

# FOR YOU



**Video Games  
and Brexit  
negotiations**

09|2016

**ukie**

THE ASSOCIATION FOR UK INTERACTIVE ENTERTAINMENT

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# About Ukie

The Association for United Kingdom Interactive Entertainment (Ukie) is committed to supporting, growing and promoting the UK's games and interactive entertainment sector through education, advocacy and practical support. Its network and membership includes all major UK and global games publishers, the best of the UK's development talent – from start-ups and micro studios to globally renowned studios operating in the UK today, and the service companies that support the ecosystem. We represent these businesses and their products across PCs, consoles, mobile apps, Virtual Reality, Augmented Reality, and eSports.

Ukie's activity focuses on:

- + Working closely with government on issues surrounding our sector, including lobbying successfully for the 2014 Video Games Tax Relief, education and skills, age ratings, and protecting intellectual property rights
- + Securing the talent pipeline by committing to skills development in the industry, continuing through careers via the Digital Schoolhouse programme, our student membership, mentoring and professional development training programmes.
- + Promoting the industry by working with the media to raise awareness of the industry's positive economic contribution and the societal benefits of games to policy makers, regulators and consumers.
- + An intense International Trade programme, running UK stands at the biggest international industry events and recruiting companies for overseas trade missions
- + Ukie commissioned the Blueprint for Growth report in 2015, an independent review of the UK games industry with recommendations for decision makers in Parliament for how the industry can grow by an additional £1bn annually.

# About this paper

This paper is based on discussions held at the Ukie Board, together with a confidential survey of Ukie members conducted in July 2016, to which there were 83 responses (28%). It outlines our response to government and industry asks about risks and opportunities arising from the referendum result. It also builds on previous work undertaken in the run-up to the referendum.

# Introduction

Following the result of the EU referendum, Ukie is committed to ensuring the UK is the best place in the world to make and sell games, and looks forward to working with government to seize the opportunities which will arise as Brexit evolves.

The next 5 years are a crucial time for games industry growth in the UK. The sector is already world-class but it can truly be a world-beater, and can boost exports, jobs, and growth across the country with the right support:

- + The UK games sector is a highly dynamic and global success story. Today there are almost 2000 games firms across 12 established games clusters in the UK.
- + The global games market is expected to expand by 8% annually over the next 5 years, adding to the 1.6bn people currently playing games. The UK is well positioned as a significant player in this field.

Games are now considered mainstream culture, and a big and growing industry akin to Film and TV. The Government needs to truly champion games as a mainstream creative tech industry right across the country and abroad.

The UK games industry blends the best of British innovation and creativity, resulting in successful games and technology which are exported around the world and which cross over into other creative sectors. The sector is a major generator of IP and a leading example of the UK's growing reputation as a home for creative, high-tech talent.

We need to support innovation by seizing new high-value opportunities like eSports, and with the Video Games Tax Relief now in place and working successfully the government should ensure that it is as effective as possible, for example by reforming public funding.

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# Summary of recommendations to government

## Business confidence

1. Ensure the video games industry voice is heard in its new Industrial Strategy. Immediately and actively promote the UK not just as 'open for business' but as an attractive destination for domestic and foreign investment and a global centre for talent, innovation in creative technologies.

## Access to markets

2. Retain the ease of trade that businesses get from the single market, and ensure that creative technology sector interests are reflected in trade agreements. Keeping UK-EU trade tariff free should be one of the Government's highest priorities and the right of UK services companies to establish and provide services in other EU countries should be maintained.

## Talent

3. Guarantee the status of high-skilled EU nationals now and in the future.
4. Reform the immigration cap, reduce process time and relaxing eligibility criteria for visas for high-skilled talent and entrepreneurs.
5. Develop a long-term, funded vision for games talent that includes investment in computing and 'STEAM' education, e.g. the Digital Schoolhouse programme and quality higher-level apprenticeships.

## Tax regime

6. Develop an ever-more positive tax regime for the games sector, helping to reward British success and attract further investment.

## Innovation

7. Create the right regulatory climate for new technologies such as AR/VR to encourage international investment in the medium and long term.

## Exports

8. Create a lead agency for games export and regional inward investment promotion, mirroring the success of 'We Are UK Film', as part of a wider review of trade and investment support for the games industry.

## Free flow of data

9. Future changes to data and data protection laws must allow data to continue to flow freely between the UK and the EU.

## Public funding

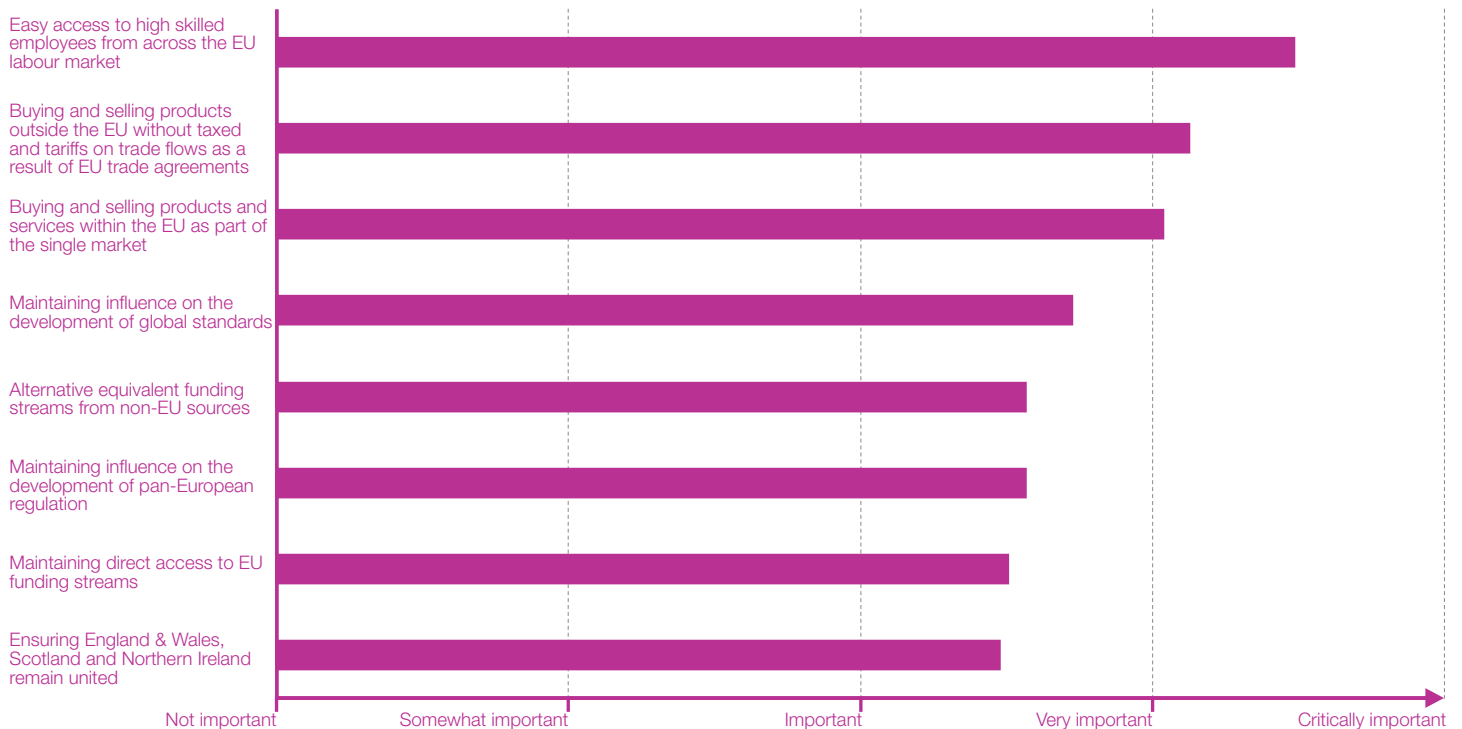
10. Reform public funding for the video games industry (e.g. through BFI consultation) to allow access to same industrial and cultural funds as other creative industries, additional to existing resources.



# Top issues for the games industry

Our survey asked industry a series of open and closed questions about issues of importance.

Please rank the issues in terms of their importance for the government focus on when they consider Brexit, in order to ensure the well-being of your company and the wider industry



Taking comments into consideration, the following are considered priorities for the industry:

- + Business confidence
- + Access to markets
- + High-skilled talent
- + Video Games Tax Relief and other incentives
- + Influencing future EU policy – Digital Single Market
- + Free flow of data
- + Parity/access to public funding

# Business confidence

A stable regulatory environment is very desirable for businesses across the UK, but is particularly important for the games industry given the highly mobile nature of global investment. Uncertainty on policy challenges inward investment decisions, with the EU's Digital Single Market agenda being a particular challenge. A clear policy direction will create confidence for companies to generate UK jobs.

The UK video games sector operates on a regional and global basis – following the referendum we recognise that in some countries around the world the UK is now perceived as 'pulling up the drawbridge'. In the weeks following, a large proportion of respondents said they 'had considered' or 'had been approached' about relocating business abroad.

We fully support positive messages from trade bodies such as the CBI and from individuals including the Mayor of London, that the UK is 'open for business.' **The government needs to move swiftly to reassure the video games industry by ensuring that the games and creative industry voice is heard in the government's new industrial strategy. It should change emphasis from how the UK is 'open for business' to celebrating its excellence and attractiveness for domestic and foreign investment.**

There are three emerging steps government and industry needs to consider to shape Brexit policy:



- 1. Macro issues of access and talent** – the stance of the new government towards access to the single market will be important in determining the specific approach to free movement of workers from the EU, a concern of the games industry. There is a long-term and on-going need to be able to develop UK talent and access high-skilled workers from the EU (and RoW) because the UK is a global hub for the world's best talent. **We also concur with the CBI that keeping UK-EU trade tariff-free should be one of the Government's highest priorities, and the right of UK services companies to establish and provide services in other EU countries should be maintained.**
- 2. Sectoral work with other creative industries** – working with the CIC and CIF we should ensure that the creative industries sector has a place at the table alongside other sectors including traditional manufacturing and agriculture. The **Create Together strategy** was developed by the industry to present a shared vision to support the growth of the creative industries.
- 3. Specific industry needs** – the government is keen that industry identifies incentives and regulatory changes which can make the industry more competitive. The process, however, is likely to flow from a consideration of (1) above as access to the single market could be dependent on following the same rules as before (e.g. State Aid with VGTR). That said, dependent on external factors such as the Digital Single Market emerging areas of interest, e.g. e-sports and VR could be fertile grounds for experimentation in the medium and long term.

# Access to markets

The internet has created a new world of possibilities and interconnectivity for businesses and consumers and has been the single greatest factor in reducing barriers to entry in almost every digital industry over the past 20 years. More businesses operating in the single market has in turn led to a wider and more competitive choice of online services and digital content for consumers and this is no more evident than in the games industry. That said, video games also remain a physical product and as such will be impacted in the usual way by any future tariff barriers like any other physical goods.

After the UK voted to leave the EU, the country faces the prospect of having to establish new trade relationships - both with the EU trading bloc and other countries around the world. As a member of the EU, the UK has been included in trade deals the EU has negotiated. There are a significant number of trade agreements between the EU and individual countries, as well as multi-lateral agreements covering multiple countries. This means that if the UK wants to retain preferential access to the markets of the countries covered by these agreements, it would have to renegotiate trade deals with all of them.

The global games market has seen significant and rapid growth in recent years. A major catalyst for this growth has been the arrival of the mobile internet and online services- in particular the app store economy – all of which are currently being assessed by the Commission. The UK leads Europe, and Europe leads the world, in providing games to the new markets created by online platforms which enable games made locally to be sold globally. There has been a surge in games company formation in the UK over the last five years thanks to the opening of these new marketplaces to reach global consumers. The platforms have proved highly beneficial for UK start-ups in particular.

The UK is a large market, so there is a clear incentive for other countries to negotiate a deal. It is important that deals are negotiated with a full understanding of the needs of the tech and creative sector. The global market for games was estimated at £54.3bn in 2014, and is forecast to reach £73.6bn in 2018, which represents an annualised growth rate of 7.9%. The UK's legacy in games development is recognised around the world, giving us the potential to take a far larger share of this fast-growing market.

Ukie is engaging closely in UKTI's continued work with the creative sector as a whole to help achieve this, but it is crucial that these broader conversations support the UK games sector's drive to export more. The tax relief continues to be poorly understood in other major games markets, alongside other misconceptions such as a belief that London prices for property and wages hold throughout the country. Funding such as Tradeshow Access Programme grants has been reduced, and overall there has been a lack of coordination of support for the games industry. This coordination must be improved.

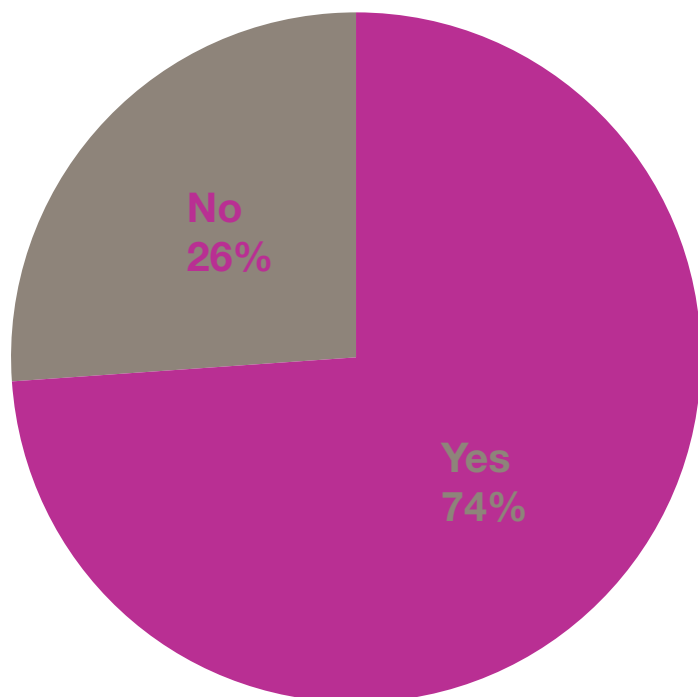
**The creation of a lead agency for games export and inward investment promotion, mirroring the success of 'We Are UK Film', should be investigated as part of a wider review of trade and investment support for the games industry.**

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# High-skilled talent

High-skilled talent is the number one pre- and post-referendum concern for Ukie members with **70% of games firms** saying access to talent is “critically” important to the industry. The most detrimental aspects of a Brexit are perceived to be the new difficulties this would bring in sourcing high-skilled EU workers – such as software engineers – who play a big part the UK’s game and tech sectors.

**Do you currently use non-UK EU nationals to fill high-skilled posts?**



Currently, the ability to recruit easily from across Europe is of benefit to the industry to grow business and secure work globally in a highly competitive market and this complements the Video Games Tax Relief: the right tax and talent environment allows the industry to secure work which would otherwise be invested elsewhere.

- + 74% of companies responding to the Ukie survey use non-UK EU nationals to fill high-skilled posts
- + evidence gathered from 36 member companies suggests this reliance is significant – with the median response being 20-29% of employees being non-UK EU origin

A standalone UK could have the option to redefine its immigration laws away from those mandated by Brussels, providing more opportunity to attract technologically-skilled workers to the UK, perhaps through a system like the Australian Skilled Immigration Points scheme.

The need for clarity and certainty on the status of EU workforce in the UK is vital in order to ensure that firms do not incur an additional ‘uncertainty premium’ when recruiting from abroad. The referendum result provides an unparalleled opportunity to reform the current visa system, and position the UK as an attractive location for skilled talent. Ukie continues to press for an improved visa system that avoids friction and requires a minimum funding and process time. **The Government should consider reforming the cap on immigration numbers, reducing the process time and relaxing the eligibility criteria.**

The future of the games sector is dependent on maintaining the flow of talent entering the industry and we want to work closely with Government on long-term plans to up skill the UK’s population to fill gaps in the future. Rapid growth has meant that the industry has already absorbed this talent and the environment is extremely competitive as demand for skilled workers is driven up by other sectors. As the video games industry argue in the Next Gen. report and in subsequent campaigns, **a long-term, funded vision for games talent includes investment in computing and ‘STEAM’ (Science, Technology, Engineering, Arts, Maths) education, e.g. Ukie’s Digital Schoolhouse programme, quality higher-level apprenticeships as well as the flexible immigration system mentioned above.**



# Video Games Tax Relief and other incentives

The Video Games Tax Relief (“VGTR”) is due to be ‘re-notified’ to the Commission in 2017.

The VGTR has provided £45.9m to UK game development studios since the relief was launched in April 2014, figures released by HMRC 19th July show. The 2015-2016 tax year saw 130 successful claims for VGTR, with a total pay-out of £45m. This followed only £500,000 paid to studios during the 2014-2015 tax year. This in total gives £45.9m paid out to games studios since the inception of the scheme. In total, since launch in April 2014, there have been 135 successful separate claimants and 140 payments made to studios across the UK. According to HMRC figures, these 135 claims have supported a UK expenditure of £417m.

State Aid rules are critical to how the public sector procures goods and services and delivers public services. They are designed to prevent government in the member states from unfairly subsidising economic activity. The VGTR is a UK incentive implemented in compliance with EU law governing State Aid (e.g. the ‘cultural test’). State Aid issues also have arisen in Ukie’s dealings with Local Enterprise Partnerships (LEPs) in England.

Lifting State Aid rules could potentially be a benefit to business should government adopt a more activist approach to industrial policy, however we are aware that this may risk more difficult negotiations around trade agreements with other trading blocks. There is also clear precedent from EU agreements with 12 Mediterranean countries and South Africa (for example) that the EU will insist on its state aid rules being respected in any free trade agreement. Therefore, we suspect that any trade agreement the UK sought post-Brexit, including joining the EEA, would require keeping to the existing rules under which VGTR has been secured.

Meanwhile, ensuring that SEIS and EIS are accessible to fast-moving, innovative SMEs in the games sector will help these firms to access finance, growing companies and creating jobs in the various games hubs throughout the UK.

The UK competes not just with other countries but with regions and cities abroad so further interventions to increase competitiveness as a location for games companies have the potential to repatriate these British-bred companies and talent. The government’s moves to lower corporation tax are a positive step, as indeed they are for the British corporate sector as a whole. In association with the introduction of the VGTR, they provide an **ever-more positive tax regime for the games sector**, helping to reward British success, and attract further investment. **This competitive advantage should be maintained.**

Looking to the future, the industry and government could develop new tax incentives or reform existing ones (see State Aid and VGTR above). There is a demand that investment schemes like SEIS may become more flexible, by increasing de minimis for example, thereby unlocking more development resources. New areas of interest, such as eSports, AR and VR could be fertile grounds for experimentation.

# Influencing future EU policy – Digital Single Market

The Digital Single Market or “DSM” is a major project to remove digital trade barriers between EU countries, covering 16 broad areas that include many more directives and regulations. Consumer law, competition law, copyright law, audio-visual content regulation, data protection law and more are all being reviewed, with the role of games-critical online platforms also coming under scrutiny. [HM Treasury estimated in March 2016](#) that an expected addition of 0.9% of UK GDP is estimated as the benefits are realised, although the effect could be greater since the UK could benefit disproportionately as one of Europe’s leading providers and users of e-commerce. As the DSM will shape such a major trading block - and be influential in the drawing up of new rules elsewhere - it is critically important that these rules work for the games industry.

Overall, although the UK is a substantial digital market in its own right, the UK’s adoption of any changes in the DSM may affect a business’s decision whether or not to launch or base online services or operations in the UK. Significant departures from rules on cross-border commerce and/or access to content, for example, may make it more difficult for UK-based companies to offer games direct to the whole EU market. Ultimately, it may affect UK consumers (e.g. if it were to become more expensive for online businesses to include UK content in a European bundle of services).

The [House of Commons BIS Select Committee report on the digital economy](#) published 18th July noted:

The decision to leave the European Union risks undermining the United Kingdom’s dominance in this policy area. We could have led on the Digital Single Market, but instead we will be having to follow. The Government must address this situation, to stop investor confidence further draining away, with firms relocating into other countries in Europe to take advantage of the Digital Single Market... the Government needs to address the issue of whether businesses will be able to access the European Single Digital Market, if they want

to do so. In broader terms, we recommend that the Government sets out in its digital strategy the implications of withdrawal from the European Union, in reference to specific, current EU negotiations relating to the digital economy. The Government must address this situation as soon as possible, to stop investor confidence further draining away, with firms relocating into other countries in Europe, to take advantage of the Digital Single Market.

In the short term, while these rules are being drawn up, we need to ensure that the UK is heard and its opinion is counted. Experience of the Digital Single Market so far has seen the UK taking a crucial role in holding back changes that would be very negative for the games industry and other sectors within the digital economy, e.g. on the draft Digital Content Directive.

# Free flow of data

Data is of fundamental importance to the video games industry. The interaction and associated data flows between players, games and gaming platforms is intrinsic to the proper operation of games, the provision of fair, safe and ethical games, and immersive and interactive gameplay experiences for players.

Our ability to collect and use data, always in a responsible and legally compliant way, to improve games, develop new business models and most importantly to enhance players' experiences significantly contributes to the innovation which distinguishes us from other creative sectors and has supercharged growth in this area over the past 5 years. It is crucial to the way in which this industry has and will continue to evolve.

**Future changes to data and data protection laws must continue to allow data to flow freely between the UK and the EU.** Free movement of personal data can be achieved by being part of the European Economic Area in a Norway-style deal or being declared an 'adequate' country (for the purposes of the transfer of personal data) like Switzerland, Canada and Israel.

# Parity/access to public funding

There are few funding routes for studios who want to develop riskier or innovative ideas and access to this kind of funding, and others such as the centrally funded UK Games Fund for prototypes is critical. Compared to more traditional screen sectors, routes to funding from public money are limited.

There is a clear opportunity to reform public funding for the industry. European funding has played an important support role for the creative industries. In particular, the MEDIA strand of Creative Europe offers funding to support distribution, audience development, access to new markets, cooperation projects, international coproduction, and support for festivals, amongst others. These totalled €27.9 million (£19.7m) in 2014, but have yet to be accessed sufficiently, if at all, by the games industry,

and in many cases have clearly not been designed with the games industry in mind. Rather than access to these broader funding streams, games companies have been restricted to a single production support fund with a total of €2.5m (£2m) across all member states - just 1.2% of Creative Europe's total annual budget. Five studios in the UK have benefited from Creative Europe funding to the tune of €625,043 in the last 12 months. As our Blueprint for Growth argued, this fund is only open to an outdated notion of 'narrative' games – excluding a majority of innovative and culturally valuable European games.

The eventual withdrawal of EU funding will create a further demand for replacement arrangements. Reforming existing public funding structures to make them comparable in scale and scope to those offered for other sectors, and more reflective of the true cultural nature of games, would be a major boon for the games sector in the UK, underpinning growth across the country.

**Finally, it is recommended that this be seen as a moment for reform of existing public funding arrangements: the games industry be given access to the same industrial and cultural funds – including National Lottery money – that other creative sectors receive.** Funding to improve investor readiness and commercial management, support cultural production, improve access to markets, foster regional hubs, develop talent, grow awareness among investors, will unlock the full long-term cultural and commercial potential of the UK games industry.

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21-27 Lamb's Conduit Street  
London  
WC1N 3NL

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