

Moving Forward

Approaches to managing Brexit
for the Scottish music industry

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Foreword

For many of us, Brexit is the most significant political decision we have faced in at least a generation, certainly when it comes to trade and labour. The UK's exit from the EU affects Scotland, just as it does the whole of Europe. It will have a considerable impact and presents many challenges. Whilst there are many industry-wide concerns regarding Brexit, it's important for us to look at how we move forwards following the end of the transition process on 31 December 2020.

The Scottish Music Industry Association (SMIA) has published this report for the benefit of its members and the wider music and creative industries in Scotland. We encourage businesses and practising and aspiring industry professionals to read it, understand the impacts and tackle problems together and find opportunities in the solutions. While the initial deal is done, both the UK as a whole and Scotland's specific relationships with the EU will continue to evolve. This report should stimulate conversation. We also hope it inspires ideas. In a time when we are facing the unknown of Brexit and uncertainty of the Covid-19 pandemic, innovation, a forward-thinking mindset and collaboration are vital.

This report was commissioned by the SMIA to examine the impact of Brexit on the music industry in Scotland, as well as to consider how we mitigate challenges, pivot business models and innovate to stimulate new opportunities for the sector. Research and reporting were conducted by Tim Wright of management consultancy twintangibles for the SMIA. The research project and resulting report were funded by Scottish Enterprise and we (SMIA and twintangibles) are very grateful for their support.

Reports like this should not just be read once and then sit on a shelf. The SMIA will use this research as a basis for further discussion, debate, potential lobbying and business development activity. I hope you find it interesting and useful. Please engage with it and contact us via our website (smia.org.uk) and social media channels to let us know how you plan to move forwards with Brexit.

Dougal Perman
Chair, Scottish Music Industry Association

Executive summary

Like all sectors, the Scottish music industry must adjust to the UK leaving the European Union. Such a change in circumstance would ordinarily present significant challenges and opportunities; mitigation measures, pivot possibilities and new opportunities through innovation. However, the need for the sector to respond to this change has been made more challenging by the emergence of Covid-19, and the measures taken to contain it. These have had a profound impact particularly on live music, a key driver to the industry.

Engagement with the sector emphasised that it is not possible to consider the EU exit in isolation from the Covid-19 pandemic and the coming together of these two events have created a unique set of circumstances. The sudden disruption emerging from these events also seems to have prompted consideration of the potential impact of other changing societal attitudes. What were perhaps only peripheral considerations prior to 2020 have now become more pressing considerations as speculation about what a “new normal” might look like and how the fallout from the pandemic may accelerate what otherwise might have been more long term trends. This includes attitudes to travel and other issues associated with climate change and how these may impact on the sector’s ability to continue as it has previously.

A key concern for the industry was any challenges that might emerge in short cross-border touring and performing within Europe due to visa costs and any additional bureaucracy and administration costs should carnets and other documentation be required emerging from the EU exit. Once again this speaks to the centrality of live performance to the industry.

During our research, the UK and EU negotiated a trade deal. In anticipation of this, we explored what impact similar deals have had on the music sectors of other countries in how they engage with the European marketplace. We found that, anecdotally, little appears to change post trade deals as the areas of most significant frustration for the sector typically fall outwith the contents and provisions of most of them.

Nevertheless, with all disruption and change, both opportunities and challenges arise. Based on this we have proposed eleven options for consideration based on our findings. We have classified these as being specifically mitigation measures, pivot possibilities or new opportunities through innovation. We have described the eleven options as:

- Corridor Touring
- Local Manufacture
- Funding
- Development of Local Talent
- Greater Use of Live Streaming
- Lobbying and Trade Missions
- More Equitable Music Streaming
- Broadcasting Presence
- Immersive Concerts
- Visa Services
- Equipment Facilitation

Each of these is illustrated with a use case to present one theoretical approach to addressing the option.

Whilst the transition period for exiting the EU is now complete and we do have much greater clarity of the nature of the UK's relationship with the EU, the reduced levels of activity in the sector, from a touring and performing point of view, means that it is still difficult to assess with certainty what impact the these changes might have. Similarly, there is ongoing discussion and lobbying for adjustments to existing provisions to address perceived shortcomings in the new relationship. There is then the prospect for some adjustment to arrangements for the foreseeable future.

Whatever the new normal may look like once the constraints of lockdown are removed, it is apparent that these circumstances have caused a major period of reflection for the sector. As new technologies change the way in which we produce and consume music, these additional political and economic factors provide the Scottish music industry with an opportunity to reimagine and reposition itself in such a way as to take a lead into a new and changed set of circumstances for the music industry globally.

Background

The Scottish Music Industry Association (SMIA) commissioned twintangibles to undertake a research project looking at the implications of the UK's departure from the European Union (EU) and, in particular, to explore the specific challenges that Brexit will bring, as well as to consider how we now move forward; mitigating impact, pivot possibilities and stimulating new opportunities.

The formal end of the transition process for the UK exit (Brexit) was January of 2021. Since the establishment of this time table, and the ongoing negotiations to settle the formal aspects of the future relationship through a negotiated trade deal, a significant further factor emerged with very profound implications for the Music Sector, namely the Covid-19 pandemic and the associated lockdown(s) and social distancing measures instituted to combat its spread. It is not possible to consider the impact of Brexit without factoring the disruption caused by, and potentially enduring impact of, the Covid-19 outbreak, and the research project has by intent and by necessity included this consideration into its work.

A vital part of the proposed research was to engage with all sub-sectors of Scotland's music industry in order to gain a strong and robust understanding of the perspectives, concerns and perception of the Brexit process. It aimed to uncover how it might impact on both sub-sectors individually, as well as the Scottish music sector as a whole.

Approach and methodology

Our research-led approach included a significant literature search and review. This work included secondary and primary sources, commentary, and anecdotal materials. In the case of primary documentation and during the consultation process with industry representatives, we reviewed the stated negotiating positions of the two bodies seeking to establish a new trade deal to determine many aspects of their ongoing relationship post-Brexit, namely the European Union (EU) and the United Kingdom (UK) government. We have more recently been able to review the trade deal provisionally agreed towards the end of the transition period in December 2020 and explored how its provisions affect the music sector. We have also considered existing trade deals between the EU and other nations, such as the recent EU-Canada trade deal, and trade agreements between other “third party” countries to gain an understanding of what is common in terms of arrangement between third party countries and, importantly, how the signing of a trade deal can adjust a relationship that has otherwise been conducted under common supranational trading arrangements such as those administered under World Trade Organisation (WTO) terms. We have also reviewed parliamentary papers, industry documents and positions statements, lobbyists, and even general journalistic coverage and commentary. A more complete Bibliography is available as an appendix to this document.

In undertaking this research we have undertaken a significant number of interviews. These were undertaken remotely given the constraints placed upon us by Covid-19 restrictions. We used semi-structured interviews with a common theme of questioning, but with ample opportunity for each interviewee to respond freely and openly based on their own views and responses. In some cases, interviewees spoke on behalf of institutions, and others as individuals. As we offered all interviewees the opportunity to speak both on and off the record in order to encourage candid and frank responses, we refrain from attributing information directly to sources to respect those wishes. We sought to include interviews with industry representatives across Scotland and additionally with a range of representatives of the music sector in Canada, Australia and in Europe. We are grateful to all for making time to speak with us. A list of sources is included in our references section at the end of this document.

The SMIA’s intention in undertaking the research was to establish the areas of vulnerability emerging from the disruption caused by the change in trading relationship with a significant market and if the changed circumstances warranted a necessary pivot or realignment to explore new and novel opportunities that might emerge. As is often the case, disruption to established patterns can provide an opportunity for new goods and service providers to address new needs or respond to different circumstances where they change the fundamentals of an established trading pattern. Disrupted or extended supply lines, for example, can provide margins that might not have been available to local providers.

Alternatively, new services can potentially smooth and mitigate any additional friction that might emerge. To this end, we were interested in understanding what planning and evaluation had been undertaken by practitioners working across Scotland's music industry to determine the potential impact of Brexit. We also spoke to music industry representatives in third party countries to understand their experience of dealing with the EU. As external countries, we hoped they would identify common skills that could help to prepare the UK, and Scotland in particular, as it adopts this position, but also where there might be partnerships and agreements which might not otherwise be available.

We also undertook a PESTEL analysis to place the change brought about by Brexit in the context of other changes in progress or anticipated, as well as wider influencing factors. The intention was to bring a more multi-factored and richer approach to consider prevailing and emerging trends and factors which have a dynamic effect on how the sector participants may choose or need to shape their strategic responses to Brexit. The wisdom of this approach is demonstrated to great effect as to the profound impact of the realisation of a pandemic threat such as Covid-19 and both the lockdown and social distancing measures in response to it.

Finally, we undertook research on the general stance and position of the music industry with regard to Brexit, and what dynamics might exist there as relationships with traditional partners change.

All of this has been affected and influenced significantly by the emergence of Covid-19 and the lockdown and social distancing measures adopted. The creative sector, and the music sector in particular, has been very significantly affected by the Covid-19 pandemic. As such, its preparedness and ability to respond to changed circumstances caused by Brexit have been, in some cases, significantly curtailed. This affects the possibilities available to the sector, and the ongoing uncertainty as to what will become the "new normal" makes planning and making provision for the future exceptionally difficult. The opportunity for policymakers to intervene grows as part of a package of activities to provide stability, certainty and resilience to the sector. Still, we also need to recognise that the ability of policymakers to respond may be stretched when other sectors are also making demands. There is likely to be a period of extended austerity as a result of the budgetary impact of the measures taken during the lockdown, and with the potential contraction of the wider economy, a reduced tax base to respond to that budgetary constraint.

Placing this research project in context

It was apparent early in the process that other events were bringing additional factors into play as to the impact of the Brexit process on Scotland's music industry, as well as the possible opportunities to move forward. Clearly, the Covid-19 outbreak and the provisions put in place to mitigate this have had a very profound influence on the sector's ability to continue its normal activities and, by extension, its ability to respond to the changed circumstances that may prevail post-Brexit. It is perhaps incumbent upon us then to consider a wider analysis of the context of some of the main influencing factors that may inform outcomes and opportunities for the sector, so as to position and suggest opportunities in a wider context. To that end, we have undertaken a high-level PESTEL review and analysis of the factors in the EU Exit process as they are categorised by this framework, and other dynamics in the sector which may be accelerated or adjusted by Covid-19, and any prevailing trends emerging in society that will impact upon the sector.

The PESTEL approach seeks to consider externalities and factors that organisations will likely need to respond to as these factors shape the environment within which they operate. The acronym stands for Political, Environmental, Social, Technology, Data, Economic, Legal.

Political

The EU exit is clearly the most central political event in the remit of this report; the practical implications of this will be considered throughout our work here. This does, of course, give rise to levels of uncertainty because of a lack of clarity from a range of important considerations. It would therefore be foolish to not include here and reflect on the imminent Holyrood elections in May 2021, with the debate around the Scottish Independence a key topic, and how that election result may influence that debate. Further uncertainty would be likely to emerge from that process should an independence vote be brought forward.

Environmental

The environmental debate and the growing pressure for carbon reductions has implications for traditional travel patterns and may well influence the ability to travel as some modes become less sustainable.

Public consciousness of this issue is increasingly to the fore, and the sector is making some visible responses to this with initiatives such as Music Declares Emergency¹. Individual performers are also taking positions on the subject. Coldplay, for example, chose to pause touring until they can offer ‘environmentally beneficial’ concerts². This type of attitude and pressure from the audience to make similar moves have the potential to significantly affect the process of “touring” as we have known it. The importance of playing live to a significant segment of the sector cannot be underestimated, as well as the impact of a curtailment of this.

Social

The concerns about being in crowds and large gatherings in a post-pandemic society may have a considerable impact on the viability to continue a traditional series of events that rely on this type of behaviour. Public perception of the risks associated with this type of behaviour could become significantly different from what we considered normal before the Covid-19 outbreak. This may also be demographically distinct, affecting some sectors of the industry more than others.

The emergence of other pandemics are predicted, and whilst the 2020 response was a significant one, it would be naive to assume that it is exceptional, so we may need to become accustomed to similar disruptions. Environmentalism and the impact of human activity is increasingly front of mind, particularly for a younger demographic. This may well limit the desirability to travel extended distances to consume live music, and may significantly influence some companies and performers’ attitude to how they present themselves from an environmental perspective. It may become less acceptable for bands to tour in the way that they have previously done as referenced above.

1 <https://www.musicdeclares.net/gb/>

2 British group delay tour to support new album Everyday Life as they work towards developing carbon-neutral concerts
<https://www.theguardian.com/music/2019/nov/21/coldplay-pause-touring-everyday-life-carbon-neutral-concerts>

Technology

Few sectors have been as profoundly disrupted by technology as the music sector has been in the last 30 years, and this is a trend that is unlikely to change or slow. The ability to distribute music as a digital product has changed the value chain of the sector significantly, as well as how music is consumed. It has expanded the possibilities of where the sector can create value, whilst at the same time, disrupted business models and changed how revenue flows, as well as to whom.

Streaming

The growth of streaming as an important mechanism to distribute and consume music is unlikely to slow. Global music streaming market revenues are projected to grow from US \$26.05 Billion in 2019 to US \$46.99 Billion by 2027³.

Syncing

According to the BPI, music syncing licensing accounted for 2.6% of UK industry revenue in 2019, an 11.1% rise over the year⁴. IFPI's annual *Global Music Report 2019* shows total Global recorded music revenues for 2019 reached \$20.2 billion US dollars⁵. Synchronisation revenues represent 2.4% of that total at \$0.5 Billion US dollars. This represents an annual growth of 5.8% by value for syncing. This may be slower growth than demonstrated in 2018 (+11.5%) but it is retaining its share of the revenue generation for the sector whilst others areas, like downloads, for example, are decreasing as a percentage of revenue generated. This trend for growth in synchronisation is likely to continue as the value of emerging markets grow and the use of licensed music in advertising and marketing grows along with it.

Gaming

The gaming industry has experienced extraordinary growth with its global value now outstripping both music and film combined⁶. This represents an opportunity for the music industry, as greater demand for games will bring with it a greater demand for musical content; both original and licensed. But, perhaps more importantly, as the two sectors are increasingly interwoven, the practices that have contributed to the growth of gaming — like microtransactions and gamification — may well become adopted approaches in the music sector.

Immersive technologies

This introduces the possibilities presented by immersive technology and how this may transform the event experience for audiences at venues and remotely. According to Digital Catapult and Immerse UK's *The Immersive Economy in the UK Report 2019* report, the UK is the largest immersive market in Europe. The UK virtual reality market alone is expected to grow from £118 million to £294 million by 2023⁷.

3 Music Streaming Market Forecast to 2027 – Covid-19 Impact and Global Analysis, The Insight Partners P42

4 All About The Music, BPI 2019

5 IFPI Global Music Report 2019

6 Gaming worth more than video and music combined <https://www.bbc.co.uk/news/technology-46746593>

7 The Immersive Economy in the UK Report 2019, Digital Catapult and Immerse UK 2019 P9

Data

The value of data and the insight it can generate continues to grow year on year and is becoming a very significant factor in the way in which creative content is commissioned and marketed. This has transformed many broadcast services and there is good reason to believe that some of the major streaming services will demonstrate similar growth driven by the data insights that they can derive from their services.

There is also a growing asymmetry in access to this type of data, which will influence how sectoral participants are able to compete in the future.

Economic

The economic impact of BREXIT is a matter for speculation, however, the economic impact of the lockdown response to the coronavirus epidemic has already been significant.

Scotland's economic growth is forecast to contract by 9.1% in 2020, according to the latest predictions from KPMG⁸. This is a downward revision of Gross Value Added (GVA) from a 6.8% drop to a fall of 9.1%. This is likely to also bring a significant increase in unemployment across the UK. The Fraser of Allander Institute has suggested that unemployment could rise to 7.5% by the second quarter of 2021⁹ (around double normal rates) as the furlough scheme provisions are progressively withdrawn. Of course, the ever-changing nature of Government interventions and support provisions could impact the timing of these predictions. This will have a considerable impact on the sector¹⁰ in terms of the availability of talent and for industry practitioners being forced to depart the sector and look for work elsewhere in the economy.

This gloomy forecast for the wider economy has already been felt in a profound way by the music sector and inflicted significant damage on the ecosystem of the performing aspects by eroding the number of venues and performance places and with the immediate impact on performers and live music supply chain professionals by depriving them of the opportunity of realising what is often a very significant part of their income streams. The implications for access to finance for those organisations that survive this period of contractions, be that cash flow or investment, is likely to be significant and this will undoubtedly affect how the sector can plan for the future.

Another economic factor of direct relevance to the impact of Brexit is the relative maturity of certain markets and the importance of emerging markets. For example, the music streaming market in the US was valued at US\$ 8,880.0 million in 2019 and is projected to reach US\$ 14,758.5 million by 2027. Europe by contrast was valued at US\$ 6,260.2 million in 2019 and is projected to reach

8 KPMG: Scotland's economic growth expected to contract by over 9% this year
<https://scottishfinancialnews.com/article/kpmg-scotland-s-economic-growth-expected-to-contract-by-over-9-this-year>

9 Scotland's economy 'could take three years to recover'
<https://www.bbc.co.uk/news/uk-scotland-scotland-business-55311590>

10 <https://www.insider.co.uk/news/scotlands-growth-forecast-fall-91-22609643>

US\$9,812.3 million by 2027. The South American was valued at US\$ 1,235.4 million in 2019 and is projected to reach US\$2,782.0 million by 2027. But it is the Asia Pacific Region that sees the largest growth — it was valued at US\$ 6,963.5 million in 2019 and is projected to reach US\$13,975.9 million by 2027.¹¹

These historic changes in market growth patterns are likely to significantly affect where revenue and opportunity is sought by the music sector, not least in Scotland with its traditionally international perspective.

Legal

The impact of laws emerging in the form of the Covid-19 regulations (as enacted through the Coronavirus Act 2020¹²) have already caused enormous damage to the music industry, and in particular to the live music sector through measures such as closing venues, banning live music performance and live events, requiring people to work from home, restricting audience behaviour and so on. But it is also impacting on other areas where musicians can generate revenue and earn money, not least from royalties from performing rights; be that in shops, pubs and clubs and other places that have been closed for extended periods and are subject to the ongoing threat of local lockdown for the foreseeable future. The Scottish Government's background music ban in public establishments further constrained royalty payments that would otherwise have been earned¹³.

UK Music has suggested that the contribution of live music to the UK economy was set to drop in 2020 from an estimated £1.1bn to £200m¹⁴. As it is unclear how long these restrictions will continue, it is difficult to quantify the impact. but it is certain, however, that if they persist for an extended time, the impact on what we understand as the normal value chain of the music sector will be changed beyond recognition.

Much of the intellectual property, patent and copyright regulations have been harmonised with the EU and the departure of the UK presents an opportunity for divergence. Whilst much is coordinated at the pan-national level, the opportunities for amendment and change will present themselves, and these considerations often form part of trade agreements. As the UK begins to negotiate new and updated agreements with international partners, there may well be adjustments and changes made to these arrangements.

Tax payment processes and provisions like VATMOSS which have been in place in a more integrated European context may change in a post-Brexit world in terms of rates, payment processes and timing.

GDPR has had a significant impact on the way personal data has been managed in Europe. This has an effect on a range of activities, not least from the cookie

11 IFPR – Global Music Report 2020

12 <https://www.legislation.gov.uk/ukpga/2020/7/contents/enacted>

13 <https://openearmusic.com/blog/2020/08/25/no-logic-to-ban-on-scottish-background-music/>

14 UK Music Industry Revenue to drop in 2020 from an estimated £1.1bn to £200m in 'Catastrophic' blow to the sector
<https://www.euroweeklynews.com/2020/05/14/uk-music-industry-revenue-to-drop-in-2020-from-an-estimated-1-1bn-to-200m-in-catastrophic-blow-to-the-sector/>

settings on websites to mailing lists and contact details. As GDPR is an EU provision, the UK can potentially depart from it and explore other comparable systems, such as the USA with its “Safe Harbour” arrangements.

All of these matters are subject to legal judgement and consideration, and the likelihood is that the arbitration and decision making structures that determine compliance and application of whatever arrangements emerge is likely to be changed; not least with the proposed removal of European courts from these matters as they pertain to the UK.

As is readily apparent from this high-level PESTEL analysis, there are many significant factors affecting the arrangements and circumstances for Scotland’s music industry and the Scottish Music Sector over the next few years. Any consideration of the impact of Brexit must then factor those matters in to be a meaningful analysis.

Findings from engagement

In speaking to industry practitioners and reviewing general commentary from the sector, there is a range of commonly acknowledged challenges. These issues have some cross-sector recognition, but each part of the music sector value chain has specific concerns relevant to their own particular circumstances. At the time of much of the engagement process it is fair to say that for all of these matters, it was problematic to develop clarity of the extent of the challenge that might emerge. As we now know the form of the Trade and Cooperation Agreement we have a fuller understanding. That said, for some areas of the industry, notably touring and one-off engagements in Europe for performers, the specifics of the actual impacts are still hard to gauge due to the lack of activity of this sort as a result of Covid-19 restrictions across much of the continent.

Importance of the European market

The European market is a mature trading partner for the UK music sector in all its parts. There is, then, a familiarity and customary dependence on it as an important part of the revenue streams for many participants, and the prospect of any disruption to that is concerning. The Association of British Orchestra's (ABO) *The State of the UK's Orchestras in 2019* report makes clear the financial importance of Europe's music-loving audiences for UK orchestras. Income from all foreign tours brought in revenue of £14.4m in 2018, of which £8.4m came from tours of EU nations¹⁵.

Predicting the extent of specific aspects of market disruption is not easy. However, broadly speaking, we can characterise the anticipated challenges as follows:

Employment and freedom to work across the EU

This manifests itself in a number of ways. It is a concern for both part-time, peripatetic working and also full-time employment by citizens of both Scotland and the wider UK, as well as those from other countries. It is also important to recognise that the concern is the effect any change might have for UK citizens to work in Europe and European citizens to work in the UK.

During the UK's membership of the EU, artists and performers have enjoyed the freedom to tour around Europe without the need for work visas and complex tax settlements. This has expanded the possibility and viability for short and one-off employment at venues some distance from their place of residence, and for these trips to form a common part of their working pattern. This is both for UK artists and performers to travel to continental Europe, and the capacity to bring European performers and artists to the UK to work. Any disruption to this in terms of additional bureaucracy or cost has significant implications, and suggestions and lobbying for a reciprocal "Musicians Passports" have formed a common campaign¹⁶ by the sector. This campaign, from the Musicians Union (MU), proposes a scheme that would also cover road crew, technicians and other staff¹⁷. For this to be a sector-wide solution, there may be a requirement to consider other music industry practitioners who need to travel and tour as part of their service provision and trading relationships. As we now know this "Musicians Passport" provision is not currently part of the Trade and Cooperation treaty. There is, however, ongoing pressure from the sector to bring something into a future agreement. Both sides assert unconfirmed details about what has been offered and what has been turned down to date. As things stand musicians will need to apply for visas for certain work engagements and the specifics of the costs and formalities of the requirements vary country to country across the EU member states. Again, given the current constraints on travel and performance

¹⁵ The Association of British Orchestra's (ABO) THE STATE OF UK'S ORCHESTRAS IN 2019

¹⁶ <https://www.musiciansunion.org.uk/Home/News/2020/Feb/MU-call-for-reciprocal-Musicians-Passport-to-protect>

¹⁷ <https://www.change.org/p/government-parliament-let-touring-musicians-travel-support-musicians-working-in-the-eu-post-brex-it-working-in-the-eu>

across the continent due to Covid-19 restrictions, it is difficult to develop detailed impact assessments.

This is very much a concern for the travelling employees who wish to accept short term opportunities in the countries of the EU, as well as for the UK to bring European citizens to the UK for short term employment.

One option would be a type of reciprocal arrangement defined by the WTO as a Mode 4 provision, whereby an EU citizen would be able to work for up to 6 months in the UK and vice versa. However, this did not form part of the Brexit trade deal, and the difficulty of including such provision was demonstrated in the unsuccessful negotiations between the EU and India in 2012.

The indications for EU-based musicians to travel to the UK for tours of up to one month are that they should employ the ‘Permitted Paid Engagements’ or Tier 2 type visa. If work travel is required for longer than one month then they should make use of the ‘Tier 5 Temporary Worker — Creative and Sporting Visa’ for which a musician needs to have a certificate of sponsorship from a licensed employer.

There is, in addition, the consideration of longer-term employment and the visa implications associated with this. There is a long-standing tradition of performers from outside of the UK being employed by companies in the UK. The LSO, for example, employs musicians from 26 different countries – 18 of them from the European Union. This illustrates that it is possible to recruit in a circumstance¹⁸ where there is not a “free movement” arrangement in place, but there is an issue with the costs and the bureaucratic impact this might have if the numbers of “non-domestic” employees grow, to say nothing of the challenges in actually securing visa approvals for lower-paid and “lower-skilled” employees who find satisfying the immigration requirements more onerous. The potential impact of this, whilst commonly viewed as an issue for performers, is something that will impact various industry roles across the entire sector.

Travel

Travel across the European marketplace is not solely determined by visa availability and the legality and permissibility to work in remote locations. At the time of much of the engagement process, there was little clarity around what provisions would be put in place to facilitate this in any Trade and Cooperation Agreement. It was however an area of concern for the interviewees. It is now clear that the practical process of transferring kit and equipment across borders will become more challenging. One commonly recognised mechanism to facilitate this cross border travel is the use of carnets and duplicate lists, which in essence are comprehensive lists of equipment being carried by a party across a border which are used to validate both its entry and exit from a country¹⁹. This was in use prior to the UK being in the EEC, and EU as it became, and applies to many non-EU touring acts today. Some have expressed concerns that their return with all the associated friction, bureaucracy and

¹⁸ <https://inews.co.uk/news/brexit/brexit-customs-checks-orchestras-classical-music-visas-tours-398230>

¹⁹ The ATA Carnet is an international customs document provided for under the ATA Carnet Convention and the Istanbul Convention. It simplifies customs procedures where the goods to be used are temporarily imported or exported between countries that are contracting parties to either convention.

costs that go with it, will make some aspects of touring unviable; particularly for smaller acts. Whilst carnets are recognised by multiple countries as tools for the purpose of moving kit across borders, as with visa demands, the formalities, rigour and detail of their use will vary country to country within Europe. And again, due to the current restrictions on touring it is unclear how this will develop in practical terms. Anecdotally the use of these facilities can be very patchy in the rigour and bureaucracy country to country across the continent.

The same applies to complex touring parties. Simon Rattle, for example, suggests that the impact could be very profound on a complex group like an orchestra. “The practical difficulties will be immense” ... “Customs checks and form-filling to move musicians from one country to another can take up to 15 hours on average,” he says, “which will severely impact on the LSO’s touring life”²⁰.

This is also an area which is impacted by other externalities over and above the Brexit consideration. We commonly found that interviewees cited the combination of this with the ecological/green agenda and the impact of the Covid-19 pandemic on travel infrastructure is potentially something of a ‘perfect storm’ in disrupting what has become an accepted and standard operating approach for many performing artists.

The perception is that there has been a significant and precipitous decline in the ability to play live due to lockdown restrictions on large gatherings. There is uncertainty about how quickly, if at all, this will return to what was the norm in the past. Delayed return to the previous norm would be due to either ongoing lockdown, changes in the perception of how desirable it is for audiences to gather — or their appetite to do so — and the attrition on venues as a result of protracted closure.

At the same time, there is an expectation that frequent, low cost, point to point flights will become depleted as airlines reduce both the frequency of flights and the number of routes in response to heavily constrained trading during the lockdown. This relatively recent form of travel has become a necessary and vital part of the transport infrastructure to facilitate the adopted work model of travelling to geographically remote workplaces for one-off opportunities, often at very short notice. Any reduction in its comprehensive cover or competitive price points due to any changes to open skies regulations and economic and social factors listed above would be very harmful to the capacity to undertake this type of peripatetic touring.

In addition to this, there is an expectation that the growing environmental concerns of many are likely to impact upon this type of travel by making it less socially acceptable or desirable. This would bring greater pressure to bear on the providers of the flights and those utilising them, and so doubling down on the circumstances that are constraining the industry at present.

20 ‘The practical difficulties will be immense’: How post-BREXIT customs checks could impact orchestras and European tours
<https://inews.co.uk/news/brexit/brexit-customs-checks-orchestras-classical-music-visas-tours-398230>

Supply lines

Where there are logistical and supply chains that stretch across national boundaries, there is uncertainty about the disruption that may emerge from Brexit. This might be extended supply times which will require a reconfiguration of storage capacity and production duration. Equally challenging may be the imposition of tariffs which could significantly adjust cost bases. This has an impact, for example, on equipment and musical instrument manufacture, but also has implications for the production of physical products like Vinyl and CD manufacture. We now know that there is without doubt additional paperwork to be undertaken but that much of the impact thus far since the end of the transition period does seem to be in perishable goods and farm and animal products.

Intellectual property and data protection

For music publishers and artists, the protection of their creative output is, not unreasonably, a key concern. For some time, the harmonisation of copyright and protection of IP across the EU has given a strong sense of stability. As with many other areas of concern, at the time of consultation, it was a lack of certainty about any immediate adjustments to these arrangements post-Brexit, or how this may amend over time, that was most disconcerting to sector participants. UK law is in considerable harmony with the EU at present, and there is no indication that there is any intention for the UK to change this imminently. Indeed the so-called “level playing field” discussion during the negotiations for a trade deal was in large part one about how much scope each party has to diverge from currently shared standards.

The UK has enacted legislation which will cover many of the European competencies and these are designed to continue a relatively consistent approach. Those who raised concerns on the matter pointed out potential IP and copyright wrinkles at the DMCA select committee meetings. The UK Government response was an expression of words aimed to reassure that nothing detrimental would occur but offered no certainty for the future.

Whilst this is the case, the EU has been active in taking some significant copyright decisions in recent years, with the Directive on Copyright in the Digital Services Market and, in particular, the controversial provisions of Article 13. If there is an appetite for further declarations of adjustments in this field, particularly as other new and novel services emerge, the UK may not choose to align with them; creating a legal barrier between the UK and the EU. EU law is not universally applauded, and changes that might be welcomed in some parts may be met with derision elsewhere.

That said, a good deal of copyright and IP law is based on pan-national standards, which will continue to play a part in ensuring some level of alignment internationally on broad standards. For example, the European Patent Convention is not an EU convention.

However, apart from a gradual divergence, there is some concern that trade deals signed with other countries may have implications for copyright that may bring about a more rapid departure from EU shared standards. The USA, for

example, has some “safe harbour” provisions which are distinct from the EU provision, and so there is concern that if a UK/US trade deal is prioritised then these may be areas where the UK begins to diverge from the EU model. Even gradual divergence on some apparently minor changes, such as secondary rights use, can have quite profound implications for emerging important areas such as sync.

Personal Data security and management provision in Europe is determined by GDPR. This is a provision not without its critics, and it has had some impact on European access to certain US online publications, for example. This demonstrates how international divergence can have quite profound impacts beyond what might initially have been considered within the scope of directives provision.

In terms of the actual outcome of talks, there appears to be little significant change at present. Artists resale rights remain, rights to establish copyright remain and, in large part, the existing European provisions have been transferred into UK law. Much of the Governmental commentary on these matters state that there “may” be situations where EU member states may wish to depart from existing provision as the UK is now no longer a member state. For example, in the Cable Retransmissions of Work provisions the Government state that “Copyright holders whose works are broadcast from the UK and retransmitted via cable in the EEA may need to negotiate licences with the cable operator directly”.²¹ But the commentary goes on to suggest that there is benefit in mutual reciprocity in maintaining these conventions.

This approach can be seen in the provisions of Artists Resale Rights which were incorporated into UK law through EU’s Resale Right Directive through the Artist’s Resale Right Regulations 2006. Whilst the law has been amended to reflect the UK’s position outside of the EU, the Government states that “Nationals of the UK and other countries that provide reciprocal treatment for UK nationals (including EU member states) will continue to receive resale rights in the UK and those countries from 1 January 2021”.

Tax and tariffs

Concerns over TAX payments and scheduling of those, along with the imposition of tariffs, were concerns for those who move goods and services across borders or have supply lines for raw material over boundaries. The concerns were multifarious but were clearly that tariffs could have been introduced which didn’t exist before. Bureaucratic requirements for tax payments, scheduling and practicality of making such payments may all become more cumbersome and costly in a post-Brexit relationship with Europe. It should be remembered that even in the EU this has not always been straight forward, as the implementation of VAT MOSS demonstrated. Similarly, many who engage with cross border trade do so with countries outside of the EU. So it is not that these things are not possible but rather that they become more costly and time consuming to do.

They add a layer of expense and complexity that doesn’t currently exist and, as such, can make the cost bases and viability of some activities unsustainable.

²¹ <https://www.gov.uk/guidance/changes-to-copyright-law-after-the-transition-period#protection-of-uk-copyright-works-in-the-eu>

What has emerged in the Trade and Cooperation agreement is what is described as “100% tariff liberalisation”, which means there will be no tariffs or quotas on the movement of goods produced between the UK and the EU. That said the “non-tariff” barriers in documentation and paperwork are expected to add costs to cross border trading. The practical impacts of these impositions will take time to emerge as new systems, procedures and requirements bed down.

Broadcast rights

Broadcasting of content across the EU is covered by the Audiovisual Media Services Directive²² provision, which ceased at the end of the UK’s transition period. In effect, this provides for all member states to make broadcast content available in a pan European manner under the rules of origin terms. As a third-party country, it may become very problematic for broadcasters domiciled in the UK to avail themselves of such free distribution.

Whilst legislation has been enacted in the UK to cover continuing country-of-origin principles operating under the European Convention of Transfrontier Television (ECTT), this is not as comprehensive as the existing provision in national coverage and does not include Video on Demand.²³

Again, it was the uncertainty of any final negotiated position which made this a difficult decision for broadcasters as to how to react and mitigate any disruption. Some are planning or actively pursuing the process of setting up presences in other EU countries to offer the capability to continue to broadcast content in the manner in which they do now.

This type of cultural protection of markets often forms part of any trade agreement, permitting the signatory parties the right to defend their own territories and to determine that a significant percentage of content must originate from the territory in order to define cultural institutions that might otherwise be threatened by dominant cultural players.

Following the conclusion of the Trade and Cooperation agreement, it is the ECTT provision that applies (which includes 20 signatory states from the EU). For broadcasters to be in compliance with the provisions and therefore able to operate cross border they may need 2 types of licences:

- 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)
- Licences covering services receivable in EU countries that have not signed up to the ECTT

The Guidance goes on to say that “The EU’s ‘Notice to Stakeholders’ for audiovisual media services has confirmed that works originating in the UK continue to be classed as European Works.”²⁴

²² <https://ec.europa.eu/digital-single-market/en/audiovisual-media-services-directive-avmsd>

²³ No-deal BREXIT: Impact on media, sport and entertainment
<https://www.dlapiper.com/en/uk/insights/publications/2019/04/no-deal-brexite/media-sport-and-entertainment/>

²⁴ <https://www.gov.uk/guidance/broadcasting-and-video-on-demand-services-between-the-uk-and-eu>

The ability to apply for and obtain AVMSD clearance is possible for UK companies (even if their head office is in the UK) depending on the location of employees and where editorial decisions are made.

Funding

The EU has been a source of funding for many creative and innovative projects, not least in the music sector. The funding and investment programmes emerging from the EU are many and various. The expectation is that while it is possible the UK may continue to participate in some of these schemes, many have become unavailable after the point of formal departure such as Creative Europe²⁵. The actual quantum of this funding withdrawal is difficult to calculate. Arts Council England (ACE) undertook some analysis of the value of EU funding across the Arts sector, calculated for a 10 year period from 2007 to 2017, and broke this down by both the fund and by sub-sector of the arts. We have not found a similar analysis for Scottish Arts. However, whilst there may be some difference in uptake across the two countries, it is not unreasonable to take the English numbers and take a proportional approach to provide an indicative estimation of the value of funding to Scotland over the same period.

ACE's *European Union's Contribution to the arts, museums & creative industries in England 2007–2016*²⁶ report suggests that over the period around £345m in EU funding flowed into the English creative arts sector. Of this, music received £32,240,392, of which the bulk was for what is described as research and development; with the allocation across the UK heavily skewed towards London. If we assume then that Scotland was in receipt of 10% of that figure (based on population percentage), then over the same period, Scottish music may have received around £322,000 per year in funding from the EU, totalling £3.22 million over the 10 years. These are, of course, very rough estimates, but they give us some sort of idea of what might be in jeopardy as some interviewees suggest.

Where the UK Government has been asked to make a statement to clarify what the situation regarding the potential end of access to this type of EU funding post-Brexit, it has pointed out that the UK has been a net contributor to EU funds, and that this flow back is merely a reallocation of UK funding via EU institutions. As such, these funds should continue to be available from the UK Treasury if they are not flowing to Europe. The exact mechanism for this to happen remains unclear, however.

With the conclusion of the Trade and Cooperation Agreement, the UK has agreed to continue to participate in a range of EU funding programmes, mainly scientific, including the Horizon Europe research programme and others.

²⁵ <http://www.creativeeuropeuk.eu/news/update-creative-europe-and-outcome-eu-referendum>

²⁶ <https://www.artscouncil.org.uk/publication/assessing-eu%E2%80%99s-contribution-arts-museums-creative-industries>

The Covid-19 effect on the ability of the industry to respond

The music industry – and the live sector in particular – has been severely impacted by the lockdown and social distancing requirements emerging from the Covid-19 outbreak. This is particularly so for the venues, promoters, festivals, crew and production suppliers that form the key infrastructure elements for live music that artists – and the managers and agents working for them – depend on functioning to generate income. The entertainment sector is regarded as one of the hardest-hit sectors in the UK economy as a result of the lockdown. According to the ONS the arts, entertainment and recreation industry had 23% of their businesses reporting their risk of insolvency was severe to moderate, compared with 11% across all industries.²⁷

Cash flow impact on businesses in the sector is severe, and consequently, the ability of music industry practitioners to respond or make provision for any disruption is significantly constrained. In addition, cash flow cycles that emerge from normal touring and recording schedules for performing arts have been severely disrupted, and so the availability of expected and necessary cash from certain activities will not be available. Consequently, activities which are traditionally dependent on the seasonal inflow of funds (such as Summer for the festivals circuit) became impossible, creating a vicious circle of decline for many artists, industry practitioners and music businesses.

We must also consider that many venues, outlets and places of performance will and are closing, limiting further the resilience and capacity of the industry in a generationally damaging way. Horace Trubridge, the general secretary of the Musicians' Union, and Julian Bird, chief executive of UK Theatre and Society of London Theatre, in reporting to the House of Commons culture select committee, as early as May 2020, suggested that half of all music venues and 70% of theatres across the UK face permanent closure as a result of the coronavirus crisis.²⁸

According to the ONS, in October 2020 the arts, entertainment and recreation industries had the highest percentages of UK businesses that were temporarily closed or paused; trading at 30%.²⁹ Additionally, they state that in August of 2020 the arts, entertainment and recreation industry had the largest proportion of the workforce furloughed, at 51%, compared with 13% across all industries.³⁰ Furthermore, a report by CGA and AlixPartner established that almost 10,000 licensed premises – including pubs, clubs and restaurants – closed permanently last year, a net reduction of 5,975 sites across Britain in 2020 when new

27 <https://www.ons.gov.uk/businessindustryandtrade/business/businessservices/bulletins/coronavirusandtheeconomicimpactsontheuk/27august2020>

28 <https://www.theguardian.com/culture/2020/jun/09/majority-of-uk-theatres-and-music-venues-face-permanent-shutdown>

29 <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/conditionsanddiseases/bulletins/coronavirusandtheeconomyandsocietyfasterindicators/22october2020#business-impact-of-the-coronavirus>

30 <https://www.ons.gov.uk/businessindustryandtrade/business/businessservices/bulletins/coronavirusandtheeconomicimpactsontheuk/27august2020>

openings were taken into account.³¹ Many of these will form a part of the live music ecosystem.

With this in mind, the sector faces a perfect storm of difficult and limiting circumstances, and with that, recovery from or responding to the challenges emerging from Brexit becomes more challenging but equally interlinked. That is to say, any opportunities to develop or expand as a result of the UK's exit from the EU, or to mitigate any downside aspects, have to be considered in the context of a damaged sector and what might be reasonable in these constrained circumstances.

The potential impact of a trade deal

In describing some of the main concerns that the industry expressed about a post-Brexit music sector, the most common issue at the time of consultation was the lack of clarity in terms of any trade deal or settlement as negotiations were still ongoing. As this has now become clearer, we can see that some of those concerns regarding visas and the need for carnets have crystallised whereas as others around tariffs have, in large part, disappeared. Nevertheless, at such unusual times when touring and performing are so constrained, and in the infancy of the Deals actual operation, it is hard to judge with certainty what the impact will be on the sector in the medium term. We should also acknowledge that there continues to be discussion and exchange between the negotiating parties and so provisions can and probably will change over time.

In an effort to try to bring some greater certainty to where we might find ourselves later in 2021, we sought to explore what specific provision in existing trade deals to mitigate some of these issues and, importantly, to get a sense of the lived experience of third party countries to the EU. This allowed us to consider what a third party relationship with the EU might look like for the UK, and specifically for Scotland. From this, and with the analysis of what Brexit planning and provision has already been put in place by Scottish music industry practitioners, we could reasonably bring forward some ideas of what opportunities might arise from the Brexit process. This includes services and goods which mitigate some of the possible detrimental conditions we might find ourselves in, as well as what new opportunities may emerge from an amended marketplace.

31 <https://news.sky.com/story/covid-19-how-many-pubs-restaurants-and-clubs-closed-their-doors-permanently-in-2020-12194754>

What we discovered

In our exploration of existing trade agreements with the EU, we looked specifically at the recent EU/Canada deal to understand if any music industry-specific provision had been included. We had discussions with Canadian music industry practitioners to understand their pre and post-trade deal experience to explore what impact signing the deal has had on the industry. We also examined the negotiating positions of both the EU and the UK Government for sector-specific aspirations and proposals.

It quickly became apparent that there was very little in any of these documents that deal specifically with the music sector. Despite their considerable length, where the documents mention music at all, it is in the context of passing mentions and indicative examples such as the listing of recorded music in describing copyright and wider IP protections. In addition, there is provision for the recognition of music teaching qualifications in Canadian states, and the inclusion of musical instrument manufacture in a list describing indicative examples of other manufacturing processes.

In short, these documents approach the issues and provisions in a much more broadly based and holistic manner, and as such, do not deal with the minutia of the operations of the music security specifically. The concerns expressed by Scottish music industry practitioners about the potential impact of Brexit, such as travel, visas and carnets are all dealt with on an economy-wide basis, and not in a way to address the specific and precise concerns of the music sector. It is also the case that some of the competencies that determine how some of these issues are dealt with fall outside of the typical terms of a Trade Deal and are in many ways a reflection of the deeper level of national integration that had developed in the EU. As a result, third party countries are likely to find more of a patchwork of responses to some key issues based on individual national attitudes and local legislation.

The music industry is therefore not considered sufficiently unique to require the specific provision and will be expected to accommodate its requirements within wider provisions, despite active lobbying at a Parliamentary Committee level in the UK. In our discussions with music sector representatives in Scotland and abroad, it is apparent that whilst they have had some opportunity to input into the debate around these types of negotiations, and in some cases have been specifically invited to do so, there is little evidence of intense engagement with the sector either proactively or reactively by the negotiators, or by those seeking to inform them. As a mechanism to bring clarity, these documents are very limited in what they can tell us regarding how the specific and particular needs of the music sector will be met post-Brexit.

That said, the experience of third party countries is that, in most cases, industry and representative bodies do not seem overly concerned at the level of involvement they have had in shaping these agreements. The only area of particular engagement with negotiators and specific provision in the deal was ensuring some provision for the protection of indigenous programming in broadcast media. It is also interesting that, anecdotally at least, the impact of trade deals have been minimal in the experience of those in the music industry, in that very little materially has changed from a pre and post trade

deal perspective. In the case of Canada, for example, there is little report of any change, for the better or worse, for the sector post trade deal agreement. Visa requirements remain the same, and the experience of touring with regard to carnets and other administrative burdens have not changed.

There is no harmonisation of experience from country to country, and variation in requirement and experience still exists between the 27 member states of the EU.

This in itself is a revealing observation. Trade deals, such as they are, are not a panacea for the issues identified by the industry sector, as in large part they are not significantly adjusted, nor are they dealt with, to meet the specific needs of the music sector. This might imply an argument for more proactive lobbying on the part of the industry to ensure that specific enabling aspects particular to the sector are considered for inclusion in any future agreements.

Moving Forward

In looking how to move forward from these circumstances, we have considered a number of perspectives.

Firstly, we have looked at new opportunities to create new products and services that may arise from constraints and cost advantages following the UK's departure from the EU. In many cases, these opportunities are also directly affected by the impact of Covid-19, and wider trends, factors and circumstances that are highlighted in the PESTEL analysis. These we have termed "Openings".

We also considered mitigating opportunities, which arise from alleviating what have been identified as being the downsides to the UK exiting the EU through the development of goods and services. These we have termed "Mitigations".

Finally, we have looked at what we refer to as pivot opportunities. These are where the coming together of circumstances make what might have once been a potential opportunity for the sector now a more compelling and necessary pivot. In other words, will these circumstances bring about a more rapid transformation of certain aspects of the global music sector towards a "new normal"? And how far can the Scottish music sector capitalise on this and position itself as a prime mover? These might arise from both the impact of the UK's departure from the EU, the impact of Covid-19 and other emerging trends and influencing factors. These we have termed "Pivots".

We present these opportunities below in no specific order. In most cases, we are presenting these as theoretical opportunities as the viability and desirability of each will depend in large part on the UK's evolving relationship with the EU. As such, each opportunity is caveated by that lack of clarity.

At this point, we have not sought to place a specific value on any of the opportunities. Each is presented in conceptual form and illustrated by an indicative 'Use Case'; intended to represent one way the broader opportunity might be exploited. There will, of course, be many approaches that might be employed, but the intention of the 'Use Case' is simply to demonstrate one practicable approach to bring some realism to what might otherwise seem quite nebulous ideas.

We do not specify who might be best placed to seize them. As such, we present these as being opportunities for individual actors in the industry, for sectoral or industry interventions, or for policymaker interventions at a Governmental or quasi-Governmental level.

Opportunity 1: Corridor touring

Type: Opening & mitigation

If we accept that there may be both additional costs associated with touring as a result of potential visa and/or carnet requirements, and that in addition, there is significant erosion of point to point flights from contraction in flight provision emerging from Covid-19, then the practice of short turn-around point to point peripatetic touring (i.e. flying to play a significant event and then returning immediately) may become unsustainable. This may be that the costs associated with this make the fee on offer unattractive, particularly if flight costs increase and visa fees emerge. This may be exacerbated by the need to travel to larger travel hubs, rather than a more point to point travel as regional air travel declines post Covid-19 and with a growing green agenda.

One approach to this is to develop what was once a more common mode of touring, which we refer to here as “Corridor Touring”. In this scenario, a tour of a series of anchor performances at more significant venues is not undertaken in an A to B return hub and spoke manner, but by a series of intermediary performances en route at smaller venues with a “corridor” route to make the tour viable financially and practically.

Whilst this is a behavioural and logistical change, the opportunity for it to re-establish and rejuvenate smaller venues as important parts of the ecosystem is an additional potential outcome. This could offer higher utilisation levels and build a level of viability and resilience to this part of the music industry ecosystem. This could also have significant spillover value to the towns that host the smaller venues through music tourism revenue; the residual and additional spend in the locality on food, accommodation and other items, and cumulative GVA value that could result from this.

What might this look like?

Use case – booking app

A service that helps to facilitate the more complex booking requirements to make Corridor Touring more viable and efficient. This could simply be a more active booking process or a technical app based on solutions that can both calculate logistics against booking availability and construct intelligent optimal tour route itineraries for the participants; be they performers or venues. This service is intended to assist those coordinating the logistics of tours, but if it was also able to interact seamlessly with automatic booking and ticketing services, it could also serve the consumer segment as well.

Opportunity 2: Local manufacture

Type: Opening & mitigation

A significant percentage of Vinyl pressing and CD production sold in the UK appears to be carried outside of the UK, notably in Eastern Europe. This is, in large part, driven by cost differentials in manufacture there. If there was disruption to this supply for reasons of tax, tariffs and or extended supply lines, then there is potential that these are sufficient to make local manufacture a viable option.

This may present an opportunity for Scottish based manufacturers to step in. In addition, in our conversations with overseas representatives of the music sector, we have found a consistent appetite for what is described as “local pressing”, and that such a facility might be attractive to labels and representatives of overseas artists who wish to sell into the UK. The attraction is the perceived lower costs and the reduced travel or mileage associated with the product.

Despite the growth of streaming and digital music formats, the physical product does still remain an important and valuable component of the sector.

Vinyl sales are growing according to the BPI, with £57.1 million generated in 2018; up 3.7% on the year, and more than double the 2015 total of £25.1 million. According to the BPI, vinyl LPs now account for 6.6% of industry income³².

CD sales are in decline, with revenue of £176.8 million; down by over a quarter (28.4%) in 2018, according to the BPI. But despite this, CD sales remain important to the industry, delivering just over a fifth (20.4%) of its income³³.

What might this look like?

Use case – Scottish pressing plant

The establishment of a pressing facility in Scotland to serve UK labels addressing any disruption in supply and/or associated costs. In addition, the facility would target the needs of overseas labels for visiting touring artists.

³² All About The Music BPI 2019

³³ All About The Music BPI 2019

Opportunity 3: Funding

Type: Mitigation

There is a clear and strongly expressed feeling in the sector that funding will be an issue for the industry, regardless of the Brexit outcome. This emerges from both the potential lack of availability to EU funding, but also as a direct result of Covid-19 and the impact this has had on earnings for much of the industry. Whilst this is something not unique to the sector, our research informs us that live music has been hit particularly badly.

There is a well-expressed view that the cycle of touring/performing to fund and promote recording and other activities, or to use local performing to fund longer and more extended overseas touring, is being so disrupted by this current discontinuity in that cycle that it could be catastrophic for the sector if not addressed. We also acknowledge above that there is also the potential loss of access to various European funds (notwithstanding reassurance to the contrary from the UK Government).

What might this look like?

Use case – Scottish music crowd investment fund

The growth of novel finance — notably crowd finance — has been very significant in the past decade and has become a feature of many creative projects funding. Indeed the origins of much of modern crowdfunding as we know it today can trace its roots back into the music sector. Much of that has been very much driven by deferred returns models, or “rewards”, whereby a fan might receive a reward or perk after an extended period from the point of “purchase”.

It is not unreasonable to imagine that a more sector-specific investment type finance scheme could underpin the sector through a managed Scottish Music Fund; invested by the crowd rather than an individually peer-to-peer type arrangement. By that, we mean a crowd investment in a deeper managed “fund” which offered returns to investors and was used to invest in a range of activities relevant to the sector. This might even include soft loans for carnet and visa purchase to facilitate the more effective financing of a tour. Such a fund might have a much greater capacity for facilitating policy intervention from public bodies through matching and taking a stake, and policy interventions from Government and other bodies to make the opportunity more attractive to the investors.

Opportunity 4: Development of local talent

Type: Opening

Given that post-Brexit it is more difficult to bring some types of workers into the UK from overseas in the way this has been done in the past, does this present an opportunity for more local talent development? Some of our interviewees believe so.

Scotland has a reputation for performing talent, but also production and technical talent in the sector. How could these skills be developed more deeply and effectively? Creative talent could go through training schemes (both existing and new) and gain accreditation. A brokerage service could make placement and hiring of the accredited talent easier and more seamless than before.

What might this look like?

Use case – Scottish music talent bureau

An authorised service which accredits and validates talent development schemes in a range of music industry related professions and trades. Additionally, it acts as a bureau for placement into both full time and temporary posts, and a central point for recruiters to find expertise and experience; be they Scottish based or overseas visiting artists.

Opportunity 5: Greater use of live streaming

Type: Pivot

If it is the new normal that touring overseas will become more problematic because of Covid-19 constraints, concern about environmental impact and general friction from administrative costs and burdens, should this be embraced as an opportunity to showcase talent differently? The growth of live streaming platforms and their acceptability, and indeed preference to many consumers, is already a well established reality in the film and television production sectors. Its growth saw a greater surge during the lockdown period³⁴.

We also know that some of the success of these models is based on the intelligent interrogation of the data that emerges from the streaming process for highly targeted marketing and sectoral insight³⁵.

It is also apparent that more sophisticated venues are being developed for greater digital and technology utilisation³⁶ and that some larger venues are already being retrofitted with streaming technology solutions; although for the most part only in larger centres.

We understand from our discussion with the industry that there is some appetite for streaming of live performances, particularly from emerging talent. While this is the case, the production costs are too high for it to be a viable option for early-stage artists, and the technicality of promotion and utilisation of the feed are limited without some technical skill and time.

Could this maturing live streaming model be more effectively utilised to become a powerful mechanism to surface position and market Scottish music talent effectively to a global audience?

What might this look like?

Use case – Network of Scottish live streaming hubs

A series of venues across Scotland equipped with streaming infrastructure which feed directly into a centralised production hub. This remotely generated content would create a curated and dedicated rolling stream of Scottish music distributed to a global audience via streaming technology. The live streaming platform would generate data of significant value from its use, which could be exploited to create the core revenue earner for the platform. From this, costs for artists and performers to use the remote hubs could be made so low as to make the opportunity both affordable and compelling. Being part of a collective of Scottish content would have benefits that an individual performer could not realise alone.

34 TV watching and online streaming surge during lockdown
<https://www.bbc.co.uk/news/entertainment-arts-53637305>

35 A Culture of Analytics: How Big Data Is Shaking Up the Film & TV
<https://www.muso.com/magazine/big-data-netflix-amazon>

36 Multi-purpose digital arena planned for Dundee Waterfront
<https://www.insider.co.uk/news/multi-purpose-digital-arena-planned-22649995>

Opportunity 6: Lobbying and trade missions

Type: Pivot

It is clear that whilst the music sector has made representation to the Government on the subject of Brexit, there is little evidence that specific provision has been made for the sector. This seems at odds with some other sectors, such as motor manufacturer and finance, who do seem to gain the ear of Government more effectively. Whilst this is not an unusual experience, as our interviews with overseas representatives of music sectors seem to have had similar experiences, this is disappointing from a Scottish perspective as the creative sector in Scotland, and the UK more widely, is disproportionately valuable when compared to other countries' creative sectors. Scotland has traditionally punched above its weight in providing creative content and value³⁷.

There is an argument then for a more coordinated and better funded lobbying arm for the sector. The SMIA undertakes some of these activities, as do other representative groups, but they are all under-resourced when it comes to lobbying. The SMIA, working collaboratively with other representative and developmental organisations, wants to see a more sophisticated and coordinated approach to trade missions representing the sector. The European market is already a very mature market, and the Scottish music sector has considerable existing penetration. The indications are that the growth potential of emerging markets is likely to be significant and more rapid than the more mature ones³⁸. A more concerted pivot into addressing the growing emerging markets in a more targeted manner would, the SMIA believes, be advantageous. Whilst there are trade missions that already take place, a more aggressive, targeted, consistent and coordinated approach would likely yield benefits and an early foothold in these growth markets. In our conversation with overseas representative bodies, there also appears to be an appetite for reciprocal engagement.

What might this look like?

Use case – Scottish music export office

This could be a centre with specialist staff lobbying Government for more effective representation of the industry's interests in future trade negotiations, and as a research-lead coordination office for targeted and regular trade missions.

It could also provide information about touring, advice and services for handling visas, permits, carnets, recommend trusted or approved suppliers in specific territories and coordinate trade missions, international and domestic showcasing and field trips. This office could take advantage of new opportunities presented by Brexit and innovations that arise out of the response to the coronavirus pandemic, as well as mitigate challenges faced currently by industry practitioners exporting Scottish music. At the time of writing, the SMIA is conducting a Scottish Music Export Office Feasibility Study to explore the viability and implications of establishing such a body.

³⁷ Creative sector punches well above its weight, but it can't do it alone
<https://www.thetimes.co.uk/article/creative-sector-punches-well-above-its-weight-but-it-can-t-do-it-alone-kntpqj89>

³⁸ IFPR – Global Music Report 2020

Opportunity 7: Better use of music streaming

Type: Pivot

The streaming of recorded music has become an established part of the music industry, and one that is likely to grow. As we reference above, the growth of this area and the prospects for its continued growth are considerable. Global music streaming market revenues are projected to grow from US \$ 26.05 Billion in 2019 to US \$ 46.99 Billion by 2027, with much of that growth in emerging markets³⁹.

We also know that whilst it is an important mechanism of monetisation, it is not without its critics, as the distribution of funds and the micropayments associated with the major distribution platforms are unlikely to be viable or valuable revenue streams for smaller artists. On YouTube, for example, a song would have to be played 7,267 times to generate £8.72 — or one hour of the minimum wage. On Spotify, the figure was 3,114 streams, and on Apple Music 1,615 streams⁴⁰. In January 2021, UK Parliament held an Economics of Music inquiry⁴¹ which examined how equitable streaming revenues were. The heads of the three major labels gave evidence to and answered questions by the DCMS committee inquiry about how fair the streaming model was for artists⁴².

If we accept that freedom of movement and decreased live performance are possible and probable outcomes of both the Brexit process and the Covid-19 constraints, as we seek to target more valuable emerging markets, could streaming then be a more strategic tool for the Scottish music industry in the changed circumstances? Could a more equitable and generous revenue share model be developed to make this a better opportunity for smaller new and emerging artists?

What might this look like?

Use case – A Scottish music streaming platform

A more commonly held streaming platform that streams largely Scottish music with a more equitable revenue sharing model is developed. This platform is actively promoted into emerging markets as well as existing ones. A revenue model based on the exploitation of data derived from the stream is used and a more collective revenue share ensures a more equitable share to smaller artists. Some of the organisations we spoke to are interested in exploring the potential for such a service; something the SMIA is very interested in. The submissions of albums to the SAY Award⁴³ indicates the breadth and depth of recorded music in Scotland. Niche and specialist music services can accrue power and

³⁹ Music Streaming Market Forecast to 2027 – Covid-19 Impact and Global Analysis The Insight Partners P42

⁴⁰ Streaming not equitable on share <https://www.bbc.co.uk/news/entertainment-arts-52652073>

⁴¹ Economics of music streaming <https://committees.parliament.uk/work/646/economics-of-music-streaming/>

⁴² MP says record boss 'in cloud cuckoo land' over music streaming claims <https://www.theguardian.com/music/2021/jan/19/mp-john-nicolson-says-record-boss-in-cloud-cuckoo-land-over-music-streaming-claims>

⁴³ SAY Award Eligible Albums <https://www.sayaward.com/eligible>

value⁴⁴. Dissatisfied with minuscule payments, there are several music streaming startups offering far better rates than the dominant platforms⁴⁵. This service could be connected to the live streaming platform and be the “Spotify” to its “Netflix”. It could also be closely connected to the Scottish Music Export Office and used to collate and promote artists. The Irish music export office, Music From Ireland, is run by First Music Contact who also run a streaming hub for Irish artists called Breaking Tunes⁴⁶ which boosts artists’ profiles and provides an archive of a selection of Irish music from the past 15 years. The British Council produces the Selector⁴⁷ radio programme to showcase new music from the UK and promote it globally. A Scottish Music Streaming Platform could pay artists equitably, promote Scottish music internationally and provide valuable insight into users’ consumption habits and preferences which could be used when planning trade activities.

44 Niche Streaming Services Try To Break Music Fans’ ‘One Subscription’ Habit
<https://www.forbes.com/sites/robsalkowitz/2019/05/14/niche-streaming-services-try-to-break-music-fans-one-subscription-habit/?sh=5aff47c06d87>

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46 First Music Contact projects <https://www.firstmusiccontact.com/our-projects>

47 <http://music.britishcouncil.org/selector-radio>

Opportunity 8: Broadcasting presence

Type: Mitigation

If “Rules of Origin” become problematic for Scottish broadcasters to effectively broadcast content as widely as at present, there may well be opportunities to establish “bridgehead” organisations in the EU. Some larger broadcast organisations are already exploring this option, but smaller groups may find this prohibitively expensive. By taking a more collective approach, it may be possible to find solutions to retaining the broadcast rights for all existing and new broadcasters. If there is a mutual closing of market access to the UK marketplace for content companies in the EU, it is also entirely reasonable that similar bridgehead opportunities could be established here to provide access in a reciprocal manner.

What might this look like?

Use case – Scottish broadcasting bridge

This could be a cooperative bridgehead broadcaster based in an EU member state which is capable of satisfying residency “origin” rules and serving as a route for participating broadcasters to retain existing rights of broadcast.

Opportunity 9: Immersive concerts

Type: Pivot

If the constraints on travel that may emerge from visa restrictions, travel costs, the concern of environmental impacts of touring and the impact of Covid-19 restrictions on live events become acute, then live events as we have come to know them may change dramatically.

However, developments in technology present us with ever more enticing and attractive opportunities for creating ever more holistic and compelling digital experiences through the use of virtual and augmented reality and real-time, simultaneous collaborations, and so develop much more immersive experiences. This development in technical capability and audience appetite is still quite incipient, but it is a recognised trend. The growing popularity of technical consumer tools like those designed by Oculus (which is owned by Facebook)⁴⁸ demonstrate that consumers have an appetite for products. Costs are coming down, making the products increasingly viable and driving consumer engagement. Location based immersive productions are already emerging, with over 700 immersive experiences being counted in North America alone during 2017⁴⁹.

Data collected by Tipatat Chennavasin indicated that by May 2019, over 60 VR titles had each generated over one million dollars in global revenue, with the best-selling games exceeding \$10 million. Investment in innovation in the UK from groups like Digital Digital⁵⁰ and others demonstrate an appetite from policymakers and academics to push ahead with the development of the sector.

The idea of creating live music immersive experiences is a natural extension of this trend. The intention could be to exploit this pivot opportunity to position Scotland, and in particular the Scottish music industry, as being in the vanguard of this development.

What might it look like?

Use case – The immersive gig

Development of an ‘immersive gig’ format that provides a repeatable framework of technical standards and monetisation features; incorporating gamification and micro-incentives, like those used in many online games. The intention would be that this shell framework could be a shared resource within which Scottish performers could develop unique ‘immersive gigs’, but with sufficient commonality to make the format both recognisable and acceptable to a widening consumer audience.

48 Unit shipments of virtual reality (VR) devices worldwide from 2017 to 2019
<https://www.statista.com/statistics/671403/global-virtual-reality-device-shipments-by-vendor/>

49 Interactive, Intimate, Experiential: The Impact of Immersive Design. 2019 Immersive Design Industry Annual Report, Immersive Design Summit 2019, San Francisco, California.
<https://immersivedesignsummit.com/2019industryreport.pdf>

50 ‘VR software sales are impressive’ <https://twitter.com/tipatat/status/1103759032781746176?s=20>

Opportunity 10: Visa services

Type: Mitigation

If we assume that access for performers from the EU to the UK market (and vice versa) becomes similar to the experience of how overseas artists from outside of the EU are treated now, then the factors that determine the ability to obtain a visa and tour are reasonably well understood, although costly and time consuming.

Within that, there are potential opportunities for service offerings to mitigate this. This might include soft loans for the cost of visas, the creation of legal vehicles that could ease the practical requirements for smaller industry participants, or indeed, visa services which manage and ease the bureaucratic processes associated with these activities on behalf of venues, promoters, touring crew and artists.

What might this look like?

Use case – Centralised “licensed employer”

In order to secure a Tier 5 Creative and Sporting visa for musicians and touring crew to work in the UK, it is necessary for the party applying to acquire a “Certificate of Sponsorship from a “Licensed Employer”. Some promoters, agents and management companies are already in a position to do this; either by themselves or are able to facilitate this process.

There may be an opportunity to create a centralised facility that is able to provide this type of service for a wider set of participants, including smaller promoters, agents or venues.

Opportunity 11: Equipment facilitation

Type: Opening & mitigation

As we understand that the carnet arrangements may well become problematic now that the UK has left the EU, and that we have explored the idea of greater 'corridor touring' to make the practicalities of touring more viable if there is a decline in point to point flying, the movement of music equipment may become much more problematic and challenging. This may present opportunities for services that can ease this by employing novel approaches to the provision of equipment.

What might this look like?

Use case – Scottish GearHub

An EU-based organisation is established as a 'GearHub', and repository in a member country of the EU. The stock of equipment would be EU-based and registered, and as such, not constrained in crossing borders. This could provide a constantly touring stock of equipment bookable for corridor tours or other events, thereby minimising the disruption emerging from the need to use carnets, and reduce transport costs of taking gear to the EU. Such a service could also be available to touring acts from other non-EU countries, and a similar hub could be established in the UK as a resource for EU acts touring here.

Conclusion and next steps

This report has consolidated the views and concerns of the Scottish music industry regarding the departure of the UK from the EU. We have also engaged with a range of actors and institutions outside of Scotland to broaden our understanding of the realities of operating as a Third Country; as the UK is now, following the end of the Brexit transition period.

We have also considered the wider context and other factors affecting this event, notably the Covid-19 outbreak, and how the combined set of circumstances present challenges and potential opportunities. It is not the purpose of this report to determine the potential cost to the music industry of this situation. This is widely speculated on, but the detail and actual implications are difficult to quantify where there remains such a degree of uncertainty as to what the final circumstances might be.

In bringing this material together, we have consolidated thematically the issues emerging from Brexit and considered possible opportunities as we move forward.

We have classified these opportunities as being:

- New Openings that can be exploited, are novel or were not viable before;
- Mitigating responses, where the intention is to smooth and ameliorate any new or emerging challenges;
- Pivot points, in which changed circumstances bring a more compelling case to actively move towards new models and reimaginings of the sector, which may have been options or emerging trends to this point but now have a stronger rationale in changed circumstances to be more actively encouraged or embraced.

These opportunities are presented in high-level terms as platform opportunities, and are illustrated with some indicative 'Use Cases' to bring some tangible suggestions of how they might be operationalised. These are in no way exhaustive and are simply there for illustrative purposes. There will certainly be a range of options available and the agents to activate these can be wide; from individuals and companies to representative bodies and policymakers creating sectoral interventions.

It now seems reasonable as a next step to invite commentary on these ideas and to field others emerging from those same platforms as a precursor to a more considered and strategic response from the industry. We encourage engagement and debate, and we welcome feedback and ideas from the music industry and, indeed, across the creative industries.

You can get in touch with us regarding this report by emailing research@smia.org.uk

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