

## Post Referendum Policy Priorities for Data Centres

This note should be read in conjunction with techUK's [Brexit Five Point Plan](#)

July 2016

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While the UK has opted to leave the EU, we don't yet know the form that our future relationship will take. All we know is that it will change. In the meantime we remain part of, and governed by, the EU for at least the next two years so in one respect it is business as usual. In other respects it is anything but. The technology sector in general, and the data centre sector in particular, did not support a Brexit and now the mutual arrangements that gave our businesses access to the world's largest market are uncertain. Many will have to be renegotiated. In the meantime, this uncertainty is damaging in itself so it is critical that we as a UK sector are clear about our position and about our requirements. Our position is simple: we remain open to the free flow of data, to the free flow of skilled labour, to collaboration and cooperation. Our requirements are set out below and will direct our dialogue with government both in the UK and in Brussels.

### Immediate priorities

#### 1. Access to the Single Market must be the primary objective of any UK negotiation

Access to the single market allows us to compete for business on equal terms across Europe, generating jobs and growth and is a key factor in the UK's ability to attract foreign investment. Maintaining access to the single market must be the number one objective of any new relationship with Europe.

#### 2. Retaining and attracting talent is vital to the success and growth of UK tech

The success of the UK data centre sector is underpinned by its ability to attract the best skills from across Europe. Many non-British EU nationals work in key roles within data centres, both technical and non-technical. Clarity is urgently required on the status of these individuals, how they will be protected and how we can continue to make use of their essential and specialist skills. If free movement is likely to be restricted then a new 'smart immigration' policy must be implemented.

#### 3. Work should start now on securing international data flows and data protection

Our digital economy depends upon the ability to move data across national borders. Any changes in the UK's relationship with Europe must not impede the free flow of data to and from the EU. New European data protection laws are likely to enter into force before the UK leaves the EU. Urgent consideration should be given to the relative merits of maintaining, adapting or completely re-legislating the UK's data protection laws. It seems likely that the UK may have to strike some form of agreement similar to the EU US Privacy Shield in order to ensure cross border data flows. Amendments may be required to the UK Investigatory Powers Bill. Work needs to start now in full partnership with industry to develop solutions that position the UK as a global data leader.

#### 4. Make a Plan: Work with business now on a post-Referendum Digital Strategy

A new Digital Strategy was due and is now indefinitely on hold. Government must work with the technology sector in general and with the data centre industry in particular to identify and address the challenges and opportunities ahead. The data centre sector will be developing its own position statement during summer 2016.

## 5. Get on with it: take every opportunity to deliver appropriate policy responses

To address immediate concerns about the impact of the referendum, Government must demonstrate that uncertainty does not have to mean paralysis. Some policy decisions and actions need accelerating and enhancing, some need to be delayed or reduced in ambition.

### a) Accelerate and enhance where needed to protect UK competitiveness

Data centres are energy intensive but data is a highly mobile commodity. The sector is therefore very vulnerable to overseas competition. The UK government must do more to assist the industry by levelling the playing field further to ensure that the UK remains an attractive place for operators and their customers to locate and grow their businesses.

- **Inward investment:** A far stronger case could be made at Government level to support inward investment in the sector. 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, Norway, etc.).
- **Non commodity energy costs:** Energy costs for electro intensive industries (EII): market changes are likely to make it harder for UK businesses to compete so the door must remain open for sectors to apply for compensation for RO/FITs/CfDs. The UK needs a simpler and more consistent way to identify EIs subject to competition. Current arrangements are inadequate.

### b) Don't make life harder than necessary for business

Some policy developments should be delayed until there is less uncertainty: Now is not the time to make the business environment any more difficult, especially where there is no urgency. This keeps things simpler for businesses and enables decisions to be made about changes when the wider picture is clearer.

- **Data Centre CCA target renegotiation:** Brexit related turmoil will affect market conditions for operators and their ability to meet targets may be constrained, so this should be postponed until conditions are clearer. Legally this can be delayed until 2019.
- **NRF for carbon:** The 'new reporting framework' to compensate for CRC. This does not have to be finalised before 2019 and could be delayed a little.

## Longer term considerations

While the UK will reproduce much EU legislation, there will be opportunities for some instruments to be revised and even repealed. The UK should continue to sign up to and comply with EU targets for carbon reduction, energy efficiency and pollution control, but there is scope to reduce legislative burdens where these are disproportionately punitive and /or deliver no benefit.

## 6. Carbon and energy efficiency

- a) **EUETS** – an exemption or a *de minimus* should be introduced for emergency standby generation. Compliance routines should be simplified.
- b) **ART8 EED (ESOS)** for organisations already undertaking energy management this is superfluous and costly, often taking funding from the same “pot” that would finance efficiency improvements. This could be streamlined or combined with other policies.

## 7: Pollution / air quality

- a) **MCPD** (Medium Combustion Plant Directive). Exemptions should be preserved for emergency standby in any UK equivalent.
- b) **IED** (Industrial Emissions Directive) compliance could be simplified significantly for emergency stand-by.

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