Council of the EU: EU-UK Trade and Cooperation Agreement enters into foce

IRIS 2021-1:1/36

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On 1 May 2021, the EU-UK Trade and Cooperation Agreement (TCA) entered into force.

On 31 January 2020, the United Kingdom left the European Union and entered a transition period while it negotiated its future relationship with the European Union. Almost a year later, on 24 December 2020, the European Commission and the United Kingdom reached a deal on the TCA, which defines the terms of their future cooperation. On 29 December 2020 the Council of the European Union adopted by written procedure the decision on the signing of the agreement and its provisional application, pending the consent of the European Parliament and conclusion by the Council decision. On 30 December 2020, the President of the European Council and the President of the European Commission signed the TCA on behalf of the European Union, and the Agreement was brought to the United Kingdom for its signature. The European Parliament gave its consent on 27 April 2021 by 660 votes for, five against and 32 abstentions. The accompanying resolution, setting out Parliament’s evaluation of and expectations from the deal, passed by 578 votes, with 51 against and 68 abstentions. Finally, the Council of the EU concluded the adoption process on 29 April 2021.

The draft Trade and Cooperation Agreement consists of three main pillars:

- a Free Trade Agreement,

- a partnership for security,

- a horizontal agreement on Governance.

Foreign policy, external security and defence cooperation are not covered by the Agreement.

Brexit will have significant effects on the audiovisual sector in both the UK and the EU, among them the following:

- The UK will no longer be bound by the EU State aid regime, save for specific exceptions concerning Northern Ireland (see below). According to the TCA, its chapter on subsidy control “does not apply to subsidies related to the audio-visual

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sector."

- The UK's Creative Sector Tax Reliefs will not be affected by Brexit. However, UK personnel will no longer have EEA status – and are thus not able to qualify for other member states' cultural tests or qualify for tax relief under incentive schemes in some member states. The BFI continues to be able to issue European Certificates of Nationality.

- The UK will no longer have direct access to Creative Europe funding. To offset the loss of funding opportunities, the UK Government has confirmed that it will fund the delivery of a Global Screen Fund, worth GBP 7 million in 2021/22, that will support independent British screen content, in particular film, to compete across international markets. Under the TCA, the UK will participate in the EU's Horizon Europe programme, the EU's research and innovation framework programme (2021-2027).

- Brexit will have no impact on co-production agreements including the UK's bi-lateral treaties signed with Australia, Brazil, Canada, China, France, India, Israel, Jamaica, Morocco, New Zealand, Occupied Palestinian Territories and South Africa. Moreover, the UK will continue to be party to the Council of Europe's European Convention on Cinematographic Co-Production.

- UK audiovisual media services received or retransmitted in the European Union will no longer benefit from the freedom of reception and retransmission laid down in Article 3 AVMSD. Therefore, EU27 member states will, based on their own national law and, where applicable, within the limits of the European Convention on Transfrontier Television, be entitled to restrict reception and retransmission of audiovisual media services originating from the UK. UK broadcasting services available in the EU may need two types of licences:

a) an Ofcom licence for services receivable in the UK and in other ECTT countries (this includes the 20 EU countries that have signed and ratified the ECTT);

b) licences covering services receivable in EU countries that have not signed up to the ECTT.

- Concerning EU audiovisual services available in the UK, only services from one of the seven EU countries that have not ratified the ECTT will need a licence from Ofcom to be received in the UK. The UK is committed to continuing licence-free reception for TG4, RTÉ1 and RTÉ2 to reflect the commitments in the Good Friday Agreement.

- Concerning video on-demand services, the ECTT does not provide for freedom of reception for these types of services, therefore UK providers will need to comply with AVMSD jurisdiction rules if they provide VOD services in a EU country.

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- Works which originate in the UK would still be considered European works since the definition laid down in Article 1(n) AVMSD includes works originating in European third States party to the European Convention on Transfrontier Television of the Council of Europe, to which the UK is a party.

- The EU rules in the field of copyright do not apply to the UK anymore. This means that the main international copyright treaties, to which both the UK and EU are contracting parties, will apply to the EU-UK relationship in the field of copyright.

- Copyright duration in the UK for works from the UK, EEA, or other countries will not change. EEA works are given the same copyright duration in the UK as UK works. For works from outside the EEA, copyright lasts for the term granted in the country-of-origin or the term granted to UK works, whichever is less.

- The EU orphan works exception no longer applies to UK-based institutions.

EU exit, the end of the transition period and the UK-EU Trade and Cooperation Agreement: Answering questions from the screen sectors

https://www.bfi.org.uk/strategy-policy/policy-statements/eu-exit-end-transition-period-uk-eu-trade-cooperation-agreement-answering-questions-from-screen-sectors

European Commission: The EU-UK Trade and Cooperation Agreement

https://ec.europa.eu/info/relations-united-kingdom/eu-uk-trade-and-cooperation-agreement_en

Press release of the Council of the EU, "EU-UK trade and cooperation agreement: Council adopts decision on conclusion", 29 April 2021

https://www.consilium.europa.eu/en/press/press-releases/2021/04/29/eu-uk-trade-and-cooperation-agreement-council-adopts-decision-on-conclusion/

Press release of the European Parliament, "Parliament formally approves EU-UK trade and cooperation agreement", 28 April 2021

https://www.europarl.europa.eu/news/en/press-room/20210423IPR02772/parliament-formally-approves-eu-uk-trade-and-cooperation-agreement

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