

**Written Submission from Creative UK to the Commons European Scrutiny Committee
Inquiry on EU Entry/Exit and the UK border**

January 2024

About Creative UK

1. Creative UK is an investor, connector, supporter and champion of creative businesses working to generate the right conditions for a thriving creative economy. We are connected to hundreds of cultural and creative industries organisations, with a membership across 22 sub-sectors, including Createch, Broadcasting, TV & Film, Advertising, Marketing & PR, Music and Performing Arts, Fashion, Videogames and Architecture and Design.
2. Our members are based all around the UK and range from freelancers and small and medium-sized enterprises (SMEs) to providers of further and higher education, trade and representative bodies, arts and cultural organisations, heritage sites, industry powerhouses and local authorities. We also provide expert resources and financial opportunities that are tailor-made for the cultural and creative industries, offering bespoke investments, access to funding, loans, growth mentoring, policy development, industry insights and analysis through engaging with members, stakeholders and UK Government departments.
3. Creative UK works right across the entirety of the Creative and Cultural Industries, and this includes representation and work with members in the music and performing arts sectors, and other industries which are impacted by issues related to this inquiry, such as fashion, theatre, dance and visual arts, among others. It's important to note that people, tools, content and resources are also much more porous in terms of working across sub-sectors – and are also fundamentally interdependent - than policy, funding and public perception often reflect.

Executive Summary

4. Given the frequent flow of creative talent between the UK and the European Union (EU), the UK Government must ensure the UK creative sector is consulted and briefed in a timely way on the practicalities of using the European Travel Information and Authorisation System (ETIAS) system. The touring sector should not be further disadvantaged because of further bureaucracy, increased barriers and costs to touring as a result of the ETIAS.
5. The UK music industry makes a significant contribution to the country's soft power and economy here in the UK. A lack of adequate provisions for the creative sector in the Trade and Cooperation Agreement (TCA) has damaged these industries by making it more difficult and more expensive for UK musicians and crews, and other creative professionals in dance, theatre and visual arts, to tour and perform in EU countries. Being able to work and tour in Europe is critical because it contributes to the UK's power to influence overseas, it delivers major revenue to the UK Exchequer, and because many artists and creatives develop their careers by touring and working overseas.
6. Work in the EU has been a vital part of the success of the UK's cultural and creative industries and was previously facilitated by frictionless trade, the free movement of creative people and goods and access to European funding. While many creative sub-sectors trade in physical goods, the cultural and creative industries are a major trader of

services and Intellectual Property (IP) – relying on the movement of its creative workforce to facilitate the exchange of ideas and services. However, under the terms of the UK's Withdrawal Agreement, those freedoms were terminated at the end of the transition period in December 2020 and there were no subsequent terms negotiated in the UK-EU TCA.

7. Due to a lack of specific provisions for the cultural and creative industries in the TCA between the EU and the UK, creative practitioners and their teams must now comply with individual Member State regulations. Navigating the different regulations, requirements and charges across the 27 EU Member States can be expensive, complex and time-consuming. The renewal of the TCA in 2025 is an opportune moment for government to address unresolved issues such as lost work opportunities, the absence of visa-free travel, additional costs and time spent dealing with red tape, and inconsistency at the borders.
8. While the UK's departure from the EU offers greater national regulatory flexibility, these benefits are yet to outweigh the financial, administrative and legal burdens for the sector. Similarly EU funds for culture have not been replaced like-for-like. The Creative Industries Policy and Evidence Centre highlights that "with the exception of some specific services (delivery, telecommunications, maritime transport, and, partly, legal services), the TCA raises trade costs and barriers for all other services, including creative services."ⁱ
9. Based on consultation with members this submission outlines recommendations relating specifically to the inquiry's terms of reference, and also more generally to the movement of people, and the movement of goods. These recommendations will unlock the sector's post-Brexit potential and ensure that the UK is not limiting opportunity to those with access to money and resources.

Brexit and the music sector

10. Creative UK supports the following recommendations from the Independent Society of Musicians (ISM) in its August 2023 Brexit survey of the music sector '*Paying the Price*':
 - Negotiate a bespoke Visa Waiver Agreement (VWA) with the EU that allows UK artists and their support staff to work in any part of the EU for up to 90 days in a period of 180 days.
 - Negotiate bilateral agreements for work permits with individual EU Member States which do not currently offer cultural exemptions for work up to 90 days.
 - Unilaterally reduce the cost of the ATA Carnet for cultural goods and work towards a cultural exemption for musical instruments and equipment.
 - Negotiate a cabotage exemption for specialist hauliers, to allow unrestricted touring across the EU.
 - Make Eurostar St Pancras a CITES-designated Point of Entry and Exit (PoE), digitise Musical Instrument Certificate applications and keep them free of charge.
 - Streamline merchandise paperwork applications and provide clear Government guidance for musicians so they are easier to follow.
 - Raise the issue of the 90 in 180-day limit with the EU and seek a reciprocal agreement similar to the UK's Creative Worker (Temporary Work) visa.ⁱⁱ
11. The UK Government can go a long way to reducing the burden of red tape for the sector by adopting these clear and achievable solutions. Some of these can be adopted unilaterally, such as making St Pancras Eurostar a CITES-approved PoE. This specific action would allow musicians holding Musical Instrument Certificates to use this route to travel to the EU.

12. As the UK continues to navigate the complexities of globalisation, the UK needs to secure a prominent place for our creative sector in the world today. The UK's loss of frictionless trade with the EU, easy movement of creative talent and changes in major funding streams has led to added complexity, challenge, and cost for both talent and organisations in the UK. While the UK's creative output is in demand around the world, with annually exported goods and services underscoring our appeal, initiatives to promote the UK's cultural and creative industries globally are trailing.
13. One solution to this is for the UK Government to prioritise securing a Cultural Touring Agreement with the EU. This could potentially be negotiated as part of the review of the Trade and Cooperation Agreement (TCA) due in 2025/26. In 2019, the EU was the UK's largest live music market, worth four times the size of the US (the UK's second largest market). Increased bureaucracy for touring musicians following the UK's exit from the EU is limiting sector growth. Issues include restrictive visas and work permits, complicated red tape like carnets, and barriers related to selling merchandise and truck hire.
14. In addition, the UK Government should strengthen opportunities for creative workers to ensure that a Global Creative Worker Visa covers freelancers across the cultural and creative industries. The UK Government should also ensure that all bilateral and trade agreements the UK develops addresses issues with market access, as well as protecting and enhancing cultural diversity, and Intellectual Property rights – including by consulting the creative sector in Free Trade Agreement negotiations.
15. Creative UK also is calling for the creation of a well-resourced and funded music export office. The UK Government needs to be more ambitious and systemic in supporting its music exports. Creating an export office targeted at music would provide support to British small and medium-sized music companies music companies and future talent, helping to build their international audiences and export profile. Similar offices are common across the globe, including in Germany, Australia, and Canada. With adequate funding, a music export office will address export barriers and help to grow music as a flagship UK industry.

Movement of people

Outbound movement: Visas and work permits

16. As part of the Withdrawal Agreement, the UK and EU agreed on reciprocal visa-free travel – up to 90 days in any 180-day period across all Member States – within the Schengen area for the purposes of tourism, visits to family and friends, business meetings, cultural or sports events, or for short-term studies or training. However, both parties failed to reach agreement on a visa waiver for short-term creative work in the EU.
17. UK creatives, and their teams, require visas for stays of longer than 90 days in a 180-day period and additional work permits for certain EU Member States. Creative professionals must now navigate the specific requirements of individual Member States in order to undertake paid work in Europe – a particular logistical challenge for a sector characterised by micro-businesses and a freelance workforce.
18. The full impact of Brexit on the cultural and creative industries was originally masked by the restrictions during the COVID-19 pandemic. Prior to the pandemic, 70% musicians travelled abroad to work,ⁱⁱⁱ and 40% visual artists travelled to Europe^{iv} in the year up to July 2017. It is vital that the success of the cultural and creative industries, which relies heavily on this ability to travel, is strengthened, and not diminished as a result of the UK's changed relationship with the EU.

19. Now the sector has emerged from post-pandemic restrictions, the changes to touring and trade with the EU are beginning to be seen and understood. The ISM's latest survey, which closed in April 2023, asked musicians' to detail their experiences of working in Europe since January 2021 (post the provisional application of the TCA) – where participants were specifically asked to exclude any experiences that may have been affected by COVID-19 during this period). The survey found that the major post-Brexit issues musicians are facing now include:

- Fewer job opportunities
- Lost work
- Increased costs due to red tape
- Time spent on red tape
- Lack of consistency from border staff.

These issues are also especially problematic for solo and emerging artists, and small ensembles.^v

20. Until such a time as there is a systemic solution that addresses the needs of the cultural and creative industries, the UK Government should provide a creative support fund that offers financial assistance to those touring and operating in the EU, emerging talent looking to enter new markets and those sole traders, SMEs and micro-businesses unable to absorb additional costs.

Electronic travel authorisation in the UK and EU

21. The process for the EU's forthcoming European Travel Information and Authorisation System (ETIAS) will create additional administration for creative workers able to travel under existing visa/work permit exemptions. Given the frequent flow of creative talent between the UK and EU, the UK Government must ensure the UK creative sector is consulted and briefed in a timely way on the practicalities of using the ETIAS system.

22. Creative UK echoes a specific concern the ISM has expressed about the delays that the introduction of ETIAS and electronic travel authorisation (ETA) may cause – even a small increase in time or teething problems at introduction could cause enormous difficulties given the tight timescales that touring operations often have to work to.

The need for clear guidance

23. Creative UK welcomes steps being taken to negotiate new paths into the EU, such as bilateral agreements on visa free travel for touring performers (in Greece for example). However, it is important to remember that concessions such as these do not exist for many cultural and creative industries sub-sectors.

24. The 'patchwork' of different arrangements has, and continues to impede creative workers when they travel to and within the EU, and entry to a country may still be at the discretion of border officials. Anecdotally, we have heard from performers that border officials are applying the rules differently in the different regions of Germany, even though a waiver is in place nationally. Similarly, Creative UK is hearing from members that creative workers continue to be confused by the complex and varied rules for visas and work permits. It is therefore crucial that the UK Government is clear in its external communications - to ensure that variations between regimes are clearly demarcated and understood. This is due, in part, to the risk that creative practitioners will act based on UK Government communications, without seeking costly legal advice.

25. Concerns have been raised regarding the ability of UK creative workers to take up employment in the EU at short notice, because of the time it takes to process visas, work

permits and other paperwork. The ISM, in particular, has expressed concern that UK performers are being overlooked, in place of EU talent, leading to lost work opportunities and lost revenue.^{vi} Creative UK has also heard anecdotal concerns that performers and support staff may consider moving to the EU to circumnavigate the issue, which would drain the UK's creative workforce and economy.

Visa Waiver Agreements: A potential systemic solution

26. As work permits and visas serve different purposes, different issues arise for both. Individual Member States hold sovereign power over work permits. However, Visa Waiver Agreements (VWAs) do exist between the EU and third countries. A VWA typically allows visa-free, short-term visits on a reciprocal basis.
27. The ISM argues that a bespoke visa waiver agreement between the EU and the UK for the cultural and creative industries would make access easier for performers and that:
 - It would not require the TCA to be renegotiated.
 - It would allow government to retain control of its borders: VWAs can use precise and restrictive language, providing exemptions for only a limited number of creative professionals, such as 'artists performing on an ad-hoc basis'.
 - The term 'ad-hoc' could be interpreted to cover creative practitioners carrying out specific engagements such as short, temporary work or a series of performances. In practice, it may be similar to the Permitted Paid Engagement (PPE) route operated by the UK.^{vii}
28. The VWA represents a uniform, systemic solution to the current challenges faced by creative practitioners – namely that they must navigate the regimes of all 27 Member States individually, incurring significant resource burdens that disproportionately affect early career individuals and early-stage businesses. And while a VWA would only address the issues of visas, and not that of work permits, this reduction in administration would provide the Creative Industries with a greater degree of certainty.
29. A VWA could maximise the potential of the UK cultural and creative industries in one of their largest markets. However, for it to be successful, arrangements must include not only creative practitioners, but their support teams. While Creative UK welcomes efforts made by organisations such as the four Arts Councils, which are working on pilot programmes to improve artist mobility and collaboration, a systemic solution as part of UK Government strategy is critical.

Movement of goods

30. It is not just the movement of people that poses a challenge to the cultural and creative industries. Limitations on the movement of goods - such as through cabotage, Carnets and CITES - also negatively impact creative practitioners' ability to provide services across the EU.
31. While, under the TCA, the UK and EU agreed to zero tariff and zero quota trade on goods, customs declarations must now be made for UK-EU imports and exports. The number of regulatory processes has significantly increased, which, in turn, increases the resource burden and legal risk on creative organisations looking to trade within the EU.
32. In our July 2022 paper 'Creativity without limits: Maximising the post-Brexit potential of the Creative Industries', Creative UK made the following recommendations aimed at mitigating this negative impact on the movement of goods for creatives:
 - Efforts must be increased to inform border officers of new processes and procedures, including the provision of thorough, updated guidance.

- Introduce a cultural waiver from road haulage limits, covering both ‘hire and reward’ and ‘operating on own account.’
- Introduce a UK-EU Carnet exemption for the cultural and creative industries, to reduce the resource burden on creative professionals moving goods without sale. Consider options to digitise Carnets.
- Eurostar must become a designated CITES port to ensure goods, such as musical instruments, can be transported freely and affordably. Expansion of CITES ports remains a priority.^{viii}

10 January 2024
Creative UK

Call for Evidence Questions (for reference)

1. The EU first proposed an entry/exit system for the Schengen Area in February 2008. How have proposals for its introduction developed over the last 15 years?
2. Are there currently any other domestic or transnational systems either planned or in operation that are similar to EES?
3. The EU’s Entry/Exit System was initially due to be introduced in 2022. What challenges do the EU and its Member States face in ensuring the full introduction and effective operation of EES?
4. What challenges will ‘third country’ (non-EU Member State) ports and operators face servicing destinations in the Schengen Area when EES becomes fully operational?
5. How will EES affect the travel experience of third country nationals?
6. **The EU is not planning to allow registration for EES remotely—e.g. via a dedicated website or mobile phone application—or physically at a location away from London St Pancras, Dover or Folkestone (such as an EU or Member State facility in a major UK city).**
 - a. **Is this approach justified?**
 - b. **Would remote registration be justifiable for nationals of countries with comparable immigration and security standards to the EU?**
7. **Juxtaposed UK/France(Schengen) border controls are in operation at London St Pancras International, Folkestone and Dover.**
 - a. **Introduced in its current form, what challenges will EES present UK sites facilitating juxtaposed border controls?**

- b. Should special dispensation for remote registration or remote pre-registration for EES be provided for at these sites?**
- 8. In addition to EES, the EU plans to introduce a ‘European Travel Information and Authorisation System’ (ETIAS) in 2024. The UK’s ‘Electronic Travel Authorisation’ scheme will go live in November 2023.**
- a. What challenges does the introduction of new EU and UK electronic travel systems present for operators and travellers?**
- b. Should the UK EU and international partners prioritise interoperability between their respective systems?**
- 9. What steps should the UK Government be taking to mitigate potential disruption stemming from the introduction of EES for UK ports, operators, and passengers travelling to the Schengen Area?**

ⁱ <https://pec.ac.uk/blog/the-uk-eu-trade-and-cooperation-agreement-whats-in-it-for-the-creative-industries-and-the-steps-ahead-1>

ⁱⁱ <https://www.ism.org/wp-content/uploads/2023/08/Paying-The-Price-The-Sixth-ISM-Brexit-Report-WEB.pdf>

ⁱⁱⁱ <https://committees.parliament.uk/writtenevidence/89470/html/>

^{iv} <https://static.a-n.co.uk/wp-content/uploads/2017/07/One-Year-On-Brexit-Survey-July-2017-Headlines.pdf>

^v <https://www.ism.org/wp-content/uploads/2023/08/01-Paying-The-Price-The-Sixth-ISM-Brexit-Report-WEB.pdf>

^{vi} https://www.ism.org/images/files/ISM_Fifth-Brexit-Report_May-2020_A4_Online.pdf

^{vii} <https://www.ism.org/images/images/ISM-briefing-a-bespoke-visa-waiver-agreement-for-the-creative-and-cultural-sector.pdf>

^{viii} https://www.wearecreative.uk/wp-content/uploads/2022/07/Post-Brexit-potential-of-the-UK-Creative-Industries_July2022-1.pdf

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