

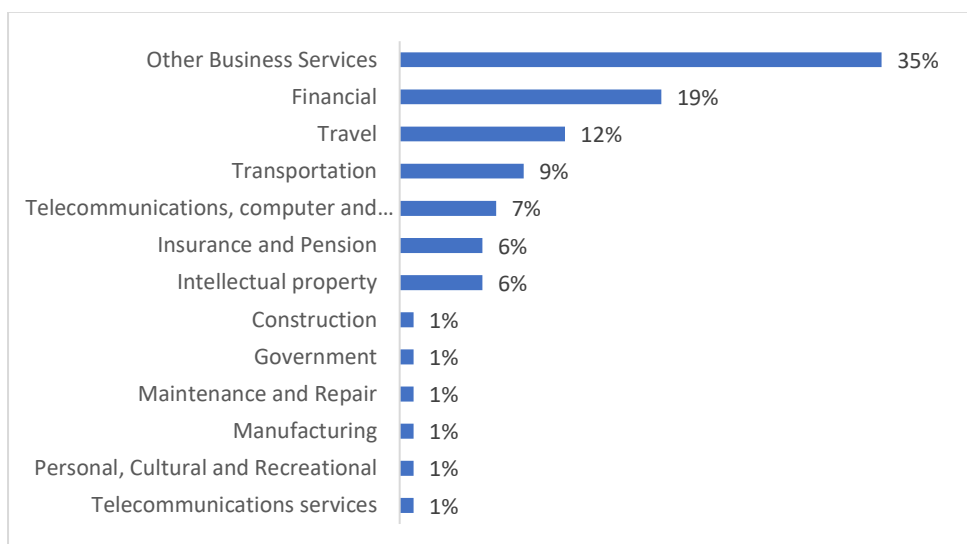
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The evidence draws on our recent report 'Services and Brexit' published by UK in a Changing Europe that examines the implications of different future trading scenarios at the end of the transition period for the UK's services sector.¹

How important are the different UK professional and business services sectors to the UK's economy and trade in services?

1. Professional and business services are the UK's largest service export, making up 35% of all of the UK's services exports in 2019 (chart 1 – the Office for National Statistics [ONS] includes professional and business services within 'other business services'). They have also been an area of significant export growth for the UK's economy. Their nominal value has more than doubled since 2010 (chart 2).

Chart 1 Breakdown of UK service exports 2019

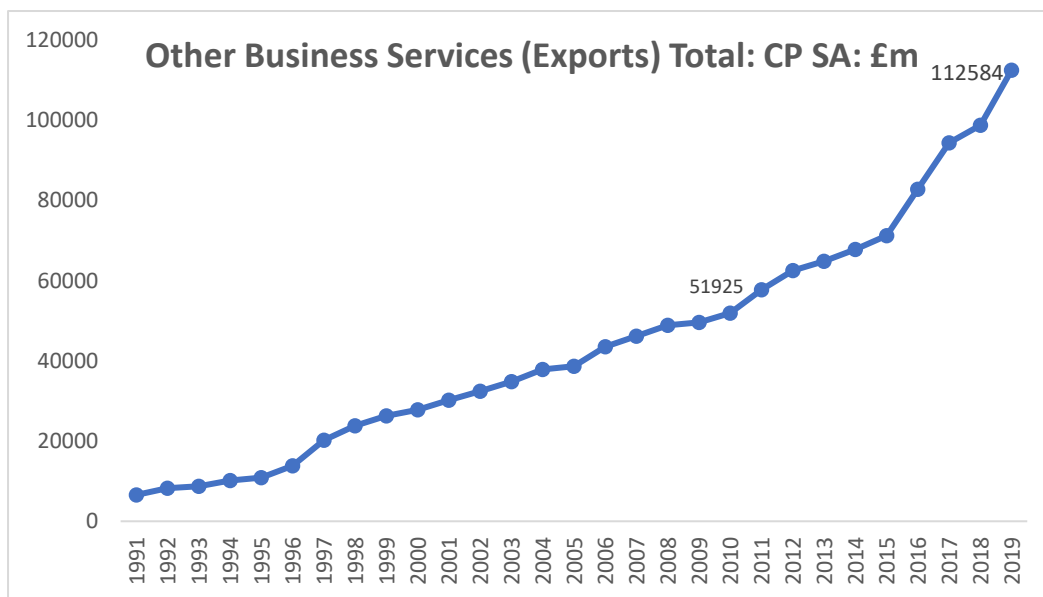


Source: ONS²

¹ <https://ukandeu.ac.uk/research-papers/services-and-brexite/>

² <https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/datasets/uktradeinservice/sservicetypebypartnercountrynonseasonallyadjusted>

Chart 2 Growth in other business services export (current prices, seasonally adjusted)



Source ONS³

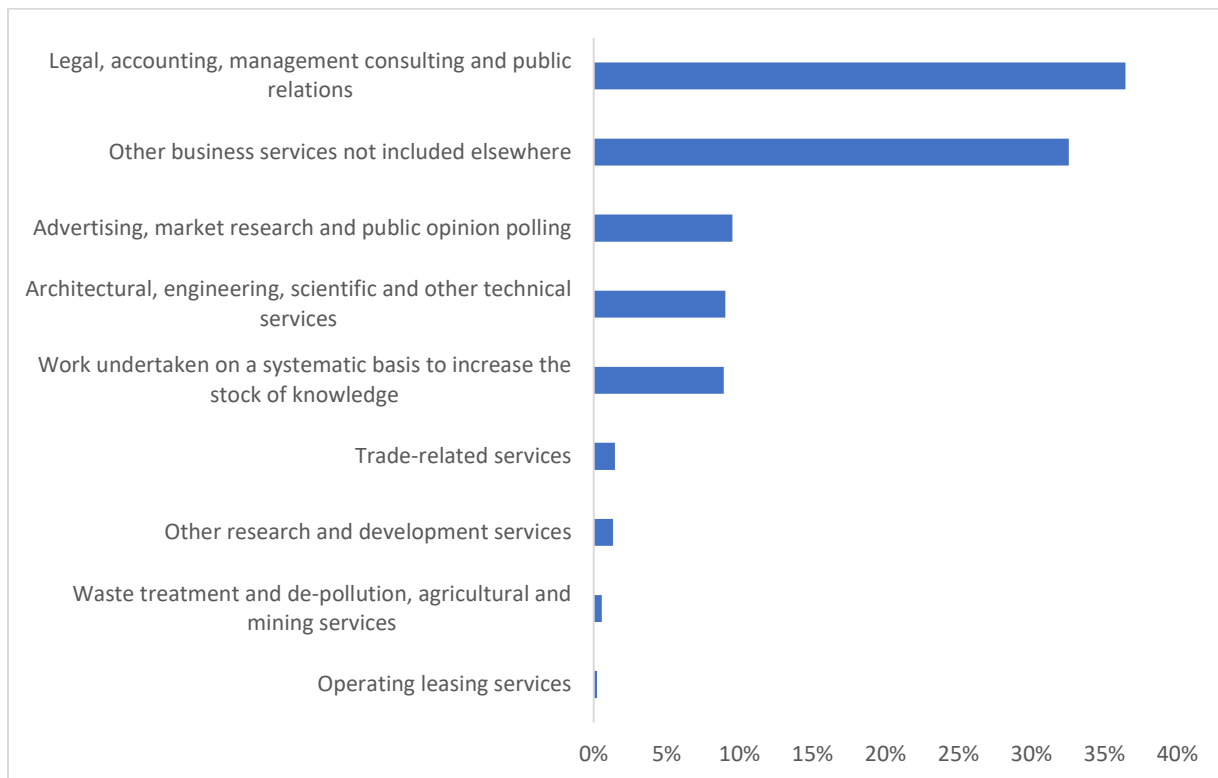
2. The US is the largest single market for UK exports of professional and business services (making up 31.7% of the total in 2019). However, collectively exports to the EU are larger, making up 35.4% of the total in 2019. The Republic of Ireland, Germany and the Netherlands are the most important national markets within the EU. In addition, EFTA countries accounted for 6.7% of professional and business exports with Switzerland the main destination for these exports.⁴

3. Two broad types of professional and business services are particularly important in UK exports: legal, accounting, management consulting and public relations and what the ONS, terms 'other business services not included elsewhere' (see chart 3). Other business services not included elsewhere includes distribution services (e.g. water and gas), recruitment and personnel services including activities like executive search and headhunting, security and investigative services and corporate real estate services.

³ <https://www.ons.gov.uk/economy/nationalaccounts/balanceofpayments/timeseries/fehh/pnbp>

⁴ <https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/datasets/uktradeinservice/sservicetypebypartnercountrynonseasonallyadjusted>

Chart 3: UK exports of other business services by category, Quarter 3 (July to Sept) 2019



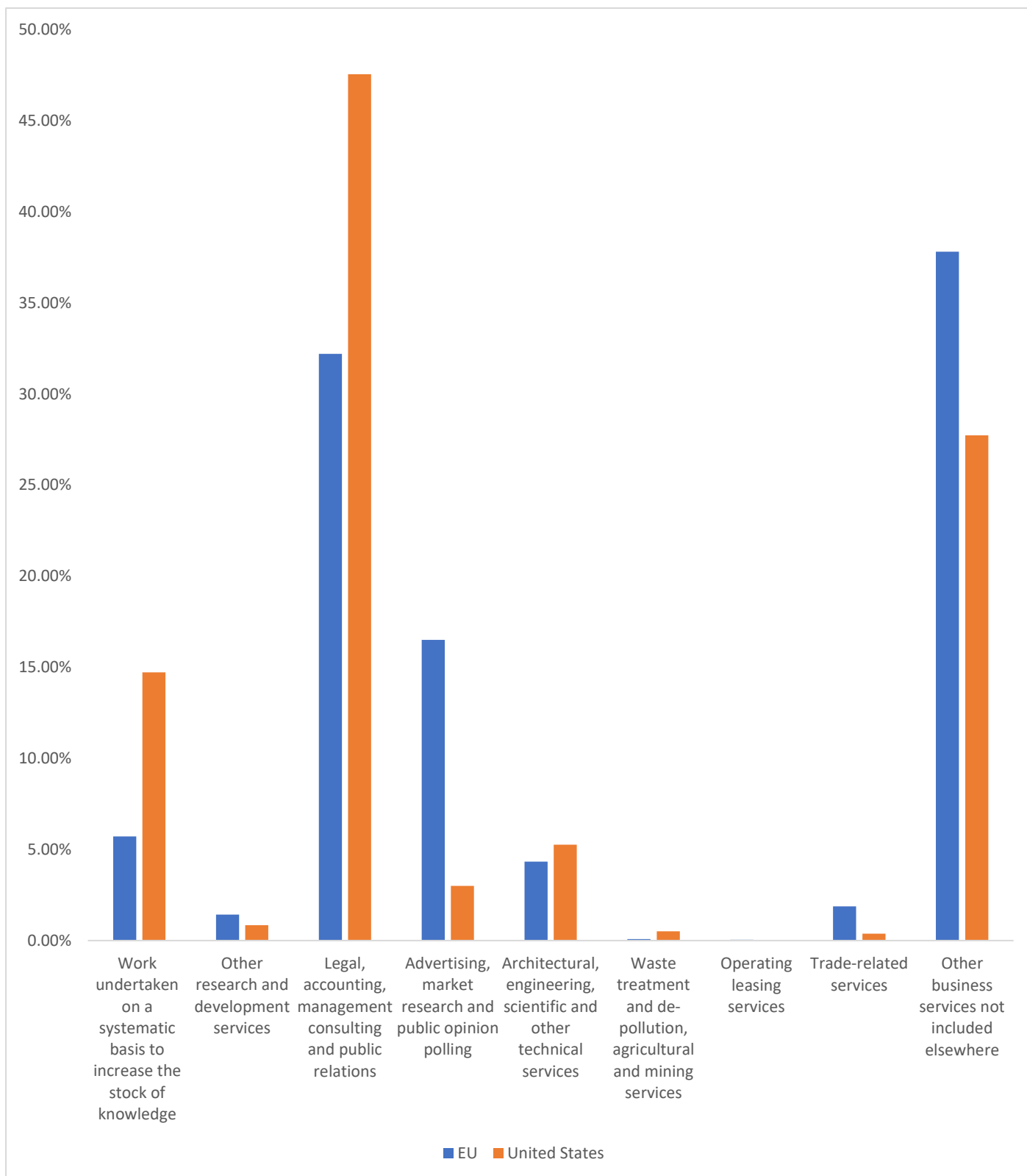
Source: ONS⁵

4. Although the US and the EU represent the largest export markets for UK professional and business services, the sectoral focus of these two export markets differs. For example, almost half of business services exports to the US are legal, accounting, management consultancy and public relations services. In contrast, this accounts for one third of business services exports to the EU. Other business services not included elsewhere, such as corporate real estate and distribution are the main professional and business service export to the EU (see chart 4). This suggests that any disruption to services exports to the EU at the end of the transition period may not be easily substituted by the US market as part of a possible US-UK free trade agreement (see also points 33-37 below).

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<https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/datasets/uktradeinservicestypebypartnercountrynonseasonallyadjusted>

Chart 4: UK Other Business Service Exports to EU and US by Category⁶



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<https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/datasets/uktradeinservice/sservicetypebypartnercountrynonseasonallyadjusted>

What are the UKs different professional and business services sectors' key priorities for the future UK-EU relationship? What are the key priorities of smaller professional and business services providers and providers from the UK's regions and devolved nations in particular?

5. For businesses that export into the EU single market, there are two areas that need to be prioritised in the negotiations: the mobility of individuals delivering services and rights of establishment. These are both areas where the single market goes further than is typical for FTAs in facilitating cross border trade. Therefore, there will be changes in both of these areas with either a deal or no deal at the end of the transition period.

6. Some professional and business services have also benefitted from attracting EU labour to the UK within the single market. The Royal Institute of British Architects (RIBA) for example estimates that one in four architects working in the UK are from the EU.⁷

7. Brexit has already impacted these migration patterns with immigration from the EU to the UK falling since 2016.⁸ The government's proposed post-Brexit migration regime, which it intends to implement once freedom of movement ends, will also affect different services businesses in very different ways.

8. For many business and professional services, the salary threshold proposed by the government of £25,600 for migrants entering the UK – lowered in the case of those holding PhDs – is unlikely to pose a significant barrier to entry, though employers will still have to go through the bureaucracy of applying for visas and there will be significant extra costs to pay that do not apply now to EEA nationals coming to work in the UK.

9. It is important to note that services are not evenly distributed across the UK which suggests that the economic impacts of Brexit will be different for different regions, towns and cities. For example, London accounts for 42% of the UK's services exports and the South East is the next largest contribution (17%). The remaining 41% is divided between the other ten regions of the UK. In Northern Ireland, services account for 22% of its exports, with sales focused in GB and the Republic of Ireland from a large number of small firms.

10. In regions, towns and cities that have not seen their economies do well in recent years, they have the lowest reliance on tradeable services. Towns and cities in southern England rely more heavily on business services jobs than those in Northern England. For example, 23% of jobs are in KIBS in London, 24% in Reading and 20% in Leeds. This compares with equivalent figures of 5% and 7% in Burnley and Mansfield respectively.

⁷ <https://www.architecture.com/-/media/gathercontent/mutual-recognition-of-professional-qualifications/additional-documents/ribapolicynotemutualrecognitionofqualificationsfinalpdf.pdf>

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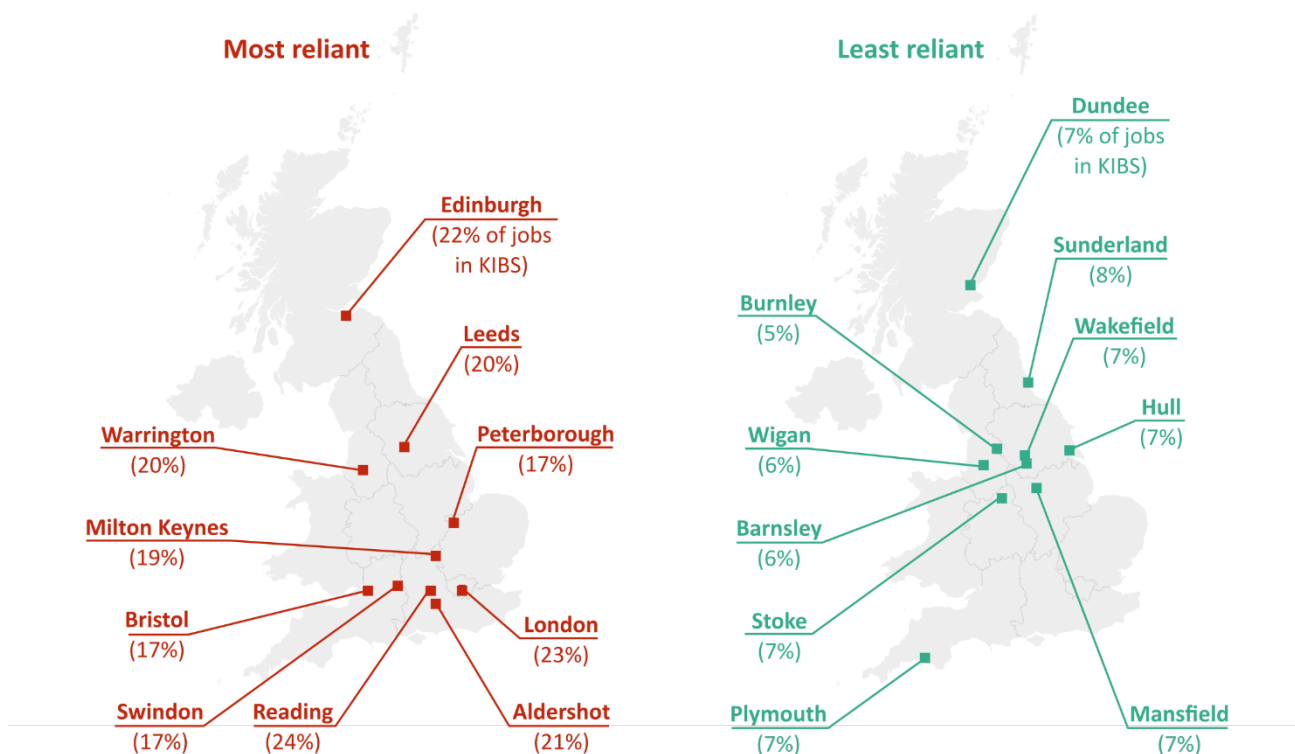
<https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/migrationstatisticsquarterlyreport/august2019>

Chart 5 Jobs in Knowledge intensive business services (KIBS) as a proportion of total jobs in selected towns and cities in 2018⁹

Towns and cities in southern England rely more heavily on business services jobs than those in northern England



Towns and cities that are most or least reliant on knowledge intensive business services (KIBS) jobs, based on KIBS jobs as a percentage of total jobs in 2018.



Source: Centre for Cities, Cities Data Tool.
Created in part using datawrapper.

11. However, whilst London and the south east are more reliant on business services jobs, these are also the locations that typically have recovered more quickly from previous economic recessions.¹⁰ This economic resilience has been attributed to a number of factors including their skill base, prior economic growth, wider economic structure and entrepreneurial culture to name a few. This suggests that these regions may be more able to attract new businesses after the end of transition.

What preparations (if any) have UK professional and business services providers made, or planned to make, ahead of the end of the transition period?

12. UK professional and business services providers face considerable uncertainty about their future level of EU market access at the end of the transition period. The single market facilitates cross border trade in services to a far greater extent than

⁹ <https://ukandeu.ac.uk/research-papers/services-and-brexit/>

¹⁰ <https://academic.oup.com/joeg/article-abstract/12/1/1/1161617>

other free trade agreements including those the EU has in place with other third countries such as Canada and Japan. It may be more logical in terms of corporate strategy for firms to open a subsidiary office within the EU market they want to export to.¹¹

13. There is considerable evidence in the public domain that the prospect of reduced access to the EU single market has already led to UK firms establishing subsidiaries or acquiring companies in EU member states. For example, EY's attractiveness survey reported increased levels of UK outbound investment in 2017 and 2018.¹² Research has also estimated an increase in investment by UK firms in the EU of 17% between the referendum result and March 2019.¹³ This growth is accounted for by the services sector which supports evidence that UK firms are setting up European subsidiaries in order to maintain access to the single market at the end of the transition period.

Arrangements for the mobility of professionals and the mutual recognition of professional qualifications

14. Whilst the UK remains a member of the single market, it is relatively easy to travel to do business in another member state, and UK professional qualifications, such as those needed to practice as a lawyer or an architect are recognised throughout the EU.

15. This is particularly valuable for what are known as regulated professions. A regulated profession requires individuals to be authorised to provide the service in a particular country and meet the regulatory requirements of that country to do so. This includes lawyers, accountants and architects, who are typically allowed to practise and use a professional title only once they have undertaken approved education and training. This system of authorisation is typically nationally based so that someone trained and qualified in one country cannot automatically practice in another.

16. In the case of legal services in particular, some legal service providers have taken advantage of their ability to transfer to the Irish roll of solicitors under the Qualified Lawyers (European Communities) Regulations 1991 (S.I. No. 85 of 1991) ("the 1991 regulations"). This will enable them to retain a legal qualification that is recognised across the EU/EEA once the transition period ends. In total, 4,000 solicitors from the UK have now been admitted to the Irish roll since the start of 2016.¹⁴

17. For some services, such as management consultancy, professional qualifications are less significant, but easy and frequent access to clients within the single market is important. Currently, such travel involves very little in the way of paperwork and fees. However, at the end of the transition period, if no deal is agreed, businesses could be faced with having to navigate the range of visa requirements and associated fees required by member states.

¹¹ <https://ukandeu.ac.uk/research-papers/services-and-brexit/>

¹² Tipping point EY Attractiveness Survey UK June 2019

¹³ <https://www.sciencedirect.com/science/article/pii/S0014292120300325>

¹⁴ <https://www.lawgazette.co.uk/news/record-year-for-uk-solicitors-seeking-irish-brexit-backstop/5102348.article>

Provisions on cross-border investment and rights of establishment

18. The single market makes it much simpler to establish an office in another member state. Despite, the EU being keen to allow the commercial presence from countries outside of the single market, the rights of establishment are still more difficult for third-countries than they are for member states. This is particularly the case for regulated professions.¹⁵

19. In addition to it being more difficult to establish branches in the EU from a third country, at the end of the transition period, UK businesses will also have to address the fact that what they are permitted or required to do in one EU member state may not be the same in another. This is likely to increase the costs of conducting cross border trade with EU member state. These additional costs may be particularly difficult for smaller firms to absorb.

20. For example, in the single market a law firm is able to open an office in any other member state. However, for countries outside the single market there can be a whole host of regulations that are restrictive. For example, in [France](#), the shareholder requirements are, at least 75% of the partners holding at least 75% of the shares shall be lawyers fully admitted to the bar in France.

21. There may be further restrictions where the majority ownership / control may be required to be held by professionals active in the firm. In Germany, foreign (non-EU) lawyers may only establish as sole practitioners or in partnerships. This means that third country law firms are not able to establish as LLPs. Under Danish law, 90 percent of the shares of a Danish law firm must be owned by lawyers with a Danish licence, lawyers qualified in a member-state of the European Union and registered in Denmark, or law firms registered in Denmark. It is usually necessary for a practising lawyer to hold local qualifications.

What lessons can be learnt from the EU's existing trade agreements with other third countries including services?

22. The UK is seeking a Comprehensive Free Trade Agreement (CFTA) accompanied by a limited number of supplementary international agreements related to areas such as law enforcement, fisheries and transport once the UK leaves the single market at the end of transition. The UK negotiating team has stated that it is seeking an agreement based on existing EU free trade agreements, particularly the EU-Canada Comprehensive Economic and Trade Agreement (CETA) and the EU-Japan Economic Partnership Agreement (EU-Japan EPA).

23. Care needs to be taken in extrapolating from the case of Canada and Japan to the case of the EU because research shows that trade flows, including in services, are typically greater between neighbouring countries.¹⁶ For example, the value of services

¹⁵ <https://ukandeu.ac.uk/wp-content/uploads/2020/06/Services-and-Brexit.pdf>

¹⁶ <https://www.mitpressjournals.org/doi/abs/10.1162/rest.90.1.37?journalCode=rest&>

imports to the EU 27 in 2018 from the UK was 163 billion euros compared to comparable figures of 15 billion euros and 14 billion euros from Japan and Canada respectively.¹⁷

24. In some areas the draft text published by the UK is identical to CETA. However, in other ways it is asking for greater market access than has been provided by the EU to date. For example, the UK wants to make it easier for UK professionals such as lawyers and architects to work in the UK than is the case for those holding Canadian qualifications. The UK is also seeking greater sectoral coverage than the EU has agreed to date. For example, the UK wants to include the audio-visual sector but the EU, in common with its other FTAs does not.

25. One of the broad areas in which the UK draft agreement goes further than other EU FTAs is in relation to services. For professional and business services, this particularly applies to the mutual recognition of professional qualifications and rights of establishment. In both areas, the UK's draft agreement goes further than existing EU FTAs, notably with Canada and Japan. It is logical for the UK to seek greater access for services and to aim to smooth the cross border mobility of individuals delivering services because services and the development of the highly skilled labour markets that support them are areas of strength within the UK economy. The UK is predominately a services economy. Services contributed 81% to the economy in 2019 or around 30 million jobs.¹⁸

26. The UK's negotiating document is ambitious in relation to the mutual recognition of professional qualifications, going beyond other FTAs and CETA. The position set out by the UK takes mutual recognition as the default (i.e. a continuation of the current single market access) and outlines a framework to facilitate this. In contrast, in CETA a framework is set out to work towards mutual recognition where it has been recommended by a Joint Committee on Mutual Recognition established by that agreement.

27. The EU's position is rather different. In a [notice to stakeholders](#), the EU Commission has stated that

The recognition of professional qualifications of United Kingdom nationals in an EU 27 Member State will be governed by the national policies and rules of that Member State, irrespective of whether the qualifications of the United Kingdom national were obtained in the United Kingdom, in another third country or in an EU-27 Member State.

28. The UK's draft agreement aims for individuals to be able to travel between the EU and the UK, and stay on a temporary basis in order to deliver services. In some areas, the UK is following both the CETA and the EU-Japan EPA, which have gone much further than other FTAs in this area. For example, the draft calls for the requirements for visas to be dropped for short-term business visitors. It also follows the CETA in proposing that entry be granted for the families and dependents of service providers themselves. In other areas, the UK proposals go further than existing EU trade deals. For example, the UK is offering stays of up to five years for individuals travelling to the UK with their company. The typical length the EU offers in this area is 3 years. Agreements reached

¹⁷ [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=The EU in the world - international trade&oldid=400151#Trade in services](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=The_EU_in_the_world_-_international_trade&oldid=400151#Trade_in_services)

¹⁸ <https://ukandeu.ac.uk/research-papers/services-and-brexite/>

in this area, it will assist the range of individuals, from professional musicians, to management consultants and financiers who travel frequently between the UK and EU member states to provide services on a 'fly-in-fly-out' basis, though this will still fall short of the ease of movement they currently enjoy.

To what extent could UK-EU trade in professional and business services continue in the absence of a UK-EU agreement covering services? How effective would the WTO General Agreement on Trade in Services be in supporting such trade?

29. The single market has improved conditions for services by aligning national regulations of member states on who can provide services and what the expected standards of services are. There are a number of ways in which the EU's single market makes services trade easier than under GATS and under a typical FTA e.g. in relation to the rights of establishment within the single market. This means that it is likely inevitable that UK services trade will decline to the EU whether the UK leaves the transition period with or without a deal.¹⁹

30. GATS provisions as well as typical FTAs do little to approve authorisations and licensing to practice. Trading under GATS provisions would therefore restrict the ability of UK firms to sell their services from their UK office to customers based across the EU. Given the uncertainty of whether the UK will gain agreement on its aims in this area, and how such agreements could be put into practice, UK services face considerable uncertainty about the future level of EU market access available to them at the end of the transition period. It may, therefore be more logical in terms of corporate strategy for firms to open a subsidiary office within the EU market they want to export to. As we note in point 13 above, there is evidence that this is already happening.

31. At a sector level, GATS members can make commitments which limit their ability to restrict market access to overseas providers (e.g. by limiting the number of foreign service suppliers). Under the terms of 'most favoured nation' clauses, GATS members must also grant the same access to service providers from one member to those of other members. However, members are able to set exceptions known as limitations or reservations to these commitments which means that, in practice, the coverage of these commitments is not uniform. There are typically fewer reservations in relation to mode 2 service delivery.

Possible opportunities for the UK's professional and business services providers after the end of transition

Our response to this issue focuses on the case of the US.

32. The US is the largest single national destination for UK services exports making up 21% of the total in 2019. However, six of the UK's most important markets for services exports are in the EU: Germany, France, the Netherlands, Ireland, Italy and Spain.²⁰

33. However, the modelling contained within the government's plans of US-UK trade negotiations estimates that a US - UK trade deal would only increase the UK's long-run GDP by significantly less than one percent, which would not go very far to make good

¹⁹¹⁹ <https://ukandeu.ac.uk/wp-content/uploads/2020/06/Services-and-Brexit.pdf>

²⁰ <https://ukandeu.ac.uk/research-papers/services-and-brexit/>

the loss to GDP from leaving the single market. This was estimated by the 2018 government to be between 3.4% and 6.4% if a modest free trade agreement with the EU was secured and between 6.3% and 9% in a no deal scenario over around 15 years.²¹

34. The case of legal services illustrates the opportunities and challenges for professional and business services in trading with the US. The US represents 29% of legal service exports compared to 48% from the UK to the EU/EEA.²²

35. The UK and the USA both operate relatively open legal markets and there is a high level of trade in legal services between the countries. Despite this a number of restrictions remain in the US that potentially serve to limit the ability to pursue further export opportunities. These include the following:

- 17 states do not have rules permitting foreign legal consultant (FLC) status meaning non-US lawyers are not able to practise either home law, the US state law or international law
- Only 11 states have rules explicitly permitting temporary FLC status, also known as 'fly in-fly out (FIFO)' services.
- 17 states do not allow graduates of non-US law schools to take their bar exam.
- 19 states which do allow graduates of non-US law schools to take their bar exam, may require the candidate to undertake additional formal legal education at a US law school, such as a postgraduate law degree (LL.M).²³

The prospects for a comprehensive trade agreement opening the US market to UK legal services providers is complicated by the fact that legal services are a state-level competence. This means the US federal government cannot negotiate on their behalf.

Summary

36. Professional and business services are strategically important in the UK economy and need to be considered in the negotiations because of the ways it is shaped by UK single market access.

37. At the end of the transition period, with or without a deal of the kind being sought by the UK, the professional and business services are likely to be smaller and differently structured with implications for wider economic growth.

38. In some ways, the UK's draft agreement mirrors FTAs already agreed with the EU. However, this does not make EU agreement guaranteed. There are significant differences between the size and scope of UK-EU trade as compared to that with Canada which will understandably make the EU cautious in replicating Canadian style agreement with such a close and large trading partner.

²¹

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/760484/28_November_EU_Exit_-_Long-term_economic_analysis_1_.pdf

²² <https://www.lawsociety.org.uk/support-services/research-trends/economic-contribution-legal-services-sector-report/>

²³ <https://www.lawsociety.org.uk/support-services/research-trends/economic-contribution-legal-services-sector-report/>

39. In some areas of professional services, particularly in relation to the mutual recognition of professional qualifications, the UK is asking for more access to the single market than the EU has granted other countries. However, even in these areas it is important to note that this does not replicate the UK's current trading relationship with the EU.

40. Businesses in the services sector are already planning for a future outside the single market, and the government has plans for a different orientation for services, beyond the EU's regulatory orbit. Much remains uncertain about the direction these processes will take.

24 June 2020