independent Review to ensure energy is affordable for households and businesses. The ambition is for the UK to have the lowest energy costs in Europe. techUK will be providing input.
- The BEIS and Climate Change select committees have conducted Inquiries
- BEIS and Ofcom produce a call for evidence on a smart flexible energy system

What are we doing?

- We produced A Council Communication on the Energy Impacts of Digital Policies.
- We continued dialogue with BEIS asking them to recognise the energy intensive status of the sector.
- We attended (and reported back on) meetings hosted by the Emissions Trading Group and by the Major Energy Users Council. We also contributed towards work being done by CBI with Treasury.
- We contributed to techUK's response to BEIS and OFGEM's Call for Evidence on a Smart Flexible Energy system in which we highlighted DSR (Demand Side Response) policy contradictions.
- In March the sector was mentioned in three Parliamentary Written Questions and we assisted DCMS in preparing Ministerial answers on sector power demand. We prepared a short explanatory briefing note .
- We wrote a Council Communication explaining why policy prevents us contributing to a flexible grid through DSR.
- We ran a Risk Radar session and produced a communication on the impact of energy costs on competitiveness.
- We contributed to techUK's input on the Government's Industrial Strategy where we stressed the impact of energy costs on competitiveness. The same points were made in our techUK Manifesto where we asked for the sector to be given the same compensation for non commodity energy costs as other energy intensive sectors.
- On the broader energy front techUK has briefed Nick Hurd MP, Secretary of State at BEIS on the role of technology in delivering the UK's emissions reduction plan, which revisited and updated arguments we made back in 2008 with High Tech Low Carbon and our Directory of case studies.

RISK/OPPORTUNITY Re-evaluation: IMPROVED



Government has listened, is clearly paying close attention to the impact of high energy costs on business competitiveness and has made an explicit commitment to reducing energy prices. It is also clear that a more streamlined approach to energy and carbon taxation is under consideration, which will help. As yet, this has not been delivered but the direction of travel is broadly positive and we are engaged in relevant policy dialogue.

Inward Investment and UK Competitiveness

What did we ask for?
Make a stronger case at Government level to support inward investment in the sector. Be explicit that the sector is valued and welcome. Upgrade incentives and target them more effectively. Smooth the runway so that investors are not beset by unnecessary obstacles. The UK can no longer rely on its first mover advantage and must provide a compelling prospectus along the lines of nation state Governments in competing markets (Netherlands, Germany, Ireland and Scandinavia).

Data-related industries have a larger multiplier effect and provide better economic returns than other sectors. The OECD argues that data and data analytics are essential drivers of innovation and productivity. So investing in digital infrastructure, welcoming inward investment and protecting and nurturing UK operators should be a no brainer.

Although the UK is a global leader in data centre services and expertise, Brexit could make the UK less attractive as a location and Government needs to do much more to ensure that the UK retains its dominant position and continues to be a location of choice for the sector. At the very least Brexit should provide a catalyst to stand back and consider the UK's attractiveness as a place to invest, to expand activity and to locate new operations. At the same time we need to consider how we can help UK based businesses remain competitive.

Recent developments

- UK Trade and Investment was made part of the Department for International Trade in July 2016. The objective to bring trade and investment functions together should streamline trade and investment activity.
- The Government's Industrial Strategy Green Paper and consultation, launched in January, promised a more strategic approach to inward investment with greater emphasis on identifying and promoting investments that drive growth and explicit commitment to analyse and learn from other inward investment agencies.
- The Government's long awaited and much delayed Digital Strategy was published in March and fails to mention data centres in any of its references to digital infrastructure or the UK as a digital powerhouse.
- Government has released a Consultation on creating a National Investment Fund to strengthen the role of the British Business Bank. This is being welcomed by techUK provided it is not being proposed as a replacement to the EIF (European Investment Fund).

techUK's actions

- We have written to DCMS to suggest that data centres are explicitly accommodated in future iterations of the Digital Strategy as they comprise part of our core digital infrastructure.
- We are developing a paper promoting the UK as a location of choice for data centre operators. This will build on our informal paper "Ours Goes Up to 11" which featured London as a destination of choice for operators.
- We are lobbying the Government to retain membership of the European Investment Bank and the European Investment Fund. The EIB is a Tier1 for investment in infrastructure in the UK and although we are net contributors, the EIB is a critical route for mobilising private capital. The EIF is a subsidiary private company owned by the EIB, the European Commission and various financial institutions. The EIF probably drives more investment into the UK than anything else: of the 20 biggest VC funds in the EU, 19 of have EIF funding.
- We participated in round tables with the DexEU Select Committee and with Robin Walker MP, DexEU Brexit Minister.

RISK/OPPORTUNITY Re-evaluation: DETERIORATED

While the commitment to a more strategic approach to inward investment should benefit data centres because of their capacity to drive growth and the commitment to learn from other countries is something we have been advocating for some time, there is a fundamental failure within Government to recognise the fact that data centres are the heart of the UK's digital infrastructure and represent the focal point where the industrial strategy and the digital strategy should meet.

Environment and Climate Change Regulation

What did we ask for?
Retain environmental targets and standards but review energy and carbon taxes. Streamline existing approaches and abolish instruments that are ineffective or unduly burdensome. Delay target renegotiations for the CCA until there is greater clarity on the impact of Brexit on occupancy rates. Remember that the starting point is a clean sheet.

The sector is subject to a bewildering array of environmental regulations, compliance requirements such as the EU ETS, CRC, CCL, ESOS, etc. The same data has to be collected, collated and reported repeatedly. The multiplicity of regimes, often with different prices for carbon, different reporting routes, dates, processes and requirements, different departmental leads and different regulators, render the current compliance landscape duplicative, burdensome and pointlessly complex.

While the UK will reproduce much EU legislation, Brexit presents an unprecedented opportunity to streamline existing approaches, starting with a blank sheet. While the UK should continue to sign up to and comply with EU targets for CO_2 reduction, energy efficiency and pollution control, there is scope to introduce much greater freedom in how they are achieved, and to reduce legislative burdens where these are disproportionate, punitive or deliver no benefit.

Recent developments

- Government (BEIS) is seeking views on the future of EU ETS. It looks likely that we will remain in ETS until at least the end of Phase III (2020) after which alternatives may be on the table (e.g. none, mirror, linked or standalone schemes).
- BEIS has explicitly accepted that EU ETS has shortcomings when applied to small emitters and made representations in Brussels during Phase IV negotiations but struggled to gain traction due to differences in implementation.
- Treasury is committed to streamlining compliance requirements for business, and recent questions from BEIS suggest that a full re-evaluation of all instruments is in the pipeline. Relevant consultation is expected.
- A replacement framework will need to be fiscally neutral (i.e. continue to make the same contribution that existing schemes make), and will have to balance simplicity against the need to make instruments more bespoke.
- BEIS has also announced an independent review to ensure energy is affordable for business, which will necessitate changes to carbon taxes and levies. This is seen as a positive development.
- No proposed changes to Energy Efficiency Directive (EED) Article 8 so 2030 energy efficiency targets likely to stay in place. International agreements remain in place by default as do 2020 targets.
- Recent air quality issues relating to diesel vehicles and generator farms are leading to a tightening up of air quality requirements over and above those required by EU Directives so no relaxation in provisions of Industrial Emissions Directive (IED), Medium Combustion Plant Directive (MCPD) is likely.

techUK's actions

- We are engaged in dialogue on EU ETS with BEIS and have submitted emergency run hour data and a technical briefing on emergency generation in data centres to support their representations at EU level.
- We are working closely with the Environment Agency on Best Available Techniques (BAT) for complying with IED which will be maintained and with MCPD which will be transposed into UK law before we leave the EU.
- We have lobbied Government (BEIS and Treasury) on the impacts of high energy costs on competitiveness and on the need to rationalise carbon and energy reporting regimes, levies and taxes.
- We are conducting multiple dialogues with DEFRA, the Environment Agency and BEIS on streamlining other regulation and compliance obligations.

RISK/OPPORTUNITY Re-evaluation: UNCHANGED

The environment and climate change regulatory agenda is in line for a major overhaul and that will not happen overnight. We expect changes in this policy area to take some time and therefor there is little change to report. That said, explicit commitments from Treasury on streamlining and from BEIS on energy costs, supported by relevant queries, are encouraging.

techUK represents the companies and technologies that are defining today the world that we will live in tomorrow.

950 companies are members of techUK. Collectively they employ more than 700,000 people, about half of all tech sector jobs in the UK.

These companies range from leading FTSE 100 companies to new innovative start-ups. The majority of our members are small and medium sized businesses.

techUK.org | @techUK | #techUK

Further information

techUK's data centre programme | www.techuk.org/focus/programmes/data-centres

techUK's Brexit activities | www.techuk.org/focus/programmes/brexit

Acknowledgements

Giles Derrington | Brexit
Jeremy Lilley | Data Flows
Mark Bailey | Data Flows
Doniya Soni | Skills and Migration

Contact

Emma Fryer | Associate Director | techUK
T 01609 772137 | M 07595 410 653 | E emma.fryer@techuk.org