



Department for
Digital, Culture,
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Dear Julian,

I was pleased to give evidence to you and the committee on Thursday 13th May to discuss the issues around creative and cultural professionals touring in the EU.

This government recognises the importance of the UK's creative and cultural industries, not only to the economy and international reputation of the United Kingdom, but also to the wellbeing and enrichment of its people. It is in everyone's interests to support the ease of touring - British creatives want to tour in the EU, and venues and audiences in the EU want to host them.

We understand the concerns about the new arrangements and we have made progress on a number of fronts. The DCMS-led Working Group has worked to provide clarity regarding the practical steps that need to be taken by touring professionals when touring the EU, and it is exploring how these sectors can be supported to work and tour in the EU with confidence, including looking carefully at proposals for a new Export Office that could provide further practical help.

Lord Frost raised the issues facing touring performers at the Partnership Council with the European Commission on 9 June. The importance of touring was recognised, and the UK will continue to take forward positive discussions with Member States to support our creative and cultural sectors. We have spoken to every Member State about touring, and we have established that at least 17 out of 27 Member States allow some visa and permit free touring. And I can confirm that we will now be working closely with individual Member States to encourage them to adopt a more flexible approach, in line with the UK's own rules which allow creative professionals to tour easily here.

As part of our discussions, I agreed to write back to you on the following:

1. The Member States where some touring activities are possible without Visas/Work Permits

Our engagement has found that in at least 17 Member States, some short-term touring activities are possible without visas/work permits. These are: Austria; Belgium; Czech Republic; Denmark; Estonia; Finland; France; Germany; Hungary; Italy; Ireland; Latvia; Lithuania; Luxembourg; Netherlands; Poland; and Sweden.

I must stress that individuals should always check what requirements they need to fulfil with the EU Member State they are travelling to, including to understand any local variations in the rules on paid work. The specific rules differ widely across Member States. Some details are still to be confirmed and we are continuing to work with counterparts in Member States to resolve areas of uncertainty and promote the need for clarity. We are now also speaking to those Member States that do not allow any touring without a visa or work permit, to encourage them to match the UK's generous requirements.

To add to this, our recent deal with three EFTA countries (Norway, Iceland and Liechtenstein), who are also members of the Single Market, secured permit free touring. This deal was based on the same UK



offer that the EU turned down, and shows that our proposals to the EU were workable. Our door remains open should the EU be willing to revisit those proposals.

2. **ISM-commissioned report**

I was asked about the legal advice the Incorporated Society of Musicians (ISM) has received from a QC, which makes five challenges to the government's decision to not pursue their visa-waiver proposal. I would like to address each point in turn:

- That an agreement would require the Brexit trade deal to be renegotiated, when a short supplementing agreement could be added

A supplementary treaty is still a new treaty. We have just concluded a substantial bilateral treaty with the EU and it is not likely that, having just concluded it, we could start a new treaty.

The EU has shown no sign that it wants to reopen this issue. Even if this was not the case, the Commission are a highly active party with their own agenda and objectives, and would respond to our proposals with counter proposals.

- That a visa-waiver agreement would be incompatible with taking back control of our borders, when it would exempt a limited number of professionals only

The British people voted to take back control of our borders and end free movement with the EU in the 2016 referendum. That was a key part of the manifesto on which the Government won the 2017 and 2019 elections, and is reflected in the agreement.

During the TCA negotiations, the Commission proposed an EU-wide visa-waiver agreement alongside a binding non-discrimination clause. A permanent, legally binding commitment not to impose visit visas (including for paid engagements) would have been inconsistent with the government's manifesto commitment to take back control of our borders.

We do enable visa-free visits from EU citizens, but we wish to retain control of how we apply the policy. It is worth noting that no major G7 economy has agreed to lock in their visa systems with the EU in this way.

Moreover, the EU's proposals would have prevented the UK from introducing visit visas on any future Member State, not just existing ones. As I set out to the Committee on 13 May, one of the challenges in the negotiations with the EU was that, in any agreement, they wanted to make sure that it applied to the whole bloc going into the future. Any agreement would bind us for any Member State that joined the European Union in future, whatever the migration controls were in that country.

It was also the case that the EU was looking to have something that would cover a far wider range of sectors than just touring, so the short-term visa-waiver would apply to other areas of the economy. Those are challenges that remain that we would still have to overcome.

- That it would not bind EU Member States to waive visas, when it would be legally binding once ratified, requiring approval by the EU Council

Whilst the EU can agree treaties that impose legally binding commitments on Member States including in respect of trade-related issues like work permit regimes (due to the Common Commercial Policy), it does not have competence for the determination of volumes of admission of third country nationals seeking to enter Member States to work, whether employed or self-employed (e.g. visas for work purposes).

The EU's draft text for the Trade and Cooperation Agreement included a visa-waiver agreement, which would have prohibited the parties from introducing visas on visitors from the other party unless those visitors were carrying out a paid activity during their short-stay visit. Accompanying this proposal was a

Joint Declaration which would have set out a common interpretation of “persons carrying out a paid activity”. These commitments on paid activity were declaratory. While the EU has visa-waiver deals with some other third countries, these are non-binding - in practice, many Member States continue to apply visas on paid activity, while some Member States offer the same waiver regime to those with whom they don't have deals.

- That it would cover only ad hoc performances, when that is the legal term used by the EU to refer to artists carrying out full tours

During negotiations, the EU made clear that the meaning of ad-hoc performances covered one-off performances, but did not include touring. If the EU wanted to include touring as part of their proposals, they would have said touring as opposed to ad-hoc performances. That being said, and as noted above, the Commission cannot in any case force Member States to accept any definition of paid work.

- That it would not cover work permits, which, while correct, obscures that Member States would then agree work permit rules (if any) off the back of any such agreement.

A visa-waiver agreement would not cover work permits, and it would remain up to each Member State to decide whether to impose work permit requirements.

At present, in relation to touring activities, some Member States require visas, some require work permits, some require both and some (at least 17) in at least some circumstances require neither. As described above, these arrangements can apply to countries with which the EU has visa waiver deals. A visa-waiver agreement would therefore not by itself bind Member States to remove visas, nor would it necessarily impact Member States' decisions on work permits.

Thank you for your continued interest on this vitally important issue. We recognise the challenges faced, but we have made progress on a number of fronts. By continuing to work with urgency across government, with the sector, and directly with Member States, we can support the creative and cultural sectors to resume touring with confidence. I look forward to discussing these issues with you again in due course.

Yours sincerely,



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Secretary of State for Digital, Culture, Media and Sport