The UK officially left the European Union on 31 January 2020. We are now in a one-year transition period, during which the UK has basically maintained many pre-Brexit positions. That said, once the transition period expires, we anticipate a number of changes to UK consumer law. That is because much of existing UK consumer law is derived from EU legislation and case law, and there is a desire within the UK government to deviate from some of the less business-friendly aspects. The thrust of this is that there is a move towards less regulation.

One important change regards the current consumer law requirement for alternative dispute resolution ("ADR"). After the end of this year, with limited exceptions, businesses will no longer have to offer an online ADR option.

At the moment, traders must offer consumers online ADR in their sales terms and conditions. The idea is that consumers should have the right to escalate complaints to an independent body if they are not happy with how a trader has handled a consumer complaint about a good or service the trader has provided. These provisions are found in Part 4 of the Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015. We have noticed that many businesses are not compliant with the requirement to provide
consumers with information about online ADR providers.

There has been little enforcement of the Regulations. That is not surprising. The Regulations were never particularly well understood (or observed) by business. Anyway, with effect from the end of the transition period (also known as “IP completion day”) the European Union (Withdrawal) Act 2020 and regulations made under it remove the heart of the obligations under the 2015 Regulations. Accordingly, businesses will no longer have to offer an online ADR option from 31 December 2020. There are two very limited exceptions: trade association rules may require member businesses to use ADR and certain specific legislation may require the use of ADR e.g. the Communications Act requires certain tech provides to allow consumers to use ADR.

This tweak is likely to be welcome relief to the retail sector, which is reeling in the wake of the COVID-19 crisis. For example, shops remain subject to stringent social-distancing measures and distribution chains have been severely disrupted.

Traders should watch out for other moves towards further deregulation, although if the UK moves too far away from EU rules its ability to trade freely with the bloc may be hampered.

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