

# The potential impact of Brexit on ICT policy, and possible ways forward for the EU27

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- The expected departure of the UK from the EU on 29 March 2019 can be expected to have a substantial impact on the UK, and a smaller but still significant impact on the EU27.
- Relative to ICTs innovation and policy, impacts might flow from:
  - Reduced interactions with UK-based ICTs researchers and innovators.
  - Reduced interactions with UK-based policymakers and regulators.
  - Loss of regulatory and policy harmonisation in areas such as data protection and mobile roaming.
  - Loss of economies of scale and scope.

# The form of exit taken matters

- The range of choices is wider than “Norway versus Canada”.
  - The UK reconsiders and chooses not to exit (perhaps unlikely).
  - The UK becomes a member of the European Economic Area (EEA), as is Norway.
  - The UK and EU27 implement bilateral agreements as with Switzerland.
  - The UK and EU27 implement a comprehensive FTA as with Canada.
  - The UK “crashes out” with no agreement at all.
- Coordination of research under Horizon 2020 is a separate dimension – as associated countries, Norway (EEA), Switzerland (bilateral agreements), and Israel enjoy largely the same rights as an EU Member State under H2020.

# The form of exit taken matters

- If the UK were to become an EEA member state, not much would change compared to the current situation.
- Under bilateral arrangements, an FTA, or a “crashing out” scenario, regulatory harmonisation will suffer in areas including:
  - Mobile roaming
  - EU27-UK transfers of personal data
- Coordination of regulatory policy (e.g. via BEREC) could suffer.

# EU27-UK mobile roaming

- The UK Government and major UK mobile network operators (MNOs) contend that roaming with the EU27 will be unchanged.
- Can this really hold up?
  - If the UK is no longer EU/EEA, wholesale prices for UK/EU27 are no longer governed by regulation unless this is separately agreed.
  - UK MVNOs and some MNOs are squeezed between cost and price.
  - EU27 MNOs that can offer wholesale EU27 roaming to UK customers will therefore enjoy very strong bargaining position against UK MNOs.
- Brexit will probably cause few problems for EU27 customers roaming in the UK beyond those already inherent in RLAH.

# EU27-UK data transfers

- Transfers of personal data conforming to the GDPR are generally permitted among EU/EEA Member States.
- Transfers to third countries are subject to different GDPR rules.
- Transfers to the US under “safe harbour” provisions were blocked by the CJEU *Schrems* decision in 2015 due to unbridled surveillance for purposes of national security.
- If the UK exits EU and EEA, a similar suit should be expected, probably leading to a similar outcome.
- For transfers to the US, Privacy Shield arrangements were needed, but their effectiveness going forward is still uncertain.

# Loss of access to UK regulatory expertise

- UK regulatory experts have made very important contributions to the evolution of European regulation of digital services.
- For electronic communications, this is especially visible in their participation in BEREC and in the RSPG (radio spectrum).
- EEA members such as Norway have observer status in BEREC.
- BEREC itself granted observer status to Switzerland, even though regulation is not harmonised with Switzerland.
- Continued EU27-UK regulatory dialogue is possible.

# Reduced access to UK researchers and innovators

- In many aspects of ICTs, the UK is a leading source of innovation.
- A complete break would have negative impact on the EU27 in areas such as AI, and should be avoided (unless the break with the UK is extreme, which presumably will not be the case).
- H2020 already provides mechanisms that could be used – Israel, for instance, enjoys associated country status even though it is neither an EU nor an EEA member state.
- It is in the interest of EU27 and UK to maintain these links.



# Summary

- The form that Brexit takes will influence the impact it will have.
- Under Norway-style EEA membership, little would change.
- Under most other scenarios, regulatory disconnects in specific areas should be expected.
- Continued ICTs regulatory and policy dialogue is desirable, and is feasible under current rules e.g. via BEREC.
- Continued ICTs research cooperation is desirable, and is feasible under existing H2020 rules even in the event of a hard Brexit.