



## Brexit Industry Insights

September 2019

### Travel and Aviation

With the UK's default to leave the EU without a deal, the travel and aviation sector is vulnerable to disruption. The sector is faced with simultaneously navigating macroeconomic challenges, whilst mitigating the impacts of Brexit – including regulatory requirements and the movement of people. The risk of the UK leaving the EU without a deal remains high, and the time to act is now. The winners will be those in the sector prepared for change and alive to the opportunities.

#### Brexit and the Travel and Aviation sector

Travel and aviation is a significant contributor to both the UK and EU economies. Air transport supports 1.56m jobs and contributes £88.8bn to the UK economy<sup>1</sup>.

The Article 50 extension to 31 October provided consumers with confidence that their 2019 summer holidays would be disruption-free. Travellers have been able to cross the border as usual using the EU/EEA passport gates, have not needed an international driving licence when driving to the EU, and their pet passports are still valid. However, uncertainty beyond October remains, which could dampen future consumer demand.

Both the UK and EU have taken steps to help reduce the immediate risks for this sector in a no-deal scenario. The UK has written a number of technical papers ranging from working and operating in the aviation industry, to passenger travel and consumer rights. The EU has put into place regulation on common rules ensuring basic air connectivity in the event of no deal<sup>2</sup> for a limited period of time. The regulation covers some of the key areas of concern related to aviation, including traffic rights, ownership and control requirements, and certificates and licences.

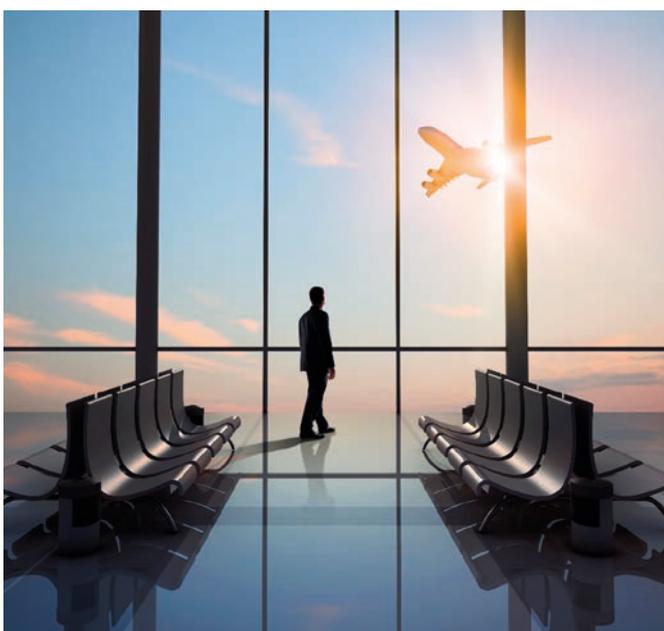
#### What does this mean for business?

Some of the key implications for businesses operating in the sector are:



##### Macroeconomics

The travel and aviation industry is particularly susceptible to fluctuations in exchange rates, whether this be in the base cost of goods (fuel for example, is typically priced in US dollars), or the purchasing power of their customers travelling abroad – that refreshing holiday first cocktail by the pool now costs more than it did before the referendum. On the other hand, it could make the UK a more attractive place for tourists visiting the UK and British holidaymakers considering a 'staycation'. Uncertainty surrounding the outcome of the Brexit process means there is a risk of foreign exchange volatility, which could be beneficial or harmful depending on where a business' customers are based and where they travel.



1. <https://www.iata.org/about/worldwide/europe/competitiveness/Documents/uk-competitiveness-index-report-2019.pdf>  
2. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LI.2019.085.01.0049.01.ENG>



### Taxation

Restructuring in response to regulatory barriers has resulted in a number of tax issues for companies to manage, including assessing whether the activity transitioning to a new EU company is a transfer of a business going concern (i.e. with goodwill or intangibles attached) in order to determine potential exit tax charges and associated valuation issues. Post-restructuring, the tax implications for ongoing operations present different tax challenges, for example in relation to the transfer pricing and VAT treatment of intercompany services.

On the plus side, the UK government has indicated that in a no-deal scenario, it will continue to operate the Tour Operators Margin Scheme (TOMS), but the amount of VAT payable under TOMS will be reduced for many tour operators and other businesses subject to TOMS. This is because the VAT due on the margin in relation to EU sales will be zero rated – as is the case currently for non-EU supplies – rather than standard rated<sup>3</sup>.



### People

ABTA research in June 2019 highlighted the number of non-UK nationals working in travel and tourism in the UK is nearly a third higher than the UK average<sup>4</sup>.

Under a no deal, free movement of people will end once the UK leaves the EU. EU/EEA citizens resident in the UK before 31 October 2019 will retain their rights to settlement and access to services, and they will need to apply under the EU settlement scheme by 31 December 2020. EU/EEA citizens moving to the UK after 31 October 2019 will for a transitional period be able to move to the UK to live and work as they do now. But those wishing to stay beyond December 2020 will either need to apply for European Temporary Leave to Remain by 31 December 2020 or leave the UK. The UK is expected to introduce a new immigration regime from January 2021 for all EU nationals arriving in the UK after this date.

Multinational travel and aviation companies often have a highly mobile international workforce and are reliant on the efficient deployment of individuals around the world including within the EU. Post-Brexit changes will need to be factored into existing processes to avoid delays in putting feet on the ground and/or increased costs. For example, immigration requirements for UK nationals planning to work in the EU will need to be confirmed on a country-by-country basis including expected time lines for completion of the immigration process.

Dual social security liabilities could arise for employers and mobile employees if member states do not agree to reciprocal arrangements with the UK.

A separate issue arises for travel companies that offer coach trips from the UK to mainland Europe: UK drivers may need an international driving permit, and drivers who are in border queues will be considered to be working under the Working Time Directive. So a situation could arise that even if they have the correct driving licence, UK licence holders may be restricted from driving when they cross the border until they have had a break.



### Regulatory

A no-deal Brexit may also have a significant impact on businesses from a regulatory perspective; an example of which is aviation safety. The CAA has issued a guide<sup>5</sup> to potential changes in a no-deal scenario, and some of the potential obstacles highlighted include:

#### In focus: basic air connectivity

When considering the basic air connectivity no-deal preparations, some carriers would need to change “business as usual”. The UK Parliament’s European Scrutiny Committee highlight some examples:

- EU regulations require all airlines with EU operating licences to be majority owned and controlled by nationals of one of the member states of either the EU or European Free Trade Association. Airlines have been granted a six-month exemption from EU ownership and control requirements in the event of a no-deal Brexit, but they will need to present a plan for remedial action within two weeks of it occurring to their relevant licensing authority.
- UK airlines can only operate leased aircraft with a crew from an airline of another country in circumstances where there are exceptional needs, seasonal capacity needs or operational difficulties.
- UK carriers will not be able to fly between two third countries and stop in the EU, nor will they be able to fly between two member states or within one member state.
- Cargo services by UK carriers between EU member states and third countries will be capped at 2018 flight frequency levels.

3. <http://www.legislation.gov.uk/ukSI/2019/73/made>

4. <http://abtamag.com/2019/06/26/abta-urges-government-to-consider-impact-of-brexit-on-travel-industrys-workforce/6>

5. <http://publicapps.caa.co.uk/modalapplication.aspx?appid=11&mode=detail&id=8675>

- UK-licensed pilots flying EU-registered aircraft either need to transfer their licence to another EASA member state before Brexit, or seek a second licence from one.
- UK-registered engineers would not be able to continue to maintain EU-registered aircraft unless the EU decides to recognise UK engineer licences.
- Existing UK design approvals for aircraft and aircraft components would be valid only for nine months post-Brexit.
- UK-registered maintenance organisations would need an EASA third country approval to be able to maintain EU-registered aircraft.



### Data

With the recent large fines being levied by the Information Commissioner's Office (ICO) to businesses in the sector, data compliance is a hot topic for many in the industry. Cross-border flows of personal data between the UK and EU is common place for many travel businesses, and the UK will be regarded as a third country on leaving the EU. Unless the UK's data regime is granted an adequacy decision by the European Commission ahead of the UK's exit from the EU, or the UK and EU enter into a separate legal agreement, flows of personal data will require that appropriate business-level safeguards are in place. From an industry-specific perspective, there are two key forms of personal data transferred by airlines that are subject to EU Directives and UK law. Firstly, the sharing of biographical data in Advanced Passenger Information (API) with government authorities in the state of arrival, departure and transit; and secondly Passenger Name Records (PNR) which contain contact and travel details.

Not only will British authorities require a third country PNR agreement with the EU in order to collect data on flights entering the UK from the EU, the UK government needs to negotiate similar deals to replace the pre-existing bilateral agreements between the EU and third countries such as the US, Canada and Australia<sup>6</sup>.

Ultimately, in a no-deal scenario, there is a risk travel businesses could be subject to legal challenge and fines if they breach data privacy rules.

## What can businesses do to prepare?

- Continue to monitor key sources of information including:
  - Government advice from the UK government (Department for Transport, CAA, Department for Exiting the European Union), the EU, and other countries in which your business operates in:
  - Trade associations and industry bodies, including IATA and ABTA.
- Make sure you have the appropriate licences in place:
- People – from pilots and cabin crew, to engineers and training organisations. For example, if you have UK cabin crew working on an aircraft registered in an EU27 country, their UK-issued attestation and medical report may not be considered valid<sup>7</sup>.
- Aircraft operating licences and certificates – for example, UK air carriers are required to obtain an operating authorisation from each member state in which they wish to operate<sup>8</sup>.

6. <https://www.iata.org/policy/consumer-pax-rights/Documents/iata-brexit-study.pdf>

7. <https://info.caa.co.uk/eu-exit/cabin-crew/>

8. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.LI.2019.085.01.0049.01.ENG>

9. <https://www.ons.gov.uk/peoplepopulationandcommunity/leisureandtourism/articles/traveltrends/2018>

### In focus: Travellers

In 2018, 37.9m visits were made to the UK and 71.7m visits were made overseas by UK residents. The most popular travel destinations for the British are Spain, France, and Italy<sup>9</sup>. Given the volume of travel between the UK and EU, disruption to the sector as a result of Brexit could have a significant impact on businesses and leisure consumers.

UK nationals and holiday makers attempting to visit or work in EU countries will be subject to member state rules. For example, popular Mediterranean holiday destinations will require travellers to have visas or at least seek prior approval to travel to those destinations – member states such as Spain, Greece and Italy will decide unilaterally what permissions UK nationals will need for those locations.

The picture is mixed in the EU with not all EU member states having to-date introduced legislation to safeguard existing UK nationals and to facilitate newcomers. This could impact travel companies with UK nationals working in Europe, in particular those with seasonal workers; from a business that offers an all-inclusive holiday package with UK-qualified and experienced childcare services in Mallorca, to a company that employs gap year students as chalet hosts for a season in Val d'Isère.

- Continue to engage with and encourage your existing workforce to certify their residency status while also reviewing recruitment strategy for critical roles. Concurrently, monitor information from countries in which you operate to ensure you understand local visa and work permit requirements.
- Perform a legal review to identify potential contractual risks as a result of Brexit. For example, do you contractually agree to provide customers with UK-qualified childminders in resort? Are you definitely going to be able to provide such a service in all countries in a no-deal environment?
- Map your supply chain, and consider whether you need to move stock or store additional stock in locations across Europe. For example, additional checks or delays at the border may impact maintenance, repair and overhaul (MRO) operators' ability to quickly move aircraft parts to where an aircraft requires maintenance. Where required, register for an Economic Operators Registration and Identification (EORI) number.
- Review what personal data you hold, who you share the data with, whether you are sharing personal data cross-border, including with any third-party service providers.
- Manage all key stakeholders to understand commitments and expectations. Engage with audit committees and liaise with trade bodies and regulators on preparations.

## How can Deloitte help?

Deloitte has been supporting multiple businesses across a range of industries to understand the implications of, and prepare for, the UK's withdrawal from the EU. We have supported many clients with their Brexit planning. Our teams combine Brexit insights, industry knowledge and technical expertise to support our clients with their Brexit readiness planning – from risk assessment to applying the lessons learned to optimise for the future trading environment.

For further information please contact Deloitte Brexit Support at [brexitsupport@deloitte.co.uk](mailto:brexitsupport@deloitte.co.uk)

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### Further reading

#### **UK No-deal Technical Notices:**

Meeting business regulations  
Aviation Security  
Air services from the EU to the UK  
Work and operate in the European aviation sector  
Passenger travel to the EU  
Passenger consumer rights

#### **UK Business Preparation Tool:**

Prepare your business or organisation for Brexit

#### **European Commission Brexit Preparedness:**

Mobility and Transport

#### **UK Civil Aviation Authority:**

Advice to the aviation industry on a no-deal Brexit

This no-deal guidance is not exhaustive. Companies should routinely review the latest official updates and technical guidance as and when they are published by the UK, EU, and individual EU Member States.