



26 October 2016

House of Commons CMS Select Committee Inquiry

Inquiry into the impact of Brexit on the creative industries, tourism and the digital single market

1. UK Music is the umbrella body representing the collective interests of the UK's commercial music industry, from songwriters and composers to artists and musicians, studio producers, music managers, music publishers, major and independent record labels, music licensing companies and the live music sector.
2. UK Music exists to represent the UK's commercial music sector, to drive economic growth and promote the benefits of music to British society. A full list of UK Music members can be found in annex.

General

3. UK Music welcomes the opportunity to respond to the House of Commons inquiry into the impact of Brexit on the creative industries, tourism and the digital single market.
4. The music industry is worth £4.1 billion to the economy and generated exports of £2.2 billion in 2015. The industry now employs 119,020 people. Based on UK Music's annual Measuring Music report, the value of music the sector has grown by 17% over the past four years, out-performing much of the rest of the UK economy.¹ Music has an impact on other parts of the economy. For example, in 2015 music tourism to UK concerts and festivals generated £3.7 billion for the UK economy. There was a 16% increase in the number of overseas music tourists visiting the UK.²
5. European Union member states are a key export market for the creative industries. 42.5% of creative industries exports are to the EU.³ British artists account for 25.9% of European album sales in 2015, up from 23.4% in 2014. When considering the six largest markets in Europe (excluding the UK) British artists and labels were responsible for 17.4% of all albums purchased in these jurisdictions. This is comparable with the 17.6% market share enjoyed by British artists in the US during the same 12-month period.⁴ The US remains the key export market for the UK music industry. Six of the ten most

¹ <http://www.ukmusic.org/research/measuring-music-2016/>

² http://www.ukmusic.org/assets/general/Wish_You_Were_Here_2016_Final.pdf

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/544103/DCMS_Sectors_Economic_Estimates_-_August_2016.pdf

⁴ <https://www.bpi.co.uk/home/uk-labels-back-remain-in-bpi-survey.aspx>

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important international markets for the UK recorded music industry in 2015 are in the European Union.⁵

6. In terms of the live music sector, the international appetite for UK artists is substantial. 5 of the top 10 grossing worldwide music tours for 2016 are from UK acts.⁶ A further 12 UK artists feature in the top 40.⁷ 7 of the top 10 grossing concerts for 2016 are from UK artists, including the top two.⁸ One Direction's 2015 tour was globally the most popular tour in the world with 2.4 million ticket sales.⁹ Paul McCartney's April 2015 shows in Tokyo were the highest grossing concerts last year outside of North America.¹⁰
7. In addition to the economic impact of the UK creative industries, we also lead the world in terms of soft power. The reach and volume of our national cultural output supports our strength in soft power. According to The Soft Power 30, the UK is second to the US in terms of cultural soft power.¹¹ The global success of the UK music industry and artists such as Adele and Sam Smith contribute much to the UK's ability to attract financial and creative investment through soft power.
8. Even though the UK will be leaving the European Union, Europe will remain a crucial partner and market for British music.
9. UK Music has set out its initial response to the Government on the issues raised by Brexit in a paper, the details of which can be found on our website.¹² This paper is a result of internal conversations amongst UK Music members, including the formation of a representative "UK Music Brexit working group", which has been conducted since the outcome of the referendum result.
10. Central to our approach is the need for the Government to place the creative industries at the heart of its new industrial strategy. It is our view that such an industrial strategy must be in place from the beginning of the process of withdrawing from the European Union. Such a strategy should continue throughout the exiting process and be firmly embedded within any future trade deals that are negotiated as the UK leaves the European Union.
11. UK Music advocates an industrial strategy for the creative industries in response to the need to guarantee the freedom to trade. This will increase our global reach and maintain the UK's position as an attractive place to produce and perform music. An industrial strategy for the creative industries, which overall accounts for £87.4 billion in GVA and has an export value of £19.8 billion¹³, should be based on three pillars of trade – (1) framework to trade, (2) incentives to trade and (3) regionalisation of trade.

⁵ Germany, France, Netherlands, Italy, Sweden and Spain.

⁶ Coldplay, the Rolling Stones, Adele, Muse and Paul McCartney

<http://www.pollstarpro.com/files/Charts2016/2016MidYearTop100WorldwideTours.pdf>

⁷ Iron Maiden, Rod Stewart, Black Sabbath, Mumford & Sons, AC/DC, the Who, Elton John, Jeff Lynne's ELO, Little Mix, David Gilmour, the Stone Roses and Ellie Goulding

<http://www.pollstarpro.com/files/Charts2016/2016MidYearTop100WorldwideTours.pdf>

⁸ Coldplay at Wembley Stadium, London and the Stone Roses at the Etihad Stadium, Manchester, both from June

<http://www.pollstarpro.com/files/Charts2016/2016MidYearTop100WorldwideConcertGrosses.pdf>

⁹ <http://www.pollstarpro.com/files/charts2015/2015YearEndWorldwideTicketSalesTop100Tours.pdf>

¹⁰ <http://www.pollstarpro.com/files/charts2015/2015YearEndTop100InternationalBoxoffice.pdf>

¹¹ http://www.comres.co.uk/wp-content/uploads/2015/07/Report_Final-published.pdf

¹² <http://www.ukmusic.org/policy/industrial-strategy-for-the-creative-industries-2016/>

¹³ <https://www.gov.uk/government/statistics/dcms-sectors-economic-estimates-2016>

12. UK Music is concerned that the UK creative industries must not be used as a bargaining chip in any trade talks. Similarly, the ideas and principles which underpin our approach should apply to the UK's non-EU trade negotiations also. Here, international conventions, such as the WIPO Performances and Phonograms Treaty and the WIPO Copyright Treaty, should be included to guarantee revenue for UK rightholders.
13. Given the scope of this inquiry, UK Music will focus its response in relation to specific issues for the music industry that relate to employment, touring, digital single market/copyright and funding. Our headline recommendations in these areas are as follows:-

Employment

- Clarify that existing employees from other member states have the right to remain working in the creative industries and our businesses in the UK.

Touring

- Support a system that introduces temporary short-term permissions and exemptions for musicians and crews whilst touring the European Union.
- Avoid double taxation or unfair deductions of expenses, social security or VAT for touring artists and crews.

Digital Single Market/ Copyright

- Maintain a strong level of protection for copyright, providing certainty for UK creators, performers and rightsholders.
- Strongly support enforcement of the law.
- Maintain a close future relationship allowing for wide access to European and global markets.

Funding

- Extend to music the existing assistance to other creative industries.
- Seek assurances from the European Commission that UK music companies can continue to apply for funding through schemes up until the point that the UK leaves the EU. The BREXIT process should not prejudice any such applications.
- Exempt grassroots music venues from business rates and review available funding to allow UK venues to compete on a European and international stage.

Employment

14. Creative industries, such as the music industry, employ many residents of other European member states within the UK on both a short and long term basis. It is paramount that the status of these employees, and their ability to work in the UK, including once the UK has withdrawn from the EU, is clarified. The right to stay in the UK for existing employees should be guaranteed. Reciprocal arrangements with other member states should be established. UK businesses already note an increase in

questions by their European employees. There is the real danger that they would leave the UK in the face of uncertainty of their status without being replaced in the medium-term. This would lead to considerable uncertainty for UK creative business.

- *We ask Government to clarify that existing employees from other member states have the right to remain working in the UK.*

Tourism – movement and visas

15. Leaving the EU could result in restrictions for musicians, crews and freight in relation to live music tours across European member states. European tours for UK bands are a central element to the UK's overall live music revenues. Royalty payments for British music played in EU territories are substantial. Those markets are important for building fan bases across Europe. As demonstrated by sales data, there exists a great appetite for UK content within Europe. Live income from EU member states to UK music royalty collecting societies is also significant. Promoting new music overseas and deriving income to UK music companies and creators from European tours needs to continue without new bureaucracy which leads to costly administration. The burdensome performing visa system that operates in the USA already acts as a significant impediment to new and emerging UK acts and artists. The UK Government should resist any attempts to instigate a similar system with the European market.

- *We ask Government to support a system that introduces temporary short-term permissions and exemptions for musicians and crews whilst touring the European Union.*

Tourism – withholding tax, social security and VAT

16. The current withholding tax treaties and EU rules for VAT and social security allow UK artists to tour in Europe with a minimal amount of financial barriers. While withholding tax treaties would remain unaffected by Brexit, many EU nations may remove the ability for UK touring artists to deduct their expenses at source, leaving to a net loss on the tour. Brexit brings a significant risk of double taxation for UK touring artists that does not exist currently, again limiting the ability for UK artists and suppliers to export their talent or services.

Additionally, UK artists touring Europe would likely be subject to local deduction of social security contributions, which does not currently happen due to EU regulation. And with the removal of the reverse charge VAT system, UK artists and suppliers may have to charge VAT in each market and may not be able to recharge VAT on foreign expenses.

- *We need a system that does not subject touring artists and crews to double taxation or unfair deductions of expenses, social security or VAT.*

Impact of UK membership of the European Union on copyright

17. The UK has had a strong voice in the development of copyright policies at European level reflected in the currently existing Directives in the area of copyright, both at Council and Parliament level. The Digital Single Market (DSM) is at a critical phase. The outcome of this will have a profound impact on the way creative rights are licensed and traded across the EU. On 14th September 2016 the European Commission published a draft Directive on copyright in the DSM which seeks to address many issues, including those that affect music rights. It is vital that the UK Government provides strong

supporting statements on these important initiatives and continues to offer constructive engagement to ensure it remains advantageous for UK music companies to access the single market on preferable terms.

- *The UK Government must maintain engagement and robustly support its position, in particular on the DSM, up to the point of withdrawal from the European Union.*

Copyright legislative framework

18. Copyright is of fundamental importance to the music industry. It enables creators to derive a financial return for their work and provides an incentive for businesses to invest in creative content. The European Union's competency over copyright means UK domestic legislation is based on Directives emanating from the EU. At present the EU provides a high level of protection for copyright works. The current framework needs to be maintained and strengthened where appropriate. Certainty is required, particularly given that creative businesses deals are based on advance planning.

The music industry has been successfully operating under the existing national copyright regime, (the Copyright, Designs and Patents Act 1988 as amended (CDPA)). Whilst the basic concepts of copyright have been agreed at an international level via the Berne Convention, TRIPS and the WIPO Internet Treaties many provisions of UK copyright constitute the implementation of European Directives.

At UK level, creative industries need reassurances that the established standards of copyright protection are not reduced. Any limitation to the protection would put UK creative business at a competitive disadvantage to its European and international competitors.

At the moment there is uncertainty as to the application of the provisions of UK copyright law which constitute the implementation of European Directives. In particular it is not clear whether secondary legislation implementing European Directives will continue to apply should the European Communities Act 1972 be repealed. Government needs to clarify at the start of the withdrawal process how it intends to deal with UK copyright law derived from European Directives. This could be achieved by adding a clause in any repeal Act that guarantees the continuation of secondary legislation implementing European Directives. This would cover whether the secondary legislation amended existing primary legislation (CDPA) or if a standalone new regulation, such as the one implementing the Collective Rights Management Directive, had been created. The "Great Repeal Bill", as announced by the Prime Minister at the Conservative Party Conference, provide an opportunity to achieve clarity in this regard.

Additionally, we note that certain concepts of the European copyright framework, such as the "country of origin" principle which currently applies for satellite broadcasts, are based on membership of the European Union. For satellite broadcasting, the Satellite and Cable Directive establishes that the copyright-relevant act takes place in the European Union country of origin of the broadcast. Such concepts need to be considered as to their suitability for the UK once we have left the European Union.

This equally applies for the period where new law from the EU is implemented domestically shortly before the UK leaves. Where the Government may look to change UK law derived from the EU we believe it is essential for consultation to be carried out on an "item by item" approach in order to assess the full implication and impact for our sector.

Similarly, UK Music would like confirmation that all historic decisions concerning pertinent EU law will continue to be binding in the UK, to provide certainty to our market.

- *We ask Government to maintain a strong level of protection for copyright, providing certainty for UK creators, performers and rightsholders after the UK leaves the EU.*

Copyright Enforcement

19. To support the copyright framework we expect strong enforcement of the law from the UK Government. Creating a legitimate marketplace increases our capacity for growth and supports overall economic wellbeing.

Strong enforcement can be addressed by introducing backstop powers into the Digital Economy Bill should voluntary attempts to tackle infringement fail.

The Government should also seek to ensure the anticipated DSM enforcement package protects the UK creative industries. This can be achieved by introducing measures to require online platforms to adhere to a duty of care to rightsholders and adopt “notice and stay-down” in relation to infringing content.

We would like to see the UK Government continue to work within the EU in relation to commercial-scale infringements (the “follow the money” approach) and specific action regarding cross-border enforcement.

- *We ask Government to strongly support enforcement of the law.*

Extension to music of existing assistance to other creative industries

20. The music industry should benefit from the same level of fiscal support that film and video games enjoy. The UK Government has introduced a number of creative sector tax credits to incentivise new productions. At present music does not receive equivalent assistance from the Government. Leaving the EU presents an opportunity in that state aid rules will no longer apply.

Measures to incentivise the UK as a destination for music recording, touring and videos via tax credits are required to support the development of new artists and ensure content creation within the UK is retained. They are also vital to the grassroots of the industry, such as recording studios, enabling them to continue to thrive. They can also be a means for increasing social mobility and providing opportunities to the financially disadvantaged.

A new recording music tax incentive has recently been supported in New York State legislature. Music tax credits in other American states, as well as Canada and France, also exist. The UK industry risks falling behind unless incentives are put in place in the UK too. Music industry tax credits will have a substantial impact on new content generation and the attractiveness of the UK for music industry inward investment.

- *The UK Government should extend to music the existing assistance to other creative industries.*

Funding Programmes

21. Creative Europe has a budget of €1.46 billion to support Europe's cultural and creative sectors. Currently, this is divided into two sub-programmes (culture and media) and is also supported by a cross-sector strand. Since December 2015 the European Commission has been in a dialogue with the music industry as part of the Music Moves Europe initiative. This has attempted to identify the challenges that the music industry faces and how EU policies and funding programmes could support music start-ups. As it stands UK music companies and individuals could unlock much needed funds when this prioritised support is made available. Leaving the European Union will restrict this funding from being available to UK music companies, putting them at a competitive disadvantage.

Music development organisations in the nations and regions play a vital role in mentoring local talent, equipping the future UK music industry workforce with the skills it needs and supporting businesses in the process. Generator, based in the North East of England, is a market leader in this field and has run programmes supported by the European Regional Development Fund (ERDF). Business of Music received 50% of its funding (£925,000) from ERDF, Music Futures received £653,000. These programmes support the development of regional music businesses and have tremendous outputs. Leaving the European Union will mean funding schemes for similar projects will no longer be accessible.

- *The UK Government should seek assurances from the European Commission that UK music companies can continue to apply for funding through schemes up until the point that the UK leaves the EU and that the withdrawal from the European Union will not prejudice these applications.*

Music Venues

22. Music venues play a vital role in supporting the industry's infrastructure and ensuring a healthy music industry across the country. They also nurture the music industry's talent pipeline. Venues are increasingly finding it difficult to operate with 35%-40% closing in London over the last decade. . Venues in Birmingham, Manchester, Edinburgh, Glasgow, Bristol, Plymouth, Newport and Swindon, to mention just a few, have either closed or had considerable threats of closure placed on their businesses.

Whilst legislative changes have been attempted, a flourishing music venues sector, in particular at a grassroots level, is difficult to foresee whilst prohibitive business rates and a lack of comparative funding exist. According to UK Music's Wish You Were Here 2016 report there were 5.6 million visits to UK small music venues in the previous year, generating spend of £231 million. Currently a fifth of live music audiences attend gigs in grassroots venues yet only 6% of music tourist spend is generated at these venues. To strengthen UK music venues and their ability to attract audiences and artists from overseas, exemptions from business rates are needed.

In addition UK music venues are unable to compete with European music venues in attracting international talent and providing comparable performance spaces for emerging UK artists due to a huge disparity in the levels of funding received. Across mainland Europe (including Germany, Belgium, Holland, Denmark Sweden and Austria), venues receive subsidies that average 42% of operating costs, or as high as 50% in France. Facing such a stark disparity, the UK Government should call a review of all available subsidies of the grassroots music sector so that funding would fall closer in line with what European venues receive.

These two measures will protect a vulnerable part of the music industry ecosystem from any economic shock of Brexit, as well as enabling UK grassroots venues to operate at a similar level to their European counterparts.

- *The UK Government should exempt grassroots music venues from business rates and review available funding needs to allow UK venues to compete on a European and international stage.*

Annex

UK Music's membership comprises of:-

- AIM – Association of Independent Music - representing over 850 small and medium sized independent music companies.
- BASCA - British Academy of Songwriters, Composers and Authors – BASCA is the membership association for music writers and exists to support and protect the professional interests of songwriters, lyricists and composers of all genres of music and to celebrate and encourage excellence in British music writing.
- BPI - the trade body of the recorded music industry representing 3 major record labels and over 300 independent record labels.
- FAC – The Featured Artists Coalition – the voice of the featured artists.
- MMF - Music Managers Forum - representing 425 managers throughout the music industry.
- MPG - Music Producers Guild - representing and promoting the interests of all those involved in the production of recorded music – including producers, engineers, mixers, re-mixers, programmers and mastering engineers.
- MPA - Music Publishers Association - with 260 major and independent music publishers in membership, representing close to 4,000 catalogues across all genres of music.
- Musicians' Union representing 30,000 musicians.
- PPL is the music licensing company which works on behalf of over 90,000 record companies and performers to license recorded music played in public (at pubs, nightclubs, restaurants, shops, offices and many other business types) and broadcast (TV and radio) in the UK.
- *PRS for Music* is responsible for the collective licensing of rights in the musical works of 114,000 composers, songwriters and publishers and an international repertoire of 10 million songs.
- UK Live Music Group, representing the main trade associations and representative bodies of the live music sector

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