

Advertising Association – Written evidence (PBS0016)

About the Advertising Association

1. The Advertising Association promotes the role and rights of responsible advertising and its value to people, society, businesses and the economy. We bring together companies that advertise, their agencies, the media and relevant trade associations to seek consensus on the issues that affect them. We develop and communicate industry positions for politicians and opinion-formers, and publish industry research through advertising's think-tank, Credos, including the Advertising Pays series which has quantified the advertising industry's contribution to the economy, culture, jobs and society.

Context

2. The membership of the Advertising Association is very broad and includes the associations representing industry sectors, such as the advertisers (through ISBA), the agencies and advertising production houses (through the IPA and APA), all the media (from broadcasters and publishers, cinema, radio, outdoor and digital), market research (through MRS) and marketing services such as direct marketing, promotions.
3. Advertising is important. It plays a crucial role in brand competition, drives product innovation and fuels economic growth. It also provides revenues to fund a diverse and pluralistic media enjoyed by children and young people.
4. Advertising informs, entertains, persuades, dissuades and helps to enhance the perception of value. Its effects stretch across the economy, with roles ranging from an enabler of efficient markets to a significant supporter of the creative industries

Question 1: How important are the different UK professional and business services sectors to the UK's economy and trade in services? Please include data where possible.

5. According to 2018 ONS figures, Advertising and Market Research as a sector contributed £20.1 bn (current prices) in Gross Added Value to the UK economy.
6. Previously commissioned econometric modelled found that for every £1 spent on advertising it generated £6 to GDP. Advertising

expenditure across the whole of the UK was £25.4bn in 2019, meaning the industry was worth around £152bn to the wider economy.

7. According to Deloitte research carried out on behalf of the Advertising Association, the one million UK jobs supported by advertising can be broken down as follows:
 - 350,000 jobs in advertising and the in-house (brands) production of advertising;
 - 76,000 jobs in the media sectors supported by revenue from advertising;
 - 560,000 jobs supported by the advertising industry across the wider economy.
8. The UK is a global leader in advertising, digital and market research. It is currently the fourth largest advertising market globally and, according to ONS figures, the UK exported £9.7 bn worth of Advertising and Market Research services in 2018.
9. The industry's largest export market for advertising and marketing services is the EU, particularly France and Germany.

Question 2: What are the UK's different professional and business services sectors' key priorities for the future UK-EU relationship? What are the key priorities of smaller professional and business services providers and providers from the UK's regions and devolved nations in particular?

10. Our key priorities for the future UK-EU relationship would encompass the following areas:
 - A mobility framework with a broad definition of business visitors – the UK draft legal text has usefully set this out in more detail. However, neither the UK nor the EU has provided a draft list of covered activities which is extremely important for understanding the full scope of what is being proposed by each side.
 - A data adequacy decision(s) between the UK and EU to allow the two-way free flow of data.
 - The UK publishing industry is a net importer of newsprint which is used in the production of print newspapers, other publications and advertising material. The industry is keen to maintain the current zero tariff & quota schedule otherwise it would significantly affect its overall price competitiveness.

Question 3: What preparations (if any) have UK professional and business services providers made, or planned to make, ahead of the end of the transition period?

11. A number of trade bodies have put out guidance ahead of previous Brexit deadlines. This advice has focussed on contingencies for no data adequacy decision, retaining EU/EEA staff and considering administrative requirements for the temporary import/export of film or photographic production equipment. Whilst there is no agreement in place, future guidance will probably focus on similar themes.

Question 4: What provisions should the Government seek to negotiate to minimise potential barriers to trade, particularly for smaller professional and business services providers? What steps should the Government take to preserve the competitiveness and innovation capacity of the UK's different professional and business services sectors?

12. We would say that priorities for SMEs are similar to our response to Question 2 but with a particular emphasis on the first and second bullets. Additionally, SMEs may find dealing with economic needs tests i.e. proof that the job cannot be done locally, more difficult than larger firms. Moreover, having a dispute resolution mechanism that is accessible for SMEs would build confidence to trade in the EU.

Question 5: What type of arrangements should the Government seek to negotiate with the EU for the mobility of professionals?

13. UK-EU mobility arrangements will be largely be dictated by reciprocity. It is therefore important that the UK's immigration system facilitates temporary mobility for short term professional/business travel (ideally, visa-free or with very little administrative burden). We also hope that the UK's points-based immigration system is fit for purpose by the time the transition period ends.

Question 6: How important are arrangements on the mutual recognition of professional qualifications to professional and business services providers in the UK and EU? How could a future UK-EU agreement best allow for this?

14. Advertising and Marketing is not a regulated profession.

Question 7: What provisions should the Government seek to agree with the EU on cross-border investment and rights of establishment?

15. As a general point for investment and rights of establishment, the advertising industry would be concerned about encountering barriers such as:
- Restrictions on the importation and broadcast of foreign-produced television commercials.
 - Residency requirements for advertising production professionals filming in some countries and/or for employees of the advertising firm.
 - Requirements for local participation in the production of advertising transmitted through an electronic medium.
 - Requirements for local-postproduction work (e.g. editing, music, sequence editing)
 - Equity limitations on foreign ownership of advertising firms.
 - Requirements that host-country nationals hold managerial positions in foreign-owned advertising firms.
 - Requirements that program services carried by cable or satellite be "local" in order to carry certain advertising.

Question 8: Should there be regulatory cooperation between the UK and the EU on professional and business services? If so, what form should such cooperation take?

16. Greater transparency and predictability whilst doing business in third markets does require a certain amount of regulatory convergence and cooperation. This can be done via joint committees, regular information sharing or early warning of impending regulatory changes.
17. In our sector the Advertising Standards Authority (ASA) is a member of the European Advertising Standards Alliance (EASA) which is a platform to exchange information with other self-regulators across European countries. We would expect this not to change, even in the event of a no deal.
18. ICO and Ofcom play important roles within our industry and it make sense to have a regular regulatory dialogue with their opposite numbers in the EU. For example, EU regulations such as GDPR and the draft e-Privacy regulations have extra-territorial effect and any changes could have a bearing on our industry.

Question 9: What lessons, if any, can be learnt from the EU's existing trade agreements with other third countries including services, or negotiations on trade in services?

19. Whilst EU precedent may be useful, key EU figures have been keen to point out that it would prefer a bespoke arrangement with the UK. Taking parts of existing EU deals, is seen to be cherry-picking.
20. The EU is willing to be ambitious in offering a comprehensive trade deal but the trade-offs would involve greater regulatory alignment and commitments on level-playing field and fair competition.
21. EU trade deals with third countries may provide a useful starting template but there is no guarantee that the same terms will be accepted by that country.
22. Trade in Services Agreement (TiSA) negotiations stalled in 2016 but the agreement was set to broker compromises on several longstanding divides in services negotiations such as those around domestic regulation. TiSA would have accounted for 70% of world trade in services. TiSA included provisions on transparency, domestic regulation, telecommunications, e-commerce, localisation, temporary entry and stay of highly skilled professionals (mode 4) and other annexes that include government procurement. Liberalisation in these areas would likely to have a net positive impact on the advertising industry.

Question 10: To what extent could UK-EU trade in professional and business services continue in the absence of a UK-EU agreement covering services? How effective would the WTO General Agreement on Trade in Services be in supporting such trade, and what arrangements (if any) could be put in place to go beyond the WTO framework?

23. UK advertising and marketing professionals could face significant barriers under WTO terms compared to the EU Single Market rules on freedom of establishment and the provision of services under which they currently operate.
24. Under WTO GATS
 - In the absence of an FTA, UK providers would have to abide by host state rules and abide by local regulations of each Member State.

- Whereas FTA, allow for special or enhanced treatment between two or more bilateral trading partners, under GATS both sides would have to abide by Most-Favoured Nation (MFN) clauses, in other words whatever liberalisation is offered under GATS must be offered to all WTO Members.
- EU Member States have a number of reservations listed against the EU's WTO GATS (General Agreement on Trade in Services) commitments. For some EU Member States they require economic needs test for advertising and market research service providers delivered via professionals working in-market (Mode 4). Some EU Member States have nationality requirements on the ownership of media.
- Additionally, the GATS agreement does not contain provisions for data transfers or digital trade.

Question 11: If there were no reciprocal data adequacy arrangements in place between the EU and UK by the end of the transition period, what would the implications be for professional and business services providers?

25. The UK has unilaterally recognised the EU/EEA as data adequate and all of the adequacy decisions made by the European Commission and we understand that this arrangement will rollover beyond the transition period but will be kept under regular review.
26. The absence of an EU adequacy decision does not mean a complete cut to the flow of data. But it will have a number of legal implications and legal administration that could effectively restrict its flow.
27. GDPR sets out the procedures that need to be followed in the absence of a data adequacy decision. GDPR states that personal data can be transferred to a third country or an international organisation if there are appropriate safeguards.
28. Of the safeguards most appropriate to businesses are the implementation of Standard Contractual Clauses (SCCs). These are a standard set of contractual terms and conditions for the transfer of personal data which both the data exporter and the data importer enter into.
29. A multinational operating in the UK and in one or more EEA country will need to implement Binding Corporate Rules are required to transfer personal data between the different parts of the Group located in the UK and the EEA.

30. UK companies can no longer rely on the ICO as their EU lead Data Protection Authority and will not have access to the one-stop-shop.
31. Data controllers or processors that are subject to GDPR but not established in the EEA need to designate a data representative based in the EEA.

Question 12: What opportunities (if any) could the UK's withdrawal from the EU offer to the UK's professional and business services providers?

32. It is fair to say that the EU is a major recipient of UK advertising exports. Any loss of trade will be keenly felt within the industry as will any loss of access to EU talent. The UK is an international hub for advertising and we should do all we can to protect this status.
33. That said In March 2020 we launched the UK Advertising Exports Group (UKAEG) with an ambition to grow exports of advertising and marketing services around the world, support the international growth of UK advertising and marketing services and build on the UK's position as a global advertising hub.
34. We are determined to show the world we are open for business, and to provide the very best showcase of all the great work and services offered by UK Advertising.

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