

Technical Notices on a 'No Deal Brexit'

- what is relevant for the creative industries?

Need to know summary



UK government published its first batch of [Technical Notices](#) on 23rd August, a second batch on 13th September, and a third batch on 24th September, and a fourth batch on 12th October to help businesses and citizens prepare for a 'No Deal Brexit'. Below you will find a summary of these notices with the first batch in **BLACK**, the second batch in **GREEN**, the third batch in **RED**, and the fourth batch in **ORANGE**.

We understand that the fourth batch is the final one, although there still could be one or two announcements on issues such as EU citizens' right to remain in the UK.

Whilst the UK and EU have expressed their ambition to strike a deal, the threat of a 'No Deal Brexit' has grown significantly as we draw closer to the UK's exit from the European Union on 29 March 2019. Negotiations remain deadlocked on key issues such as the Irish border and the future relationship. Negotiators failed to reach an agreement before the October European Council meeting. They now have until an emergency European Council meeting in the third week of November to find an agreement.

A 'No Deal Brexit' means the UK and EU have failed to agree either formal withdrawal terms or an extension of the negotiations. In this scenario the all existing benefits of being a Member State will end such as free movement of people, goods, and services and access to EU funding.

You can also find more information on how to prepare in a [Preparatory Document](#) published by the Federation and Bates Wells Braithwaite.

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EU Funding

- In the event of a 'No Deal Brexit', UK creative organisations will no longer have access to funding from EU programmes (Creative Europe, Horizon 2020, Erasmus+) and EU structural and investment funds. However, government will [guarantee funding](#) for all successful bids by UK participants for certain programmes up until the end of 2020, for the full duration of the projects.

1. Horizon 2020

- Government will discuss with the European Commission the details of the UK's participation as a third country after March 2019. However, as a third country UK creative industries would not be able to participate in European Research Council grants or the SME instrument.

- There are also potential implications for existing projects once the UK's status changes to a third country and for consortia where the UK participant leads and distributes funding. Government provides little explanation about how these will be addressed.
- Beyond 2020, the UK hopes to agree the science and innovation accord outlined in the [Brexit White Paper](#). They have also committed to an increase in domestic spending and to develop a UK Research and Innovation Strategy.

Preparations: Current UK recipients of Horizon 2020 funding will soon be invited to provide initial data about EU project(s) on a portal hosted on GOV.UK. Government will then inform UK recipients and their partners of the next steps.

2. Erasmus+

- Government's guarantee of funding for all successful bids before March 2019 includes projects and participants that are informed of their success or who sign a grant agreement after the UK withdraws from the EU. More information is available [here](#).
- However, UK government will need to reach an agreement with the EU for continued participation in Erasmus+ projects beyond March 2019. They say little on the likelihood of this except to state that if unsuccessful, government will engage with individual member states and institutions to ensure UK organisations can continue their activities.

Preparations: The October 2018 call for proposals will go ahead as planned. However, there is a big question mark still on whether we can continue to participate or not, and therefore government's notice is unlikely to reduce the uncertainty for creatives wishing to apply.

3. European structural and investment funding

- Government has published technical notices on the [European regional development fund](#) (ERDF), the [European social fund](#) (ESF) and the [European Territorial Cooperation fund](#) (ETCF). Government's guarantee for all successful bids until 2020 will be administered by UK managing authorities under the current national and local arrangements. The notices provide no indications on what will happen after 2020.
- Arrangements for ERDF and ESF will be modified and simplified, although very few details on this are provided. Moreover, appropriate audit, monitoring and evaluation arrangements will be put in place to ensure that "all spending delivers good value for money and fits domestic strategic priorities."
- For ETCF, UK government will need to work with the European Commission and the managing authorities so the UK can respond to new calls and deliver projects. This adds complexity since government's intention is to deliver the funding guarantee under existing arrangements to avoid uncertainty. However, this is subject to agreement between the Commission, managing authorities and EU countries in each European Territorial Cooperation programme.

Preparations: Organisations are encouraged to continue applying and delivering funding under the current arrangements.

Intellectual Property

- The UK and EU are party to international intellectual property rights treaties. These international rules underpin some of the UK's legislation and are not dependent upon UK membership of the EU. However, in the event of a 'No Deal Brexit', there is a body of EU law that goes beyond international treaties and would no longer apply to the UK.
- Government will be passing technical changes through statutory legislation in the coming months, using powers under the EU Withdrawal Act 2018. The IPO's has also published a [factsheet on intellectual property and Brexit](#).

1. Copyright

- Specific EU cross-border provisions such as on [Orphan Works](#), [Portability](#), [Database rights](#), [Collective Rights Management](#), [Satellite and Cable copyright clearance](#), and cross-border transfer of accessible formats¹ will no longer apply in the event of a 'No Deal Brexit'.
- The EU Directives and Regulations on copyright will be preserved in UK law in the EU Withdrawal Act 2018. However, the [technical notices](#) say nothing about the [Digital Single Market](#) proposals (such as the Copyright Directive and Satellite and Cable Regulation) currently being discussed at EU level and whether these will be preserved.

Preparations: The technical notes recommend that businesses seek legal advice. Furthermore, they provide the following suggestions:

- a) UK database rights holders may want to rely on other forms of protection such as restrictive licensing agreements or copyright where applicable. EEA states will have no obligations to provide database rights to UK nationals and businesses and their rights may be unenforceable in the EEA.
- b) UK-based satellite broadcasters may need to clear copyright in each member state they broadcast in and additional permissions may be needed.
- c) Online content service providers will not be required to offer cross-border portability services to UK consumers.
- d) UK-based institutions that use an exception should assess which works need to be removed from their websites or access limited on a geographical basis to ensure they are not infringing copyright.
- e) UK collective management organisations will not be able to mandate their EEA counterparts to provide multi-territorial licensing for musical works under EU legislation. Therefore they may want to explore new contractual arrangements with EEA counterparts.
- f) Transferring accessible format copies of works between the EU and UK may not be possible until the Marrakesh Treaty is ratified by the UK. Businesses and individuals will need to review whether they need to seek permission from relevant rights holders.

2. Trademarks and designs

- In the event of a 'No Deal Brexit', works that are currently protected by an [EU registered trademark](#), [registered design right](#) or [unregistered design right](#) will continue to be protected in the EU member states.

¹ See the [Marrakech Directive](#) and [Regulation](#).

- However, these three EU rights will not be recognised in the UK. For works with existing EU trademarks and registered design rights, government will create equivalent UK rights to ensure continued protection in the UK. Existing holders of these rights will receive a notification that they have automatically been granted the UK right, with an option to opt out.
- For unregistered design rights, government states that they will ensure those holding existing EU unregistered design rights will continue to be protected in the UK, including works first disclosed in the EU27. Few details are given except that no action will be required by these rights holders.
- Once we leave the EU, the technical notices are far more unclear. They state the following:
 - Those who are in the process of applying for EU trademarks and registered design rights (and which do not receive confirmation before March 2019) will have 9 months from the point of exit to apply for the equivalent UK right. They will be able to refile with the Intellectual Property Office (IPO) and retain the EU application date for priority purposes. However, they will not be notified and will need to bare the refiling costs.
 - After March 2019, new applicants for the UK’s equivalent trademark and registered design right will be able to apply by post or online. Information on applying for trademarks [here](#) and for registered design rights [here](#).
 - Designs that are first disclosed in the UK after March 2019 will be granted a new UK supplementary unregistered design right, which will protect them in the UK. This will mirror the EU right. The UK’s current unregistered design right that protects product shape and configuration will also continue to apply after exit.
 - Provisions will be made regarding the status of legal disputes involving EU trademarks, registered design rights and unregistered design rights. Few details are given on what these provisions will be except that more information will be provided before we exit the EU.
- No details are given about how designs first disclosed in the UK will be protected in the EU27 after we exit the EU. Moreover, no details are provided on how designs will be protected in the UK which are first disclosed in the EU27 after we exit the EU.
- Government also states that it will work with the World Intellectual Property Office to ensure works with international trademarks or registered design rights that designate the EU as an area where they apply, will continue to be protected in the UK after March 2019.

Preparations:

- a) The technical paper provides no advice except to state that businesses may want to seek legal advice. There is no recommendation that businesses should consider applying for an EU and UK trademark or unregistered design right, or how to protect and enforce unregistered design rights in the EU27 after the UK exits the EU.
- b) On how businesses can represent themselves, for example at the EU Intellectual Property Office, the technical notice points businesses to the IPO’s [Notice](#) and [FAQ \(Part D\)](#).
- c) The notice provides no information on rules relating to legal professional representation and address for service requirements relating to intellectual property rights protected at national level in individual EEA states. However, it states that there will be no “immediate changes” to the UK address for service and privilege rules.

3. Patents

- Government states that it is unclear if the [Unitary Patent Court](#) will receive final ratification from Germany and whether the court and [unitary patent](#) will come into force before March 2019. If ratification of the Unitary Patent Court Agreement is still outstanding and it does not come into force, there will be no changes for UK and EU businesses as it will have never taken effect in the UK.
- If it is ratified and comes into force,² government will explore whether it is possible to remain within the Unified Patent Court and unitary patent systems. If the UK has to withdraw, businesses will still be able to use the Unitary Patent Court and unitary patent within the contracting EU countries. However, in the UK, businesses will only be able to protect their inventions using national patents and UK courts.
- If the Unitary Patent Court and unitary patent come into force before March 2019, any existing unitary patents “will give rise to patent protection within the UK with no action required by the rights holder.” Provisions will be made regarding pending cases before the Unified Patent Court.
- UK businesses will still be open to litigation in the Unitary Patent Court based on actions infringing existing rights in contracting EU countries. EU businesses will no longer be able to use the Unitary Patent Court and unitary patent within the UK and will have to apply for UK rights.

Preparations:

- a) Government recommends that businesses seek legal advice. Additional information will be made available on the [Unified Patent Court website](#).
- b) European Patent Attorneys based in the UK will still be able to represent applicants before the European Patent Office. More information [here](#).
- c) There will be no “immediate changes” to the UK address for service and privilege rules.

4. Exhaustion of intellectual property rights

- In the event of a ‘No Deal Brexit’, the UK will no longer be part of the EEA intellectual property rights exhaustion regime. Under this regime, rights are exhausted once the work has been put on the market in the EEA with the rights holders permission. This means the rights holder loses the right to control distribution and resale of goods, such as physical books, DVDs and video games.
- Government states that the UK will continue to recognise the regime. This would mean intellectual property-protected, non-counterfeited goods placed on the EEA market will continue to be considered exhausted in the UK. This would mean the import of these goods from the EEA back to the UK will not be affected.
- However, if an intellectual property-protected, non-counterfeited good is placed on the UK market after the UK leaves the EU, it will not be considered exhausted in the EEA. This would have implications for UK businesses exporting these exhausted goods to the EEA. Government is exploring options to address this and is currently undertaking research. More information [here](#).

² It is unclear in the technical notice whether this refers only to the scenario in which the Unitary Patent Court and unitary patent come into force before March 2019. It is therefore unclear whether government would still pursue remaining in the systems after March 2019.

Preparations: UK businesses should check with EU rights holders if permission is needed to export intellectual property-protected, non-counterfeited, exhausted goods from the UK to the EEA. They may also want to seek legal advice.

Trade in Services

1. Broadcasting and VoD

- In the event of a 'No Deal Brexit', the [Audiovisual Media Service Directive](#) (AVMSD) and the country of origin principle will no longer apply. However, in the absence of the AVMSD, the Council of Europe [Convention on Transfrontier Television](#) (ECTT) continues to apply.
- The ECTT guarantees freedom of reception, stating that parties must not restrict the retransmission of compliant programmes within their territories. The UK and 20 EU Member States are signatories.³ However, the Convention do not apply to the remaining 7 EU Member States that are not signatories.⁴
- The notice highlights further limitations of the ECTT. It does not provide the same enforcement mechanisms as the AVMSD – the disputes standing committee last met in 2010 - and freedom of reception does not extend to video-on-demand (VoD) services as it does in the AVMSD.
- If a deal is reached with the EU, the government's [position](#) is that the UK will not be in the Single Market and the country of origin will no longer apply. However, it has committed to “seeking the best possible arrangements for the sector” and to ensure licence-free reception for Ireland’s TG4, RTE1 and RTE2. However, it provides no explanation about how this will be achieved.
- The UK will make provisions in domestic legislation to ensure Ofcom licences continue once we leave the EU. This will ensure broadcasters can continue to broadcast in the UK without having to reapply for a license.

Preparations: The notice recommends that broadcasters assess on a case-by-case basis whether current licenses would continue to be accepted in EU member states where they provide a service:

- a) 20 ECTT signatories - Ofcom licenses should still be recognised but broadcasters will need to seek local legal advice to understand how national law implements the ECTT obligations.
- b) 7 Non-ECTT countries - A second license in an EU country may be needed if you provide your service in one or more of the 7 non-ECTT countries ([list of media regulators in the EU](#)). The EU country where you obtain this license is determined by a hierarchy of jurisdiction outlined in [Article 2\(3\) and 2\(4\) of the AVMSD](#). See an explanation in the [technical notice](#).

If you take no action, your broadcasting service may be regarded as a third country service and EU countries could impose further conditions, in line with their national rules and ECTT provisions.

VoD services will need to comply with AVMSD requirements for jurisdiction. The regulation and authorisation of VoD is determined locally and providers should seek local legal advice.

³ Austria, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Malta, Poland, Portugal, Romania, Slovakia, Slovenia and Spain.

⁴ Belgium, Denmark, Greece, Ireland, Luxembourg, the Netherlands, and Sweden

2. Mutual recognition of professional qualifications

- In the event of a 'No Deal Brexit', the [reciprocal recognition](#) of professional qualifications between the UK and the EEA will end. The European Commission has stated that UK professional qualifications, which are recognised before exit day, will not be affected. However, those not recognised before exit day will not be valid in the EEA.
- The UK will unilaterally recognise EEA qualifications after exit day with some changes. Automatic recognition and temporary access to regulated activities on the basis of a declaration will no longer apply. The Internal Market Information system will no longer be available in the UK.

Preparations: Little advice is provided for those with no recognition decision before exit day except that you should check the host state's national policies and contact the relevant regulators for advice.

The government will update this [guidance page](#) and share more details soon for how EEA professional qualification will be recognised in the UK. If you are awaiting a decision on exit day, you should be able to conclude your application in line with EU rules, as far as is possible.

3. General rules on services

- In the event of a 'No Deal Brexit', EEA businesses providing services in the UK will be treated as third country service providers under WTO rules. The technical notice notes that "the UK services market is highly liberalised and it is not envisaged that EEA businesses will face additional barriers to entry."
- UK businesses and workers providing services in the EEA will be treated as third country service providers. They may face additional legal and administrative barriers, immigration controls, and visas and work permit requirements. These will vary from EU member state to EU member state. UK-based businesses will also no longer have access to the [SOLVIT network](#).

Preparations: EEA businesses providing services in the UK should contact individual competent authorities on any future changes and how they can comply as a third country service provider.

UK businesses providing services in the EEA should check what is required in each member state where the service is provided. The government will also update this [guidance page](#). These businesses will also have to raise any concerns directly with national authorities of relevant EEA countries as they will no longer have access to SOLVIT.

Trade in Goods

1. Exporting cultural objects

- In the event of a 'No Deal Brexit', the [EU's cultural objects licensing system](#) will no longer apply to the UK. In order to export from the UK to any destination, you will only need a UK licence. If you have received an EU export license before March 2019, this will continue to be valid and you will need to follow the same rules and obligations.
- If you are exporting from the EU to the UK and the rest of the world, you will need to take certain steps. If you hold an EU license before exit day you will need to ensure compliance with the EU and individual EU member states rules.

Preparations: If you are exporting from the EU to the UK and rest of the world, you should consult licensing authorities in the country of export and you may need to ensure compliance with EU rules.

Early in the New Year, [Arts Council England \(ACE\)](#) and the Export Licensing Unit will announce two cut off dates for processing and issuing EU licences. One for applications requiring expert advisers and one for those which do not. After this, applicants will need to apply for a UK licence. ACE will circulate information on any changes to the UK system and more information will be published in the New Year.

2. Endangered species

- In the event of a 'No Deal Brexit', endangered species which are currently freely moved and traded between the UK and EU would need a CITES certificate and be subject to the same processes in place for movement between the UK and non-EU countries.

Preparations: Those moving objects such as instruments made from endangered species will need to check the [Global CITES website](#) for specific requirements in the intended import and export country. They will also need to apply for a CITES permit and pay the [relevant fees](#). There are also [exemptions](#) and rules on [designated CITES points of entry](#) to consider. More information on Border Inspection Posts can be found [here](#).

- For [Annex A and B](#) listed species, imports to the UK would need an export permit or re-export certificate from the EU country the item is moving from, and an import permit from [APHA](#). Exports from the UK to the EU will need an export permit or re-export certificate from APHA and a import permit from the relevant EU member state.
- For [Annex C](#) species, imports to the UK from the EU would need an export permit or re-export certificate from the relevant EU country, and an import notification on entry to the UK. Exports from the UK to the EU will need an export permit or re-export certificate from APHA and a import notification on entry to the EU country.
- For [Annex D](#) species, imports to the UK from the EU would need an import notification on entry to the UK and vice versa for exports from the UK to the EU.

3. General rules on trade in goods

- In the event of a 'No Deal Brexit', the free circulation of goods between the UK and EU will end. This will mean non-EU customs and excise rules apply to imported and exported goods and the UK will no longer fall within the scope of the [mutual recognition principle](#). Moreover, safety assessments carried out by UK notified bodies will no longer be recognised in the EU.
- Customs duties and checks, import and export declarations and separate safety and security declarations will be required for creative goods moving between the EU and UK. As outlined in our [Preparatory Document](#), this could lead to an increase in costs and delays.
- UK government has submitted an application to join the [Common Transit Convention](#) once the UK leaves the EU. This would mean charges are paid only in the country of destination.
- However, government provides no solutions and little clarity on how they will address trade between the UK and Ireland in the event of a 'No Deal Brexit'. Government simply states that they will respect the unique relationship and engage constructively.

- On the mutual recognition principle, UK creative businesses exporting [non-harmonised goods](#) (e.g. furniture, textiles) to the EU will be subject to the national requirements of the first EU country they export to. They will not need to consider the requirements of EU countries the goods travel through to get to the first export market.
- If a non-harmonised good has already been exported to an EU country before the UK's exit, UK creative businesses will still benefit from the mutual recognition principle and they can market their product in other EU countries without having to meet their national requirements.
- Certain products which are safety tested under the '[New Approach](#)' by a UK notified body will no longer be able to be placed on the EU market without retesting and remarking by an EU body. This includes toys and therefore may apply to creative industries merchandising.
- A new UK conformity marking will be introduced. Goods which conform to EU requirements can continue to be placed on the UK market.

Preparations:

- a) General considerations
 - Ensure you understand the current non-EU customs rules and procedures applied by the UK and EU. More information on importing [here](#) and exporting [here](#).
 - Analyse your volume of trade to the EU and potential supply chain impacts from the application of non-EU customs rules and procedures.
 - If necessary, take steps to renegotiate commercial terms to reflect changes.
 - Register for HMRC's [EU Exit update services](#) to receive future information.
- b) Preparing to import and export
 - Register for a UK Economic Operator Registration and Identification (EORI) number.
 - Ensure contracts and International Terms and Conditions of Service reflect that your business is now an importer or exporter.
 - Prepare to submit import and export declarations. You can engage a customs broker, freight forwarder or logistics provider. If you decide to do it yourself then ensure you have the correct HMRC software.
 - Apply for an import or export license for specific goods. More information [here](#).
 - If importing, check the carrier submits an Entry Summary Declaration at the appropriate time.
- c) Classifications and import duties
 - Decide the correct classification and value of the imported goods to enter into the customs declaration. More information is available [here](#) and [here](#).
 - Consider whether to use customs procedures such as customs warehousing, inward processing, temporary admission (e.g. carnets), and authorised use which delay or relieve the payment of customs duties for goods imported into the EU.
- d) Mutual recognition of non-harmonised goods
 - Ensure your goods meet the national requirements of the first EU country exported to.
 - UK businesses importing goods into the UK and non-UK businesses exporting goods to the UK will need to ensure they meet UK national requirements.
- e) Safety standards under the New Approach
 - Little should change for businesses placing products on the UK market. However, for goods which were tested by a UK-based notified body, businesses will need to retest them with an EU-recognised conformity assessment body (see list [here](#)). Alternatively, businesses can arrange the transfer of their files to an EU-recognised body.

VAT on Goods and Services

- In the event of a 'No Deal Brexit', non-EU rules will apply. However, government will allow businesses to account for EU and non-EU import VAT on their VAT return.
- UK businesses will be able to: zero rate sales of goods exported to EU customers and businesses; continue to store goods in an EU Member State to sell to EU customers (more information is available [here](#) and [here](#)); continue to export creative services under VAT 'place of supply' rules; and continue to claim VAT refunds from EU member states.
- However, businesses will need to use existing non-EU processes such as the [MOSS non-union scheme](#), as well as [individual EU member states](#) rules to claim VAT refunds.
- UK businesses can continue to use the EU VAT number validation service. HMRC is developing a system so that UK VAT numbers can continue to be validated, as they will no longer be included in the EU service.

Preparations: Ensure you understand the UK's non-EU VAT rules and procedures, as well as those of individual EU member states if exporting; Continue to retain evidence to support zero-rating (more information is available [here](#)); Register for the MOSS non-union scheme

Existing Free Trade Agreements

- The UK currently participates in around 40 [EU free trade agreements](#) with over 70 countries. In the event of a 'No Deal Brexit', the UK will no longer be a part of these agreements. Moreover, the UK will no longer have an implementation period with the EU during which it has planned to roll over these agreements.
- In this context, the government will seek bilateral UK-third country agreements on exit day or as soon as possible, a hugely ambitious task. These will replicate existing EU agreements with the same effects as far as possible. There may be practical changes to existing free trade agreements. For example, UK and EU content will be considered distinct and each new agreement will individually specify which origin designations may be used for preferences.
- If agreements are not reached on exit day, trade with these countries would take place under the [WTO's 'Most-Favoured Nation' \(MFN\)](#) principle. The same rate of duty on goods would need to be applied across all WTO members equally, with certain exceptions for where a free trade agreement is in place. For services, the UK would be required to grant treatment no less favourable to services and service suppliers of any WTO member.
- The UK is currently holding discussions with WTO members "to ensure a simple, fair, and transparent transition in establishing the UK's independent WTO schedules, in a manner that minimises disruption to our trading relationships."

Preparations: Government will publish information on new free trade agreements before they are ratified. They will also publish a UK MFN tariff schedule for those agreements not reached on exit day. You can find information on current tariff rates [here](#) and more information on WTO members can be found on the [WTO website](#). The technical notice advises seeking professional advice.

Geo-blocking

- In the event of a 'No Deal Brexit', UK, EU and third country businesses and traders would no longer be prohibited from discriminating between EU and UK customers.
- UK businesses operating in the EU would continue to be prohibited from discriminating between EU customers, for example between German and Polish customers.

Preparations: UK businesses selling goods and services into the EU will need to comply with the [Geo-Blocking Regulation](#). Those who are already complying should not be required to take additional steps. Further information on these obligations can be found [here](#).

Data Protection

- In the event of a 'No Deal Brexit', the legal framework for personal data transfers will change. The UK will continue to allow the free flow of personal data from the UK to the EU. However, the flow of personal data from the EU to the UK depends on an adequacy decision by the EU recognising the UK's level of protection as equivalent to that of the EU's.
- According to the [technical notice](#), "the European Commission has not yet indicated a timetable" and has stated that a decision "cannot be taken until [the UK] is a third country." If no adequacy decision is made, this will have implications for those receiving personal data from the EU.
- There will be no change to the UK's own data protection standards. The Data Protection Act 2018 will remain in place and the EU Withdrawal Act would incorporate the General Data Protection Regulation into UK law. The Information Commissioner's Office will produce additional guidance.

Preparations: If no adequacy decision is made, UK organisations will need to work with EU partners to identify a legal basis for the transfer of personal data to the UK. An alternative legal basis could be [standard contractual clauses](#) which are approved by the European Commission. Further information on alternative legal bases can be found on the [Information Commissioner's website](#). UK organisations should seek separate legal advice.

Mobility

- In the event of a 'No Deal Brexit', British passport holders will be considered as third country nationals and will have to comply with rules to enter and travel around the Schengen area.
- According to the [Schengen Border Code](#), third country passports must have been issued within 10 years on the date of arrival and have 3 months validity. Third party nationals can stay in the Schengen area for 90 days and therefore may need 6 months validity. People travelling with passports which do not meet this criteria may be prevented from entering.
- For EU countries outside the Schengen area, national entry requirements for third countries will apply. Travel to Ireland is covered by the [Common Travel Area arrangements](#).
- British and Irish citizens will retain the right to enter and remain in Ireland and the UK respectively. Both will continue to enjoy the reciprocal rights associated with the [Common Travel](#)

[Area](#) (right to work, study, and vote, access social welfare benefits and health services), which is not dependent on the UK's membership of the EU.

Preparations: If you are planning to travel to the Schengen area after 29 March 2019, ensure your passport complies with the Schengen Border Code. Consider applying for a new passport which you can do [online](#). If you are travelling in EU countries outside the Schengen area, check the entry requirements.

Competition and State aid

- In the event of a 'No Deal Brexit', the UK will no longer be a part of the EU competition and state aid regimes. The European Commission will not begin investigations into UK aspects of mergers and anti-competitive behaviour. However, they will continue to have the power to investigate UK businesses which distort competition within the EU. Companies may therefore be investigated in parallel by the European Commission and the Competition and Markets Authority (CMA).
- UK and EU businesses with operations in the UK will be able to receive state aid in accordance with UK state aid rules. The UK will create a UK-wide framework overseen by the CMA. State aid rules will replicate the existing EU framework with "modifications to correct deficiencies with the transposed EU law."
- In some cases, mergers which currently meet the EU turnover thresholds will be reviewed by the CMA and the European Commission. The UK's [voluntary notification regime](#) will remain but the EU's "one-stop shop" for mergers will no longer be in effect.
- The UK will no longer be a part of the EU Civil Judicial Cooperation regime which governs claims for damages. If businesses wish to claim damages they may have to make parallel claims before UK courts and the courts of an EU member state.
- The government will make changes to UK competition law that are "necessary to manage the UK's exit from the EU", such as references to EU institutions and duties which relate to current EU obligations. Block exemption regulations will be preserved in the EU Withdrawal Act.

Preparations: Creative businesses subject to ongoing antitrust investigations should seek independent legal advice. If you are considering a merger or have not received clearance yet, you should contact the European Commission and the CMA. If your business operates in the EU and you meet the EU's turnover thresholds for merger review, you should continue to notify the European Commission for clearance.

Additional information is available [here](#) and [here](#). Further guidance on State aid will be published [here](#) by the CMA in early 2019.

Structuring Businesses

- In the event of a 'No Deal Brexit', UK companies with operations in the EU will be subject to individual EU member state's [rules and restrictions for third country businesses](#) (sector

information [here](#)). Moreover, UK citizens may be restricted from owning, managing or directing an EU-based company, and UK investors in EU businesses may face equity restrictions.

- [European Economic Interest Groupings \(EEIG\)](#) will no longer be able to register in the UK. Those which are currently registered in the UK will automatically be converted into a new UK corporate structure post exit, unless they make alternative arrangements. UK members of EEIG's which are registered in other EU member states will be unable to continue to participate, unless the contract they are under allows them to or is amended to allow them to.
- For EU companies that operate in the UK, the regime will also change although the technical notice states that these changes will be minimal. EU companies will be required to file accounting documents in the UK.

Preparations: UK businesses, citizens and investors operating in the EU may want to seek professional advice on the EU member state in which they are operating.

EEIGs registered in the UK may want to transfer their official address to an EU member state. It is still possible for these EEIGs to have an establishment in the UK. They should look out for information published on the automatic conversion of these entities by ensuring the contact details held by [Companies House](#) are up to date.

Civil legal cases

- In the event of a 'No Deal Brexit', the UK would not be subject to the EU framework for ongoing civil judicial cooperation. The UK will repeal rules relating to reciprocity between EU member states such as Brussels I, the Enforcement Order, the EU/Denmark Agreement, the Lugano Convention, the Insolvency Regulation, EU Service Regulation and the Taking of Evidence Regulation. The UK will revert to domestic rules currently applied to non-EU cross-border cases.
- The government would look to retain rules which do not rely on reciprocity. Rome I and Rome II rules on contractual and non-contractual matters would be retained. Creative businesses can therefore continue to use the same rules to determine which law applies in cross-border disputes.

Preparations: If you are involved in a cross-border legal dispute you may wish to seek legal advice on the implications of the changes to judicial cooperation.

Consumer rights

- In the event of a 'No Deal Brexit', the government intends to ensure UK consumers retain the same protections they currently have when they buy from UK businesses. For UK companies operating in the EU, they will be subject to EU member state laws which may diverge over time.
- Consumers will find it harder to protect their rights when buying from the EU and they will be unable to use UK courts to seek redress from EU based traders. Any judgements from UK courts will no longer have reciprocal obligations on the UK or EU member states to investigate.

- The government will take steps to ensure consumers and businesses can use the [Alternative Dispute Resolution \(ADR\)](#) although this will no longer apply to cross-border disputes. Businesses will no longer be able to access and use the [Online Dispute Resolution \(ODR\)](#) platform.
- The government will also retain EU [textile](#) and [footwear](#) labelling rules in UK law. However, this will only apply to products placed on the UK market, and not the EU market.
- The government will also change the definition of a ‘responsible person’ in footwear labelling regulations. As a result, UK-based businesses which previously fell under retailer obligations – mainly those importing footwear from the EU to sell in the UK - will now have to meet the legal obligations of a ‘responsible person’.

Preparations: Businesses selling into EU countries should keep up to date on EU member state laws.

Businesses should continue to provide ADR in line with current obligations. However, they should remove all references to ODR from their websites.

Economic operators placing textile products on the UK market should comply with existing labelling requirements. All UK and EU businesses which place footwear on the UK market should consider checking the presence and accuracy of labels. The government will publish more guidance on this.

Explanatory memoranda will be published during the autumn.

Worker rights

- In the event of a ‘No Deal Brexit’, the UK will no longer be subject to EU Directives on workplace rights. This includes provisions covering annual leave, holiday pay, rest breaks, family leave entitlements, certain health and safety requirements, rules to prevent and remedy discrimination and harassment, protections for agency workers, and rules covering part-time, fixed-term and young workers.
- The powers of the EU Directives will transfer to the UK under the EU Withdrawal Act 2018. Government will make small amendments to language to ensure existing regulations reflect that the UK is no longer an EU member. Government also commits to working with devolved administrations to ensure workers’ rights are protected across the UK. Further information here: [employer rights](#), [affirmative employment rights](#), [negative employment rights](#), [health and safety](#) and [redundancy payments service](#).
- However, certain EU laws will cease to apply. The UK will no longer be part of the Insolvency Directive. People living in the UK and working for a UK or EU employer will continue to be protected and can make claims. However, UK or EU employees working outside the UK in an EU country for a UK employer may not be protected, as implementation varies in EU countries.
- The right of workers to request that their employer establish a [European Works Council](#) will also no longer apply. Government will ensure the measures in the existing Councils continue to be available in the UK “as far as possible”. However, no new European Works Council or Information and Consultation procedure can be made.

Preparations: UK and EU employees working in an EU member state should be aware of the specific legislation in that country. UK businesses and trade unions involved in European Works Councils should review them.

Appendix: Government's 'No Deal Brexit' Papers

- [The government's guarantee for EU-funded programmes if there's no Brexit deal](#)
- [Horizon 2020 funding if there's no Brexit deal](#)
- [Trade remedies if there's no Brexit deal](#)
- [Trading with the EU if there's no Brexit deal](#)
- [Classifying your goods in the UK Trade Tariff if there's no Brexit deal](#)
- [VAT for businesses if there's no Brexit deal](#)
- [State aid if there's no Brexit deal](#)
- [Erasmus+ in the UK if there's no Brexit deal](#)
- [Workplace rights if there's no Brexit deal](#)
- [Merger review and anti-competitive activity if there is a no Brexit deal](#)
- [Travelling to the EU with a UK passport if there is a no Brexit deal](#)
- [Broadcasting and video on demand if there is a no Brexit deal](#)
- [European Social Fund \(ESF\) grants if there is a no Brexit deal](#)
- [European Regional Development Funding if there is a no Brexit deal](#)
- [Data Protection if there is a no Brexit deal](#)
- [Handling civil legal cases that involve EU countries if there is a no Brexit deal](#)
- [Trading under the mutual recognition principle if there is a no Brexit deal](#)
- [Trading goods regulated under the 'New Approach' if there is a no Brexit deal](#)
- [European Territorial Cooperation funding if there is a no Brexit deal](#)
- [Copyright if there is a no Brexit deal](#)
- [Trademarks and designs if there is a no Brexit deal](#)
- [Patents if there is a no Brexit deal](#)
- [Exhaustion of intellectual property rights if there is a no Brexit deal](#)
- [Travelling within the Common Travel Area and the associated rights of British and Irish citizens if there is a no Brexit deal](#)
- [Workplace rights if there is a no Brexit deal](#)
- [Exporting objects of cultural interest if there is a no Brexit deal](#)
- [Existing free trade agreements if there is a no Brexit deal](#)
- [Providing services including those of qualified professionals if there is no Brexit deal](#)
- [Structuring your business if there is a no Brexit deal](#)
- [Geo-blocking of online content if there is a no Brexit deal](#)
- [Consumer rights if there is a no Brexit deal](#)
- [Trading and moving endangered species protected by CITES if there is a no Brexit deal](#)