HOUSE OF LORDS

Select Committee on the European Union

Sub-Committee on EU Services

Corrected oral evidence: The future UK-EU relationship on professional and business services

Tuesday 30 June 2020

10 am

Watch the meeting

Members present: Baroness Donaghy (The Chair); Lord Bruce of Bennachie; Baroness Couttie; Lord Davies of Stamford; Lord McNally; Baroness Neville-Rolfe; Baroness Prashar; Lord Sharkey; Lord Thomas of Cwmgiedd; Viscount Trenchard; Lord Vaux of Harrowden.

Evidence Session No. 5 Heard in Public Questions 60 - 73

Witnesses

I Farzana Baduel, Chief Executive Officer, Curzon PR; Paul Bainsfair, Director-General, Institute of Practitioners in Advertising; Simon Conington, Managing Director, BPS World; Neil Ross, Policy Manager, techUK.

Examination of witnesses

Farzana Baduel, Paul Bainsfair, Simon Conington and Neil Ross.

Q60 **The Chair:** Good morning. We are very pleased to welcome the advertising and tech sections of the industry for our professional services inquiry. I am very pleased to welcome: Farzana Baduel, chief executive officer of Curzon PR; Paul Bainsfair, director-general of the Institute of Practitioners in Advertising; Simon Conington, managing director, BPS World; and Neil Ross, policy manager, techUK. You are all very welcome and we look forward to hearing your evidence. As you know, each member of our Committee will ask you questions, and hopefully we will have time for supplementaries. This is a public broadcasting session. You will be given the opportunity to look at the transcript and see if there are any corrections you wish to make.

I will open up the session by asking you all how important EU markets are for your companies, and the professional and business services firms you represent. Also, how regulated are the activities in your sector in the UK compared to EU countries? Over to you, Farzana.

Farzana Baduel: The EU does not represent a significant proportion of our income. Most of our work is global, but it tends to come from Asia and the Middle East as well as the UK. I would not say it is a significant proportion. Saying that, we represent the Spanish Government for the Basque region, but that is about 10% of our income. Public relations is not regulated other than for one vertical, which is lobbying or public affairs. Obviously, the UK has its own register for lobbying, which is industry as well as government imposed.

We find that there tend to be more onerous regulations for professional services in EU countries than in the UK. The UK PR industry is considered a centre of excellence in the world. A lot of countries around the world come to the UK to hire PR services. Regulation is a journey that public relations, being a relatively new profession, has yet to embark upon. There are calls for increased regulation. At the moment, only public affairs is regulated, and public affairs represents a significant but minority service of ours as an industry.

Paul Bainsfair: The EU markets are important to the advertising industry. In point of fact, I think we are the biggest exporter of advertising services of all the countries in Europe, and it has been a trend for some time to go to London in particular to co-ordinate any advertising that you want to run across Europe and in the European markets. It is very important to us. The biggest markets by value are France at £958 million of exports, Germany at nearly the same, Ireland at £657 million, and the Netherlands at about the same again. It is a very important market for us.

Advertising/marketing is not a regulated profession in the way accountancy or law would be, but there are regulations that we are subject to, with restrictions on the kind of advertising that we can run, say, for alcohol, gambling, marketing to children, in different markets.

Simon Conington: By contrast, the EU market is a very significant market to our company. We do about £40 million in turnover, and about 30% of that sits within Europe. The recruitment industry exports about £2.8 billion into the EU and we are a net exporter by in excess of 60%. The international business language is English.

The UK recruiter has one of the best reputations, if not the best reputation, in the world, with the EU being a very significant market for us. It is not just a direct exporting market. It is also indirect. There are a lot of activities conducted in the UK that we recruit into which relate to projects and services throughout the EU. We think the figure might be higher than due to hidden costs. It is very hard to get hold of a figure, because a lot of business is done B2B in England, and in the UK, but it is related to services carried out in Europe.

A lot of regulation sits around our industry, both in the UK and in Europe, and that is also country by country. I do not think people realise some of the barriers that might come if we do not have a trade agreement. It is already perceived to be quite difficult to do business in the EU due to some of the regulation that exists. The regulation is on things like GDPR and trafficking. There are rules and regulations about how and when you can conduct your services in different countries. Chain liability exists in certain countries, and there are also a lot of rules and regulations on taxation.

If we just take VAT itself, there are circa 230 amendments to European VAT, and you have to be aware of the significance in each sector that we operate into. It is already quite a complex marketplace for us, with agreements or changes in one country having an effect in another, but without a European Union even playing field it will be even more difficult.

I can give examples of what that landscape looks like for us and our services. We do about 10% of our turnover in Asia, and I can give you an understanding of what some of those barriers might look like if required.

Neil Ross: On a pure by the numbers game, Europe is a very important market for us, in telecommunications, computing and information services the EU market makes up about 50% of the exports which the tech sector sends there.

The UK tech sector is by far the largest in Europe. While we have the pure numbers for the large number of service exports we do, there are ecosystem benefits which the UK gets from being in the European tech space. For example, the UK has always been the place where the bright young things in Europe and around the world have thought, "well if I want to break into the European markets, the best place to scale is in London, or in Manchester, or in Bristol, or in Edinburgh". Losing access to the market has an intangible benefit that could show up in the statistics further down the line.

In terms of regulation the tech sector is quite broad. We now have a large number of sub-sectors that have their own specific vertical regulation. Healthtech, fintech and cleantech have their own specific regulators in areas across the EU.

However probably the most common one that affects the sector across the board is regulations on personal data protection, GDPR being the biggest example and something that Simon raised.

At the moment, the UK and the EU have the same regulation, the UK is still following the GDPR as part of the transition period. However, at the end of the transition period, both sides will have the same, but separate systems, so there will be questions about what divergence or changes in both the UK and the EU mean for the relative markets and their ability to interact.

Q61 **Lord Bruce of Bennachie:** I think you mentioned the barriers that might arise, and I wondered if we could pursue that a little further. First, to what extent are there EU-wide regulations and to what extent is it country by country? If we are a third country without any particular free trade agreement, what are your biggest worries about the sort of barriers that would be erected? Given what you said earlier, would it also affect our ability to attract talent to the UK if we are outside the EU as a non-member state?

Simon Conington: I will talk a bit about Asia. There are no common free trade agreements out there. There are country-by-country agreements and they change regularly. Nine years ago, we could have set up an office in Indonesia, but you cannot do that as a foreign entity right now. If you take any of the Asian countries, it is almost impossible to set up locally and trade if you do not have local representation at director level.

There are other barriers that come into play. Last year, for instance, we did about £500,000 of trade in China. Because of some of the changes in regulation, that will not be repeated this year. In fact, we have had to withdraw from that sector.

Going back to the EU, right now we have an ability to trade across the EU. One of our concerns is service reservations and future reservations in Annexe 2. Right now, one of the things we deal with in Asia is constant changes to the landscape. We have to be very careful where we put our offices, how we establish and on what basis that might be, because if the landscape changes, we lose our ability to trade. As with the situation we have in China right now, we have money in China that we cannot get out.

If we are looking at the EU, even if we have a trade agreement come January 2021 that includes, reservation clauses, it creates a threat to us. It is a risk factor that prevents how much business we build in a given country when we know that the landscape could change at the stroke of a pen?

Lord Bruce of Bennachie: How does that affect the advertising and PR sector? Is that the same sort of problem?

Farzana Baduel: The problems that we could face are in freedom of establishment and freedom of movement. In the PR industry, time is of the essence, and we have to be incredibly agile, because often clients come to us not at the beginning phases of a campaign but when they are ready for the implementation and the execution.

We tend to have very short lead times in which to act. One of our main issues is that we need to be able to bring in a team quickly from different countries, if the campaign is global, and we need to be able to move very fast, with either UK professionals going into EU countries or vice versa. We need the ability to embed staff in client organisations and the ability to set up an office quickly, simply because often in the professional services spectrum we tend to have the shortest lead times. It tends to be very deadline driven, especially when you are dealing with a crisis situation. We sometimes get a three-hour heads-up about a new client, and we have to get a team together within 24 hours. For us, agility is critical.

Paul Bainsfair: In the advertising sector there are great parallels with PR. Much of what Simon has said would be the case with advertising. You need to move very quickly and have people on the ground in different markets very quickly to answer different briefs. Mobility of labour would be a big issue.

On the customs union side, there is a lot of very expensive high-value production equipment that gets moved around when we are making commercials. At the moment, that is frictionless. There would probably be all sorts of red tape and burdens on us moving stuff around, and I would imagine that that could be a problem as well, but mostly it will be a similar situation to the PR world.

Lord Bruce of Bennachie: There is quite a lot of friction you could all be facing if we are outside, either without an agreement or with an agreement that puts us in a different space. Is that true for all of you?

Farzana Baduel: Yes.

Simon Conington: Yes.

Neil Ross: Similarly, we have lots of situations where if you need to service communications or telecommunications equipment and, as we have all been learning during a period like this, this stuff is incredibly important.

Often you get a very short space of notice in which to go and do immediate repairs. That would require an engineer hearing of a problem and being able to fly out the next day, and if you could not service that telecommunications equipment effectively you could see failures in various areas. So that Mobility of workforce and being able to deploy labour very quickly are very important.

Lord Bruce of Bennachie: From what you are saying, it seems to me that you will be inhibited on the freedom of movement issue, and in moving people about quickly and attracting talent. It is not just about setting up an office somewhere inside the EU, because you are using London as a crossroads at the moment. I am getting the impression that a no deal or a very hard Brexit is a considerable problem for your sector. Is that a correct deduction?

Neil Ross: May I pick up on the access to talent point?

The uncertainty around the UK's future immigration system has been one of the biggest issues for the technology sector as a whole. We have a very severe digital skills gap in this country. It is very significant across Europe, and we had a problem with digital skills even when we had freedom of movement.

However, the uncertainty around the future immigration system has put a real dampener on the ability, particularly of SMEs to recruit new workers, because there is uncertainty about how long they would be able to stay after the end of the transition period, whether they would be able to bring their families, and what their livelihoods will look like. It has somewhere between a five to 10-year effect on recruitment in the SME space in the tech sector.

Lord Bruce of Bennachie: Thank you, Chair. That was an interesting section.

Q62 **Baroness Couttie:** Much of what I was about to ask about free movement has been covered. Presumably, your concerns cover both short-term business trips and secondments. What sort of facilitations would you like to see included in a UK-EU deal that would help to mitigate some of these issues you have been describing for short-term business trips and secondments?

Simon Conington: The mobility issue is essential for how we conduct business and trade at the moment. You have heard examples from all four sectors represented about the immediate agile short-term need to deploy people and services. I am in the recruitment industry and this is what we do.

I can give you an example of something that happened last week in the UAV market, the unmanned aircraft or what you might call the drone market. A company in Norway has won a large agreement associated with Europe including the UK. It involves the deployment of 21 drone pilots and technicians to different countries in Europe. We have had to recruit the pilots from across the whole of Europe and even outside of Europe. We then need to mobilise them to the countries. It is called going into theatre. They will then be remobilised around Europe as required for the duration of this particular project. We have to first identify and then be able to deal with mobilisations, so there are issues with nationalities and how you deal with taxation. There are issues with visas and how you bring people in. You might have someone from one nation being paid from the UK in a third country. There are lots of combinations that can exist.

Right now, we have free movement, or relatively free movement. If there are more barriers with visas other than those that already exist, that it will be a significant barrier and will absolutely affect our agility. If we have barriers with taxation, it will affect our ability to physically be able to pay and bill. That will prevent us doing business.

The other issue is data. If we cannot access and move data around, that will be another significant barrier. The game is already quite tough and the margins are quite tight. Further barriers and costs may mean that we will have to find another way of earning our living.

Farzana Baduel: From our perspective, as was mentioned earlier, the UK is considered a centre of excellence for public relations. As a consequence, we tend to get a lot of global briefs from brands that trust us to do their global public relations campaign as lead agencies, and it then gets filtered to a number of different agencies or freelancers in other markets.

Our issue is that if we do not have access to data in a timely fashion from the EU, which represents a significant part of the global market, it may impact our ability to be the first port of call for global clients who are looking for PR agencies with access to global data. So data is one issue. Increasingly, data has transformed our industry. We use it meticulously for the new research phase, the strategy phase, and in measurement and evaluation. Public relations has grown rapidly from just being media coverage to being multiple different verticals, and data is driving the transformation in the public relations industry. We need to have fluid access to data.

The second aspect is freedom of movement for professionals. One thing that is really critical to us is that we differ from other professional services in the sense that, although there are technical aspects in our profession, we also need to have an understanding of culture and nuance. When we are doing global campaigns, we often need to bring in people from those different cultures to co-create a communications strategy with global key messages that would resonate across all cultures. We cannot do that using groupthink and people just from the UK. We need a global team of PRs and, as wonderful as Zoom is, we need that face-to-face contact and brainstorming. It is part art, part science, and a creative process, and we need to be able to do that.

The other issue is that with the rise of Asia and these frontier and emerging markets, what I see happening in my business is that they come to the UK and hire us for global brand building and they also see us as a lead to working not just with the EU but with the whole world, because London is considered a very global city. We need to ensure that we have the ability to bring people in. I sometimes get 24 hours' notice to jump on a plane for new business, and it is highly competitive. To keep our position in the world as a centre of excellence, we really need freedom of establishment, freedom to second staff, and freedom of movement and data. We will be impacted if we just revert to WTO rules.

Paul Bainsfair: I will add a couple of practical things. A lot of what we have just heard is true of the advertising agency world, but, practically, we would need facilitations in the area of paid consultancy in these markets, for short-term business visits and, particularly, TV production work, which goes on all over Europe most of the time. Other than that, much of what you have already heard would apply to us.

Neil Ross: A lot of that would apply to us all as well. Obviously, there are areas where the UK can do this through its FTA approach. The Government have committed to ending the freedom of movement, and it seems unlikely that they would move from that position. It is about building on the commitments the Government made that are in the CETA trade agreement with the EU. Seeking to have expansive permissions for movement of professionals and intra-corporate transferees would be important in free trade agreements as the UK goes forward. This will have to be a principle which the UK embeds quite heavily into its international trade approach as well as the UK-EU FTA.

Q63 **Baroness Prashar:** How important is it for your companies, or the companies and professionals that you represent, to be able to serve EU clients from the UK or to set up offices in the EU? Will it become more difficult after Brexit, and, if so, what sort of things would you like to see done to mitigate the risks?

Simon Conington: If I have understood the question correctly, it is being able to conduct services from the UK into the EU and the barriers.

Baroness Prashar: Or to be able to establish offices in the EU.

Simon Conington: Until three or four years ago, we were operating mainly as an export organisation conducting our services in Europe and all over the world from a UK base. It made sense in some cases to have an office in the US and an office in Asia, and we put those into place, but there was no real requirement to have offices in Europe because of the ability to undertake short-term travel. I lost count of how many times I flew into a European country and back in a day last year, for meetings. Not only do we conduct services in the UK—a lot of my industry does it because it is mainly made up of SMEs, we would conduct services from the UK into Europe and beyond.

For instance, we have a project based around white collar engineering, as we call it—engineering design. We have created a design office in the UK, but we are designing data centres in Denmark and in southern Ireland. Our services are being conducted from the UK. When the UK voted on the referendum, we instantly established offices in southern Ireland, Germany, Poland, the Czech Republic and Serbia, because I cannot have the threat of my business suddenly not being able to honour agreements I have with existing customers.

As a result, already at least 50% of my European business is now being handled by those entities. That was revenue coming to the UK but is now going to those offices. If we do not have a trade agreement come January 2021, I imagine that 90% of my services will be conducted by European offices, the revenue will sit in those countries, and the UK will be a small piece of the pie moving forward.

Neil Ross: The difficulty is that in both a trade deal outcome and a non-negotiated outcome, as it is called now, there will be increased barriers. In the event of a trade deal, obviously there will be an FTA, which structures a lot of this, particularly the movement of people, and it would be very helpful if we had a comprehensive digital trade agreement that would help to underpin point A to point B service supplies—the mode 1 services.

Even when you have a trade agreement, lots of countries may list reservations against the UK requiring national establishment in their jurisdiction or requiring certain professionals to have certain nationality rights or agreements in place, so it becomes more complicated.

Even if we get an FTA with the EU, companies will still have to look across the EU 27 and work out what the different reservations and market access criteria are.

In the event of no deal, that becomes significantly more challenging. If there is no agreement, we would have to encourage the Government to seek bilateral or quick deals where they can, but in a period where you only have GATS coverage, as in our case, so it becomes very difficult.

That is why a comprehensive FTA and ensuring that UK embassies and missions to different European countries can push against the tendency to include any reservations to the trade agreement when it comes to ratification on the EU side is very important to ensure that business can continue smoothly after the trade agreement is reached.

Farzana Baduel: Much of what the other witnesses have said is valid. On the optics, if the UK leaves without a deal, we are concerned that there may be a global perception of the UK not having sufficient co-operation with the EU, and therefore a perception that the UK is no longer a landing pad for brands to come to the UK first, establish themselves as a lead market, and springboard into EU markets. There is also the perception of the UK not being seen as coming out with a co-operative deal with the EU, which could impact on our ability in global markets.

Paul Bainsfair: It is important to stress how big a deal it is for London to be seen as the international hub for global advertising, particularly covering Europe. International clients, non-EU clients—I am thinking about American, Chinese and Japanese clients—look automatically to London as the place to manage their advertising outside of their own markets.

It is terribly important that we maintain that perception going into 2021. We are under some attack from Amsterdam, which has seen the opportunity to try to steal some of London’s clothes. A number of agencies have opened up there. They are English speaking, mostly American, and they are trying to position themselves as the new centre for Europe. They are small compared to London at the moment, but we would be concerned about growth in that area. I am not sure that we need any more than a reciprocal agreement on talent and temporary movement to maintain our position, because, as I say, there is so much equity built up in London as the main market for Europe.

Also, there are a couple of other trends that are going on that might help us. One is that as a result of this lockdown around the world, although Zoom meetings and the like are not the same as face to face, many more meetings will not need to happen by taking people from one place to another.

Climate change issues will also affect movement. More and more companies will be discouraging people from flying around and having the sorts of meetings that we heard about earlier and which have definitely been going on, where you fly to Hamburg for a day and come back the same night. That will die away, I believe, so that might help us a little, but much of what you have already heard, again, pertains to advertising.

Baroness Prashar: What kind of arrangements to mitigate some of these risks would you like to see in the agreement which the EU and the Government might come to?

Paul Bainsfair: For my part, as I said, a reciprocal agreement on talent and the movement of talent across markets.

Simon Conington: Mobility and freedom of travel. We need to remain agile, so we cannot have any barriers through visa processes. The way we operate financially requires the keeping down of any barriers in taxation. Those would be the two big ones for me.

Neil Ross: As I said earlier, having mobility and the ability to move professionals around is at the core of the UK's international trade approach. It is very important not just for the UK-EU but for other trade agreements.

Also, having really broad and strong provisions on non-discrimination in services supply and provisions against national treatment are really important. In the Command Paper which the Government produced in early February, they put out a very solid principle-based approach for the services investment chapter of the EU-UK FTA. I know we have a question on digital trade later on, but the Government's digital trade chapter is world-leading. You would look at that and think that is a solid approach to beginning these discussions. Having that more open approach and trying to be a leader in free trade and embed that into the way you approach your agreements is the way to push this forward.

Farzana Baduel: Increasingly, data and privacy is becoming a hot topic in current affairs, and as a consequence we do not want to see the EU having its own data policy and considering the UK as having an inferior approach to data, and therefore there being some friction between the two, and the optics of it. That is also important for us.

Q64 **Lord McNally:** This takes us very much into the whole question of data. A number of you have already mentioned the importance of being able to move data around freely. What role does the free flow of data between the UK and EU play for your companies, or the companies you represent? Could you provide some specific examples? Do not be afraid of repeating yourself. It is good to have this on the record. What would a lack of reciprocal data adequacy arrangements mean for your company, or the companies you represent? Simon, you mentioned GDPR. Would you like to start?

Simon Conington: GDPR is a very significant piece of legislation. The UK has completely got it as good as it can. We have got our head around it. We have determined best practice. I would say that we are front-runners in the way we are managing ourselves under GDPR. I think it is quite good practice. We also see that translate into how we conduct ourselves internationally.

That brings me on to another issue about the brand of the UK, which I hope to touch on a bit later. Any barriers will be a threat. We have heard about digital and digitalisation, and there will be a drive on businesses to digitalise. If I take my business and cloud services, thank God we did not upload all of our services into leading cloud-based technology. I say thank God because of some of the barriers and the geo-fencing of data that exists around the world.

For instance, we were conducting a project in Russia. The legislation changed in Russia and you were not allowed to hold any personal data on a Russian citizen outside Russia. Thankfully, we still had the client server technology, so we were able to locate a server within Russia and hold all of that data there. That is a barrier against working smarter and against digitalisation. Any barriers that exist to movement of data would cause difficulties. That is probably enough from me at this point.

Neil Ross: Can I pick up on some of the points Simon made.

It is very useful to try to separate out the difference between a digital trade chapter in an FTA is versus the EU's adequacy process. A digital trade chapter is a part of the ongoing free trade agreement negotiations that are written in, in the sense that it will sit alongside the services chapter and the chapter on technical barriers to trade, et cetera.

That helps us, particularly on the points that Simon makes about data localisation and non-discrimination in service provision. For example, EU FTAs and the UK's proposal for the EU FTA has fairly strong provisions against things like data localisation, meaning that you cannot, unless in very extreme circumstances, require data to be located in a specific part of the territory or the countries involved in the trade agreement.

There are also good lines in the UK provision on no prior authorisation, meaning that you do not need to seek consent to transfer a service in particular sections across into the EU and there are some slight differences there (between the UK and the EU). That is the written-in component of the free trade agreement.

Separately to that, we have data adequacy. The EU, unlike a number of other countries or trading blocs around the world, views personal data fundamentally as almost a human rights issue. It is not seen as a trade issue. It does not write the flow of personal data into trade agreements. This is just not something the EU does. So for example it does not have personal data flow agreements with Canada or Japan.

This is all managed through the adequacy process. The adequacy process is a unilateral assessment of a country, similar to the financial equivalency process, seeking to establish whether that country has equivalent data protection standards to the EU.

If you pass the test, effectively, you are allowed to transfer data between the applicant for adequacy and the EU, or the EEA as it is, without having to go beyond your local data protection rules, because they are viewed as equivalent, and vice versa, companies in the EU can transfer out to the UK.

In the event that adequacy is not granted, the EU has set out in the GDPR specific alternative transfer mechanisms. These are specific processes that you have to adhere to, to transfer data out from the EU to the destination market. It is what is known as a standard contractual clause, so it is a contractual clause written into a business agreement that says that you will handle the data in a specific way. Those have to go into each individual business contract that anyone sets up. So you can see the extra burdens that are being placed here.

At the moment, because the UK was a member of the EU and therefore had automatic coverage under the GDPR, data can flow very easily between London and Berlin, or between Edinburgh and Amsterdam. In the event that there is no data adequacy agreement at the end of the transition period, in the run-up to the last no-deal preparations the UK Government automatically recognises the EU, so data can flow out from the UK to the EU without having to fill any extra checks, but companies based in the EU will have to include standard contractual clauses and other functions when they transfer data back to the UK. The UK becomes viewed as less competitive. It has extra burdens placed on it whenever you want to do business with the UK.

An additional complexity is that across the EU, and as we have seen in the review of the GDPR it has just done, different data authorities in each of the 27 member states act very differently. If you have a large business partnership in Italy, you really have to know how the data protection authority in Italy works, because it might act in a slightly different way from the UK's ICO, and understanding the quirks and the culture of Italian data protection will be vital to ensure that your clients do not feel that they might be investigated by the Italian data protection authority. The onus will be on the UK side to show a higher level of competence and instil confidence in its business partners if we are not covered by the adequacy process, which enables the free flow of personal data.

Lord McNally: That was a very full description, but very helpful and reflects the position. Farzana, you mentioned that you thought that we are a less good regime. I disagree with you. For a long time when we were involved in this, the British were very successful in stopping the EU becoming overburdened with regulation, and I fear that without us at the table, data scrutiny in the EU will get more and more complex.

Farzana Baduel: May I clarify my earlier comments? My concern was over the perception, should we have a divergent data policy and not be included under the umbrella, as opposed to an issue where we are perceived as having a discrepancy that makes us appear inferior. It was more the perception issue I was discussing.

There are two aspects to think about. Data and AI are the twin drivers of transforming the public relations industry. They are critical components for us. To maintain our global lead in taking global campaigns, as opposed to bitty regional campaigns, the big budgets are transnational global campaigns, and we need data at the research stage, the strategy stage, the measurement stage and the evaluation stage. We need data on attitudes and we need demographics and psychographics.

We also need to have data agility, which means that if we do a campaign, we might need to know within hours what data has come back. We use data as a feedback loop to figure out whether particular messages are working or if a particular sentiment does not quite work. Data as a feedback loop is critical for us, especially when it comes to the big digital advertising spend.

Most of the advertising is moving towards digital, and, as a consequence, data is critical for us to maintain our competitive position in the world. It is about the optics on the global stage, whereby the UK has a robust data strategy and it is not considered or perceived as inferior to the EU, when the EU could create a bit of a hostile environment in understanding that the UK has a different and therefore inferior policy.

Lord McNally: Paul, do all of you have any thoughts on this?

Paul Bainsfair: Much of it has been said, and Neil in particular went through it in some detail, but clearly for advertising and online advertising, data flow is absolutely critical. That is how we are able to target people in what is often called a micro-targeting fashion. The customer relationship management, databases, internet or online advertising, behavioural advertising—all these things are important. For market research, data is also important. It is critical that we get this right. I think the argument has been laid out very well so far.

Lord McNally: Was Neil right when he said that the only way round it will be a whole series of bilateral arrangements with the Italians, or whoever, with their own particular regimes?

Paul Bainsfair: I believe it is possible for trade bodies to get codes of conduct recognised under the GDPR, and that might be another way of having a workaround, because if you are a member of such a trade body you would automatically be cleared. I think I am right in saying that.

The Chair: Thank you, Lord McNally. We are drifting slightly into Lord Vaux's question, so I will call Lord Vaux.

Q65 **Lord Vaux of Harrowden:** We have drifted a little into that, but it is a good link. I wanted to ask a little more about digital trade. Neil Ross has spoken about this a couple of times so far. How important could provisions on digital trade be as part of a UK-EU agreement, or indeed no agreement?

How do you see that working in practice? How do you assess where the Government are on this? Perhaps I will start with you, Neil, as you raised this before.

Neil Ross: Digital trade is massively important. The Department for International Trade produced some really excellent statistics over the weekend which showed that about £190 million of UK services exports are digitally delivered, so about 67% of all of our services are delivered using digital channels. There is a massive trade surplus there of about £99 billion. The ability to deliver services through digital formats is hugely important, and I am sure the other panellists will pick up on that.

A digital trade agreement is slightly different from data adequacy. It is more about structuring the market access provisions for services delivery. It is slightly separate on personal data because of the way the EU approaches it.

In terms of the UK's offer on digital trade, we welcome quite strongly what the UK has put forward. This is a very modern digital trade chapter, and it includes a number of provisions, particularly on co-operation on emerging technology, which would be a new precedent for international trade agreements. We think that is really important because it builds in that constructive dialogue on technologies such as artificial intelligence, which has been raised.

However, the UK needs to be slightly careful in its approach to digital trade. What you agree in one trade agreement can have a very large impact on what you agree in another trade agreement. Digital trade is an example of this.

As we mentioned, the EU takes a very different approach to personal data compared with other trading partners such as the US. We have a broad timeline of September/October to negotiate something, but we are also negotiating at the same time with the US. Were the UK to reach a Japan-style digital trade agreement with the United States, which included advanced data-flow provisions that committed the UK to transferring personal data as part of business contracts without additional checks or safeguards on personal data, that might put the ability to agree a data provision in advance with the EU into a tailspin and could severely hamper the approach to adequacy. So we really need to think about the EU approach to digital trade across the board.

This is an area where the UK can lead. TechUK put out a policy paper that set out 12 recommendations on how the UK can lead on digital trade, and ideally our ambition is for the UK to be a sort of bridge between these competing approaches to the way we do digital trade that are emerging across the world, whether they are in the United States or Europe or Asia.

There is a fine line you can balance there and walk, and if it does so the UK could become a real hub for digital trade and an example of very high standards, and it could lead in that comparative policy approach in multilateral fora.

Lord Vaux of Harrowden: It would be useful if you could provide that paper to us in due course. Paul, do you have any comments on this?

Paul Bainsfair: From our understanding, going to the second part of your question, our assessment was there was not a lot of difference between the two sides on digital trade. Clearly, not having digital trade would be going back to the dark ages, because it speeds everything up. I do not really have a lot more to add to that, other than it is a must have in the agreement.

Lord Vaux of Harrowden: If we end up with a no deal, do you have any thoughts on how that would affect us?

Paul Bainsfair: We would be going back to sending couriers over with documents to be signed. It would be a step backwards, no question.

Simon Conington: Digital trade is a huge subject. From the perspective of our industry, we rely massively on data flow, and in recruitment much of it is personal data. Our industry, among others, is criticised for not digitalising. We are in a personal services business. We deal with human beings, so our industry is very resource hungry and it relies on people speaking to people. We can talk about things like AI and the ability to be more efficient through data, and we do not need any more barriers to doing that. From my perspective, our industry relies massively on data flows. Our competitive advantage in some cases can be our database—our European and global databases. We rely very heavily on access to social sites and social business sites, which are also digitalised.

One of the statistics that I am aware of is that, if there is no trade agreement, apparently the UK will have to recruit 50,000 people just to manage the movement of goods and services across the channel. They have worked out the number of forms a person can fill in. I forget the exact number, but it is something like seven forms a day, so they have calculated the amount of movement. I cannot see how that could happen, because the cost of that is so significant. It is a significant step back. If we have more barriers, where there is more authorisation and more checks and balances it will be very significant.

I can give you a couple of examples from other countries. Poland, which has actually come through it, Serbia and countries we deal with in Asia are not only still holding on to all the old paper systems but are trying to go into a more digital way of working. There is a lot of dual processing, and the time and cost that puts into the process are significant. Again, any barriers that come up due to time or cost will start to make business prohibitive.

Farzana Baduel: Barriers obviously lead to complexity. A significant proportion of the PR industry is represented by small businesses, micro-businesses and freelancers, and they do not have in-house legal departments to navigate through what is allowed and what is not. I think that will have a disproportionate effect on the PR industry. Covid-19 has accelerated pre-existing trends towards the digitalisation of communication channels. For instance, events that were in person have moved on to virtual conferences, so all aspects of our business are now exposed increasingly to digital channels from social media to media online, and now to virtual events, so digital is our DNA for the present as well as the future.

Q66 **Baroness Neville-Rolfe:** I wanted to move on to intellectual property, perhaps starting with Farzana. Listening to you and all the new techniques you now use—attitudes, psychometrics, consumer data—it seems very like retailing, which is where I come from. It is all the sorts of things we did in Tesco 10 years ago, so there has obviously been a revolution in PR.

I have three questions about intellectual property. First, how important are the UK-EU arrangements for your sector, particularly for the small operators? You mentioned, Farzana, that you were typically small businesses, and Simon said the same. Secondly, what type of protections would you like to see included in a future UK-EU deal, assuming we have one? If we do not have one, are there international rules, for example through the WTO or the WIPO, which give a reasonable degree of protection in your sector?

Farzana Baduel: I am a bit concerned about the WTO—of course, I am not an expert on policy—because it has a provision for highly skilled professionals, and although I like to champion PR as being highly skilled, I am not quite sure whether we will fall under that umbrella, because, of course, it is a mix of creative skills and we are not regulated as such. It is not as if we are medics or engineers and there is a bit of a grey area.

If we are not protected underneath the umbrella of highly skilled professionals, where does that leave us? It leads us into uncertainty. One thing about the PR industry is that we are quite a resilient industry. Our exposure to the EU, and for me personally, is very minimal. We would probably pivot into finding more new business in the UK and overseas.

However, with the impact of a potential recession, it will be a double whammy for our industry. In navigating the complexity, we do not have the in-house legal departments and policy departments. Our industry body does a very good job of educating us about what is coming down the pipeline, but still it will be difficult for our industry if we are faced with a no-deal Brexit.

Paul Bainsfair: Intellectual property and advertising agencies are strange bedfellows in that we deal mostly in ideas, and very often the contracts we sign with our clients mean that by necessity we sign over any rights to any ideas that we create on their behalf. It probably is not such a big deal for us, so we have not been worrying about protections for something that we do not really have, if you see what I mean. I would like to have more intellectual property rights than we actually have, but the truth is that we do not.

Baroness Neville-Rolfe: That is very helpful.

Simon Conington: In many ways as an industry we fall into the same camp as Paul has described. The difference is in how we deploy people. In recruitment, there are two types of services: permanent, where you put someone into a permanent role; and contract/temporary/contingency, where we put people into a flexible role. It could be associated with a project or an interim position , or just fast deployment.

When performing those agreements within contracts, intellectual property is always a contract point. If they become more complex, I would fall back on what Farzana said about our industry. We rely very heavily on our industry body, the REC, for legal matters. The landscape is changing constantly, so again, while it is not significant, it starts to add other barriers and considerations.

In many ways, the USP of a company like mine is our ability to operate compliantly in 50 countries. It has taken us since 2004 to learn and navigate this landscape. We will use that as a USP. However, I do not think people understand how easy it is to operate in Europe. People talk about some of the complexities that exist, but it is relatively easy right now. I do not think there should be any barriers for the UK come January 2021.

Baroness Neville-Rolfe: Neil, clearly techUK will come across intellectual property, because it is used, I am sure, much more with copyright and design and so on. I would be very interested in your take on the intellectual property issue.

Neil Ross: There are probably only two further points I would add to what the other panellists have said. One is that in the digital trade chapter that the UK has put forward there is a provision for the non-disclosure of source codes. It means that when agreeing business with a partner, the other trading partner does not force the company to disclose the clockwork of its software. That is very important for intellectual property protection across the trade agreements which the UK sets out. It is very important that we include those in all future FTAs.

Beyond that, the UK is seen as having quite a good and robust intellectual property system. Intellectual property chapters are quite common in free trade agreements. We would like to see the UK try to retain its robust approach to IP and for that not to be watered down in any future trade agreements with other partners.

Paul Bainsfair: I should have added earlier that although it is not particularly relevant for advertising agencies, which is the sector I represent, it is important for UK brands. In that regard, we would support the World Intellectual Property Organization, which acts in those areas. It is not unimportant. It just is not important to the advertising agencies per se.

Baroness Neville-Rolfe: Before I finish, I come back to Neil. Is there the potential tension on IP that we have heard about on data, and if you got an FTA with the EU, might you have a different FTA with the US? Does the international landscape of intellectual property mean that is not too much of a worry?

Neil Ross: I am not an IP specialist. However, I understand that tension exists, and it is of concern among those who have been examining this issue, but ultimately it is a choice for the UK what it includes in free trade agreements, and it does not have to put IP in them if it does not want to.

Q67 **Lord Sharkey:** I would be very interested in hearing your overall assessment of the Government's approach to negotiations with the EU. I realise that is a very wide question, but I am particularly interested in what engagement your businesses and sectors have had with government over the last couple of years or so. Who would like to start?

Simon Conington: Apologies, my microphone has just dropped out and I missed your question.

Lord Sharkey: I can say it again but did anybody else hear it?

Paul Bainsfair: I heard it.

Lord Sharkey: Would you like to start?

Paul Bainsfair: Our overall reaction has been one of disappointment, mostly at the lack of transparency, especially early on. I think I am right in saying that we quite often had the EU's legal text, but we did not have the UK's to compare it to. It was unclear in more ways than one as to why that was happening. It put us at a disadvantage in understanding what our position was vis-à-vis the Europeans. More clarity on where our priorities were would have helped enormously. Obviously, there is an element of brinkmanship going on, but it does not necessarily give businesses any certainty, particularly in the current time we are living through, where we will also have to deal with what is almost certainly going to be a massive economic recession because of the Covid-19 pandemic.

Neil Ross: It has been an unusual process. The EU-UK trading relationship and government engagement on it has been treated as very distinct from the rest-of-the-world FTAs. It is being handled not by the Department for International Trade but by the Cabinet Office, and formerly by DExEU. The substance of what the Government have put forward across telecoms, digital trade and services components, which we have focused on a lot, has resulted in good provisions. We would want more engagement from government on preparations for the implementation, not just the implementation of a deal, because even if we were to achieve a deal of the kind that we are likely to get, a comprehensive FTA, businesses will have to make significant preparations for that, and we need more engagement from the Government on it. Certainly, the reissuing of the technical notices that the Government pursued in the run-up to the 31 October no-deal deadline would be welcome again this time, and certainly are needed for companies to prepare even in a deal outcome.

Farzana Baduel: One further point to add is about simply having more clarity on the preparations for the implementation to allow us to have time to build contingency plans for those PRs that are impacted. I imagine some of my public affairs peers in the industry, who have offices in Brussels and so forth, will be significantly impacted, and I think it is a question of timing.

While we are dealing with the fall-out of the pandemic, and the potential recession heading our way, the third issue which people have to deal with is the uncertainty. There is a need for clarity and preparation and more detailed guidance notes. Our industry is lucky to have two industry bodies, the PRCA and the CIPR. They both have policy staff who seem to be on it, and giving us as much information as possible, but it is very challenging for us, particularly for small businesses, because there is the pandemic, the recession and then we have uncertainty over it. Having some certainty and more detailed guidance would be most welcome.

Lord Sharkey: Simon, were you able to guess what the question was from the answers?

Simon Conington: I think so. The answer is there. The big one is uncertainty. Farzana picked up on it. Our industry is made up of SMEs and I find Neil is fantastically informed on some of the technical issues, but there are only so many hours in a day. People in SMEs work 14 or 15-hour days. We do not have time to do the research about where we might be going, so we are very much guided by what we hear in the press and what our industry bodies say. I am quite close to our industry body and I have the luxury of being able to help and influence and guide, but there is still no certainty or signposting or road map. We worked very hard to prepare the recruitment industry for a no deal last October. We shouted, "Wolf", and at the last minute there was a turnaround. With the amount of effort that went into ensuring our industry was ready, and even then we knew we were only 40% of the way there, it is very hard to go a second time without clear signposting and clear direction. Uncertainty is the word.

With uncertainty, and some of the other issues we are all dealing with right now around Covid, I suppose a degree of cynicism kicks in. What I have watched around the world is a bit of disappointment in the political landscape and in the way that authorities have operated and responded. What I have watched happen over the last four years, even against some of the big global announcements, is businesses have powered on. We find ourselves navigating through some of the barriers as and when they exist, as opposed to preparing for what might be. I feel there is a lack of certainty and that will affect people's decision-making, and it will affect confidence, which will be quite damaging. The word is uncertainty and any signposting we can get would be massively helpful.

Lord Sharkey: I am curious about the work of the UK Advertising Export Group. Is this part of a generalised effort?

Paul Bainsfair: I was going to come on to that later. We have set up an advertising exports group. The ambition is to grow exports around and world, and to build on what I mentioned earlier, which is London's reputation for being a centre of excellence. We are determined to show the world we are open for business and to provide the best showcase for the work that could be done here. That is very much looking into the future and we are taking some early steps on that.

Q68 **Lord Davies of Stamford:** Do either of your companies, or in the case of

Ms Baduel, the companies you represent, have any significant interest in the public procurement market in the EU? If so, are you concerned about the regime that will apply there after 1 January. If so, could you tell us what those concerns are and what you are doing about them? Finally, and this point has been raised in other contexts as well this morning, do you feel that the WTO's standardised agreement on this subject would be an adequate substitute if we cannot get an agreement with the EU when we leave at the end of the year?

Farzana Baduel: I have been personally involved with an EU Government and went through various procurement processes with them. It is a relatively insignificant proportion of my income, so it is not a big issue for me personally. I have friends who run other PR agencies who have increased exposure because of the nature of their work, and therefore, they are heavily reliant on clients who in turn are reliant upon EU funding. Those clients tend to be UK based. There is a direct impact to agencies and PRs and there is also an indirect impact in that if it impacts our UK-based clients, it impacts their budgets with us. One issue to understand is the chain effect.

As regards contingency plans, as soon as Brexit was announced, I think a lot of business owners started to think about it. If a proportion of their income came from EU countries, they have had sufficient time to understand that there is going to be an impact and to look for alternative forms of income, or at least move their fixed costs to variable costs. There has been a big shift of thinking in the last couple of years among business owners, be it small, large or medium, for contingency planning.

Lord Davies of Stamford: Does that involve moving people and overheads to the continent and operating from there?

Farzana Baduel: There have already been a number of closures of businesses in the UK. They cite Brexit, but you never quite know whether it was an underlying failing company and they are using Brexit as an excuse or there is a genuine impact on them. It is difficult to read between the lines for some of the companies.

Lord Davies of Stamford: If they have closed down in the UK and almost simultaneously set up that kind of capability on the continent, that is an indication that this is a move away from this country as regards where the business is going to be transacted in the future.

Farzana Baduel: It depends. A large manufacturing client of mine did that, but, in the end, they were motivated more by state funding. When it comes to manufacturing, sometimes there are broader issues at play—for example, whether they are receiving funding from various states to move their manufacturing operations, or lower-wage scenarios—which are not really Brexit related, but that final piece of uncertainty has a cost. Especially when it comes to investment, people are less willing to invest in countries where there is an element of uncertainty, so the sooner we have clarity, the better it is for the investment climate for the UK, and the better it is for business owners as regards contingency planning.

Paul Bainsfair: Advertising agencies bid for many public procurement briefs—tourism, inward investment, education, promotion of government, all of this—and market research companies bid for opinion polling. It is quite a lot of business for the advertising industry, and it is certainly not clear to us whether the WTO would have us on an equal level to where we are now, particularly as the EU is tending to talk about level playing fields, which I think is about cutting out those companies that might be getting state help, such as the Chinese and others, from pitching against European companies. We might have to become a bit more creative and have joint ventures with local companies if we want to carry on winning these contracts. I think it could become very difficult.

Lord Davies of Stamford: That might be fine as a solution for your company, but it means that part of the spending which would have been spent here on overheads, personnel and rent and what have you will be spent on the continent, so there will be a loss of economic activity here if that happens.

Paul Bainsfair: I think that is true, yes.

Simon Conington: If I take the recruitment industry, we have a number of major global players and world-recognised companies, it would be a barrier to them if there were any barriers on public procurement with the EU. The second effect is with the tiering, tier 1, tier 2, tier 3. Within any recruitment process if there is a significant piece of work awarded, you look at who has won it at tier 1 level and who will benefit at the tier 2s and tier 3 level. If a UK company wins a tier 1 agreement, the relationships are naturally in play throughout that supply chain with UK companies, and we benefit from that. Again, any barriers to what we might call UK tier 1's to winning work would have a significant impact on our industry, the recruitment industry. Crudely, when a new service or project or something is commissioned, a recruitment exercise goes on. There would be that effect. It is also a question of where the work is done. For instance, it could be EU procurement but ithe work conducted from the UK. There are plenty of examples of that, certainly in the energy, aerospace or automotive industry, or whatever that might be. Again, we would lose that work.

The barrier to a business like ours is that because of the risk of public procurement, I cannot enter into it. Despite it being said there is a level playing field, there never is. The complexities, the relationships and the understanding must exist. I do not go for tier 1. I do not go for public procurement. I would supply the tier 1s, tier 2s and tier 3s. However, under set procurement practices, I would need to qualify under EU procurement, or any other procurement rules and regs. I have examples where I have technically won the work but because of the barrier that exists, because I was not in country or I did not comply with the rules, that is a loss of work. I have examples of that in the US and Asia. I would not want there to be any barriers to the work we do in the EU for the same reason.

Neil Ross: To add to the points made by the other panellists, it is quite hard to work out exactly what the procurement arrangements would be. The UK's approach has been quite confusing here, simply because it has not published any FTA text on what a public procurement agreement might look like, nor have we yet seen the schedule the UK wants to lodge at the WTO on the GPA. We need to see those first before we can make a comprehensive analysis, because across the two texts that both sides have set out they refer to the UK's membership and accession to the GPA, so we need to see what the UK proposes.

Lord Davies of Stamford: What you have just said is very surprising. We only have six months left to reach an agreement. There are a lot of other complicated areas where negotiations have only just started or have not made much progress. If the Government have not got round to the stage of briefing the industry, debriefing the industry and making it clear what the industry requires, which you tell me they have not, and you yourselves are still in the dark as to what the Government are planning or what they are focusing on, it is quite difficult to see how all that can be resolved in the six months remaining to us, is it not?

Neil Ross: It is difficult and there are a number of areas where what will happen if there is a deal, or even in the event of a no deal, is still unclear, and we are requesting information from the Government across those areas on the GPA as well as other parts of the agreement. As I understand it, the UK Government are not opposed to agreeing a public procurement text, but they have some issues on what the EU has proposed, and I am not particularly clear what those are.

Lord Davies of Stamford: That is worrying but thank you.

Q69 **Lord Thomas of Cwmgiedd:** May I turn to the question of a no deal? You have mentioned this from time to time during the various answers you have given. I wanted to ask in your respective sectors what effect a no deal would have and how you would see that eventuating? In dealing with that, could you cover two subsidiary points, which is, first, what help or support would you want from the UK Government or EU Governments, and, secondly, apart from not crying wolf twice, which is what I think Simon said a little earlier, what lessons are there to be learned from what happened last time when we prepared for a no deal? In view of the importance of data across the board, could I start with you, Neil Ross?

Neil Ross: If there is no free trade agreement, the data adequacy process is separate, so, theoretically, it is possible to have a situation where you have no FTA but you get adequacy.

However, I think the question you are trying to get to is what happens if we do not get both.

In the event of a no adequacy decision, every company in the UK which transfers data to the EU will have to reach out to its suppliers and contacts and ask them to implement the alternative transfer mechanisms that the EU has in place.

It is perhaps useful to discuss what happened in the run-up to the last no-deal outcome. In the run-up to 31 October, the UK Government said that in all data transfers the UK would automatically recognise the EU as adequate. Because we have the same data protection rules as the EU, and the UK Data Protection Act is the same as the GDPR in almost all respects, the UK and the EU operating under the same rules, effectively, even though they will not have a shared relationship, and the UK would not have adequacy. There are defined processes in the GDPR of adequacy alternative transfer mechanisms for allowing data flows to happen.

In the run-up to 31 October, the UK Government said they would automatically recognise the EEA as adequate, so all UK companies transferring data to the EEA are covered, and the ICO will not investigate you as long as you adhere to local data protection rules. The EU made no such commitment and we have no indication that the EU will make a similar commitment this time. This would mean that UK companies would need to ensure that all their suppliers or people who transfer data from the EEA to the UK were taking steps under the GDPR through alternative transfer mechanisms, to ensure they would not be investigated by their local data protection authorities.

There does not seem to be a large amount of awareness of this on the EU side. Certainly, we have evidence that UK SMEs were not particularly prepared in the run-up to 31 October. We have a lot of anecdotal data evidence which tells us that EU data protection authorities and EU companies were not very well prepared for a non-adequacy outcome, as it were, at the previous no-deal deadline, and there is no reason to think, with the distraction of Covid-19 and the reduction in priority of Brexit in lots of businesses' view of what is going to impact on them in the next three months, that that has changed. We need to see the UK Government taking steps to make it easy for UK companies to instil confidence in their suppliers, and review and reaffirm with them that these transfer mechanisms will allow business to continue as usual as long as they put them in place and prepare their suppliers in the event of a no-deal outcome on 31 December.

Lord Thomas of Cwmgiedd: Are you able to give any idea of the overall costs of there being no data adequacy provision?

Neil Ross: Unfortunately, I cannot on cost. It would be very significant—that is probably the only way to phrase it. When we had discussions with our members around the impacts on them, we found there was a particular risk to medium-sized and smaller enterprises, because they do not have the time or necessarily the expertise to put these provisions in place. I think there would be a very significant cost, although we cannot quantify it, because, unfortunately, data on digital trade is an area where we are still trying to evolve our understanding and our datasets in relation to it. Obviously, the costs could be quite large and are likely to be borne by smaller businesses on the UK and EU side.

Lord Thomas of Cwmgiedd: Could I come next to you, Paul Bainsfair, and ask you the same three questions?

Paul Bainsfair: If there is no agreement, essentially, we are going to be looking at more admin burden to do with the establishment of businesses around Europe, ensuring the ability to deliver services remotely. We have talked about the temporary mobility of people. We have heard about data transfer. If you roll it all up, you are talking about a substantial loss of trade, and a loss of competitiveness internationally. I cannot quantify it, but I would say that no agreement would be very bad news indeed for us.

Simon Conington: The impact of no trade is so significant—I will come back to that point in just a second—the costs and the practicalities are so significant that it will not and cannot happen overnight. Wrongly or rightly, with the lack of any formal signposting, my business, much like most I speak to, and my clients and customers, are going to carry on until we get told we cannot—as the barriers start to come, because it will not be an overnight cut.

On preparedness, we tabled our industry in January last year, and 10% said they were extremely well prepared and 40% said they had made some provision. Come June last year, 13% said they were very well prepared and 50% said they had made some provision. By the end of the year, those figures had gone down to 8% for those who said they were well prepared and 48% for those who said they had made some provision. We are going to go out again, but we are confident the figures have tanked on people's preparedness for no deal.

Right now, we have free movement and, even in these current times, we have people deployed and doing services either in or on behalf of other countries. For instance, there is something called the 183-day rule, by which we can deploy someone short term. The ability to operate through taxation regimes is relatively straightforward and relatively easy. Once you cross the 183-days barrier, that is where there is a significant transformation in how you manage that person and how you manage that project. If a no deal came in overnight, how you unravel that and pull it back would make it untenable.

I have spoken to our European customers and asked them what we would do, and they are of the same opinion. It is interesting speaking to them—and, again, I can give you stories of speaking to German and Italian companies: they can distinguish between people in the UK who want to carry on doing trade with the EU and those who do not. There is a willingness to support, but the barriers will start to come up and companies will have two choices. There will be those like us that will probably choose to try to navigate around what is going to become a very complex business environment. The reason we will do that is because we see our USP as being able to support national, regional and global agreements. That is what we do in the talent industry. However, most people I know will just withdraw because of the cost and risk.

Last year we set up in Germany. It cost us €50,000 just to get through the legal processes and to deploy the right amount of money in country. We might hold on to that commitment, but if there is any risk to that, I will have to withdraw and I will just pull back, like we did in China and like we have done in some other countries in Asia, where we have gone in and then been forced to pull back. It will all depend on how the barriers start to come into play. I think most people will withdraw, certainly in our industry. Our industry is SME-focused and I know a lot of recruitment companies that make three or four placements a year into Europe and that money comes back to the UK. In our industry, the margins are quite tight, so that will have an effect on them. They will simply pull back and will not go through with that, and, again, that will be a significant loss income into the UK.

Lord Thomas of Cwmgiedd: Farzana, do you want to add anything?

Farzana Baduel: We have to appreciate the environment that we are in. We are obviously dealing with a pandemic. That has brought in all sorts of liquidity and cash flow issues for public relations firms and freelancers, and now there is a potential recession. We are also struggling with the impact of technology and data on our industry. It is transforming rapidly. It is difficult for people to find the time to understand, prepare and act. From my perspective, there is perhaps a loss of confidence, where the goalposts keep on moving and the sounds coming out of the Government keep on changing and the dates keep moving around. All the political turmoil that we have had has also made people think, "Let's allocate the resources to contingency planning once there is something concrete", because it is very difficult for a small business to afford to allocate resources to contingency planning, especially when there is a history of continuous change.

Q70 **Viscount Trenchard:** Apologies if my question seems to cover much of the same ground we have already been talking about, but I would like to ask more about the preparations that your companies, or the companies you represent, have made, or are planning to make for after the transition period.

The transition period looks like it is going to end on 31 December and there might be a good deal or there might be a bad deal—some people have said to us that would be worse than a no deal because you could rely more on bilateral relations with member states; it has been stated that Italy's application of the GDPR rules is a bit different from that in other member states. There could be no deal.

There is additional uncertainty, because we do not know enough about the UK's own position. Neil Ross mentioned the UK's schedules for GPA. Your members, on the whole, are not heavily regulated except for GDPR and free movement of people, which seem to be crucial for all of you. Against this uncertainty, it is time to start preparing for next year. What costs have already been incurred or will be incurred?

Simon, perhaps you would like to start because you have said that your industry imports £2.8 billion net to the UK, but you are already moving staff to overseas offices. I would like to ask all of you about changes to business model and what costs have been or will be incurred against this uncertainty.

Simon Conington: There are a couple of points here. If I look at why we are successful across the world, the UK recruiter is a very tenacious person, and our industry is welcomed in every country. In fact, I would go so far as to say, and I am a realist on where centres of excellence exist, that we are a world centre of excellence when it comes to what we do and how we do it.

From that perspective, the UK brand runs high. Throughout this forum we have heard from all four industries represented that the UK's expertise and people are recognised and accepted globally. We have talked about London being a landing pad for any international company wanting access to Europe. The reason is because of our brand as well as the ease of doing business. We are pragmatic. We play by the rules. We are fair. We sign legal contracts and operate by them but we will do business sensibly, and we are known for that throughout the world. In countries in Asia there is a kudos to working with a UK or British company. That said, we are going to do damage to that brand at the moment. We are already doing some damage to the pragmatic nature of that brand.

We have set up around the world. I am British and massively proud and I would love to continue being a net importer into this country, but I have a bigger responsibility, and that is for the livelihoods of the people I employ. Therefore, I will do whatever it takes to support my customers and to support the people that I employ. At the moment, that is leading me to take business outside of the UK. I cannot risk the prospect of a no deal. It terrifies me to come to 31 January. I cannot be in that position.

Like you say, we have to make plans and right now those plans are to establish bases elsewhere, to get them trading, to get them recognised and to move agreements with customers to those local bases. There is already a little bit of irreversible damage going on, but, as I say, if we end up come the end of the year without an agreement that will go further.

On costs, we have underestimated what it would take to set up and put this business infrastructure in play. Certainly, with Germany we set up too late because it had already seen the referendum result and the barriers Germany put in place affected our ability to set up and get the correct licensing quickly. Throughout the world, our industry is recruitment. We are also associated with people trafficking, so there are licences that need to be acquired. We underestimated the cost of doing that.

As an individual company, we were also quite exposed in getting ready, potentially, for no deal, and with Covid our business has had a double whammy. I have watched others in our industry who have made steps to get ready at a significant cost, and that has created vulnerability through this period. Recruitment is one of the first things to go off the cliff when there is a crisis. Thankfully, it is one of the first things to come back. I can put it in context with how much business we lost in 48 hours in March, and we have not seen that come back yet. We are holding on. There is a huge expense to holding that international infrastructure to try and be here for when it comes back.

Neil Ross: I would like to correct what I said earlier. When I mentioned Italy with regards to data protection, but it was more an example of how one country may differ from another, as opposed to singling out the actions of the specific Italian data protection authority.

On preparation for a deal or no deal, many of our companies are dusting off their old no-deal preparation guidance, because at the moment lots of companies have very stretched resources. You are trying to prepare for the outcomes of a major trade agreement and to manage the impact of Covid-19. However, the Government withdrew a large number of technical notices and advice from the previous no-deal rounds. So if you are a public affairs or public policy professional in a large company and you are trying to encourage your CEO to prepare, you don't have at the moment you do not have a piece of technical guidance to wave around and say, "We must do this thing to prepare for the outcome of the negotiations".

Ultimately, that argument is internally much more difficult to win. The only evidence that you have about what the impact on your business might be is your old no-deal guidance and, effectively, the GATT and GATS schedules at WTO terms for the terms of trading. It is very difficult to prepare for a deal outcome in that way.

There has also been a change from the previous no-deal preparations to the new one. That relates to the withdrawal agreement. The withdrawal agreement puts a series of legal commitments on the UK that it has already agreed to in a binding international treaty and that change the way our no-deal preparation would work. We are trying to understand some of this. For example, there is some work ongoing to understand the impact of the data protection rules on Northern Ireland as a result of the withdrawal agreement. There are various other areas where the withdrawal agreement has an impact on a no-deal outcome this time versus the last time.

To prepare effectively, we would need new technical guidance from government. You have that piece of paper sent by the Cabinet Office that says you must do X thing to prepare, and that allows you to convince your CEO or the manager of your company to expend resources to make those preparations. We also would like to see the Government take a more flexible approach to phasing in some of the new requirements that will happen. The Cabinet Office, for example, announced a new borders regime a few weeks ago. This is the phasing in of the UK border over the next six months after the end of the transition period.

Similar efforts across the board will be really helpful, particularly where the UK can take unilateral action. Anything they can agree with the EU would be helpful, although it is a negotiated process, so it is difficult. The last thing would be if it is possible to set out a principled approach to what is likely to come out of the FTA in the summer, as David Frost, the Government's chief negotiator, has indicated they would like to do. That would also help motivate businesses to prepare. That gives you a broad brush of the issues that our members are facing.

Paul Bainsfair: Looking at our sector, I would say that for the most part there will be a redoubling of effort within agencies to grow their domestic business, to grow the revenue that they can get from UK clients. Many of the advertising agencies that work in EU countries have offices in those countries. They are often owned ultimately by French, British or American companies, and I expect that some business will shift from some of the London offices into some of those European offices in the same companies, but we cannot quantify that. It is difficult to say.

The value that most clients put on the UK advertising agency world is in its creativity. There is a very high chance that that will not change because that is what we are known for. I imagine that we will continue to do a lot of the origination of the ideas in the UK. It is just that the planning of the campaigns and the handling of the clients might move outside of the UK. There will be a loss of business but I could not say how much.

Viscount Trenchard: Farzana, lastly to you. I imagine the PR sector is less affected than the others, and fewer preparations are needed for what comes after the transition period; would that be right?

Farzana Baduel: From a personal perspective, yes, because I have very small exposure to EU clients. There are two actions I have carried out to mitigate. The first was simply reaching out to other independent PR firms in Europe so that, in the event that I have to run a global campaign, I can work with other independent firms as part of a network, which will reduce the time that I have to scramble around finding people if I face any mobility or data issues.

Secondly, there is the rise of the gig economy in the public relations industry, whereby, increasingly, people are working as freelancers, and, instead of having full-time employees, people are bringing in freelancers on a project basis. As a consequence, I have noticed that a number of my peers have been looking in Europe for freelancers they can have in the event they have to run a campaign next year among the uncertainty of a new deal. They will at least have a database of freelancers in specific markets who they can work with, as well as firms such as mine being part of a network of other firms that we can reach out to with pre-existing relationships established before a pitch comes in. I would say those two.

I would like to reiterate one point. The reason why we tend to be very popular in getting overseas work is the British brand. I am concerned that the handling of the pandemic and the political turmoil over the last couple years since the referendum have damaged our brand. The soft power of the UK around world allows people like me to have a competitive advantage over other PR firms. I am worried that if we do not get this bit right, it is going to damage our brand even more so. I have talked to clients from China to Canada, and even in the US, and they say, "We love British PRs because the journalists are so good in the UK and that is why you PRs are so good". There is a lot of respect for our industry and we need to be mindful we are blessed with a country that has soft power and we have to protect the brand of the UK.

Q71 **The Chair:** I am going to ask the final question. What opportunities does the UK's withdrawal from the single market present to companies and professionals in the sectors you represent? Neil, I think you mentioned in your opening remarks that there were some possible opportunities in the talent management area. Would you like to start and we will take it in that reverse order of yourself, Simon, Paul and finally Farzana?

Neil Ross: While access to the single market is a very important part of the success of the UK tech sector, it is not the reason for its success. There are various other areas that contribute to the fact that in global investment in technology companies, the UK is third only to the US and China. When you look at the UK in comparison to other EU member states, it is effectively a separate tier, so you would class it separately from Germany and France. We have a significantly higher level of investment and much more mature technology companies compared to our European counterparts.

The UK has done this through a combination of having leading universities, very good regulation and being a great place to start a business. Even when we were a member of the European Union, the ICO and UK authorities led in the creation of things such as the GDPR and various other regulations on technologies. The UK can continue to do this outside the EU in the global sphere by pursuing some of the more precedent-setting approaches to digital trade, such as agreements and co-operation in emerging technology, and trying to achieve a balance between the different approaches to data flows and the movement of data in FTAs around the world. So there is a huge amount of scope for the UK to lead and to see opportunity here.

Ultimately, while we are outside the European Union, as the EU updates and changes its role, such as through the Digital Services Act, countries such as Ireland, France, Germany and the Netherlands will look at what the UK is doing and see us as a competitor but also as a collaborator on their doorstep. Everything will be done in reference to what the UK does as well.

So the UK can lead on that comparative policy front, and there is a lot of scope for cutting out a very good niche in the global environment for the UK on technology.

What that means is securing a good FTA, moving past the political drama that has occurred—perhaps necessarily over the last four years because of the referendum result—and having a more mature discussion about what the UK’s position is in the world, and how we take advantage of that and show our comparative advantages.

Simon Conington: From my perspective, if we do a reflective look back from 2010 through to 2016, the recruitment industry in the UK grew from £23 billion to £36 billion, a circa 50% increase. If we look at UK growth over that period, it demonstrates how much we relied on business outside of the UK because the UK has not grown by that distance. If we look at the ONS figures, they suggest we are at £2.8 billion exports, and 40% of those are with Europe.

Since 2016 until now, our industry has grown to £38 billion, so, crudely, since we have had a referendum, we have seen that slow up a little. If we have a trade agreement, I can see how our industry will continue to prosper, support the UK and support international agreements. I think there will be a subtle change in terms of what that means and how and where people benefit, but the UK will continue to benefit significantly. As I say, it is not just directly the services we provide; it is the amount of business that is done in the UK which relies on income from elsewhere.

In the UK, there are recognised to be 3,200 recruitment agencies now. It is what we call a red sea. The margins are incredibly tight and it is an incredibly competitive landscape and, as a result, the margins have come down. In the UK, it is not uncommon now to be on average margins of between 12.5% and 15% and on large agreements, they can go down to 3%. If I take the European landscape, by contrast, it is between 22% and 25% in some areas. We rely on some of the margins we can get on our work in Europe due to capability. Again, the prospect with a trade agreement, with movement, with mobility, with no barriers around visas, with the ability to operate within the tax regimes, and with the freedom of data, I can see how that would continue to benefit the UK because of our brand. Without it, it will go the other way.

Paul Bainsfair: Coming round to the advertising world, it is not hyperbole to say there are two superpowers in the world of advertising: the US and the UK. As Lord Sharkey mentioned earlier, back in March 2020 we launched the UK Advertising Export Group, with an ambition to grow exports around the world, and to take a more buccaneering approach to what has been lying slightly innate, which is this reputation we have. We are going to take it to the world and try to build more business in other markets than perhaps we have had hitherto. That is the opportunity we see. Clearly, we expect to lose some business from Europe, but we are confident, and we expect to be able to fight our corner on the world stage.

Farzana Baduel: In difficult times there are always opportunities and the opportunity for our industry is, perhaps, to understand that there are shifts in economic growth in the world. With the centre of economic power moving more eastwards, it is perhaps a good opportunity for us to utilise the Commonwealth network and take advantage of the fact that English is spoken so widely in a number of countries, and to use those and leverage them so that we look for business. We already do, but we must take a more proactive approach in not just looking for business on our doorstep but going to far-flung corners of the world. Because of technology we can work in a more integrated fashion with countries on the other side of the world in different time zones and so forth. By embracing technology, perhaps it will give us the push to work more globally than we have done before.

The other positive is the rise of the gig economy in our sector. You do not always have to open up a physical office and hire full-time employees to have a foothold in a new country. Increasingly, what I am beginning to see is more agile remote PR firms that have a presence in other countries but not necessarily through legacy ways of working. They work through having a number of project-based consultants and having access to co-working space and so forth. We are pivoting into a new world where having physical offices and full-time employees may not be the future for everybody, and there may be some changes ahead in the next decade or so.

The Chair: Thank you very much indeed. We have two supplementaries.

Q72 **Lord McNally:** I will be very quick on this. I was very interested in Neil's evidence on data adequacy that his organisation had put forward a kind of bridging plan. The background to this is I was involved in the earlier negotiations on the GDPR, and the British position then was to ensure that the US and the EU did not get too far apart on data regulation. Is there a role for Britain in this area—[*Inaudible.*] Are we going to get caught in the middle or is there a role that a bridge could play?

Neil Ross: You dropped out a little bit but, as I understand it, your question was: how does the UK avoid becoming caught in the middle of what seem to be diverging approaches on data between the EU and the US?

That is the big risk. There are obviously three trading bloc approaches to technology and data, being the EU, the US and China. Technology and data are now being seen with geopolitical significance, and all three sides are moving to try to capitalise on that. We have seen that from debates around 5G through to data protection. It is an incredibly risky time for the UK to be trying to bridge that gap, and it is very difficult, but it can be done.

One of our general views, and we are working with the Government on this and having discussions at the moment, is how the UK becomes a compliance champion or a champion for high data protection, but in a way that is not overburdensome on business and consumers, so that data protection rules are relevant to people. Some people have described this as the paperwork of privacy. The UK has always led on things like that. As you pointed out, the UK was fundamental to the construction of the GDPR. It provided an important counterweight in the EU in those discussions. We have also really pushed forward our approaches on data through things such as sandboxing and various other schemes.

So there is a leadership role for the UK to play there, but it is a tricky global situation and one that will require deft management. Unfortunately, we do not have all the answers yet, but we are trying to engage as much in these discussions as we can.

The Chair: We only have time for one more of the witnesses to answer your question.

Lord McNally: Unless one of the witnesses has something more to say, that is just what I wanted to hear.

Simon Conington: We operate for best practice; we are known for it globally. Within a lot of legislation there are grey areas. We are known to navigate through grey with best practice in mind. At a pragmatic level, it is about everything Neil has said, and we are known for our brand.

Q73 **The Chair:** The final question is from Lord Bruce. I will ask it if he is not there. How much business and how many jobs have already left the UK? Perhaps I could ask Farzana.

Farzana Baduel: I am afraid I cannot answer that. I do not have the data for you. It is quite a broad question. Is it for the professional services industry or for the PR industry? Perhaps if we were to have some parameters around the question, we could find the answers for you.

Lord Bruce of Bennachie: It was just that it was said that people had already relocated and I think it was Simon who said he would have no choice but to relocate if there was no agreement. It was just an estimate within the sectors as to how much may have already relocated. You are world leaders, you have a USP, and people will still want to do business with us, but, pragmatically, it looks to me as if a lot of you are saying business has already moved, and I wondered if it was possible to give any kind of quantification for that.

Simon Conington: I do not have any quantitative data. I can tell you what we have done. As I say, we have set up European bases in southern Ireland out of Dublin. Probably 40% of our work is done out of that base. We have located or hired people outside of the UK to the detriment of UK jobs already. We know that some of our customers have lost project work due to the uncertainty of the UK right now. That has been won elsewhere or is being delivered from elsewhere. If we look at movement of people, where it was relatively easy to attract high-tech or very professional people into the UK, there are more barriers around that now.

If I take the other end of the extreme, for the UK agricultural industry right now, even without Covid, getting contingent labour in to help out with things such as fruit harvests has become an incredibly significant barrier. There is no quantitative data other than in our business it has already had a 40% negative effect on the UK. We are seeing it going on elsewhere and we are getting ready to support our customers. As Farzana said earlier, she is getting ready to put together freelancers from European nationalities to staff projects where she would potentially have sent UK people last time. There will be some UK influence in it, I am sure, and that is what we are seeing with all our customers. I told you about the programme we put together, the UAV programme. Where we would have normally done that with UK individuals, we now have a mix.

Neil Ross: On the quantitative data for the technology sector, it all looks quite good, in a sense. If we look at the Tech Nation figures that have come out since the 2016 referendum, we see that UK tech has continued to outperform Germany and France combined as regards investment into technology companies.The tech sector as a whole has grown about six times faster than the UK economy. It adds about £150 billion to the economy in GVA.

At the top line, the figures for the tech sector are good despite the uncertainty of Brexit. However, when you cut below, you hear quite mixed messages. Some companies have thought about whether they move particular resources to different parts of the EU, however equally, others have recently moved their EMEA headquarters to London despite the fact there are ongoing negotiations and a trade deal has not been finalised. It is a very mixed picture.

This is likely to be a slow burn for the tech sector. The trading relationship, and how it makes people consider where they put investments over the next five to 10 years, will be very important.

Certainly, the EU has a very ambitious strategy for technology. That has received mixed responses from the industry as a whole but certainly countries are very keen to build up their technology industries because they see it as strategically important. The UK has a very big one, and there are people out to have our lunch, as it were, so we need to monitor this very closely.

Despite the fact we are very successful, we would not like to lose any of our lead.

The Chair: Finally, Paul, do you have a comment?

Paul Bainsfair: It is a similar picture. If you look at the macro stats, the UK advertising market, up until this recent problem of the pandemic, has performed reasonably well, certainly in comparison with the other big European markets. There is no sign that we have seen any hit on our overall revenues yet. I cannot say that I can show any evidence that people are moving out or taking business elsewhere at the moment.

Farzana Baduel: I think we are assuming that people make decisions based on rational reasons, but the research shows that there are rational and emotional reasons. I have noticed a slight shift in sentiment where a number of European colleagues of mine have felt somewhat unwelcome. I think it is also the sentiment and the perception, be it reality or not, that the UK is becoming a bit more hostile toward foreigners. It is important that we maintain the positive sentiment the UK has of being a very diverse welcoming country.

Sometimes the narrative has shifted because of clickbait media. When I go to other countries they often say to me, "Has the UK become very anti-immigration?" There is an impact on other countries, and that may impact on people emotionally when deciding whether to invest in the UK and work with the UK, if they see us as not being open. I think that is a misconception, but it is there. When Europeans come here to work, they should feel welcome, and we should be mindful of the possible psychological impacts if they do not.

Neil Ross: May I echo Farzana's point? Lots of people in our industry call it the mood music. Getting the right mood music around the UK is very important.

The Chair: If you have any follow-up that you could send to us in writing, we would be very grateful. I think Lord Vaux mentioned some guidance that had been sent out to one of the sectors. This has been a fascinating insight into your professions and for that I am very grateful. Thank you for your time. This public evidence session has now ended.