

'NO BARGAINING CHIP' BREXIT BRIEFING

DECEMBER 2018

UK writers have an unparalleled impact on our cultural life at home and our influence abroad. We call on Government and politicians to ensure that our reputation as world leaders in culture and creativity is preserved after Brexit, and that the sector is not used as a bargaining chip in future negotiations.

The **Society of Authors** is the UK trade union for more than 10,500 writers, scriptwriters, illustrators and literary translators, at all stages of their careers. We've been advising individuals and speaking out for the profession since 1884.

Britain's creative industries generate £100bn a year for the UK economy, and the creative economy employs one in every 11 working people. The UK publishing industry makes a significant contribution to the creative industries as a whole, with a turnover of £5.7bn in 2017.

Not that we should see the value of culture in purely economic terms. Participation in cultural activity brings a range of social benefits, across education, health and wellbeing, community cohesion and diversity. Engagement with art and culture fosters empathy, curiosity and imagination, turning us into more well-rounded and creative human beings. The UK's art and culture sector is also a major source of soft power abroad, with books, plays and film scripts written and published in the UK being read and performed all over the world.

It is vital that our reputation as world leaders in culture and creativity is preserved and strengthened after Brexit. To achieve this, the UK Government must ensure that the national policy framework is favourable towards writers and other creative practitioners.

Below we set out our key areas of concern, and our key demands of government and policy-makers to ensure the success of our cultural sector after we leave the European Union.

We welcome some of the proposals contained within the Withdrawal Agreement and the Political Declaration on the future framework between the UK and the EU, particularly around customs and intellectual property. However, most of our key concerns relate to issues that will be addressed only in future negotiations with the EU or in domestic legislation.

COPYRIGHT

Copyright is a balance between the interests of users and those of rightsholders. It is founded on the principle that authors own the right to their intellectual creations and should have the right to authorise others to use their work or not. The success of the UK's publishing and creative industries is underpinned by our gold-standard copyright framework.

There are many countries across the world that do not have the same high

copyright standards as the UK. **It is vital that our current copyright standards are not watered down or used as bargaining chips as part of future trade negotiations. Such a move would be highly detrimental to the success of our creative industries.** We welcome the International Trade Secretary's recent commitment on the floor of the House of Commons to 'ensure that copyrights are protected'.

We are particularly opposed to the introduction of a US-style fair use exception, or the abandonment of measures that seek to address the 'value gap' in the context of safe harbours for internet intermediaries.

The EU Directive on Copyright in the Digital Single Market is currently being debated in Brussels, and if agreed, will come into effect before the UK leaves the EU. The Directive contains important provisions for authors and other creators, including an obligation for publishers to provide greater transparency when reporting accounting information to authors, and an obligation to include 'bestseller clauses' in contracts. The Copyright Directive will also force platforms such as YouTube to take action to protect creators and tackle copyright infringement on their sites. **Whether or not the Directive is passed in Europe before Brexit, we urge the UK Government to introduce these provisions into UK law.**



© Barker Evans

"In the UK, there is currently one of the highest standards in the world on creative copyright. It is crucial that this is maintained after Brexit, and not diluted as part of future trade deals or used as some kind of bargaining chip. We need to enshrine our own gold standards, as well as obliging publishers to provide authors with accounting information, into UK law well before we leave. We also need the government to protect in law the UK position on the exhaustion of rights. Failure to do this could fatally undermine the whole UK publishing industry."

- Joanna Trollope, author of 20 bestselling novels

EXHAUSTION OF RIGHTS

Intellectual property rights enable the rights holder to control distribution of a protected product. The exhaustion of intellectual property rights refers to the loss of the right to control distribution and resale of that product after it has been placed on the market within a specified territory by, or with the permission of, the rights holder. The UK is currently part of a regional EEA exhaustion scheme, meaning that IP rights are considered exhausted once they have been put on the market anywhere in the EEA with the rights holder's permission.

The UK Government has said that it will initially continue to recognise the EEA

regional exhaustion regime after Brexit, even in the event of a 'no deal' outcome. It has stated that it is 'currently considering all options for how the exhaustion regime should operate after this temporary period'.

It is essential that the UK does not consider adopting an 'international exhaustion' framework after leaving the EU. If 'international exhaustion' is adopted, UK publishers would be unable to price books appropriately for each territory they are selling to, and books not intended for sale in the UK could enter the country at discounted rates, undermining the success of the UK publishing industry. **We instead urge the Government to adopt a 'national exhaustion' of rights framework after we leave the EU.**



© Kyte Photography

"The British are world leaders when it comes to creativity. And the EU is the publishing industry's most important market for physical books, currently accounting for 36% of all our book exports. But we can't afford to be complacent. We can't just assume that our creative industries will have the same importance if we lose our easy access to European markets. We need to be able to trade easily with Europe and the rest of the world. We need customs arrangements in place that allow us to move goods swiftly and efficiently. Otherwise we risk becoming increasingly marginalised, with disastrous results for the publishing industry, and the creative arts as a whole."

– Joanne Harris, author of award-winning novel *Chocolat*

TRADE

The UK publishing industry is a pivotal source of soft power and influence abroad, with books written by British authors purchased and read all over the world. The UK is the largest exporter of physical books in the world, with a 17% share of world exports. Exports play a major part in the success of the UK publishing industry as a whole, accounting for £3.4bn, or 60% of total revenues.

The UK Government must work to ensure that the publishing industry and the wider creative industries can easily trade with Europe and the rest of the world after Brexit. As one of five 'world-leading sectors' identified by the Government in its Industrial Strategy, the creative industries must form a key plank of all future trade deals.

The European Union remains the publishing industry's most important market, accounting for 36% of all physical book exports. We are positive that British creativity and culture will remain in demand. **However, it is vital that access to European markets is maintained after Brexit and that there is a smooth customs**

arrangement for goods. We welcome the proposals contained within the Political Declaration on the Future Framework between the UK and the EU to create a free trade area after Brexit.

EU FUNDING

Many authors and other creative practitioners have benefitted from European Union funding.

The Creative Europe funding scheme provides vital funding for the arts across Europe, and brings an average of £18.4 million a year in funding to the UK. The overall funding pot is set to double from 2021. Creative Europe is particularly important for literary translation, and since 2014 its funding has enabled 147 books by authors from or based in the UK to be translated into other languages. It has also helped distribute 145 British films in other European countries.

One of Creative Europe's key aims is to 'promote the transnational circulation and mobility of cultural and creative works and artists to reach new audiences', and it is vital that public funding of the arts continues to support this aspiration after Brexit. Membership of Creative Europe is not restricted to EU states, and **the Government should commit either to remaining within Creative Europe following our departure from the EU, or to increasing domestic funding for the arts via the Arts Council or another equivalent body.**

The cultural sector has also benefitted from other European funding streams, including the European Social Fund and the European Regional Development Fund. The Government plans to replace these with the 'UK Shared Prosperity Fund', and we urge the Government to ensure that our creative industries are placed at the centre of the fund's objectives.

FREEDOM OF MOVEMENT

The Government has pledged to end freedom of movement from the EU and to reduce levels of 'unskilled migration'. This means that workers who want to work for longer periods in the UK would have to meet a minimum salary threshold. The Government is proposing to set this at £30,000.

As ALCS' 2018 figures show, authors in the UK earn an average of just £10,500 per year. The proposed threshold therefore does not reflect the 'skills' of writers or the cultural sector at large. The Prime Minister has said that there will be 'lots of exemptions' from this threshold, but so far there have been no specific pledges relating to the cultural sector. **We are calling on the Government to ensure that adequate exemptions are made**

for writers and other workers in the creative industries, where salary level is not an appropriate measure of skill or wider contribution to the UK's social and economic life.

The Government must also develop a visa system for freelancers. 35% of creative workers are self-employed, including most professional authors. There is currently no visa for creative freelancers, except for those who qualify as 'exceptional talent' or an 'entrepreneur' visa, which in practice applies to very small numbers of people. This is something the Government must address, to ensure that we continue to attract the best creative talent from Europe.



© Charlie Hopkinson

"The free movement of ideas and of individuals are essential for the creative life. We need to travel for research and to reach new audiences. The cultural sector in the UK benefits similarly from our ability to attract European writers. We need to preserve our close ties with Europe, and scrapping free movement for workers in the cultural sector will cause huge damage to the industry."

- Linda Grant, Man Booker Prize shortlist (2002, 2008)

It is also essential that all relevant double tax agreements are retained so that writers and translators working across the EU are not subject to double taxation. Finally, the Government must take all necessary steps to ensure that there are no barriers to authors being paid when working in other EU countries.

TEMPORARY WORK

There is a danger that the end of free movement will create barriers for European authors, academics, poets and spoken-word artists performing in the UK. A number of authors from outside the EEA were refused entry to this year's Edinburgh international book festival, because of complications in the visa application process. Should the current prohibitive visa system be applied to EU nationals, it is certain that European authors and other artists will be deterred from visiting the UK, leading to a significant drain of talent at our literary and cultural festivals. These festivals thrive off the breadth and diversity of their performers by exposing audiences to new cultures and enabling festivals to attract the widest possible audience.

Tighter visa restrictions for EU citizens may well lead to reciprocal moves from Europe, therefore making it more difficult for UK authors to travel and perform across the EU. Many UK writers travel to Europe for other work-related reasons, for example for research or to attend a book fair, something which is particularly important for translators. Authors thrive on being able to travel to and experience

other cultures, as well as being part of a community of European writers. Restrictions on work-related travel will impede this.

We are calling on the Government to ensure that visa restrictions do not prevent European creators from entering the UK for short-term work, or British creators from travelling across Europe for the same purpose.

VAT ON E-BOOKS

It has been a longstanding principle that VAT is zero-rated on sales of printed books, in order to prevent a tax on reading and a tax on knowledge.

An anomaly in EU law has prevented the Government from extending the same status to e-publications such as audiobooks and e-books. But the EU recently agreed to allow all member states to give e-books and audiobooks the same VAT-free status as printed books.

It is now within the UK's power to axe the reading tax by reducing VAT on e-books and audiobooks to zero. The cost to the Treasury is likely to be negligible. But the impact on authors and readers would be considerable, enabling more books to be sold and more people to experience the pleasures and educational benefits of reading. **We are calling on the Government to axe the reading tax at the earliest available opportunity.** ■



Who we are

The Society of Authors is the UK trade union for more than 10,500 writers of all genres, scriptwriters, illustrators and literary translators, at all stages of their careers. We've been advising individuals and speaking out for the profession since 1884.

The Society of Authors

84 Drayton Gardens, London SW10 9SB

 @Soc_of_Authors

 @TheSocietyofAuthors

T: 020 7373 6642

E: publicaffairs@societyofauthors.org

W: www.societyofauthors.org