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Hedging Bets; British Business Lobbying in the European Union post-Brexit

DAVID COEN AND ALEXANDER KATSAITIS

Abstract
In Brexit's aftermath, appreciating how UK business will interact with Brussels is vital to understanding the mechanics of future economic and trade relations. Drawing from work on corporate political activity, the article outlines changes that UK business lobbying faces in Brussels post-Brexit, focussing on three key aspects: (i) changes at the institutional-systemic level; (ii) variance across policy fields; (iii) engagement with other organisations. The article discusses potential strategic responses for UK business and argues that lobbying for UK private interests will become a costlier and more complicated enterprise. While policy making access via political doors will become harder, demand for reliable technical expertise allows UK business to maintain its presence and influence in regulatory policy areas. Targeted lobbying and diversified mobilisation offer the safest way forward for UK business lobbying in Brussels.

Keywords: business, lobbying, Brexit, European Union, interest groups, corporate political activity

Introduction

BREXIT WILL impact the United Kingdom's business interests in an unprecedented way. As the UK's relationship with its main trading partner changes, the strategies of UK business will have to follow. Simultaneously, Brexit will impact UK business' corporate political activity (CPA) in the EU long after the divorce is finalised. To appreciate how and why the UK's departure from the EU will impact its business, we must look beyond Brexit by examining the UK industry's new relationship with the EU institutions.

Post-Brexit, UK businesses lobbying in Brussels face limited access to political players, but not necessarily to regulatory actors. Significantly, Brexit's sway on UK business lobbying will vary depending on the nature of the policy, and industry characteristics. As central access points to EU institutions are closed to UK business, it will have to diversify, seeking alternative routes to advocate its positions, engage in information exchange with policy makers, and influence policy. Practically, this translates into increased public affairs activities such as consultant services and membership in European-wide professional associations. Inevitably, this means increased lobbying costs without necessarily matching its past effectiveness. To an extent, this will underscore inequalities within the UK corporate lobbying, dividing organisations into those with and without resources to mobilise in Brussels.

Simultaneously, as Westminster becomes the main authority impacting UK interests directly, strategy and resources will have to be redirected. To maintain and enhance linkages to the UK government, business must opt for discreet EU mobilisation: subtly engaging with Brussels while (re-) investing in nationwide associations and public affairs campaigns in a crowded domestic environment.

This article provides a framework outlining where and why we are likely to observe changes in UK corporate political activity vis-à-vis the EU. It offers a constructive way forward for UK business with potential strategies to overcome—as far as possible—the limitations that Brexit brings to its EU public affairs. The first section assesses Brexit's institutional impact on UK business lobbying in Brussels; the second section discusses how the nature of the policy field limits systemic concerns; and the third part points to likely strategies UK business can employ in response.

Images of pre- and post-Brexit UK business lobbying

Corporate political activity and pre-Brexit UK lobbying

Corporate political activity is a non-market strategy that firms utilise to maintain their edge vis-à-vis rivals. Accordingly, business employs permanent and specialised representatives to engage with policy makers and influence policy. The main objectives are to minimise costs linked to business regulation and increase benefits through earmarked subsidies. In the Brussels context, information is the main resource utilised by corporate lobbyists.

EU policy makers face resource constraints. Numbering around 40,000 staff they must discuss, produce, legislate and amend regulations for half a billion citizens in one of the largest trading blocs in the world. To fulfil their institutional responsibilities, EU policy makers demand information and expertise from trusted interests. They require information that is technically sound, expert, effective and efficient, as well as being politically representative. In turn, business lobbyists supply information and expertise aiming to interact with policy makers and influence policy. Thus, at the heart of EU government affairs lays a resource-exchange mechanism. Policy makers demand information they need to produce policy; business provides it in exchange for access and potential influence. Firms that provide reliable expertise over time become trusted partners, 'insiders' that are likelier to participate in closed policy making events and gain an inside track in the policy process.[1]

From a systemic or macro perspective, the EU maintains its relevance primarily as a regulator dedicated to the Single Market and European integration; it requires expertise to produce technical directives and regulations that are efficient and effective. At the same time, as the EU's political clout increases, its institutions—specifically the European Commission and the European Parliament—need to maintain popular appeal and support by representing constituents, which include private interests.

Following the 1986 Single European Act and the 1992 Maastricht Treaty, the European Economic Community (EEC) gained significant institutional powers. Recognising the Commission's newly expanded regulatory powers and the EEC's market benefits, UK business interests led the establishment of government affairs offices close to EU institutional quarters. In the last twenty years, UK business has been amongst the most active national interests in Brussels and has employed multiple institutional access points to exert influence over EU policy. As a member of the EU, UK business leveraged access via multiple interlinked and mutually reinforcing routes. At the EU level, UK private interests held political and technical relevance as a natural stakeholder that would be directly impacted by the market's regulation and implementation. Moreover, recognising the question of democratic legitimacy, EU institutions maintain their relevance by taking into consideration, via formal consultations, its economic constituencies and societal interests. Thus, in a process of consultation where technical perspectives were highly valued and helped to legitimise policy making, large UK firms became valued Brussels insiders. In addition, the UK's membership of the EU meant that British business interests had access to the EU's comitology committees. These committees are managed by the European Commission and are responsible for particularly technical aspects of EU law. They bring together Commission experts along with a wider set of stakeholders including private interests and Member States' permanent representatives to discuss and amend policy. Through their participation and by engaging with other members of such committees, UK business interests could influence highly specialised aspects of EU regulation.

From a political standpoint, under the same logic, EU-level UK policy makers, such as Members of the European Parliament (MEPs) and permanent representatives at the Council, were naturally motivated to consider and engage with business interests linked to their national constituencies, thus, facilitating and reinforcing UK business' direct engagement with the EU. Furthermore, European economic integration means that national interests have become increasingly enmeshed. Over time, UK business has formed strong links with business in other Member States, reflected in

[1] W. Grant, *Pressure Groups, Politics and Democracy in Britain*, London, Macmillan, 2000; W. Grant, 'The business lobby: political attitudes and strategies', *West European Politics*, vol. 6, no. 4, 1983, pp. 163–82.

growing trade relations, contracts, complex supply chains and subsidiaries (among others). In turn, national business, and trade and professional organisations across Member States have reason to form transnational advocacy coalitions and set up EU-wide associations in Brussels, which include UK interests. As such, UK business was able also to influence EU policy via membership associations.

Overall, from a macro perspective, these factors gave UK business direct access to the Brussels policy making circuit. Depending on the issue and the policy making stage, UK private interests could employ contacts across the board.

Post-Brexit UK lobbying in Brussels

Brexit brings about key institutional changes to the UK-EU relationship. These impact UK business relevance vis-à-vis EU policy makers and, in turn, their ability to mobilise within EU institutions. Most notably, UK business is no longer an EU constituency and the information it supplies is less politically relevant. First, UK policy makers have lost their seat at Brussels' main policy table. That is to say, there are no longer any UK MEPs, commissioners, or Council permanent representatives. Since EU policy makers' political legitimacy requires them to, *de facto*, prioritise their constituency over any other, UK business is automatically less of a political priority.[2] Indicatively, during Brexit negotiations none of the top business organisations that met with Michel Barnier and the T-50 teams were based in the UK.

The lack of UK government participation within EU procedures implies that UK business expertise is in significantly smaller demand. However, there is variance across institutional settings, especially when comparing the European Parliament and the European Commission. Because the European Parliament is a political forum, inviting UK business post-Brexit is primarily linked to (transnational) ideological alliances and interests. For example, MEPs representing a broader advocacy coalition may include UK business in formal and informal discussions. This makes, to an extent, UK business a part of EU-level policy discussions. Nevertheless, this point should not be overstated. The focus of elected members falls on their direct political constituency, meaning that UK interests are less likely to be at the top of the invitee list. Moreover, the UK industry's participation at the European Parliament's formal policy making events is not guaranteed. Because consensus is required to invite interest group representatives, competing coalitions are likely to resist the UK's presence in respect of other EU and national options. As regards influencing the Commission, UK business will experience different limitations. Direct participation and influence in political events and policy forums remains difficult for similar reasons to that of the Parliament. However, UK business can still be welcomed in technical consultations within Directorate Generals (DGs). Since technical knowledge is a central ingredient of the Commission's legislative proposals and regulatory activity, UK business expertise and its link to other EU industries offers means of access.

Beyond the institutional setting, Brexit also impacts the mobilisation of UK business via advocacy coalitions, specifically trade and professional associations. Representing industries across the entire continent, these organisations have a dual role: they behave as a monitor of European business for EU officials, and act as a communication point between EU officials and European business. For businesses across the EU, trade and professional associations provide a valuable service, acting as a conveyor belt receiving and transferring collective expertise to the EU.

Considering the UK industries' trade engagement across Europe, transnational associations have an incentive to maintain UK business participation in their forums. Similarly, UK business interests have an incentive to maintain their membership within such associations. For example, the Confederation of British Industry (CBI) remains a member of Business Europe. The energy networks associations (ena) and EnergyUK are still members of Eurelectric (the federation of the European electricity industry), while Shell and BP remain members of FuelsEurope, an

[2] D. Coen and A. Katsaitis, 'Lobbying Brexit negotiations: who lobbies Michel Barnier?', *Politics and Governance*, vol. 9, no. 1, 2021, pp. 37–47; D. Coen, W. Lehmann and A. Katsaitis, 'Deliberative layering: explaining diverse interest mobilization across the European Parliament's policy cycle', *Journal of Public Affairs*, vol. 2, no. 1, 2021, e2139; https://doi.org/10.1002/pa.2139 (accessed 7 April 2022).

organisation representing companies operating refineries in the EU.

How long European trade and professional associations are willing to encompass UK business positions is not clear; regulatory divergence and economic trajectories are defining factors. Under one scenario, diverging economic trajectories, in combination with economic decoupling, can weaken UK-EU business ties, in turn reducing the strength of UK business within these associations. Conversely, further convergence and market leadership can maintain the relevance of UK private interests within these organisations. Moreover, the sector, as well as the nature of the engagement, will impact their membership. That is to say, post-Brexit the UK and the EU will not diverge or converge similarly across all sectors. The greater the engagement between UK and EU business in a policy field, the likelier UK firms will stay on board the association. However, the greater the rivalry, then the greater the likelihood UK firms will find it harder to stay on board.

It is worth noting that limited access to the EU's institutions creates a parallel path for UK business and the UK foreign affairs team in Brussels which, somewhat ironically, is impacted by similar issues. As such, UK business has to adjust resources and reinforce its CPA vis-à-vis the UK government and Westminster. Overall, from a macro institutional perspective, Brexit makes access to EU policy making harder for UK business, particularly within political forums. Economic interdependence provides some inertia to the relationship. In the short and medium term, UK business can maintain its voice in Brussels. However, how influential it will be remains to be tested.

Indicatively, UK business mobilisation in Brussels has grown at a much slower pace than interests from similarly sized Member States (see Figure 1 below). Comparing UK registered interest groups on the EU's Joint Transparency Register before and after Brexit, we observe that while the population overall grew, it expanded at a much slower rate than interest groups from similarly sized Member States and economies such as France and Germany. Figure 1 compares the interest groups populations in 2012 and 2021.

Note: UK, French, and German based interest groups registered on the EU's Transparency Register in absolute numbers (post-Brexit vs. pre-Brexit). Six interest group categories: consultancy, business, think tank, religious representatives, regional representatives.

It appears that UK business is taking a cautious approach to EU lobbying in light of

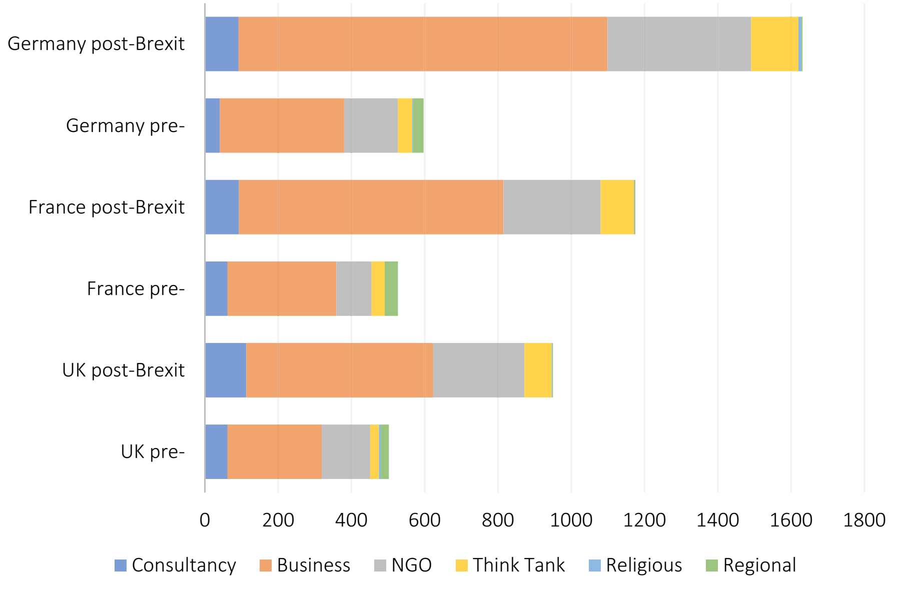

Figure 1: Comparing interest group registrations pre-Brexit *vs*. post-Brexit

Brexit. Business groups are reorganising their resources and waiting for the aftermath of the divorce to assess how extensive their investment in EU government affairs should be. While Brexit has taken place, additional sector specific discussions are likely to continue or re-emerge and adjustments may become necessary. In the meantime, UK business might conduct EU lobbying activities via its national and European level associations, thus not appearing on the registers. These results offer some evidence regarding mobilisation inequalities that come as a result of Brexit. In contrast, French and German interests have an incentive to move into Brussels faster as limited UK presence opens space for competition.

Scope conditions; the industry factor

Brexit brings about macro level institutional changes that impact UK business relevance for EU policy makers. While these changes are systemic (they apply across the board), their impact on private interests and their lobbying practices is heterogeneous. In this section, we provide some scope conditions that explain why we are likely to observe variance in UK business government affairs strategies at a sub-systemic (policy field) level. Business mobilisation varies across policy fields whose characteristics influence informational demand and supply, notably: (i) the extent to which the policy field is regulatory or distributive; (ii) the extent to which the policy field impacts domestic national, or international constituencies; (iii) the policy field's population density.

EU integration has been layered, adding policy fields progressively over time with the main focus on market regulation. Policy fields primarily responsible for industry regulation are designed and implemented based on scientific and legal analysis, and industry specifications. These policy fields tend to be managed in Brussels owing to their Single Market dimension, and the co-ordination of implementation costs associated with it. For example, this includes policy fields on the environment, the digital economy and society, and trade; regulations and directives on roaming charges, and tobacco. In these cases, national (political) positions are diluted by the EU market's technical requirements. To ensure that policy-making procedures and their outputs are politically neutral and technically reliable, demand for national political perspectives is limited. However, demand for valuable technical expertise is high.

Conversely, (re-) distributive policy in the EU remains less integrated, and decisions take place in close consultation with national political constituencies. In such cases, policy makers debate who gets what and when. This includes, for example, agriculture, fisheries, or development. In terms of specific outputs, consider the Common Agricultural Policy, or the Fisheries Policy. In (re-) distributive policy, decisions may take place in Brussels, but national capitals and interests weigh in heavily. To ensure the policy outputs and procedures are welcomed by their constituencies, demand for national inputs is high. Conversely, technical expertise remains valued, but is contingent upon domestic political preferences. Furthermore, in the case of (re-) distributive policy, costs become much more immediately clear to interested parties than in the case of regulatory policy. That is to say, losses in distributive policy fields are politically costlier.

This sets up a special context. UK interests are likely to observe limited access to policy makers in Brussels when agricultural regulation, subsidies or other similar policies are discussed. However, there is still space for manoeuvre when technical regulation is debated, particularly in areas where UK-based business holds specialised expertise and operates in economic spaces where growth is not a zero-sum game. In such fields, excluding a key player from decision-making deliberations might have an adverse effect on the market's optimum operation. These industries operate beyond national constituencies and require notable know-how to function. Therefore, involving expert industry representatives in policy discussions is a win-win. An example is the UK's tech industry and its representation in Brussels. As a significant player in the European market and with notable global presence, UK-based tech industries have the relevant expertise and capacity to impact regulatory discussions substantively and positively. For example, consider the Digital Services Act, which gives them an invitation to policy consultations and discussions.

These dimensions primarily address demand-side factors that influence UK business access to policy makers post-Brexit. There are also supply factors to consider. In policy fields that are particularly rivalrous and where regulatory implementation takes place within national jurisdictions, competitors and regulators have an incentive to limit UK business influence and market share, for example, in the financial services. In these areas, EU business will mobilise to impose costs on British interests, while minimising their access to Brussels.

In a multilevel regulatory environment, UK business can 'venue shop', selecting regulators that can champion its positions. In a nationally based regulatory environment it is more difficult, as there are fewer options available. Moreover, from a strategic lobbying perspective, venue shopping between the EU and Westminster risks adversely impacting trusted relationships with UK policy makers. Therefore, UK business lobbying efforts will increase in Westminster and Brussels and how they take place on one side of the channel can impact access on the other side.

Discussion: implications and options for business

Corporate political activity is a key aspect of business non-market strategies to gain and maintain an advantage over competitors. Outlining Brexit's impact on UK business lobbying in the EU naturally generates a question: how can UK business respond to these changes?

EU government affairs focus on three key institutions: the European Commission, the European Parliament and, to a lesser extent, the Council. Gaining and maintaining access to policy makers is difficult; there are a few policy makers stacked against thousands of lobbyists. Representative capacity, expertise, relevance and trust are variables that affect whether interests are granted a meeting, and to what extent a relationship is established.[3]

Given the changes discussed above, to maintain its influence in Brussels, UK business has two complimentary strategic choices. The first option is to maintain its relevance via the provision of high quality and reliable technical expertise. But, this does not imply a continuation of the status quo: UK business will have to supply this expertise through adjusted routes, redirect resources in areas where its relevance has remained stable post-Brexit, and focus efforts within specific areas where its role remains prominent.

The second approach suggests maintaining relevance by association. As direct access to EU policy makers becomes more unlikely, UK interests can voice their preferences through advocacy coalitions. Thus, UK business and professional associations have an incentive to increase their presence in European-wide associations. Notably, as the EU lobbying scene becomes increasingly complex, diversification can play to the strength of UK business. Thus, supporting and moving through wider networks and coalitions that include private and public actors, can hedge risks that come with lobbying via a single coalition. This includes, for example: actively supporting think tanks; engaging with consultancies; collaborating with civil society; mobilising constructively in wider forums; and improving its engagement with the UK's foreign affairs office in Brussels. On the one hand, consultancies can act as reliable meditators, bridging gaps between UK business and partners. On the other hand, think tanks offer a permanent forum where UK and European pro-business actors can engage and design long-term strategy. Civil society, and in particular UK NGOs, will find more doors open in political institutions than their business counterparts.

Diversifying lobbying routes will require UK businesses to increase their presence and mobilisation via European-wide trade and professional associations, and actively maintain a role within advocacy coalitions. These information routes will carry policy positions to EU policy makers when political focus excludes UK business from meetings. Significantly, diversifying lobbying within Brussels also requires engaging with partners outside the EU. Because industry size acts as a determinant of relevance, UK business risks losing influence to larger competitors from, say, the US, India, Brazil, or China. Therefore, establishing advocacy coalitions with these counterparts can direct the government

[3]D. Coen, A. Katsaitis and M. Vannoni, *Business Lobbying in the European Union*, New York, Oxford University Press, 2021.

relations' narrative within the non-EU business population.

Furthermore, UK business and the UK government have an incentive to maintain contact and influence their largest trading partner, at least in the short term. Like other non-EU states, the UK is opting to set up a stronger permanent presence in Brussels. UK business and government will have to create constructive forums where information gathering and information sharing take place in a constructive and complimentary fashion in order to maximise impact. These forums allow business to maintain contact with EU political actors, not only interest groups, whose incentives and vision align.

Differentiating between advocacy, access and influence post-Brexit is clearly more complex than in the pre-Brexit system. Without wishing to raise normative points, assuming the UK and the EU remain strong trading partners (at least in the short term) UK CPA is going to become costlier and inequalities within the UK business population will become visible. To maintain its voice within Brussels, UK business will have to find alternative routes to keep its seat at the table—or at least be heard. In turn, this is bound to highlight differences between small and medium enterprises (SMEs) and bigger industry players. In an uncertain policy-making environment, SMEs have less of an incentive to mobilise directly in Brussels via a dedicated government affairs office.

Partly because of the historical dimensions of EU integration and partly because of economies of scale, international UK companies have invested in their EU public affairs for longer. Access to the European market became available to larger players earlier on and, as mentioned, UK business was amongst the first to develop a strong presence in Brussels. Moreover, the EU's role as a regulatory exporter gives larger and export-oriented businesses additional incentives to maintain their lobbying activities in Brussels.

Furthermore, since public affairs offices are a medium-term investment, it is unlikely that UK companies will close their government relations offices abruptly post-Brexit. In contrast, smaller UK business players joined EU-wide associations at later stages, as integration spread across policy areas and lobbying venues expanded—especially after the Lisbon Treaty, which came into force in December 2009. Following Brexit, the EU's regulatory impact becomes less clear. The cost of replacing access to EU policy making via UK representatives, such as MEPs, with alliance building via consultancies, think tanks and participation in European-wide business associations makes the entire process less appealing and costlier.

By implication, bigger UK companies are better equipped to mobilise between the UK and Brussels, which in turn allows them to lobby for stricter regulations that raise costs for domestic competition. Considering policy making's sociological dimensions, it makes them highly valuable policy entrepreneurs (and mediators), mobilising between UK and EU policy makers. In turn, this reinforces their insider status at the domestic level. Whereas Brexit has distinct effects on UK business government affairs in Brussels, its impact reverberates on lobbying across the channel.

In the longer term, the UK business lobbying model may evolve to resemble that of US firms. That is to say, the subtle and progressive UK-EU decoupling in specific policy areas and policy-making forums alters access points and strategic choices. The CBI is likely to maintain and even increase its presence in Brussels, for example aiming to mirror AmCham. Associated UK diplomatic presence might resemble more that of other non-EU states, with reinforced trading departments. International UK companies leading in their fields will have to invest more in their representation, similar to leading international US companies, or risk being squeezed out of trade talks.

Considering Brexit's long-term effects on UK business lobbying, we are hesitant to draw any definitive conclusions. We do note, however, that effects are unlikely to be uniform in nature. In policy areas where UK-EU policy interests and economic integration diverge, UK business lobbying might look similar to other non-EU actors. In policy areas where UK and EU economic integration remain stable, business lobbying will retain its presence more easily. It will lose its political privileges and potency, yet technical expertise and relevance will allow UK players to maintain access.

Overall, Brexit will make lobbying for UK business a more complex activity, adding lobbying diversification, investment in maintenance of discussion forums and other expenditures in order to maintain participation in Brussels' information-exchange market. It will vary across policy fields, encouraging greater activity in regulatory fields where technical expertise is valued. At the same time, we are quick to reiterate that this is a fast-moving field, since many decisions on Brexit and future UK-EU relations remain to be taken. Future work focussing on specific industries and comparing their lobbying pre-Brexit and how it has evolved post-Brexit offers a fruitful way forward.

David Coen is Professor of Public Policy, School of Public Policy, University College London. *Alexander Katsaitis* is Fellow in Public Policy and Administration, Department of Government, London School of Economics and Political Science.