

# response

**Ukie response  
to the Culture,  
Media  
and Sport  
Committee's  
inquiry into the  
impact of Brexit  
on the creative  
industries,  
tourism and the  
digital single  
market**

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**ukie**

THE ASSOCIATION FOR UK INTERACTIVE ENTERTAINMENT

## **Ukie response to the Culture, Media and Sport Committee's inquiry into the impact of Brexit on the creative industries, tourism and the digital single market**

### **About Ukie**

Ukie (UK Interactive Entertainment) is the trade body for the UK's games and interactive entertainment industry. A not-for-profit, it represents games businesses of all sizes from small start-ups to large multinational developers, publishers and service companies, working across online, mobile apps, consoles, PC, eSports, Virtual Reality and Augmented Reality.

Ukie aims to support, grow and promote member businesses and the wider UK games and interactive entertainment industry by optimising the economic, cultural, political and social environment needed for businesses to thrive.

Ukie's activity focuses on:

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

- Ukie commissioned the Blueprint for Growth report in 2015, an independent review of the UK games industry with recommendations for decision makers in Parliament for how the industry can grow by an additional £1bn annually.

## **Overview of the UK games sector**

The UK games and interactive entertainment industry is an international success story, with the potential to take an ever-larger export share of a global market that will soon be worth more than £70 billion. The UK is already well positioned as a significant player in this field and is currently estimated to be the sixth largest video games market in terms of consumer revenues, with an estimated worth of over £4 billion.

Games are now considered mainstream culture, and a significant and expanding industry faster growing globally than Film and TV, with over 1.6 billion people playing games worldwide. The UK games industry blends the best of the UK's technological innovation and creativity, resulting in successful games and technology which are exported around the world and which cross over into other creative sectors. The games industry is playing a leading role in the development of emerging technologies such as artificial intelligence, data analytics, and virtual reality which are expected to be high value growth markets in games and also apply to other sectors like health and education.

The games sector is a major generator of IP and a leading example of the UK's growing reputation as a home for creative, high-tech talent. By way of illustration, the globally successful Lego games series and Grand Theft Auto V, the biggest-selling entertainment product of all time (generating \$1 billion in global revenues in just three days following its release), are both made in the UK. At the heart of the success of the sector is its constant innovation. Ground-breaking video games, such as the Batman Arkham trilogy, Monument Valley, No Man's Sky and Elite are the brainchildren of UK developers.

The games industry occupies a prominent place in the UK creative and tech sectors with over 2,000 games firms employing over 24,000 people across 12 established and 6 emerging games clusters across the nation. It is a dynamic and fast-evolving industry with 66% of these companies founded after 2010, and many of them are micro or small businesses. They share the ecosystem with large, more established multinationals, as well as scaling medium sized younger businesses.

Games companies generate high-quality, high-productivity jobs with an average GVA per worker in 2014 of £68,250 – approximately £9,000 higher than the third highest industry, sound recording and music publishing. According to Creative Skillset, employment costs account for over 75% of the games development sector's GVA. In labour productivity, games is second only to the television content and broadcast sector. Thanks to the evolution of mobile games, the UK now boasts the highest number of mobile games jobs in the EU, with 5000 full-time employees. This highly skilled workforce is a benefit not only to games companies, but to other sectors of the UK economy that rely on technical and creative talent to drive innovation.

The UK is a leading investment destination for overseas games companies. Examples of overseas investment include Warner Bros' acquisition of Rocksteady (the developers of Batman Arkham series) and TT Games (who developed the LEGO series), as well as recent multi-million-pound investment from Chinese companies acquiring Jagex and Splash Damage. The UK is particularly attractive to international businesses and is home to the EU head offices of several international games businesses including Microsoft, Activision and Sony PlayStation.

Ukie runs a comprehensive international trade programme to help member companies expand globally; in the last year alone £156 million worth of business deals were done by UK businesses on Ukie-run stands at international trade shows. For every £1 contributed by UKTI to support trade activities organised and managed by Ukie, £743 is generated in trade wins by those companies. Furthermore, preliminary estimates of the economic contribution

of the games sector value chain in the UK in 2014 suggest that the total GVA was £1,085 million, with a breakdown of £700 million from development, £235 million from publishing and £151 million from retail.

With their unique fusion of arts, creativity, passion, technology and fresh thinking, we believe games – making them, publish them, playing them, servicing them, producing and reflecting culture through them – are the blueprint for the sort of creative, innovative economy our future and present citizens deserve.

### **Employment in the UK games sector**

The ability to recruit easily from across Europe has been a huge benefit to the UK games industry's ability to grow and secure work globally in a highly competitive market. As a global industry, the games sector relies on bringing together top talent from across the world; it is this fusion of diverse backgrounds and experiences which feeds the innovation that the UK games and interactive entertainment sector needs to thrive. Therefore, in order for the UK to maintain its reputation as a world-leader in the games industry, businesses must continue to be able to attract and retain top talent from across the world.

The UK games industry relies on a highly skilled workforce that possesses leading technical and creative expertise, and the main concern of Ukie members following the referendum is their ability to access the talent they need for their businesses to continue to grow.

According to a survey conducted by Ukie, 74% of respondent companies use non-UK EU nationals to fill high-skilled posts. Further evidence gathered from 36 member companies suggest this reliance is significant, with the median response being 20-29% of employees being non-UK EU origin.

Workers in this sector are increasingly sought-after by other sectors relying on technical and creative talent to drive innovation in the UK and abroad, representing a 'war for talent'. Moreover, market demand for candidates with the skills needed by games companies is significantly outstripping supply, and this risks holding back the UK games industry's growth.

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

The need for clarity and certainty on the status of EU workforce in the UK is vital in order to ensure that firms do not incur an additional ‘uncertainty premium’ when recruiting from abroad, and that EU citizens currently working for UK games businesses do not look for work elsewhere in the EU in advance of the UK’s exit. Development, and therefore studio investment, decisions are made on where the best global talent and teams are, which makes the recruitment and retention of the best a top priority.

We recommend that the Government should urgently confirm that high-skilled EU nationals currently employed in the UK be able to stay. Additionally, we urge the Government not to make it harder for businesses to recruit talent from the EU to fill roles where the UK does not have the domestic skills base.

Nevertheless, as the future of the games sector is dependent on maintaining the flow of talent entering the industry, we want to work closely with Government on long-term plans to up skill the UK’s population to fill gaps in the future. Further, the referendum result provides an unparalleled opportunity to reform the current visa system, and position the UK as an attractive location for skilled talent from the EU and the rest of the world.

#### *Growing and attracting high-skilled talent in a post-referendum world*

A standalone UK could have the option to redefine its immigration laws away from those mandated by Brussels, providing more opportunity to attract technologically-skilled workers to the UK from around the globe.

The referendum result provides an opportunity to reform the current visa system, and position the UK as an attractive location for skilled talent. Ukie continues to press for an

improved visa system that avoids friction and requires a minimum funding and process time. The upcoming changes to the Tier 2 visa applications introduce additional costs and complexities which will make it harder for businesses to recruit workers in areas where there are skills shortages in the UK. As this reform was implemented prior to the EU referendum with the aim of limiting immigration from outside of Europe, we recommend that the Government reviews the Tier 2 Visa as part of its development of a new approach to correctly balancing immigration concerns with UK businesses' need to access critical skills and talent.

The future of the games sector is dependent on maintaining the flow of talent entering the industry. The significant need to recruit talent from abroad underlines a critical skills shortage in the UK. Exiting the Europe Union increases the need to address the UK's skills supply as research by the European Commission suggests that the skills gap is larger in the UK than anywhere else in Europe, with 250,000 ICT job vacancies expected by 2020. Nevertheless, it also presents the UK with an opportunity to re-think its approach to 5-19 education to ensure that pupils in the UK are given the strongest skills base in the world.

We want to work closely with Government on long-term plans to up skill the UK's population to fill gaps in the future. As the video games industry argued in the Next Gen. report and in subsequent campaigns, a long-term, funded vision for games talent includes investment in computing and 'STEAM' (Science, Technology, Engineering, Arts, Maths) education, quality higher level apprenticeships and a flexible immigration system. This includes ensuring the development of play-based pedagogy in class time and technology-enhanced learning, of the kind now being developed through Ukie's Digital School House programme. We propose the government capitalises on the new opportunities to provide funding to growth the next generation of British talent by supporting STEAM education in schools and fund early intervention in games clusters through creating more Digital Schoolhouse hubs.

## **The UK games sector and the EU**

A central part of the UK's attractiveness to international games companies with European headquarters in the UK is Britain's membership of the European Single Market. Harmonised rules, for instance on data protection, copyright and VAT, have enabled games businesses based in the UK to seamlessly export digital goods and services throughout the EU.

Membership of the single market has contributed to the UK games industry's dynamism, and ability to grow, explore new innovative areas, and attract investment into the UK from overseas.

The UK leads Europe in providing games to the new markets created by online platforms which enable games made locally to be sold globally. There has been a surge in games company formation in the UK over the last five years thanks in part to the opening of these new marketplaces to reach global consumers.

Whilst the games sector develops innovative new digital and e-commerce business models, a significant amount of games industry revenue is still generated by physical products, such as hardware (eg. consoles) and games sold on physical disks, UK games companies have thus benefitted from the ability to sell physical goods throughout the EU without facing trade barriers.

The UK game industry has also worked to develop pan-European practices and policies which have precluded the necessity of regulations that exist in other industries. For instance, the Pan-European Games Information (PEGI) rating system, a model for age classification for video games which was developed by the sector and ensures compatibility between products from one European country to the next.

We are strong supporters of continued access to the single market with as minimal restrictions as possible, and urge the Government to retain ease of trade with the EU. We also concur with the CBI that keeping UK-EU trade tariff-free should be one of the Government's highest priorities, especially around the trade of services, and the right of UK

services companies to establish and provide services in other EU countries should be maintained.

### *Digital Single Market*

In May 2015, the European Commission published its strategy for developing a Digital Single Market (DSM) seeking to remove digital trade barriers between EU countries across 16 broad areas and create a seamless market for the online sale of digital goods and services. The legislative and non-legislative initiatives tabled in 2016 and 2017 apply to areas of consumer law, competition law, copyright law, audio-visual content regulation and data protection law and will impact the UK games industry.

As Europe's leading providers of e-commerce and the continent's leader in digital creative industries, the UK games industry stood to significantly benefit from a truly single market of 560 million customers. HM Treasury estimated in March 2016 that an expected addition of 0.9% of UK GDP as the benefits of the DSM are realised.

Whilst the UK previously has been a lead voice in this policy area and could have had significant influence in setting the direction of the Digital Single Market, it will now likely have to follow as UK businesses will continue to trade with and be affected by European laws and regulations currently being conceived. Moreover, without active UK involvement, previously seen as playing a crucial role in balancing a responsible approach to consumer rights with providing the right ingredients for growth of the games industry, there is the potential that new legislation could have a negative impact on the UK's interest and future trade with the EU (eg. the draft Digital Content Directive). It is therefore critical that whilst the UK remains a member of the EU, its voice continues to be heard and its opinion is counted.

In the post-referendum context, consideration will understandably be given to the merits of adapting, re-legislating or maintaining European laws affecting digital goods and services, however any significant departures from rules on cross-border commerce, access to content

or data protection, for example, might make it more difficult for UK-based companies to offer games directly to the whole EU market.

*The UK Government must continue to play an active part in on-going EU negotiations*

It is now -somewhat paradoxically – more important than ever for the UK’s voice to be heard in on-going negotiations at European level, especially around the Digital Single Market. The outcome of these negotiations, in areas including copyright, geo-blocking, and e-Privacy, will impact UK games businesses and their future trading relationships with Europe, regardless of whether specific proposals apply to the UK after their exit.

We therefore urge the Government to continue to be proactively involved with files under negotiation, particularly on the Draft Directive on Online Sale of Digital Content which if adopted in its current form could have severe effects on the games industry and other creative and technology sectors that distribute content digitally.

*Government must maintain the free flow of data between the UK and EU*

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

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

Games companies continuously analyse data they gather from players and use it to make improvements to their games in order to deliver the best possible experience for players – for example, by altering the strength of an in-game character or readjusting the balance between challenging and rewarding elements of a game. As the success of games companies has heavily relied on their ability to legally gather and move data across national

borders, there is an urgent need to ensure certainty and a clear legal basis for data flows going forward.

Whilst consideration will understandably be given to the merits of adapting, re-legislating or maintaining the UK's data protection law, any future changes must continue to allow data to flow freely so that companies operating in the UK and doing business in the EU can continue to smoothly transfer information to one another. Other non-EU countries, such as Switzerland and Norway, have managed to obtain the necessary free movement of data in a variety of ways, and the UK should seek to achieve the same outcome in the Brexit negotiations.

### **European funding for UK games**

Whilst European funding has played an important role in supporting the creative industries, for instance the MEDIA strand of Creative Europe offered a total of €27.9 million of funding in 2014 to support distribution and audience development amongst other factors, the games industry has yet to have sufficient access to such funds.

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

#### *Reforming public funding for the games industry*

The eventual withdrawal of EU funding will create a further demand for replacement arrangements, and presents the opportunity of reforming existing public funding structures for the UK games industry to make them comparable in scale and scope to those offered for

other sectors, and more reflective of the true cultural nature of games. This could be a major boon for the games sector in the UK, underpinning growth across the country.

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

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

### **Intellectual property protection for the UK games industry**

A strong and stable framework governing Intellectual Property rights has played a significant role in the success of the UK's games and interactive entertainment industry. The UK's IP framework has managed to successfully encourage investment into the generation of new and innovative content, leading to growth and employment for the UK games sector.

We believe that the Government should maintain the current framework for copyright protection and enforcement of Intellectual Property rights as any limitation or reduction in protection would put UK businesses at a competitive disadvantage relative to European competitors and risk transferring investment to other countries. As much of our current legal regime is derived from European Union Directives, we would welcome reassurance from the Government that the current standards of copyright protection will not be reduced following the UK's exit.

Finally, as the European Commission published copyright proposals last month which could impact UK games businesses, whether or not the resulting legislation applies in this country, it is crucial for the UK Government to continue to proactively engage in EU discussions and negotiations to ensure that a satisfactory outcome is secured.