FFILM CYMRU WALES EVIDENCE

INQUIRY INTO THE IMPLICATIONS OF BREXIT FOR THOSE AREAS COVERED BY THE CULTURE, WELSH LANGUAGE AND COMMUNICATIONS' COMMITTEE

SEPTEMBER 2018

Introduction

Ffilm Cymru Wales welcomes the opportunity to feed into the culture committee's inquiry into the implications of Brexit.

As film production and exploitation is inherently international, both in terms of its production and trade, the proposed exiting of the UK from the European Union presents multiple challenges.

In response to these challenges creative sector organisations from across the UK, sub-sectors and value chain, have collaborated to trouble-shoot, pool knowledge and resources, to commission research and legal advice, and to co-ordinate communication across multiple departments of central government. Ffilm Cymru has fed into this work, which has been led by the BFI, the Creative Industries Council (CIC) and the Creative Industries Federation (CIF)[1]. We encourage the committee to seek evidence from them directly.

Overview

UK-wide:

The creative industries are engaged in both the production of goods and the provision of services.

Films, television programmes, games, publications, merchandise and soundtracks are sold to UK and international distributors generating economic, cultural and social value; whilst services provided to domestic and international content creators are wide and varied from legal, accounting and marketing services to the provision of equipment (cameras, lights, vehicles), sound and picture editing facilities, actors, crew, catering, construction, studios, locations and so on.

The BFI's soon to be published statistics for UK film in 2017 show that 294 films were produced that year that qualified as British, with combined budgets of £2.7 billion. Of these:

- 73 (25%) were brought into the UK from elsewhere, accounting for £1.8b spend,
- 174 films (59%) were 'domestic films', originated and filmed in the UK, accounting for £221m spend, and
- 18 (6%) were official international co-productions with combined budgets of £66.2m

Film continues to be a growing market, with 171 million cinema admissions for UK and the republic of Ireland (film rights are usually sold to both territories as one but can be disaggregated) – representing a 3.7% increase. UK qualifying films released in 2016 generated 16.4% of the global box office for film, at £6.5 billion. This figure includes US studio-backed films that film here, such as *Star Wars: Rogue One*. UK independent films accounted for £475 million equating to 1.7% of the US box office and 1.5% of Europe's box office.

Wales:

Wales Screen is the screen commission for Wales and works closely with the British Film Commission to promote its services internationally, attracting incoming productions to Wales as well as servicing

[1] The Creative Industries Federation published a 73 page report, drawing upon input from over 500 submissions: https://www.creativeindustriesfederation.com/news/impact-leaving-eu-uks-creative-industries

local producers with information on the locations, facilities, services and crew that are available here, and providing an overview of various potential sources of finance within and beyond Welsh Government: https://businesswales.gov.wales/walesscreen/

As the lottery delegate of the Arts Council of Wales and the BFI, Ffilm Cymru Wales is committed to advancing an inclusive and sustainable film sector for Wales, with a focus on Welsh (born and resident) writers, directors and producers who are originating and exploiting intellectual property. To-date this has included funding 69 feature films through to production with combined budgets of £73.6m, leveraged against Ffilm Cymru' investment of £8m and generating circa £30m of Welsh spend. We have also invested in the pipeline of future productions, financing the development of a further 50+ feature films, with anticipated production spend of £30m in 2018-19 and 2019-20.

Our evidence suggests that Welsh talent is outward looking and has significant engagement with European co-producing partners and financiers. 16 of the 69 films funded through to production have been international co-productions – that's 23% of productions as compared to the UK average of 6%. Of these, 14 (89%) have been co-produced with EU countries. Our most frequent partner has been Ireland (8 films), followed by Sweden (2) and one film each co-produced in France, Luxembourg, Spain and Germany. These co-producing territories contributed c.£4.9m in co-financing.

From a soft-power perspective, we might also want to note that these European co-productions include this year's UK foreign language Oscar submission, *I Am Not A Witch*, a UK-France co-production from Welsh-Zambian writer-director, Rungano Nyoni; and Best Animated Feature nominee at the European Film Awards, *Ethel & Ernest*.

The films that we have co-funded have sold to upwards of 30 territories (where territories frequently aggregate countries – e.g. North America, Middle East, French-speaking rights) with *The Machine, Ethel & Ernest, Submarine, I Am Not A Witch, Just Jim, Dark Horse, Mugabe and the White African, The Canal* and *Don't Knock Twice* all exceeding 10 territories each.

Areas of concern

Whilst there have been positive and progressive discussions between the sector and central government, as spearheaded by CIF, CIC and the BFI, with government signalling their appreciation of sector potential and needs, we do not yet know if a transitional deal will be actioned or if so, what the detail of that agreement will be.

The areas of concern cited here reflect the position if we exit the EU at the end of March 2019 without a transition deal and/or the position following a transition period, if these areas are not otherwise satisfactorily addressed in a Free Trade Agreement with the EU.

<u>Freedom of movement of people</u>

Whether it's cast and crew coming to the UK, or UK filmmakers filming abroad, this is a sector that is heavily reliant upon the easy movement of people and their equipment across international borders. 74% of respondents to a recent CIF survey expect restrictions to immigration to limit their capacity to do business.

Whilst there are visa routes available (see below) for incoming professionals to the UK, as currently used to bring talent in from America for example, these visas take time, money and navigation of bureaucracy to access, as opposed to the current freedom of movement across the EU. Furthermore, those travelling from the UK to EU countries will be subject to individual member state immigration rules as a third country.

> Tier 1 visas: - for exceptionally talented individuals who are already recognised as world leaders, or those who have the potential to become world leaders in the arts.
>
> Tier 2 visas – for skilled individuals who have the potential to fill specific jobs that cannot be filled with nationals
>
> Tier 5 – temporary worker, creative. For paid temporary work, initially up to 24 months e.g. actors/musicians

Both tier 2 and tier 5 options require the prospective employer to obtain a sponsor licence. As cited on the Visa Bureau website " without an Employer Sponsorship Licence already approved, it can take months before employers can take on a new employee."[2]

Temporary transport of equipment is likely to require administration and costs to evidence permission.

On this matter, the committee may wish to review the cross-party DCMS select committee report[3] on its recommendations on travel arrangements for the creative industries post-Brexit. The report recognises the importance of flexible and free movement for the creative sector and proposes extending free movement for the duration of any transition period. It also acknowledges the lack of capacity within small enterprises to take on the additional costs and burdens of a bureaucratic visa system.

<u>Depletion of workforce</u>

There is potential for current EU workers in the UK to leave - whether or not the government comes good on their offer for them to stay – with some citing that they no longer feel welcome. This comes in a context when the Workforce Foundation June 2017 report[4] finds that an estimated 10,000 new entrants to the screen industries are needed, with 30,000 job opportunities by 2020.

Post-production and visual effects have tended to be areas that have particularly engaged workers from the EU.

21% of respondents to CIF's Global Trade Report said they'd consider moving all or part of their business abroad in the event of a no-deal.[5]

<u>Exports</u>

With 45% of UK creative industries service exports going to the EU according to Creative Industry

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[2] www.visabureau.com/uk/employer-sponsor/licence.aspx
[3] https://www.parliament.uk/business/committees/committees-a-z/commons-select/digital-culture-media-and-sport-committee/news/brexit-report-published-17-19/
[4] https://www.bfi.org.uk/sites/bfi.org.uk/files/downloads/skills-audit-of-the-uk-film-and-screen-industries-2017.pdf
[5] https://www.creativeindustriesfederation.com/publications/global-trade-report

Federation's Global Trade Report[6], the introduction of tariffs is a potential barrier to trade.

Moreover, there are complexities and added costs to be factored in in relation to withholding tax, VAT and customs duties, once out of the Single Market.

Access to finance

BFI research suggests that the UK benefitted from £298.4m of EU funding over the last decade in relation to film (across the value chain from development and production, through to market exploitation and film education). If we leave the EU without a deal, access to the Creative Europe programme will cease for new applicants from the end of March 2019.

Welsh filmmakers have not typically accessed Creative Europe funding for production. However, some have benefitted from their sales agents or distributors accessing this support. And, one can reasonably anticipate increased competition for alternative investment, if/when this Creative Europe funding ceases to be available.

Access to European finance is not the only concern however, as one might reasonably expect increased caution from private investors (whether directly or via managed EIS funds) in an environment where there is increased uncertainty, potentially restricted movement and barriers to trade to overcome.

Ability to adapt

The film sector is long-standing and has had to adapt considerably over the years, responding to digital disruption, changing consumer behaviour and fluctuations in various fiscal circumstances. But, by any standards, Brexit poses an enormous amount of complex change to navigate.

Whilst a proposed transitional deal (see below) offers more time and opportunity to address areas of concern, significant changes to business practices will still be required particularly around researching and developing relationships in new markets, and tailoring content opportunities to those markets.

Time, money, effort and access to expertise is required to address the challenges that Brexit poses. And these challenges are all-the- more concerning when 95% of the creative sector is comprised of freelancers and SMEs, many of whom are micro-enterprises. They simply do not have the capacity to absorb and react to the technical notices only now being issued by central government, or to quickly adapt their business practices and production pipelines to the post-Brexit market.

Areas of stability:

Notwithstanding the areas of concern that Brexit poses, there are areas that remain stable.

UK tax credits remain at 25% of UK qualifying expenditure (used and consumed in the UK) for film, high-end and childrens' television, animation and games.

[6] https://www.creativeindustriesfederation.com/publications/global-trade-report

£11m of financing has been generated through this mechanism across the 69 films Ffilm Cymru has co-funded through to production to-date.

National lottery funding is raised and managed within the UK and subject to UK legislation. It is accessible on a competitive basis to British qualifying films intended for theatrical release. A total of £15.6m of lottery finance has been invested across the slate of 69 films Ffilm Cymru has supported, including c.£8m delegated from ACW for Ffilm Cymru to invest.

We do have some concerns around current DCMS proposals on potential changes to Societies Lotteries, which may negatively impact on funding raised through the National Lottery, but that's for another time. DCMS are currently reviewing responses to their consultation.[7]

UK tax incentives – UK government continues to offer tax incentives to UK investors through the Enterprise Investment Scheme[8]. To-date Ffilm Cymru funded films have benefitted from £6.15m of EIS or VC investment.

Government has recently over-hauled how EIS works, to focus its application on building sustainable businesses. This means that it is unlikely to be applicable to single films, as has previously been the case, and therefore requires producers to rethink their approach to raising film production capital – looking at their longer-term business growth plans. This is good – but challenging. Production companies will have to fundamentally shift their project-by-project business modelling and practices, and this is likely to need to be supported with training.

There is potential to raise up to £5 million a year, with a maximum raise of £12 million in a company's lifetime through EIS (and other) tax incentivised wrappers.

If creative sector companies are able to adapt their business model, there is potential to tap into other financial offers – such as leveraging investors' contributions via the Development Bank of Wales or the British Business Bank (see below).

International co-production treaties

The UK co-production treaties remain operational following Brexit, as a series of bilateral agreements made under UK law with Australia, Brazil, Canada, China, India, Israel, Jamaica, Morocco, New Zealand, Occupied Palestinian Territories, South Africa and France (the only EU territory). Co-production under any of these agreements affords the production the full benefit of the co-producing territories (e.g. access to finance/rules as a 'national film'), together with temporary admission for individuals engaged by the co-producing parties, and removal of import duties and taxes on equipment.

However, as said elsewhere, feature films and television programmes often take years to develop with stories that will lend themselves to filming in particular territories. They are not automatically portable. It will therefore take time for production companies to adapt their pipeline of production if they were not previously readying productions for these countries. The UK currently has no other forthcoming film sector treaties in progress.

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[7] https://www.gov.uk/government/consultations/consultation-on-society-lottery-reform
[8] https://www.gov.uk/guidance/venture-capital-schemes-apply-for-the-enterprise-investment-scheme

Importantly, the European Coproduction Convention remains operational on an on-going basis beyond Brexit. This agreement is a multi-lateral agreement that comes under the Council of Europe to promote European (as opposed to European Union) production.[9] It is also the primary agreement under which the co-productions we have invested in have progressed their productions.

Productions that qualify under the Convention will have access to the benefits afforded to National films (e.g. lottery funding, tax credits) and the co-producing territories will "facilitate entry and residence, as well as the granting of work permits in its territory, of technical and artistic personnel…. (to those) participating in a co-production" and shall "permit the temporary import and re-export of equipment necessary for the production and distribution". Therefore, we still have a route for co-producing with Europe, and for accessing funding from those territories, but the work permits and tariffs must now be navigated, in comparison to frictionless and free movement within the EU.

UK films will continue to be recognised as European – which will be important in the context of international quotas.

Transitional deal:

As the committee will appreciate a transitional deal between the UK and EU will only exist if and when all points are agreed. At this time, the UK and EU negotiators have agreed various points in principle around Creative Europe and developing a cultural accord, however, any transitional deal if agreed will only 'buy time' and the UK government's mobility framework is yet to be worked-up.

Briefly, the UK government have proposed the following[10]:

- For the UK to continue to pay into Creative Europe to enable continued access for the duration of the current programme (due to end December 2020) and to ensure continued payments to those proposals awarded funding by the programme to continue to benefit for the lifetime of their projects. The UK government has undertaken to underwrite this proposal in the event of a no-deal.[11]
- Proposals to mutually recognise qualifications.
- EU citizens who arrive in the UK before the end the transitional phase (if actioned) could apply for 'settled status' after five years in the UK, and in the interim apply for temporary permission until they meet the criteria to apply for 'settled status'.
- The development of a 'labour mobility framework' that could replace freedom of movement in respect of the UK and EU and could potentially offer time limited visa free travel for the provision of services. An immigration White paper is expected in October 2018.

It is not clear whether audiovisual would be included in any future Free Trade Agreement, as to-date it has been excluded as a 'cultural exception'.

[9] https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168007bd2d
[10] https://www.creativeindustriesfederation.com/sites/default/files/2018-07/Brexit%20White%20Paper%20Summary.pdf
[11] https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-07-24/HCWS927

It is a positive sign that the UK and EU have agreed to discuss a 'cultural and educational accord' as part of their on-going negotiations. However, it is not clear how active these discussions will be whilst navigating fundamental issues such as border provisions in Northern Ireland and arrangements for aviation, medicines and food.

Opportunities:

In acknowledging the growth potential and challenges facing the creative industries central government has developed a creative sector deal, as part of its Industrial Strategy. This seeks to improve resilience and opportunities for growth on a global stage. Provisions, which Wales should seek to capitalise on, include:

- Increased innovation funding through AHRC. Cardiff is a beneficiary of the recently announced AHRC supported creative clusters, with a focus on the screen industries. Funding provides R&D capacity over the next 4+ years including systematically improve the exploitation of IP. The AHRC programme also established the Policy and Evidence Centre, overseen by NESTA, which will gather, analyse and share data and knowledge across the clusters.

- There is a live call through UK Research and Innovation to their challenge fund to create immersive experiences, products and experiences for the audiences of the future.[12]

- A new commercial investment programme through the British Business Bank to mobilise clusters of business angels outside of London, including for IP rich small businesses.[13] Whilst the Development Bank of Wales is also doing good work in this area, we should be mindful not to miss out on UK wide opportunities through the British Business Bank and to ensure that businesses in the creative industries, often dealing in intangible assets, are beneficiaries.

- A proposed UK Shared Prosperity Fund to provide funding after the EU leaves the UK.[14] A consultation on proposals is expected.

Summary

We are operating in times of unprecedented change, with significant potential to undermine growth. There are opportunities including new international markets to research and develop; accelerated and more effective growth through broader IP and market development; shared learning through clusters; and new or replacement funding mechanisms to understand and access.

However, the small and micro enterprises that populate our creative industries do not have the capacity to process these change demands and respond to the opportunities.

Welsh Government could significantly improve the odds for Welsh businesses by ensuring flexible international trade and early stage R&D support that allows companies to work to their specific needs and as part of a collective. Either way, opportunities to pool and share learning could provide wider benefits.

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[12] https://www.ukri.org/innovation/industrial-strategy-challenge-fund/audience-of-the-future/
[13] https://www.british-business-bank.co.uk/new-uk-business-angel-market-report-published-british-business-bank-reveals-clear-regional-disparity-57-business-angels-based-london-south-east/
[14] https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2018-07-24/HCWS927