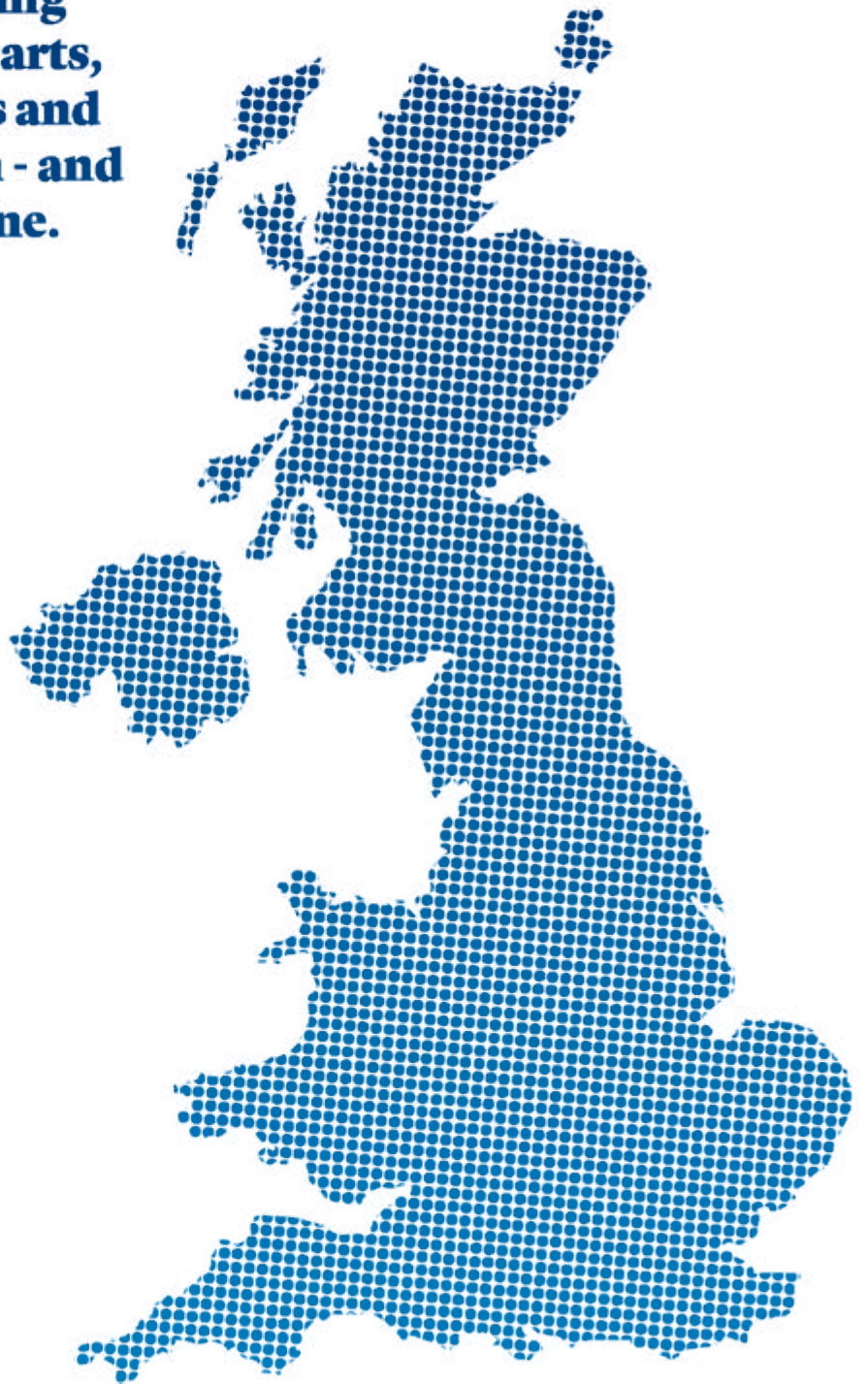


# Brexit Report.

**The impact of leaving  
the EU on the UK's arts,  
creative industries and  
cultural education - and  
what should be done.**

**C.** Creative.  
Industries.  
Federation.





# Foreword

The creative industries are the UK's fastest-growing economic sector. Contribution to growth has far outstripped other sectors for many years now. Our film, television, video games, music, design, fashion and publishing are world-renowned. Our museums, galleries, theatres and heritage are major reasons for people to visit this country and they contribute significantly to wider inward investment.

All of this constitutes Brand Britain; this is our calling card across the globe. It is a key driver for future success and employment. The creative industries give the UK its competitive edge. That edge is a consequence of being open and international.

The result of the referendum on June 23 was not what our members would have preferred; however, within hours we had called the whole sector together. In the following weeks we held a series of events across the UK to identify the key challenges and opportunities in an intensely practical way.

We are delighted to be working closely with our industry colleagues at the Creative Industries Council. We are presenting two papers, providing different perspectives, but joined by a unified set of proposals.

This document is a first step in a fast-moving political, diplomatic and economic environment ahead of the invoking of Article 50 by March 2017. Across government, as the situation changes on a weekly basis, so the Federation will be engaging actively with Whitehall and beyond throughout this crucial period. We will be liaising with our members across all creative disciplines and in all the nations and regions to ensure that this document, and our wider advocacy, is up-to-date, insightful and powerful. There is much detail to be worked through and we invite improvements and additions.

What is indisputable is the centrality of the creative industries to the government's industrial strategy, to its Brexit negotiations and to its social agenda.

We welcome the Prime Minister's inclusion in her party conference speech of the sector as a strategic priority for economic growth, and we look forward to continued engagement across departments.

The creative industries, with their entrepreneurial spirit, social engagement and verve, will be at the heart of the dynamic Britain we all seek to create.



**John Kampfner**  
Chief executive,  
Creative Industries Federation



**Sir John Sorrell**  
Founder and chairman,  
Creative Industries Federation

October 2016

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# Introduction

## The Creative Industries Federation

The Creative Industries Federation is the national membership organisation bringing together all of the UK's arts, creative industries and cultural education to provide an independent, authoritative and united voice in a way never done before.

The Federation was the brainchild of Sir John Sorrell, the designer and UK business ambassador, and a heavyweight team of creative leaders including Sir Nicholas Serota of Tate, Sir Peter Bazalgette from Arts Council England and Caroline Rush of the British Fashion Council. We have a board of top figures and an equally dynamic UK advisory council of members ranging from multinationals to young entrepreneurs. We have now gone global with an international advisory council too.

We are entirely independent, with our revenues - and our strength - coming from our 1,000+ members. They come from the worlds of architecture to video games, publishing to performance, creative tech to craft and design. They also include universities, colleges and conservatoires, across all the UK's nations and regions.

Since our launch, we have been embraced by, and engaged with, government and political parties of all hues. We have worked closely with eight Whitehall departments including Prime Minister's Office, Treasury and the Department for Culture, Media and Sport (DCMS) as well as the Scottish Parliament, Welsh Assembly and city administrations, making the case for the infrastructure and investment - public and private - crucial for future growth and success. It is good that the new Prime Minister, Theresa May, has named the creative industries as a strategic priority but the work of writing and implementing that strategy must now forge ahead.

We produce reports and submissions to add ballast to these arguments and host events that both inform the policy work and offer opportunities to meet fellow members. We are a unique network also offering the potential for exciting new commercial and cultural collaborations. We are intensely practical.



Our sector is the fastest-growing part of the UK economy, worth £87.4bn GVA<sup>1</sup> (gross value added) and the creative economy accounts for one in 11 jobs. But the new challenges posed by Brexit have made it more important than ever that we articulate the value of our sector, economically and socially.

## The EU referendum and our role

Within weeks of the then Prime Minister, David Cameron, setting the date for the referendum on the UK's membership of the EU, the Federation had begun two important initiatives.

We organised a debate which was held before a capacity audience of members at the British Library on April 19.

At the same time, we asked our members to participate in a survey that had two objectives. The first was to assess strength of opinion for leave or remain. The second was to probe the areas of concern and opportunity. Those of our members who are linked in some way to government (such as Arts Council England, Creative Scotland and Arts Council Wales) or who have public service broadcasting obligations removed themselves from the process. The survey, which was conducted in strict anonymity, produced an overwhelming vote - 96% - to remain in the EU.

Four areas of concern emerged:

- **Talent and skills** - including access to specialist workers, skills shortages, touring, festivals, visas, freelancers, Erasmus+ programme
- **EU funding** - including access to pots such as Creative Europe and Horizon 2020, cultural exchange, export opportunities, regions, eligibility in the run-up to Brexit
- **Trade and investment** - including EU as main market, regulated services, new markets, 'country of origin' principle, tax credits, World Trade Organisation (WTO) terms
- **Regulatory frameworks** - including Digital

Single Market (DSM), intellectual property (IP) rights, copyright protection, influence on new regulations, respect for IP in potential new markets.

On May 20, we published the findings at a roundtable of sector leaders chaired by the then Prime Minister.

## Response to EU referendum decision

The result of the EU referendum was not what our members would have preferred, but we recognised that the next step was to be practical and identify the key challenges, opportunities and red-line issues for the Brexit negotiations. By late morning June 24, the day after the count, we invited our members to a national meeting.

The event, held at King's College, London, on July 7, saw 200 leaders from commercial companies, arts organisations and higher education institutions from across the UK to start gathering evidence to inform the Federation's response. We examined what was already happening as a consequence of the vote and assessed priorities. The task was not only to identify the concerns but also potential opportunities.

Further meetings were held between July 20 and September 15, in Birmingham, Nottingham, Manchester, Edinburgh, Norwich, Swansea, Bristol, Plymouth, Leeds and Newcastle. In addition, we asked members to complete a detailed survey on the implications and opportunities of leaving the EU.

Nearly 500 leaders and practitioners from all the creative disciplines have contributed to our work, providing empirical evidence and individual stories. This document is based on those meetings and places that evidence in a broader policy context.

At the same time, the Federation has held intensive meetings across Whitehall and beyond, working closely with the new government on its priorities of promoting an industrial strategy, international trade and community regeneration.

Meetings have taken place with the Prime Minister's Office, Treasury, Foreign Office, Department for Exiting the European Union, Department for International Trade, DCMS, Department for Business, Energy and Industrial Strategy, and Department for Education, alongside the Scottish Government, Wales Arts International, Mayor of London's office and local authorities. We have presented evidence to a number of Commons and Lords select committees and had meetings with MPs across the political parties.

## **Work with the Creative Industries Council**

The Federation is presenting its findings to government alongside the industry members of the Creative Industries Council (CIC), the joint forum for government and the creative industries, because we all believe that ensuring the right funding, regulatory and trading frameworks is vital for the continued success of the UK's arts, creative industries and cultural education.

While the remit and working models of the two organisations are different, we decided at the start of the post-referendum process to work closely together. This has happened, to good effect. Most of the CIC's members are members of the Federation; the co-chair of the CIC sits on the Federation's UK Advisory Council; the chief executive of the Federation sits on the CIC.

We are delighted that we have agreed joint recommendations.



# Recommendations

## **Short term - urgent actions for immediate impact**

We should immediately establish a government-industry partnership to tackle trade barriers and open up access to priority markets outside the EU. While full trade agreements are likely to take some years to conclude, it should be possible to start making progress through international dialogue and cooperation in the short term. We should commit to making strong protection of IP rights a red line in future bilateral trade agreements, and ensure that we retain scope for continued public support for media and creative sectors.

The UK should engage proactively with ongoing negotiations on the Digital Single Market, a series of proposals on copyright, media regulation, data and other issues which will have a major impact on the future prospects for our industries in Europe.

The government should confirm as a matter of priority that EU nationals currently employed in the UK will be able to stay.

The government should affirm its commitment to:

- maintaining creative industry tax reliefs, at least at current levels, while considering the case for expansion where supported by evidence, and
- maintaining the strength of the core intellectual property regime currently in force, and to securing industry cooperation to reduce online copyright infringement.

The government should take steps to ensure that the new apprenticeship and technical education policies work to increase and broaden opportunities in the creative industries, and should remove disincentives to investment in training of freelancers.

The government should continue to strengthen the links between higher education and creative industry employers, particularly in areas of practice-based education that are specific to occupations in our industries, including through making the new Teaching Excellence Framework more relevant for courses linked to the creative industries.

## **Medium term - to start work now, for resolution before the UK's exit takes effect**

The UK should ensure that access to the EU market for the creative industries in respect of services is retained without the imposition of non-tariff barriers. As a key part of this, the UK should look to maintain inclusion in the EU 'country of origin' framework for regulation of audiovisual media services - while protecting the territoriality of IP rights for the UK - and ensure continued free flow of data with EU countries. It is also important that the current definition of European Works is retained in EU law, ensuring that UK-originated content continues to count towards broadcasting and video-on-demand quotas.

The UK should secure reciprocal retention of freedom to invest in, and secure investment from, EU businesses to enable the UK's continued growth as a centre from which to build international businesses in the media and other creative industry sectors.

The government should commit to future UK/EU cooperation on intellectual property issues, particularly on action to reduce online infringement and the proliferation of counterfeit goods.

The UK should secure continued ease of movement between UK and EU countries for time-limited activities, such as concert tours and film production.

The UK should retain tariff-free access to the EU market for goods.

The government should enhance bespoke support for creative industries exports, ensuring that it is firmly industry-led.

The government should quantify the total benefits to the creative and cultural sectors from EU funding sources and ensure that these are at least maintained following the UK's exit.

Government should work with industry to develop focused business and investment support programmes, which are sensitive to the specific needs and growth potential of creative businesses across the UK. In particular, we recommend that government should look to establish a new access-to-finance support scheme for investment in growth of creative industry small and medium sized enterprises (SMEs).

The government should ensure that public interventions support the widespread availability of affordable, high-speed broadband networks, which are especially critical for creative and tech businesses, particularly in areas where those businesses cluster.

The UK should commit to further 'cities of culture' initiatives and continue to participate in the European capital of culture programme.

## **Long term - preparation now for full implementation after the UK's exit from the EU**

The government should reform the migration system to enable easy access to critical skills and talent from both EU and non-EU countries, including a review of the shortage occupation list in light of our exit from the EU.

The government should commit to continued funding for research and development (R&D) post-exit, with a focus on high-innovation sectors and continued scope for domestic and transnational partnerships, preferably including a continued association with Horizon 2020.

The UK should look to maintain participation in Creative Europe, alongside other non-EU partners given its effectiveness, particularly for cultural exports, to the UK as a net beneficiary. If this is not possible, equivalent funding should be redirected for similar purposes within the UK.

Once the terms of exit are clear, following the repeal of the European Communities Act, the government should conduct a systematic review of EU-based regulation with a view to reducing or improving regulation where possible, in the interests of businesses and consumers, and we should take the opportunity to strengthen the UK's voice and influence in international forums such as the World Intellectual Property Organisation.

The government should explore the scope to improve the impact of creative sector tax incentives.









# Talent and Skills

The Guildhall School of Music and Drama in London photographed its student orchestra with (left) and without (right) its non-British EU students before the referendum to illustrate the potential impact. Photography: Paul Cochrane



# Summary

The UK is a world leader in the arts and creative industries, with our brilliant home-grown creative workforce reinforced by an international labour pool keen to contribute to our exciting, open-minded, multicultural country.

Talent and skills are fundamental to the UK's creative success. It is vital we continue to cultivate our own talent as well as to attract the best and brightest from around the world. International staff drive innovation, plug skills gaps and provide competitive advantage by offering expert insight into foreign markets for architecture, design, fashion and beyond.

Restricting movement risks compromising creative and commercial success. But a revamp of our immigration and visa rules provides an opportunity to understand the specific needs of the creative industries where the value of the brilliant cellist or early-stage app designer is not necessarily commensurate with salary. In addition, freelancers provide important skills.

Widespread skills shortages exist in a number of creative disciplines, notably animation, visual effects and video games. These will need to be accommodated in any new system.

Freedom of movement enjoyed in recent decades has benefited film and TV production and festivals as well as touring companies, such as bands, orchestras and dance and theatre companies. Cheap and easy access to Europe has helped develop audiences for young talent and provided revenues that, in some cases, subsidise UK performances.

Leaving the EU will also have a major impact on higher education with lost income from an anticipated fall in the numbers of EU nationals. Losing access to EU funding, such as Horizon 2020 grants (which account for a quarter of all public investment in UK research), could further tarnish the attractiveness of the UK as a place to study for other international students.

The need to foster British talent presents an incentive to create an education system fit for the 21st century. Instead of marginalising creative subjects, we should provide young people with the mix of creative and technical skills required for success.



# Crucial considerations

The government must take into account the following when considering new arrangements for freedom of movement and immigration:

1. Creative employment and skills shortages in the UK
2. The international make-up of the creative industries workforce
3. Economic benefits of an international workforce
4. Status of existing non-UK EU workforce
5. Freedom of movement
6. Higher education
7. The need for a visa system appropriate for the creative industries
8. The need for an education policy to deliver the skills the creative industries need

## 1. Creative employment and skills shortages in the UK

The creative industries have long-standing skills shortages. These stem from inadequate training and provision at schools in this country compounded by an ever-greater need for talent in a growing sector. This is exacerbated by our sector's dependence on innovative technologies and techniques, which, by definition, are practised and understood by a small number of people until more widely adopted.

International workers help address this skills gap, keeping the UK's creative industries staffed with the talent and skills they need to thrive. European workers also help us understand Europe, which is our biggest export market.

One in 11 people in the UK workforce are employed in the creative economy (including creative jobs outside the creative industries).<sup>2</sup> One in 17 are employed directly in the creative industries.<sup>3</sup> This proportion is expected to grow as industry becomes increasingly automated: 87% of highly creative occupations are at low risk of being replaced by robots in the future, providing a 'futureproof' mode of employment.<sup>4</sup>

The Migration Tier 2 Shortage Occupation List (jobs where the government will permit sponsorship

of migrants in recognition of severe skills shortages) highlights that our country is already crying out for creative skills - and in particular, design and technical skills. The list includes 17 creative industries occupations, such as graphic designers, orchestral musicians and visual effects specialists.

We believe that the skills gap will widen and that the Shortage Occupation List will grow because of an increased demand for jobs where there are skills shortages worldwide, an ongoing devaluation of creative education in schools and the fact that the number of 18-year-olds in the UK will decrease by 8.9% between 2012 and 2022.

There is a very real risk that skills shortages in the UK will be made worse - at least in the short to medium term - by any restriction on freedom of movement that comes with tightening immigration laws and the UK leaving the European Union.

European talent has supplemented our own in terms of supplying highly skilled talent to our creative companies. It has also provided a business advantage by allowing international talent to move and work here - whether as a freelancer or as part of a creative company.

## 2. International composition of the creative industries

The latest DCMS sector estimates show that EU nationals account for 6.1% of the UK creative industries workforce,<sup>5</sup> although members regularly cite figures of between 10% and 40%, so the official data may significantly underestimate the reality. A much higher figure is likely in London, given skills shortages and the international melting pot of the capital, which is home to nearly a third of the country's creative jobs.

For non-British EU employees, freedom of movement is the route into the UK and it is a particularly helpful route for the many freelancers in our sector, who would not be able to get a Tier 2 visa; 6.2% of freelancers in the creative industries come from the EU.<sup>6</sup>

Nationals from the non-European Economic Area (EEA) make up 5% of the sector's workforce, compared with 4.2% for the rest of the UK workforce.<sup>7</sup>

The experimental analysis of the Annual Population Survey by the innovation charity Nesta has shown that some sub-sectors are more reliant (in terms of quantity) on international talent - in particular IT, software, and computer services (5.5% from Europe, 8.4% from outside EEA) and museums, galleries and libraries (4% from Europe, 5.8% are non-EEA migrants).

Non-UK nationals make up a significantly higher proportion of the creative industries workforce. This is, unsurprisingly, particularly true of occupations on the Shortage Occupation List. For example, EU workers currently constitute 25% of all workers in the UK visual effects industry, with non-EU workers accounting for another 12%.<sup>8</sup> Similarly, UK games companies currently draw 20% - 30% of their staff from the EU.<sup>9</sup>

The best and the brightest in our sector have traditionally wanted to work in the UK, and it would be to our own advantage to ensure global innovators can continue to do so. To ensure that Britain's creativity remains vibrant, we need to be encouraging the great designers and technologists of the future to live and work here.

Exceptional talents in the creative sector must be understood alongside those in other areas such as science and academia. Jobs such as wig-making for stage and screen, leather-working in fashion or ballet coaching are highly specialist, with only a handful of individuals in the world able to perform them to the required standard. There are also creative jobs in many other industries such as car manufacturing, which uses clay modellers in the design process. We emphasise that, in our sector, talent may not always correlate with level of education (e.g. great technologists might not have a PhD) or with high salaries.

## 3. Economic benefits of an international workforce

Just under half of our creative industries exports go to the EU and freedom of movement has allowed us to build workforces that help us better understand this market. As demonstrated in the Federation's Creative Diversity report using research by McKinsey & Co, organisations with a workforce drawn from a greater diversity of backgrounds perform better economically due to insight into a wider number of markets and a broader skillset.

Market intelligence delivered by freedom of movement is key to attracting many international contracts for creative companies and has been recognised by companies such as Havas advertising as key to their success.

There is a risk that businesses dependent on non-UK workers will relocate operations if changes to UK visa laws restrict recruitment, especially when combined with the potential loss of ready access to EU markets. This is particularly true of multinationals, with potentially significant losses to GVA and jobs in the UK creative industries.

While creative businesses are found UK-wide, it remains the case that London is home to almost a third of those working in the UK's creative industries and one of the benefits for creative companies is the diversity of sectors that cohabit. This encourages cross-fertilisation in terms of staffing, R&D and innovation - for example, between financial tech (fintech) and creative tech, video games and visual effects, theatre and film. London is greater than the sum of its parts and significant losses from any single sector will reduce the city's appeal to others.

#### **4. Status of existing non-UK EU workforce**

Many organisations and businesses raised the need to reassure existing non-British EU staff of their right to remain. Anecdotal evidence in sectors such as theatre suggest up to half of staff may be non-UK Europeans and there are strong international workforces in areas from architecture to video games. One major London venue reported around 40% of front-of-house staff fall into this category, which it believes helps them welcome audiences from around the world. The joint artistic directors of Birmingham's Be Festival are both EU nationals who split their time 50/50 between Spain and the UK and need clarity on freedom of movement in order to plan future festivals.

Businesses are already reporting an impact on recruitment with successful candidates from the EU turning down job offers because of the uncertainty over their future status in the UK, while others have reported an impact on the types of people applying.

**“I run quite a small creative business, a 35-40 people design agency in Edinburgh and Glasgow and we work with a lot of international big brands. It's essential to us to have a multicultural workforce. We're recruiting at the moment and we have seen a slight drop-off in people applying from Europe - about 25% fewer applicants.”**

Matt Chapman,  
Founder and creative director  
Contagious

**“In an increasingly global business world, we simply can’t win without the right people who understand all our markets. Commercial creativity can’t thrive without cultural creativity. We need thriving music scenes, art scenes, student communities - all of them with diverse and unique cultures of their own. It’s like cutting off a creative limb if we can’t rely on attracting the very brightest and best from that pot of global talent.”**

Chris Hirst,  
CEO Europe  
Havas UK and Europe

## **5. Freedom of movement**

UK festivals and venues have until now enjoyed simple and comparatively cheap access to European performers while British performers have had similarly easy access to touring in Europe. There are administrative and financial considerations to restrictions on movement in either direction.

### **International touring for UK acts**

International touring counts for a significant portion of turnover for many artists and performers and freedom of movement is at the core of their business plans. As such, these revenues are key to underpinning their ability to operate in the UK.

Currently tours to EU countries are both geographically convenient and come without the administrative and financial burden that is imposed by visas. It is for these reasons that they frequently account for the lion’s share of touring revenues.

### **Additional costs for touring companies**

There are many alternative markets for touring. The Association of British Orchestras, for example, has identified the US and Japan as traditional markets and China and South Korea as rapidly developing markets for UK orchestras. However, visiting these countries incurs a host of additional costs to UK companies: this is due to a combination of direct fees (including visas, carnets for touring equipment or exhibition pieces, more expensive travel tickets) as well as the expense of staff time sorting these administrative requirements or hiring a professional service to do so, as many larger orchestral companies do. Figures from Cardiff’s NoFit State Circus show that a US tour costs them £46,000 more than an EU tour.

Some smaller touring organisations have reported that extra staff might be required for the additional administrative work created by an end to freedom of movement and that this could price them out of the touring market.

Experience of other countries already illustrates the scale of additional staff and financial costs incurred depending on the stringency of visa regulations in countries to be toured.

## A view from Leeds, Yorkshire and the Humber

Devolution was a central theme at Leeds alongside discussion of the importance of EU structural funding to much of Yorkshire and the North East and what devolution might mean for any funding schemes that replace it. The referendum result raised questions about social cohesion in the UK which prompted consideration of whether the Northern Powerhouse initiative places too much focus on metropolitan centres at the expense of towns and rural areas.

Freedom of movement was supported for having allowed companies to recruit skilled workers from overseas, as well as developing UK talent by giving them easy and affordable access to markets for touring. Local arts venues are also able to develop their own offer to UK audiences because of the ease of booking EU acts.

Leeds has spent some years planning its bid to be European Capital of Culture in 2023 but the process is now being delayed by the uncertainty surrounding exit from the EU.

For example, the United States requires all visa applicants to visit its embassy in person to be processed. It costs either the touring organisation in terms of staffing or the applicant in loss of earnings. This is a particularly acute issue for those companies based outside London, for whom travel time adds to the administrative burden. A similar process is also operated by other non-EU markets, including China.

The way the UK has made it harder for non-EU performers and talent - even from world-renowned companies - to visit our country in recent years with visas rejected or delayed was highlighted as a potential hurdle to the UK creating good and simple reciprocal arrangements for our talent.

### **Freedom of movement helps grow emerging UK acts**

The lack of administrative burden and low costs incurred by the European touring and festival circuits means they are of particular value in developing emerging UK artists into exportable acts. Overseas digital sales and tours exist in a virtuous circle, with each contributing to increased profitability for the other: online sales offer bands a map of commercially-viable locations to tour, and visits to a country grow digital sales in that market. For up-and-coming UK acts, the EU has offered the most affordable way in which to capitalise on this. Initial tours are not usually a profit-making exercise, but develop brand awareness ahead

of a profitable second tour at a later date. The profitability of this model will be considerably decreased by an end to freedom of movement and the imposition of additional touring costs.

### **Freedom of movement as bedrock of budgeting and planning**

Freedom of movement makes it straightforward for EU performers to accept bookings in the EU and confirmed bookings then act as the frame upon which international festivals plan their programmes.

World Event Young Artists said that stable EU bookings give festivals such as theirs the dependable core programme required to attract investment, which has included EU funding aimed at encouraging European collaboration, such as Creative Europe, as well as private partners. Non-EU bookings often prove far more uncertain, given both visa requirements and lead times and the lack of funding available to underpin these bookings.

Manchester International Festival is among organisations to highlight fears about the impact a loss of freedom of movement will have on its ability to programme. The increased cost of entering the UK to work may discourage many international acts from performing at the festival, reducing its quality and potentially, therefore, both its revenue streams and resultant spend within the local economy.



Freedom of movement also allows venues to attract a greater number of international clients for their events and meeting spaces, which can be a significant source of income. The Barbican centre in London reported that 31% of its 2015/16 meetings came from international bookings, with EU countries, including Germany, the Netherlands, Sweden and Italy, acting as major partners. A loss of freedom of movement may make such bookings less attractive and jeopardise revenues.

### **Freedom of movement benefits TV and film production**

There is an administrative and financial benefit for both domestic and international film and television companies in having the option to move productions, including crews and equipment, across the continent to shoot on location where needed.

## **6. Higher education**

### **The contribution of EU nationals to the UK higher education sector**

European students and funding currently contribute significantly to the finances and standing of UK institutions.

There were 122,000 non-UK EU students in the UK in 2014/15, accounting for 5% of its student population. There were 31,635 teaching staff in the UK HE sector in 2014/2015, accounting for 16% of the total.<sup>10</sup>

EU nationals are of particular significance to creative education, on average accounting for a far higher percentage of the student population at specialist institutions and conservatoires. For example, EU nationals account for more than 20% of students at the Royal College of Music, 16% at the Glasgow School of Art and around 13% at the University of the Arts London.

EU students are largely attracted by a combination of the sector's international reputation for excellence and the ease freedom of movement brings to relocation. EU nationals are required to pay domestic student fees (currently set at around £9,000) while the cost to non-EU students varies by institution, averaging at £15,000 - £25,000. For many EU students, the domestic rate is key to making the UK a financially viable option for study.

This situation is unlikely to exist post-Brexit as the Equality Act 2010 protects students from discrimination on the grounds of nationality. It means that UK higher education institutions will have to charge EU students an international fee. Evidence presented by one leading university to the House of Lords EU internal market inquiry includes estimates that this would lead to an overnight increase of 91% in fees to £17,230 per annum for an incoming EU student.

The international tuition fee is competitive globally, but not within the EU where students in countries including Germany, Austria, Denmark, Finland and Greece pay no tuition fees to attend university - putting UK universities at a competitive disadvantage.

Universities UK has estimated that EU students' off-campus spend on goods and services (such as food, rent and entertainment) generates £2.27bn for the UK economy and supports 19,000 jobs. This is in addition to the £1.4bn created through their direct spend on university fees and costs.<sup>11</sup>

### **Potential impact of loss of freedom of movement on the HE sector**

An end to freedom of movement, alongside lost access to domestic fee tariffs, could have a huge impact on the number of EU students choosing to study in the UK. Specialist arts institutions could suffer significant income losses because of the high percentage of EU students. This will also reduce the talent pool in the UK.

There is already anecdotal evidence that application rates by EU students are dropping, even with government reassurances that funding support for EU nationals will continue to be eligible for the duration of courses starting in the 2017/2018 academic year. It is expected that this trend will increase in future.

The loss of EU students and teaching and research talent is likely be compounded when the UK can no longer access Horizon 2020 funding, which provides a quarter of all public investment in UK research. The UK will lose much of its appeal both to overseas students and to leading international academics if its capacity for research is compromised.

Any reduction in income and therefore teaching and research standards is a problem not only



for the HE sector, but for the wider economy. The creative industries depend on specialist institutions such as the Royal College of Music and University of the Arts London to produce a skilled workforce. Any compromises on the quality of education provided will have a knock-on effect on workforce capacity.

Additional administration is likely to act as a disincentive to businesses to employ UK-trained EU graduates even when they might be the solution to existing skills shortages and provide insight into the international market as previously discussed.

### **Other international markets for the HE sector**

UK enrolment by students from Asia has shown a consistent increase over recent years with Asian students in the UK now outnumbering those from the EU.<sup>12</sup> All these students are a growing and valuable export market and one for which the government has set expansion targets. (See Trade and Investment.)

Loss of freedom of movement is not likely to have as big an impact on non-EU student numbers, but it is still possible that it may compromise the UK's appeal as an international destination.

The impact on teaching and research excellence that is anticipated from restrictions on movement may also tarnish the attractiveness of the UK as a place of study for other international students. Assessing millennials, PwC's report, 'Talent mobility 2020 and beyond' notes: "The opportunity to travel and gather new skills and experience is a strong incentive for this generation and one many employers are harnessing in their efforts to attract and retain the best."<sup>13</sup>

### **Impact on the Erasmus+ Programme**

The Erasmus+ scheme gives EU students the opportunity to study, work and train in another country. More than 200,000 UK students have taken part. The programme not only fosters international networks between both students and organisations, but expands the skillsets of participating students and develops the aforementioned insights into international markets that provide commercial returns for UK companies. The value of the programme to British students seems to be proven, with participants 50% less

## **International touring and UK orchestras**

A survey conducted by the Association of British Orchestras has found that more than half of all respondents toured internationally in the 2015/2016 season. EU countries counted for two thirds of all destinations visited and a number of orchestras toured exclusively within Europe.

Touring revenues accounted for 58% of the total income of one orchestra and this was earned entirely within the EU. Another respondent stated that 25% of annual income came from international touring, with EU performances making up 69% of this.

## **Comparative costs of touring EU and USA - NoFit State Circus, Cardiff**

NoFit State is a large-scale contemporary circus company based in Cardiff. It produces professional touring productions and a wide variety of community, training and education projects for people of all ages. In the financial year 2015/16, revenues from international touring counted for almost 40% of total turnover.

NoFit State have reported that their month-long tour of New York in May 2016, which involved 13 staff, incurred £46,000 in additional costs compared with a tour of the same scale in the EU. Major costs included visas (£13,406), carnets (£9,384) for touring equipment and medical insurance (£4,250), as well as for certification required by New York state around temporary public spaces and NoFit State's performance tent (£19,002).

## **The process of obtaining visas for touring to the US - Association of British Orchestras**

“At least three months in advance of a tour, it is necessary to submit a list of all the proposed personnel for the trip, such as musicians, artists and support staff. Passport information and personal data for each applicant must be included for the visa petition. Supporting evidence such as letters of reference for soloists, staff job profiles, press reviews, marketing materials must also be supplied.

“Either the promoter or a designated agent must apply for the visa petition. Touring companies must usually apply for two of them - one for the players (P1) and one for the supporting staff (P1-S). A letter also needs to be written to the Musicians’ Union in the USA to explain why the presenter is engaging a UK orchestra rather than a US one.

“Many orchestras pay for premium visa processing in order to have petitions within a guaranteed timeframe.

“Fees payable are as follows:

- Visa petition fee: \$325 (x 2)
- Premium processing visa cost: \$1,225 (x 2).
- Union consultation Fee: \$250 (x 2)
- Visa fee: \$190 per person for UK residents (there can be additional charges for other nationalities).

“Each member of the touring party must fill in their own online visa application and make an appointment to attend a visa interview at the US embassy. Filling in the form and making the appointment can take up to two hours. It is only possible to attend the visa interview once the petition has been completed and sent to the orchestra. The overall interview process takes about two hours. If an individual has had a US visa within the previous 12 months they can apply by sending their application to the embassy by courier; all passports/visas are returned by courier, which must be paid for.

“In addition to the visas, orchestras travelling to countries outside the EU need to apply for a carnet for instruments and equipment travelling as cargo. This requires time to be spent collating information on each individual instrument,

the preparation of the carnet document and arranging the bank guarantee (to cover the export duty if anything is not returned to the UK). There is a charge of between £195 - £325 for the carnet depending on whether you are a member of a chamber of commerce, and if a cargo agent arranges the carnet there will be an additional cost.”

## **Turning young talent into stars - DMF Digital, Sheffield**

DMF Digital is an independent artist development company based in Sheffield, representing 18 emerging acts. Given the slim margins on which debut EU tours operate, it has accelerated the touring schedules of a number of acts in order to pre-empt the additional costs to touring that will be incurred by departure from the EU.

Rock band Fizzy Blood were initially scheduled to hit EU circuits in summer 2017, but this has been brought forward to November 2016. DMF are sacrificing some of the time usually dedicated to growing European audiences digitally prior to touring.

This means lower ticket prices and smaller booking fees as they are at an earlier stage in their publicity and promotion schedule and DMF anticipate that revenues will be reduced by between £4,000 and £5,000.

likely to experience long-term unemployment. Creative employers understand the importance of the international experience acquired by Erasmus+ students. ISIS Arts, a visual and media arts organisation based in Newcastle-upon-Tyne, actively seeks to recruit Erasmus+ alumni in order to broker international partnerships, while businesses such as Havas have noted the need for international workforces who understand overseas markets.

Loss of freedom of movement may jeopardise the Erasmus+ programme and reduce the skillset of our domestic workforce.

## **7. The need for a visa system appropriate for the creative industries**

Prior to Brexit, we had started exploring options for a visa system which would better consider the makeup of the creative industries.

Although some industries do not show a particularly high dependence on EU workers by volume, those that are employed often boast highly specialised technical skillsets that are difficult to recruit in the domestic workforce. Reforms to visa rules must consider the ability of the UK to replace these workers.

The creative industries sector and creative economy use all four of the current visa tiers - but, as shown above, are particularly reliant on talent from the EU, made accessible by freedom of movement. (An analysis of current use of the Tiered Migration system for the creative industries is given in Appendix 2.)

We understand that leaving the EU might allow for a meaningful re-evaluation of the whole immigration system. We set out, below, some of the characteristics of our workforce so ministers can understand the particular skills requirements of our sector and how they will be affected by removing freedom of movement.

The creative industries include a large number of freelancers and portfolio workers employed on a project-by-project basis. This is due to a number of factors, including the finite nature of performance runs, productions and exhibitions, the travel requirements of international tours and the high levels of innovation in the sector - for emergent industries such as creative tech and virtual reality where development of technology

and discipline is rapid, it is not possible to predict the skillsets that will be required at any one point in the future. These workers, and the organisations who contract them, require the ability to move around internationally for short periods of time. This must be recognised by future visa rules.

Given that freelance and portfolio work is often the most viable way for graduates in industries such as video games and graphic design to begin their careers, it is vital that international talent is not disbarred by visa regulations from developing their employability and industry contacts by working with UK companies. Talented creative graduates trained in our world-leading institutions should be encouraged to stay in the UK.

More broadly, whilst a route that is based on a system of sponsorship might work for large businesses, it does not necessarily do so for sectors primarily made up of small- and medium-sized businesses, or those particularly reliant on the freelance economy. This also needs to be addressed.

Visa laws must also understand that high levels of technical skill are not always commensurate with high salaries in the creative industries. This leads to difficulties for creative employers as well as freelancers around the Home Office's requirement that non-UK nationals meet a minimum salary threshold of £35,000 to secure permanent residence: many with stable and vital jobs in the UK creative industries will not meet this measure. Furthermore, however skilled an individual, there are currently a specific number of Tier 1, 2 and 5 visas awarded each year. So however specific a job, a visa is not guaranteed or, certainly, not at the point when a job is offered.

Speed of issuing visas is also an issue. For example, the process of securing a Tier 5 (Temporary Worker) visa is relatively straightforward but can take up to a month. If a performer or other specialist worker at the UK's top venues is ill, cover is often impossible to find from within the UK. Orchestras and opera companies currently depend on EU nationals to immediately board a plane when a principal artist cancels at very short notice because the permit process for non-EU nationals is slow and administratively heavy. Delays to entry, even by an hour, might result in the cancellation of a performance.

## **8. The need for an education policy to deliver the skills the creative industries need**

Since the Federation's launch, education has been a cornerstone of our work and we have been at the forefront of campaigning for a broader curriculum including the creative subjects our sector needs.

Long-standing skills shortages in the creative industries stem from inadequate training and provision at schools in this country compounded by the ever-greater need for talent in a growing sector. As set out above, we believe Brexit will compound this problem and that it is time for the government to redress the mismatch between education policy and what industry needs.

It is crucial that education and training policy is formulated with a proper understanding of the needs of industry.

### **i) Apprenticeships**

Apprenticeships are of increasing importance to the creative industries. The government is working to increase their number, introducing a levy on businesses with a pay bill over £3m

from 2017 in order to fund them. The specificities of the creative industries (structure, type of employment, skills requirements) must be taken into account to maximise potential, including in the development of standards - specifications written for each apprenticeship role on offer. Otherwise, it is possible that the levy will take funds from the creative industries, while delivering limited benefit to the sector.

In order to combat this danger, the Federation and CIC members ask that industry takes the lead in identifying the training its workers require. Businesses eligible to pay the levy, but without the resources to train apprentices themselves, must also be able to access Apprenticeship Training Agencies who may do so on their behalf - this is not accommodated in current proposals. We also ask that the new levy is aligned with existing voluntary levies in the screen industries.

### **ii) EBacc**

There is also a widespread view in the creative industries and in education that the EBacc should be dropped or the range of subjects amended. We acknowledge the government believes that the EBacc delivers a sound traditional curriculum, but the Federation believes it is not appropriate to make it the headline attainment measure for 90% of pupils.

## A view from Edinburgh and Scotland

Home to both the Edinburgh International Festival, the Fringe and other programmes which make Edinburgh the largest arts festival in the world, access to international talent is a pivotal issue for the city. With thousands of international performers programmed every year, changes to UK visa requirements for non-EU performers have already made booking these acts far more difficult. There are worries about the impact of tougher visa conditions if they are extended to European performers. Changes to ease of entry could also damage visitor numbers, with Europe constituting their largest international market.

EU students in the UK currently qualify for home fees, with undergraduates studying for free in Scotland. Exiting the EU therefore has unique consequences for the nation's higher education sector. While the Scottish government have confirmed that students starting in both 2016 and 2017 will be fully funded for the duration of their courses, there is a fear that Scotland's appeal as a destination for study will be reduced in the long term. This is of particular concern to conservatoires and specialist institutions, such as the Glasgow School of Art, where visiting EU nationals make up 16% of the student body.

There was an eagerness for the UK to continue to steer negotiations on the Digital Single Market in a way favourable to creative exporters until the moment it leaves the EU.

In our latest report 'Social Mobility and the Skills Gap: Creative Education Agenda 2016', we set out four recommendations, which if implemented, would encourage creative education and boost British competitiveness..

- Drop the 90% target.

The EBacc should not be the headline assessment measure for schools, but used as part of Progress and Attainment 8. These alternative measures give greater flexibility in terms of what subjects schools are judged on and send out a message that a wider selection of skills are valued.

- Limit 'outstanding' to schools that warrant it.

A school must teach at least one creative subject, in lesson time, in order to be eligible for an 'outstanding' rating.

- Audit the skills gap.

The Department for Education should conduct a proper audit of the skills and education needed by the creative industries as part of an industrial strategy. This work would logically extend to all sectors identified by the government as a strategic priority.

- Adopt proper careers advice.

The government should work with industry to launch a sustained national campaign

demonstrating the range of jobs in the creative industries and the subjects that lead to them.

This should form a substantial part of the work being done by the Careers Enterprise Company, which is implementing the government's careers advice programme.

# Recommendations



## **Short term - urgent actions for immediate impact**

- The government should confirm as a matter of priority that EU nationals currently employed in the UK will be able to stay.
- The government should take steps to ensure that the new apprenticeship and technical education policies work to increase and broaden opportunities in the creative industries, and should remove disincentives to investment in the training of freelancers.
- The government should continue to strengthen the links between higher education and creative industry employers, particularly in areas of practice-based education that are specific to occupations in our industries, including through making the new Teaching Excellence Framework and its measurement more relevant for courses linked to the creative industries.



### **Medium term - to start work now, for resolution before the UK's exit takes effect**

- The UK should secure continued ease of movement between UK and EU countries for time-limited activities, such as concert tours and film production.

### **Long term - preparation now for full implementation after the UK's exit from the EU**

- The government should reform the migration system to enable easy access to critical skills and talent from both EU and non-EU countries, including a review of the shortage occupation list in the light of our exit from the EU.



JOIN THE RESERVE FORCES IN THE NORTH EAST



# Funding

Sage Gateshead  
Photography: David Tiernan

# Summary

The UK's creative economy is a dynamic mix of publicly-supported and for-profit commercial sectors, underpinned by a world-class higher education system. This mixed model means that public - including EU - funding is an important driver of the wider creative economy.

Britain has been a major beneficiary of EU funding both from designated culture schemes and general pots for regional and social development, innovation and business support. The UK receives more funding than almost any other country through Creative Europe; it is second only to Germany in the amount it receives from Horizon 2020, an £80bn innovation scheme.

The impact has been transformational in many parts of the UK's nations and regions. Projects such as Sage Gateshead and High House Production Park in Thurrock, Essex, have become important hubs for their communities and and boost their local economies.

EU funding is valued by recipients not only for the money, but also for the way such schemes promote working relationships between partners, building networks and export opportunities, which can be very important for smaller creative business.

The government has guaranteed that, for those funding streams it administers, it will honour and fully fund all projects with contracts signed before the November 2016 autumn statement. This has implications for many plans long in development but not yet confirmed.

Whitehall needs to lead a full audit of EU funding so that it understands what has been done, from major projects to seed funding, and can devise new ways to deliver the best of it.

New domestic business and investment programmes are required to support and grow the UK's creative economy, including a commitment to further city of culture initiatives. But the UK also remains eligible for schemes until Brexit and could pay into some post-Brexit for access.

The June referendum is widely deemed to have exposed severe social divides. The creative industries have an important part to play in improving social cohesion - a government priority.

# Crucial considerations

The government must take into account the following when considering the funding implications of the withdrawal from the EU:

1. Sustained public investment in the arts underpins the wider creative industries

2. EU funding has supported a wide range of commercial, creative and infrastructure projects and loss of access will have serious consequences in every nation and region of the UK. EU funds, including Creative Europe, Europe for Citizens, Horizon 2020, European Regional Development Fund (ERDF), European Social Fund (ESF) and the European Cultural Foundation, have played an often critical role in facilitating the following:

a. **Infrastructure:** Funding has helped develop major cultural venues, which occupy a pivotal place in their local creative economy, as well as broadband services

b. **Local financing and business support:** The vast majority of creative companies are microbusinesses and SMEs operating on tight budgets: EU funds have helped develop the networks, premises and financial resources required to join up the sector in different regions and promote mutual growth

c. **Innovation, research and development:** The creative industries depend on the creation and sale of original IP, increasingly across high-tech digital platforms. EU funding has provided businesses with the resources to do this

d. **Exports:** EU funds focus on developing international partnerships. This has grown effective distribution networks for UK creative companies

e. **Encouraging diversity:** Creative companies are able to work with a greater mix of professionals and students through EU initiatives. The diversity this brings to companies increases understanding of international markets and delivers economic returns

f. **Cultural exchange:** UK consumers benefit from a wider range of cultural products due to the partnerships EU funding encourages, including minority language productions

g. In addition, the **European Capital of Culture programme** has helped develop the UK's creative economy, with success stories including Glasgow in 1990 and Liverpool in 2008. The potential economic benefits of the UK's next scheduled round in 2023 are considerable



3. Current funding pledges and future access to EU funding streams

4. The value of sterling, economic instability and the impact on business models

## **1. Sustained public investment in the arts underpins the wider creative industries**

EU funding joins public investment in the arts from national and local government in the UK as an essential part of the ecosystem of the creative industries.

Our world-class museums, galleries, theatres and other key cultural institutions are part of the infrastructure for the wider creative industries, providing training and inspiration as well as generating income in their own right.

Public investment in culture, including broadcasting, also supports diversity and access programmes that advance the economic success of the creative industries as well as benefiting society more generally. It also supports the regional growth regarded as essential to the future of the creative economy as the examples of Liverpool, Manchester, London, Bristol, Hull, Newcastle and other cities demonstrate. It also supports growth in grassroots arts and culture across the UK.

However, both talent and ideas incubated in the publicly-supported sector feed the commercial sector and are, therefore, essential for economic growth and to boost employment.

Even sectors that appear strictly commercial such as IT, software development and digital

games rely to some extent on public investment for growth. For example, 37% of video games businesses benefit from public grants and government financial schemes.

Evidence gathered during our meetings around the UK clearly illustrated the importance of a wide variety of EU funding streams to the sector. EU funding, like domestic public investment, has underpinned the wider creative economy.

## **2. EU funding has supported a wide range of commercial, creative and infrastructure projects**

EU funding has helped transform the physical landscape of the UK, with investment in buildings from the Sage Gateshead to Falmouth University, as well as supporting a wide range of commercial and creative programmes, from business networks to the distribution of independent British movies. Its biggest impact has been outside London.

EU funding has helped facilitate the following:

### **2a. Infrastructure**

European funding has played a key role in developing the infrastructure necessary for creative and cultural industries to flourish in the nations and regions.

The European Regional Development Fund has supported major cultural venues across the country that also act as hubs, contractors and support services for their local creative economy. Construction projects have included the Sage



## **Public investment - corporate sponsorship**

For the publicly-supported sector, corporate sponsorship and philanthropy are important components of the mixed economy model that sustains them. There is early evidence from members, including major institutions, of a cooling-off in both corporate sponsorship and other forms of private support, including philanthropists, trusts and foundations.

### **The Giant's Causeway Visitors' Experience, County Antrim**

Named best new sustainable building in the Sustainable Ireland awards thanks to an innovative carbon-free heating and cooling system, the Experience is a model energy-efficient building that also helps to bring customers to the local economy. In its first six months, it attracted more than 320,000 visitors from more than 160 countries to Northern Ireland.

**Total cost: £18.5m**

**ERDF contribution: £6.1m**

### **Cornwall Next Generation Broadband**

The aim of the Cornwall Next Generation Broadband project is to transform Cornwall and the Isles of Scilly (CloS) economically and socially into a more knowledge-based and lower carbon economy. The project has attracted high-value businesses (including startups) and inward investors, providing them with fibre connectivity with up to 100Mb/s capability. About 12,000 of Cornwall's 25,000 businesses were connected by March 2015.<sup>14</sup>

**Total cost: £114m**

**ERDF contribution: £49m**

**“ERDF support has been vital in providing match funding for awards from Creative Skillset, Arts Council and Creative England. It allows us to draw down around 75% of the money we use to do our work.**

**“ERDF is also our main source of core funding. Without the stability offered by its contribution to staffing and other costs, we would not be able to engage in many of the projects we run funded by other bodies. These funds help us to plan for the long term and preserve the sector expertise we have built up, to the benefit of our clients and the wider economy.”**

Rupert Lee,  
Commercial manager  
Northern Film and Media

## Cultivator, Creative Kernow

Cultivator is a project overseen by Creative Kernow, providing a programme of skills and business development support for SMEs in Cornwall. It is working with at least 420 businesses over three years. Cultivator is funded through a combination of the European Social Fund, the European Regional Development Fund, Arts Council England and Cornwall Council.

ESF funding will be used to develop internships for graduates and non-graduates with creative SMEs. Short-term project-based placements will also be coordinated through Cornwall College to help SMEs offer training to Cornish talent. Cultivator will work with the Real Ideas Organisation (RIO) to help SMEs identify potential interns who are currently not in education, employment or training.

Cultivator will also use ESF money to help source and fund one-to-one mentors for SMEs, while the college will work to identify skills gaps among microbusinesses and SMEs and fill them using students or wider sector networks.

ERDF funding will be used to fund business development programmes including a knowledge exchange initiative led by Plymouth University that will give creative companies access to a network of creative industries experts both online and through regular events. Innovation labs providing companies with focus groups for R&D will be run by RIO while bespoke development programmes will be established to support Cornish SMEs to export and to grow 24 creative graduate startups through mentoring, networking and support regarding premises.

**Total funding £3.7m**

**ESF contribution £1m**

**ERDF contribution £2m<sup>15</sup>**

Gateshead (£5.6m grant to complete building), Film City Glasgow, Manchester's HOME, the Wales Millennium Centre, Falmouth University and the redevelopment of the Birmingham Hippodrome.

EU investment frequently allows recipients to attract further match funding. Arts Council England's Creative Local Growth Fund, for example, allowed beneficiaries of European Structural and Investment Funds (ESIF) to apply for up to £500,000 of match funding. Many recipients report that the endorsement conferred by ESIF awards helps attract private investment.

### 2b. Local financing and business support

The average creative company works on slim financial margins and fewer than four workers, so business support and networking services can be crucial in keeping them in the loop. European Regional Development Funding, which is administered by the Department for Communities and Local Government (DCLG), has worked alongside investment from both Creative Europe and Horizon 2020 to help develop these.

A number of those consulted highlighted the importance of these funding streams being allocated at a grassroots level where there is a significant understanding of the local economic context. In Manchester, the example was given of the North West Fund for Digital and Creative which is financed by the ERDF and the European Investment Bank under the European Commission's Joint European Resources for Micro to Medium Enterprises. It provides seed capital for local creative businesses.

Beneficiaries include: the music intelligence platform Beatroot in Macclesfield, who are using £250,000 of investment to roll out their services across the music industry; Sentric, a music rights management company in Liverpool, who have used their investment to expand internationally; and RealityMine, a Manchester-based provider of mobile and research technologies which has also expanded overseas since securing a £750,000 investment package from the fund.

In Birmingham, we heard how Creative Europe provided funding to establish the Creative Advantage Fund, a venture capital fund that has invested in companies in the West Midlands since 2000. The Creative Advantage Fund says EU money was crucial to attracting domestic investment, given the innovative nature of its

## A view from Plymouth, Devon and Cornwall

Uncertainty over eligibility for EU funding is already delaying or even halting funding bids in the area. An application for European funding was abandoned for a project linked to Plymouth's Mayflower 2020 scheme, using the 400th anniversary of the sailing of the Mayflower to drive regeneration. A lack of clear communication by the government about the UK's eligibility for funds prior to leaving the EU was blamed for compromising individual projects and the long-term economic and infrastructural benefits they could create for the region.

Over the Tamar Bridge, Cornwall is home to a density of creative businesses normally found only in urban areas. These are key to regenerating the region and have drawn down significant EU funding to achieve this. With tourism a major employer in Cornwall, culture is key to attracting visitors and creating local jobs. A host of local creatives have used EU funding streams to develop cultural offer and generate returns for the local economy.

Cornwall has received support through the European Social Fund to skill up the local workforce, including both those still in education and the area's many freelancers and micro-businesses, who often have limited access to training in new skills and technology. There were concerns that the region will not be able to produce a workforce with appropriate skillsets given the marginalisation of creative subjects.

work. Now at the point where it is ready for significant expansion, the fund says plans to do so will be halted if EU funding cannot be accessed.

EU funding has also backed business support networks to help UK SMEs find international partners and market specialists. The European Enterprise Network, for example, hosts a database of more than 13,000 partner profiles, where businesses can advertise specific partnership opportunities as well as their own areas of expertise. The service also connects users with expert advice on access to funding and innovative technologies.

Some attendees of the Federation's Brexit impact meetings suggested that England's administration of European Structural Funding through local enterprise partnerships (LEPs), as opposed to central government as in Scotland and Wales, benefits the creative industries. Given the majority operate on a small scale, creative businesses have greater visibility and so are more successful in their bids when assessed for funding at a local level. Any replacement funding streams established by the government in the UK should consider how to reach and support this part of the creative economy.

### 2c. Innovation, research and development

R&D support is of particular importance to the creative industries. Increasingly, the sector is dependent on cutting-edge technologies, with both product development and distribution being performed on digital platforms. Horizon 2020's €3bn SME Instrument offers vital financial R&D support, which is particularly valuable to UK's creative industries.

EU funds have also been central to establishing both local spaces and professional networks for R&D.

Alongside headline projects such as STEAMHouse in Birmingham (see box), 'Fab Labs' have been established across the country, using a combination of ERDF and Horizon 2020 funding. These provide spaces for local businesses and individual creatives to research and develop new products.

In London, Access Europe has conducted an initial assessment of the capital's cultural and creative sector projects that received EU funding (from Creative Europe and Erasmus+) in 2014 and 2015. This amounted to more than 250 projects, totalling just under €20m and involving collaborations across Europe. This does not take into account the value of Horizon 2020, ESF or ERDF projects.

## Monese Ltd

Fintech company Monese has developed an app-based banking service that validates a customer's identity fully online, enabling access to banking even for customers with poor credit history or no formal proof of address. It has received Horizon 2020 funding for 'business model innovation'. Monese intends to use this to scale up the technical capability of the service, allowing it to reach a greater number of users.

**Total Horizon 2020 contribution: €1.5m**

## The Design Programme, Fareham

The Design Programme connected small businesses with design consultants, who offered support around issues including communications, product development and production savings.

The project received £1.1m of ERDF investment for a number of delivery programmes, including the 3-year Less=More1. Independent evaluation showed that Less=More1 helped its client businesses increase their gross value added by £19.6m, created 53 jobs and a return of £8.91 on public investment for every £1 spent. Figures demonstrated an average growth in GVA of £178,193 for each company that took part.

Evaluation showed that The Design Programme led to an additional £562,000 spend on design, or an average increase of 67% by each business, in the South West region.

**ERDF contribution: £1.1m**

## The Innovation Agency, London

This project was designed to assist designer fashion SMEs to capitalise on their intellectual property, talent and assets, moving away from a solely wholesale model to a new model working across wholesale, e-commerce and consultancy, collaborations and licensing. The aim was to future-proof their businesses while enabling growth during difficult economic times. The £1.98m project has engaged with more than 300 businesses across London and supported designers to capitalise on their design talents through innovative new products and services. The programme has created 32 jobs, safeguarded a further 79 and generated a £1.68m increase in gross value added.

**ERDF contribution: £990,000**

## Birmingham City University's STEAMHouse Innovation Centre

STEAMHouse won a £500,000 grant from ERDF, which was matched by Art Council's Creative Local Growth Fund, to develop co-working spaces and artistic production, incubation and networking facilities for local businesses. This then secured £14m in government funding. STEAMHouse is predicted to support 270 businesses and create up to 10,000 jobs in the local creative economy.

**ERDF funding: £500,000**

**Arts Council England funding: £500,000**

**Government grant: £14m**

**Total budget: £52.3m**



## Y Gwyll (Hinterland), Wales

Support from Creative Europe's MEDIA fund proved crucial in funding Y Gwyll (or Hinterland) - a 2013 crime drama series broadcast on S4C in Welsh before re-airing in a combination of English and Welsh on BBC One Wales and, later, on BBC Four. It is now in its third series.

Usually, for a network drama to be commercially viable, around 70% of its budget must be non-recoupable. S4C contributed 47.5% of the £2.4m budget for Y Gwyll's first series, with BBC Wales contributing a further 9.5%. This gave the production a non-recoupable finance of 57%.

MEDIA funding made up the shortfall in Y Gwyll's budget with an injection of £424,000, bringing non-recoupable budget to 67%, making it commercially viable and enabling the project to progress. The ability to sell Y Gwyll into EU markets was key to securing this funding.

**Creative Europe contribution: £424,000**  
**Budget for first series: £4.24m**

## Creative Europe and British film exports

The EU constitutes the second largest export market for UK audiovisual projects. Creative Europe contributed to distribution fees for 84 British films in 2014 and 2015 and has previously backed hits including *The King's Speech*, *The Iron Lady* and *Slumdog Millionaire*. It has also developed distribution networks for these exports, including Europa Cinemas, a chain of more than 1,000 cinemas across 41 countries, for which it provided seed funding in 1992 and which it continues to support through MEDIA funding. This is of particular value to British independent films, which are often sold through micro-distributors that do not have sales agents in all potential markets.

## 2d. Exports

Focus on international partnerships has given EU funding a significant role in encouraging UK creative companies to export, both through developing distribution networks and providing startup companies with match funding for EU contracts.

In Birmingham, for example, we heard from Ammba Digital, a company which received £5,000 through a combination of UKTI and ERDF funding to develop international business deals. This funded trips to America, Australia, New Zealand, France, Germany and Hungary, many of which would not have happened without support. From these trips, Ammba won £50,000 of annually-recurring business.

In addition to this money, Ammba was also funded through Framework 7, a precursor to Horizon 2020, which allowed them to develop and demonstrate the feasibility of the innovative technology that now forms a basis for its European exports. This funding was vital to developing commercially-viable products.

Without a full audit of what the EU has funded in the UK, there is a risk that the impact of comparatively small amounts of EU investment, producing significant impact for the organisations supported, will be overlooked.

European funding has helped expand the regional representation of the UK's own export support services. ERDF money pays for organisations such as Business West, an independent body which represents the Department for International Trade in the South West, by providing advice on exporting opportunities for local businesses and offering specialists in international markets. These organisations could fold without EU support: Business West, for example, has funding secured to operate only up until 2019.

## **2c. Encouraging diversity**

European Union funding is mandated to foster exchange between the different countries, cultures and languages of the EU. As such, it has supported cultural diversity, including within the UK.

### **i) Developing skillsets**

Organisations with a workforce drawn from a greater diversity of backgrounds perform better economically, as they have insight into a wider number of markets and a broader skillset (see Creative Industries Federation Creative Diversity report, September 2015). By focusing on international exchange, European funding helps foster this diversity of skills and experience in the domestic workforce.

The Erasmus+ scheme gives EU students the opportunity to study, work and train in another country, with more than 200,000 UK students having participated. This not only fosters international networks between both students and organisations, but expands the skillsets of participating students and develops their insights into international markets. British participants in the programme are 50% less likely than their peers to experience long-term unemployment.<sup>16</sup>

Similar initiatives are run through UK-based organisations that receive EU backing. Sampad, for example, is a skills development agency in Birmingham which supports, commissions and produces British South Asian arts. It receives Creative Europe funding for an internship exchange programme that places participants with cultural and digital companies throughout the EU and vice versa.

The importance of the international understanding and skills provided through programmes such as Erasmus+ and Sampad are understood by creative employers. (See Talent and Skills.)

### **ii) Supporting socioeconomic diversity**

EU funding plays a considerable role in developing pathways into the creative industries for those from socioeconomically deprived backgrounds. For example, the European Social Fund currently funds outreach services such as the Creative Youth Network, an organisation that provides youth centres, creative education and careers advice to young people in the South West.

### **iii) International programming and cultural exchange**

The partnership mandate of EU funding means it has been of particular value to festivals and events premised on cultural exchange. Organisations such as the Bristol Encounters international film festival and Birmingham's Be festival receive a significant proportion of their funding from Creative Europe. These festivals play a considerable role in expanding cultural offer to the local community.

## **A view from Norwich and East Anglia**

The local approach to funding from the EU was valued in Norwich. The administration of much EU money in England through Local Enterprise Partnerships (LEPs) was seen as benefitting experimental, 'fringe' creative projects that might otherwise be overlooked, with a strong sense that this feature must be replicated in any replacement funding schemes.

Partnership working was also a key topic in Norwich: production companies in the city's burgeoning creative cluster depend on collaboration with EU partners to finance new products, while Horizon 2020 has encouraged local universities to work with smaller creative businesses. With the UK's access to both EU funds and audiovisual markets up for renegotiation, the question was how to secure these partnerships for the future.

#### **iv) Minority language productions**

EU countries have a far stronger tradition of consuming foreign-language cultural products than the UK and countries like America, in areas such as music, film and television. It is, therefore, a major market for the UK's minority language creative exports. The EU has also funded British productions in languages such as Welsh.

There is a risk that an exit from the EU will block access to funding which is crucial for these minority language productions. The restrictions put on non-EU content by the Audiovisual Media Services Directive (AVMSD) might also limit access to a market which has been interested in this content.

#### **2f. The partnership working mandated by EU funding is central to its value**

Funding is not just about topping up budgets, but building networks and resources. EU programmes support organisations to develop mutually beneficial working relationships.

Partnering on projects multiplies the level of expertise available to each participant, including offering insight from a wider range of backgrounds and experience. Widening the range of experience on a project increases its productivity and returns (see Federation's Creative Diversity report). It also increases the range of business opportunities that partners encounter.

#### **2g. European Capital of Culture programme**

##### **Role of the European Capital of Culture scheme in developing the UK's creative industries**

The European Capital of Culture scheme has significantly developed infrastructure and improved creative industries performance in areas of socioeconomic deprivation and low cultural engagement. During its time as ECoC in 1980, Glasgow saw significant urban and economic regeneration, while in 2008 Liverpool saw visitor numbers increase by 34% to 9.7 million and £753.8m was generated for the economy from an investment of £15.2m different EU funds in the Liverpool Culture Company. Media coverage of Liverpool's cultural attractions doubled, with positive coverage outstripping negative for the first time in decades. A survey of Liverpool residents found that 85% believed the city to be a better place to live by the end of the year.<sup>17</sup>

## **Regenerating Plymouth through culture**

Plymouth is part way through a major regeneration project, with arts and culture key to its future as a vibrant, international, waterfront city.

The cultural development agency Plymouth Culture formed a local steering group in order to build the international profile of the city in the run up to Mayflower 2020 - the 400th anniversary of the sailing of the Mayflower from Plymouth to the New World - and to strengthen understanding of the role culture can play in regeneration. It brought in leaders from digital, dance, theatre, visual arts, heritage and education, to lead a proposal for Creative Europe funding.

Links were established with other European cities who are also investing in arts and culture as part of regeneration projects, including Larissa in Greece, Nicosia in Cyprus, Rijeka in Croatia and Gdynia in Poland with the aim of making a joint bid, under Plymouth's leadership. Bid leadership brings with it a higher level of funding.

However, following the result of the referendum on June 23, it was decided locally that it would no longer be appropriate for Plymouth, as the only UK city in the partnership, to lead. The partnership is currently looking for a new lead city to take the project forward.

Plymouth would have received in the region of €400,000 of funding as lead partner in a successful bid, with further potential matched funding to come from the Arts Council, Plymouth City Council and the university.

The UK City of Culture, which is the UK's domestic counterpart to the scheme, has produced similar effects to European City of Culture. Londonderry saw its visitor numbers grow by 1 million across during its 2013 tenure. Strategy for Hull's 2017 term have been developed as part of the 10-year city plan, which aims to create 7,500 jobs by making Hull a hub for renewable energy industries and a world-class visitor destination. A £78m capital investment by the council is expected to attract £47m in government grants and more than £260m in private-sector funding for both development and programming, creating more than 1,400 construction jobs and 1,300 long-term jobs.<sup>18</sup>

### **UK eligibility for the Capital of Culture scheme**

The ECoC has formerly been hosted by Norway and Iceland, who are both non-EU member states. However, to be eligible to host the scheme, countries must be associated with Creative Europe, be an EFTA country party to the EEA Agreement or a member of the European Neighbourhood Policy.

The UK is due to host the European Capital of Culture again in 2023, with Leeds, Dundee and Milton Keynes all preparing bids and Bristol having expressed interest. Given the lead time required to organise partnerships and strategy for an event on such a scale, DCMS would normally launch the bidding process in autumn 2016, with the first stage selection process and shortlisting taking place in autumn 2017, a final stage early in 2018, and a decision expected by summer 2018.

Due to the lengthy process involved with both bidding and planning, it is unlikely another country would be able to replace the UK's for 2023 at this point in time, but the UK government is yet to state its position on continuing the UK bidding process.

### **3. Current funding pledges and future access to EU funding streams**

The government has said that, in the case of EU funding streams administered by government, it will honour and fully fund all projects with signed contracts and funding agreements in place before the 2016 Autumn Statement. However, this implies projects will not be eligible for funding

following this point, with enormous implications for the viability of some projects which may have been already long in development. It is thought that the majority of bids currently in development will be unable to comply with this deadline.

It has been confirmed that the UK remains eligible for competitive EU funds including Creative Europe and Horizon 2020 up until the point of exit, with the Treasury underwriting the payment of awards for all projects, including those that extend beyond the point of departure. However, numerous UK universities have reported that, in practice, research teams have been asked to give up leadership status on Horizon 2020 bids by EU partners already, or even to stand down from projects completely. Some creative organisations benefiting from Creative Europe funding have also expressed confusion as to the ongoing availability of funding, and have reported similar experiences of withdrawn partnership offers.

The UK risks losing EU investment for which it should remain eligible and for which many hours of staff time have already been invested in preparing bids.

### **The Art Directors Club of Europe**

The Art Directors Club of Europe (ADCE) is a network of professional design and advertising associations including UK firm D&AD. A recipient of Creative Europe funding, it aims to foster and promote excellence in the sector.

ADCE's annual awards ceremony selects entries from among the year's national award winners in European countries to promote the best of the best. Its yearly festival also brings together major names in design and advertising for a series of talks, lectures, workshops and networking sessions. These sessions are recorded and made available as an online resource for designers and advertisers.

Both the awards and the events also serve as talent scouting events for network members. ADCE gives emerging creatives the chance to network at the festival by offering positions for them on its judging panels for the awards as well as through tailored networking sessions during the festival.



## A view from Swansea

The referendum result in Wales exposed a fracture between Cardiff, where at 60% the proportion of Remain voters topped even that in London, and a nation that largely voted to Leave. This mirrored the split between metropolitan and non-metropolitan areas demonstrated across the country. With the majority of Welsh arts and creative industries based in the capital, it raised questions around how the sector can best engage with their nation's audience.

The EU has had a special role in growing the cultural offer in Wales, particularly around the Welsh language, because of the European Union's support for foreign language productions and a mandate to 'safeguard and enhance' cultural diversity. The Welsh voice needed to be heard in Brexit negotiations and had to include the creative industries. This was particularly important given that the country receives a high proportion of EU funding. They also called for the development of a national cultural strategy, akin to that developed by Creative Scotland.

Collaborating with other sectors, such as science and higher education, on issues of common concern, would help the creative industries gain traction. Many had already opened up talks with European partners on how best to preserve their relationships and largely reported a supportive reception.

### 4. The value of sterling, economic instability and the impact on business models

The Edinburgh International Festival, Royal Opera House, commercial theatre producers and other commercial businesses are among those to have reported an immediate impact on their business planning from the fluctuation in sterling.

Given lead times, the Edinburgh International Festival traditionally negotiates contracts with acts in pounds sterling in order to protect against fluctuation in international markets. Since the referendum, this has become largely impracticable, as artists are insisting on payment in their own currency. This leaves both budgets and profits for these festivals more vulnerable to the changing performance of currencies.

The Royal Opera House anticipates an upwards pressure on artist fees; its artist contracts are currently based on an exchange rate of £1.45 to a euro. This illustrates the potential impact of economic change on organisations working internationally.

However, like a number of commercial theatre producers, the Royal Opera House highlights that the fall in the value of the pound against the euro from highs above 1.3 has made it an attractive business partner for its co-productions with theatres in Europe, the United States, Australia and China. The weak pound has also boosted tourism which benefits many cultural institutions in cities such as London.

Broader economic instability prompted fears regarding public funding cuts and on the VAT cultural exemptions on admissions. Theatre members flagged there could be an impact on theatre tax relief (particularly if the rate of corporation tax is reduced).

## **A view from Birmingham and the West Midlands**

Devolution and the development of a 'Midlands Engine for Growth' are due to raise regional output by almost £30bn over the next 10 years: for Birmingham, the EU provides crucial support for this agenda by building the city's infrastructure.

The city was a microcosm of how European funding has affected every sector, from Erasmus+ and Horizon 2020 at the universities, to ERDF money for the redevelopment of the Birmingham Hippodrome, to backing the publicly-supported and commercial sectors for festivals, performances and the city's highly-important conference business, from Marketing Birmingham to the West Midlands Film Production Fund and the Be Festival.

Discussion revealed the scale of EU support to the local creative economy - from investment in major projects like Birmingham City University's upcoming £14m innovation lab to a three-person not-for-profit working in the community. The ability of funding and support to interact with creative businesses at every level was seen as key to its value.

There was a strong sense that EU funding has provided local creative industries with a degree of financial stability through successive cuts to local authority culture budgets in recent years. Those who have benefited from this support thought it essential that the government clarifies their eligibility in coming years with a number of planned funding applications already scrapped due to a belief they would no longer be an option.

There was also a belief - echoed in cities such as Norwich - that EU funders were more willing than domestic bodies to take risks in supporting projects for the sake of innovation.

The meeting also covered the benefit of programmes like Interreg and URBACT, which help cities to co-develop civic policy and with which Birmingham has considerable involvement.

The immediate impact of the EU vote was also clear. MAIA Creatives were re-writing business plans for a hotel for touring artists which was likely to be affected by restrictions to freedom of movement while independent record labels were highlighted as a loser in the currency stakes. The Czech Republic is the home of vinyl pressing plants and the slump in the pound had wiped out profits for many indie labels who had contracted Czech services.

**“With big institutions, it’s sometimes hard to find the incentives and the finance to work with small businesses: there is a push to work with big corporates because they can help demonstrate the impact of research.**

**“ERDF funding is something I’ve seen successfully incentivise big organisations to work with small businesses - without that, there will need to be something to replace it, providing finance and incentive. This is particularly important given some of the issues around social cohesion and perceptions of ‘experts’ that have risen to the top as a result of Brexit.”**

Chris Blincoe,  
Relationship manager  
University of East Anglia

# Recommendations



## **Medium term - to start work now, for resolution before the UK's exit takes effect**

- The government should quantify the total benefits to the creative and cultural sectors from EU funding sources and ensure that these are at least maintained following the UK's exit.
- Government should work with industry to develop focused business and investment support programmes, which are sensitive to the specific needs and growth potential of creative businesses across the UK. In particular, we recommend that government should look to establish a new access-to-finance support scheme for investment in growth of creative industry SMEs.
- The government should ensure that public interventions support the widespread availability of affordable, high-speed broadband networks, which are especially critical for creative and tech businesses, particularly in areas where those businesses cluster.
- The UK should commit to further 'cities of culture' initiatives and continue to participate in the European capital of culture programme.



## **Long term - preparation now for full implementation after the UK's exit from the EU**

- The government should commit to continued funding for R&D post-exit, with a focus on high-innovation sectors and continued scope for domestic and transnational partnerships, preferably including a continued association with Horizon 2020.

- The UK should look to maintain participation in Creative Europe, alongside other non-EU partners given its effectiveness, particularly for cultural exports, to the UK as a net beneficiary. If this is not possible, equivalent funding should be redirected for similar purposes within the UK.

BILL NIGHTY IMELDA STAUNTON

# PRIDE

ANDREW SCOTT GEORGE MACKAY JOSEPH GILGUN BEN SCHNETZER

★★★★★  
THE TIMES

★★★★★  
EVENING STANDARD

★★★★★  
THE GUARDIAN

PATHÉ · BBC FILMS · PROUD FILMS · BFI · PRESENT WITH THE PARTICIPATION OF CANAL+ AND CINE+ A CALAMITY FILMS PRODUCTION  
BILL NIGHTY · IMELDA STAUNTON · DOMINIC WEST · PADDY CONSIDINE · ANDREW SCOTT · GEORGE MACKAY · JOSEPH GILGUN · BEN SCHNETZER  
PRIDE · SCREENPLAY BY FIONA WEIR · BASED UPON THE NOVEL BY NADIA STACEY · COSTUME DESIGNER CHARLOTTE WALTER · EXECUTIVE PRODUCER JIM SPENCER  
EDITED BY CHRISTOPHER NIGHTINGALE · PRODUCTION DESIGNER MELANIE ANN OLIVER · EXECUTIVE PRODUCERS SIMON BOWLES · DIRECTOR OF PHOTOGRAPHY TAI RADCLIFFE  
EXECUTIVE PRODUCERS CAMERON MCCRACKEN · CHRISTINE LANGAN · JAMES CLAYTON · PRODUCED BY DAVID LIVINGSTONE  
SCREENPLAY BY STEPHEN BERESFORD · DIRECTED BY MATTHEW WARCHUS  
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“TERRIFIC” WENDY IDE, THE TIMES “INDESCRIBABLY  
WONDERFUL”

HAZ BRAWICHOYE, DAILY MAIL

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STEFAN PAPP, COSMOPOLITAN

“IRRESISTIBLE” NICK RODDICK, EVENING STANDARD “BRILLIANT”

DAVE CALROON, TIME OUT

DOMINIC WEST  
PADDY CONSIDINE

DE



**Trade and Investment**

Poster for BAFTA-winning film, *Pride*  
Photography: Pathe Pictures

# Summary

Creative exports including books, film, television and film, from Adele to Harry Potter and Downton Abbey to Sherlock, are the UK's calling card to the world. They are valuable in their own right, but also promote the broader trading interests of UK plc as a symbol of the country's imagination, innovation and diversity.

Exports of creative services account for 9% of the entire UK total at present; they have faster growth than any other sector so have the potential to contribute more.

This should place the sector at the heart of government trade and export strategy. Trade delegations should include the creative industries, including tech, and education.

There is enormous potential to develop new markets for the country's creative goods and services, not least because the English language is one of our principal assets.

However, intellectual property and copyright infringement are commonplace in some countries targeted for export growth. Creative businesses cannot reap proper rewards unless and until IP and copyright is acknowledged and enforced.

We will help negotiators charged with forging our new relationship with the EU, and with trade partners in the rest of the world, to understand the creative industries and deliver trade deals that benefit the economy. Most creative firms are microbusinesses or SMEs who might require extra support to tap into export markets. Some parts of the sector, such as audiovisual and architecture, are covered by specific regulations which must be taken into account.

The UK is also an international hub for the creative industries and attracts significant inward investment. The country's appeal rests on a number of factors, including its workforce and its tax reliefs. But, for many investors, its role as a gateway to the EU is crucial and the impact of losing this ready access must be addressed.

Our highly-respected and valuable higher education sector is also affected by these issues.



# Crucial considerations

The government must take into account the following when considering new arrangements for trade and investment, both with the EU member states and as we look to establish new export markets and stronger relationships with existing markets around the world.

1. UK creative industries exports
2. Inward Investment and co-production
3. New export markets
4. Business support for the regions and creative SMEs
5. Future trade agreements
6. Higher education exports
7. The role of the creative industries in promoting UK plc and trade in other sectors

## 1. UK creative industries exports

Exports for the UK's creative industries are split between services and goods.

Estimates of the value of services exported are published annually by DCMS. Service exports, as classified by ONS international trade in services data, include advertising and marketing, architecture, crafts, design, film, TV, video, radio, photography, IT, software and computer services, publishing, museums, galleries and libraries, music, performing and visual arts.

In 2014, the creative industries exported £19.8bn worth of services, an increase of 10.9% from 2013, accounting for 9.0% of UK total service exports.

The EU received the largest proportion of creative industries service exports of any of the UK's trading partners in 2014, accounting for 42.5% of them. ONS data shows that the USA is the country with the largest proportion of services exports, 25.3% of the total, followed by Germany with 5.5% of the total value in 2014.

Exports of UK creative industry services are growing rapidly and much faster than other sectors, increasing by 48.9% between 2009 and 2014. By comparison, the value of services exported by UK industries as a whole increased by 29.6% over the same period.

Exports of IT, software and computer services were the

## A view from Manchester and the North West

The Manchester meeting explored how the devolution of power and funding to regions will be affected by exiting the EU, both in terms of domestic funding and loss of EU funding. The Northern Powerhouse project - newly endorsed by the Prime Minister - should be used as a spearhead to secure the best deal for Manchester during exit negotiations, as well as for the North of England at large.

Creative industries have the power to open up trade opportunities for other sectors so local creatives must work with the city council to brand Manchester as 'open for business'. The sector should also work to identify potential new markets.

Businesses highlighted the uncertainty exiting will create around import duties and how increased costs and bureaucracy might dissuade prospective first-time traders from exporting, despite the government's desire to increase the rate of export among UK creative businesses.

largest proportion of service exports from the creative industries (44.6% of the total). Exports of services from the film, TV, video, radio and photography industries were the second largest proportion in 2014 (accounting for 23.8%) while publishing showed strongest growth, with an increase of 62.8% to £2.1bn.<sup>19</sup>

The DCMS is currently analysing exports of goods. This evidence will be extremely important going into trade negotiations as currently we do not have a clear picture of where creative goods are being sold. But in our first international journal (Creative International, July 2016), BOP Consulting examined the markets for creative goods from the UK where comparable data exists to provide a preliminary indication. The top 10 markets identified by this analysis are shown below.<sup>20</sup>

Top 10 markets for UK creative goods:

United States	£1,721m
Switzerland	£883m
Ireland	£631m
France	£614m
Germany	£594m
Hong Kong	£517m
Spain	£344m
Australia	£313m
Netherlands	£292m
China	£253m

Broadly speaking, wealthy countries closer to home, in particular in Europe, are currently far more significant consumers of our export products than large developing nations. We export more creative goods to Poland than we do to India, and more to the Netherlands than to China.<sup>21</sup>

Evidence from our online members' survey highlights the importance of the German market for our sector, with France, Netherlands and Spain also identified as key EU territories for both exports and collaborations. Alongside consideration of new markets, identifying how to work with important existing ones such as Germany will be important for the UK's creative sector, at least in the short to medium term.

It should be added that 80% of exporting UK businesses trade with the EU and it is a highly popular market for first-time exporters,<sup>22</sup> providing an easily-accessible training ground for companies wishing to develop export markets. This is particularly valuable for micro and small businesses who make up a very large proportion of the creative sector.

## 2. Inward investment and co-production

The UK is an international hub for the creative industries and attracts high levels of inward investment, being one of the world's most popular locations among media and entertainment multinationals.<sup>23</sup>

Access to the single market is key to attracting businesses of all sizes. The UK receives the most foreign direct investment of all countries in the EU and 72% of investors have cited access to EU markets - and the absence of tariff or non-tariff barriers - as a major factor in the UK's appeal.<sup>24</sup> Investors also appreciate operating within a known regulatory environment. (Also see Intellectual Property and Regulatory Frameworks.)

In addition, the freedom of UK-domiciled companies to invest in or buy companies across the EU (and vice versa) has played a part in establishing the UK as an international hub for creative businesses. Concern has been expressed that any ownership or investment restrictions imposed as a result of exiting the EU might damage the global position of the UK's creative sector.

All these factors could negatively impact inward investment when the UK leaves the EU.

**Creative sector tax reliefs** have been key to securing inward investment for the UK. Tax reliefs for film introduced in 2007 have underpinned £8bn of UK expenditure across 1,800 films, including headline projects such as Disney's investment in the £1bn series of six new Star Wars films being made at Pinewood Studios.

Following the extension of these measures to animation and high-end television (2013) and video games (2014), the UK has seen a further £1.5bn spend across 350 projects. Children's television was made eligible for tax relief in 2015, with data on returns yet to be released.

But production companies from sectors including animation and children's television have reported that tight budgets mean co-production can be the only commercially viable way to get new productions off the ground.

**Co-production with EU partners** can mean projects qualify for valuable financial support such as that provided by Creative Europe. The UK's ability to sell into EU markets in accordance

with AVMSD quotas can also attract other international investment.

The Federation has received reports of UK production companies losing US commissions due to uncertainty as to the UK's ability to sell into EU markets in the future. This uncertainty might be misplaced but the consequences appear real.

### 3. New export markets

The industry and the government are both committed to developing new export markets. In 2014, UK Trade and Investment (UKTI) set out a strategy for creative industry exports with three goals:

- doubling creative industries services exports by 2020 to £31bn (from 2011)
- doubling the number of creative industries that export
- increasing the UK's share of the global market for foreign direct investment in creative industries by 50% by 2020.

These were ambitious targets, but progress has been made, with growth in creative industry services exports outstripping that of the broader economy.

Internationally, world trade in creative goods and services more than doubled between 2002 and 2011, driven by technological shifts. Mobile platforms and streaming services have changed the public's engagement with video games, film

and television. Moreover, the growing wealth of many emerging nations, from China to Chile, has created a larger market for international content, with digital platforms making this potential market easier to access.

The rise in demand for creative goods and services is mostly from markets outside the UK, so to take advantage of all the opportunities available, the UK needs to up its game at selling overseas.

Over the last decade, UK exports of both creative goods (from Burberry coats to Penguin Classics) and creative services (from architectural consultancy to advertising campaigns) have increased, though not always with the steady trajectory that makes for long-term success. Our goods export rate - where there is international comparable data - is lagging behind that in other countries. Growth in China (15%), Germany (7%), France (7%) and Korea (6%) has been outpacing our own (4%).

For the Federation's Creative International report (July 2016), BOP Consulting also analysed markets with high import growth to identify which offered potential export opportunities.

These were split into high-growth markets with a large existing market for UK creative goods - such as India, Malaysia, Turkey, Korea, Macao - and high-growth markets with a small existing market for UK creative goods, led by Indonesia, Pakistan, Sri Lanka, Luxembourg and Dominican Republic. Some of the potential of these markets

might not be obvious. Macao's potential is based on a booming games, gambling and leisure industry while the widespread use of the English language in Sri Lanka offers scope for television, publishing and film.

The Creative Industries Council's 'Create Together' strategy has identified China and Brazil as priority markets for the creative industries given rapidly expanding consumer markets. But it also recognises the need for greater enforcement around regulation and copyright protection. South Korea, Russia, India, UAE and Japan have been highlighted as further markets to explore.

All the appropriate government departments and agencies need to work closely with industry and industry bodies to make the development of new markets for the creative sector a trade priority if we are to capitalise on the clear potential for growth. These include the Department for International Trade, the Department for Exiting the European Union and the Foreign Office.

### **Intellectual property and new markets**

The profit for many creative businesses lies in the intellectual property of their ideas and designs. As discussed more extensively in the next section, these companies can only secure appropriate returns on their intellectual property if their IP rights are protected.

This means it is vital that any new export markets for the UK creative industries have appropriate



## A view from Newcastle and the North East

The benefits and challenges of Newcastle's location were analysed, with some creative businesses believing that it was sometimes as easy for North East creatives to work in Europe as in the UK.

The meeting considered how the North East might work with the British Council to find new export markets, but one contributor argued that it was easier from Newcastle to deal with the British Council's office in Edinburgh than with the assigned office for northern England, based in Manchester, because of the distances involved. But there was a sense that, despite ambitions to maximise the number of companies exporting, the sector as a whole was not yet accustomed to thinking in terms of international trade.

The city is a net beneficiary of EU funding and there was a range of ways that this had come to benefit the creative industries, from the detoxification of industrial wasteland ready for the building of Sage Gateshead through to match funding such as a grant Northern Film and Media had been able to attract from Creative Europe.

copyright and IP protections in place. This is currently not the case for many emerging markets. As such, markets that might work as new targets for some traditional sectors may have to be a longer-term aim for the creative industries.

### 4. Business support for the regions and creative SMEs

UK business and cultural support in Britain's regions was raised as an issue at the Federation's Brexit impact meetings and will be more important if EU funding and networks are lost. Better local representation for such services could help cultural organisations and creative clusters across the country maximise their export potential.

As the Creative Industries Council's Create Together 2016 strategy document has already identified, even before the challenges of Brexit there was a need to re-think government business and investment support programmes so that they are better fitted to support creative SMEs and micros.

Initiatives should focus on growth through increasing productivity as much as job-generation; and assisting scale-up and businesses in the second stage of development as well as startups. They should aim to increase connections between private investors and business clusters.

### 5. Future trade agreements

Prime Minister Theresa May has identified increased immigration control as the priority in Brexit negotiations. As freedom of movement of labour is a central tenet of the single market, it is unlikely that the UK will retain access to it.

If there is complete secession from the single market, the UK will rely on its membership of the World Trade Organisation to provide terms on which to trade with the EU and its 53 trade partners. The process of transition from EU to WTO regulations is unprecedented and may take years to complete.

Each WTO member has a 'schedule of commitments' that sets out the terms on which it trades, with different stipulations depending on whether products constitute goods, services, agricultural produce or another such category.

Transition from EU to WTO rules regarding such commitments will require very different strategies for goods and services respectively. These differences will in turn influence the UK's negotiations for future trade agreements with the EU and other international partners.

As the sector trades more in services than goods, there are particular areas which require special consideration when considering our new trading relationship with the EU. These were widely discussed at CIC working groups, as the EU has historically excluded the audiovisual and wider cultural sectors from trade negotiations with third countries.

**“UK apparel and textile exports to the EU have risen from £4.5bn in 2010 to £5.8bn in 2014. Tariff-free imports/exports in the movement of goods are key contributors to these figures, and price increases on British goods due to tariffs being introduced would have a significant impact across the industry, most heavily on the small businesses that have chosen to build companies in the UK. Taking the UK out of the single market would see more goods created in the EU, warehoused in the EU and shipped from the EU while British businesses would lose out.”**

Caroline Rush,  
Chief executive  
British Fashion Council

It is critical that reciprocal access to these markets is not excluded from the UK's relationship with the EU post-exit, as would be the case if we simply end up trading with the EU under the default WTO rules.

The EU would then be able to impose discriminatory provisions on the UK, particularly with regards to the audiovisual sector, under the exemptions it has carved out for these areas from the 'most favoured nation' requirements.

Non-tariff barriers, which can encompass discriminatory requirements, professional licensing restrictions (for example, affecting architects) or legislation of all sorts which inhibit or restrict market access, are particular issues for most of the creative sectors which predominantly trade services rather than goods.

This could be a particular challenge for the UK because of our substantial surplus in creative industry exports (unlike in many areas of goods). Given the EU's policy approach to the creative industries, continuing to trade without non-tariff barriers would not pose a threat to the unique combination of commercial and public intervention which underpins the UK's creative industries and the benefits they provide for British consumers.

Federation member, Enders Analysis, has published a paper 'Trade policy path to Brexit for the UK'<sup>25</sup>, which sets out recommendations designed to minimise any medium term structural damage to the UK economy from Brexit.

### **Geographical indicators and the craft industry**

A geographical indication is a distinctive sign used to identify a product as originating from a particular place, where its quality and reputation is associated with this point of origin.

For sectors such as craft, protecting these geographical indicators help generate economic worth for products like Harris Tweed.

## 6. Higher education exports

The UK is the world's second most popular destination for international students, with each one educated by a UK institution counting as an export. Higher education exports are currently worth an estimated £10.7bn to the UK economy, creating 170,000 jobs across the country. EU students alone count for £3.7bn of this total.

Globally, the higher education market is set to expand. The Organisation for Economic Cooperation and Development (OECD) predicts that the number of students studying outside their home country will increase from its current total of 4.5 million to 8 million by 2025. Countries including Canada, Australia, the USA, Germany and China have adopted ambitious recruitment strategies in order to capitalise on this and are experiencing an 8% rate of annual growth in international student numbers.

In contrast, the UK is at risk of losing its market share even as the industry grows, with the number of international students studying here falling at an annual rate of 2%. The number of students travelling from India, the UK's second largest foreign market, has more than halved since 2010. This is despite a government target, announced in the 2015 Autumn Statement, to increase total education exports to £30bn by 2020.<sup>26</sup>

The number of international students is likely to decline further if visa requirements are imposed on EU students and if they are no longer eligible for UK domestic fee rates. As the government has also confirmed it is counting students in the immigration figures, the sector looks likely to be caught in a situation where it is expected to increase export levels at the same time as efforts are being made to reduce the number of overseas students in the country. In addition, if visa requirements are made more stringent for all international graduates, numbers might fall for non-EU students as well. It is currently the non-EU students whose fees primarily subsidise domestic students in higher education.

## 7. The role of the creative industries in promoting UK plc and trade in other sectors

The UK's creative industries are pivotal in promoting the country overseas. In this way, they act as a facilitator to the broader trade mission of UK plc.

The nation benefits from the 'soft power' deployed by our creative exports, including music, television and film, and through the way the creative sector showcases the UK as an imaginative, open-minded and inclusive country with which to do business.

Representatives from the creative industries should, therefore, be included in all trade delegations and the sector should sit at the heart of government strategy on exports, investment and growth. The creative industries should be a priority sector in the government's new industrial strategy.

# Recommendations



## **Short term - urgent actions for immediate impact**

- We should immediately establish a government-industry partnership to tackle trade barriers and open up access to priority markets outside the EU. While full trade agreements are likely to take some years to conclude, it should be possible to start making progress through international dialogue and cooperation in the short term. We should commit to making strong protection of IP rights a red line in future bilateral trade agreements, and ensure that we retain scope for continued public support for media and creative sectors
- The government should affirm its commitment to maintaining creative industry tax reliefs, at least at current levels, while considering the case for expansion where supported by evidence



### **Medium term - to start work now, for resolution before the UK's exit takes effect**

- The UK should secure reciprocal retention of freedom to invest in, and secure investment from, EU businesses to enable the UK's continued growth as a centre from which to build international businesses in the media and other creative industry sectors
- The UK should retain tariff-free access to the EU market for goods.
- The government should enhance bespoke support for creative industries exports, ensuring that it is firmly industry-led.

### **Long term - preparation now for full implementation after the UK's exit from the EU**

- The Government should explore the scope to improve the impact of creative sector tax incentives.



**and Re**



# Intellectual Property Regulatory Frameworks

Stanton Williams, Sainsbury Laboratory, University of Cambridge  
Photography: Hufon+Crow

# Summary

A regulatory framework with strong enforcement of intellectual property rights including copyright and trademarks is crucial to enabling creative industries to capitalise on their ideas and talent. The creative sector needs to be able to make money.

The UK has been at the forefront of developing this framework in Europe and it is vital that we exert all influence possible in decision-making for as long as we are able. Key issues, such as the digital single market, are in active negotiation, with all to play for.

But the government must understand how IP protection and the regulatory framework will be affected - and, in some cases, undermined - for British creatives when the UK leaves the EU.

It should take action to plug gaps, enshrining appropriate additional protection in UK law, promoting IP rights worldwide and making strong protection a red-line issue in future trade agreements. There are also common standards across Europe which make it easy for businesses to win business and work across the continent and must be understood.

The UK should also be a stronger voice in international trade forums.



# Crucial considerations

Membership of the EU has led to the development of regulatory frameworks and common standards which in many cases underpin trade and investment. We present the key arguments and priorities for action on these issues as drawn together and agreed by the industry members of the Creative Industries Council. They are of fundamental importance to the economic success of the sector and cover:

1. Intellectual property and copyright
2. Country of origin framework
3. Free flow of data
4. Digital Single Market
5. Effective regulation and standards
6. Design rights and EU trade marks

## 1. Intellectual property and copyright

Intellectual property (IP) is the lifeblood of the creative industries. Our success is overwhelmingly built on the creation and commercial exploitation of IP. The health of our industries therefore depends heavily on strong protection for the IP rights which enable our creative businesses to realise the value of their products. Copyright in particular is of fundamental importance to many creative industry sectors. It enables creators to derive a financial return for their work and provides an incentive for businesses to invest in creative content.

The UK currently provides a high level of protection for copyright works. UK creative businesses and individual creators have been successfully operating under the existing national copyright regime, based on the Copyright, Designs and Patents Act 1988 (and subsequent amendments). However, while the basic concepts of copyright have been agreed at a global level, particularly via the Berne Convention, TRIPS<sup>27</sup> and the WIPO<sup>28</sup> Internet Treaties, many provisions of UK copyright are derived from European Union Directives.

There is clearly some uncertainty over the future status of those elements of UK legislation which are derived from EU law. However, any limitation or reduction in protection would put UK businesses at a competitive disadvantage relative to European competitors and risk transferring investment to other countries. The Creative



Industries Council would therefore welcome early reassurance from the government that the current standards of copyright protection will not be reduced following the UK's exit.

Intellectual property theft, particularly through piracy and counterfeiting, continues to be a significant concern in the UK and internationally. For example, in the second quarter of 2016 alone, 78 million music tracks and 51 million pieces of film and TV content were accessed illegally online.<sup>29</sup> The industry is expending significant resources on tackling this, but there is an opportunity for government to encourage closer cooperation between rights holders and online platforms such as search engines and social media.

There are also significant problems with counterfeit physical goods, including design and fashion brands, which are largely imported from overseas. This is an area where cooperation could be strengthened in the course of building new trading relationships with non-EU countries, alongside continued cooperation with European and international enforcement agencies.

The EU plans further legislative action on copyright under the banner of the Digital Single Market. This could have a significant impact on UK companies' future prospects, whether or not the resulting legislation applies in this country. In some areas this may result in further strengthening of protection and improvements in enforcement. But there are also serious concerns: in particular, any move to curtail the territorial selling of rights could seriously

undermine creative industry business models and harm consumer interests. It will be important for the UK government to continue engaging proactively in EU discussions in the immediate term.

### **Priorities for action**

#### *Future relationship with the EU*

#### **Commit to continued UK/EU cooperation on intellectual property issues, particularly on action to reduce infringement and the proliferation of counterfeit goods**

By their nature, IP infringement activities operate across national borders, whether via online communications or physical transport of goods. It will be important to maintain cooperation with Europol and other European law enforcement agencies in order to share intelligence and tackle counterfeiting and piracy collaboratively.

#### **Engage proactively in negotiations on new EU copyright proposals**

As noted above, new EU legislation is likely to have a significant impact on the interests of UK businesses and their future position in relation to EU markets. The government should also seek to ensure the anticipated new enforcement package protects the UK creative industries, especially in dealing with online piracy by ensuring that rights holders are able to better remove infringing content, and links to that content on websites, search engines and social media platforms. The

## A view from Nottingham and the East Midlands

Many creative companies in the East Midlands act as suppliers to businesses such as Rolls-Royce, Toyota and Bombardier Transportation which highlights the relationship between creative industries and some of the East Midlands' major employers. During exit negotiations, the sector must leverage the support of major players across other industries who understand the role of creative industries in the wider economy. Collaboration with these employers has already formed the basis for explorative work on STEAM (science, technology, engineering, arts and maths) education in the area, which has been supported through EU funding and philanthropy.

Microbusinesses and freelancers will face particular challenges and require particular business support in the wake of the UK's departure from the EU and these must be factored into negotiations. For example, small companies may need training on how to negotiate new visa requirements. Support on these issues will help the sector to perform to the best of its ability.

UK should support Commission proposals to clarify the copyright-related responsibilities of online platforms, ensuring fairer licensing deals for creative content. There is also an opportunity to promote cooperation on the development of 'follow the money initiatives' to reduce the profitability of infringing sites.

### *Future relationship with the rest of the world*

#### **Commit to making strong protection of IP rights a red line in future bilateral trade agreements**

The development of new trading relationships with key international partners offers the opportunity to strengthen cooperation on IP protection worldwide. The government should make it a priority to ensure that copyright works enjoy robust and properly enforced legal protection in international markets. Strong protection for copyright should be incorporated as a key principle into any new trade agreements to provide certainty for UK creators, publishers, performers and rights holders and ensure that we can maximise the opportunities to build our presence in new markets over the coming years. Alongside this, the UK could further develop its network of dedicated IP attachés in priority countries, to continue fostering close cooperation in this area.

One goal of future trade-related efforts should be to export UK best practice for enforcement against internet piracy. The government should encourage adoption of a UK-style approach to

injunctive relief against infringing sites, as well as encouraging specialised law enforcement units modelled on the PIPCU<sup>30</sup> unit of the City of London Police. More broadly UK trade policy should seek to promote responsibility of all actors in the online ecosystem to fight piracy, including rights holders, ISPs, search, advertisers, and payment processors.

#### **Strengthen the UK's voice in international forums**

The UK should take the opportunity to reassert its presence in relevant international organisations dealing with IP-related matters. This includes most obviously the World Intellectual Property Organisation (WIPO), where the reinforcement of a distinct UK pro-copyright voice could be an important influence on the balance of discussion. It also includes trade forums, notably the WTO TRIPS Council, as well as UN bodies where IP matters come up from time to time, such as UNESCO.

### *Within the UK*

#### **Commit to maintaining the strength of the core intellectual property regime currently in force**

A clear early signal that the current UK protections for copyright and other key intellectual property rights, many of which are based on EU law, will be maintained would be widely welcomed.

## **Secure industry cooperation to reduce online infringement**

We welcome the government's manifesto commitment to "work to ensure that search engines do not link to the worst offending sites", and its engagement with industry to date on this issue. There is an opportunity for the UK to show leadership internationally, through securing a code of conduct which will reduce the volume of links to infringing content on search engines and support the ongoing development of legal content services. There may be a need for some legislative underpinning to ensure that a code is agreed and adhered to. This would work alongside continuing support for education initiatives such as the Get It Right From a Genuine Site campaign.

## **Protect territoriality of rights for the UK, irrespective of developments in rest of EU**

The ability of our creative businesses to sell rights on a territorially exclusive basis is critical as it enables business models to reflect the varying economic and cultural values of particular rights across different territories. Losing this ability would be damaging to cultural diversity and consumer choice. At the very least, our exit from the EU offers the opportunity to protect territorial selling of rights as far as the UK is concerned, even if the basis for exporting rights to and within EU member states changes in the future.

## **2. Country of origin framework**

The EU's 'country of origin' regime for audiovisual media services is critical to the UK's status as Europe's media hub, since it allows media companies operating across the EU to be regulated in just one member state. According to Ofcom, of all 2,200 of the broadcasting licences granted to channels across the European Union, more than half (1,100) are granted by Ofcom in the UK, and half of these (650) are for 'non-domestic channels' that are broadcast from the UK to other countries. This is a critical factor in the development of the £10bn UK media sector, and drives investment in other areas: for example, investment in first-run UK content by the "multichannel" broadcasters (i.e. beyond the main public service broadcasters) has grown by 50% over five years to over £600m per annum.<sup>31</sup> There are also a number of channels – believed to be more than 60 – which broadcast into the UK from other EU countries, including France,

Germany and the Netherlands, and depend on the UK's recognition of their home market licences.

Retention of the country of origin principle should be a critical priority for the UK. This is likely to mean continued compliance with EU minimum standards for media regulation, including on provisions for European works, protection of minors and advertising. However, these are already incorporated into UK law and the cost is small compared to the risks of losing our guarantee of access to the EU market. The alternative of relying on the Council of Europe's Transfrontier Television Convention would provide some assurance of access to some, but not all, parts of the EU market and only for a more narrowly defined range of services focused on broadcast TV.

## **3. Free flow of data**

Maintaining the free flow of data between UK and EU Data is of fundamental importance to the creative industries operating in a digital economy, particularly as they rely increasingly on digital distribution and online relationships with and between consumers. The ability to collect data in a responsible and legally compliant way, and use it to develop new business models and continuously enhance consumers' experiences is a key driver of innovation, growth and competitiveness in the creative sectors. For example, data flows between players, games companies and platforms are intrinsic to the operation of games as a service and the provision of the diverse kinds of experiences which players demand. The success of games companies and other creative businesses has relied on the ability to move data responsibly across national borders, particularly within the EU. The UK's exit from the EU may well offer the opportunity for the government to consider whether domestic data protection laws should be modified. However, for the UK's digital, creative content and service businesses to remain competitive, it is important that we retain the ability to exchange data with European countries responsibly and without onerous restrictions as part of our new relationship with the EU.

## Potential barriers for architects - Royal Institute of British Architects (RIBA)

The EU Professional Qualifications Directive allows EU-qualified architects to register and practise in the UK without requiring specific recognition of qualifications and vice versa for UK architects in Europe. The parity afforded by mutual recognition must not be lost in leaving the EU as this could prevent British architects from being able to work in Europe and vice versa.

More than 40% of architects' revenues from overseas come from trade within the EU, and many UK architectural practices rely on access to the best talent pool to maintain their competitive advantage.

## Harmonised standards help business expand internationally - RIBA

"We believe that the UK has much to gain from pursuing an approach that makes it easier to do business with trading partners new and old. Reducing tariffs and harmonising standards have helped UK firms of all sizes expand to Europe and beyond. These common approaches have also meant that UK businesses can support best-practice in environmental and product standards, supporting efforts on global issues such as climate change. It is imperative that governments in the UK protect and promote the UK's role as a leader in environmental and consumer protection standards."

## 4. Digital Single Market

The creative industries are increasingly operating in and reliant on the digital world, in all parts of the value chain from distribution, development and production techniques to data, skills and innovation in business models. Broadcasting has been wholly digital for several years now. Video-on-demand and music streaming services are steadily reaching more and more consumers. The worldwide games market already reaches 1.6 billion consumers worldwide and is expected grow by 8% annually over the next five years.<sup>32</sup>

The EU is currently considering a range of proposals aimed at developing the Digital Single Market (DSM). It attempts to harmonise the regulation of all member states concerning intellectual property and digital content, keeping it in line with increasing online connectivity and changing consumer expectation. Predictions suggest that this could contribute €415bn per year to the EU economy and provide major business opportunities for content providers, with HM Treasury estimating a potential addition of 0.9% of UK GDP.

The outcome of these negotiations will be critical for the UK and its future trading relationship with Europe, whether or not individual proposals apply directly to us after we have left. The UK has been a supporter in principle of the DSM, which could bring significant benefits to UK-based creative businesses. However, without active UK involvement, there is a risk that new legislation could have a detrimental impact on the UK's interests and future trade with EU countries. We therefore urge the government to continue its proactive engagement with key dossiers under live negotiation, while the UK is still at the table. Specific current priorities are:

*Revised Audiovisual Media Services Directive:*  
As well as confirming the future of the country of origin regulatory principle, it is critical that the current definition of 'European Works' - which covers programmes made in all Transfrontier TV Convention countries - is retained. This will mean that UK-originated content will continue to count towards broadcasting and video-on-demand quotas when exported to the EU, avoiding a potentially damaging non-tariff barrier.

*Draft Directive on Online Sale of Digital Content:*  
The UK has been a pioneer in providing consumers with specific rights in relation to the purchase of online content. The EU proposal is an attempt to harmonise rules in this area.

However, the proposals risk working against consumers' interests through excessive restrictions, for example in relation to free content, which would inhibit innovation and result in increased costs and reduced quality of experience. As a centre for innovation, the UK's continuing influence in negotiations will be crucial.

*New copyright legislation:* This will be important in shaping future international cooperation on the protection of intellectual property and determining whether we can preserve the freedom to optimise distribution of UK works by continuing to be able to license them on a country-by-country basis. See separate section below.

## 5. Effective regulation and standards

Maintaining proportionate, effective regulation is clearly critical to business success. As far as regulation specific to the creative industries is concerned, the UK's overall track record has generally been a good one, involving a mix of relatively flexible statutory regulation, particularly in broadcasting, and a welcome emphasis on effective self- and co-regulatory mechanisms in areas such as advertising, games and content classification.

There are a number of areas in which the EU regulatory framework has provided important protections which we would hope to maintain, such as intellectual property. Moreover, as

outlined above, we recognise that continued access to EU markets is likely to mean that the UK will continue to be bound by some EU-based requirements, particularly in relation to audiovisual media services.

The UK has been influential in shaping the regulatory framework affecting the creative industries at EU level and has had significant success in securing positive conditions for cross-border trade, benefiting consumers and businesses, while reducing the potential cost and burden of new regulations.

The UK's exit from the EU is likely, in the medium term, to offer opportunities for improving the regulatory environment for creative businesses in the UK, further enhancing our competitive position. This could be achieved following enactment of the planned Repeal Bill. At the same time, action is needed to guard against the risk that the EU environment develops in a way which is harmful to UK interests.

### Priorities for action

*Future relationship with the EU*

**It is vital that the UK continues to exert its influence in the negotiation of new EU legislation, while still a member**

A number of key legislative instruments stand to be negotiated and adopted in the period before the UK's exit is formalised. For example, as outlined earlier in this paper, the Commission is



## A view from Bristol and the South West

The question here was how we can work best with the new government and the opportunity provided for the sector by a fresh emphasis on industrial strategy. It was felt that the creative industries must build relationships with the new chancellor, the Departments for International Trade and Exiting the EU and beyond - demonstrating the sector's benefit to the wider economy.

The networking element of EU funding schemes was highlighted with a strong sense that any UK replacements for funds such as Horizon 2020 and Creative Europe must feature the same mandate for partnership working, rather than acting as a simple cash injection. Festivals, forums and venues supported by the EU offer valuable chances to distribute work across the continent, as well as opportunities to meet the top talent Britain's creative industries need to maintain their competitive edge.

### Anti Copying in Design

Anti Copying In Design (ACID) is a membership organisation committed to raising awareness and respect of IP issues. It provides subscribers with the means and understanding to enforce their rights around IP protection.

ACID runs a design databank, to which members can submit unregistered designs to generate a dated audit trail that helps protect it. In its 10 years of operation, the databank has had 300,000 lodgements by ACID's 1,000 or so members, averaging at 30,000 annual submissions.

In contrast to the number of unregistered design lodgements made with ACID, around 5,500 UK designs are registered with the UK Intellectual Property Office. Another 5,000 UK designs are also registered annually<sup>33</sup> with the EU Intellectual Property Office, which holds around 700,000 designs in total, registered over a 10-year period.<sup>34</sup> These figures show the reliance of the UK design industry on the EU's Community Unregistered Design Right.

### Burgon and Ball

Burgon and Ball has been producing cutting tools in Sheffield since 1730 and is well known in the gardenware industry for selling high-quality, durable products. The company decided that to compete against lower cost commoditised products, it needed to invest in design to differentiate its gardening products. In the last three years, Burgon and Ball has experienced 28 separate cases of its products being copied and has relied on the protections offered by both registered and community unregistered design rights to halt production of the copies and protect its earnings.

The potential loss of EU unregistered and registered rights protection across 28 member states would have a significant and negative impact on Burgon and Ball's business model, threatening the jobs of its 60 staff. If its products cannot be protected against copies, its investment in design is essentially worthless.

pressing ahead with its action plan to complete the Digital Single Market, which includes a number of important dossiers, including on copyright, digital content, media regulation and e-privacy. New legislation in these and related areas could have a profound impact on the future development of our creative industries and their trading prospects with Europe, irrespective of whether individual elements of the acquis continue to apply to the UK.

Overall, it is vital for the future strength of the UK's creative industries that we continue to play an active role in the negotiation process while still a member of the EU, particularly in areas which will continue to affect UK businesses significantly post-exit. Alongside the government's efforts, we will continue to engage proactively with our counterparts across the EU to ensure that the views of industry are strongly communicated.

*Within the UK*

**Once the terms of exit are clear, following repeal of the European Communities Act, the government should conduct a systematic review of EU-based regulation with a view to reducing or improving regulation where possible, in the interests of businesses and consumers**

The CIC is clear that the top priority for the UK's future relationship with the EU should be to maintain unrestricted access to EU markets for the digital and creative sectors. That may mean a continued commitment to meeting harmonised or minimum requirements set by the EU in specific areas. However, the UK's exit will offer an important opportunity for the UK to improve the domestic regulatory environment in those areas where EU rules no longer apply. This is a medium-term objective and the scope of potential benefits will depend on the precise shape of the future EU relationship.

It will also be important to focus the review so as to target areas of real benefit for businesses

and consumers, and avoid undue disruption and uncertainty. Hence our proposal for a systematic review in due course. The creative industries are likely to have a number of different as well as shared priorities for such a review: to take just one example, the radio sector has long had concerns about over-regulation of financial services advertising as a result of EU legislation, which has cut off a key revenue stream for an important and valued part of the UK's media industry.

## 6. Design rights and EU trademarks

In addition to the issues discussed in the CIC forum, our design members have also raised issues including particular concerns pertaining to design rights and EU trademarks (EUTMs). They are an example of the range of issues negotiators need to understand.

Leaving the EU will have major implications for the design rights enjoyed by the UK. Many creative businesses have taken advantage of the cost-effective EU-wide regime for registered trade marks and designs protection. These unitary EU-wide rights can be obtained via a single application and apply across the EU. Once the UK leaves the EU, these protections will no longer extend to the UK unless an agreement is reached in exit negotiations. Should this not occur, it will be necessary for businesses to apply for both UK and EU trade mark and design protection, increasing the costs of obtaining IP protection across Europe. The implications for existing EUTMs and designs are of particular concern.

While registered design rights are currently harmonised across the UK and the EU, there are significant differences between the EU unitary and the UK domestic regimes for unregistered designs. Under the EU's Community Unregistered Design Right (CUDR), designers enjoy protection for "novel surface design" (for

how a shirt looks, for example, rather than simply for its functional aspects). This is a protection explicitly excluded from the UK's Unregistered Design Right (UDR) and one of crucial importance to industries such as fashion and furniture where appearance matters. This may be lost with secession from the EU.

The UK government should develop similar domestic legislation, according to 94% of respondents to a survey by Anti Copying in Design (ACID). ACID believes this legislation is an opportunity to extend the duration of CUDR and highlights the disparity between the three years of protection afforded to designers and the lifetime-plus-70 years copyright protection enjoyed by songwriters, writers, film-makers and artists.

Designs must first be made available "within the Community" to qualify for CUDR and this currently covers designs debuted in the UK, such as at London Fashion Week. Should launches in the UK no longer qualify for CUDR protections, British trade shows would lose their appeal to many designers in comparison to their European counterparts and particularly for small companies who depend on unregistered protections. This would undermine both the revenues they generate and the role they play in showcasing the country as an innovative and attractive place to do business. UK designs debuted in the EU would continue to qualify for CUDR protections.

While those designers who currently rely on CUDR may apply for both UK and EU registered design rights, this status can only be secured within 12 months of launch, so many unregistered designs will already be out of time to do this. Securing registered protections can also be costly, particularly for businesses that produce large numbers of seasonal designs.

# Recommendations

## **Short term - urgent actions for immediate impact**

- The government should affirm its commitment to maintaining the strength of the core intellectual property regime currently in force, and to securing industry cooperation to reduce online copyright infringement.
- The UK should engage proactively with ongoing negotiations on the Digital Single Market, a series of proposals on copyright, media regulation, data and other issues which will have a major impact on the future prospects for our industries in Europe.

## **Medium term - to start work now, for resolution before the UK's exit takes effect**

- The government should commit to future UK/EU cooperation on intellectual property issues, particularly on action to reduce online infringement and the proliferation of counterfeit goods.
- The UK should ensure that access to the EU market for the creative industries in respect of services is retained without the imposition of non-tariff barriers. As a key part of this, the UK should look to maintain inclusion in the EU "country of origin" framework for regulation of audiovisual media services - while protecting the territoriality of IP rights for the UK - and ensure continued free flow of data with EU countries. It is also important that the current definition of European Works is retained in EU law, ensuring that UK-originated content continues to count towards broadcasting and video-on-demand quotas.

## **Long term - preparation now for full implementation after the UK's exit from the EU**

- Once the terms of exit are clear, following the repeal of the European Communities Act, the government should conduct a systematic review of EU-based regulation with a view to reducing or improving regulation where possible, in the interests of businesses and consumers, and we should take the opportunity to strengthen the UK's voice and influence in international forums such as the World Intellectual Property Organisation.



# Appendix

## Appendix 1 - What are the creative industries?

The creative industries range from advertising and architecture to video games, including both physical goods and services.

They were defined in the government's 2001 Creative Industries Mapping Document as "those industries which have their origin in individual creativity, skill and talent and which have a potential for wealth and job creation through the generation and exploitation of intellectual property". Inclusion is based on working practice.

Although it is the for-profit sector that contributes to GVA statistics, the publicly-supported sector is a vital component in providing training, inspiration and acting as R&D for the broader creative economy and must be considered in any assessment of the requirements of the sector as a whole.

A fuller list of the sector includes: advertising, architecture, broadcasting, crafts, design, creative tech, fashion, film, heritage, museums and galleries, music, performing arts, photography, publishing, video games and visual arts.

## Appendix 2 - Existing visa system

**Current tiered system and how it interacts with creative industries - 'Skilled Migration and the UK's Creative Industries.'** Nesta, September 2016.

### *Tier 1 - High value*

Tier 1 covers entrepreneurs, investors and exceptional talent. For these routes sponsorship from a UK-based employer is not required. Graduate Entrepreneurs are also included in Tier 1, for this route sponsorship is needed from a UK-based educational institution.

For the creative industries:

- The creative industries sector is entrepreneurial, but this pathway has a very high financial bar which restricts those who might come into the country on this visa. High levels of capital is required - £200,000 or £50,000, if funding provided by venture capitalist, government department, or competition endorsed by UKTI.<sup>35</sup>

- Exceptional talent, moderated by industry bodies, can come in on this route. But limited numbers, and in some streams there has been low takeup given the perception of level of talent needed to apply.<sup>36</sup>

### *Tier 2 - Skilled workers*

Tier 2 covers skilled workers with a job offer from a Tier 2 licensed, UK-based employer. This employer is known as the sponsor.

For the creative industries:

- The Shortage Occupation List contains a range of creative industries jobs, which allows employment without conducting a Resident Labour Market test.

- In late 2015, the Migration Advisory Committee (MAC) was tasked with providing advice on reducing work migration from outside the EU, whilst making sure Britain is open to the 'best and brightest' talent. Recommendations from this

consultation include increasing the salary threshold from £20,800 for Tier 2 (General) experienced workers, to £30,000, and introducing the Resident Labour Market Test for those looking to switch visa categories for in country applications. Despite these recommendations offering a more moderate solution compared with the suggested salary threshold rises from the Home Office (which was £35,000), this rise could have disproportionate impact on certain sectors of the UK economy.

- The report suggests that the government considers the special case of the creative sector, with guidance on measures. Additional codes of practice have been agreed with the sector (which consists of five Standard Occupational Classification (SOC) codes). Creative occupations do not have to comply with requirement for other jobs that the worker is skilled to NQF6+, which is equivalent to a bachelor's degree, but they must be skilled at NQF4+, which is equivalent to a Certificate of Higher Education. Since the methodology for raising the overall minimum salary threshold to £30,000 is based on occupations skilled to NQF6+, there is a rationale to exempt the creative occupations from the increased threshold. In addition, the numbers coming in within these occupations have remained in the low hundreds over the last five years, therefore having negligible impact on the overall inflow within Tier 2.

- In the government's response to the MAC's consultation, changes have been less dramatic than expected in terms of prospective impact on the creative industries, however, no special consideration for Creative Occupations was mentioned. The government will look to implement a £25,000 salary threshold for experienced workers, while the entry level threshold remains at the current level of £20,800. This is positive for creative occupations, where flexible employment structures and wellbeing compensation effects account for lower than average salary levels for entry level jobs across creative sub sectors.

- Had increased salary levels been implemented, which may happen in the future, two negative scenarios may have emerged for UK employers. Firstly, if salary thresholds were raised above the market rate it may prevent employers from hiring, what would now disproportionately expensive, non-European creative workers. Secondly, employers may have had to increase salaries of creative jobs where UK workers could not be found to enable the hire. Alongside this, better tailoring the UK's education system, including technical and professional education, to meet the skills needs of UK employers would have the effect of reducing demand for non-EEA workers.

### *Tier 3 - Low skilled (closed)*

Tier 3 is designated for low-skilled migrants to fill specific, temporary skills gaps. However, it has never been opened and it is currently suspended by the government.

### *Tier 4 - Study*

All student visas fall under Tier 4. To qualify, applicants must have been offered a position at an educational institution which is licensed to sponsor migrants.

See: Freedom of movement and the higher education sector

### *Tier 5 - Youth mobility and temporary work*

Tier 5 is for migrants who have a job offer for temporary or short-term work from a UK-based company.

See: Additional costs for touring companies

# Contributors

With thanks to all those who took part in our meetings round the country.

## Birmingham

Ammba, Anthony Hughes, Arts Connect, Arts Council England, Barques PR, Birmingham City University, Birmingham Hippodrome, Birmingham Royal Ballet, Creative Advantage Fund, Culture Central, David Furnage, Emma Shaw, Film Birmingham, Greater Birmingham and Solihull LEP, Ikon, Ines Elsa Dalal, MAIA Creatives, Mac, Maverick TV, Sampad, Simon Fox Education, The Producers' Forum, Yasmin Ali, Zebra Digital.

## Bristol

Arnolfini, Artis Community, Arts Council England, BFI, Bath Spa University, Bristol International Jazz and Blues Festival, Bristol Media, Bristol Music Trust, Bristol Old Vic, Bristol Science Centre, Business West, Creative Industries Council, Design Rally, Edge Arts, Jessica Ray, King's College London, Live Music Now, Lizzy Moriarty, Mark Leaver, Spike Island, The Children's Media Foundation, The Station, The West of England Design Forum, True Soldier, University of the West of England, Welsh Government.

## Edinburgh

1927, Arup, British Arts Festival Association, Coney, Creative Europe Desk UK, Creative Scotland, Cryptic, Cultivate, Edinburgh College of Art, Edinburgh International Fashion Festival, Edinburgh International Festival, Festival Edinburgh, FifeScreen and TayScreen Scotland, Glasgow School of Art, Hospitalfield Arts, IPA, Leith, Live Music Now, Mind the Gap, Royal Conservatoire of Scotland, Royal Northern College of Music, Scottish Government Culture and Historic Environment Division, The University of Edinburgh, University of Strathclyde.

## Leeds

Addleshaw Goddard, DMF Digital, Design Business Association, Leeds Art Gallery, Opera North, Screen Yorkshire, Sheffield Business & IP Centre, Storm Brand Design, The Guild of Media Arts, Tony Ereira, University of Salford.

## London

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Gecko Theatre, Global Radio, Goldsmiths, Greater London Authority, Gwyn Emberton, Independent Street Arts Network, Intellectual Property Office, Jenni Russell, Jerwood Gallery, Julie's Bicycle, Kent County Council, Kingston University, King's College London, Livity, MTArt, Maia Hruskova, Motion Picture Association, NBCUniversal, National Centre for Early Music, National Film and Television School, National Theatre, Natural History Museum, Nesta, One Dance UK, Pearson UK, Pelham Communications, Peter York, PwC, Radio Independents Group, Ravensbourne, Richmond Associates, Rifkind Levy, Roger James Elsgood, Roundhouse, Royal Ballet, Royal Borough of Kensington & Chelsea, Royal College of Music, Royal Opera House, Royal Shakespeare Company, Sadler's Wells, Sarah Gregory, Serious Events Ltd, Shakespeare's Globe, Sofia Noncenti, Somerset House Trust, Sony Music Entertainment, Sony Pictures Television, Sorrell Foundation, Southbank Centre, Southwark Council, Space, Spring, Stanton Williams Ltd, Stuart WoodTate, The Beautiful Meme, The Photographer's Gallery, The Place, The Rothschild Foundation, The Royal Central School of Speech and Drama, The Royal Drawing School, Time Warner, Turner Contemporary, UCL, UKCCD, UKTI, University of London, University of Wolverhampton, University of the Arts London, Young Vic, Zealous.

Speakers: Fabrice Montagné, Chief UK and senior European economist for Barclays, Jenni Russell, political commentator, The Times, Darren Henley, Chief executive, Arts Council England.

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## Swansea

Aberystwyth Art Centre, Alys Pearce, Amber & Pearl Ltd, Artes Mundi, Arts & Business Cymru, Arts Council of Wales, BBC Now, British Council, Chapter, City and County of Swansea, Collaborative Designs Ltd, Coreo Cymru, Coventry University, Creative Europe Desk UK, Creu Cymru, Culture Action Europe/ISIS Arts, Cwmni Theatr Arad Goch, Enterprise Europe Network - Swansea University, European Commission Office in Wales, Ffilm Cymru, Ffotogallery, Fiction Factory, Gillian Brightmore, Glynn Vivian Art Gallery, Good Thing Creative, Jess Matthews, Jo Mazelis, Karen Ingham, Laura Drane, Literature Wales, Mark Folds, Michael Garvey, National Dance Company Wales, National Museum of Wales, NoFit State, RWCMD, Richard Berry, Sarah Campbell-Horner, Sarah Tanburn, Shakespeare Schools Foundation, Small World Theatre, Sudesta Project, Swansea International Festival, The Other Room, Theatr Genedlaethol, Trac Cymru, Trillien Consultancy, University of Wales Trinity St David, Voluntary Arts, Wales Arts International, Wales Millennium Centre, Wales National Opera, Welsh Government, Zehra Jumabhoy.

## Further respondents

Great Yarmouth Arts Festival, Tangerine, UK Theatre, Wilkinson Eyre, Writers' Centre Norwich.

# Footnotes

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**Brexit Report**

The impact of leaving the EU on the UK's arts, creative industries and cultural education - and what should be done.

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