

**Brexit Withdrawal Agreement & Political Declaration
Need to know summary
October 2018**



On 14th November 2018, negotiators reached a deal on the terms of the UK’s withdrawal from the EU. This was followed by an endorsement by the prime minister’s cabinet.

The deal includes:

- A [withdrawal agreement](#): This 585-page document sets out how the UK will leave the EU.
- A [political declaration](#): This 26-page document provides an overview of the future economic and security partnership the UK and EU will aim to negotiate. This document updates the shorter [8-page document](#) released on 14 November.

A No-Deal Brexit would have catastrophic consequences for the creative industries. There are concerns about specific areas, however the deal reached represent one step away from the cliff-edge that would be a No-Deal Brexit. You can find our response to the withdrawal agreement [here](#).

The deal will now be put before EU heads of state on 25th November and will then enter the European and UK parliaments where adoption is far from certain. In the UK parliament, there is opposition across the political parties and adoption appears unlikely. At this point, there appear to be several alternative routes the UK could go down such as an extension to Article 50, a general election, a second referendum, and a [no deal](#).

Below is a short snapshot of the deal and the areas with particular importance to the creative industries. As this is a general overview, there may be additional details which are of particular concern to your business or sector, so we would encourage you also to read the publications and/or seek legal advice if needed.

Withdrawal
Transition Period A transition period will run from 1 April 2019 to 31 December 2020, which is welcome news for creative businesses. The UK and EU will also have an option to extend the transition period. Business Secretary Greg Clark has stated that an extension could run to December 2022, although no date is specified in the withdrawal agreement.
EU Citizens As expected following the announcements in December 2017, EU and UK citizens residing in the UK and EU respectively, before the end of the transition period, will have the right to remain. The UK government is putting in place an EU Settlement Scheme which will grant a right to remain and pre-settled status. You can find a Federation guide here .
Intellectual Property Those granted trademarks and registered and unregistered design rights before the end of the transition period will automatically be granted a comparable right covering the UK. Those holding database rights before the end of the transition period will also maintain an enforceable right in the UK. Rights which are exhausted both in the EU and UK before the end of the transition period will remain exhausted in the UK and EU.

Trade in Services & Digital

UK and EU workers' **professional qualifications** will continue to be recognised if they have received a recognition decision before the end of the transition period. This will be welcomed for sectors such as architecture and professional services.

Data processed before the end of the transition period will be subject to EU rules protecting personal data. EU law will no longer apply if the UK is deemed to have a framework offering an adequate level of protection (a so called 'adequacy decision').

Trade in Goods & the Irish Backstop

To prevent a hard border on the island of Ireland, the whole of the UK will remain in a "temporary single customs territory," (i.e. the customs union) until both sides agree it is no longer necessary, which could extend beyond the end of the transition period. This has been met by opposition from Brexiteers who fear we could remain in the EU's customs union indefinitely.

Goods placed on the UK or EU market before the end of the transition period can continue to circulate freely in the UK and EU. They will be subject to current EU VAT rules which will continue to apply five years after the end of the transition period.

EU Programmes

The UK will participate in EU programmes under the current multiannual financial framework which ends in 2020. This includes programmes such as Horizon 2020, Creative Europe and Erasmus+.

Future Relationship

Negotiations

During the transition period, the UK and EU will begin formal negotiations on their future economic and security relationship. They aim to reach an agreement before the end of the transition period, which seems ambitious given trade negotiations can take several years.

Mobility of Talent

The EU and UK will look to reach "mobility arrangements" which facilitate temporary movement of talent between the EU and UK. This will include visa-free travel for short term visits, arrangements for temporary entry for business purposes "in defined areas," and conditions for entry and stay for research, study, training and youth exchanges. Much of this remains vague and the declaration could have gone further.

Culture & Education Dialogue

The culture and education accord from the UK government's [White Paper](#) is not mentioned specifically. However, the declaration commits to establishing a "dialogue" on culture and education which prioritises many of the same areas. The EU and UK will identify opportunities to cooperate, share best practice and act together, recognising the importance of mobility and temporary movement of objects and equipment. The UK and EU will also explore cooperation between culture and education related groups.

Intellectual Property

Both sides commit to protecting and enforcing IP beyond international treaties. This includes preserving the high level of protection for copyright and artists will be pleased to see reference made to the artists resale

right. The UK and EU will also aim to maintain the freedom to establish their own exhaustion regimes. It is disappointing however to see no commitment to mutual recognition of unregistered design rights. Instead, there is a commitment to establish a dialogue on trademarks, designs and patents.

Trade in Services & Digital

Negotiators will look to reach **ambitious arrangements on services** which go beyond WTO and GATS commitments. These should cover as many sectors as possible such as professional and businesses services. Some communications services such as telecoms are also mentioned, but AV services are not included. Furthermore, the declaration states that this agreement will contain “exceptions and limitations as appropriate” and “national treatment under host state rules,” which could rule out an agreement on the country of origin principle for broadcasting.

The UK and EU will also look to develop appropriate arrangements for **professional qualifications** and establish provisions to facilitate **e-commerce**, although few details are provided. Negotiators will also look to facilitate **cross-border data flows** and, in line with the withdrawal agreement, the EU will look to reach an adequacy decision before the end of the transition period in December 2020.

Trade in Goods

Negotiators will look to agree a free trade area which “builds on the single customs territory provided for in the withdrawal agreement,” a line which is likely to create concern amongst Brexiteers. The free trade area would have zero tariffs, include ambitious customs arrangements which utilise technologies, and mutual recognition of trusted trader programmes. The UK and EU will also agree common principles in areas such as standards and labelling.

EU Programmes

The EU and UK will establish general principles, terms and conditions for the UK’s participation in the EU’s science and innovation, and culture and education programmes. This would most likely include the Horizon 2020, Creative Europe and Erasmus+ programmes. This is a positive commitment although we will need to see under what conditions we can participate and the implications this will have for UK creative enterprises.

Level Playing Field & Fair Competition

Both sides aim to put in place provisions on State aid, competition, social and employment standards, and relevant tax matters.