



Ukie response to the HoL EU Services Sub- Committee inquiry on trade in services

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Response from the UK Interactive Entertainment association to the call for evidence on future UK-EU relations on trade in services.

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About Ukie

1. Ukie is the trade body for the UK's games and interactive entertainment industry. A not-for-profit, it represents more than 500 games businesses of all sizes from start-ups to multinational developers, publishers and service companies, working across online, mobile, console, PC, esports, virtual reality and augmented reality. We welcome the opportunity to respond to the Committee's inquiry.

About the Games Industry

2. The UK games industry is an economic powerhouse that continues to show remarkable growth across the four nations. In 2019, the industry contributed more than £2.9 billion in GVA to the UK economy, up from £0.4 billion in 2010. It is also well positioned to assist in addressing regional inequality, with 80% of games development roles situated outside of London. The industry's regional economic impact can be further seen in our report, [Think Global, Act Local](#), which demonstrated how eight games hubs contributed over £60m in GVA to their local economies (Edinburgh, Newcastle Upon Tyne, Leamington Spa, Crawley and Horsham, Manchester, Guildford, Slough and Heathrow, and London)¹.
3. In addition to this, the UK games industry is inherently international. Games businesses are natural exporters: over 90% of UK video games companies export products and services³. The UK's excellence in video games is recognised internationally with the industry attracting £1.75bn of inward investment between 2015 and 2017². The combination of the industry's export nature, and its regional spread, further demonstrates its potential to truly contribute towards the 'levelling up' the whole UK economy.

How will the provisions in the UK-EU Trade and Cooperation Agreement affect the creative industries sector?

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What impact will the arrangements agreed have on digital trade and trade in digital services between the UK and EU?

4. Digital trade and digital services are crucial to the UK games industry from both a sales and development perspective.
5. The UK games industry does not simply sell physical products and the purchase of digital games is an increasingly popular way to play. Ukie's annual valuations of the UK market demonstrate consistent growth in the sale of digital and online games, in comparison to a decline in the purchase of boxed games. Our last valuation of the 2019 market showed, for example, that UK consumers spent nearly £2 billion on digital and online games, and £603

¹ <https://ukie.org.uk/regional-economic-report>

² <https://www.bfi.org.uk/industry-data-insights/reports/uk-screen-sector-economy>

million on physical, boxed games³. These products can be purchased through digital stores available on all games platforms, as well as mobile app stores, reflecting the significance of digital services for trade in the games industry.

6. In addition, our members engage in the purchase and sale of B2B services to and from the EU for the development of their products. Such services include localisation, Quality Assurance, and licensing of games to European entities of marketplaces. We welcome that in the case of selling services B2B, there have been no tangible changes to VAT rules.
7. However, members have cited confusion and lack of clarity in current Government advice, which is found to be generalised and difficult to apply to practical areas. Such sentiments have been echoed from the industry on cross-cutting issues. The EU-UK Trade Cooperation Agreement (EU-UK TCA) expressed the need to ensure accessible guidance from both EU and UK channels and we hope that this is complied with.
8. Further, it seems likely that members will be subjected to increased costs for European digital sales through increased Card Scheme fees for payments made by consumers with EU debit/credit cards processed by UK Merchants post Brexit. Mastercard for example has been reported to be increasing fees more than fivefold when a UK debit/credit card is used to buy from an EU based Merchant, significantly impacting consumers and companies that rely on ecommerce. It seems likely that the increases will also apply to EU debit/credit cards used to purchase from a UK Merchant. Card Schemes are signalling their intention to classify these transactions as “inter-regional” rather than “intra-regional”. Such opportunism should not be allowed and members ask that UK government and regulators step in urgently, as the EU did in 2015 by placing a cap on Card Scheme Fees throughout the EEA. These increased fees go against the objective of Title IV of the EU-UK Trade and Cooperation Agreement which is to enable the free movement of capital and payments related to transactions liberalised under this Agreement.

“What we have found is that there is nothing in the GOV.UK guidance that speaks directly to our situation, for example regarding licensing to multi-nationals and their EU subsidiaries. There might be a case going forward to establish more specific guidance or, failing that, opening a dialogue with the government to answer questions specific to our sector that are not covered by general guidance.”

- **Payload Studios, developer and publisher with 31 employees**

What effect will arrangements on the mobility of professionals have on trade in services between the UK and EU?

9. The games industry is a forward-facing sector built on innovation with highly technical and newly emerging skills in fierce demand. International talent is of imperative importance to

³ https://ukiepedia.ukie.org.uk/index.php/Ukie_UK_Consumer_Games_Market_Valuation

the games industry, both for technical and creative reasons.

10. Recruiting people who can provide the level of expertise and technical talent required in the games industry can be difficult. Previous research undertaken by Ukie demonstrated that 87% of games businesses hired international talent due to UK candidates lacking the skills or experience required to fulfil certain roles⁴.
11. However, in addition to this, as a creative industry, the cultural and artistic contribution a diverse international team makes cannot be understated when creating interactive entertainment.
12. As a result, it is unsurprising to see a relatively high proportion of EU talent in the games workforce. Freedom of movement enabled businesses of all sizes to tap into the EU talent pool with little extra cost or resource. The UK Games Industry Census, published in 2020, found that nearly 20% of games workers are from the EU/EEA (with a further 9% from the rest of the world).
13. We welcome some mobility provisions in the EU-UK TCA, such as visa-free travel for short business trips up to 90 days for meetings and trade fairs. The ability to continue attending European trade conferences as seamlessly as before is a great benefit when trade conferences are often staple events in the international games industry calendar and key places for confirming deals, launching campaigns, and networking with investors.
14. However, there is unfortunately no denying that UK games businesses which rely on international talent will now experience further administrative and financial costs when hiring the talent they need. On top of this, members have reported to us international talent is now less attracted to working in the UK than before.

“It is all about attraction of talent and recruitment from Europe; plain and simple. We hire a lot from the continent and post Brexit we have noticed that suitably qualified people are less willing to apply for roles with us and when they do we have to jump through numerous hoops and incur costs to recruit them.

We haven’t hired anyone from Europe since 1st January 2021. There are now significant monetary costs associated with visas, but what also what seems problematic is that people are less willing to either apply for the jobs in the first place, let alone make the move to the UK.

What is the impact of all of this? Whilst it is unlikely to impact project timelines (we don’t start something we can’t finish) the real issue is this creates a limiting factor to any growth in the UK. We are having to look elsewhere to facilitate our growth plans. We acquired a development studio in Poland, our first in mainland Europe. More of this may happen potentially, instead of UK based growth, as we wish to continue to expand.”

- **Ukie member, publisher and developer with 700+ employees**

⁴ ₃ Ukie, Migration Advisory Committee – Shortage Occupation List consultation response (2018)

15. Studios which may not have experience in applying for a sponsor license and hiring non-EU workers in the past will now find themselves having to invest time and resources into doing so; for a sector where 99.5% of businesses are officially classed as SMEs, the impact of this additional burden could be significant. Indeed, one member reported that the costs of previously bringing non-EU talent into the UK were “disproportionate compared to the European countries with which the UK will be competing for talent”, thanks to visa costs, the Immigration Skills Charge and the Health Surcharge. In fact, they found that it was three times more expensive to bring in international talent compared to the UK’s nearest competitors, which risked making the UK a “significantly less attractive place to build skilled teams than any other major centre in Europe”.
16. Though it is still early to tell the impact of the new immigration system, especially due to its induction during the coronavirus pandemic which itself has limited movement, we would welcome further improvements to the system to ensure games companies are able to attain the talent they need in order to continue making world class products. Having more opportunity to hire talent that already is situated in the UK would be beneficial. Expanding the Youth Mobility Visa to include EU nationals, or the reintroduction of an unsponsored visa for applicants to self-sponsor themselves against a points system, would both partially meet the talent gap experienced by games companies whilst respecting the need for a skilled immigration system.

The EU has granted the UK a six-month data adequacy ‘bridge’ to allow the free flow of personal data until the EU determines whether or not to grant a data adequacy decision to the UK. How would the absence of a data adequacy decision at the end of this bridging period affect trade in services?

17. The games industry was born digital and relies on a strong digital backbone to continuously deliver the best products and services to global audiences. The industry’s ability to collect and use data to develop new and exciting features and events in games, new business models and most importantly enhance players’ experiences, significantly contributes to the innovation which distinguishes us from other creative sectors and has supercharged growth in our industry over recent years.
18. This use of often anonymised telemetry data is significant to the development of games, particularly for games companies specialising in the mobile space, to ensure our creative products remain competitive.
19. Ultimately, as a digital industry, securing a positive data adequacy decision is paramount. The bridging arrangement is a good temporary measure but a more permanent solution is needed in order for UK games businesses to operate confidently and to have the potential to scale.

“Bigger companies may have the resources to deal with the added complications resulting from a lack of data adequacy agreement – for example, needing to install standard contractual clauses – but any bureaucratic barrier is hugely problematic (prohibitively so) for the small companies. Part of what makes the UK a great place to set up the business is the current ease of doing so. Any barriers may damage the attractiveness of the UK.”

- Payload Studios

“We are fully GDPR compliant but if there was to be a restriction on data it could be significant.

As an example, one way we currently use data means that we can intervene where players are struggling with the game and make it easier for them, this is possible because of the way we process data. Without free-flowing data, this would have to be hard-wired into the app which would introduce an engineering, QA and potentially revenue hit.

We are not able to put a specific cost against this immediately as we would have to factor in both additional costs associated with providing a different product and the costs associated with how this might impact the player experience.”

- Outplay Games, publisher and developer specialising in mobile games with 130+ employees.

20. The absence of a positive data adequacy decision would mean further financial and administrative burdens that may disproportionately affect new or scaling UK games businesses. Recent research conducted by University College London indicates that the failure to secure a positive data adequacy decision would cost UK firms from £1billion to £1.6billion in total. As said, with 99.5% of the UK games industry consisting of SMEs, this is a worrying prospect⁵. This is in addition to causing a reduction in attractiveness of the UK for investment from larger companies⁶. Alternative mechanisms such as Standard Contractual Clauses have been cited by members as a short-term solution, but one in which the cost in terms of time and legal fees is not an aspect they have needed to factor in before.
21. Without a positive data adequacy decision, and the ability to analyse telemetry data, this would have a financial impact both in terms of additional costs associated with seeking advice on alternative mechanisms, as well as an impact on revenue should this impact the player experience. In a highly competitive sector, any degradation of the player experience will likely impact a games company’s ability to acquire and maintain players and any resulting potential monetisation.
22. We therefore stress the importance of securing a positive data adequacy decision by the end of the temporary bridging arrangement.
23. We are available to speak further to the Committee about the use of data in the games industry and the need for a positive data adequacy decision.

⁵ https://www.ucl.ac.uk/european-institute/sites/european-institute/files/ucl_nef_data-inadequacy.pdf

⁶ https://www.ucl.ac.uk/european-institute/sites/european-institute/files/ucl_nef_data-inadequacy.pdf

24. In many cases, the tangible effects of the EU-UK TCA remain to be seen. We hope that Government and the House of lords EU Services Sub-Committee maintain dialogue with our industry.