

By email to:

Secretary of State for Digital, Culture, Media, and Sport

Chancellor of the Exchequer

Home Secretary

Secretary of State for Education

Secretary of State for International Trade

Secretary of State for Work and Pensions

cc. Julian Knight MP, Chair of DCMS Select Committee



28th January 2021

Dear Secretaries of State,

Subject: Brexit clarifications needed for the Performing Arts

The Theatre, Classical Music, Music Education, Music, Dance, and Opera APPGs, supported by our secretariats, UK Theatre and SOLT, the Association of British Orchestras, the ISM, UK Music, and One Dance UK, are jointly writing to you to highlight the devastating consequences of, and possible solutions to, the lack of clarification on provisions of the Brexit deal for the performing arts across the UK.

The contribution of the performing arts to the UK – what is at threat?

The performing arts are a major UK export internationally (productions, staffing and licensing). They provide more than just economic value to the Treasury. They create a sense of pride and belonging in, and bring joy to, our communities. They are also a significant contributor to soft power (second largest in the worldⁱ), promoting the United Kingdom, including its values and international trade, to the rest of the world, through the exchange of human capital, ideas, culture, and language.

The UK's performing arts are world leading. It is vital to their long-term prosperity that we stay open to exporting and importing high-quality talent, ideas, products, and relationships from the EU. The international standing and economic success of the whole industry, from West End shows such as War Horse, Matilda The Musical, and Harry Potter, to our world-leading orchestras and dance companies, depends on the relationship with European venues, promoters and audiences, and on the flow of talent.

More widely, the arts and culture industry has grown by £390million in a year and now contributes £10.8billion annually to the UK economy; contributes £2.8billion annually to the Treasury via taxation and generates a further £23billion a year.ⁱⁱ

Case Study – the real-world impact of the issues listed below

A show that Nick Grace (www.ngm.global) is producing, which was due to be based in the UK, will now be based in Germany for practical reasons.

“We have been developing a major new show (not yet announced) due open in 2022 and with the lead time necessary to bring a major new production to the stage with a commercially viable tour we will now originate the tour in Germany via a co-producing partner based there. Opening in Europe we will avoid the additional costs and friction of trying to tour Europe as a UK company. Practically this means the investment capital we have raised will be diverted to Germany, the bulk of the production expenditure will occur in Germany, all employment opportunities will go to EU residents not to mention associated social security, income tax revenues etc. alongside all corporation tax. Since setting up Nick Grace Management 35 years ago and touring productions to 59 countries worldwide from the UK, it gives me no pleasure to confirm that this is the first time we have been unable to plan an efficient way to operate from the UK and forced to move our production base out of the UK. We fear many other UK producers will have to consider this option also.”

1. Movement of People

1.1. EU Visas and Work Permits

Issue: Different visa and work permit rules now apply across each of the 27 EU member states. While some EU countries offer an exemption, others do not, making navigating the rules for multi-country tours incredibly complex, and adding costs that will cut into the financial viability of the tour. With applications taking up to three months, this patchwork of different entry requirements makes touring in some EU member states at short notice virtually impossible.

Possible Solutions:

- We accept it may not be possible to reopen negotiations on the Trade & Cooperation Agreement. However, a separate bilateral agreement with the EU exempting touring performers, creative teams and crews (including dancers, choreographers, producers, technicians etc.) from entry requirements or restrictions on short-term work for 90-days is a possible way forward for the Government, delivering on its commitment to frictionless work travel.
- Exempting specific workforces that rely heavily on international mobility would be hugely beneficial for the UK economy, whilst still being compatible with the Government's manifesto commitment to take back control of our borders.
- A Schengen-wide agreement for cultural activities to remain on the exemption list during the pandemic. The Netherlands are a great example of championing this.

1.2. UK Visa Regime

Issue: Uncertainty about visa/work permit requirements for foreign nationals. The UK Government has been promising a review of short-term visitor routes into the UK, and this is now urgent. Issues still to be resolved for our sector include Frontier Workers – EEA nationals living in their own country and coming into the UK on a regular basis to fulfil engagements, for whom there is no obvious route. We need clarification that they will not be refused entry under the Permitted Paid Engagement route on the grounds of "frequent or successive repeat visits". We also need clarity around which roles qualify for this route.

Example/impact: Hofesh Shechter Company. Between January and March 2021, the Hofesh Shechter Company has projects planned in France, Denmark, Switzerland, and Luxembourg. The impact of Brexit, coupled with the pandemic restrictions, has so far led to the following:

- The withholding of fees for completed work in Europe due to the non-issuance of A1s by HMRC. HMRC are waiting for further guidance before they can issue these certificates.
- Cancellation of projects in the UK because we work with international artists. This is due to HSC needing to operate within the boundaries of a Tier 5 certificate of sponsorship (3-month validity) rather than a Tier 5 visa (3 – 12 months' validity). Tier 5 visas are only financially viable for a minimum 12-month contract and that's just not possible for the company to commit to during this pandemic.
- Increase in workload (staff time, costs) beyond the levels anticipated.
- The cancellation of overseas work for 10 musicians due to border restrictions for non-EU passport holders.
- The introduction of contract clauses from EEA countries requesting only to work with EU passport holders.

Possible Solutions:

Long-term:

- Secure a bilateral agreement with the EU exempting touring performers, creative teams and crews (including dancers, choreographers, producers, technicians etc.) from entry requirements or restrictions on short-term work for 90-days. Inclusion of all performing arts professionals in the list of permitted activities for short-term visitors to ensure that individuals with the correct paperwork are not refused entry.

Short-term:

- A Tier 5 certificate of sponsorship valid for up to 6 months.
- Extend the Permitted Paid Engagement route from 30 days to 90 days to allow for longer tours and opera seasons.
- Review and clarification of UK visitor routes, particularly the Permitted Paid Engagement route.

2. Movement of Goods

New rules on transporting physical production, set, props, musical instruments etc mean additional costs both due to the requirement for carnets and potential delays and increased journey times.

2.1. Haulage – Cabotage Restrictions

Issue: All road haulage between the UK and the EU will now be subject to ‘cabotage’ rules, meaning a limit of no more than two laden journeys in addition to the initial journey into the EU. The UK had an opt out from cabotage rules when it was a member of the EU, which it has lost. This means that it is now illegal to move scenery, musical instruments etc. for multi-country tours without the truck returning to the UK after just two journeys. Many of the UK’s orchestras operate on ‘own account’, moving their own goods on their own truck with their own driver. While this means they are exempt from licensing under the EU-UK.

Trade & Cooperation Agreement, it does not exempt them from cabotage. The current cabotage arrangements work when applied to general haulage. However, for dance and theatre touring, the shows are designed to go in specific trucks (with dance floors in them for prop storage, temperature control for thermo glass panels, and double width ramps or loading bars for double height storage). Dance/ theatre companies work with hauliers to ensure safe packing and movement, and the drivers often become part of the touring team and help during the fit-up process. The whole process of touring is about how dance companies get the show in and out of the venues efficiently and working with a specific vehicle and set up in mind enables this to be possible.

Under current cabotage rules, dance/theatre companies have to either implement a cross load to an EU supplier during the touring process, or bring an EU supplier to the UK to establish the back and begin touring pattern – ultimately adding mileage, time and ferry costs (4 crossings instead of 2 for every tour which goes out). Very rarely would a tour be able to complete in 7 days as per current rules, and only go to 2 stops, so companies are forced to use EU hauliers. However, if there was an exemption for hauliers working with goods on temporary import and export conditions (travelling with an open and current carnet), this would allow them to use the same haulier throughout the touring process. This could also be tied to cultural activities only if required (theatre, dance, music performances). This would also help with large-scale arena music tours and events.

On the smaller scale this is also a problem. A small dance or theatre company who can fit their set in the back of a transit van can no longer just drive it to festivals around Europe and perform. They would have to outsource this to an EU haulier, and of course raise a carnet. This will have the worst impact on smaller dance companies and artists, especially those playing the summer festival circuit in Europe.

Example & Impact: Sadler's Wells theatre is facing additional haulage costs to tour its productions in Europe due to the cabotage rules. "We would have to split the haulage amongst suppliers to get goods into the EU, and then hand over to an EU company to tour. Or have an EU company drive to the UK to do the first pick up and then return to the EU after returning to our stores. Either way 2 additional journeys are needed to get items into the EU (one on the pick-up and one on the return) This not only has a cost to us, but to the planet in terms of pollution and fuel use. It also highly affects the businesses of the theatrical hauliers who work for us, e.g. Southern Van Lines and Edwin Shirley, as they no longer can take on the entire tour, and puts into jeopardy their business models. Having spoken to Southern Van Lines, it looks as if their fleet might have to take on more domestic retail work (supermarket chains etc.) and lose the theatrical haulage in the long run, as it is not sustainable. For us on tour this loses continuity of driver, and familiarisation of the unique pack of theatrical items which we rely on the drivers to help with."

Specialist hauliers will need to relocate their business to the EU, or British performing arts companies will need to use EU-registered haulage companies.

Possible Solution: To avoid this, we need the UK Government to negotiate with the EU to secure an exemption from cabotage for the movement of goods especially where subject to a carnet, on the basis that the goods will not be sold and that the rules will also affect EEA performing arts companies coming into the UK.

2.2. Carnet Ambiguities

Issue: Temporary import/export of goods between the UK and EU will now be subject to ATA Carnets. This is a physical document, stamped on both sides of the border, that provides a guarantee that the goods taken out of the UK will be returned, thereby meaning customs duties do not apply. There is a cost to each carnet, plus a security bond based on the value of the goods being transported. Many UK performing arts organisations will not have had to deal with the cost and complexity of carnets before. This includes knowledge of where to get carnets stamped on exit from the UK and entry to the EU, and vice versa.

Example/impact: A UK orchestra has calculated that the cost of carnets for an EU tour will be £8500.

Possible Solution: While it appears inevitable that carnets will be required for shipment by truck or cargo, it is unclear whether the same applies to individual musicians carrying their own instrument. EU regulations would suggest they are not required. We need clarification from HMRC.

2.3. Movement from GB to NI

Issue: The Northern Ireland Protocol made no mention of temporary import/export between Great Britain and Northern Ireland, it is therefore unclear whether ATA Carnets will be required.

Example/impact: Ulster Orchestra will need to move the orchestra and its musical instruments by truck between GB and NI e.g. for performances at the BBC Proms. Belfast Grand Opera House is on the touring circuit for commercial theatre shows. We do not know whether carnets, meaning scenery, costumes, etc. will be needed for transportation between GB and NI.

Possible Solution: UK Government HMRC to exempt temporary import/export from customs declarations for movement of goods between GB and NI and to confirm that carnets will not be required.

2.4. CITES Musical Instrument Certificates

Issue: DEFRA has confirmed that CITES Musical Instrument Certificates for musical instruments containing listed species will be required for each instrument when transported between UK and EU and GB and NI. Obtaining a Certificate is a costly and complex process, necessitating a detailed report on the species contained in the instrument from a professional expert. DEFRA has indicated that it will also start to charge applicants for certificates. In turn, as with carnets, the MIC is a physical document that must be stamped on both sides of the border. There are only a limited number of ports in the UK and EU set up to do this.

Example/impact: Musicians will need to go the expense of obtaining a professional report and applying for the MIC. They will feel they have no choice to do so as the instrument is integral to their sound.

Possible Solution: DEFRA to cancel imposition of charges for MICs and to supply details of designated ports in the EU.

3. Social Security Coordination

Issue: EU member states must opt into the EU-UK social security coordination agreement before 31 January. If they do not opt in, social security coordination between the UK and that country will cease. This will mean that performing arts professionals, who are resident in the UK but working temporarily in that country, will face the risk of double-charging of social security contributions. If double-charging does take place, producers will be expected to reimburse the performers, or increase fees to the engager to offset the cost, creating a further threat to the viability of the tour.

Example/impact: Fees – the levels of deductions across the EU vary considerably with some territories like France making deductions at a considerably higher rate. If EU member states do not opt in – the cost to individuals to work in some territories will be prohibitive.

Possible Solution: We need the UK Government to confirm that if an EU country chooses not to opt in, and deducts social security contributions from UK-resident employers and workers, even for short term visits, there will be a system in place for getting these rebated by HMRC.

4. Funding

We would like the Government to consider providing financial support to mitigate the additional costs and lost work of touring performers due to the current lack of mobility provisions and additional red tape. The Government has committed to provide financial support to UK fisheries of £100 million to address the impact of lost quotas having left the EUⁱⁱⁱ – an industry which generated £1.4 billion per year to the UK economy. However similar support not been offered to the arts and culture industry, which as we have said now contributes £10.8 billion a year to the UK economy and promotes the UK's soft power. We also seek clarification on the Shared Prosperity Fund.

5. Meeting

We kindly request a meeting with you to discuss these issues and possible solutions. Please contact daniel.russell@parliament.uk.

Yours sincerely,

Giles Watling MP, Chair, APPG Theatre
Julian Bird, Chief Executive Officer, UK Theatre and Society of London Theatre
Baroness Hooper, Co-Chair, APPG Dance
Andrew Hurst, Chief Executive, One Dance UK
Barbara Keeley MP, Co-Chair, APPG Classical Music
Lord Berkeley of Knighton, Co-Chair, APPG Classical Music
Mark Pemberton, Director, Association of British Orchestras
Dame Diana Johnson MP, Chair, APPG Music Education
Lord Black of Brentwood, Co-Chair, APPG Music Education
Deborah Annetts, Chief Executive, Incorporated Society of Musicians
Sir Bob Neill MP, Chair, APPG Opera
David Warburton MP, Chair, APPG Music
Jamie Njoku-Goodwin, Chief Executive, UK Music

ⁱ <https://softpower30.com/country/united-kingdom/>

ⁱⁱ Contribution of the arts and culture industry to the UK economy, Arts Council England, 2019

ⁱⁱⁱ <https://www.telegraph.co.uk/news/2020/12/28/fishing-get-100m-funding-package-ministers-accused-brexit-deal/>