

Brexit and the audio-visual sector - facing up to life outside the single market

Blog post by Adviser Conan D'Arcy, 26 September 2016

As Whitehall limbers up for the UK's exit negotiations from the European Union by establishing new departments and recruiting new staff, it will be some time before the government reaches its full capacity for managing the negotiations. Before this point, however, fundamental decisions will need to be taken about the direction of the negotiations such as whether to continue participating in the EU's single market and the likely direction of the UK's new immigration policy. In this period, economic sectors face a competition for advocacy to influence the limited capacity of Whitehall. Much of the focus has so far been on the sectors perceived to be most exposed to exiting the EU such as banks and automotives. As delegates meet tomorrow for the Royal Television Society conference, the interests of UK's audio-visual sector will be at the fore.

The impact on the TV and film industries will be shaped by the core decision of whether the UK should continue to fully participate in the EU single market, via the European Economic Area or a similar arrangement, or if the UK chooses to become a "third country" and base its relationship with the EU on a free trade agreement and/or under WTO rules. Both the potential opportunities and the potential risks for the audio-visual sector increase outside of the EU's single market.

The potential opportunities derive mostly from greater policy autonomy for the UK government outside of the EU's Audio-Visual Media Services (AVMS) directive and the EU's competition framework. The British government would, for example, gain greater flexibility in setting TV advertising policy and could change the frequency and length of advertising breaks to benefit commercial broadcasters. Likewise, lying outside the EU's competition framework may allow for greater flexibility in setting tax and other support schemes for the sector as part of a more interventionist industrial policy, along the lines advocated today by Shadow Chancellor John McDonnell.

However, leaving the single market also creates four potential risks for the sector: loss of talent; loss of funding; loss of influence on EU rules; and, loss of exports.

The UK's success as a European audio-visual hub has been partly built on the ability to attract and recruit skilled staff from across the EU. If the UK abandons the EU's free movement of people and implements certain controls on EEA migration, the sector could face restrictions on the movement of both skilled labour and the movement of equipment across borders.

The sector also faces a potential funding gap if the UK leaves the "Creative Europe" scheme. EU funding has totalled hundreds of millions of euros in the last decade and financed the production and/or distribution of major British productions such as *Slumdog Millionaire*, *the King's Speech* and

Great Expectations. Alarming for the sector, audio-visual funding was notable by its absence from Chancellor Philip Hammond's commitment to financially support EU-funded projects until 2020. Clarity from the government on future funding will be a priority, particularly for production companies, in advance of the Autumn Statement.

A major question mark will be around the status of British film and TV exports to the EU - over 50% of the UK's audio-visual exports go to the rest of Europe, and Western Europe is BBC Worldwide's second largest overseas market after the US. British content has benefited from AVMS rules which oblige broadcasters to show a minimum proportion of European programming, leading to significant export opportunities. With the EU's audio-visual rules currently being reformed, questions are likely to emerge in the EU institutions over whether British content can and should continue to benefit from being defined as European content under the quota system.

In the medium term, a major impact will be the loss of British influence on EU legislation. The European Commission has proposed a reform of the AVMS Directive which would allow EU governments to charge levies on online streaming services such as Netflix. The UK government has been one of the most vocal critics of such a country-by-country approach to the EU's single market but other, less supportive countries like Germany are likely to lead the debate as British influence rapidly diminishes (see our assessment [here](#)).

The British government has indicated strongly that it will seek to limit migration from the EU to the UK. This has been mirrored by an insistence from EU leaders that free movement of people is indivisible from the other parts of the EU single market. Therefore, full participation in the single market is looking increasingly less likely and audio-visual companies should prepare for life outside of the single market. In some cases, the solutions to the potential risks for the sector will be domestic - for example, securing commitments from the government for new domestic funding schemes or a visa system which allows for skilled audio-visual workers - and for others it may be possible to negotiate enhancements to the UK's status with the EU27 - for example, by confirming that UK content continues to qualify as European content through mechanisms such as the European Convention on Transfrontier Television. For streaming services, however, there is no simple solution for the loss of UK influence in the EU and companies such as Netflix will need to muster new alliances and legislative support from EU governments and MEPs in the European Parliament to compensate for the loss of the UK's voting weight.