



A HARD BREXIT FOR CREATIVE BUSINESSES

**C8 EXPERT OPINION REPORT ON THE EFFECT
OF BREXIT ON CREATIVE BUSINESSES.**

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C8 Expert Opinion Report on the effect of Brexit on creative businesses

Three months after the EU referendum, there is now more clarity on the timing, but uncertainty remains on the nature of the trade agreement between the EU and the UK. This presents a challenge to creative businesses with 3-year plans, a fluctuating risk register and question on investment, staffing and location.

C8 canvassed experts on the likely impact of Brexit on the creative industries. Politicians from across the political spectrum, EU officials, UK civil servants and public affairs and creative industries executives gave their expert opinion on the timing and scope of the trade deal to replace the UK's membership of the EU.

The headline conclusion is that the creative industries face a hard Brexit. It is unlikely that creative businesses will continue to have the same level of access to the EU from the UK. Creative industries 'passporting' rights are unlikely to form a part of any new trade agreement between the EU and the UK.

Results of the Expert Opinion Survey

The full results are given in Appendix A. Below is a summary of the key points.

Article 50

A notice under Article 50 of the Treaty for European Union is the mechanism for the UK to start the process of exiting the EU. Expert opinion concurs with Prime Minister Theresa May's announcement on 2 October that the UK will make the Article 50 notification in the first half of 2017. The UK is expected to leave the European Union by March 2019.

Timing of EU-UK Trade Agreement

Negotiations for the EU-UK Trade Agreement officially start when the UK makes the Article 50 notification. From that moment, there are two years before the UK actually leaves the EU and ceases to have access to the single market under EU membership.

Expert opinion expects the EU-UK Trade Agreement to be concluded some time between 2019 and 2022. That means there may well be a gap between the UK leaving the EU and the coming into force of a trade agreement with alternative arrangements. During this interim period, it is likely that WTO default tariffs will apply until other arrangements are negotiated.

Terms of the EU-UK Trade Agreement

When it comes to the terms of the EU-UK Trade Agreement, expert opinion is more pessimistic in relation to the creative industries. They predict that it is 'unlikely' that the EU-UK Trade Agreement will give access to the EU Single Market or that it will include Free Movement of People. It is also 'unlikely' that it will give creative industries 'passporting' rights to be able to continue trading as they do now.

As for the nature of the agreement, both the Norway deal (membership of EEA) and the Swiss deal (membership of EFTA only) were considered 'unlikely'.

The most likely scenario, according to expert opinion, is a variation on WTO, a trade agreement based on the WTO rules but with other specific concessions negotiated. This would probably have elements of the Swiss Bilaterals, but the experts do not expect it to be as comprehensive as the Swiss arrangements. It should be noted that even the WTO+ solution was considered only to be a 'possible' scenario. It was given a less than 50% chance of happening by the expert opinion.

Conclusions

The overall conclusion from expert opinion is that the creative industries face a hard Brexit, with no 'passporting' rights, without access to the EU Single Market and without the benefits of Free Movement of People. The added complication is that there could be a gap between the UK leaving the UK (in March 2019) and the conclusion of a new trade agreement (some time between 2019 and 2022). At the very least, this will give creative businesses a period of uncertainty for the next two or three years.

Timescale

The likely timescale now is:

23 June 2016	EU Referendum
2 October 2016	UK Prime Minister announces Article 50 notification 'before March 2017'

November 2016	Consultation on Great Repeal Act
March 2017	Article 50 Notice sent to EU
March 2019	UK ceases membership of EU
March 2019	UK commences trade deals with 3 rd countries
2019-2022	Expert prediction of conclusion of EU-UK trade agreement

Analysis

The final outcome of the trade negotiations between the EU and the UK will be subject to complex political forces. Each side has multiple factions within their negotiating team, not to mention pressure from interested parties such as business, public opinion and 3rd countries.

UK

Within the UK, negotiations are theoretically led by David Davis, the Cabinet Minister responsible for exiting the EU. He reports to Prime Minister Theresa May who has made it clear how she wants these negotiations to be conducted and has already held multiple preliminary meetings with her counterparts across the EU.

Around Theresa May and David Davis is the Cabinet which is likely to be close to negotiations. Discussions around the Cabinet table have been dominated by the Brexiteers to date, with only Chancellor of the Exchequer, Philip Hammond, speaking out for a softer Brexit, particularly in relation to the City. The Conservative party is similarly dominated by Brexiteers.

Parliament on the other hand leans towards Remain, although less so than before the Referendum. It is for this reason that David Davis announced on 10 October that Parliament would not have an active role in the trade negotiations. We should still expect considerable activity in Parliament, especially at Prime Ministers Questions, when the SNP has a regular opportunity to question the deal as it is being negotiated. While the ruling Conservative party has a comfortable majority with the addition of the DUP MPs, they will not be able to ignore Parliamentary opposition entirely.

EU

The negotiating team for the EU is more complex as power tends to be dissipated in Brussels.

The Council has made it clear that it will lead the negotiations as the Member States want the final say in any trade deal. The Council consists of the Prime Ministers of the 27 Member States remaining within the EU and for these trade negotiations will have to reach unanimity on any issue regarded as a 'shared competence', such as taxation or investment. Already, several Premiers have commented on Brexit, offering different approaches. French Premier Francois Hollande has taken a hard line saying, "there cannot be freedom of movement of goods, free movement of capital, free movement of services if there isn't a free movement of people." German Premier Angela Merkel took a similar line, although has since softened her stance on immigration following her defeat in local elections. Poland has been even more stringent saying they will veto the Brexit deal if it does not contain free movement of workers. Sweden on the other hand offers a conciliatory note hoping that they can persuade the rest of the EU to explore 'different kinds of solutions'. It is difficult to see how the Council will achieve unanimity within the two year Article 50 window for negotiating a trade deal.

The European Commission will play a significant role in the negotiations, not least because the Council does not have the administrative capacity to handle such a complex and potentially vast deal. Ex Commissioner Michel Barnier has been appointed to lead the Brexit negotiations for the Commission and he is recruiting a team, including a dedicated unit within the Commission's Legal Services directorate. He has experience of working with the City and with the creative industries from his five years as Commissioner for the Internal Market. During that time, while he appeared to take a 'French' line on a number of issues initially, he showed he was able to negotiate a compromise.

The European Parliament has no formal role in trade negotiations, other than ratifying them when complete. However, they have shown they do have influence in the ongoing debate over TTIP, the Transatlantic Trade and Investment Partnership between the EU and the USA. Former Belgian Prime Minister Guy Verhofstadt has been appointed to lead on Brexit for the Parliament. He is a European federalist and has made it clear that the UK cannot have access to the single market without free movement of people. He favours an associate arrangement with 'less obligations but equally less rights'.

Other Countries

The EU-UK trade negotiations will not happen in isolation. Other countries have a stake in the outcome and will be considering their own negotiating position in relation to trade with the UK.

In July, the G20 Finance Ministers warned of a risk to global growth as a result of Brexit. Then at the G20 Summit in September, Japan ambushed the UK with an open letter to the UK and the

EU warning of the consequences if the two cannot conclude an agreement including free movement of labour. At the same Summit, US President Barack Obama warned that US and UK trade relations are under threat of unravelling post Brexit. He also noted that the TTIP negotiations with the EU would take precedence over any trade discussions with the UK. The UK is now 'at the back of the queue' for trade talks with the USA.

Others, such as New Zealand, Canada and China, are seeking to take advantage of the UK's freedom to negotiate direct trade deals. Australia has asked to be 'at the front of the queue' to conclude a new agreement and has already sent trade officials to the UK to work closely with the UK Government.

EU-UK Trade Agreement

The trade agreement between the UK and the EU will be particularly complex. The current trading arrangements, within membership of the EU, cover goods, services, IP and people. Normally, trade agreements are more limited in scope, particularly in respect of services, IP and people.

Norway

The 'Norway' deal is the only trade agreement which has the same coverage as the EU single market. Norway, along with Iceland and Liechtenstein, is a member of the European Economic Area (EEA). The EU is also a member of the EEA. The EEA effectively extends the single market to include other EEA members who are not members of the EU. Under this agreement, Norway adopts all EU legislation and regulation, pays a contribution to the EU as if it were a member, but has no say in changes to market rules. That solution is regarded as 'unlikely' by expert opinion.

Switzerland

Switzerland has close trading links with the EU through a series of Bilateral agreements covering wide areas of trade in goods, but not in services. These agreements do not cover the main areas of interest to creative businesses such as the Audio-Visual Media Services Directive, the Satellite and Cable Directive, the Services Directive, the Copyright Directive and the E-Commerce Directive. However, Switzerland does have access to funding programmes such as MEDIA through these Bilaterals and contributes to EU finances.

The Swiss solution is also considered 'unlikely' by expert opinion.

WTO

A more likely scenario is a variation on World Trade Organisation agreements. The WTO has negotiated a series of treaties which provide an international framework for trade relations. These include maximum default tariffs on goods which are traded internationally. The treaties on services have more limited effect. For the most part, GATS (General Agreement on Trade in Services) confirms the status quo. Specific agreements have been reached to facilitate cross border trade in telecommunications and financial services, but there is no agreement covering the creative sector.

Free movement of labour is not included in any WTO treaties.

Expert opinion concluded that an agreement based on the WTO framework is the most likely outcome in discussions between the EU and the UK. However, full 'passporting' rights for creative businesses are unlikely to form a part of the trade agreement.

It is likely therefore that UK-based creative businesses will not be able to trade freely in the EU and, vice versa, EU-based creative businesses will not be able to trade freely in the UK. This will have implications for the structure, location and staffing of many creative businesses.

Opportunities






While the reduced access to the EU single market will reduce options, there will be other opportunities in international trade with 3rd countries. The UK Government will be keen to conclude some key trade agreements early on, setting the framework for other negotiations. Creative businesses have traditionally not played a significant role in trade deals, but there is no reason why companies looking to enhance cross border trade and investment should not push for specific provisions to be negotiated.


C8 Associates
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C8 Associates is a consultancy dedicated to taking creative businesses to the next level. For more information on how C8 can work with you to manage risk and exploit opportunities, read more at www.c8associates.com.

Appendix A

Brexit Expert Survey – The Results

1. In your opinion, when will the UK make the Article 50 notification to leave the EU?							
						Response Percent	Response Total
1	2016					0.00%	0
2	Jan-Jun 2017					70.59%	60
3	Jul-Dec 2017					17.65%	15
4	2018					1.18%	1
5	2019 or later					2.35%	2
6	Never					8.24%	7
Analysis	Mean:	2.6	Std. Deviation:	1.18	Satisfaction Rate:	32	answered 85
	Variance:	1.39	Std. Error:	0.13			skipped 4

2. In your opinion, when will the UK conclude a trade agreement with the EU?							
						Response Percent	Response Total
1	2017					3.61%	3







2. In your opinion, when will the UK conclude a trade agreement with the EU?								
							Response Percent	Response Total
2	2018						15.66%	13
3	2019-2022						55.42%	46
4	2022-2027						15.66%	13
5	Never						9.64%	8
Analysis	Mean:	3.12	Std. Deviation:	0.91	Satisfaction Rate:	53.01	answered	83
	Variance:	0.83	Std. Error:	0.1			skipped	6







3. In your opinion, what is the likelihood of these scenarios?								
	Very unlikely <10%	Unlikely 10%-30%	Possible 30%-50%	Probable 50%-70%	Likely 70%-90%	Very likely >90%	Response Total	
The UK will join the EEA (the Norway model)	27.4% (20)	34.2% (25)	27.4% (20)	8.2% (6)	2.7% (2)	0.0% (0)	73	
The UK will join EFTA (the Switzerland model)	27.1% (19)	30.0% (21)	32.9% (23)	5.7% (4)	2.9% (2)	1.4% (1)	70	
The UK will negotiate a bespoke trade agreement based on Switzerland (Swiss-)	15.3% (11)	20.8% (15)	43.1% (31)	12.5% (9)	5.6% (4)	2.8% (2)	72	

3. In your opinion, what is the likelihood of these scenarios?							
	Very unlikely <10%	Unlikely 10%-30%	Possible 30%-50%	Probable 50%-70%	Likely 70%-90%	Very likely >90%	Response Total
The UK will negotiate a bespoke trade agreement based on WTO (WTO+)	12.5% (9)	22.2% (16)	31.9% (23)	12.5% (9)	13.9% (10)	6.9% (5)	72
						answered	74
						skipped	15







Matrix Charts

3.1. The UK will join the EEA (the Norway model)							Response Percent	Response Total
1	Very unlikely <10%						27.4%	20
2	Unlikely 10%-30%						34.2%	25
3	Possible 30%-50%						27.4%	20
4	Probable 50%-70%						8.2%	6
5	Likely 70%-90%						2.7%	2
6	Very likely >90%						0.0%	0
Analyses	Mean:	2.25	Std. Deviation:	1.03	Satisfaction Rate:	24.93	answered	73
	Variance:	1.06	Std. Error:	0.12				

3.2. The UK will join EFTA (the Switzerland model)						Response Percent	Response Total
1	Very unlikely <10%					27.1%	19
2	Unlikely 10%-30%					30.0%	21
3	Possible 30%-50%					32.9%	23
4	Probable 50%-70%					5.7%	4
5	Likely 70%-90%					2.9%	2
6	Very likely >90%					1.4%	1
Analysis	Mean:	2.31	Std. Deviation:	1.1	Satisfaction Rate:	26.29	answered 70
	Variance:	1.22	Std. Error:	0.13			

3.3. The UK will negotiate a bespoke trade agreement based on Switzerland (Swiss-)						Response Percent	Response Total
1	Very unlikely <10%					15.3%	11
2	Unlikely 10%-30%					20.8%	15
3	Possible 30%-50%					43.1%	31
4	Probable 50%-70%					12.5%	9
5	Likely 70%-90%					5.6%	4
6	Very likely >90%					2.8%	2
Analysis	Mean:	2.81	Std. Deviation:	1.17	Satisfaction Rate:	36.11	answered 72
	Variance:						

3.3. The UK will negotiate a bespoke trade agreement based on Switzerland (Swiss-)					Response Percent	Response Total
Variance :	1.38	Std. Error:	0.14			

3.4. The UK will negotiate a bespoke trade agreement based on WTO (WTO+)					Response Percent	Response Total	
1	Very unlikely <10%				12.5%	9	
2	Unlikely 10%-30%				22.2%	16	
3	Possible 30%-50%				31.9%	23	
4	Probable 50%-70%				12.5%	9	
5	Likely 70%-90%				13.9%	10	
6	Very likely >90%				6.9%	5	
Analysis	Mean:	3.14	Std. Deviation:	1.42	Satisfaction Rate:	42.78	
	Variance :	2.01	Std. Error:	0.17			
						answered	72

4. In your opinion, what is the likelihood of the UK-EU trade agreement including the following?

	Very unlikely <10%	Unlikely 10%-30%	Possible 30%-50%	Probable 50%-70%	Likely 70%-90%	Very likely >90%	Response Total	
Full access to EU Single Market	25.4% (17)	28.4% (19)	26.9% (18)	7.5% (5)	6.0% (4)	6.0% (4)	67	
Free movement of people	33.3% (22)	33.3% (22)	19.7% (13)	7.6% (5)	3.0% (2)	3.0% (2)	66	
Full 'passporting' rights for creative businesses	16.7% (11)	22.7% (15)	43.9% (29)	6.1% (4)	6.1% (4)	4.5% (3)	66	
							answered	67
							skipped	22

Matrix Charts

4.1. Full access to EU Single Market			Response Percent	Response Total
1	Very unlikely <10%		25.4%	17
2	Unlikely 10%-30%		28.4%	19
3	Possible 30%-50%		26.9%	18
4	Probable 50%-70%		7.5%	5
5	Likely 70%-90%		6.0%	4
6	Very likely >90%		6.0%	4

4.1. Full access to EU Single Market							Response Percent	Response Total
Analysis	Mean:	2.58	Std. Deviation:	1.41	Satisfaction Rate:	31.64	answered	67
	Variance:	1.97	Std. Error:	0.17				



4.2. Free movement of people						Response Percent	Response Total	
1	Very unlikely <10%					33.3%	22	
2	Unlikely 10%-30%					33.3%	22	
3	Possible 30%-50%					19.7%	13	
4	Probable 50%-70%					7.6%	5	
5	Likely 70%-90%					3.0%	2	
6	Very likely >90%					3.0%	2	
Analysis	Mean:	2.23	Std. Deviation:	1.24	Satisfaction Rate:	24.55	answered	66
	Variance:	1.54	Std. Error:	0.15				

4.3. Full 'passporting' rights for creative businesses						Response Percent	Response Total
1	Very unlikely <10%					16.7%	11
2	Unlikely 10%-30%					22.7%	15

4.3. Full 'passporting' rights for creative businesses							Response Percent	Response Total	
3	Possible 30%-50%							43.9%	29
4	Probable 50%-70%							6.1%	4
5	Likely 70%-90%							6.1%	4
6	Very likely >90%							4.5%	3
Analyses	Mean:	2.76	Std. Deviation:	1.24	Satisfaction Rate:	35.15	answered	66	
	Variance:	1.55	Std. Error:	0.15					

5. What sector(s) are you in?							Response Percent	Response Total	
1	Politics							41.18%	28
2	Government							33.82%	23
3	Public Affairs							17.65%	12
4	Creative Industries							5.88%	4
5	Other (please specify):							11.76%	8
Analyses	Mean:	2.44	Std. Deviation:	1.37	Satisfaction Rate:	33.46	answered	68	
							skipped	21	

5. What sector(s) are you in?						Response Percent	Response Total
	Variance :	1.89	Std. Error:	0.17			

6. How long have you worked in that sector?						Response Percent	Response Total	
1	1-5 years					11.59%	8	
2	6-10 years					10.14%	7	
3	11-20 years					47.83%	33	
4	21-30 years					18.84%	13	
5	More than 30 years					11.59%	8	
Analyses	Mean:	3.09	Std. Deviation:	1.1	Satisfaction Rate:	52.17	answered	69
	Variance :	1.21	Std. Error:	0.13			skipped	20