**BFI**

**Response to**

**Culture, Media and Sport Committee**

**Inquiry: The impact of Brexit on the creative industries, tourism and the digital single market**

**November 2016**

**Executive summary**

* The Government’s decision, following the result of the 23 June Referendum, to leave the European Union presents both opportunities and risks for the screen sectors. The BFI wants to capitalise on the opportunities and mitigate the risks to ensure the screen sectors continue to deliver great benefits to people and businesses across the UK.
* UK companies, creatives, those in education and individuals value the flexibilities offered by existing free movement rules which allow them to engage with, and act upon, global opportunities with ease. We want to work with the grain of the new framework governing immigration that we understand will be proposed by the Government.
* Recent work done by the BFI on the future skills need for our industry provides clear evidence for a radically overhauled skills strategy. The strategy will need to incentivise training and opportunity for young people from a wide variety of backgrounds across the UK. We will still need the flexibility to hire the ‘brightest and best’ from the international pool to compliment and further skill-up the UK workforce.
* The UK copyright regime should remain as a close as possible to that of the EU regime, while maintaining the flexibility to adapt the UK regime as we see fit, within the constraints of global treaties. This will help to facilitate the circulation of films and audiovisual works without differences in the copyright regime becoming a barrier.
* The Digital Single Market (DSM) presents significant challenges for the screen sectors. Films and other audiovisual works will continue to circulate in the DSM once we have left the EU. It is crucial that the Government seeks to shape the DSM while we still have influence so that it does not undermine the basis on which independent European films are financed and distributed, to the detriment of audiences.
* The loss of EU funding will leave a significant gap which will need to be replaced to ensure that the sector continues to flourish and communities and citizens across the UK continue to have access to a wide variety of cultural works for the big and small screen.

**About the BFI**

In 2011 the BFI became the lead organisation for film in the UK. It is a Government arm’s-length body and a distributor of Lottery funds for film.

Our mission is to ensure that film, TV and moving image is central to our cultural life, in particular by supporting the next generation of filmmakers and audiences. We serve a public role which covers the cultural, creative and economic aspects of film in the UK by:

* Being the UK-wide organisation for film, a charity core-funded by government;
* Providing Lottery and government funds for film across the UK;
* Working with partners to advance the position of film, TV and moving image in the UK.

Founded in 1933, the BFI is a registered charity governed by Royal Charter. The BFI Board of Governors is chaired by Josh Berger.

The BFI’s forthcoming strategy for 2017-2022 will outline our plans to work across the sector to boost opportunities across the UK and internationally. We will support storytelling on the big and the small screen, champion diversity and promote UK-wide opportunity.

The BFI works very closely with its counterparts across Europe in the European Film Agencies Directors (EFADs) association. Through this leadership we have an influential voice on policy in the EU and across Europe. In total, the EFADs members and their Governments distribute an estimated 3 billion euros every year to foster the creation, production, promotion, distribution and exhibition of European audio-visual and cinematographic works.

The BFI chairs the Screen Sector Task Force which has commissioned research to help the UK screen sectors assess the short and medium term consequences of the European Union referendum decision on both the industry itself and on the wider public. The research will also establish future research topics and areas of work to help ensure that the economic and cultural value of the UK’s screen sectors continues to grow over the coming years.

**Introduction**

The BFI welcomes the opportunity to submit written evidence to the Culture, Media and Sport inquiry, as we continue to work with Government to develop evidence-based, practical proposals to assist the UK’s negotiations with the European Union.

The screen sectors are a key driver of growth across the UK. The latest ONS figures on UK GDP show that motion picture and TV programme production activity grew 16.4% in the three months to the end of September.[[1]](#footnote-1) By comparison, overall UK GDP growth was 0.5% in the same period.

If, as appears possible in light of recent commitments to the car manufacturer Nissan, the Government adopts a sector-by-sector approach to the negotiation, it is vital that the screen industries are regarded as a key strategic sector with parity of esteem alongside the automotive sector, aerospace and finance sectors.

As well as being an important and increasing source of value to the economy, the outputs of the screen sectors connect with the hearts and minds of the public in communities throughout the four nations of the UK, and not just “the privileged few.” Creative works such as films and television programmes help bring people together in a shared recognition of common values, and can assist the building of cultural understanding by presenting distinctive perspectives on the world.

These works are also a powerful advocate for Britain abroad. Of the £21bn overseas tourists spent visiting the UK in 2013, an estimated £840 million can be attributed to film tourism[[2]](#footnote-2).

In a digital age, the opportunities for people from all backgrounds and walks of life to participate in the creation of works and to access them in a range of ways have never been greater. This is something that the UK must continue to focus on as we leave the EU.

1. **Employment in the creative industries: Will the UK be able to attract and retain talent from across the world in order to maintain its high reputation in these industries?**

**Key point**

**The screen sectors value the flexibilities offered by existing free movement rules which allow them to engage with, and act upon, global opportunities with ease. The future success of the UK’s screen industries will be founded on an approach to immigration and skills which enables our world-leading games developers, filmmakers and practitioners to hire the ‘brightest and best’ globally whilst continuing to incentivise training and opportunity for diverse young people across the UK.**

The UK’s ability to attract and retain talent from across the world to work in our screen industries will depend on the approach the Government takes to the broader immigration system, alongside the training and upskilling of the UK’s screen sector workforce.

The screen industries are, by their nature, globally mobile. The UK’s screen sector tax reliefs have been incredibly successful in attracting household name talent to the UK to make and produce their projects. Although covering a broader plain than the screen sectors, the DCMS estimates that overseas nationals constitute 6.2% of the creative industries workforce.[[3]](#footnote-3)

The global nature and leading position of UK screen businesses mean that several sub-sectors report far higher densities of non-UK national employees. For example, in the VFX (visual effects) industry, this is as high as 35%[[4]](#footnote-4) and in video games between 20-30%[[5]](#footnote-5).

These figures highlight the global movement of the jobs market. The workforce is comprised of highly-specialised, highly-mobile people who help to complete projects in several countries at once.

The UK’s world-leading companies are competing with businesses able to deliver services from anywhere in the world, and against the aggressive growth plans of national and regional Governments; several Canadian provinces, for example, have Government backed campaigns to attract top animation and VFX talent[[6]](#footnote-6).

The Government’s Migration Advisory Committee has recognised the specific requirements of the VFX sector, including international competition for top talent, by including several posts on the Shortage Occupation List[[7]](#footnote-7).

As well as recruiting top overseas talent, both the VFX and video games sectors are highly active in recruiting and training diverse, indigenous young people, including playing a key role in the development of specialist visual effects apprenticeships[[8]](#footnote-8). Studies have shown that hiring of this type of ‘mixed team’ in software development, animation and visual effects have had a positive impact on innovation[[9]](#footnote-9).

In other aspects of the screen industries, including specialist creative disciplines and technical services, staffing is driven by demand. Some 90% of the film production community work as freelance contractors[[10]](#footnote-10). British practitioners often find opportunities in the European mainland as well as at home – for example by working in creative or technical roles on co-productions, notably but not exclusively, between the UK and EU partners. These roles are often posted at short notice, and so the introduction of a UK-EU visa regime might impact the ability of highly-skilled UK based operatives to take up opportunities in a timely fashion. Co-productions with the rest of the world are important but the relationship between the UK and other EU countries is relatively easy to execute – not least because of geographical proximity.

Official UK co-productions made under the European Convention on Cinematic Co-production accounted for 69% of all co-productions certified between 2011 and 2015. Visa-free travel arrangements have encouraged cross-border collaboration and innovation, and assisted UK independent productions to meet production budgets in an increasingly difficult market for film financing. The introduction of a work-permit based system may also increase overheads to the point where projects become unviable.

The film and TV industries have a well-functioning agreement with the Home Office that permits short-term visas for top-level creative talent, and their associated teams, under Tier 5 of the Points Based System. This system, negotiated by the British Film Commission and the BECTU trade union alongside the Home Office, has been responsible for allowing filmmakers such as Stephen Spielberg and Martin Scorsese to make projects in the UK, and provided large employment boosts amongst local indigenous populations. Safeguarding this agreement is imperative to the UK screen industries attracting talent and maintaining global competitiveness.

The screen industries also have a strong interest in the future of immigration rules for international students. The UK is home to a number of world leading film schools, courses in animation, visual effects and video games design and a number of highly desirable film and media based courses. Many UK based screen companies hire directly from these institutions[[11]](#footnote-11). Changes to the existing visa system will require careful handling to ensure both the viability[[12]](#footnote-12) of these courses (which are also popular with indigenous students) and their ability to provide the ‘brightest and best’ employees which keep the UK screen industries at the cutting edge of innovation and excellence globally.

Equally, ensuring the existence of strong entry routes to the screen industries for young people from low-income and diverse backgrounds is essential. Some sectors of the screen industries have been forward thinking in their approach to this problem, but in others there is work to do. The new Apprenticeship Levy could present opportunities for access but flexibilities and support will be required within the levy framework to ensure that it can work effectively for an industry where freelance and project based work is the norm.

We cannot under-estimate the scale of the challenge around training and continuous professional development, especially if there are restrictions on highly-skilled people upon whom the screen sectors are particular dependent. The BFI, in collaboration with Creative Skillset commissioned the Work Foundation to undertake an audit of skills needs and this will provide the evidential foundation needed for an ambitious future skills strategy.

1. ***While the Intellectual Property Office has stated that the position on trademarks, designs, patents, copyright and enforcement remains the same until exit negotiations are concluded, what should happen in relation to Copyright after the UK leaves the EU?***

**Key point**

**We need to ensure that the UK copyright regime remains as a close as possible to that of the EU. This will help to facilitate the circulation of films and audiovisual works without differences in the copyright regime becoming an unnecessary barrier.**

The answer to this question will be determined in large part by the shape of the eventual overall trade settlement, if any, with the European Union. If the UK continues to have access to the Single Market then the UK should remain under the aegis of the EU’s copyright regime, including for example the Information Society Directive and the Directive on Orphan Works. However, within the UK we could also exercise the freedom to amend the regime where we saw fit, within the constraints of global treaties.

If the UK no longer has access to the Single Market then the UK’s copyright regime needs to remain as close as possible to the EU regime. Given that Europe has important powers in copyright, in particular through the Information Society Directive, but also other instruments such as the Orphan Works Directive, this would help to facilitate both trade and cultural exchanges, keeping regulatory barriers and therefore costs to a minimum.

There will, of course, be many areas of overlap as both the UK and the remaining EU Member States and members of the European Economic Area (EEA)/European Free Trade Area (EFTA) would still be signatories to global treaties such as the Berne Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) administered by the World Trade Organisation (WTO).

Immediately upon departure, the BFI assumes that through the “Great Repeal Act” much of existing EU copyright law will be formally incorporated in UK law where that has not already happened.

But where cross-border matters are involved the situation is more complicated. An example of this is the proposed Regulation which will enable consumers across the EU to access domestic Video on Demand (VoD) services to which they subscribe when they temporarily travel to other EU Member States. This Regulation uses a “legal fiction” which means that for copyright purposes when a UK consumer travels to another Member State of the EU the service is still deemed to be accessed in the UK. Once the UK has left the EU, then the UK consumer would no longer be able to take advantage of this Regulation, unless other EU Member States agreed that the legal fiction could continue to operate even though the UK was outside the EU.

1. ***The Digital Single Market: The UK digital sector currently is worth £118 billion a year; 43% of UK digital exports go to the EU.  How has UK membership of the EU helped to shape the Digital Single Market to date? What are the fears and advantages arising from the UK being outside the developing Single Market? What will happen to companies that have used the UK as a base for sales within the Single Market?***

**Key point**

**The Digital Single Market (DSM) presents both opportunities and risks. Films and other audiovisual works will continue to circulate in the DSM once we have left the EU. It is therefore crucial that the Government seeks to play the fullest role possible in helping to shape the DSM, while we still have influence.**

The BFI has been a supporter in principle of the DSM, which could bring some benefits to the UK screen sector. It may result in further strengthening of protection and improvements in reducing copyright theft and infringement online, as well as improvements to existing copyright exceptions. For example, there is a proposal to broaden the existing education exception so that it could be used by students who are studying online with an institution in another Member State.

The EU plans further legislative action on copyright under the banner of the Digital Single Market. Some of these proposals could have a very detrimental impact on UK companies’ future prospects, whether or not the resulting legislation applies in the UK. In particular, any move to curtail the territorial selling of rights could very seriously undermine creative industry business models, especially for independent films, which are generally licensed territory-by-territory, and harm citizen and consumer interests by reducing the choice of films and audiovisual works on offer to them.

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 support the call by the Creative Industries Council (CIC) for the Government to continue its active engagement with the DSM while the UK is still at the table, and to support our efforts through the EFADs to ensure an outcome which is beneficial.

In particular, it is absolutely critical that, after the UK leaves the European Union, UK content continues to qualify as European works for the purposes of all relevant present or proposed quotas applicable in EU Member States. Such qualification is critical because it increases the value of such works and also means they are not subject to trade barriers such as tariffs.

The UK’s light-touch regulatory regime for the screen sectors has been a key factor in helping to position the UK as a major gateway to Europe. There are concerns about whether some companies, especially cross- border broadcasters, that have used the UK as a base for sales might choose to relocate to overcome regulatory concerns.

As the CIC has noted, more broadly, 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 the broadcasting licences granted to channels across the European Union, more than half (1,100) are granted by Ofcom in the UK.

1. **What will be the impact of the loss of European Union funding, both specialised (such as the Creative Europe fund) and more general (such as the Regional Development Fund). Will the UK Government replace these? Can tax exemptions or private sponsorship fill the gap?**

**Key point**

**The loss of EU funding will leave a significant gap which will need to be replaced in order to ensure that the sector continues to flourish and as a result the communities across the UK continue to appreciate a rich and diverse international cultural product, which will have a positive impact on wellbeing and social cohesion. Our research available at the end of the year will quantify exactly the impact for the screen industries.**

**Creative Europe**

Creative Europe is a highly effective programme supporting the UK’s creative sector through collaboration with peers on the continent, strengthening European cultural diversity and improving circulation and availability of cultural and audiovisual works. According to the Commission, every €1 from Creative Europe’s predecessor MEDIA 2007-13[[13]](#footnote-13) budget generated about €6 in private investment from the audiovisual industry.

UK audiences benefit from access to a diverse range of works and international audiences get greatly increased access to the UK’s cultural offer. It helps the sector to operate internationally, to find partners and secure funding from other countries and boosts exports. A wide range of independent British films, such as *Pride, Paddington,* and *Jimmy’s Hall* reach audiences in other European countries, showing in a 2000 screen-strong network of Europa Cinemas as a direct result of Creative Europe funding. Unless a way is found to continue participating in Creative Europe or to replace it with a bespoke UK scheme, these benefits will be lost and the ability of audiences across Europe to watch our films will be damaged.

During 2014–2015, Creative Europe has supported 230 UK cultural and creative organisations and audiovisual companies as well as the cinema distribution of 84 UK films in other European countries with grants totalling €40 million.  This means UK received 13% of the €319 million Creative Europe budget in this period, which compares favourably with the UK’s contribution to the programme estimated at €30 million, which equates to 10.7%.[[14]](#footnote-14)

**EU Structural Funds**

Alongside funding from Creative Europe, the screen industries have also received support through a number of other European programmes. These funds have helped to grow significant clusters away from the industries’ traditional London and South-East base.

European Regional Development Funding (ERDF) has played a pivotal role over the years in supporting a viable out-of-London screen sector. Regional production funds at the time of the regional screen agencies and UK Film Council were mostly backed by ERDF and were critical to the growth in film production in the regions and the development of regional talent. In 2012 Screen Yorkshire was able to launch the £14.4m ERDF-backed Yorkshire Content Fund, a unique public-private partnership that made commercial investments in 38 film and television productions that originated in or were filmed in Yorkshire.

These production investments have included feature films such as *’71*, *Testament of Youth* and *Dad’s Army*, and TV productions including *Peaky Blinders, National Treasure and Jonathan Strange and Mr* *Norrell.* The fund helped stimulate a renaissance in Yorkshire’s struggling media industry, enabled it to open its first major film/TV studio facility, and has generated significant economic and employment payback:  contributing a production spend of over £150m, GVA increase of over £45m, and supported nearly 500 FTE jobs. This swell of activity in the region led to it being the first recipient of support from the BFI’s Creative Clusters Challenge Fund in 2015.

Belfast’s Titanic Studios, and Manchester’s Sharp Project and Space Project were built with support from ERDF. Titanic is home to Game of Thrones, one of the world’s biggest TV franchises and a ‘rocket booster’ for the local screen cluster. Sharp and Space combine state-of-the-art TV studios with low-cost space for creative start-ups. The studios’ in-house intern programme helps crew projects with young people from the surrounding area.

Creative England has undertaken a number of successful business enterprise schemes using with ERDF and European Structural and Investment Funds (ESIF) focusing on screen, tech and games in the South West and West Midlands which have supported a number of award-winning and promising start-up companies.

All of these interventions have helped identify regions with the capacity and leadership to successfully support localised screen industry clusters. But there are still structural issues – significantly around skills, infrastructure and business support – which will require both continued funding and guidance to address.

Whilst the BFI has ambitions to support developing centres for screen excellence our own funding pressures limit the impact we can make acting alone. Without mitigating measures, the impact of leaving the EU on regional screen activity will be significant.

Once the UK leaves the EU, the EU’s regional policy priorities will cease to apply. We would like to see the Government adopting a similar approach to the development of the regions in all of the UK’s four nations and providing adequate funding to underpin this policy. We also wish to see the recognition of culture and creative industries’ value to regional development as integral to any new Industrial Strategy. We recommend that projects with an international ambition are prioritized in any post-Referendum funding framework.

**EU funding for research**.

The BFI and partners have had a long engagement with the higher education sector. Post the Referendum, a serious area of concern is the potential exclusion of UK academics from research projects funded within the European Research Area. As has been widely reported, the UK has been disproportionately successful in gaining funds for research from the EU. For example, Arts and Humanities at Kings College, University of London is reliant on European research funding for 54% of its income. There is clearly a future resource problem in relation to research that needs to be addressed.

**Will the government replace these?**

Creative Europe is based on mutual advantage by design. Therefore it is only through continued, full participation that we can ensure all the benefits of the programme, which flow inwards and outwards of the UK and Europe including access to audiences and markets, and to international knowledge and peer networks. Should continued participation not be possible as a result of the negotiations the Government would need to consider developing a bespoke UK funding scheme. This could support co-production, innovative distribution models, training and other activities. It would thus continue to stimulate and support the UK creative sector’s international ambitions, including with Europe.

**Can tax exemptions or private sponsorship fill the gap?**

**Tax exemptions**

EU funding could of course be replaced with different funding; grant-in-aid, a tax relief, or payment from a hypothecated levy, but it remains to be seen whether that funding would have the same “gearing” or, more importantly, the same spillover benefits associated with current EU funding.

**Sponsorship**

Sponsorship is a very volatile and long-term option. BFI experience proves that sponsorship can only flourish in the periods of financial stability rather than uncertain times and even then only at a modest level. It would be naive to assume that it will fill the gap to a considerable degree in near future.

1. <http://www.ons.gov.uk/economy/grossdomesticproductgdp/bulletins/grossdomesticproductpreliminaryestimate/julytosept2016> [↑](#footnote-ref-1)
2. <http://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/economic-contribution-of-the-uks-film-high-end-tv-video-game-and-animation-programming-sectors-report-2015-02-23.pdf> [↑](#footnote-ref-2)
3. “DCMS Sectors Economic Estimates: Employment Update.” DCMS, August 2016 [↑](#footnote-ref-3)
4. <http://www.creativeindustriesfederation.com/assets/userfiles/files/Brexit%20Report%20web.pdf> [↑](#footnote-ref-4)
5. Video Games and Brexit negotiations.” UKIE, August 2016 [↑](#footnote-ref-5)
6. <http://vfx-montreal.com/work-montreal/> [↑](#footnote-ref-6)
7. <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/486107/Shortage_Occupation_List_-_November_2015.pdf> [↑](#footnote-ref-7)
8. <https://www.nextgenskillsacademy.com/courses-apprenticeships/apprenticeships> [↑](#footnote-ref-8)
9. <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/406760/bis-15-153-impacts-of-migrant-workers-on-uk-business.pdf> [↑](#footnote-ref-9)
10. <https://creativeskillset.org/assets/0001/0465/Creative_Skillset_Creative_Media_Workforce_Survey_2014.pdf> [↑](#footnote-ref-10)
11. Based on list of UKVI Tier 2 and Tier 5 (Creative) Sponsors and conversations with BFI stakeholders: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/566117/2016-11-08_Tier_2_5_Register_of_Sponsors.pdf> [↑](#footnote-ref-11)
12. According to UKCISA, 16.2% of ‘Creative Arts’ students come from overseas. Per NUS data these students pay on average almost four times (£11,987) the annual fees of a UK/EU student (£3000). UKCISA: <http://institutions.ukcisa.org.uk//info-for-universities-colleges--schools/policy-research--statistics/research--statistics/international-students-in-uk-he/#International-(non-UK)-students-in-UK-HE-in-2014-15> NUS: <http://www.topuniversities.com/student-info/student-finance/how-much-does-it-cost-study-uk> [↑](#footnote-ref-12)
13. http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0040&from=EN [↑](#footnote-ref-13)
14. Financing the EU budget by G. Cipriani, Centre for Policy Studies, 2014. [↑](#footnote-ref-14)