Music businesses under threat
The first 100 days of the Brexit Trade Deal

April 2021
The impact of the Brexit Trade Deal on music businesses: The first 100 days

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2. Introduction

The Incorporated Society of Musicians (ISM) has produced this report assessing the impact of the EU–UK Trade and Cooperation Agreement (TCA) on music businesses. The report includes findings from our survey exploring their experiences.

The UK music industry makes an enormous contribution to the health, economy and global reputation of the UK. But as the music community grappled with the unprecedented challenges created by the COVID-19 pandemic, new rules came into force following the end of the Brexit transition period on 31 December 2020. These impacted the trade in goods and services, as well as the movement of people. Although our sector is usually highly profitable, our commercial success depends on frictionless global trade and mobility. The crises we currently face threaten the survival of many profitable businesses, as evidenced in this survey.

The ISM is the UK’s professional body for musicians and we also represent over 190 corporate members from across the sector, including suppliers, manufacturers, conservatoires, labels, and more. We have been closely monitoring the impact of the new rules because the European Union (EU) is a vital market for music exports. From the beginning, our members informed us about the new administrative and financial burdens they were facing due to unforeseen consequences of the TCA. While leaving the EU could offer new opportunities for global trading relationships, obstructing commerce with barriers to imports and exports is not in the national interest.

In response to the troubling situation, the ISM conducted a survey between March and April. Respondents included tour operators, instrument manufacturers and retailers as well as those involved in recording, music publishing and sale of music. The findings revealed clear evidence that the first 100 days were a disaster for music businesses due to the unintended consequences of the TCA. There is near-unanimous agreement that it has already had a negative impact and only a tiny minority believe that the Government guidance was in any way adequate preparation. In fact, the situation is so serious that over two-thirds of respondents have considered moving some or all of their operations to the EU while almost one in ten have already begun moving.

We welcome the Prime Minister's firm commitment in front of the Parliamentary Liaison Committee to fix the crisis we find ourselves in. However, it has been extremely frustrating that we have not witnessed any real progress achieved by his officials to deliver on this pledge. That
is why over 300 organisations from across the whole of the creative industry wrote to the Prime Minister warning that if the Government failed to act then businesses will go under. These stark findings should send a clear message to the Government that it is time to move beyond partisan politics and urgently develop effective solutions before even more music businesses are ruined.

The TCA has changed the basis of our relationship from EU law to friendly cooperation and free trade. However, this loosening of political ties should have no bearing on cultural ones. As we begin a new era of national renewal and show the world what Global Britain can do, protecting our world leading industry and ensuring that UK music businesses continue to thrive is now an urgent priority. As one survey respondent explained:

'Beyond the red tape, the changes are often not country by country, but regional. This uncertainty will cause British artists to miss vital and valuable opportunities in the EU, and the reverse for EU residents, As the rest of our severely hit industry will begin to recover post-pandemic, our challenges are only beginning.'

The survey found that:

- **94%** of businesses say the TCA had a negative or very negative impact
- **9%** say the Government guidance was adequate in helping to prepare their business for the new trade rules.
- **79%** of businesses were concerned or very concerned about the future of their business over the next 12 to 24 months.
- **37%** of respondents have considered moving some or all of their operations to the EU while a further **9%** have already begun moving.

### 3. Survey findings

The most common problems were the additional paperwork (72%), change in transportation costs (56%) and disruption at UK borders (47%). But other concerns included customs duties or levies (45%) and custom clearance problems (44%) and destination countries changing their border restrictions (33%).

Further findings included:

- **85%** of respondents that operate tours in the EU, said new cabotage limits for haulage vehicles will cause moderate or severe disruption for their business.
- **73%** of businesses reported a decline in trading opportunities with EU partners due to the new trade rules.
- **62%** of businesses had experienced import or export delays due to the new trade rules.
- **42%** of respondents that temporarily move goods between the UK and EU said the new ATA Carnet rules would have a negative or very negative impact on their business.

### 4. Transportation of goods

**Customs rules**

As part of the TCA, there are new rules regarding UK-EU imports and exports. Under the new rules of the TCA, customs declarations now need to be made for all UK-EU imports and exports. Music businesses therefore need to pay customs duties and VAT on imports. Our survey revealed that almost three-quarters of businesses had experienced challenges with the additional
paperwork and almost half had issues with disruption at UK borders, customs duties or levies or custom clearance problems.

‘Orders from European customers have reduced considerably, shipping times have increased and packages have been returned by customs on occasion.’

‘Businesses [are] refusing to trade with UK because of the new paperwork / admin’

‘Don’t dare order from our usual European publisher suppliers for fear of surcharges, so ordering those items through a middle man where it costs more but at least we know what it will be.’

‘Our large UK based retailers who trade with EU consumers are now buying from EU distributors due to complications and charges from shipping to the EU from the UK. We are about to sign off on third party logistics based in Amsterdam to support this business, meaning investment will not go into our UK based location for the immediate future’

**ATA Carnet**

For those planning to take instruments into a country for a temporary basis, the safest way to deal with customs declarations is to buy an ATA (Admission Temporaire/Temporary Admission Carnet). An ATA Carnet is an international customs document that covers goods that are entering a territory and then exiting again – if they are not for sale. Over 70 countries are in the Carnet scheme and the cost comprises an issuing fee (currently £360), and a security deposit, calculated between 30-40% of the value of the goods.

However, 42% of respondents to our survey stated that temporarily move goods between the UK and EU said the new ATA Carnet rules would have a negative or very negative impact on their business. Purchasing a document for larger scale touring arrangements, such as orchestras and concert touring operatives, is a huge additional cost which threaten the financial viability of the entire tour. The certificate must be stamped by the appropriate customs officials upon entry and exit of each country, which will cause long delays and disturbances when travelling across borders. This is largely incompatible for touring musicians who are constantly on the move and often secure last-minute engagements.

Both the UK and EU have implied that exemptions for accompanied musical instruments and equipment (e.g. transported in baggage or vehicle) will prevent the need for an ATA Carnet. As the management of EU import and export procedures is the responsibility of the customs authorities of each Member State, it remains to be seen how the exemption will work in practice when tours start operating as COVID-19 restrictions are eased. Due to this uncertainty and the lack of clarity in the guidance, the ISM continues to advise our members that an ATA Carnet is the safest option to satisfy the customs requirements and prevent an instrument from being seized.

‘It is our opinion that grass root acts will be unable to afford the additional costs’

‘Carnets are not practical for travelling musicians’

‘It will cause a great deal of extra expense and there is always the risk that instruments taken abroad may get damaged, seized and destroyed as a result of issues with border or customs checks/paperwork.’
Road haulage

As a consequence of the TCA, the new regime for road haulage have made it impossible for UK companies to facilitate pan-European tours. There are two key models that are affected:

- Cabotage is loading and unloading goods in a different country to the registration of the vehicle.
- Cross-trade is loading goods in one country, unloading them in a second country while using a vehicle registered in a third country.

Obviously the music sector makes extensive use of both facilities, particularly to support touring performers. Previously, this sector was overwhelmingly dominated by UK-registered businesses, but now many are moving to the EU. In fact, 85% of respondents that operate tours in the EU, said new cabotage limits for haulage vehicles will cause moderate or severe disruption for their business. The main difference is that there are now separate titles for the transport of goods and the transport of passengers.

In simple terms, there are a number of scenarios faced by touring operators and musicians which are not covered by the TCA. For example, new rules restrict hauliers above 3.5 tonnes to 3 movements within the EU. Therefore, a UK-based performance group travelling with support and technical staff (such as a rock band or string quartet) cannot use their van for a multi-stop tour and instead must seek a logistics operative in the EU for transportation.

There is currently a lot of confusion and uncertainty regarding road haulage rules. Despite calls for including splitter vans within the TCA, the status of these commonly used vehicle is unclear and in need of urgent clarification. The Department for Transport’s position on this in May 2021 directly contradicts information previously communicated to the music industry in April 2021, disrupting plans for touring as Europe begins to reopen after the pandemic.

Similarly, the guidance does not specify which goods are permitted on a coach or a bus, and displays vague language and terms that are not defined in law. Finally, the DfT have not provided information about enforcement mechanisms for businesses that fail to meet these unclear rules.

‘Cabotage renders most small to mid tier touring engagements impossible.’

‘Cabotage rules absolutely kill touring completely...[it] hugely impacts the smaller acts who don’t use trucks.’

‘Cannot see how a UK orchestra can tour through Europe...while complying with the cabotage limits.’

5. Transportation of people

Visa and work permits

The increased challenges facing tour and concert organisers, artists, agents, management companies and others has emerged as one of the main areas of concern within the music industry. It is one of the biggest reasons why 94% of businesses say the TCA had a negative or very negative impact. Due to the absence of provisions in the TCA, the industry now is required to navigate the specific entry and work requirements for each of the 27 EU countries. This is due in part because the UK Government rejected the EU’s offer for a Visa Waiver Agreement (VWA) for artists, so they are treated as ‘visa nationals’ when entering for paid work.
VWAs are common practice between the EU and third countries. Since 2009 the EU has entered into 28 agreements – including Colombia\textsuperscript{i}, UAE\textsuperscript{ii}, St Lucia\textsuperscript{iv} and Tonga\textsuperscript{v}. Therefore, a musician from Tonga has greater access to work in Europe than UK musicians. We have been advised by a leading QC that an agreement of this nature between the UK and the EU would be highly advantageous, would not require a renegotiation of the Brexit Deal, and could be compatible with the Government’s manifesto commitment to take back control of our borders.

In response to a lack of clear, country-specific guidance and a need for our members to be able to access information for multiple countries as easily as possible, the ISM has produced a comprehensive guide to summarise what is a very complex issue\textsuperscript{vi}.

Visa and work permit requirements and costs differ from country to country and by the length and purpose of the stay. Applications often require additional paperwork and expenditure which may not be immediately clear. These include multiple copies of documents, translation of documents, certification of documents, police certificates, proof of higher education qualifications, proof of income and health insurance. Applications have to be made in person, which means that travel costs and time off work and rehearsals have to be factored in. In addition, there are also ongoing temporary embassy and consulate closures as a result of COVID-19, making the situation even more complex.

’Most European promoters (orchestras etc) now do not want to book UK artists as it will involve too much paperwork and expense.’

’If it doesn’t improve then I am deeply concerned about whether I can remain profitable and will be able to carry on. I may have to abandon my UK artists.’

’It’s not viable for a small business like us to pay for all the hassle of performing in Europe.’

**Government support**

Only 9% of survey respondents said the Government guidance was adequate in helping to prepare their business for the new trade rules. In particular, they noted the lack of information before January 2021 which gave little time to adapt once the rules were introduced. Since then, guidance has been ‘coming through in dribs and drabs’ in the words of one business who noted that this created ‘significant issues’ when border officials were not up-to-date. Following the conclusion of the survey, the Government has updated its guidance but the same problems persist in terms of the lack of clarity. For example, the current advice on ATA Carnets says that musicians may be able to use a temporary admission to avoid paying duty. It is unacceptable that such an important document would use the term “may” without sufficient explanation.

Improved guidance must be accompanied by meaningful business support in the form of funding for our sector. This must be targeted at the 73% of businesses that reported a decline in trading opportunities with EU partners due to the new trade rules. There are many precedents to follow, including the £20 million SME Brexit Support Fund offering grants of up to £2,000 to help smaller businesses adapt to new customs and tax rules when trading with the EU\textsuperscript{vii}. While this scheme represents a positive start for eligible businesses, it is insufficient in light of the current challenges our sector faces and an additional separate bespoke fund is still required. VAT-registered businesses that trade with the EU were also offered further customs and tax support by HM Revenue and Customs. With 79% of businesses concerned or very concerned about the future of their business over the next 12 to 24 months, the Government must act now.
'The government has no clue about the music business, its value, its importance. I feel angry and betrayed.'

'We have had no real guidance from the Government'

'It’s non existent. I’ve been referred to foreign consulates for most issues.'

6. Recommendations

Reducing the bureaucratic and regulatory burdens facing music businesses and wider creative industry is the urgent priority. With over two-thirds of respondents have considered moving some or all of their operations to the EU and almost one in ten have already begun moving, we need a significant intervention to save our sector. To achieve this, we are calling on the UK Government to deliver the following measures.

Movement of goods

- Work with the EU to reduce the burden of paperwork and fees that is slowing down cross-border trade.

- Take steps to reduce the adverse impact of the new road haulage rules so that UK touring companies can once again facilitate pan-European tours.

Movement of people

- Negotiate a bespoke visa waiver agreement with the EU. This would be separate from the TCA and exempt creative professionals from needing to obtain a visa when seeking paid work.

- Negotiate bilateral agreements with individual EU Member States that do not currently offer cultural exemptions for work permits, such as Spain, Italy, and Portugal or which are financially the most important to UK musicians.

Supporting our sector

- Provide an emergency funding package for those operating in the music industry to compensate for the additional costs associated with the loss of work in Europe and decline in trade.

- Provide clear, unambiguous and verified guidance in relation to custom rules, ATA Carnets, road haulage, visas and work permits, as well as other relevant areas.

- Provide more information about replacements for the support provided by Shared Prosperity Fund and Creative Europe.
7. About the ISM

The Incorporated Society of Musicians (ISM) is the UK’s professional body for musicians and a nationally-recognised subject association for music. Since 1882, we have been dedicated to promoting the importance of music and protecting the rights of those working in the music profession.

We support nearly 11,000 music professionals across the UK and Ireland with our unrivalled legal advice and representation, comprehensive insurance and specialist services. Our members come from all areas of the music profession and from a wide variety of genres and musical backgrounds.

We campaign tirelessly in support of musicians’ rights, music education and the profession as a whole. We are a financially independent not-for-profit organisation with no political affiliation. This independence allows us the freedom to campaign on any issue affecting musicians.

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ii https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22015A1219%2801%29&qid=1611061742438
iii https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A22015A0521%2801%29
v https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A22015A1203%2801%29&qid=1620908628439
vi https://www.ism.org/advice/eu-work-permit-requirements-for-musicians