

CEU(6): Culture and the new relationship with the EU

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ASSOCIATION OF BRITISH ORCHESTRAS

CEU 09

Senedd Cymru | Welsh Parliament

Pwyllgor Diwylliant, Cyfathrebu, y Gymraeg, Chwaraeon, a Chysylltiadau Rhyngwladol | Culture, Communications, Welsh Language, Sport, and International Relations Committee

Diwylliant a'r berthynas newydd â'r UE | Culture and the new relationship with the EU

Ymateb gan: Cymdeithas Cerddorfeydd Prydain (ABO) | Evidence from:
Association of British Orchestras (ABO)

Evidence from: Association of British Orchestras (ABO) to the Senedd's Culture, Communications, Welsh Language, Sport, and International Relations Committee consultation on Culture and the new relationship with the EU

October 2023

Executive Summary

- The Association of British Orchestras (ABO) welcomes the opportunity to submit evidence to the Senedd's Culture, Communications, Welsh Language, Sport, and International Relations Committee consultation on Culture and the new relationship with the EU.
- The ABO is the national body representing the collective interests of professional orchestras, youth ensembles and the wider classical music industry throughout the UK, including in Wales. Its mission is to enable and support an innovative, collaborative and sustainable orchestral sector, and to provide advice, support, intelligence and information to the people who make UK orchestras a global success. We represent nearly 200 member orchestras ranging from the BBC National Orchestra of Wales, Sinfonia Cymru, the orchestras of ballet and opera companies, including Welsh National Opera, and national youth orchestras and conservatoires, including the Royal Welsh College of Music & Drama.
- British Orchestras are a national and global success story, a vital part of a UK music industry which contributed £4billion to the UK economy in 2021. UK orchestras reach millions of people across the UK from all ages and backgrounds each year and use their international renown to take the best of British culture across the globe.

- ABO members have been touring since the summer of 2021 and were amongst the first live performance groups to tour internationally since Brexit.
- Whilst the sector is far from having returned to ‘business as usual’, British orchestras have spent enough time on the road to report evidence of consistent trends in the challenges of multi-stop touring post Brexit.
- Although British orchestras have been getting back on the road, they have been doing this at considerable added cost and administrative burden as a result of the EU UK Trade and Cooperation Agreement (TCA) and EU Member State regulations.
- Foreign touring remains a key source of income for British orchestras:
 - Europe is the most toured-to continent for British orchestras, with our members reporting over 150 visits to 22 different EEA countries in 2019, with the numbers of concerts and performances delivered abroad steadily rising year on year, pre-pandemic and pre-Brexit.
 - International touring accounts for over 20% of orchestras’ earned income and 60% of that comes from EU touring alone.
 - British orchestras are heavily reliant on these earnings as earned income accounts for 50% of their funding models. It is therefore vital that British orchestras are able to tour in a cost-effective manner. Unlike other countries, there is no financial support to take work outside the UK and develop new markets.
 - Post Brexit regulations risk making European touring financially unviable.
- British orchestras are a purveyor of our cultural soft power and perform a strong public relations role for the UK. They showcase the very best of British culture and musical excellence to thousands of people around the world through international tours.
- If we are to be a truly Global Britain, there is a strong economic and strategic case to relieve the Brexit burden on UK touring artists and organisations. Incentivising European touring for British orchestras will boost cultural exports and enhance the UK’s place on the world stage.

Key Issues

- The TCA poses challenges to the orchestral touring business model.
- Brexit has made touring to our members’ primary market, Europe, more bureaucratic and expensive. **Work permit rules across the EU27, customs controls and road haulage limits** have already made touring significantly more problematic.

- Post Brexit touring challenges are by no means 'sorted'. We urge policy makers to work with the sector and to commit the political will necessary to engage with EU counterparts to unblock the restrictions posed by the TCA and secure practical solutions to the following key issues:

Mobility of Trucks - Road Haulage

- The TCA imposes new limits on UK registered hauliers to no more than two laden journeys after the initial journey into the EU (3 in total) before the operator must bring their vehicle back to the UK.
- This makes the standard touring model of moving musical instruments and other equipment by UK registered truck to multiple venues in multiple EU countries impossible.
- A specific concern for British orchestras is that many operate their own trucks – these are adapted at sizeable expense to accommodate fragile and high value musical instruments, which can be worth between £4 million - £10 million per tour – for example humidity and temperature controls, air conditioning, special suspension, special brackets inside to support fragile and high value instruments. Their drivers are also specialist in knowing how to handle these musical instruments, packing the truck and setting up instruments on stage.
- Orchestras own these trucks and operate under 'own account'. Under the European Commission's Regulation 1072/2009, operating on 'own account' should be exempt from limits on 'cabotage operations'. It is unclear why this exemption was not included in the TCA.
- This means that British orchestras cannot use their own, specially adapted trucks, for multi stop tours to the EU.
- The alternative - hiring EU registered, specialist hauliers - is a significant, added expense to British orchestras.
- British orchestras are reporting that factoring in cabotage limits into their touring schedule now results in an additional cost of £16K per day. This is based on extra accommodation, travel and musicians' costs if the tour schedule has to factor in gaps or extra travel to allow for the van to return to the UK.
- Hiring EU registered hauliers to safely transport fragile and high value musical instruments and equipment can add up to £30K of added cost to each tour. These are added costs which can result in orchestral tours making a loss and becoming completely unviable. These added costs will not be picked up by European promoters and cannot be absorbed by the orchestra.
- Using third party hauliers not only adds significant extra cost to tours, but also makes tours much more difficult to plan and manage i.e. working with third party transport partners adds more administrative burden than using in house transport.
- There have been reports of delays and tours having to factor in extra time and emergency replacement vehicles to account for commercial hauliers being held up at the border and a general lack of specialist trucks that are needed to transport high value instruments.
- The UK Government's recently introduced Dual Registration scheme is not a workable solution for British orchestras as own account operators, many of whom are registered charities or publicly

funded with their own single vehicles, and most of whom hold restricted licences. There are major financial and operational obstacles for own account operators to be able to benefit from Dual Registration. Our members have reported that taking up Dual Registration would result in costs including a £8,500 one off cost followed by an additional £12,000 - £20,000 per year, and an additional £2,150 every 5 years thereafter.

We urge policy makers to:

- Enter into discussions with the EU to negotiate a mutually beneficial exemption from road haulage limits for the movement of goods for cultural purposes and to exempt operating on own account.
- Loosen the narrow definition of non-commercial road transportation under Article 460 of the TCA, to match the definition that already exists in the Liberalised Transport section of the ECMT whereby transport for non-commercial purposes of properties, accessories and animals to or from theatrical, musical, film, sports or circus performances, fairs or fetes, and those intended for radio recordings, or for film or television production and the transport of goods on own account are exempted from multilateral and bilateral transport permit requirements.
- Provide transitional funding support, including a Government grant enabling own account operators to undertake the necessary costs and administration to take up the option of Dual Registration.
- Treat own account trucks and operators in the same way as small vans and splitter vans, which do not fall in the scope of the TCA and therefore can move freely around the EU subject to the laws pertaining to each Member State they visit.
- Provide public investment for international touring to boost our members' export potential. This would include the creation an International Touring Fund, like in Scotland, or to provide some form of export guarantee to offset in order to offset the risk of tours making a loss in the context of international touring and the significant extra costs British orchestras are already incurring as a result of the UK's exit from the EU. Unlike our competitor countries, there is no financial support for cultural organisations to take their work outside of the UK and develop new markets.

Mobility of People - EU Member State Visas and Work Permits

- As a result of the TCA, British orchestras and their artists must now navigate 27 different sets of rules to work in the EU.
- Policy makers insist that they continue to work bilaterally with EU Member States on touring, however Government statements that "the arrangements are much more straightforward than has at times been reported" and that most "member states offered visa and work permit-free routes for musicians and creative performers [including] most of the biggest touring markets, including France, Germany and the Netherlands" are misleading.
- The reality is that conditions for entry vary from each member state, with different time limits for days spent working in each country and different paperwork and registration required – from

Austria's 4 weeks per year to Sweden's 14 days per year and Croatia's registration certification required to perform contracted work, for example.

- The lack of clarity and significant cost and burden of navigating the EU27 visa regimes is having a detrimental impact on British orchestras. Even in cases of a policy shift, this has often come too late for orchestras who have already felt the impact in added cost and admin – as in the case of the Greek visa policy u-turn last Spring for example.
- As well as continuing concerns re navigating the EU27 visa and work permit regimes, British orchestras are also concerned about the limitations of the 90 in 180 day Schengen rule for third country nationals, adding further limitations to how much time UK artists are able to spend in EU countries for leisure or for work visa and work permit free, particularly in light of ETIAS coming into force next year.

We urge policy makers to:

- Engage with the EU to come to an agreement on a visa waiver for performers, as exists between the EU and other third countries.
- Negotiate with individual EU Member States on bilateral work permit exemptions – akin to the multi-year 'talent paseport' in France.
- Provide clarity and accurate guidance for touring orchestras through the creation of an EU Touring Hub.

Inward Mobility

- Since September 2021, the ABO and other live performance groups have reported over 30 instances of international artists being incorrectly processed as they enter the UK for work post Brexit.
- Issues relate namely to artists entering on the Permitted Paid Engagement Route (PPE) at entry ports across the UK. Some border officers are not applying the rules correctly, with artists either being ushered through e-gates, when they need to get their passports stamped, or being told that they need a CoS or visa.
- British orchestras also continue to be impacted by the lack of a route for frequent visitors and freelance workers to come into the UK for regular engagements.

We urge policy makers to:

- Create a route for frequent visitors and freelance workers to come into the UK for regular engagements.
- Re-establish an arts and entertainment contact for the sector in the Home Office to address issues relating to inward artist mobility.

Customs

- Customs arrangements have become more onerous in terms of admin and cost post Brexit, particularly in light of inconsistent and at times incorrect application for the new rules by border officers.
- Carnet, CITES and post Brexit customs controls have resulted in a greater burden on the time it takes for orchestra trucks to cross the border. Orchestras are now having to plan for additional days on either side of a tour to accommodate customs delays and bureaucracy – all of this threatens the financial viability of the tour.
- Every European tour now has to have a carnet which has added around £10K to each tour for an ABO member orchestra, whether the tour lasts two days or two weeks. It is a huge added burden to both the administration and the players who no longer have the freedom to put their instrument either on the truck or carry for just one leg of the outbound or inbound journey.
- Processing paperwork for ATA Carnets is a significant added administrative burden, with an ABO member symphony orchestra reporting that they have had to employ 2 extra members of staff to manage the additional paperwork required. Preparations now required for a tour to Europe post Brexit has been likened to that of preparing for a US or Asian tour.

We urge policy makers to:

- Come to an agreement with the EU on a carnet and CITES waiver.
- Make the Eurostar Terminal at London St Pancras a Designated Port to enable musicians travelling with a musical instrument and in possession of a CITES Musical Instrument Certificate to obtain the required validation both into and out of the UK and into and out of the EU.

Conclusion:

- At a time of unprecedented economic and geopolitical challenges, there are urgent issues facing our sector which remain unresolved.
- The next few years will be of critical importance to the growth of the UK's orchestras.
- In addition to the pressure on orchestras' business model from cuts in public investment, Brexit poses an ongoing threat. It is critical that issues as a result of the TCA continue to be on the Welsh Government's agenda and that the Welsh Government continues to engage with the sector in seeking solutions.
- We urge Welsh policy makers to commit the political will necessary to apply the practical solutions the ABO has put forward to resolve post-Brexit touring challenges.
- Supporting and investing in the UK's orchestras means that UK orchestras can play our part and help to support UK economic growth and soft power; build future resilience; ensure a successful recovery from the pandemic; increase accessibility, equality, diversity and inclusion; support a healthy music ecosystem that benefits everyone in geographical Europe; and deliver on the government's levelling-up and green agendas.

- We are grateful to the Committee for the opportunity to submit evidence to this important and timely consultation.