

BUSINESS ARTICLES

Live Music and Brexit's Cliffhanger

By Patrycja Rozbicka and Michael Conroy

Thinking about Brexit's fallout on the music industry has never been more urgent. Coverage in trade portals like the *Billboard* and *Pitchfork* is rising to a fever pitch. The general media, measured by publications like *The Guardian* and *Politico.eu*, is picking up the story on an almost daily basis, with analysts tending to draw a distinction between the immediate-short term effect of the referendum's "leave" result, and the long-term consequences of evoking article 50 for UK-European relations.¹

This article focuses on possible short-term outcomes resulting from upcoming Brexit negotiations in a specific sub-sector of the UK's music economy, live music. A quantitative basis is given to assess the value and importance of this trade. Later, and for good reason, allusions are made to developments in Norway and Switzerland, and the US and Canada with a view to propose some possible scenarios that could point a way forward for the industry. Still, the conclusions are rather grim overall: Brexit will have negative repercussions for most live music stakeholders in the UK.

Great Britain and Europe

Europe, and in particular countries within the EU, matter greatly to the UK music industry. In 2014 the industry generated £4.1 billion with confirmed growth of 5%, outperforming the general UK economic growth of 2.6%. Music exports contributed £2.1 billion in 2014 to the UK economy, built up on 17% growth from 2013. The majority of these exports go to US and European markets, and almost in equal proportions. As much as 70% of the UK music publishing market is export oriented.

The corner stone of the UK music sector is live music. Data from *Music UK 2015a* and *Music UK 2015b* indicates that this particular sub-sector generated £924 million and employed 25K full-time employees in 2014: festival organizers, promoters, agents, production services for live music, ticketing agents, and staff at concert venues and arenas. Growth was impressive and, relative to 2013, a remarkable 16%. When performing musicians are added into the mix, the figure rises to almost 69K full-time equivalent employees. Taken in total, more than 17% of income within the live music sector is generated while performing in the European Union (the rapid growth in this sector is credited too for the search for alternatives to increase stream-

ing and downloading).

Furthermore, 28 million people attended live music events in the UK in 2015. 38% of those were 'music tourists', i.e. overseas music audiences, and these generated a total of £3.7 billion in direct and indirect spending while visiting the country. Given the UK border entry visa requirements, and the costs of traveling from the areas further than Europe, it is safe to assume that the majority of those visitors were from European Union member states.

The value of Europe to the British music industry is thus well established. In the event, two-thirds of the live music business supported the Remain vote. Among them were individual artists like Bob Geldof and Paloma Faith, but also large corporate groups like Universal Music UK, the Beggars Group, and interest groups like the Music Managers Forum.

It is clear that both performing musicians and music intermediaries at live shows are the two parties that need attention in any renegotiation of terms that follows Brexit. Two scenarios that could model the current negotiations are, respectively, current arrangements with Switzerland and Norway on the one hand and the US and Canada on the other. Both examples are covered below.

Switzerland and Norway

Neither Switzerland nor Norway form part of the European Union, and Brexit would put Great Britain in the same boat. Like Britain, Norway and Switzerland are located in close proximity to the EU, and special arrangements have governed trade between those countries and the EU.

The Swiss solution is based on a series of bilateral treaties in which Switzerland adopted various provisions of the EU *Acquis*, i.e. the accumulated legislation, legal acts, and court decisions which make up EU law, in order to have privileged access to the Union's single market. Consequently, most of the EU conditions involving the free movement of people, goods, services and capital have applied in Switzerland. The arrangement is, however, not etched in stone and prone to dispute. For instance, a referendum on quotas for migrants in Switzerland in 2014 violated the EU and Switzerland agreement on the free movement of people and risked the termina-

tion of all bilateral agreements. In the event, Switzerland resolved the issue by accepting EU terms last December.

Norway is associated with the EU through its membership of the European Economic Area (EEA) and the European Free Trade Association. The EEA agreement grants Norway access to the EU's internal market through Norway's large "membership" fees to the EU. The arrangement facilitates free movement of goods, capital, services and people, but with exceptions. For example, the free movement of people specify only freedom of movement for workers and the freedom of movements of goods excludes food and beverages.

Switzerland and Norway's largest trading partner is the EU, and any deals those countries have made with Europe involve a *quid pro quo*. The Brexit vote will push Britain to make its own compromise. But although many legal loopholes are woven into these alternative arrangements, it is difficult to see that maintaining the *status quo* for touring artists will be a priority in closing any such new deal.

The Swiss example is in particular disillusioning for British touring musicians. Performing in Switzerland includes a Swiss motorway vignette, at a cost of around CHF 40 (US \$40).² But, it is the ATA Carnet that cuts deep into tour returns. The Carnet is a temporary export document for professional equipment and goods being tentatively exported for display at trade fairs or exhibitions. It eliminates the need for customs declaration at border points and the deposit of a guarantee, bond, or cash deposit in the country of temporary importation. While it takes only 24 hours to obtain the document, or 1 hour in case of an express option, the price of the yearly ATA Carnet is £195.36 (US \$160) and can cause severe delays at borders. At the moment, the ATA Carnet is required to even just transfer the equipment through Switzerland increasing the costs of tours. Although the movement of UK goods are, for the moment, exempt from the requirement inside the EU, this might change depending on UK-EU negotiations.

Additionally, this solution also presents performing musicians with further problems related to the nature of tours: on top of the transport of the equipment, which is included in the ATA fee, bands often travel

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with saleable merchandise. Bands are required to pay VAT on their merchandise upfront according to the total profit that would result from merchandise sales in Switzerland before entry is allowed. A refund for unsold items is to be received upon exit. This expense could run into tens of thousands paid upfront per country that require the ATA carnet.

Another element of the Swiss solution is a requirement of symmetric freedom of movement of workers and the self-employed between the EU and Switzerland. Any suspension of the free movement of the EU workers and self-employed EU citizens in Switzerland -- or for that matter Great Britain -- will meet with immediate response from the other side, putting Switzerland's -- and Great Britain's -- access to the single market under the threat. As much as one in five people in the UK live music sector are self-employed, so this will be far from being neutral to the business. British bands whose crews have British citizenship will maintain their freedom of movement until the UK formally leaves the EU. Assuming that reciprocity and freedom of movement for the EU citizens in the UK is maintained nothing need change. But full reciprocity is not taken for granted in the most recent Brexit White paper from HM's Government, and as reported by *The Guardian* newspaper early in February.

The Norwegian solution mirrors the considerations above, with one caveat: the exchange rate problem. The high rate of the Norwegian Krone already discourages Norwegian bands from performing abroad: according to *Music Norway 2013*, only 5% of the national music industry revenue was generated from live performances by Norwegian artists abroad. Given the recent 15% devaluation of sterling after the Brexit vote, many other European countries, including Switzerland, might follow the Norwegian example and tour less in Great Britain. Of course, a cheaper currency might encourage music tourism too, so British performers might stand to benefit, offsetting some of the negative consequences of the Remain vote on the live music industry.

The US and Canada

At the moment, EU membership gives the UK-based artist a right to work anywhere in the EU without a special work permit (*Treaty on the Functioning of the European Union*, article 45). Now, America's relationship with the EU also affords an alternative backdrop for a reset of the UK's live music

industry with Europe. As will be shown below, the gist of it is that extra red tape will likely hit smaller touring units, and add more obstacles for labels to fund tours.

The relationship between North American countries, i.e. the US and Canada, and the EU is based on bilateral agreements. One of the most recent and debated examples is the Transatlantic Trade and Investment Partnership (TTIP), aimed at promoting trade and multilateral economic growth. However, it is still under negotiation more than a decade since its inception in 2006. Its main focus was market access and regulation, and the promotion of intra-trade cooperation by sector. But except for references to the use of intellectual property, which is relevant to songwriters and producers, the TTIP agreement is silent about the broader music industry and touring artists and personnel.



In particular, the matter of easier visa entry requirements for talent is not addressed. In the light of the noise generated by Brexit, there is no guarantee there will be forward movement on the topic any time soon -- which leaves US and Canadian touring acts with only the existing visa regulations in place. And a visa application is a big obstacle for North American artists hoping to tour Europe. Spain, France, Italy, Austria, Hungary, and Czech Republic, for instance, do not allow paid activity during a visa free stay and require instead a temporary work permit. Presently, performing musicians with US and Canadian citizenship can tour visa free in Belgium, the Netherlands, Germany, Lithuania, Poland, and Slovenia.

Where a work permit is needed it has to be supported by (i) proof of a beneficial economic impact for the country of destination, (ii) confirmation of employment -- an invite issued by a Europe-based promoter is needed, and (iii) an assurance that the operation can be fully fi-

nanced by the band's own resources. The procedures are time consuming and costly and, in particular, affect smaller bands and self-employed individuals and the extra work might not justify the sponsorship of the European promoter. For new artists trying to break into EU markets this can make a big difference.

Overview

The above scenarios have assumed the possibility of a degree of special access to Europe by British bands. However, utterances by EU officials, and even the British Government, are discouraging. A "hard" Brexit, naturally, would affect the live music industry worst. In that case the 'four freedoms' of the European Union, i.e. the free movement of goods, people, services, and capital over borders, would be lost, and, apart from anything else, the transactional cost of doing business in the Continent would have become much more expensive and time consuming. More red tape is inevitable, and there will be more uncertainty attached to touring from stringent financials.

The drama is that music may not be a top priority in Britain's reset with the EU: leisure and entertainment may take a backseat to financial services, manufacturing, and agriculture. John Whittingdale MP, the UK's Secretary of State for Culture, Media and Sport, will have to make a strong case indeed for the economic significance of music in the UK to stand out before negotiations over Article 50, the starting point of Great Britain's departure from the EU, start in earnest. But this is a pity. The export of recorded and live music has served the country well in the past and Britain's newfound nationalism is likely to stand in the way of the industry's future accomplishments in the Continent.

However, history has its own rejoinder. The Beatles toured Hamburg, and honed their craft there, well before the UK finally joined the European Common Market in January of 1973. In fact, the 'British Invasion' that would later conquer pop had little to do with Great Britain's membership of Europe. The sobering thought is that talent usually finds a way. **MBJ**

Endnotes

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