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Beyond Brexit: trade in services

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The European Union Committee

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CONTENTS

| | <i>Page</i> |
|---|-------------|
| Summary | 3 |
| Chapter 1: UK-EU trade in services | 5 |
| Our inquiry | 5 |
| UK-EU trade in services | 6 |
| Figure 1: UK top five global goods and services exports | 7 |
| Chapter 2: Financial services | 9 |
| The TCA and the end of the transition period | 9 |
| Loss of passporting rights | 10 |
| Business preparedness | 11 |
| Relocation of financial services activity | 11 |
| Framework for cooperation | 12 |
| Equivalence | 14 |
| Equivalence for UK central counterparties | 14 |
| EU reluctance to grant equivalence | 15 |
| Limitations of equivalence | 16 |
| Future divergence | 16 |
| Reforming the equivalence framework | 17 |
| Divergence, competitiveness and standards | 18 |
| The future regulatory landscape and parliamentary oversight | 19 |
| UK influence in setting standards | 20 |
| Chapter 3: Professional and business services | 21 |
| Professional and business services in the UK | 21 |
| Box 1: Services trade and the World Trade Organization (WTO) | 22 |
| Professional and business services in the TCA | 22 |
| Market access and national reservations | 23 |
| Impact of national reservations on different sectors | 25 |
| Case study: legal services | 26 |
| Mobility | 27 |
| Provisions in the TCA | 27 |
| Box 2: Types of business visitor | 28 |
| Business mobility and COVID-19 | 30 |
| Local presence and cross-border supply | 31 |
| Provisions in the TCA | 31 |
| Mutual recognition of professional qualifications | 32 |
| Provisions in the TCA | 32 |
| Framework for future recognition of qualifications in the TCA | 33 |
| Government support | 34 |
| Equivalence decisions | 35 |
| Divergence and opportunities | 36 |
| Governance and engagement | 37 |
| Chapter 4: Data and digital trade | 39 |
| Data adequacy | 39 |
| Importance of data adequacy | 40 |
| Long-term picture | 41 |
| Digital Trade | 41 |
| Digital trade chapter of the TCA | 41 |

| | |
|---|-----------|
| Looking forward | 42 |
| Chapter 5: Creative industries | 44 |
| Creative industries in the UK | 44 |
| Mobility for creative professionals | 45 |
| Importance of mobility | 45 |
| Movement of professionals | 46 |
| Movement of goods | 47 |
| Potential mitigations | 48 |
| Creative Europe | 50 |
| Intellectual property | 51 |
| Exhaustion | 51 |
| Audio-visual sector | 51 |
| Managing regulatory divergence | 52 |
| Chapter 6: Research and education | 54 |
| The UK's research and education sector | 54 |
| Research funding | 54 |
| Horizon Europe | 54 |
| Domestic research funding | 56 |
| Mobility | 58 |
| Erasmus+ | 58 |
| Turing scheme | 59 |
| Other mobility | 62 |
| Summary of conclusions and recommendations | 63 |
| Appendix 1: List of Members and declarations of interest | 68 |
| Appendix 2: List of witnesses | 72 |
| Appendix 3: Call for evidence | 76 |

Evidence is published online at <https://committees.parliament.uk/work/945/future-ukeu-relations-trade-in-services/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Q in footnotes refers to a question in oral evidence.

SUMMARY

Services are central to the UK's economy: service industries accounted for 80% of UK economic output in 2019.¹ The UK exported £317 billion of services to the EU and imported £217 billion of services from the EU in 2019.² The UK has consistently run a trade surplus in services; the surplus in global services trade was £83.4 billion in 2018.³

After four and a half years of uncertainty, the UK and EU agreed the EU-UK Trade and Cooperation Agreement (TCA) on 24 December 2020. This was welcomed by the services sector, which would have suffered in a 'no agreement' scenario, but significant challenges remain and negotiations on the shape of the UK-EU relationship on trade in services will continue in the years to come. It is in both sides' mutual interests to ensure there is a positive and cooperative relationship, to ensure that trade continues to flow, and that future challenges can be addressed.

In this report, we consider the future UK-EU relationship on trade in services by looking at the key sectors in turn—financial services, professional and business services, data and digital trade, the creative industries, and research and education. We consider the crucial elements in the TCA affecting trade in services between the UK and the EU, as well as the areas where further agreement is required. We took evidence throughout January and February, so this is necessarily a first look and many of the TCA's mobility provisions have not yet been tested because of COVID-19 mobility restrictions. We are sure that other opportunities and hurdles will come to light over time.

Financial services

The TCA does not include substantive provisions on financial services, and delays to key decisions about the future relationship, particularly on equivalence, mean that the sector is still in a period of uncertainty. We recognise that the UK and the EU will seek to change their regulatory regimes where it is in either Party's interest, but call on the Government not to disregard the value of a close UK-EU relationship in financial services. A deep level of regulatory cooperation between the UK and EU will be in the interests of both sides to help manage future divergence. Parliament must consider how best to scrutinise the new powers of the regulators. More broadly, the UK should use its influence on the world stage to promote an outcomes-based approach to equivalence and maintain best practice.

Professional and business services

Professional and business services form an important part of the UK economy and are closely interlinked with other goods and services sectors. At first glance, the TCA offers substantial trade liberalisation for these services in comparison to World Trade Organisation (WTO) terms, but the proliferation of national reservations to the agreement means that UK service providers face a patchwork of complicated rules that vary by sector and Member State. This fragmentation

1 As Gross Value Added. House of Commons Library, Services industries: key economic indicators, [Library Note 02786](#), 3 March 2021

2 House of Commons Library, Statistics on UK-EU trade, [Library Note 7851](#), 10 November 2020

3 Office for National Statistics, 'International trade in services, UK 2018': <https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/bulletins/internationaltradeinservices/2018#the-total-uk-trade-in-services-surplus-increased-in-2018> [accessed 8 March 2021]

is likely to hit small operators the hardest, and the Government should do all it can to support and offer guidance to these businesses. In particular, the lack of mutual recognition of professional qualifications in the TCA could have a serious impact on many sectors, so the Government and regulators should explore all options, including a side agreement to the TCA, to alleviate this issue.

Data and digital trade

The TCA offers unprecedented cooperation on digital trade compared with other EU FTAs, and it is expected that the EU's draft data adequacy decision will be confirmed in the coming weeks. Both sides should work together to ensure that these positive developments can be maintained to keep pace with innovation in this sector.

Creative industries

The UK punches well above its weight in the creative industries: the sector was worth £100 billion in 2019. This sector has been hit hard by the COVID-19 pandemic and its recovery will depend to some extent on getting the relationship with the EU right. We are deeply concerned about the potential impact of mobility provisions in the TCA on the over two million people employed in the creative industries, which could make touring prohibitively bureaucratic and expensive. We call on the Government and EU to work together to remedy this situation before international travel resumes.

Research and education

The research and education sector welcomes the Government's decision to associate to the Horizon Europe programme, which will enable UK researchers to continue to participate in cutting-edge collaborative research. Government should make clear how domestic research funding will complement EU funding, for example for innovation funding for SMEs. We regret that the Government decided not to participate in the Erasmus+ programme on the basis of cost. While the proposed domestic alternative, the Turing scheme, is welcome, it does not make provision for inbound student mobility, does not cover tuition fees, and we are concerned that the proposed budget will not cover the costs of the scheme. We do not see this scheme as a replacement for the Erasmus+ programme and hope that the Government will consider re-joining Erasmus+ in the future.

Across all of these sectors, there are areas where collaboration will be mutually beneficial to ensure that there is regulatory cooperation, partnership to address new challenges, and a joint commitment to remove barriers to trade in services.

Beyond Brexit: trade in services

CHAPTER 1: UK-EU TRADE IN SERVICES

Our inquiry

1. On 24 December 2020, the UK and EU announced that they had reached an agreement on the future relationship. The EU-UK Trade and Cooperation Agreement (TCA) was published on the same day and came into force on 1 January 2021. The domestic legislation needed to give effect to the TCA was passed by the UK Parliament on 30 December 2020, prior to ratification, and it has also been provisionally applied in the EU.
2. In some ways, the TCA marked a conclusion to four and a half years of debate and discussion about what the UK's future relationship with the EU will look like. For many services sectors, it set out how businesses should expect to trade with the EU, including provisions on mobility, the cross-border supply of services and rules of establishment, among others. But the TCA does not signify the end of negotiations between the UK and EU. The UK exports £317 billion worth of services and imports £217 billion from the EU.⁴ Both sides should seek to build on the TCA, to improve the relationship in areas where it is in their common interest.
3. In January 2021, the House of Lords EU Select Committee launched an inquiry into “the future of UK-EU relations: the institutional framework”. The four sub-committees launched inquiries analysing the TCA and its impact on areas related to their remits. This report considers the UK-EU future relationship on trade in services, particularly the impact of the TCA.
4. We heard from 17 witnesses in person and received 65 written submissions throughout January and February 2021. We have considered the crucial elements affecting trade in services between the UK and the EU. We make our recommendations just three months after the publication of the TCA and recognise that in some areas we can offer only a preliminary view, especially in light of the COVID-19 pandemic.
5. In this report, we take a sector-by-sector view to consider the impact of the TCA on trade in services. We look at financial services (Chapter 2), professional and business services (Chapter 3), data and digital trade (Chapter 4), the creative industries (Chapter 5) and research and education (Chapter 6).
6. Each of these sectors faces different opportunities and challenges from the future UK-EU relationship. There are some common themes, however, which are addressed in each chapter. These include the importance of mobility provisions, the role of data transfers, and the need for effective Government guidance and communications. We consider the areas where the TCA puts up new barriers, and how these may be overcome. We also look at the opportunities to forge a new kind of relationship with Europe. Throughout, we build on the work of past reports and letters from the European Union Committee and its sub-committees.

4 Department for International Trade, *UK Trade in Numbers*, February 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868378/200227_UK_trade_in_Numbers_full_web_version_final.pdf [accessed 24 February 2021]

UK-EU trade in services

7. The services sector is at the heart of the UK economy, and the UK is a world leader in many services industries, which accounted for 80% of total UK economic output in 2019.⁵ Many of these industries are interconnected: for example, a flourishing financial services sector depends on the legal, audit and accountancy firms, and an innovative research environment depends on a thriving education sector.
8. The UK's services industries are spread across the nations and regions of the UK, and many sectors consist mostly of small businesses. In 2020, there were 4.5 million UK businesses in the services sector, accounting for three quarters of all businesses in the UK.⁶ These businesses were responsible for 79% of UK employment and 71% of total turnover in 2019.⁷ The average number of employees for firms in the professional and business services sector is fewer than four.⁸
9. The UK punches well above its weight in many services sectors, including:
 - **Financial services:** The financial services sector contributed £132 billion to the UK economy in 2019, amounting to 6.9% of total economic output.⁹ Exports of UK financial services were worth £60 billion in 2019, with a trade surplus of £41 billion.¹⁰
 - **Professional and business services:** Professional and business services are the UK's leading services export and the UK is second only to the US on the world stage for trade in this area.¹¹ This sector provides specialised support to businesses and the public sector, including advertising, legal services, market research, accountancy, architecture, engineering, design, management consulting, and audit. They accounted for almost 12% (£224.8 billion) of the UK economy's gross value added, 13% of the workforce (4.6 million jobs), and 23% of all registered businesses in 2019.¹²
 - **Music:** The UK is one of only three net exporters of music globally¹³ and ranks third in the world for sales of recorded music (behind only the US and Japan).¹⁴ The sector contributes £5.8 billion to the UK economy annually,¹⁵ employs over 100,000 people,¹⁶ and the UK produced some of the highest-grossing global tours of 2019.¹⁷

5 Measured in Gross Value Added. House of Commons Library, Services industries: key economic indicators, [Library Note 02786](#), 3 March 2021

6 House of Commons Library, Services industries: key economic indicators, [Library Note 02786](#), 3 March 2021

7 *Ibid.*

8 Oral evidence taken before the EU Services Sub-Committee on 4 June 2020 (Session 2019–21), [Q 1](#) (Sally Jones, EY)

9 House of Commons Library, Financial services: contribution to the UK economy, [Library Note 6193](#), 1 February 2021

10 *Ibid.*

11 Written evidence from the Professional and Business Services Council to the inquiry on the future UK-EU relationship on professional and business services (Session 2019–21) ([PBS0007](#))

12 European Union Committee, [The future UK-EU relationship on professional and business services](#) (13th Report, Session 2019–21, HL Paper 143)

13 Written evidence from UK Music ([FTS0046](#))

14 IFPI, *Global music report: the industry in 2019*: https://www.ifpi.org/wp-content/uploads/2020/07/Global_Music_Report-the_Industry_in_2019-en.pdf [accessed 10 March 2021]

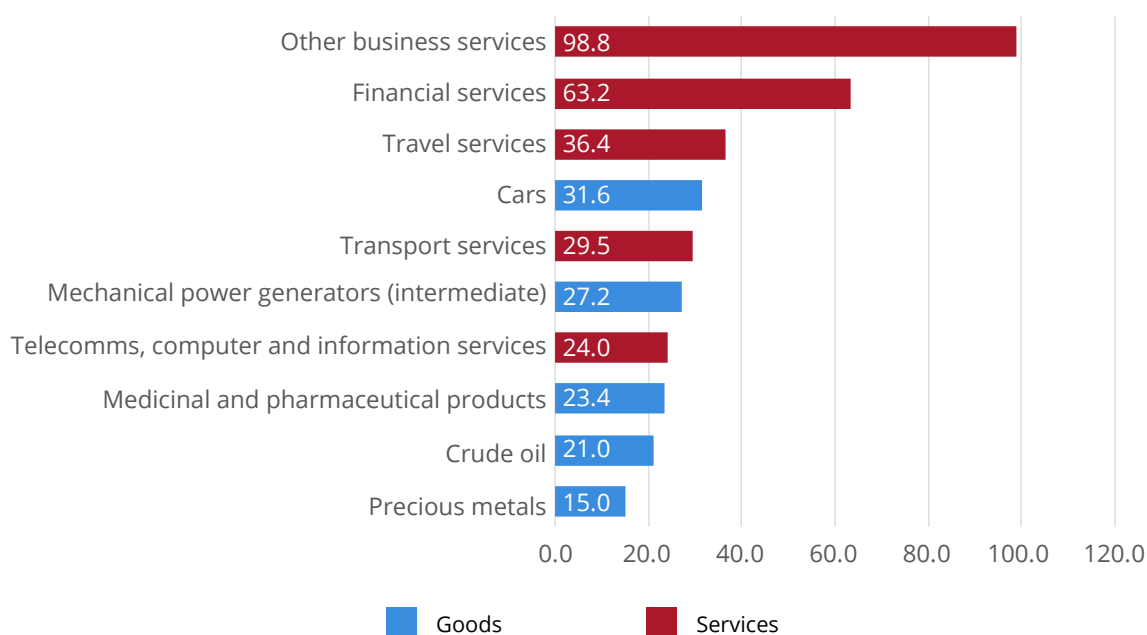
15 Written evidence from the Incorporated Society of Musicians ([FTS0038](#))

16 [Q 13](#) (Horace Trubridge, Musicians' Union)

17 Written evidence from the Music Managers Forum ([FTS0016](#))

- **TV:** The UK is the world's second largest exporter of TV content, with exports of £1.5 billion in 2019/20; £490 million of these exports went to Europe.¹⁸ The UK is the largest international exporter of TV programme formats.¹⁹
 - **Research:** the UK is the world's third most prolific producer of research by volume, behind the US and China, but has ranked first internationally every year since 2007 for quality, as measured by field-weighted citation impact.²⁰
10. Trade with the EU will continue to be an important part of the UK's success in these industries. As Figure 1 shows, the UK's top export globally is 'other business services', worth £98.8 billion, which includes professional, management consulting, technical and trade-related services and is more than the top three goods categories combined.²¹ Research by the Federation of Small Businesses has shown that the EU as a bloc is the largest trading partner for small firms, regardless of whether they trade in goods or services.²²

Figure 1: UK top five global goods and services exports (£billions)



Source: Department for International Trade, *UK Trade in Numbers*, February 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868378/200227_UK_trade_in_Numbers_full_web_version_final.pdf [accessed 2 March 2021]

11. The TCA secures important trade liberalisation in some areas of service trade, such as digital services, mobility for some business travellers and intellectual property provisions. But this report also highlights many areas where both sides need to work together to overcome barriers. The EU is yet to grant the UK the bulk of the financial services equivalence decisions

18 [Q 13](#)

19 Written evidence from PACT ([FTS0026](#))

20 Oral evidence taken before the EU Services Sub-Committee on 22 October 2020 (Session 2019–21), [Q 1](#) (Vivienne Stern, Universities UK)

21 Department for International Trade, *UK Trade in Numbers*, February 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868378/200227_UK_trade_in_Numbers_full_web_version_final.pdf [accessed 24 February 2021]

22 Written evidence from the Federation of Small Businesses ([FTS0052](#))

required to enable transactions to flow freely, and the two sides are yet to agree the future of regulatory cooperation. UK professionals may miss out if their qualifications are not recognised in the EU. The current rules on mobility for creative professionals would serve to stifle creative innovation in both the UK and EU. Without access to the Erasmus+ programme, the opportunities available to students and universities are restricted. All these mutual challenges, and many more besides, will require that the UK and the EU continue to work together while recognising their new relationship.

12. **We make this report for debate.**

CHAPTER 2: FINANCIAL SERVICES

The TCA and the end of the transition period

13. The financial services sector is a major contributor to the UK economy. TheCityUK's December 2020 report, *Key Facts About the UK as an International Financial Centre 2020*, calculated that in 2019 the UK's trade surplus in financial services was \$77 billion (£55 billion), rising to \$102 billion (£73 billion) with the inclusion of related professional services. In the same year, the UK was the world's largest net exporter of financial services, ahead of the United States (£43 billion), Switzerland (£17 billion) and Singapore (£17 billion). Some 34.3% of UK financial services exports went to EU countries, and 30.2% to the United States. The report noted that the UK's strength in financial services "is derived not only from the high volume and value of transactions, but also the breadth of services and expertise available—the 'ecosystem' effect."²³ Financial services contributed £75.6 billion to public finances in the UK through taxes in 2019/20, amounting to more than 10% of total UK tax receipts.²⁴
14. The TCA's short section on financial services states that the UK and the EU shall:
 - apply internationally agreed standards in the financial services sector;
 - permit companies from the other Party to supply any new financial service as they would a domestic company;
 - ensure that any relevant self-regulatory organisation observes obligations under other provisions of the TCA; and
 - grant access to payment and clearing systems and official funding and refinancing facilities to financial services suppliers of the other Party established in their territories.
15. It also contains a "prudential carve-out", stating: "Nothing in this Agreement shall prevent a Party from adopting or maintaining measures for prudential reasons."²⁵
16. The Government told us the TCA "will provide a baseline of rights and protections for financial services firms providing services in the UK and the EU. It enshrines the core non-discriminatory provisions set out under the World Trade Organisation (WTO) into our bilateral agreement, ensuring that financial services firms receive fair treatment."²⁶
17. In the words of TheCityUK, "For financial services, the TCA and its ancillary texts are relatively non-prescriptive, leaving much to be determined by the

23 TheCityUK, *Key facts about the UK as an international financial centre 2020*, December 2020: <https://www.thecityuk.com/assets/2020/Reports/8716847a2f/Key-facts-about-the-UK-as-an-international-financial-centre-2020.pdf> [accessed 1 March 2021]

24 City of London Corporation, *The total tax contribution of UK financial services in 2020*, February 2021: <https://www.cityoflondon.gov.uk/assets/Business/total-tax-contribution-2020.pdf> [accessed 4 March 2021]

25 Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (24 December 2020): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/948119/EU-UK_Trade_and_Cooperation_Agreement_24.12.2020.pdf [accessed 23 February 2021]

26 Written evidence from BEIS (FTS0019)

attitudes and plans of the parties.” This creates “a degree of uncertainty”, as important decisions about the future relationship remain “relatively open, with room for a spectrum of outcomes for UK financial services suppliers ranging from the favourable to the disadvantageous”.²⁷

18. Miles Celic, CEO, TheCityUK, said “the fact that there is a deal is very welcome”, both because “the people who are covered much more by a deal tend to be our clients”, and because the avoidance of “acrimony” means “we have in place a foundation or platform that we can build on—a launchpad for further engagement”.²⁸ UK Finance similarly described the fact of an agreement as “important, because it provides a governance structure for the services relationship and is the first step to rebuilding the trust and close cooperation that will be important in supporting cross-border trade and investment in financial services”.²⁹
19. The absence of substantial financial services provisions in the TCA is unfortunate but not unexpected. Nick Collier, Managing Director (Brussels), City of London Corporation, described the lack of “more ambition” as “disappointing”.³⁰ Miles Celic noted that “decisions on equivalence and the big ticket decisions on regulation will be taken unilaterally. There is no mechanism for joint decision-making.”³¹
20. Nick Collier pointed to “some crumbs of comfort” in the TCA, such as the “nice reference ... to working together on international standards”, as well as the absence of both a “cross-retaliation mechanism applying to financial services”, and a ‘most favoured nation’ provision, which means that “potentially we can do deeper deals with others now that we have taken back control of our trade policy”.³² The Scottish Government, although broadly critical of the TCA as a replacement for EU membership, described the provision facilitating trade in emerging financial services technologies as something “of interest to the Scottish Fintech sector”, which “may present an opportunity ... to maintain opportunities in new and emerging markets”.³³

Loss of passporting rights

21. As long ago as December 2016 the European Union Committee warned that equivalence arrangements would be an “inadequate substitute” for passporting rights, whereby an authorisation issued by one EU Member State is automatically recognised by all others.³⁴ Our concern was justified. UK Finance warned that the loss of passporting “sharply narrows the scope for cross-border contracting in EU-UK financial services trade”,³⁵ while Professor Sarah Hall and Martin Heneghan, University of Nottingham, described the loss as “significant because passporting had been an important element in stimulating the export success of financial services.”³⁶ The Loan Market Association warned that “the TCA’s lack of provisions to mitigate”

27 Written evidence from TheCityUK ([FTS0056](#))

28 [Q 2](#)

29 Written evidence from UK Finance ([FTS0027](#))

30 [Q 2](#)

31 *Ibid.*

32 *Ibid.*

33 Written evidence from the Scottish Government ([FTS0057](#))

34 European Union Committee, *Brexit: financial services* (9th Report, Session 2016–17, HL Paper 81), para 55

35 Written evidence from UK Finance ([FTS0027](#))

36 Written evidence from Professor Sarah Hall and Martin Heneghan, University of Nottingham ([FTS0029](#))

the loss of passporting “will negatively affect the ability of UK financial institutions to lend out to the EU27”, and “may lead to a reduction in the UK’s market share”.³⁷

22. The end of passporting rights means that cross-border trade between UK firms and EU customers and clients will, to cite TheCityUK, “rely principally on the UK securing EU equivalence decisions, which are much less comprehensive, or ... complying with Member State market access regimes”.³⁸

Business preparedness

23. The lack of short-term disruption at the end of the transition period is testament to the sector’s extensive preparations. Miles Celic said the sector had “hoped for the best but prepared for the worst”, and had expended “huge amounts of time, resource and effort ... working closely with regulators and with government, in the UK and across the EU, to make sure that all the preparations that could be made were made”.³⁹
24. Nick Collier provided some detail on these preparations: “UK-based firms offering services into the EU have all had to seek to set up new licensed entities on the continent, if they did not already have them, and to repaper their EU clients to those entities.”⁴⁰ The Scottish Government noted that among the financial services providers to have “shifted substantial parts of their business to affiliates established inside the Single Market” were Scottish Widows (Luxembourg), Standard Life Aberdeen (Dublin) and Royal Bank of Scotland (Amsterdam).⁴¹

Relocation of financial services activity

25. Although it has yet to fully materialise, we heard continuing concern over the long-term movement of financial services jobs from the UK to EU countries. Miles Celic said job shifts would take place “not at the cliff-edge point at which we left the EU or we left the transition period, but as the implications of the shift in business take place”. Nick Collier noted that the COVID19 pandemic had constrained physical movement, warning: “I do not think we have yet seen the full shake-out of relocations from firms.”⁴² Conversely, approximately 1,000 EU-based financial services firms without an existing UK presence had applied for permission to operate in the UK since the Temporary Permissions Regime was launched in 2018.⁴³ Of course, the COVID-19 pandemic means that it is difficult to compare inward investment with previous years.
26. Miles Celic said that the extent of any shift of wider financial services activity to the EU in the long term would depend “on what happens on decisions on equivalence”, on EU reforms to its “regulatory approach”, and on the Treasury’s approach to “modernising and continuing to make the

37 Written evidence from the Loan Market Association ([FTS0025](#))

38 Written evidence from TheCityUK ([FTS0056](#))

39 [Q 1](#)

40 *Ibid.*

41 Written evidence from the Scottish Government ([FTS0057](#))

42 [Q 1](#)

43 Bovill, ‘London to remain financial services centre of Europe’, 22 February 2021: <https://www.bovill.com/london-remains-financial-service-centre-of-europe-final-numbers-show/> [accessed 4 March 2021]

UK an attractive place to come and invest and do business”.⁴⁴ He pointed to indications that New York—the other “major international financial centre”, alongside London—is going to be one of the big winners” and has already started to attract some UK activity.⁴⁵ Similarly, Barclays CEO Jes Staley said London should focus on competing with “not Frankfurt or Paris ... [but] New York and Singapore”.⁴⁶

27. **Financial services are an important part of the UK economy. The sector contributes £132 billion to the UK, amounting to 6.9% of total economic output, and contributed more than 10% of UK tax receipts in 2019/20. While the absence of substantive financial services provisions in the TCA was disappointing, it was not a surprise, and the sector was well prepared for 1 January. But delays to key decisions about the future relationship, particularly on equivalence, mean that financial services remain in a period of uncertainty.**
28. **The results of the UK’s exit from the passporting regime have included the movement of some activity to the EU and firms facing the challenges involved in navigating different market access requirements in each Member State. We are concerned that it may, over time, lead to a substantial shift of people and assets out of the UK.**

Framework for cooperation

29. Alongside the TCA, the Parties published a *Joint Declaration on Financial Services Regulatory Cooperation Between the European Union and the United Kingdom*, in which they commit to agreeing a memorandum of understanding establishing the framework for structured regulatory cooperation on financial services by March 2021.⁴⁷ At the time of writing, the memorandum of understanding was yet to be published.
30. The Government told us that future UK-EU cooperation “is likely to involve regular dialogue: both high-level, formal meetings between UK and EU officials, and more regular working-level engagement”. It added: “We are seeking arrangements that reflect the fact that the UK and the EU are large and close financial services jurisdictions and are aligned with what we aim to achieve with other similar jurisdictions.”⁴⁸
31. We welcome the planned creation of this framework, which the EU Financial Affairs Sub-Committee recommended in its 27 March 2020 letter to the Chancellor.⁴⁹ Nick Collier described the text of the joint declaration as “very clear” and “very sensible”, and hoped for “consultation with industry on the whole dialogue from both sides”.⁵⁰ Standard Life Aberdeen, echoing this wish, added that the dialogue should have “a strong focus on equivalence determinations”, and provide “certainty to all investors, including on the

44 [Q 5](#)

45 [Q 1](#)

46 BBC News, ‘Barclays urges UK to focus on US and Asia post Brexit’, 5 February 2021: <https://www.bbc.co.uk/news/business-55939857> [accessed 4 March 2021]

47 European Commission, ‘Draft EU-UK declarations’, 26 December 2020: https://ec.europa.eu/info/sites/info/files/draft_eu-uk_declarations.pdf [accessed 23 February 2021]

48 Written evidence from BEIS ([FTS0019](#))

49 Letter from Baroness Donaghy, Chair, EU Services Sub-Committee, to Rt Hon. Rishi Sunak MP, Chancellor of the Exchequer, 27 March 2020: <https://committees.parliament.uk/publications/476/documents/1873/default/>

50 [Q 3](#)

granting and withdrawal of equivalence decisions”, by making “decisions on each side as foreseeable and predictable as possible”.⁵¹

32. The memorandum of understanding will facilitate regulatory dialogue and cooperation, but Miles Celic stressed the need to be “clear-eyed and realistic about what it is and what it is not”, as it will have “negligible legal effect”. He added that it is “explicitly not a joint decision-making mechanism”. Rather, it is “a necessary but not sufficient part of the longer-term relationship between regulators”, which must “continue to be based on trust and mutual respect”.⁵² TheCityUK added that the memorandum of understanding “should serve as part of the effort to establish a positive post-Brexit working relationship between the two sides”.⁵³
33. It is clear that regulators participating in this dialogue will do so from a similar starting point, which should provide for smooth cooperation—at least initially. Miles Celic noted: “The regulators know each other on both sides; they have all sat on the same committees and worked on the same legislation.” Nick Collier noted that regulators and practitioners on both sides also face “various common major challenges”, such as pandemic recovery, sustainability and digitisation. He said the EU is confident that it can have “a very positive, deep and fruitful dialogue with its UK counterparts”, and “specifically, that we can have a deeper dialogue than the EU currently has with the US or with Japan”.⁵⁴
34. Mutual trust will be key to a successful UK-EU relationship in financial services. It would be “deeply regrettable, and absolutely not in the interests of either side”, Miles Celic said, if they were to “end up with an ongoing scratchy, slightly pedantic relationship that goes on for year after year after year, with constant negotiation, renegotiation and bargaining”. UK Finance agreed: “The precise form of this dialogue is less important than the general levels of trust, collaboration and transparency that it should express.” It called for “high-level strategic agenda-setting at the level of Ministers and Senior Commission officials”, accompanied by “a constant stream of activity involving policymakers, regulators, parliamentarians, civil society and firms”.⁵⁵ The City of London Corporation recommended a “permanent EU/UK Forum ... co-chaired by representatives of HM Treasury and the European Commission”.⁵⁶
35. **We welcome the plan for structured regulatory cooperation in financial services, which we hope will be a solid foundation for future UK-EU relations. However, this dialogue will be worth little if it is not based on transparency and trust. We urge the Government and regulators to pursue as deep a level of cooperation, predictability and information sharing as possible. The Government should consult regularly to ensure it is representing the UK financial services sector’s interests and priorities in the dialogue.**

51 Written evidence from Standard Life Aberdeen ([FTS0044](#))

52 [Q 3](#)

53 Written evidence from TheCityUK ([FTS0056](#))

54 [Q 3](#)

55 Written evidence from UK Finance ([FTS0027](#))

56 Written evidence from the City of London Corporation ([FTS0060](#))

Equivalence

36. By granting equivalence in a certain area of financial services, the European Commission or UK Government affirm that a foreign jurisdiction's rules and supervision are equivalent to their own and that providers of financial services from the other Party can therefore benefit from the same market access as domestic providers. This is a unilateral decision that sits formally outside any bilateral negotiations. The Government has long argued in favour of comprehensive mutual equivalence findings between the UK and the EU, based on the broad outcomes produced by the other Party's rules rather than a line-by-line replication of those rules. On 9 November 2020, HM Treasury announced that the UK would grant equivalence to the EU in a wide range of areas.
37. The Commission maintains that, having "assessed the UK's replies to the Commission's equivalence questionnaires in 28 areas", it requires "further clarifications" about "how the UK will diverge from EU frameworks", as well as "how it will use its supervisory discretion regarding EU firms and how the UK's temporary regimes will affect EU firms".⁵⁷
38. The *Joint Declaration on Financial Services Regulatory Cooperation Between the European Union and the United Kingdom* states that, within the framework for structured regulatory cooperation on financial services, the UK and the EU will "discuss, inter alia, how to move forward on both sides with equivalence determinations between the Union and United Kingdom, without prejudice to the unilateral and autonomous decision-making process of each side".⁵⁸

Equivalence for UK central counterparties

39. In recent years, the EU has granted a number of financial services equivalence decisions to other jurisdictions, such as Australia (17 decisions), Canada (18) and the United States (21).⁵⁹ But the only two positive equivalence decisions the EU has so far granted the UK are an 18-month extension for central counterparties (CCPs), which take on the credit risk between the parties to a transaction and provide clearing services for trades in various financial products, and a six-month extension for central securities depositories, which hold securities such as shares to facilitate transfer of ownership. A Communication on 19 January hinted that the Commission would prefer to avoid granting indefinite equivalence to UK CCPs, stating that "there is a clear expectation that Union clearing members reduce their exposures to UK CCPs", and that "EU CCPs need to build up their clearing capability".⁶⁰
40. At present, a large proportion of euro-denominated clearing takes place through UK CCPs, which therefore remain of great importance to the EU. London Stock Exchange Group told us that any policy to deny recognition of UK CCPs "would have detrimental effects on EU financial stability" and

57 European Commission, 'Questions & Answers: EU-UK Trade and Cooperation Agreement', 24 December 2020: https://ec.europa.eu/commission/presscorner/detail/en/qanda_20_2532 [accessed 24 December 2020]

58 European Commission, *Draft EU-UK declarations*, 26 December 2020: https://ec.europa.eu/info/sites/info/files/draft_eu-uk_declarations.pdf [accessed 23 February 2021]

59 European Commission, *Equivalence taken by the European Commission as of 10/02/2021*: https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/overview-table-equivalence-decisions_en.pdf [accessed 23 February 2021]

60 Communication from the Commission to the European Parliament, the Council, the European Central Bank, the European Economic and Social Committee and the Committee of the Regions, [COM\(2021\) 32](#), 19 January 2021

“increase systemic risk for EU firms and damage their competitiveness”. For example, it would “undermine the European Commission’s and ECB’s efforts to increase the international role of the Euro” and “discourage the clearing and overall use of the Euro on international markets, creating fragmenting clearing and potentially leading to more regionalised use of the Euro”.⁶¹

41. The interconnectedness of the financial services sector is such that most parts of it would benefit from further positive equivalence determinations. For example, Standard Life Aberdeen said while it is “not directly dependent on any element of the EU’s equivalence regime for continuity of our operations”, the absence of equivalence “creates complexities in market infrastructure which impacts the routing of trade flows and regulatory reporting”.⁶²

EU reluctance to grant equivalence

42. Witnesses agreed that the EU making further positive equivalence determinations in the short term was desirable but unlikely. Any further decisions are likely to be in areas where the EU judges UK equivalence to be in its own interest. Nick Collier expressed hope that regulatory cooperation might “unlock” some equivalence decisions, but warned that “it is not an automatic linkage”.⁶³
43. There appear to be at least two reasons for the EU’s reluctance to grant equivalence in more areas. The first is the Commission’s apparent expectation that the UK will diverge from the EU rules it inherited at the end of the transition period. Miles Celic said there was “misplaced concern” in the EU that the UK “will go down some bonfire of regulations route”.⁶⁴ Recounting a meeting in late 2020 at which “a very senior EU official” said the UK was “going to diverge from EU rules”, Miles Celic said that he did not expect divergence to be “particularly radical, certainly not in the short term”, though there may be “greater shifts” in areas such as “fintech, data and green—the future areas of the industry that we are evolving into”.⁶⁵
44. The second reason, as implied in the Commission’s stance on CCPs, is that the EU seeks to attract UK financial services activity to its own shores. Our witnesses viewed this as politicisation and, in Miles Celic’s words, “a market location policy rather than a market efficiency policy”.⁶⁶ It was reported in February that Amsterdam had overtaken London as Europe’s leading share-trading venue,⁶⁷ but this shift is unlikely to have a significant direct effect on UK or EU investors. In such areas, Nick Collier told us, it is “essentially a political decision not to grant equivalence to the UK platforms ... not a technical decision”, and “where there is clearly a political push to onshore activity, particularly in euro assets, to build up the international role of the euro”, the EU is “using the lack of equivalence to force a lot of that business onshore”.⁶⁸ He added that, in so doing, the EU would be blocking its own access to “all the international markets where London is very strong”,

61 Written evidence from London Stock Exchange Group (FTS0064)

62 Written evidence from Standard Life Aberdeen (FTS0044)

63 Q 4

64 *Ibid.*

65 Q 5

66 Q 4

67 BBC News, ‘Brexit: London loses out as Europe’s top share trading hub’, 11 February 2021: <https://www.bbc.co.uk/news/business-56017419> [accessed 4 March 2021]

68 Q 4

such as trade in commodities, international securities or foreign exchange derivatives.⁶⁹

45. A third potential explanation for the EU’s stance on equivalence is that it may be seeking concessions in other, officially unrelated, areas. Miles Celic highlighted “the attempt to use equivalence, in the way the EU often does, as a further form of leverage in negotiations”.⁷⁰ It is difficult to state with any certainty whether such concerns are well-founded.

Limitations of equivalence

46. While EU equivalence decisions are of great importance to the UK in some areas, such as CCPs, in others they are less essential, particularly because equivalence provides far less certainty and market access than UK financial services providers enjoyed before the end of the transition period. The Scottish Government observed that “equivalence provides firms with much less certainty” than passporting, because “it is normally granted for a limited duration and can be revoked at 30 days’ notice”.⁷¹ Moreover, some industries, such as insurance intermediaries, are not covered by an EU equivalence framework, which TheCityUK said leaves them “reliant on local law in each EU Member State”.⁷²
47. The longer the UK is without EU equivalence decisions, the less important they become. Miles Celic warned that “the longer we do not have equivalence on the EU side, the more the concrete will set”. As companies incur the costs associated with securing regulatory licences and moving people and capital, he said, equivalence becomes less of a concern.⁷³ Professor Sarah Hall and Martin Heneghan agreed that “equivalence is a perishable good and its value for UK financial services will decline over time”, as the potential costs of reversing contingency measures increase.⁷⁴ In such a situation, it is conceivable that ‘accidental’ divergence will occur, with both Parties adopting regulatory measures suited for their own market without considering the impact on equivalence—although, as Miles Celic said, there is not currently much evidence of it, “because everybody is so sensitised to the relationship on both sides”.⁷⁵

Future divergence

48. Divergence will take place on the EU as well as the UK side. Nick Collier stressed that the EU—“a giant sausage-making machine for legislation”—will itself “diverge from the status quo of today”. Indeed, on securities “it looks likely that the EU will deregulate and take out one of the tough rules on research unbundling that the UK put in, so they are diverging—downwards”.⁷⁶ Miles Celic similarly cautioned that the EU “is also going through a process of changing its regulation”.⁷⁷

69 [Q 5](#)

70 [Q 4](#)

71 Written evidence from the Scottish Government ([FTS0057](#))

72 Written evidence from TheCityUK ([FTS0056](#))

73 [Q 4](#)

74 Written evidence from Professor Sarah Hall and Martin Heneghan, University of Nottingham ([FTS0029](#))

75 [Q 7](#)

76 *Ibid.*

77 [Q 4](#)

49. Andrew Bailey, Governor of the Bank of England, has repeatedly stated that the UK should not “become a rule-taker”. On 6 January, he said that equivalence is not “the be-all and end-all” and that, “if the price of this is too high, I am afraid we cannot just go for it whatever”.⁷⁸

Reforming the equivalence framework

50. Looking further ahead, witnesses hoped that the EU would reform its approach to equivalence. Nick Collier pointed out that provisions “built into many pieces of EU legislation were not designed for the UK. They were designed for recognising credit rating agencies in Asia or in the US, for example.”⁷⁹ The bloc’s approach “is increasingly out of line with the international thinking”, which favours “relying on others’ rules that are not necessarily identical”. This was “surely the right way forward”.⁸⁰ The Parties, he argued, should seek to “lock in some kind of mutual dependency” by using “deference”⁸¹—a more outcomes-based and less prescriptive approach.⁸²
51. Miles Celic said there was recognition in the EU that it “will want to look at” the 30-day notice period for withdrawing some forms of equivalence, and consider introducing “some form of mechanism that recognises the reality that it is a process”. This may include, for example, a warning to third countries that they are close to diverging too far to maintain equivalence, giving them time to amend their legislation if necessary.⁸³ Standard Life Aberdeen also saw merit “in encouraging both sides to warn the other about early concerns around determinations and providing an opportunity to respond to those concerns”.⁸⁴
52. **The UK financial services sector opposes the EU’s line-by-line approach to equivalence and supports the Government’s outcomes-based approach. We agree that broad positive equivalence determinations would best meet the needs of practitioners in both the UK and the EU, but recognise that in many areas the EU is unlikely to grant these without the UK sacrificing more decision-making autonomy than equivalence is worth.**
53. **We regret that the extension of equivalence for UK central counterparties (CCPs), which continue to provide an important service for EU practitioners, is time-limited. A longer-term equivalence decision for UK CCPs would better serve the interests of both Parties.**
54. **While recognising that this remains a unilateral decision, we believe the long-term interest of both the UK and the EU lies in a less prescriptive policy on market access, whether a reformed approach to equivalence or something closer to the non-discriminatory, outcomes-based deference model increasingly favoured globally.**

78 Oral evidence taken before the House of Commons Treasury Committee on 6 January 2021 (Session 2019–21), [Q 7](#) (Andrew Bailey)

79 [Q 2](#)

80 [Q 4](#)

81 The G20 has promoted deference since 2013, when its leaders agreed that “jurisdictions and regulators should be able to defer to each other when it is justified by the quality of their respective regulatory and enforcement regimes, based on similar outcomes, in a non-discriminatory way, paying due respect to home country regulation regimes.”

82 [Q 6](#)

83 [Q 5](#)

84 Written evidence from Standard Life Aberdeen ([FTS0044](#))

Divergence, competitiveness and standards

55. The UK can now decide on its own model for financial services regulation, but witnesses were clear that the Government should not seek widespread and sudden change. Indeed, in evidence to the Committee in 2020, the Government itself insisted it would not seek a “bonfire of regulations” after the transition period.⁸⁵
56. Jes Staley agreed that the UK should “not burn one piece of regulation” as it seeks to compete with global financial centres such as New York and Singapore.⁸⁶ Miles Celic and Nick Collier said the financial services sector in the UK supports the approach the Government appears to be taking, which Miles Celic characterised as follows:
- “You take a part of the rulebook that we have taken on board, or part of the directives or regulations that we have onshored, and say, ‘Great, this worked fantastically for a market of 28 countries, which was predominantly focused on its internal dynamics, but how do we tweak it? How do we fine-tune it? How do we get the screwdriver out and tighten one screw here and slightly loosen another screw there to meet the needs of a market of 66 million people that has a world-beating, very successful financial services industry, and help to drive that from the point of view of international competitiveness, hard-wiring that into the economic relationship with other countries?’”⁸⁷
57. Such an approach, he argued, must “strike a balance between competitiveness, consumer protection, standards and so on”, as well as taking into account socioeconomic and sustainability factors.⁸⁸ The UK should take advantage of “nimble” regulation to innovate in emerging areas such as financial technology (fintech), “where the UK can absolutely take a leadership role”.⁸⁹ Nick Collier concurred, stating that a more flexible UK “can and should move faster than the EU” in such areas, “doing the right thing more quickly and, hopefully, in a more expert way”.⁹⁰
58. Seeking to attract more business to the UK by lowering standards would be a dangerous and counterproductive approach. As Miles Celic said, “You do not win through a race to the bottom. London is, and needs to remain, a kitemark of quality.” He added that there is “very little support in the industry” for the idea that “we can deregulate our way to success”.⁹¹
59. **We welcome the Government’s assurance that there will be no bonfire of financial services regulations. We recognise that the UK and the EU will seek to change their regulatory regimes where it is in either Party’s interest, but call on the Government not to disregard the value of a close UK-EU relationship in financial services. Changes should be transparent and designed to enhance the attractiveness and competitiveness of the UK’s financial services sector.**

85 Oral evidence taken before the EU Services Sub-Committee on 2 July 2020 (Session 2019–21), [Q 2](#) (John Glen MP)

86 BBC News, ‘Barclays urges UK to focus on US and Asia post Brexit’, 5 February 2021: <https://www.bbc.co.uk/news/business-55939857> [accessed 23 February 2021]

87 [Q 7](#)

88 *Ibid.*

89 [Q 10](#)

90 [Q 7](#)

91 [Q 12](#)

The future regulatory landscape and parliamentary oversight

60. The relationship between Government, Parliament and regulators in the UK's post-EU regulatory landscape is yet to be determined. The Government has started consultation on the future regulatory landscape and says it will set out a package of proposals later in 2021. It told us its proposals will see “a return to the practical use of [regulators’] existing rule-making powers under the Financial Services and Markets Act 2000”, which “has been eroded over the past twenty years as the EU has increasingly set very detailed, prescriptive requirements for FS [financial services] firms in legislation”. The Government considered that “independent, expert regulators, one of the key strengths of the UK framework, should be responsible for developing and maintaining the UK’s technical regulatory standards”. This should be balanced with “appropriate strategic policy input from Government and Parliament”, and “a greater role” for Parliament in holding the regulators to account. It added, though, that “the exact structures for this further scrutiny are first and foremost for Parliament to consider”.⁹²
61. Nick Collier expressed support for a return to “principles-based regulation”, with “a lot of the details of regulation being delegated downwards”. Similarly, Miles Celic said that asking a UK parliamentary committee to assume the technical, granular role of the European Parliament’s Committee on Economic and Monetary Affairs “would be trying to hammer a square peg into a round hole”.⁹³
62. Miles Celic called instead for a joint parliamentary committee drawing together Members of both Houses with financial services expertise, to provide “clear democratic parliamentary scrutiny of what Treasury and the regulators intend to do”.⁹⁴ The City of London Corporation also recommended such a committee, which “would look in detail at specific pieces of financial services regulation”.⁹⁵
63. **The Financial Services Bill currently before Parliament pre-empts the Government’s proposals for the future regulatory landscape and will come into law before these plans are published. This is a missed opportunity. The return of greater powers to UK regulators allows for more flexible and innovative regulation but will require changes to the way Parliament scrutinises the regulations and holds the regulators to account.**
64. **The Government and regulators now hold significant power in setting financial services regulation. We welcome the House’s recent decision to establish a Select Committee on Industry and Regulators, which is an important step towards bringing greater parliamentary oversight to these decisions. However, this new Committee’s remit is broad and its resources are likely to be too limited to undertake dedicated scrutiny of the financial services sector. We recommend that the Liaison Committee considers further the merits of a committee dedicated to scrutiny of the financial services sector.**

92 Written evidence from BEIS ([FTS0019](#))

93 [Q 8](#)

94 *Ibid.*

95 Written evidence from the City of London Corporation ([FTS0060](#))

UK influence in setting standards

65. The UK's strength in financial regulation means that, in the words of Miles Celic, it "could well be the swing voter" in future debates on global regulatory standards. He added that it would be "hugely in the national interest" for the Government to use the UK's "regulatory diplomacy" to "make the case for open markets and free trade" in international forums, and the "louder and more persuasive and authoritative a voice the UK can have in those international forums, the better".⁹⁶
66. Andrew Bailey stressed in his Mansion House speech on 10 February that "the public goods of open economies, an open financial system and the stability of that system are global, not regional, in nature" and that it is "reasonable to think that a common framework of global standards combined with the common basis of the rules—since the UK transposed EU rules from the outset—would be enough to base equivalence on global standards."⁹⁷
67. **The Government should use the UK's innovative leadership to maintain high standards in financial services regulation on the global stage.**

⁹⁶ Q 10

⁹⁷ Andrew Bailey, Speech on the case for an open financial system, 10 February 2021: <https://www.bankofengland.co.uk/speech/2021/february/andrew-bailey-mansion-house> [accessed 23 February 2021]

CHAPTER 3: PROFESSIONAL AND BUSINESS SERVICES

Professional and business services in the UK

68. Professional and business services represent the UK's largest export. Professional and business services have been defined by the Department for Business, Energy and Industrial Strategy (BEIS) as "a range of diverse knowledge-intensive industries and support functions ... which provide specialised support to businesses and the public sector".⁹⁸ They include legal services, audit, accountancy, advertising and market research, management consultancy, architectural and engineering activities and employment activities. Many of these sectors are closely related to the UK's financial services sector, so the impact of the TCA in one area will also affect the other.
69. The EU is the UK's most significant trading partner of professional and business services, amounting to approximately 37% (£41 billion) of professional and business services exports in 2019.⁹⁹ The UK is the second largest exporter of professional and business services in the world, exporting £113 billion in 2019 (behind only the United States with £148 billion in exports).¹⁰⁰
70. In the third quarter of 2019, 'other business services' (broadly equivalent to professional and business services) accounted for 32.1% of UK service exports, more than any other sector.¹⁰¹ Between 2011 and 2018, UK employment in the sector grew by 3.3%.¹⁰²
71. The UK's thriving professional and business services sector is dominated by small and medium-sized enterprises (SMEs). George Riddell, Director of Trade Strategy at EY, told us that "85% to 90% of the employment in the sector is in small and medium-sized firms".¹⁰³

98 Department for Business, Energy and Industrial Strategy, *Professional & Business Services sector: creating further demand and growth outside London*, February 2020: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/866329/professional-business-services-sector-growth-outside-london.pdf [accessed 24 February 2021]

99 Written evidence from BEIS (FTS0019)

100 Q 43 (Lord Grimstone of Boscobel); see also supplementary written evidence from Lord Grimstone of Boscobel (FTS0065)

101 Office for National Statistics, *UK trade in services by partner country: July to September 2019*, 22 January 2020: <https://www.ons.gov.uk/businessindustryandtrade/internationaltrade/bulletins/exportsandimportsstatisticsbycountryforuktradeinservices/julytoseptember2019> [accessed 24 February 2021]

102 Supplementary written evidence from Lord Grimstone of Boscobel (FTS0065)

103 Q 26

Box 1: Services trade and the World Trade Organization (WTO)

Cross-border services trade is regulated at an international level by the WTO General Agreement on Trade in Services (GATS), to which all WTO members are party, including the UK.

The WTO GATS details four modes of supplying services:¹⁰⁴

1. Mode 1 (cross-border supply): services flows from the territory of one member into the territory of another member (e.g. banking or architectural services transmitted via telecommunications or mail).
2. Mode 2 (consumption abroad): situations where a service consumer (e.g. tourist or patient) moves into another member's territory to obtain a service.
3. Mode 3 (commercial presence): a service supplier of one member establishes a territorial presence, including through ownership or lease of premises, in another member's territory to provide a service (e.g. domestic subsidiaries of foreign insurance companies or hotel chains).
4. Mode 4 (presence of natural persons): persons of one member entering the territory of another member to supply a service (e.g. accountants, doctors or teachers).

Professional and business services in the TCA

72. The Government's view is that the TCA's services provisions are "gold-standard". In written evidence, BEIS told us:

"UK businesses will benefit from increased legal certainty about their operating environment relative to the WTO baseline when trading with the EU and will not be exposed to the risk of potential future backsliding in services regulations in EU markets."¹⁰⁵

73. As for the sector itself, George Riddell told us simply, "The deal is welcomed by business, because the alternative was no deal."¹⁰⁶ Amanda Tickel, International Tax Partner and Brexit lead at Deloitte, agreed: "The very fact of it [a deal] helps to lift the significant uncertainty that businesses have been facing since the referendum."¹⁰⁷ ABTA, which represents tour operators and travel agents, described the TCA as "a welcome step", which avoided "the additional uncertainty and disruption that would have ensued in the event of a no trade deal scenario for both businesses and individuals".¹⁰⁸
74. However, witnesses also stressed that the TCA represents a "huge change" from Single Market membership.¹⁰⁹ Professor Sarah Hall and Martin Heneghan of the University of Nottingham highlighted two important Single Market principles for services that no longer apply to the UK, "the freedom to establish and the freedom to provide or receive services cross border across the Single Market".¹¹⁰

104 World Trade Organization, "The General Agreement on Trade in Services (GATS): objectives, coverage and disciplines": https://www.wto.org/english/tratop_e/serv_e/gatsqa_e.htm [accessed 3 March 2021]

105 Written evidence from BEIS (FTS0019)

106 Q 23

107 *Ibid.*

108 Written evidence form ABTA (FTS0022)

109 Q 23

110 Written evidence from Professor Sarah Hall and Martin Heneghan, University of Nottingham (FTS0029)

75. Others were more critical of the TCA's services provisions. The Chartered Institute of Management Accountants (CIMA) said that the TCA "does not cover services to any great extent ... this puts UK business at a severe competitive disadvantage vis-à-vis the EU as the UK service sector, notably accounting and finance is ... much stronger than the EU's."¹¹¹ The Scottish Government described the TCA as "a major setback for services sectors", citing "substantive changes in trading conditions".¹¹² The TCA is also subject to a plethora of national reservations, as discussed below.
76. The Minister, Lord Grimstone of Boscobel, told us that service providers have been "coping" with the shift in trading conditions under the TCA "as well as might be reasonably expected", but admitted that "there is increased bureaucracy, and people are having to get to grips with all of that".¹¹³ The UK-EU Cross Border Services Working Group (CBSWG), a coalition of service providers in different sectors, said the TCA's "complexity means it cannot be easily summarised to provide guidelines that apply to all ... Consequently, confusion abounds as to what it does and does not allow."¹¹⁴
77. The limited period between agreement and implementation was also identified as a problem for service providers. According to Neil Ross, Head of Policy at techUK, "The biggest missed opportunity in the TCA is the lack of an implementation period."¹¹⁵
78. **Professional and business services are a vital feature of the UK economy and the UK's largest export. Trade with the EU is critical for these thriving sectors. We welcome the conclusion of the TCA, which alleviates some uncertainty for the sector and provides a platform for constructive dialogue with the EU. Nevertheless, the TCA represents a major change from Single Market membership, introducing new non-tariff barriers to trade, and businesses have been required to adapt to this in a short space of time.**

Market access and national reservations

79. The provisions of the TCA seem, at first sight, to facilitate extensive liberalisation for services. For example, Article SERVIN.3.2 states that the Parties shall not "adopt or maintain" restrictions on the number of services suppliers or operations, the value of service transactions, or on specific types of legal entity for service provision.¹¹⁶
80. However, these apparent liberalisations are caveated by an extensive list of 'national reservations' in the annexes of the TCA, which disapply the liberalisations in the TCA for specific sectors and/or Member States. BEIS gave the example of Sweden, which maintains a reservation that 50% of the management and ownership of any company established there must reside in the Single Market.¹¹⁷ These reservations impose various regulatory barriers

111 Written evidence from CIMA ([FTS0054](#))

112 Written evidence from the Scottish Government ([FTS0057](#))

113 [Q 43](#)

114 Written evidence from the UK-EU Cross Border Services Working Group ([FTS0014](#))

115 [Q 23](#)

116 [Trade and Cooperation Agreement, 24 December 2020](#)

117 Written evidence from BEIS ([FTS0019](#)); see also [Trade and Cooperation Agreement, 24 December 2020 \(Annex SERVIN-1, Reservation No.1\)](#)

to cross-border trade in services and, as Amanda Tickel told us, “will result in a complex patchwork of rules” across the EU27.¹¹⁸

81. The TCA operates on the basis of a so-called “negative list”, under which Member States explicitly list the areas where barriers are in place. This contrasts with the “positive list” system seen under the WTO’s General Agreement on Trade in Services, where parties are required to list the areas they are liberalising. Tim Courtney, Director of Trade and Investment Negotiations in the BEIS Services Directorate, described the negative list approach as a negotiating success for the UK.¹¹⁹ There are two sets of reservations in the TCA: Annex 1, which sets out reservations currently in force, and Annex 2, which allows the EU and individual Member States to introduce new reservations in certain areas in the future.¹²⁰
82. These national reservations mean that trade in services with the EU from outside the Single Market differs fundamentally from trade in goods. As George Riddell explained:
- “Unlike on the goods side where, once you get that product as a third country across the customs border and complete all the necessary procedures, it can enter into free circulation and you can sell it anywhere in the EU, it just is not the same for services, where it really does matter which Member State you are looking to sell your services in.”¹²¹
83. As Professor John Bryson of the University of Birmingham told us, the differences between EU Member States will thus “operate as [non-tariff barriers] to UK companies”.¹²² Similarly, the Law Society of Scotland observed, “The fragmentation resulting from this plethora of different requirements may, in itself, act as a barrier to trade.”¹²³ To give one example, UK lawyers in the Czech Republic have to be resident to provide legal advice, whereas across the border in Austria they are prohibited from providing legal services through residency and can do so only on a cross-border basis.¹²⁴
84. Witnesses also stressed that the reservations in the TCA are “not formulaic”,¹²⁵ and that this further complicates the picture. George Riddell told us that “The agreement sets a baseline ... It is not just a case of UK service providers looking at the agreement and guaranteeing that that is the level of access in a particular Member State. They have to see how it is applied in practice.” TheCityUK said: “The reservations [do not] necessarily mean that a particular feature of practice is disallowed: it may be allowed, as a matter of the currently applied regime in a Member State, even though that Member State reserves the right not to allow it.”¹²⁶

118 [Q 23](#)

119 [Q 44](#)

120 Written evidence from BEIS ([FTS0019](#))

121 [Q 23](#)

122 Written evidence from Professor John R Bryson, Birmingham Business School, University of Birmingham ([FTS0024](#))

123 Written evidence from the Law Society of Scotland ([FTS0037](#))

124 [Trade and Cooperation Agreement, 24 December 2020 \(Annex SERVIN-1, Reservation No. 2\)](#)

125 [Q 24](#) (Amanda Tickel)

126 Written evidence from TheCityUK ([FTS0056](#))

Impact of national reservations on different sectors

85. In a letter to the Committee on 26 February, the Minister outlined his view on the impact of different reservations on trade:
- “Reservations that are less likely to have a substantial effect on trade include those that apply only to small markets or niche sectors; those that are not actually enforced in practice; those that already applied to UK firms when the UK was in the EU Single Market; and those with which compliance is straightforward.”
- “The reservations most likely to disrupt existing patterns of trade include those that apply across the EU as a whole; those that impose nationality or residency requirements to provide a service; and those that cover highly regulated professions that have their own sector-specific regulation within the Single Market.”¹²⁷
86. Tim Courtney of BEIS emphasised that the nature of individual reservations, rather than the total number of reservations, was the most important factor from a business perspective.¹²⁸
87. George Riddell told us that for professional services, “The rule of thumb that we use is that the more regulated an industry is, such as accountancy and legal, the more restrictions there are in the agreement, whereas in some of the more unregulated services sectors, such as management consultancy, there are relatively fewer reservations set out in the agreement.”¹²⁹
88. Smaller firms are likely to be the hardest hit by national reservations. The Federation of Small Businesses told us, “Additional administrative burdens and related costs, which could be easily absorbed by larger firms, may ... be prohibitive to small firms.”¹³⁰ Similarly, the Royal Institute of British Architects said:
- “For smaller practices, the EU is the region most likely to provide international work. This means that national reservations will particularly impact smaller practices; around 85% of architecture practices employ fewer than 10 people, who are less able to bear the additional cost and administration burdens associated with the new requirements.”¹³¹
89. BEIS told us: “The Government is exploring ways to make the reservations more accessible to businesses so they can more easily identify which ones are most relevant to them. We will publish guidance on GOV.UK on navigating these national reservations in due course.” In his letter of 26 February, the Minister added that BEIS would pay “particular attention to highly regulated sectors, such as audit”.¹³²
90. It is important to note that barriers are already in place, so while we welcome these plans, businesses need this information as soon as possible. In October 2020 we recommended that the Government publish comprehensive explanatory material on national reservations; it is disappointing that this will only be delivered months after the TCA has entered into force.

127 Supplementary written evidence from Lord Grimstone of Boscobel ([FTS0065](#))

128 [Q 24](#)

129 *Ibid.*

130 Written evidence from the Federation of Small Businesses ([FTS0052](#))

131 Written evidence from RIBA ([FTS0042](#))

132 Supplementary written evidence from Lord Grimstone of Boscobel ([FTS0065](#))

Case study: legal services

91. The Government has singled out legal services as an area where the TCA is particularly advanced. The Minister described the provisions as “ground-breaking” and “beyond what the EU has included in any other FTA to date”.¹³³
92. Witnesses from the legal services sector struck a more cautious tone and highlighted the extensive national reservations in the sector. As the Law Society of Scotland told us, “Legal services are a prime example of an area where the potential benefits of commitments in the main body of the text will, in fact, be eroded by national reservations.”¹³⁴ The Bar Council agreed: “Whilst the TCA provides greater clarity in the drafting as compared to the most ambitious pre-existing EU trade deals, it provides little by way of advances on the substance.”¹³⁵
93. Mickael Laurans of the Law Society of England and Wales said that the recognition in the TCA of home title practice without the need to requalify was welcome and “an innovation”, although requalification has been required for UK lawyers who wish to retain their rights to advise on EU law.¹³⁶ Mickael Laurans added: “The reality of market access [for legal services] is to be seen in the annexes of the agreement ... our members now face 27 different regulatory regimes in each Member State, with different rights and obligations.”¹³⁷ He also said that “these reservations are new barriers to trade compared to the regime we had before”, given that the Single Market is “very advanced” when it comes to legal services. However, he also said that the reservations were “more or less what we were expecting”.¹³⁸ As with other professions, the impact on legal services is likely to fall hardest on smaller firms, and more lightly on larger firms. The Law Society of England and Wales told us:
- “Many larger firms are confident that they have sufficient ability under national laws to continue to provide the same level of service to clients as before. This requires some changes to working practices but is largely manageable.”¹³⁹
94. A number of witnesses raised concerns about jurisdiction for civil claims and enforcement of civil judgments, as these are important to the provision of legal services and to the UK as a world centre for dispute resolution services. The TCA does not deal with these issues as they are covered by the Lugano Convention, an international agreement to which the UK was a party as a member of the EU. These issues are covered in more detail in the report of the EU Security and Justice Sub-Committee.¹⁴⁰

133 [Q 43](#); see also Prime Minister’s Office, Summary of the UK-EU Trade and Cooperation Agreement: <https://www.gov.uk/government/publications/agreements-reached-between-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-european-union/summary-explainer> [accessed 24 February 2021]

134 Written evidence from the Law Society of Scotland ([FTS0037](#))

135 Written evidence from the Bar Council ([FTS0039](#))

136 [Q 25](#)

137 [Q 23](#)

138 [Q 24](#)

139 Written evidence from the Law Society of England and Wales ([FTS0045](#))

140 European Union Committee, *Beyond Brexit: policing, law enforcement and security* (25th Report, Session 2019–21, HL Paper 250). See also European Union Committee, *Brexit: justice for families, individuals and businesses?* (17th Report, Session 2016–17, HL Paper 134)

95. **The TCA’s market access provisions for professional and business services are limited by extensive national reservations, particularly in heavily regulated sectors. UK service providers face a patchwork of complicated rules that vary by sector and by Member State. This fragmentation will act as a barrier to trade for UK companies, and this has the potential to hit smaller businesses the hardest.**
96. **We welcome the Government’s intention to provide advice to businesses on national reservations, and urge it to publish this guidance as a matter of urgency. The Government should ensure that it is accessible for businesses, particularly SMEs, and should explore options for additional support. We are disappointed that this guidance, which we recommended in October 2020, was not delivered before the transition period ended.**

Mobility

97. UK-EU business travel is huge in scale. An estimated 4.8 million UK nationals and 5.6 million EU nationals visited the EU and UK, respectively, for business purposes in 2019.¹⁴¹
98. As we concluded in our October 2020 report, *The future UK-EU relationship on professional and business services*, professional and business services providers rely heavily on this travel between the UK and EU and on the ability to redeploy staff flexibly to offices across Europe.¹⁴² Barriers to UK-EU business mobility are therefore a threat to the UK’s competitiveness and innovation, as well as to trade.

Provisions in the TCA

99. The TCA includes commitments on mobility for short-term business visitors; business visitors for establishment purposes; intra-corporate transferees; contractual service suppliers; and independent professionals. The TCA establishes definitions for each of these types of business visitor, as outlined in Box 2.

141 Written evidence from BEIS ([FTS0019](#))

142 European Union Committee, *The future UK-EU relationship on professional and business services* (13th Report, Session 2019–21, HL Paper 143)

Box 2: Types of business visitor

- Short-term business visitors: visitors entering the other Party for the purpose of carrying out certain business activities.¹⁴³ Short-term business visitors may enter for a total of 90 days in any 180-day period and, unless otherwise stated, they may do so without needing a work permit or an economic needs test.¹⁴⁴
- Business visitors for establishment purposes: senior employees of a company involved in establishing an enterprise in the territory of the other Party. They may not offer or provide services or engage in economic activity other than that required to establish the enterprise.
- Intra-corporate transferees: employees temporarily transferred between, for example, UK-based and EU-based offices of the same company. This definition covers only managers, specialists and trainee employees, with minimum length of employment requirements for each (12 months for managers and specialists, six months for trainees).
- Contractual service suppliers: service providers with a contract (not exceeding 12 months) to supply services to a consumer in the other Party. They are required to have worked for their current employer for at least a year, and to have at least three years' relevant professional experience, a university degree and the relevant professional qualifications. This definition explicitly excludes contracts arranged through an agency.
- Independent professionals: self-employed service providers with a contract (not exceeding 12 months) to supply services to a consumer in the other Party. They are required to have at least six years' relevant professional experience, a university degree and the relevant professional qualifications. This definition also explicitly excludes contracts arranged through an agency.

100. Enabling short-term business visitors to travel to the EU for a total of 90 days in any six-month period is in line with the Government's initial negotiating proposals,¹⁴⁵ and more generous than the EU's initial proposal of 90 days within a 12-month period.
101. However, as elsewhere, these provisions are subject to national reservations—for example, visitors to Austria and Cyprus require work permits, including an economic needs test, in order to take part in trade fairs and exhibitions beyond seven days per month or 30 days per year.¹⁴⁶
102. Both ABTA and the FSB welcomed the ability for short-term business visitors to travel without a work permit or visa, though the latter noted that

143 These activities are specified in the [Trade and Cooperation Agreement, 24 December 2020 \(Annex SERVIN-3\)](#)

144 This limit does not apply to Ireland, as the Common Travel Area allows for continued free movement between the UK, Ireland and the Isle of Man. In addition, journeys to the 4 remaining EU Member States which are not in the Schengen Area (Bulgaria, Croatia, Cyprus and Romania) do not count towards the 90-day limit in the remaining 22 Member States, and vice versa.

145 European Union Committee, [The future UK-EU relationship on professional and business services](#) (13th Report, Session 2019–21, HL Paper 143)

146 [Trade and Cooperation Agreement, 24 December 2020 \(Annex SERVIN-3\)](#)

the permitted activities¹⁴⁷ for short-term business visitors are limited and would “exclude many activities”.¹⁴⁸

103. Witnesses were also clear that things would be less straightforward than when the UK was part of the Single Market. Mickael Laurans described the provisions as “a key concern. Things will not be as simple as jumping on the Eurostar or on a plane when international travel resumes.”¹⁴⁹
104. The FSB described the provisions on contractual service suppliers and independent professionals as “very restrictive”—particularly for independent professionals, where only those who hold a university degree and six years’ experience in their given field can make use of the TCA.¹⁵⁰ The Recruitment and Employment Confederation (REC) and the Institute of Practitioners in Advertising both highlighted the exclusion of agency workers from these provisions.¹⁵¹
105. The tourism and travel sectors expect to be particularly affected by the new mobility provisions. ABTA described the 90-day limit for short-term business travel as “quite restrictive given that most tourism postings would be between 6–9 months”.¹⁵² Young people seeking seasonal work experience in Europe will miss out on opportunities as a result. Seasonal Businesses in Travel (SBiT) told us that the new mobility arrangements would “result in a loss of the majority of the 25,000 UK jobs that currently are employed in UK outbound tourism to Europe”, primarily affecting young seasonal workers. In the ski industry, for example, SBiT argued that French restrictions on hiring non-EU staff make “the option of employing UK staff a non-starter for the industry”.¹⁵³
106. In written evidence, BEIS said:

“We recognise that there are now additional processes when travelling abroad for work, including potentially longer lead-in times and additional costs associated with attaining the required paperwork. The Government is committed to supporting individuals and businesses during this period.”¹⁵⁴

We note, however, that the Government’s guidance on EU business travel does not yet include detailed guidance on country-by-country requirements.¹⁵⁵ Tim Courtney told us that BEIS was “pulling together summaries of some of the guidance issued by different Member States on the visa and work permit arrangements that are in place”.¹⁵⁶

147 There are 11 categories of permitted activities for short-term business visitors under the TCA (including meetings, research and commercial transactions). Short-term business visitors are not permitted to carry out unlisted activities, and are also explicitly prohibited from making direct sales to the general public. [Trade and Cooperation Agreement, 24 December 2020 \(Annex SERVIN-3\)](#)

148 Written evidence from ABTA ([FTS0022](#)); Federation of Small Businesses ([FTS0052](#))

149 [Q 23](#)

150 Written evidence from the Federation of Small Businesses ([FTS0052](#))

151 Written evidence from REC ([FTS0034](#)); Institute of Practitioners in Advertising ([FTS0030](#))

152 Written evidence from ABTA ([FTS0022](#))

153 Written evidence from SBiT ([FTS0023](#))

154 Written evidence from BEIS ([FTS0019](#))

155 HM Government, ‘Visit Europe from 1 January 2021’: <https://www.gov.uk/visit-europe-1-january-2021/business-travel-extra-requirements> [accessed 24 February 2021]

156 [Q 47](#)

107. In terms of inbound business travel, witnesses called on the Government to ensure the UK is as open to business travel as possible in the future. TheCityUK highlighted the need for the Government to review the TCA's provisions and "ensure that any unintended consequences are not repeated in future trade agreements",¹⁵⁷ while UK Finance warned against "unnecessary costs or limitations on the ability of firms to recruit skilled specialist nationals from [the EU]".¹⁵⁸

Business mobility and COVID-19

108. As many witnesses noted, current COVID-19 travel restrictions mean that the impact of the TCA's mobility provisions has been delayed. Neil Ross described the pandemic as "an accidental grace period" for many service providers, but added, "We should expect some disruption in services to occur down the line whenever we get back to life as normal."¹⁵⁹ Similarly, Mickael Laurans told us that the pandemic has "left more time to prepare for the new realities when international travel resumes".¹⁶⁰
109. The travel restrictions have also meant the TCA's mobility provisions have not been "tested" yet, making their impact difficult to assess.¹⁶¹ The UK and Ireland branch of the International Association of Conference Interpreters (AIIC) told us that this meant "uncertainty is compounded ... we are not able to 'test the waters' in the new regime".¹⁶²
110. Some witnesses suggested that the shift to online service provision could survive to some degree after the pandemic ends. But their general consensus was that while some online service provision will continue post-COVID, many businesses are likely to return to face-to-face service provision and will therefore have to navigate the new mobility provisions. George Riddell said that while "the nature of work will change and that we will do more things digitally going forward", it is "extremely difficult to provide cutting-edge services" without building professional relationships face-to-face.¹⁶³
111. **The TCA's business mobility provisions represent a major change in the UK-EU trading relationship for services. The tourism and travel sectors will be hit particularly hard, undermining opportunities especially for young people seeking seasonal work experience in Europe. Professional service providers which rely on agency staff, such as recruiting and advertising, also face considerable barriers to mobility. The impact of these provisions has been delayed by the COVID-19 travel restrictions, but will be felt once international business travel resumes.**
112. **We welcome the Government's proposed country-by-country guidance on business travel to the EU and urge the Government to ensure this is timely, detailed and easy for business to use.**

157 Written evidence from TheCityUK ([FTS0056](#))

158 Written evidence from UK Finance ([FTS0027](#))

159 [Q 23](#)

160 [Q 26](#)

161 Written evidence from the Advertising Association ([FTS0009](#)); Professor Sarah Hall and Martin Heneghan, University of Nottingham ([FTS0029](#)); ACE ([FTS0061](#))

162 Written evidence from AIIC ([FTS0051](#))

163 [Q 28](#)

Local presence and cross-border supply

113. Cross-border supply is the flow of services from the territory of one country to another, for example digitally. A common set of barriers to cross-border supply are so-called ‘local presence’ requirements, which tie market access to residency or commercial presence in the territory of the country in question. Most UK-EU professional services trade involves an element of cross-border supply, with many UK providers doing business with the EU without establishing a presence there.¹⁶⁴

Provisions in the TCA

114. The TCA appears at first sight to facilitate substantial liberalisation on cross-border supply of services. Article SERVIN.3.3 states: “A Party shall not require a service supplier of the other Party to establish or maintain an enterprise or to be resident in its territory as a condition for the cross-border supply of a service.” BEIS told us that “the EU has only agreed a commitment like this once before (with Mexico)”.¹⁶⁵ The Committee called for such a commitment in its October 2020 report, and we welcome its inclusion in the TCA.¹⁶⁶
115. As in other areas, however, these provisions are subject to national reservations. Amanda Tickel gave several specific examples: “In Slovenia, for instance, you now have to have an establishment somewhere in the EU to provide accounting and bookkeeping services, where previously you did not. In Finland and Hungary, you have to have residency in the EEA to provide patent agency services.”¹⁶⁷
116. One potential risk is that local presence requirements will trigger business relocations in response to the new requirements. Lord Grimstone, however, told us that “these moves do not mean that substantial economic activity is being located in another country. In some instances, it may involve setting up a subsidiary, a branch office, which may be very small.”¹⁶⁸ Similarly, Amanda Tickel said, “We are not expecting a large relocation of services activity”, though she accepted that there might “be the need for an office or subsidiary in the EU as well”.
117. Relocation could also vary by sector. Neil Ross told us it was “a question for the more regulated sectors”, and that the tech sector had been “pleasantly surprised at the lack of movement of companies over to the continent”.¹⁶⁹ The impact of local presence requirements may also vary by business size: the FSB told us that larger firms were more likely to “have EU-based foreign affiliates that will facilitate navigating local presence provisions”.¹⁷⁰
118. In our October 2020 report, we highlighted the concern that rules on the right of establishment may affect certain corporate forms, and strongly encouraged the Government to seek an agreement to remove such

164 European Union Committee, *The future UK-EU relationship on professional and business services* (13th Report, Session 2019–21, HL Paper 143), para 41

165 Written evidence from BEIS ([FTS0019](#))

166 European Union Committee, *The future UK-EU relationship on professional and business services* (13th Report, Session 2019–21, HL Paper 143), para 64

167 [Q 24](#)

168 [Q 48](#)

169 [Q 27](#)

170 Written evidence from the Federation of Small Businesses ([FTS0052](#))

limitations.¹⁷¹ However, as Professor John Bryson told us, UK service firms will not be able to establish limited liability partnerships in certain Member States, including France, as this corporate form is not recognised there.¹⁷² This could have a particular impact on legal firms.

119. Amanda Tickel told us that business relocation could take place in the other direction—that is, EU businesses establishing in the UK:

“There are EU businesses that will need to think about whether they can continue providing services in the UK market, which is the fifth biggest GDP in the world ... it could well happen both ways. I am not sure that we can predict yet whether this is a loss to the UK or not.”¹⁷³

120. Lord Grimstone also said that “the other side of the coin is that we want to encourage as many businesses as possible to set up in the UK”.¹⁷⁴

121. **While large relocations of economic activity in professional and business services from the UK to the EU are not expected in the short term, some organisations may need to establish a branch or subsidiary in the EU to comply with national reservations on local presence. The Government should continue to do as much as possible to persuade and incentivise UK service providers to maintain their economic activity in the UK, while also encouraging EU service providers to establish here.**

Mutual recognition of professional qualifications

122. Some professional and business service providers require recognition of their qualifications to be able to work in, or export their services to, another country. Within the EU, the recognition of professional qualifications is facilitated by the Mutual Recognition of Professional Qualifications (MRPQ) Directive.¹⁷⁵

Provisions in the TCA

123. As we heard in our October 2020 inquiry, the UK’s negotiating mandate proposed an ambitious and wide-ranging framework of mutual recognition, under which UK and EU professional qualifications would be recognised by default.¹⁷⁶ We strongly supported the UK’s proposed approach, but it was rejected by the EU.
124. The TCA instead includes a framework allowing regulators and professional bodies to negotiate recommendations for Mutual Recognition Agreements (MRAs) on a profession-by-profession basis, which must then be submitted to the Partnership Council for approval.¹⁷⁷ In the interim, the default position is that qualifications are not recognised, apart from those already recognised

171 European Union Committee, *The future UK-EU relationship on professional and business services* (13th Report, Session 2019–21, HL Paper 143)

172 Written evidence from Professor John R Bryson, Birmingham Business School, University of Birmingham (FTS0024)

173 Q 27

174 Q 48

175 Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, 2005/36

176 European Union Committee, *The future UK-EU relationship on professional and business services* (13th Report, Session 2019–21, HL Paper 143)

177 Written evidence from CIMA (FTS0054)

under Article 27 of the Withdrawal Agreement (which covers UK citizens already living in the EU and EU citizens living in the UK).¹⁷⁸

125. Witnesses were concerned by the lack of a default mutual recognition of professional qualifications. The Professional and Business Services Council (PBSC), an industry-led partnership between the professional and business sector and BEIS, warned of “a material risk that the lack of mutual recognition for some professions does start to impact the ability of firms to provide their services in the way in which they did previously”.¹⁷⁹ The Institute of Chartered Accountants of England and Wales (ICAEW) described the provisions as “a significant step back from the EU-wide recognition procedures and the legal certainty underpinning them which were previously enjoyed by holders of UK qualifications in the Single Market”.¹⁸⁰
126. Some sectors have taken steps to mitigate the immediate impact of the loss of mutual recognition. As RIBA told us, the Architects Registration Board, the relevant UK professional body for architects, has unilaterally recognised EU/EEA qualifications that are covered under the MRPQ Directive; it has also concluded a bilateral agreement with the Royal Institute of Architects of Ireland for continued mutual recognition of qualifications.¹⁸¹
127. We hope that the mutual recognition provisions could be improved through future negotiation. A footnote to the relevant Article in the TCA states, “this Article shall not be construed to prevent the negotiation and conclusion of one or more agreements between the Parties on the recognition of professional qualifications.”¹⁸² As Amanda Tickel explained:

“The entire section on MRPQs could be superseded by a future agreement between the UK and the EU. So, in my view, this should always be on the future agenda, because full recognition would of course be so much better than this patchwork of bilateral agreements in the different sectors.”¹⁸³

Framework for future recognition of qualifications in the TCA

128. Lord Grimstone told us that the failure to achieve full mutual recognition did not mean that sectoral MRAs were unlikely: “I do not think it was an antipathy [from the EU] to these qualifications being mutually recognised. It was that it felt that the route to recognition should be led on a profession-by-profession basis by the regulators.”¹⁸⁴ BEIS also claimed that the TCA’s framework for recognition was an improvement on EU precedent: “We have streamlined the process by which professional bodies and authorities make recommendations for arrangements.”¹⁸⁵

178 HM Government, Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, 19 October 2019: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840655/Agreement_on_the_withdrawal_of_the_United_Kingdom_of_Great_Britain_and_Northern_Ireland_from_the_European_Union_and_the_European_Atomic_Energy_Community.pdf [accessed 3 March 2021]

179 Written evidence from the PBSC (FTS0055). This written evidence represents the views of the business side of the PBSC only.

180 Written evidence from ICAEW (FTS0058)

181 Written evidence from RIBA (FTS0042)

182 [Trade and Cooperation Agreement, 24 December 2020 \(Article SERVIN.5.13, footnote 23\)](#)

183 [Q 25](#)

184 [Q 45](#)

185 Written evidence from BEIS (FTS0019)

129. There was uncertainty over the potential timelines for MRAs under the framework. Amanda Tickel said: “We just do not know the timescale ... we urge those professional bodies to start those bilateral discussions as soon as possible.”¹⁸⁶ Neil Ross added: “The big variable here is how quick the Partnership Council can be established, and how fast and how good the UK and the EU engagement on moving issues forward can be.”¹⁸⁷
130. Mickael Laurans was “quite pessimistic” on the timetable and thought that MRAs were “likely to take years”. He explained: “the Agreement replicates the EU-Canada CETA model, and even though that Agreement came into force three years ago, no single mutual recognition agreement has been approved.”¹⁸⁸
131. MRAs can be negotiated on either an EU-wide basis or bilaterally with Member States, depending on how a given profession is regulated. Each approach has its own advantages. On the one hand, Tim Courtney of BEIS said that MRAs would be easier in sectors with EU-wide “harmonised trading requirements”, such as architecture, and “more challenging” in sectors where the regulatory approach differs from Member State to Member State.¹⁸⁹ ICAEW told us that EU-wide arrangements would give greater “legal certainty” and would better support the “market standing and portability” of UK qualifications.¹⁹⁰ On the other hand, we heard that bilateral MRAs with Member States could be concluded more quickly than EU-wide arrangements in the short term. George Riddell said that some professions were prioritising bilateral agreements for this reason.¹⁹¹
132. CIMA stressed that sector-wide MRAs should “take full account of the variation between specialisms in what are often very broad sectors ... professions within the same sector may have differing outlooks and regulatory requirements that cannot easily be accommodated under a single framework.”¹⁹²

Government support

133. Although MRAs under the TCA’s framework are negotiated by regulators and professional bodies rather than the Government, BEIS told us that the Government was taking steps to support the regulators:

“BEIS has secured the services of the UK Centre for Professional Qualifications, which provides advice, guidance and signposting to individuals looking to provide services overseas ... To promote the uptake of MRAs between UK and EU regulatory bodies, BEIS is establishing an MRA facilitation team to support regulatory bodies entering into MRAs and will provide guidance on the options available to facilitate mutual recognition.”¹⁹³

186 [Q 25](#)

187 *Ibid.*

188 [Q 25](#). See also European Union Committee, *The future UK-EU relationship on professional and business services* (13th Report, Session 2019–21, HL Paper 143), para 136

189 [Q 45](#)

190 Written evidence from ICAEW ([FTS0058](#))

191 [Q 25](#)

192 Written evidence from CIMA ([FTS0054](#))

193 Written evidence from BEIS ([FTS0019](#))

The PBSC welcomed the news that the Government would be supporting UK professional bodies and regulators in negotiating MRAs.¹⁹⁴

134. Lord Grimstone told us that while “we will give [the regulators] every help that we can”, there were limits to what the Government could do without “impinging on the autonomy of regulators to carry out these activities within their own responsibilities”.¹⁹⁵
135. **The absence in the TCA of mutual recognition of professional qualifications is disappointing and could have an impact on many sectors. Instead, the TCA replicates the CETA model, where not a single mutual recognition agreement has been reached in over three years since its entry into force. The likely timelines for achieving recognition on a profession-by-profession basis are thus unclear.**
136. **UK regulators and professional bodies should negotiate and conclude EU-wide and bilateral mutual recognition agreements as soon as possible. The Government has said that it will support this process. We would welcome updates on how and when this support is being provided.**
137. **The TCA leaves open the possibility of a new agreement on mutual recognition of professional qualifications in the future. This would be a major improvement on a patchwork of sector-specific agreements, and we urge the Government to seek such an agreement with the EU in the medium term.**

Equivalence decisions

138. There are three outstanding equivalence decisions affecting professional and business services:¹⁹⁶
- (a) Equivalence of frameworks under the Statutory Auditing Directive. This covers third-country auditing registration;
 - (b) Adequacy of competent authorities under the Statutory Auditing Directive, covering cross-border exchange of auditors’ working papers for regulatory purposes;¹⁹⁷ and
 - (c) Reporting standards under the Accounting Directive.
139. Amanda Tickel told us that the decision on adequacy of competent authorities is “the one that as an industry we care about the most”. In contrast, the accounting decision “has less impact, because, at the moment, compliance with both [UK and EU] frameworks is relatively easy”, even in the absence of equivalence.¹⁹⁸
140. TheCityUK also highlighted the auditing adequacy decision as “critical to the capacity of regulators to transfer audit working papers between the UK and EU”, adding that without the two auditing decisions, “UK audit

194 [Q 46](#)

195 *Ibid.*

196 European Commission, Equivalence Decisions taken by the European Commission as of 10/02/2021: https://ec.europa.eu/info/sites/info/files/business_economy_euro/banking_and_finance/documents/overview-table-equivalence-decisions_en.pdf [accessed 24 February 2021]

197 [Q 31](#)

198 *Ibid.*

and accountancy firms will have to continue to navigate complex regulatory requirements across the EU in order to provide cross-border advice.”¹⁹⁹

Divergence and opportunities

141. Outside the Single Market, the UK is free to diverge from the EU rulebook, including with respect to services. The services chapter of the TCA reaffirms the rights of both Parties to “regulate within their territories to achieve legitimate policy objectives”.²⁰⁰ The Minister, Lord Grimstone, suggested that regulatory divergence would be assessed on a case-by-case basis: “There will be some instances where we feel that the United Kingdom’s interest best lies by some divergence from standards in the European Union ... There will be other instances where we take the view that firm alignment is the best way.”²⁰¹
142. As for services sectors, George Riddell said, “If there was a good, considered reason for divergence, we would certainly consider it, but divergence for divergence’s sake at the moment, particularly given the wider economic challenges that we face, is perhaps not the best use of our time or effort.”²⁰²
143. Neil Ross struck a slightly different note:
- “[The] point about divergence for divergence’s sake is very important, but equally I do not think we should align for alignment’s sake ... I do not think we should expect a big bang when it comes to industry calling for regulatory divergence. It is about looking much more strategically at what is good for the UK in its growth objectives and proceeding on that basis.”²⁰³
144. Witnesses highlighted the potential opportunities of emerging sectors. George Riddell and Amanda Tickel both identified the green economy and fintech, while both Amanda Tickel and Neil Ross pointed to regulatory “sandboxes” as an innovation with potential.²⁰⁴
145. Lord Grimstone highlighted that the Government was seeking to negotiate “strong services chapters” in new FTAs with other countries, with a view to seeking “compensating advantages” to offset against new barriers to services trade with the EU.²⁰⁵
146. Witnesses also highlighted the inherent strengths of the UK services sectors. For the tech sector, Neil Ross argued that both Brexit and the growth of tech in other countries meant the UK was in “a much more competitive environment”, and should therefore “double down on the [UK’s] core strengths”, specifically “the language, the ease of setting up a business, our more proportionate and risk-based approach to regulation, and our university sector”.²⁰⁶ George Riddell added: “London, the City and the UK as a whole are extremely good at reinventing themselves ... it is about making sure that

199 Written evidence from TheCityUK ([FTS0056](#))

200 [Trade and Cooperation Agreement, 24 December 2020 \(Article SERVIN.1.1\)](#)

201 [Q 50](#)

202 [Q 33](#)

203 *Ibid.*

204 [Q 33](#). A regulatory ‘sandbox’ is a framework for allowing regulatory innovation in emerging sectors, within a controlled environment. Within the sandbox, certain regulatory requirements do not apply to authorised firms.

205 [Q 48](#) and [Q 50](#)

206 [Q 27](#)

we do not try to regain what has been lost but look forward to those new economic opportunities.”²⁰⁷

147. **The Government should not diverge from EU regulation for divergence’s sake, nor should it align for alignment’s sake. Instead, the Government should establish effective regulatory dialogue with the EU to ensure any divergence is managed successfully—for example, by establishing a new Working Group under the supervision of the Trade Specialised Committee on Services, Investment and Digital Trade.**
148. **Given the trade barriers under the TCA, new economic opportunities will need to be pursued to support the UK’s professional and business services sector, particularly in the tech and green sectors. The Government must ensure the UK’s regulatory environment helps these emerging sectors to thrive.**

Governance and engagement

149. As well as the overarching Partnership Council, the TCA also establishes a Trade Partnership Committee and a series of Trade Specialised Committees, including a Trade Specialised Committee on Services, Investment and Digital Trade.²⁰⁸
150. The Specialised Committees focus primarily on monitoring and reviewing the TCA’s implementation, and on providing the Partnership Council and the Trade Partnership Committee with specific technical expertise. In addition, the Trade Specialised Committee on Services, Investment and Digital Trade is to act as a forum for consultations on facilitating the movement of capital between the UK and the EU.
151. The timelines for establishing many of the TCA’s institutional structures remain unclear, as do the processes for business engagement. In a letter to the Chair of the EU Select Committee on 23 February, the Chancellor of the Duchy of Lancaster, the Rt Hon. Michael Gove MP, said, “we do not consider that the Partnership Council and other bodies established under Title III of the Agreement should begin their work formally during the period of provisional application”.²⁰⁹ On the same day, the Government accepted the EU’s request to extend provisional application of the TCA to 30 April, pending ratification by the European Parliament.²¹⁰
152. Industry witnesses called on the Government to accelerate the establishment of the TCA’s institutional structures. George Riddell urged the Government to “engage proactively on this agenda and as soon as possible in order to kick off those discussions”.²¹¹ Amanda Tickel said simply, “There is work to be done, and we cannot sit back and be relieved that there is a deal.”²¹²

207 [Q 27](#)

208 [Trade and Cooperation Agreement, 24 December 2020 \(Article INST.2\)](#)

209 Letter from Rt Hon. Michael Gove MP, Chancellor of the Duchy of Lancaster, to the Earl of Kinnoull, Chair, House of Lords European Union Committee, 23 February 2021: <https://committees.parliament.uk/publications/4775/documents/48216/default/>

210 Letter from Rt Hon. Michael Gove MP, Chancellor of the Duchy of Lancaster, to the Vice President, European Commission, 23 February 2021: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963820/CDL_to_Maros_Sefcovic.pdf

211 [Q 32](#)

212 [Q 34](#)

153. Witnesses stressed the importance of Government engagement with business on the implementation of the TCA. The PBSC called for “appropriate consultation ... as part of an ongoing dialogue” to address business and stakeholder concerns.²¹³ George Riddell called for a commitment from Government to ensure that domestic advisory groups for business and civil society engagement with the TCA are “not just tick-box exercises but genuine, meaningful dialogue on how to take these issues forward and be incorporated in the discussions of the future services [trade specialised] committee”.²¹⁴
154. The TCA’s transparency provisions oblige the UK and EU to make services trade requirements publicly available.²¹⁵ The PBSC said:
- “Having this information published in a clear, concise and usable manner is crucial in order for services providers to be able to utilise the agreement. The UK and EU should clearly communicate where they will be putting this information online and disseminate it through the appropriate channels.”²¹⁶
- George Riddell agreed that information should “not [be] hidden away somewhere on the government website but front and centre and usable to businesses”.²¹⁷
155. Lord Grimstone told us that the Government wanted “maximum participation from UK businesses across a wide range of sectors”.²¹⁸ Tim Courtney added, “I am very confident that engagement with businesses will be critical in trying to make sure that those committees and governance structures have the information they need to really understand whether this is working or not.”²¹⁹
156. **We regret the Government’s decision to defer establishing the Partnership Council and other bodies and urge them to review this position. The Partnership Council, the Trade Partnership Committee and the Trade Specialised Committee on Services, Investment and Digital Trade should be established as soon as possible and the Government should facilitate transparent business and civil society engagement with these bodies. The TCA should be treated, as much as possible, as a live agreement as meaningful dialogue and collaboration will help businesses to see the TCA as a long-term relationship.**
157. **The transparency provisions of the TCA should be put into effect as soon as possible, and the UK and EU should ensure that published information is displayed prominently online and is easy for businesses to use.**

213 Written evidence from the PBSC ([FTS0055](#))

214 [Q 34](#)

215 [Trade and Cooperation Agreement, 24 December 2020 \(Article SERVIN.5.1, SERVIN.4.6, SERVIN.5.8, SERVIN.5.18\)](#)

216 Written evidence from the PBSC ([FTS0055](#))

217 [Q 34](#)

218 [Q 52](#)

219 *Ibid.*

CHAPTER 4: DATA AND DIGITAL TRADE

Data adequacy

158. Personal data transfers from the EU to third countries, such as the UK, are governed by the 2016 General Data Protection Regulation (GDPR).²²⁰ Under GDPR, the EU Commission may unilaterally grant an ‘adequacy’ decision confirming that a third country provides a comparable level of data protection to that in EU law. This allows cross-border transfers of personal data from the EU to the third country without additional safeguards.
159. Personal data transfers in the other direction—from the UK to the EU—are not affected by this process. The UK Government has previously implemented provisions permitting the transfer of personal data from the UK to the EEA (as well as to third countries which have previously been granted EU adequacy).²²¹
160. Discussions between the European Commission and the Government on the EU’s assessment of UK data adequacy took place last year, but did not lead to a full EU data adequacy decision before the end of the transition period. Instead, the TCA contains a temporary ‘bridging mechanism’ allowing for the continued free flow of personal data from the EU to the UK, conditional on the UK maintaining its existing levels of data protection. This bridging mechanism lasts either until an adequacy decision has been made, or for four months (extending to six months unless one Party objects).²²²
161. The Minister, Lord Grimstone, told us:
- “[The] reason we did not conclude negotiations on data adequacy in no way related to any questions of principle or substance. It was purely that we ran out of time to do it ... [the EU] frankly, left insufficient time to ratify decisions.”²²³
162. On 19 February, the European Commission approved a draft data adequacy decision which, if confirmed, will allow EU data to continue to flow to the UK. This decision will be scrutinised by the European Data Protection Board before it is implemented, but the Board cannot block the adequacy decision. It will also need to be approved by EU Member States. If adopted, the adequacy decision lasts for an initial period of four years, after which it may be renewed.²²⁴
163. Evidence was submitted to this inquiry while there was still uncertainty over whether an adequacy decision would be granted. However, the evidence on the costs of a ‘no adequacy’ scenario remains relevant. As well as highlighting the importance of the adequacy decision, it highlights the residual risks to

220 Regulation (EU) of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) [2016/679](#)

221 Information Commissioner’s Office, ‘International transfers after the UK exit from the EU implementation period’: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/international-transfers-after-uk-exit/> [accessed 23 February 2021]

222 [Trade and Cooperation Agreement, 24 December 2020 \(Article FinProv10a\)](#)

223 [Q 57](#)

224 European Commission, ‘Data protection: European Commission launches process on personal data flows to UK’, 19 February 2021: https://ec.europa.eu/commission/presscorner/detail/en/ip_21_661 [accessed 23 February 2021]

UK businesses if the decision were to be struck down by the Court of Justice of the EU—a credible scenario, given the Court’s recent case-law—or were not to be renewed after four years.

Importance of data adequacy

164. George Riddell told us: “Adequacy is extremely important for businesses, particularly those that are data heavy and collect or process data that is covered by the GDPR.”²²⁵ Nick Collier stressed that “financial services do not work without personal data, particularly in banking and insurance”.²²⁶ The UK Interactive Entertainment association (UKIE), which represents the video games industry, told us that data adequacy is “paramount” for the sector,²²⁷ while Horace Trubridge, General Secretary of the Musicians’ Union, said, “There is a saying in the music industry: ‘Data is king’. It is vital.”²²⁸
165. The absence of data adequacy would not necessarily prevent EU-UK personal data transfers,²²⁹ but without it firms would have to rely on alternative legal safeguards, notably Standard Contractual Clauses (SCCs) and Binding Corporate Rules. These would make data transfers much more “cumbersome and unwieldy”²³⁰ than under adequacy arrangements. Professor Sarah Hall and Martin Heneghan of the University of Nottingham characterised SCCs as “a costly legal process that requires written agreements from both the sending and receiving parties”.²³¹ UK Finance said that the alternatives to data adequacy were “feasible in some cases and not in others, but always more complex (and expensive) for both the customer and the business”.²³²
166. Such costs would have hit SMEs the hardest. As Professor Sarah Hall and Martin Heneghan said: “Larger multinational firms are likely to be better able to access the legal advice needed to establish SCCs, as compared to smaller firms.”²³³ The Law Society of England and Wales, the Advertising Association, UKIE and the Royal Institute of British Architects (RIBA) also highlighted the disproportionate impact on smaller firms.²³⁴
167. Before the draft adequacy decision was published, the Government had stressed that businesses should prepare for a scenario where adequacy is not granted “as a sensible precaution”, and that they “should consider putting in place alternative transfer mechanisms”.²³⁵
168. Witnesses offered different perspectives on the state of business preparedness. On the one hand, George Riddell told us that “companies had been spending quite a lot of money” to prepare for a ‘no adequacy’ scenario.²³⁶ On the

225 [Q 30](#)

226 [Q 9](#)

227 Written evidence from UKIE ([FTS0062](#))

228 [Q 18](#)

229 European Union Committee, *The future UK-EU relationship on professional and business services* (13th Report, Session 2019–21, HL Paper 143), para 194

230 [Q 9](#) (Miles Celic)

231 Written evidence from Professor Sarah Hall and Martin Heneghan, University of Nottingham ([FTS0029](#))

232 Written evidence from UK Finance ([FTS0027](#))

233 Written evidence from Professor Sarah Hall and Martin Heneghan, University of Nottingham ([FTS0029](#))

234 Written evidence from the Advertising Association ([FTS0009](#)), RIBA ([FTS0042](#)), Law Society of England and Wales ([FTS0045](#)) and UKIE ([FTS0062](#))

235 Written evidence from BEIS ([FTS0019](#))

236 [Q 30](#)

other, the Federation of Small Businesses (FSB) told us that as recently as December 2020, only 3% of surveyed members had renegotiated contracts to insert SCCs.²³⁷

169. Even with an adequacy decision, firms will still need to make changes. For example, George Riddell highlighted the need for companies to appoint a new data representative in an EU Member State.²³⁸

Long-term picture

170. The Commission's draft data adequacy decision is welcome, but even if confirmed it is not guaranteed to be permanent. Witnesses highlighted in particular the impact of the 2020 'Schrems II' decision of the Court of Justice of the European Union (CJEU), which struck down the EU-US data arrangements known as Privacy Shield.²³⁹ Highlighting that the UK decision was the first EU data adequacy decision since the Schrems II ruling, Neil Ross said: "The EU is generally very worried that any adequacy decision it finds in favour of the UK or another third country is struck down in the European Court of Justice ... If we do not have good dialogue and mistrust develops, it is very likely that the adequacy decision could be revoked at some point in the future."²⁴⁰
171. Data policy is a fast-moving area, both in the EU and globally. Even with a positive adequacy decision, the increasing divergence between the EU and the US on data flows, which was highlighted by the Schrems II ruling, could give rise to policy and commercial dilemmas for the UK. As George Riddell told us, "The trilateral dataflow between the EU, UK and the US is an incredibly important consideration for many companies that operate across those three jurisdictions."²⁴¹
172. **EU data adequacy is of vital importance for a wide range of service providers, and we warmly welcome the Commission's recent draft decision, which, if confirmed, will allow EU-UK transfers of personal data to continue.**
173. **We note, however, that a positive adequacy decision is not guaranteed to be permanent, given the requirement for renewal after four years and the precedent set by recent legal challenges, including the Schrems II case in 2020. The Government should therefore maintain close dialogue with the EU on data to support the long-term stability of EU-UK data flows, and ensure that the implications for EU data adequacy are factored into any changes to the UK's domestic data protection regime.**

Digital Trade

Digital trade chapter of the TCA

174. The TCA contains an unprecedented and comprehensive chapter on Digital Trade. The Government described the Digital Trade chapter as containing

237 Written evidence from the Federation of Small Businesses ([FTS0052](#))

238 [Q 30](#)

239 Written evidence from UK Finance ([FTS0027](#)), the PBSC ([FTS0055](#)) and City of London Corporation ([FTS0060](#))

240 [QQ 30-34](#)

241 [Q 30](#)

“some of the most modern and liberalising provisions of any trade agreement in the world”.²⁴² They include:

- (a) A prohibition on data localisation (requirements for firms to store or process data in a certain location);²⁴³
- (b) Guarantees that the Parties will not discriminate against electronic signatures or electronic documents on the basis that they are in digital form;²⁴⁴ and
- (c) Provisions on open government data.²⁴⁵

175. Witnesses praised the Digital Trade chapter. Neil Ross told us: “The agreement excels in the digital and tech space. It goes well beyond what the EU has agreed with other trading partners, and it is a very good sign of the UK putting a good foot forward in digital trade.”²⁴⁶ He specifically highlighted the provisions on open government data: “The EU has not agreed that with any [other] trading partner.”²⁴⁷
176. Witnesses also praised the prohibition of data localisation, which is a major potential trade barrier. Neil Ross described the provisions as “very strong”,²⁴⁸ while the FSB told us they would “allow SMEs to take advantage of the opportunities of digital trade”.²⁴⁹
177. TheCityUK also welcomed the ban on data localisation, noting that such measures “make it harder for businesses to comply with regulatory requirements related to fighting financial crime, the fight against cyber-attacks, and are also a major barrier to trade”. But it added that “it is not yet clear how the ban on localisation in the TCA will relate to financial services data because the digital trade chapter also contains a carve-out for prudential regulation”²⁵⁰ (see paragraph 15).
178. A number of witnesses highlighted drawbacks of the TCA compared with Single Market membership. The Advertising Association and the FSB highlighted the loss of the Country of Origin principle under the e-Commerce directive.²⁵¹ This stipulates that companies trading online are bound by the rules in the Member State in which they are based, rather than the state where their products or services are delivered to the customer. Losing this principle will add complexity for UK companies selling their services online.

Looking forward

179. The Digital Trade chapter is by its nature forward-looking. The provisions on cross-border data flows are subject to a three-year review clause, and

242 Written evidence from BEIS ([FTS0019](#))

243 [Trade and Cooperation Agreement, 24 December 2020 \(Article DIGIT.6\)](#)

244 *Ibid.*, Article DIGIT.11

245 *Ibid.*, Article DIGIT.15

246 [Q 23](#)

247 [Q 32](#)

248 *Ibid.*

249 Written evidence from the Federation of Small Businesses ([FTS0052](#))

250 Written evidence from TheCityUK ([FTS0056](#))

251 Written evidence from the Advertising Association ([FTS0009](#)) and TheCityUK ([FTS0056](#))

there are provisions facilitating cooperation on emerging technologies.²⁵² Neil Ross encouraged the Government to consider it as a “living document”:

“If we want to make sure that it is still a leading digital trade chapter in three, five, 10 years’ time, we will need good engagement and a good relationship between the UK and the EU as we go forward.”²⁵³

Similarly, Professor Sarah Hall and Martin Heneghan said that the chapter’s review clauses would facilitate updates as technology evolves.²⁵⁴

180. As mentioned in paragraph 171, the UK’s ambitions on digital trade could be undermined if it is caught between divergent US and EU approaches to data privacy and regulation. While a detailed discussion of these issues is beyond the scope of this report, they remain an ongoing concern that will require the Government to carefully monitor developments and communicate them to affected businesses.
181. **We welcome the TCA’s digital trade chapter, which is one of the strongest areas of the deal for services and provides extensive liberalisation which goes beyond comparable EU FTAs.**
182. **Digital trade is a fast-moving area, and the provisions will need to be updated as new technologies develop. The Government should make use of the TCA’s framework for further dialogue, as well as the review clause, to ensure the digital trade provisions remain up to date.**

252 [Trade and Cooperation Agreement, 24 December 2020 \(Article DIGIT.6, DIGIT.16\)](#)

253 [Q 32](#)

254 Written evidence from Professor Sarah Hall and Martin Heneghan, University of Nottingham ([FTS0029](#))

CHAPTER 5: CREATIVE INDUSTRIES

Creative industries in the UK

183. The UK's creative industries are a success story. In 2019, the sector in the UK was worth over £100 billion and was growing at twice the rate of the rest of the economy.²⁵⁵ In the same year, the sector employed over two million people and exported £46 billion in goods and services worldwide.²⁵⁶ The creative industries accounted for £15.4 billion in service exports to the EU in 2018.²⁵⁷
184. The benefits of a thriving creative industries sector go far beyond the economic value added. As UK Theatre and the Society of London Theatre (SOLT) put it, the creative industries “create a sense of pride and belonging in, and bring joy to, our communities”. They are also a “significant contributor to soft power” and promote “the United Kingdom, including its values and international trade, to the rest of the world, through the exchange of human capital, ideas, culture, and language”.²⁵⁸
185. Examples of the success of this sector include:
- **Music:** Contributes £5.8 billion to the UK economy annually,²⁵⁹ employs over 100,000 people,²⁶⁰ and the UK produced some of the highest-grossing global tours of 2019 with acts such as Ed Sheeran and Elton John.²⁶¹ The UK is one of only three net exporters of music globally²⁶² and ranks third in the world for sales of recorded music.²⁶³
 - **Film:** Production spend on film and television in the UK reached £3.6 billion in 2019, a 16% increase on the previous year. Film exports in 2018 totalled £2.6 billion, half of which was to Europe.²⁶⁴
 - **TV:** The UK is the world's second-largest exporter of TV content, with exports of £1.5 billion in 2019/20; £490 million of these exports went to Europe.²⁶⁵ The UK is the largest international exporter of TV programme formats.²⁶⁶
186. Collaboration with European partners and trade with the EU have been essential to this success. As Cortina Butler, Deputy Director for Arts, British Council, told us: “There is a great tradition of cultural exchange and cross-fertilisation between our cultural sectors, with UK creatives building lives and careers across the EU at all levels of the creative economy, and vice

255 Creative Industries Federation, *Creative Industries Manifesto*, October 2019: <https://www.creativeindustriesfederation.com/sites/default/files/2019-10/Creative%20Industries%20Manifesto.pdf> [accessed 22 February 2021]

256 *Ibid.*

257 Written evidence from BEIS (FTS0019)

258 Written evidence from UK Theatre and SOLT (FTS0031)

259 Written evidence from the Incorporated Society of Musicians (FTS0038)

260 Q 13 (Horace Trubridge, Musicians' Union)

261 Written evidence from the Music Managers Forum (FTS0016)

262 Written evidence from UK Music (FTS0046)

263 Written evidence from the Music Managers Forum (FTS0016)

264 Q 13

265 *Ibid.*

266 Written evidence from PACT (FTS0026)

versa.” Glynis Henderson Productions, one of the UK’s leading international theatre production companies, added:

“Opportunities for UK theatre and the performing arts more generally within the EU have been hugely beneficial to the arts industry, bringing revenue into the UK and contributing to a vibrant creative culture which punches above its weight on the world stage.”²⁶⁷

187. The COVID-19 pandemic has hit the creative industries hard, and restrictions on gatherings have been particularly damaging. Harriet Finney, Director of External Affairs at the British Film Institute, was clear that the sector could be “a really powerful driving force for economic recovery and jobs across the country, as we come through this period of huge change and disruption”. But she warned: “As we build back, one of the key things is getting this new relationship with Europe right.”²⁶⁸
188. In the course of 2020 we wrote several times to the Secretary of State for Digital, Culture, Media and Sport, Rt Hon. Oliver Dowden MP, to raise concerns over the potential impact of restrictions on the mobility of creative professionals on the creative industries, and in particular their recovery from the COVID-19 pandemic.²⁶⁹ This chapter considers these issues further, along with the impact of the TCA on funding for the creative industries and its intellectual property provisions.
189. **The UK’s creative industries sector was worth over £100 billion in 2019 and grew at twice the rate of the rest of the economy. The benefits of a thriving creative sector go far beyond its significant financial contribution and include a sense of pride, community and joy, as well as promoting UK values and ‘soft power’ abroad.**
190. **This sector has been hit hard by the COVID-19 pandemic, and its recovery will depend in part on getting the relationship with the EU right. Exports to the EU in the creative sector are worth over £15 billion and the relationship with the EU is important for promoting creative collaboration and innovation.**

Mobility for creative professionals

Importance of mobility

191. The ability to travel and collaborate internationally is a fundamental part of the UK’s success in the creative industries. As Cortina Butler said: “That is the nature of creativity. It is about people connecting and collaborating.”²⁷⁰ Trade data back this up: based on Office for National Statistics estimates, 57% of services exports which cover creative industries are delivered via business travellers (WTO Mode 4).²⁷¹ These activities include tours, shows and productions overseas, as well as professionals travelling to provide professional advice.

267 Written evidence from Glynis Henderson Productions ([FTS0008](#))

268 [Q 13](#)

269 Correspondence from Baroness Donaghy, Chair, EU Services Sub-Committee, to Rt Hon. Oliver Dowden MP, Secretary of State for Digital, Culture, Media and Sport, on the future UK-EU relationship on creative industries, August–November 2020: <https://committees.parliament.uk/work/660/the-future-ukeu-relationship-on-creative-industries/publications/3/correspondence/>

270 [Q 14](#)

271 Written evidence from BEIS ([FTS0019](#))

192. As Horace Trubridge explained:

“If you are a musician, writing original music and performing live work just in the UK, it is difficult to generate enough income to sustain your business. If you can go and play in France, Germany, Italy and Spain, play little festivals, do little tours, develop your fanbase, sell a bit of merchandise, increase the traffic to your website, increase the streams and downloads that you get, you start to get ... an income that means that you can stay in the industry.”²⁷²

193. Many of these exports of creative services are to the EU. A survey for the Incorporated Society of Musicians found that 43% of the over 600 respondents in the music sector travelled to the EU more than five times a year.²⁷³

194. Alongside the performers, there are also “many staff in the shadows enabling and delivering the live performance to take place”.²⁷⁴ While this has ground to a halt due to COVID-19 restrictions, there is normally a continual exchange of personnel and equipment between the UK and EU to produce and deliver tours and/or one-off concerts.²⁷⁵

195. For many professionals, mobility within Europe can also act as a stepping stone for building a wider international reputation and raising their international profile. For example, to secure a visa to perform in America, musicians must provide evidence of an international reputation.²⁷⁶ Performances within Europe open up opportunities further afield.

Movement of professionals

196. While the TCA allows short-term business visitors to provide services for 90 days in any six-month period, the rules explicitly exclude any situation in which visitors are “engaged in selling their goods or supplying services to the general public” or “on their own behalf, receive remuneration from within the Party where they are staying temporarily”.²⁷⁷ Thus those selling tickets to live events—many professionals in the creative industries—are excluded.²⁷⁸

197. National reservations to the TCA provide an even more “fragmented and complex” picture of national-level rules and restrictions on providing creative services.²⁷⁹ Each Member State has a different set of rules, exemptions, work permits and visas for UK creative professionals to navigate. So while some EU Member States provide an exemption from work permit rules for “cultural activity”, others do not, making international tours very complex.²⁸⁰ The TCA’s provisions on ‘independent professionals’ (see paragraph 104) also explicitly exclude professionals in the creative industries sector.²⁸¹

272 [Q 13](#)

273 Written evidence from the Incorporated Society of Musicians ([FTS0038](#))

274 Written evidence from SSE Audio Group ([FTS0003](#))

275 Written evidence from TESS ([FTS0002](#))

276 Written evidence from the Incorporated Society of Musicians ([FTS0038](#))

277 [Trade and Cooperation Agreement, 24 December 2020 \(Article SERVIN.4.3\)](#)

278 Written evidence from Directors UK ([FTS0033](#))

279 [Q 14](#) (Cortina Butler, British Council)

280 The Commission has provided a spreadsheet detailing these national rules. European Commission, ‘Information on national derogations from the visa requirement’: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/documents/policies/borders-and-visas/visa-policy/22122020_information_december_2020.xlsx [accessed 22 February 2021]

281 [Trade and Cooperation Agreement, 24 December 2020 \(ANNEX SERVIN-4\)](#)

198. A common theme in this inquiry was concern about increased bureaucracy and complexity for those seeking to work and/or tour in the EU. PACT, the trade association for UK independent television, film, digital, children’s and animation media companies, worried that “unfamiliar immigration rules and visa application fees will have an effect on the sector, especially SMEs who are working on tight budgets and may not have the additional cash for things such as fast-tracking visa applications”.²⁸²
199. Cortina Butler told us: “That cross-fertilisation of cultural professionals, which is crucial to the development of the sector here, slows up as a result of what is going on.”²⁸³ Glynis Henderson Productions said that “the increase in paperwork and administration will have the effect of making us less flexible, needing longer lead times from confirming a booking to carrying out engagements”.²⁸⁴ Robin Rimbaud, a composer, told us that as most of his income previously came from work in the EU these arrangements left him in a “compromising and harrowing situation”.²⁸⁵
200. Globetrotter Live Limited, a UK-based company providing production and technical services for the events, entertainment and music industries, outlined the potential consequences of this issue:
- “In a touring scenario, where there are multiple trades together, there are now different work requirements for different people on the same project. In the creative industries it is common for people to move from one project to another, meaning that the cumulative effect of different requirements could cause people to have ‘expiring’ permits mid project. The issue is so complicated that many larger companies are already revising their databases to give preference to EU based contractors.”²⁸⁶
201. The TCA’s reference to short-term business visitors receiving remuneration “on their own behalf” (see above, paragraph 196) has also created significant confusion for the sector, as it could enable creatives who are paid by a UK company to provide their services on a ‘fly-in fly-out’ basis.²⁸⁷
202. In terms of UK immigration rules, the UK permits all foreign nationals to stay in the UK for up to 30 days to carry out paid engagements, as long as they prove they are a professional musician (or other performer) and have been invited by an established UK business. Longer stays would require a temporary work visa and require the recipient to either: a) be in a “shortage occupation”, which currently means that in the creative industries only certain orchestral positions qualify, or b) have an established international reputation.²⁸⁸

Movement of goods

203. The TCA also contains rules about companies from one jurisdiction being paid to move goods in or across another jurisdiction (known as ‘cabotage’).²⁸⁹

282 Written evidence from PACT ([FTS0026](#))

283 [Q 20](#)

284 Written evidence from Glynis Henderson Productions ([FTS0008](#))

285 Written evidence from Robin Rimbaud, Composer ([FTS0049](#))

286 Written evidence from Globetrotter Live Ltd ([FTS0048](#))

287 Written evidence from the Welsh Government ([FTS0015](#))

288 HM Government, ‘Temporary Worker—International Agreement Worker visa (T5)’: <https://www.gov.uk/international-agreement-worker-visa> [accessed 2 March 2021]

289 For further information on the TCA’s provisions on the movements of goods, see European Union Committee, *Beyond Brexit: trade in goods*, (24th Report, Session 2019–21, HL Paper 249)

It stipulates, for instance, that UK-owned companies with vehicles over 3.5 tonnes can make a maximum of three internal movements within the EU before having to return to the UK.²⁹⁰ As Horace Trubridge noted, this has serious implications for some creative industries: “An orchestra with a truck full of instruments that wants to play six concerts in France and Germany will have enormous problems with that.”²⁹¹

204. These cabotage restrictions will also harm the UK’s events haulage sector, which is already struggling due to the COVID-19 pandemic. Transam Trucking Ltd/EST, a transport company operating in the live music and events sector, told us: “Hauliers from this small sub-sector, operate around 1,000 vehicles and are financially on their knees.”²⁹²
205. Under the TCA, an Admission Temporaire Carnet is required to move work equipment, including any recording equipment and musical instruments, across borders. A carnet acts as a temporary passport for goods and currently costs over £300 plus a security deposit of 30–40% of the value of the goods/equipment listed.²⁹³ Witnesses raised concerns about the cost and additional bureaucracy of these processes. For example, PACT said: “Production companies, particularly smaller companies, often find Carnets have a high cost attached and can be an administrative burden to those who are unfamiliar with the process.”²⁹⁴ Horace Trubridge said: “Carnets are expensive and quite prohibitively so for developing acts.”²⁹⁵
206. Provisions in the TCA on the movement of ‘cultural goods’ mean that UK companies and organisations will also face additional barriers when seeking to arrange trade fairs and exhibitions.²⁹⁶ While the TCA’s rules on ‘commercial goods’ are relatively straightforward, cultural goods are “subject to customs and further logistical considerations, and will be impacted by tariffs, carnets and export licensing charges.”²⁹⁷

Potential mitigations

207. The UK and the EU disagree on how these limitations on the creative industries came to be in the TCA. The Government says that during the negotiations, the UK “explicitly proposed that further activities for creative professionals be added to the list of short-term business visitor activities, but the EU rejected our proposals”.²⁹⁸ The default mobility provisions in the EU’s negotiating position would have enabled UK citizens to undertake any paid work, without a visa, in the EU for up to 90 days in any 180 days (and *vice versa*).²⁹⁹
208. Setting aside these disagreements, it is in the interests of both sides to address barriers to mobility for creative professionals. As Transam Trucking/EST

290 See European Union Committee, *Beyond Brexit: trade in goods*, (24th Report, Session 2019–21, HL Paper 249)

291 [Q 14](#)

292 Written evidence from Transam Trucking Ltd/EST ([FTS0004](#))

293 Written evidence from the Incorporated Society of Musicians ([FTS0038](#)) and UK Music ([FTS0046](#))

294 Written evidence from PACT ([FTS0026](#))

295 [Q 14](#)

296 [Q 20](#) (Cortina Butler)

297 *Ibid.*

298 Written evidence from BEIS ([FTS0019](#))

299 Draft text of the Agreement on the New Partnership with the United Kingdom: Article MOBI.4: Visa-free travel: https://ec.europa.eu/info/publications/draft-text-agreement-new-partnership-united-kingdom_en [accessed 23 February 2021]

put it: “When we finally resume normal life the appetite from the public will be to get out and do things that they have been unable to for a prolonged period.”³⁰⁰ Horace Trubridge therefore advocated a “Europe-wide reciprocal agreement to make frictionless mobility for musicians”, in the form of a “side agreement” to the TCA.³⁰¹ Similarly, the Incorporated Society of Musicians has proposed a “bespoke visa waiver agreement with the EU that is separate to the trade deal” and would exempt “touring performers, creative teams and crews from needing to obtain a visa for up to 90 days in a 180-day period when seeking paid work”.³⁰² Without such a ‘side agreement’, Horace Trubridge warned, the UK would need to negotiate bilateral deals with each EU Member State, which would be “time consuming and difficult”.³⁰³

209. Another option would be to remove the creative sectors from the list of excluded professions for short-term business visitors. However, this would require amendment to the TCA itself. Creative roles could also be added to the list of permitted independent professionals, but to qualify, individuals would need proof of both six years of experience in the activity in question and a relevant university-level qualification.³⁰⁴ Many musicians and creative professionals would not satisfy those criteria.
210. The Minister, Lord Grimstone, told us that the Government will establish a working group with representatives from the affected sectors.³⁰⁵ It has also been reported that the Government is considering options for post-Brexit financial support for the music industry to cover the additional costs of visas, work permits and carnets.³⁰⁶ However, Horace Trubridge was clear that he “would much prefer to see the problem solved than UK taxpayers’ money being used to try to cure a problem that could be solved if there was a will on both sides to sit down and negotiate”.³⁰⁷ Cortina Butler, on the other hand, acknowledged that it would take some time to negotiate “something more straightforward and more desirable for the sector”, and therefore believed that “some funding to support particularly low-income, emerging, young artists start their recovery process with lower costs would be welcome”.³⁰⁸
211. In the meantime, we agree with the Incorporated Society of Musicians that the UK should enter “bilateral discussions with individual EU Member States that do not currently offer cultural exemptions for work permits, such as Spain, Italy, Belgium and Portugal”.³⁰⁹
212. **The mobility provisions in the TCA make it difficult for those working in the UK creative industries to tour in the EU. The COVID-19 pandemic means these problems are hidden for now, but these mobility restrictions put the sector’s recovery at risk.**

300 Written evidence from Transam Trucking Ltd/EST ([FTS0004](#))

301 [Q 14](#)

302 Written evidence from the Incorporated Society of Musicians ([FTS0038](#))

303 [Q 14](#) (Horace Trubridge)

304 [Trade and Cooperation Agreement, 24 December 2020 \(Article.4.1.5\(c\)\(iii\)\)](#)

305 [Q 47](#)

306 Financial Times, ‘UK to examine post-Brexit support for music’, 20 January 2021: <https://www.ft.com/content/47ee5f64-0638-4611-8de1-ec79a17a92a7> [accessed 22 February 2021]

307 [Q 22](#)

308 *Ibid.*

309 Written evidence from the Incorporated Society of Musicians ([FTS0038](#))

213. **We urge the Government to negotiate, as a matter of urgency, a bilateral and reciprocal agreement to make mobility arrangements for touring performers, creative teams and crews.**
214. **The Government should also seek to negotiate an agreement to resolve the barriers to the movement of goods used in cultural and sporting events that are imported on a temporary basis. These arrangements will be mutually beneficial to creative industries in both the UK and EU.**

Creative Europe

215. Under the TCA's provisions on EU programmes, the UK will no longer have access to the EU's Creative Europe funding programme. Creative Europe is split into two sub-programmes, Culture and MEDIA. The Culture sub-programme supports the cultural sectors and funds mainly collaborative projects and initiatives across all art forms. The MEDIA sub-programme supports film, television, new media and video games, offering funding, training and networking opportunities.
216. The UK has in the past benefited greatly from this fund. The UK received over €100 million during the 2014–2020 funding period, and UK cultural organisations worked on collaborative projects with 1,191 partners across 37 of the participating countries.³¹⁰ Some 43% of projects on the Culture sub-programme had UK partners and the UK was the third most successful country by number of funded culture projects.³¹¹
217. Harriet Finney told us that the MEDIA programme had played an “important role” in the film sector and had seen a “huge number of collaborations and partnerships built”.³¹² She added, however, that “With all things that are organised on a multilateral basis, there were times when it did not work particularly well. It did not always secure the outcomes that we might have wanted as the UK.”³¹³
218. As part of the latest Spending Review in November 2019, the Government announced the Global Screen Fund as a domestic alternative to the MEDIA sub-programme. The fund will be worth £7 million in its pilot year (2021/22). The Government has said that the fund will “support the development of independent UK content, to help maintain a vibrant and sustainable UK independent screen sector”.³¹⁴ Harriet Finney saw it as a “fantastic opportunity for UK film”, but was concerned that it would be launched against a “challenging international backdrop” with cinemas closed in many countries.³¹⁵
219. **Now that the UK has left the EU's Creative Europe programme, the Government should ensure that funding continues to be allocated to the creative industries. This funding should continue to support international collaboration.**

310 [Q 15](#) (Cortina Butler)

311 *Ibid*

312 *Ibid*.

313 *Ibid*.

314 HM Treasury, ‘Spending Review 2020 speech’, 25 November 2020: <https://www.gov.uk/government/speeches/spending-review-2020-speech> [accessed 22 February 2021]

315 [Q 15](#)

Intellectual property

220. PACT was “pleased that the UK-EU Trade and Cooperation Agreement contains a dedicated section on intellectual property”, adding that it was “vital that high standards of IP protection are maintained now the UK has left the EU”.³¹⁶ Harriet Finney was also “pleased to see the specific reference to IP and the dedicated section in the TCA on intellectual property”.³¹⁷
221. The Government told us that the intellectual property provisions in the TCA “aim to harmonise the existing high international standards of intellectual property rights protection between the UK and the EU”.³¹⁸ Such provisions are important across the services sector, not just to the creative industries.
222. In many areas, intellectual property provisions are harmonised through international agreements, such as the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). In some areas, the TCA goes beyond these international obligations. For example, there are higher standards on copyright duration and rights of authors, performers, producers and broadcasters.³¹⁹ Both Parties also make a commitment to cooperation on collective rights management for creators, to ensure that UK creators receive revenue from the use of their works in the EU and *vice versa*.³²⁰ Horace Trubridge referred to the potential strengthening of intellectual property rights as “the only opportunity that I can see right now for musicians in the TCA”.³²¹

Exhaustion

223. The ‘exhaustion’ of intellectual property rights is the point at which rights cannot be used to stop the further distribution or resale of those goods.³²² While the UK has decided to recognise the ‘exhaustion’ of intellectual property rights based on when the products or services were first placed on the market in either the EEA or the UK, the EU has not reciprocated this. This means that businesses that first place their goods or services on the UK market will not be considered to have ‘exhausted’ the intellectual property provision of those goods or services and will be able to rely on intellectual property rights to prevent the resale of those goods on the EU market.
224. The British Copyright Council told us that this “must not become a permanent solution ... copyright concerns would be best addressed by returning to the long-standing exclusion of international copyright exhaustion in UK legislation”.³²³

Audio-visual sector

225. After Brexit, UK audio-visual content is still designated as ‘European Works’ as this is governed by the European Convention on Transfrontier Television, which is a Council of Europe not an EU measure.³²⁴ This means that UK

316 Written evidence from PACT ([FTS0026](#))

317 [Q 17](#)

318 Written evidence from BEIS ([FTS0019](#))

319 *Ibid.*

320 *Ibid.*

321 [Q 17](#)

322 The duration of the period that intellectual property rights are protected varies. UK Unregistered Design Rights provide protection for 10 years after a design was first sold or 15 years after it was created, whichever is earlier. Registered Designs can be renewed every five years for up to 25 years.

323 Written evidence from the British Copyright Council ([FTS0040](#))

324 [Q 16](#) (Harriet Finney)

content can still count towards EU quotas for European works—though UK Music argued that “the UK needs to intensify bilateral efforts to ensure that any geographic expression of Europe in the audio-visual sector retains the UK”.³²⁵

226. As the UK is no longer subject to the EU’s Audio-visual Media Services Directive 2018, broadcasters and other audio-visual service providers regulated in the UK can no longer benefit from “passporting” across the EU. This means that UK providers can no longer operate television channels and on-demand services throughout the EEA, based on a UK licence alone. This means that UK broadcasters either cannot provide services in the EU or must seek a licence in an EU Member State. This will have a knock-on effect for the UK’s advertising sector.³²⁶

Managing regulatory divergence

227. The Government does not plan to adopt the EU’s Directive on Copyright in the Digital Single Market, Digital Services Act or Digital Markets Act.³²⁷ The Directive on Copyright in the Digital Single Market seeks to ensure “a well-functioning marketplace for copyright” and aims to protect copyrighted material online.³²⁸ The Digital Services Act and the Digital Markets Act are the EU’s package of measures to “create a safer and more open digital space, with European values at its centre”.³²⁹
228. The Government has said that it does not have plans to incorporate the EU’s Copyright Directive into UK law³³⁰—even though, as Directors UK noted, the UK “supported and shaped the Directive” as a Member State. Directors UK argued that “it would be far less time-consuming and costly to transpose it in full at this stage than to consider Copyright in isolation”.³³¹ The British Copyright Council also said that “regulatory divergence between the UK and EU will emerge without updates to the UK’s regulatory regime”, adding that a “wholesale review of copyright law is not required”, but that the UK will need to consider how and whether to incorporate elements of EU legislation into the UK’s intellectual property framework. It stressed that “at this stage dialogue is needed across the creative value chain to make sure that the UK’s copyright regime remains world-leading and to find a workable way forward”.³³² The early establishment of the Trade Specialised Committee on Intellectual Property will be important in taking forward these issues.
229. The FSB highlighted that “of those small businesses that own intellectual property rights, one in three are heavily reliant upon them. This means that weak protection or infringements can be incredibly damaging.”³³³ With respect to the audio-visual sector, Harriet Finney said: “For both UK and

325 Written evidence from UK Music ([FTS0046](#))

326 Advertising Association ([FTS0009](#))

327 Written evidence from the British Copyright Council ([FTS0040](#))

328 Proposal for a Directive of the European Parliament and of the Council on copyright in the Digital Single Market, [COM\(2016\) 593](#) and Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (Text with EEA relevance.) [OJ L 130/92](#), 17 May 2019

329 European Commission, *The Digital Services Act package*, 19 January 2021: <https://ec.europa.eu/digital-single-market/en/digital-services-act-package> [accessed 22 February 2021]

330 BBC News, ‘Article 13: UK will not implement EU copyright law’, 24 January 2020: <https://www.bbc.co.uk/news/technology-51240785> [accessed 2 March 2021]

331 Written evidence from Directors UK ([FTS0033](#))

332 Written evidence from the British Copyright Council ([FTS0040](#))

333 Written evidence from the Federation of Small Businesses ([FTS0052](#))

European producers, it is incredibly important to make sure that we continue to have very robust protection for copyrighted TV and film works, for both sides of the equation”. She added: “The issue of copyright theft continues to be a major challenge, even within the European market.”³³⁴

230. **We welcome the embedding in the TCA of a mutual commitment to high standards of intellectual property protection, which is essential to a flourishing services sector.**
231. **Keeping up with new technologies may lead to future divergence between the UK and EU intellectual property legislative frameworks. As in many other areas, managing this divergence will require an open and productive regulatory dialogue, both to provide assurance to businesses and to ensure that high standards of protection are maintained.**

CHAPTER 6: RESEARCH AND EDUCATION

The UK's research and education sector

232. The UK is a world leader in research and education. The UK consistently ranks first in the world for research quality, as measured by field-weighted citation impact, and ranks third globally for research production.³³⁵ Exports of higher education internationally, including income from international students, amounted to £13.4 billion in 2019.³³⁶ The private sector plays an important role in the UK's research and innovation landscape: over 3,825 new graduate start-ups were created and 131 new university-owned or part-owned spin-off companies were established in 2018/19.³³⁷
233. We launched a short inquiry into the future relationship on research and education in October 2020 and published a long letter to the Government on these matters on 3 December 2020.³³⁸ We set out the evidence received on association to the Horizon Europe and Erasmus+ programmes, as well as issues regarding data flows and preparedness for the end of the transition period. This chapter builds on that letter.

Research funding

Horizon Europe

234. Under the TCA, the UK will associate with the EU's Horizon Europe research funding programme. Negotiations on the details of associate member status will take place through the Specialised Committee on Participation in Union Programmes in the coming months. A draft Protocol to guide these negotiations was published alongside the Agreement.³³⁹

Terms of association

235. Under the terms of association, UK-based researchers will be able to apply for and receive EU funding from Horizon Europe in the same way as those based in EU Member States. This includes European Research Council funding calls and Marie Skłodowska-Curie Actions, which provide funding for researcher mobility. The UK will not be eligible to bid for grants from the European Innovation Council's accelerator fund and the UK's annual contribution to the programme will be adjusted accordingly.³⁴⁰
236. In terms of the UK's involvement in the governance of the Horizon Europe fund, Universities UK said: "UK researchers can still lead projects and UK officials and experts can still attend programme committees and working

335 Oral evidence taken before the EU Services Sub-Committee on 22 October 2020 (Session 2019–21), [Q 1](#) (Vivienne Stern, Universities UK)

336 Department for Education and Department for International Trade, 'Education generates billions for UK economy' 24 January 2019: <https://www.gov.uk/government/news/education-generates-billions-for-uk-economy> [accessed 22 February 2021]

337 Higher Education Statistics Agency (HESA), 'Chart 1 - Spin-offs and start-up companies 2014/15 to 2018/19', April 2020: <https://www.hesa.ac.uk/data-and-analysis/providers/business-community/chart-1> [accessed 22 February 2021]

338 Letter from Baroness Donaghy, Chair, EU Services Sub-Committee, to Rt Hon. Gavin Williamson MP, Secretary of State for Education, 3 December 2020: <https://committees.parliament.uk/publications/3826/documents/38307/default/>

339 European Commission, 'Joint Declaration on participation on Union programmes and access to programme services': https://ec.europa.eu/info/sites/info/files/draft_eu-uk_declarations.pdf [accessed 22 February 2021]

340 *Ibid.*, Article 6

groups, albeit as observers rather than full participants.”³⁴¹ This means that the UK loses its voting rights on key decisions made about the programme.

237. The UK’s financial contribution to Horizon Europe will consist of an annual operational fee and a participation fee set at 4% of the annual operational fee. The operational fee will be based on the ratio of the value of the UK’s GDP to EU GDP.
238. The draft Protocol allows for a ‘two-way’ correction mechanism for Horizon funding, so the UK’s operational contribution may be retrospectively adjusted upwards or downwards, depending on how much the UK receives from the scheme versus how much it puts in. If UK receipts from the fund exceed its contribution by more than 8%, the UK will be required to ‘top up’ its operational contribution.³⁴² Similarly, the UK can request “appropriate measures” to redress the balance if UK receipts fall below 88% of its contribution, and can give notice to withdraw if receipts fall below 84% of its contribution.³⁴³
239. As the method for calculating the UK’s financial contribution under the draft Protocol will be different from the method used in other EU programmes, it is difficult to estimate what the UK’s financial contribution to the scheme may be.
240. Both sides can unilaterally terminate UK participation in Horizon Europe with 45 days’ notice in certain circumstances. The EU can unilaterally suspend UK participation if the UK does not pay its financial contribution, or introduces significant changes to certain conditions, including “conditions for entry and residence in the UK of the persons that are involved in the implementation of these programmes and activities, or parts thereof, including students, researchers, trainees or volunteers”.³⁴⁴

Benefits of association

241. The Government has highlighted the benefits of the Horizon programme, stating: “Our participation in Horizon furthers our ambition to become a global science superpower—continuing our important collaboration on scientific research with our EU partners.”³⁴⁵ The Government also asserts that “Participation will continue to give UK access to cross-border networks, supply chains for new products and access to global talent.”³⁴⁶
242. Witnesses welcomed the Government’s decision to associate to the Horizon Europe programme. Professor Ian Greer, ViceChancellor of Queen’s University Belfast, said that there is “absolutely no doubt” that the TCA is critical for the sector, particularly the association to Horizon Europe, “not just because of the funding opportunities and the collaboration that it brings, but because it is an important signal that we in the UK are outward-looking”.³⁴⁷ Sir Paul Nurse, Director of the Francis Crick Institute, added:

341 Written evidence from Universities UK ([FTS0041](#))

342 *Ibid.*

343 *Ibid.*

344 European Commission, ‘Joint Declaration on participation on Union programmes and access to programme services’: https://ec.europa.eu/info/sites/info/files/draft_eu-uk_declarations.pdf [accessed 22 February 2021]

345 Written evidence from BEIS ([FTS0019](#))

346 *Ibid.*

347 [Q 35](#)

“The connection that we have had with continental Europe in the last 30 years has been extremely successful for British science, and we should, as much as possible, preserve everything that we can about that, despite now being outside the European Union.”³⁴⁸

Implementing the new relationship

243. Witnesses were clear that while they welcomed the UK’s association with Horizon Europe, the sector required an early agreement on the terms of association. The Academy of Medical Sciences highlighted that the terms of participation could be “ratified at the earliest possible opportunity to ensure there is no gap in participation and to allow for certainty for researchers to prepare applications, collaborations and partnerships”.³⁴⁹
244. The competitive application processes for Horizon funding will begin in spring: if the funding and mechanisms are not agreed in time, UK researchers will be disadvantaged. We were encouraged by the Minister’s view that “It is both the EU’s and our firm intention to adopt the protocol at the earliest opportunity; we want UK entities to be able to participate in the opening calls.”³⁵⁰ The Government should ensure that an agreement is reached as soon as possible.
245. More broadly, Sir Paul Nurse emphasised the importance of ensuring that the UK and EU research communities are able to work together to ensure that the UK’s new role as associate member of Horizon Europe works well for the sector: “The priorities are to get it all to work. It sounds a bit mundane. This is a major shift for us all. We all want it to work, and we have to have the determination to make it work.”³⁵¹
246. Witnesses regretted that uncertainty about the UK’s relationship with Horizon funding since the referendum in 2016 had meant a significant decline in UK receipts from the Horizon 2020 programme. The proportion of EU funding granted to the UK fell by nearly a third between 2015 and 2018, and there was nearly a 40% decrease in UK applications during this time.³⁵² This decline underlines the need for a stable environment for research collaboration through the Horizon Europe programme.

Domestic research funding

247. As set out in our December 2020 letter to the Government, we welcome the aims of the Government’s July 2020 Research and Development Roadmap, to “strengthen the UK’s global position in research”, “unleash a new wave of innovation” and “revitalise international ties”.³⁵³ We also recognise the Chancellor’s commitment in March 2020 to increase public investment in research and development to £22 billion per year by 2024/25.

348 [Q 36](#)

349 Written evidence from the Academy of Medical Sciences ([FTS0035](#))

350 [Q 55](#)

351 [Q 37](#)

352 Written evidence from the Academy of Medical Sciences ([FTS0035](#))

353 Department for Business, Energy and Industrial Strategy, *UK Research and Development Roadmap*, 1 July 2020: http://data.parliament.uk/DepositedPapers/Files/DEP2020-0377/UK_Research_and_Development_Roadmap.pdf [accessed 22 February 2021]

248. The Government has not yet released details about the impact of associating with Horizon Europe on the Government's domestic research funding commitments. In Professor Ian Greer's words, the Government should:

“Ensure that the European funding complements and enhances the domestic R&D funding and could ‘level up’ the UK with a significant capacity and capability that has not yet been unleashed to drive that economy further forward. We can use this to shape our future, but we need to move quickly.”³⁵⁴

The Minister told us that the Government planned to monitor the UK's participation in Horizon Europe “very closely”, adding that “if we find that the associate status of the Horizon programme is leaving us gaps in our R&D armoury ... we will take steps to close those gaps by UK-specific programmes”.³⁵⁵

249. Witnesses also highlighted a potential gap in funding for innovation. As an associated country, UK companies will not be eligible for the equity aspects of the European Innovation Council's (EIC) accelerator programme, the EU's flagship funding programme for SMEs, which replaces Horizon 2020's SME instrument, and is worth around €10 billion over the seven-year programme.³⁵⁶ The Minister, Lord Grimstone, told us: “At times of great change, as we are experiencing at the moment, those who innovate are those who succeed.”³⁵⁷ The Chancellor of the Duchy of Lancaster, Rt Hon. Michael Gove MP, told the EU Select Committee in February that the SME instrument was “a commercial intervention to help players expand their role internationally. It is a perfectly legitimate set of activity, but we were focused on and prioritising funding in basic and applied scientific research.”³⁵⁸ Sir Paul Nurse told us “we need to ensure that we have substitution in place to be able to make that work.”³⁵⁹
250. Universities UK also raised the question of whether the Government's proposed Discovery Fund will be still established and, if so, how it will run alongside Horizon Europe.³⁶⁰ The proposed fund would offer sizeable grants over long periods of time to talented early, mid and late-career researchers to pursue discovery-led, ground-breaking research.³⁶¹
251. **The future relationship with the EU will be critical to the continuing success of the UK's research and education sector. We welcome the Government's decision to associate with the Horizon Europe programme, which was the strong preference of witnesses to our inquiry.**

354 [Q 36](#)

355 [Q 56](#)

356 European Commission, ‘EIC Accelerator’: <https://ec.europa.eu/easme/en/eic-accelerator> [accessed 22 February 2021] and supplementary written evidence from Lord Grimstone of Boscobel ([FTS0065](#))

357 [Q 56](#)

358 Oral evidence taken before the European Union Committee on 9 February 2020 (Session 2019–21), [Q 29](#) (Rt Hon. Michael Gove MP)

359 [Q 37](#)

360 Written evidence from Universities UK ([FTS0041](#))

361 Department for Business, Energy and Industrial Strategy, *UK Research and Development Roadmap*, 1 July 2020: http://data.parliament.uk/DepositedPapers/Files/DEP2020-0377/UK_Research_and_Development_Roadmap.pdf [accessed 22 February 2021]

252. **Both sides should seek to ensure that final negotiations on the Horizon Europe settlement are concluded as soon as possible, to enable UK researchers to take part in the first calls for funding applications.**
253. **As an associate member of the programme, the UK will not have a vote on decisions about the direction of the Horizon Europe programme and how it is run. The Government should work constructively with European partners to ensure that the UK's views are heard.**
254. **The Government should provide clarity on how UK contributions to Horizon Europe will affect the domestic research funding commitments set out in the Research and Development Roadmap, published in July 2020. In particular, the Government should make innovation funding available for SMEs.**

Mobility

Erasmus+

255. Erasmus+ is the EU's programme to support education, training, youth and sport in Europe; in particular, it provides mobility funding for student exchanges across Europe.
256. The Erasmus+ budget for 2014–2020 was €14.7 billion, and provided opportunities for over four million Europeans to study, train and gain experience abroad.³⁶² Under this programme, approximately €1 billion was allocated to the UK between 2014 and 2020.³⁶³ Approximately 53% of UK university students who study abroad do so through the Erasmus programme.³⁶⁴ The Erasmus+ budget for 2021–2027 has almost doubled to €26 billion.
257. The Government's decision not to become an associate member of Erasmus+ was based on cost. The Government has said that while the UK received around €1 billion in receipts from the 2014–2020 scheme, its contribution to the scheme was around €1.8 billion.³⁶⁵ With the budget for Erasmus+ set to double, the Government estimated that the terms on offer would leave the UK making a gross contribution of £600 million per year, and paying in around £2 billion more than the UK would receive over the seven-year duration of the programme.³⁶⁶ It is not clear how this figure was reached.
258. Witnesses were clear that the advantages of participation in Erasmus+ went far beyond the economic value. Erik Huizer, Chief Executive Officer, GÉANT, said:

“For a young person, an Erasmus year is a priceless experience. It is an opening of the mind. It is stepping out of the ordinary, out of your own culture, out of your comfort zone, a learning experience that is not

362 European Commission, ‘What is Erasmus?’: https://ec.europa.eu/programmes/erasmus-plus/about_en [accessed 22 February 2021]

363 Erasmus+, ‘About Erasmus+’: <https://www.erasmusplus.org.uk/about-erasmus> [accessed 22 February 2021]

364 The British Academy, *Association to Erasmus: Challenges and Opportunities*, August 2020: [Association-to-Erasmus-Challenges-and-Opportunities-2020.pdf](https://www.thebritishacademy.ac.uk/Association-to-Erasmus-Challenges-and-Opportunities-2020.pdf) (thebritishacademy.ac.uk) [accessed 22 February 2021]

365 HC Deb, 30 December 2020, [132972](#)

366 *Ibid.*

only academic but includes the expansion of culture, understanding, empathy, sympathy and laughter across borders.”³⁶⁷

259. Hillary Gyebi-Ababio, Vice President for Higher Education of the National Union of Students (NUS), highlighted the value of this exchange to the UK university experience, as “EU students coming to the UK provide the mutual benefit of building international connections for UK students”.³⁶⁸ The NUS also highlighted that the international exchange of students brings benefits to the UK, as “incoming Erasmus students’ living expenses alone amounted to £440 million in 2018, a figure that has increased 71% since 2010”.³⁶⁹
260. The sector overwhelmingly expressed regret and concern about the Government’s decision. Hillary Gyebi-Ababio said: “We are very disappointed that the UK has decided not to become an associate member of the Erasmus+ scheme.”³⁷⁰ Sir Paul Nurse simply said: “The decision not to be engaged in Erasmus is deeply wrong.”³⁷¹ Erik Huizer added: “We do not see how a unilateral programme can possibly have similar benefits and therefore very much regret the UK decision.”³⁷²
261. Particular concerns about the UK leaving the programme include the power of the Erasmus+ “brand” for promoting the UK as a destination for EU students and for encouraging UK students to study abroad in Europe.³⁷³ Professor Keith Jones, Pro-Vice-Chancellor for Research and Enterprise at the University of Sussex, also emphasised that the “administrative umbrella” of Erasmus+ “oiled the wheels of student movement between institutions”.³⁷⁴ Hillary Gyebi-Ababio highlighted the importance of the Erasmus+ scheme for promoting opportunities for students from under-represented backgrounds.³⁷⁵ Witnesses also raised concerns about the potential loss of funding for higher education establishments (including youth groups and colleges) that previously received funding through Erasmus.³⁷⁶

Turing scheme

262. The Government announced the Turing scheme as the domestic alternative to Erasmus+ on 26 December 2020.³⁷⁷ The scheme will be backed by “at least £100 million” and aims to provide funding for “around 35,000 students from universities, colleges and schools” to study and work abroad.³⁷⁸ One of the aims of the scheme is to enable students to undertake placements around the world. The scheme will not make provision for inbound student mobility, i.e. international student placements in the UK.

367 [Q 38](#)

368 [Q 38](#)

369 Written evidence from the National Union of Students ([FTS0043](#))

370 [Q 38](#)

371 *Ibid.*

372 [Q 39](#)

373 [Q 38](#) (Paul Nurse)

374 [Q 38](#)

375 *Ibid.*

376 Written evidence from the National Union of Students ([FTS0043](#))

377 Department for Education, ‘New Turing scheme to support thousands of students to study and work abroad’, 26 December 2020: <https://www.gov.uk/government/news/new-turing-scheme-to-support-thousands-of-students-to-study-and-work-abroad> [accessed 22 February 2021]

378 Written evidence from the Department for Education ([FTS0010](#))

263. The Irish Government has separately provided a funding guarantee to enable institutions in Northern Ireland to continue to participate in Erasmus, at an estimated cost of around €2.1 million per year.³⁷⁹

Concerns about the scheme

264. Witnesses told us that it was not clear that the £100 million allocated to the Turing scheme would be able to cover the costs of the Government’s ambition to enable around 35,000 students to undertake international placements in the EU and further afield. At a rough estimate, this budget would provide only around £2,850 per student. The NUS said that “in 2018/19 total grants for student mobility stood at €144 million”.³⁸⁰ Furthermore, it is not clear that the budget for the scheme accounts for the extra expenses involved in global exchanges, such as travel expenses, visa fees and the steep cost of living. The Government highlights that five of the top ten destinations for UK student mobility are outside the EU—the USA, Australia, Canada, China and Japan.³⁸¹ Undertaking an international placement in these countries will cost more than an exchange in Europe, yet the Government has allocated less funding than under Erasmus+. Hillary GyebiAbabio said that the Government’s £100 million figure was based on data from three years ago, and emphasised that this “is particularly important, because that is going to be a lot less money to support students who would have benefited from the [Erasmus+] scheme”.³⁸²
265. The Turing scheme also makes no provision for inbound student mobility. Witnesses warned that this would have a negative impact on UK institutions and students. As Professor Ian Greer put it, students coming to the UK on exchange are “important for the types of campuses that we have as universities, which are attractive globally because they are truly global meeting places”.³⁸³ Coupled with new visa arrangements, the NUS was concerned that students looking to come to the UK for more than six months would need to apply for the Student Route, which is designed for full degree courses of three or four years, and would “present a significant cost that will be too big a barrier for many”.³⁸⁴ It also requires proof of English language ability, and many students will be coming to the UK to improve their language skills.³⁸⁵ The Government responded: “The Student Route coupled with the Graduate Route, our globally competitive post-study work offer, means we now have a world-class student visa offer befitting our world-class higher education sector.”³⁸⁶
266. The Government published a guide to the Turing scheme on 8 March, which provides some further information on the funding the programme will cover.³⁸⁷ Erasmus+ funding for student mobility included a grant (around €300 a month) and tuition fee contributions. The Turing scheme will not cover funding for tuition fees or include a tuition fee waiver, which is particularly

379 BBC News, ‘Erasmus: NI students with British passports can access funding’, 26 December 2020: <https://www.bbc.co.uk/news/uk-northern-ireland-55455532> [accessed 22 February 2021]

380 Written evidence from the National Union of Students (FTS0043)

381 Written evidence from the Department for Education (FTS0010)

382 Q 39

383 Q 38

384 Written evidence from the National Union of Students (FTS0043)

385 *Ibid.*

386 Written evidence from the Department for Education (FTS0010)

387 Turing scheme, ‘The programme guide is now available’, 3 March 2021: <https://www.turing-scheme.org.uk/news/the-programme-guide-is-now-available/> [accessed 10 March 2021]

important as course fees provide a significant barrier to mobility for many students.³⁸⁸ Instead, the Government has said that there is an “expectation that HE [higher education] providers will agree tuition fee waivers with their partner HE providers”.³⁸⁹

267. While the Erasmus+ programme covered travel costs of up to £1,315 per student, the Turing programme will cover costs only for students from the most disadvantaged backgrounds. Hillary GyebiAbabio was concerned that the scheme will not support students with the “extra expenses that come with studying abroad ... health insurance, international travel, accommodation, or all the other things associated with having a full study abroad experience”.³⁹⁰
268. The Government said that the new Turing scheme will “support social mobility and will be more aligned to our Global Britain agenda”.³⁹¹ It added that “The scheme provides funding to support similar numbers of UK students to travel abroad as under Erasmus+”, which amounts to “around 20,000 higher education students, 10,000 further education and vocational training students, and 5,000 school pupils”, though this will be “subject to demand”.³⁹²
269. The Government plans to enable institutions to bid to take part in the scheme in March, for placements to begin in September 2021. The Department for Education told us that “universities, colleges, and schools have been encouraged to open discussions with international partners as soon as possible”.³⁹³ On a practical level, witnesses were concerned about how the fund will be administered. As Professor Keith Jones noted: “Making sure that we have all the aspects which the Government hold dear for Turing working and in place for the planned initial start date of September this year is going to be a tall order.”³⁹⁴ Furthermore, the initial Turing funding is for only one year and Universities UK said that a submission would be made for a multi-year funding settlement at the next Spending Review.³⁹⁵
270. The Government made a commitment to ensuring that the Turing scheme will “provide additional support for students from disadvantaged backgrounds”.³⁹⁶ It added: “Disadvantaged students will receive increased rates of funding to support their participation, and will also be able to have certain other one-off costs met such as the costs of their passports and visas.”³⁹⁷ These proposals will be accompanied by additional funding to help meet the costs for students with disabilities and campaigns to increase awareness of the scheme among underrepresented groups.³⁹⁸ The NUS was concerned, however, that current funding arrangements for the scheme “do not appear to make provisions for the associated costs in supporting these students, such as through offering extensive scholarships, grants and bursaries and marketing”.³⁹⁹

388 [Q 39](#)

389 Turing scheme, ‘Frequently asked questions’: <https://www.turing-scheme.org.uk/wp-content/uploads/2021/03/TS-Frequently-Asked-Questions-V1.pdf> [accessed 10 March 2021]

390 [Q 39](#)

391 Written evidence from the Department for Education ([FTS0010](#))

392 *Ibid.*

393 *Ibid.*

394 [Q 39](#)

395 Written evidence from Universities UK ([FTS0041](#))

396 Written evidence from the Department for Education ([FTS0010](#))

397 *Ibid.*

398 *Ibid.*

399 Written evidence from the National Union of Students ([FTS0043](#))

271. But despite these concerns, witnesses were clear that the education sector is keen to make the programme work. Professor Keith Jones pointed out that “universities absolutely want to work to make Turing a success”, even though he did “not see Turing as a replacement of Erasmus. It is essentially a different scheme, and because of the lack of the reciprocal nature of the mobility it cannot operate in the same way that Erasmus did.”⁴⁰⁰

Other mobility

272. Witnesses raised concerns about the impact of other mobility restrictions on the UK’s research and education sector. As Erik Huizer put it, “Non-research employees in research organisations and research supporting organisations need to be exchanged at the same level of freedom and mobility as researchers.”⁴⁰¹
273. The Government pointed to the establishment of a new Office for Talent in No.10, which “brings together groups from across government with the aim of securing outstanding talent in academic and commercial innovation”.⁴⁰² Additionally, the UK has made provisions for EU nationals in science and research, alongside other non-visa nationals, to “come to the UK for up to 6 months as a visitor without a visa to undertake a range of activities relevant to their discipline”.⁴⁰³ However, the new UK points-based immigration system will not make provision for short-term work placements or internships.⁴⁰⁴
274. **We are deeply concerned about the Government’s decision not to join the Erasmus+ programme as an associate member. This decision will limit the opportunities for UK students in the immediate short term and could harm the prospects for UK universities in the future.**
275. **We welcome the proposed Turing scheme, which will provide funding for UK students to undertake study placements abroad. We do not, though, see this scheme as a replacement for the Erasmus+ programme, as it does not provide for inbound mobility and student exchanges.**
276. **Ambiguities about the Turing scheme leave uncertainty for students and universities who may miss out on these opportunities this year. There are significant gaps in current proposals, as the scheme will not cover tuition fees or travel costs for all but the most disadvantaged students. There are also concerns about the practicalities of administering the scheme. We are concerned that the £100 million budget allocation for the scheme will not cover the increased costs associated with global placements.**
277. **The Government should undertake a review of the Turing scheme after its first academic year of operation to assess the effectiveness of the scheme, whether the programme achieves its objectives, and whether it provides good value for money.**

400 [Q 39](#)

401 [Q 36](#)

402 Written evidence from BEIS ([FTS0019](#))

403 *Ibid.*

404 Written evidence from the Welsh Government ([FTS0015](#))

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

Financial services

1. Financial services are an important part of the UK economy. The sector contributes £132 billion to the UK, amounting to 6.9% of total economic output, and contributed more than 10% of UK tax receipts in 2019/20. While the absence of substantive financial services provisions in the TCA was disappointing, it was not a surprise, and the sector was well prepared for 1 January. But delays to key decisions about the future relationship, particularly on equivalence, mean that financial services remain in a period of uncertainty. (Paragraph 27)
2. The results of the UK's exit from the passporting regime have included the movement of some activity to the EU and firms facing the challenges involved in navigating different market access requirements in each Member State. We are concerned that it may, over time, lead to a substantial shift of people and assets out of the UK. (Paragraph 28)
3. We welcome the plan for structured regulatory cooperation in financial services, which we hope will be a solid foundation for future UK-EU relations. However, this dialogue will be worth little if it is not based on transparency and trust. We urge the Government and regulators to pursue as deep a level of cooperation, predictability and information sharing as possible. The Government should consult regularly to ensure it is representing the UK financial services sector's interests and priorities in the dialogue. (Paragraph 35)
4. The UK financial services sector opposes the EU's line-by-line approach to equivalence and supports the Government's outcomes-based approach. We agree that broad positive equivalence determinations would best meet the needs of practitioners in both the UK and the EU, but recognise that in many areas the EU is unlikely to grant these without the UK sacrificing more decision-making autonomy than equivalence is worth. (Paragraph 52)
5. We regret that the extension of equivalence for UK central counterparties (CCPs), which continue to provide an important service for EU practitioners, is time-limited. A longer-term equivalence decision for UK CCPs would better serve the interests of both Parties. (Paragraph 53)
6. While recognising that this remains a unilateral decision, we believe the long-term interest of both the UK and the EU lies in a less prescriptive policy on market access, whether a reformed approach to equivalence or something closer to the non-discriminatory, outcomes-based deference model increasingly favoured globally. (Paragraph 54)
7. We welcome the Government's assurance that there will be no bonfire of financial services regulations. We recognise that the UK and the EU will seek to change their regulatory regimes where it is in either Party's interest, but call on the Government not to disregard the value of a close UK-EU relationship in financial services. Changes should be transparent and designed to enhance the attractiveness and competitiveness of the UK's financial services sector. (Paragraph 59)
8. The Financial Services Bill currently before Parliament pre-emptly the Government's proposals for the future regulatory landscape and will come

into law before these plans are published. This is a missed opportunity. The return of greater powers to UK regulators allows for more flexible and innovative regulation but will require changes to the way Parliament scrutinises the regulations and holds the regulators to account. (Paragraph 63)

9. The Government and regulators now hold significant power in setting financial services regulation. We welcome the House's recent decision to establish a Select Committee on Industry and Regulators, which is an important step towards bringing greater parliamentary oversight to these decisions. However, this new Committee's remit is broad and its resources are likely to be too limited to undertake dedicated scrutiny of the financial services sector. We recommend that the Liaison Committee considers further the merits of a committee dedicated to scrutiny of the financial services sector. (Paragraph 64)
10. The Government should use the UK's innovative leadership to maintain high standards in financial services regulation on the global stage. (Paragraph 67)

Professional and business services

11. Professional and business services are a vital feature of the UK economy and the UK's largest export. Trade with the EU is critical for these thriving sectors. We welcome the conclusion of the TCA, which alleviates some uncertainty for the sector and provides a platform for constructive dialogue with the EU. Nevertheless, the TCA represents a major change from Single Market membership, introducing new non-tariff barriers to trade, and businesses have been required to adapt to this in a short space of time. (Paragraph 78)
12. The TCA's market access provisions for professional and business services are limited by extensive national reservations, particularly in heavily regulated sectors. UK service providers face a patchwork of complicated rules that vary by sector and by Member State. This fragmentation will act as a barrier to trade for UK companies, and this has the potential to hit smaller businesses the hardest. (Paragraph 95)
13. We welcome the Government's intention to provide advice to businesses on national reservations, and urge it to publish this guidance as a matter of urgency. The Government should ensure that it is accessible for businesses, particularly SMEs, and should explore options for additional support. We are disappointed that this guidance, which we recommended in October 2020, was not delivered before the transition period ended. (Paragraph 96)
14. The TCA's business mobility provisions represent a major change in the UK-EU trading relationship for services. The tourism and travel sectors will be hit particularly hard, undermining opportunities especially for young people seeking seasonal work experience in Europe. Professional service providers which rely on agency staff, such as recruiting and advertising, also face considerable barriers to mobility. The impact of these provisions has been delayed by the COVID-19 travel restrictions, but will be felt once international business travel resumes. (Paragraph 111)
15. We welcome the Government's proposed country-by-country guidance on business travel to the EU and urge the Government to ensure this is timely, detailed and easy for business to use. (Paragraph 112)
16. While large relocations of economic activity in professional and business services from the UK to the EU are not expected in the short term, some

organisations may need to establish a branch or subsidiary in the EU to comply with national reservations on local presence. The Government should continue to do as much as possible to persuade and incentivise UK service providers to maintain their economic activity in the UK, while also encouraging EU service providers to establish here. (Paragraph 121)

17. The absence in the TCA of mutual recognition of professional qualifications is disappointing and could have an impact on many sectors. Instead, the TCA replicates the CETA model, where not a single mutual recognition agreement has been reached in over three years since its entry into force. The likely timelines for achieving recognition on a profession-by-profession basis are thus unclear. (Paragraph 135)
18. UK regulators and professional bodies should negotiate and conclude EU-wide and bilateral mutual recognition agreements as soon as possible. The Government has said that it will support this process. We would welcome updates on how and when this support is being provided. (Paragraph 136)
19. The TCA leaves open the possibility of a new agreement on mutual recognition of professional qualifications in the future. This would be a major improvement on a patchwork of sector-specific agreements, and we urge the Government to seek such an agreement with the EU in the medium term. (Paragraph 137)
20. The Government should not diverge from EU regulation for divergence's sake, nor should it align for alignment's sake. Instead, the Government should establish effective regulatory dialogue with the EU to ensure any divergence is managed successfully—for example, by establishing a new Working Group under the supervision of the Trade Specialised Committee on Services, Investment and Digital Trade. (Paragraph 147)
21. Given the trade barriers under the TCA, new economic opportunities will need to be pursued to support the UK's professional and business services sector, particularly in the tech and green sectors. The Government must ensure the UK's regulatory environment helps these emerging sectors to thrive. (Paragraph 148)
22. We regret the Government's decision to defer establishing the Partnership Council and other bodies and urge them to review this position. The Partnership Council, the Trade Partnership Committee and the Trade Specialised Committee on Services, Investment and Digital Trade should be established as soon as possible and the Government should facilitate transparent business and civil society engagement with these bodies. The TCA should be treated, as much as possible, as a live agreement as meaningful dialogue and collaboration will help businesses to see the TCA as a long-term relationship. (Paragraph 156)
23. The transparency provisions of the TCA should be put into effect as soon as possible, and the UK and EU should ensure that published information is displayed prominently online and is easy for businesses to use. (Paragraph 157)

Data and digital trade

24. EU data adequacy is of vital importance for a wide range of service providers, and we warmly welcome the Commission's recent draft decision, which, if confirmed, will allow EU-UK transfers of personal data to continue. (Paragraph 172)

25. We note, however, that a positive adequacy decision is not guaranteed to be permanent, given the requirement for renewal after four years and the precedent set by recent legal challenges, including the Schrems II case in 2020. The Government should therefore maintain close dialogue with the EU on data to support the long-term stability of EU-UK data flows, and ensure that the implications for EU data adequacy are factored into any changes to the UK's domestic data protection regime. (Paragraph 173)
26. We welcome the TCA's digital trade chapter, which is one of the strongest areas of the deal for services and provides extensive liberalisation which goes beyond comparable EU FTAs. (Paragraph 181)
27. Digital trade is a fast-moving area, and the provisions will need to be updated as new technologies develop. The Government should make use of the TCA's framework for further dialogue, as well as the review clause, to ensure the digital trade provisions remain up to date. (Paragraph 182)

Creative industries

28. The UK's creative industries sector was worth over £100 billion in 2019 and grew at twice the rate of the rest of the economy. The benefits of a thriving creative sector go far beyond its significant financial contribution and include a sense of pride, community and joy, as well as promoting UK values and 'soft power' abroad. (Paragraph 189)
29. This sector has been hit hard by the COVID-19 pandemic, and its recovery will depend in part on getting the relationship with the EU right. Exports to the EU in the creative sector are worth over £15 billion and the relationship with the EU is important for promoting creative collaboration and innovation. (Paragraph 190)
30. The mobility provisions in the TCA make it difficult for those working in the UK creative industries to tour in the EU. The COVID-19 pandemic means these problems are hidden for now, but these mobility restrictions put the sector's recovery at risk. (Paragraph 212)
31. We urge the Government to negotiate, as a matter of urgency, a bilateral and reciprocal agreement to make mobility arrangements for touring performers, creative teams and crews. (Paragraph 213)
32. The Government should also seek to negotiate an agreement to resolve the barriers to the movement of goods used in cultural and sporting events that are imported on a temporary basis. These arrangements will be mutually beneficial to creative industries in both the UK and EU. (Paragraph 214)
33. Now that the UK has left the EU's Creative Europe programme, the Government should ensure that funding continues to be allocated to the creative industries. This funding should continue to support international collaboration. (Paragraph 219)
34. We welcome the embedding in the TCA of a mutual commitment to high standards of intellectual property protection, which is essential to a flourishing services sector. (Paragraph 230)
35. Keeping up with new technologies may lead to future divergence between the UK and EU intellectual property legislative frameworks. As in many other areas, managing this divergence will require an open and productive

regulatory dialogue, both to provide assurance to businesses and to ensure that high standards of protection are maintained. (Paragraph 231)

Research and education

36. The future relationship with the EU will be critical to the continuing success of the UK's research and education sector. We welcome the Government's decision to associate with the Horizon Europe programme, which was the strong preference of witnesses to our inquiry. (Paragraph 251)
37. Both sides should seek to ensure that final negotiations on the Horizon Europe settlement are concluded as soon as possible, to enable UK researchers to take part in the first calls for funding applications. (Paragraph 252)
38. As an associate member of the programme, the UK will not have a vote on decisions about the direction of the Horizon Europe programme and how it is run. The Government should work constructively with European partners to ensure that the UK's views are heard. (Paragraph 253)
39. The Government should provide clarity on how UK contributions to Horizon Europe will affect the domestic research funding commitments set out in the Research and Development Roadmap, published in July 2020. In particular, the Government should make innovation funding available for SMEs. (Paragraph 254)
40. We are deeply concerned about the Government's decision not to join the Erasmus+ programme as an associate member. This decision will limit the opportunities for UK students in the immediate short term and could harm the prospects for UK universities in the future. (Paragraph 274)
41. We welcome the proposed Turing scheme, which will provide funding for UK students to undertake study placements abroad. We do not, though, see this scheme as a replacement for the Erasmus+ programme, as it does not provide for inbound mobility and student exchanges. (Paragraph 275)
42. Ambiguities about the Turing scheme leave uncertainty for students and universities who may miss out on these opportunities this year. There are significant gaps in current proposals, as the scheme will not cover tuition fees or travel costs for all but the most disadvantaged students. There are also concerns about the practicalities of administering the scheme. We are concerned that the £100 million budget allocation for the scheme will not cover the increased costs associated with global placements. (Paragraph 276)
43. The Government should undertake a review of the Turing scheme after its first academic year of operation to assess the effectiveness of the scheme, whether the programme achieves its objectives, and whether it provides good value for money. (Paragraph 277)

APPENDIX 1: LIST OF MEMBERS AND DECLARATIONS OF INTEREST

Members

Lord Bruce of Bennachie
 Baroness Couttie
 Lord Davies of Stamford
 Baroness Donaghy (Chair)
 Lord McNally
 Baroness Neville-Rolfe
 Baroness Prashar
 Lord Sharkey
 Lord Thomas of Cwmgiedd
 Viscount Trenchard
 Lord Vaux of Harrowden

Declarations of interest

Lord Bruce of Bennachie
No relevant interests to declare

Baroness Couttie
Non-Executive Director, Mitie plc
Commissioner, Guernsey Financial Services Commission
Special Advisor, Heyman AI Ltd

Lord Davies of Stamford
No relevant interests to declare

Baroness Donaghy
Former President of the Trades Union Congress
Former member of European Trades Union Congress
in receipt of USS Pension

Lord McNally
No relevant interests to declare

Baroness Neville-Rolfe
Former Commercial Secretary, HM Treasury
Chair, Assured Food Standards Ltd
Chair, UK ASEAN Business Council
Non-Executive Director, Capita Plc
Non-Executive Director, Secure Trust Bank plc
Trustee (Non-Executive Director), Thomson Reuters Founders Share Company
Non-Executive Director, Health Data Research UK
Chartered Secretary
Fellow of ICSA, The Chartered Governance Institute

Baroness Prashar
Chair, Cumberland Lodge
Non-Executive Director, Nationwide Building Society
UK Chairman, Federation of Indian Chambers of Commerce and Industry
Member, Advisory Board, IE Business School Madrid, Spain
Member, Advisory Board, Aspide
Patron, National Literacy Trust
Former Deputy Chairman, British Council and President of UKCISA

- Advisor, Nationwide*
Member, Diversity Advisory Council of Sky
- Lord Sharkey
Chair, Association of Medical Research Charities
Chair, Specialised Healthcare Alliance
Member of Council, University College London
- Lord Thomas of Cwmgiedd
Chancellor, Aberystwyth University
Chairman, Financial Markets Law Committee
Arbitrator, Essex Court Chambers
First Vice President, European Law Institute
Member, First Minister of Wales' European Advisory Group
- Viscount Trenchard
Chairman, Stratton Street PCC Ltd
Director, Jade Road Investments Ltd
Chairman, Standon Calling Ltd
- Lord Vaux of Harrowden
Member, Institute of Chartered Accountants in England & Wales (non-practising)
Shareholdings:
Fidelity National Information Services Inc (computer software)
Non-registrable interests
Shareholdings:
Tampopo Limited (restaurants)
Investec plc
Prudential Plc
TP ICAP
CME Group
HSBC Holdings Plc
Legal & General Group
Vodafone Group

The following Members of the European Union Select Committee attended the meeting at which the report was approved:

- Baroness Brown of Cambridge
 Baroness Couttie
 Baroness Donaghy
 Lord Faulkner of Worcester
 Lord Goldsmith
 Baroness Hamwee
 Lord Kerr of Kinlochard
 The Earl of Kinnoull (Chair)
 Lord Lamont of Lerwick
 Baroness Neville-Rolfe
 Lord Oates
 Lord Ricketts
 Lord Sharkey
 Lord Teverson
 Lord Thomas of Cwmgiedd
 Lord Wood of Anfield

During consideration of the report the following Members declared an interest:

The Earl of Kinnoull (Chair)

Farming interests as principal and as charitable trustee, in receipt of agricultural subsidy

Chairman, Culture Perth and Kinross, in receipt of governmental subsidy

Chairman, United Kingdom Squirrel Accord, in receipt of governmental monies

Shareholdings as set out in the register

Baroness Brown of Cambridge

Chair, Adaptation Sub-Committee of the Committee on Climate Change

Chair, Henry Royce Institute for Advanced Materials

Chair, STEM Learning Ltd

Non-Executive Director, Offshore Renewable Energy Catapult

Chair, The Carbon Trust

Council member, Innovate UK

Non-Executive Director, Ørsted

Lord Faulkner of Worcester

Chairman, Great Western Railway Advisory Board

Chairman, Alderney Gambling Control Commission

Her Majesty's Government's Trade Envoy to Taiwan

Lord Goldsmith

Partner of Debevoise & Plimpton LLP international law firm with offices in the UK and various EU cities amongst others

Baroness Hamwee

No relevant interests to declare

Lord Kerr of Kinlochard

Chairman, Centre for European Reform

Deputy Chairman, Scottish Power PLC

Member, Scottish Government's Advisory Standing Council on Europe

Lord Lamont of Lerwick

Director, Devon European Opportunities Trust

Director, Compagnie Internationale de Participations Bancaires et Financieres (CIPAF)

Director, Chelverton UK Dividend Trust

Adviser, Halkin Investments

Adviser, Official Monetary and Financial Institutions Forum (OMFIF)

Adviser, Meinhardt Engineering Group, Singapore

Lord Oates

Director, Centre for Countering Digital Hate

Chairman, Advisory Board, Weber Shandwick UK

Director, H&O Communications Ltd

Baroness Primarolo

Non-executive director and chair, Thompson's Solicitors

Lord Ricketts

Non-Executive Director, Group Engie, France

Strategic Adviser, Lockheed Martin UK

Charitable activities as set out in the Register of Interests

Lord Teverson

Trustee, Regen SW

In receipt of a pension from the European Parliament

Baroness Verma

No relevant interests declared

Lord Wood of Anfield

Chair, United Nations Association (UNA-UK)

Director, Good Law Project

Director of Janus Henderson Diversified Income Trust

A full list of Members' interests can be found in the Register of Lords' interests:
<https://members.parliament.uk/members/lords/interests/register-of-lords-interests>

APPENDIX 2: LIST OF WITNESSES

Evidence is published online at <https://committees.parliament.uk/work/945/future-ukeu-relations-trade-in-services/publications/> and available for inspection at the Parliamentary Archives (020 7219 3074).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses marked with ** gave both oral and written evidence. Those marked with * gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

Oral evidence in chronological order

| | | |
|----|---|--------------------------|
| ** | Miles Celic, Chief Executive Officer, TheCityUK | QQ 1–12 |
| ** | Nick Collier, Managing Director (Brussels), City of London Corporation | QQ 1–12 |
| * | Cortina Butler, Deputy Director for Arts, British Council | QQ 13–22 |
| * | Harriet Finney, Director of External Affairs, British Film Institute | QQ 13–22 |
| * | Horace Trubridge, General Secretary, Musicians' Union | QQ 13–22 |
| ** | Mickael Laurans, Head of International, Law Society of England and Wales | QQ 23–34 |
| * | George Riddell, Director of Trade Strategy, EY | QQ 23–34 |
| ** | Neil Ross, Head of Policy, techUK | QQ 23–34 |
| * | Amanda Tickel, International Tax Partner, Deloitte UK | QQ 23–34 |
| * | Professor Ian Greer, Vice-Chancellor, Queen's University Belfast | QQ 35–42 |
| ** | Hillary Gyebi-Ababio, Vice President for Higher Education, National Union of Students | QQ 35–42 |
| * | Erik Huizer, Chief Executive Officer, GÉANT | QQ 35–42 |
| * | Professor Keith Jones, Pro-Vice-Chancellor (Research and Enterprise), University of Sussex | QQ 35–42 |
| * | Sir Paul Nurse, Director, The Francis Crick Institute | QQ 35–42 |
| ** | Lord Grimstone of Boscobel, Minister of State, Department for Business, Energy, Industrial Strategy (BEIS) | QQ 43–58 |
| ** | Tim Courtney, Director, Trade and Investment Negotiations, Services Directorate, Department for Business, Energy, Industrial Strategy | QQ 43–58 |
| * | Thomas Walkden, Deputy Director, Europe and Rest of World Trade, International Policy Directorate, Intellectual Property Office | QQ 43–58 |

Alphabetical list of all witnesses

| | | |
|----|--|-------------------------|
| | ABTA | FTS0022 |
| | Academy of Medical Sciences | FTS0035 |
| | Advertising Association | FTS0009 |
| | Anonymous | FTS0050 |
| | Association for Consultancy and Engineering (ACE) | FTS0061 |
| | The Bar Council | FTS0039 |
| | Dr Miranda Brawn | FTS0053 |
| | British Au Pair Agencies Association | FTS0059 |
| | British Copyright Council | FTS0040 |
| | Professor John Bryson, University of Birmingham | FTS0024 |
| * | Cortina Butler, Deputy Director for Arts, British Council (QQ 13–22) | |
| | Liam Campbell | FTS0007 |
| ** | Miles Celic, Chief Executive Officer, TheCityUK (QQ 1–12) | FTS0056 |
| | Chartered Institute of Management Accountants (CIMA) | FTS0054 |
| ** | Nick Collier, Managing Director (Brussels), City of London Corporation (QQ 1–12) | FTS0060 |
| ** | Tim Courtney, Director, Trade and Investment Negotiations, Services Directorate, BEIS (QQ 43–58) | FTS0019 |
| | Department for Education | FTS0010 |
| | Directors UK | FTS0033 |
| | Professor Jun Du, Aston Business School | FTS0036 |
| | Federation of Small Businesses | FTS0052 |
| * | Harriet Finney, Director of External Affairs, British Film Institute (QQ 13–22) | |
| | Nick Gammon | FTS0017 |
| | Globetrotter Live Ltd | FTS0048 |
| | Glynis Henderson Productions | FTS0008 |
| * | Professor Ian Greer, Vice-Chancellor, Queen’s University Belfast (QQ 35–42) | |
| ** | Lord Grimstone of Boscobel, Minister of State, BEIS (QQ 43–58) | FTS0019 |
| | | FTS0065 |
| ** | Hillary Gyebi-Ababio, Vice President for Higher Education, National Union of Students (QQ 35–42) | FTS0043 |
| | Professor Sarah Hall, University of Nottingham | FTS0029 |
| | Dr Jayne Hamilton | FTS0006 |

| | | |
|----|--|-------------------------|
| | Stephen Head | FTS0005 |
| | Martin Heneghan, University of Nottingham | FTS0029 |
| * | Erik Huizer, Chief Executive Officer, GÉANT (QQ 35-42) | |
| | Incorporated Society of Musicians | FTS0038 |
| | Institute of Chartered Accountants in England and Wales (ICAEW) | FTS0058 |
| | Institute of Practitioners in Advertising | FTS0030 |
| | Investment & Life Assurance Group | FTS0020 |
| | Jisc | FTS0021 |
| * | Professor Keith Jones, Pro-Vice-Chancellor (Research and Enterprise), University of Sussex (QQ 35-42) | |
| ** | Mickael Laurans, Head of International, Law Society of England and Wales (QQ 23-34) | FTS0045 |
| | Law Society of Scotland | FTS0037 |
| | Loan Market Association | FTS0025 |
| | London Stock Exchange Group | FTS0064 |
| | Giulio Marini | FTS0001 |
| | Market Research Society | FTS0018 |
| | David Mercer | FTS0012 |
| | Music Managers Forum | FTS0016 |
| * | Sir Paul Nurse, Director, The Francis Crick Institute (QQ 35-42) | |
| | PACT | FTS0026 |
| | Professional and Business Services Council (PBSC) | FTS0055 |
| | Recruitment & Employment Confederation (REC) | FTS0034 |
| * | George Riddell, Director of Trade Strategy, EY (QQ 23-34) | |
| | Robin Rimbaud, Composer | FTS0049 |
| * | Neil Ross, Head of Policy, techUK (QQ 23-34) | |
| | Royal Institute of British Architects (RIBA) | FTS0042 |
| | Scottish Government | FTS0057 |
| | Seasonal Business in Travel (SBiT) | FTS0023 |
| | Dr Oleksandr Shepotylo, Aston Business School | FTS0036 |
| | The Society of Authors and The Association of Illustrators | FTS0032 |
| | Solent Security Systems Ltd | FTS0013 |
| | SSE Audio Group | FTS0003 |

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| | Standard Life Aberdeen | <u>FTS0044</u> |
| * | Amanda Tickel, International Tax Partner, Deloitte (<u>QQ 23-34</u>) | |
| | TESS | <u>FTS0002</u> |
| | Transam Trucking Ltd | <u>FTS0004</u> |
| * | Horace Trubridge, General Secretary, Musicians' Union (<u>QQ 13-22</u>) | |
| | UKIE | <u>FTS0062</u> |
| | UK and Ireland Region of the International Association of Conference Interpreters (AIIC) | <u>FTS0051</u> |
| | UK-EU Cross-Border Services Working Group | <u>FTS0014</u> |
| | UK Finance | <u>FTS0027</u> |
| | | <u>FTS0063</u> |
| | UK Music | <u>FTS0046</u> |
| | UK Theatre and SOLT | <u>FTS0031</u> |
| | Universities UK | <u>FTS0041</u> |
| * | Thomas Walkden, Deputy Director, Europe and Rest of World Trade, International Policy Directorate, Intellectual Property Office (IPO) (<u>QQ 43-58</u>) | |
| | Welsh Government | <u>FTS0015</u> |

APPENDIX 3: CALL FOR EVIDENCE

The House of Lords EU Services Sub-Committee, chaired by Baroness Donaghy, has launched an inquiry into the future of UK-EU relations on trade in services. This includes examining the impact of the provisions set out in the UK-EU Trade and Cooperation Agreement.

The Committee invites interested individuals and organisations to submit written evidence to this inquiry by 5 February 2021. Evidence sessions are expected to take place in January and February, and the Committee aims to report to the House by Easter.

Diversity comes in many forms, and hearing a range of different perspectives means that Committees are better informed and can more effectively scrutinise public policy and legislation. Committees can undertake their role most effectively when they hear from a wide range of individuals, sectors or groups in society affected by a particular policy or piece of legislation. We encourage anyone with experience or expertise of an issue under investigation by a select committee to share their views with the committee, with the full knowledge that their views have value and are welcome.

Background

The services sector is made up of a diverse range of activities and functions, which account for a significant share of the UK economy and exports. Services accounted for 42% of the UK's exports to the EU in 2019, amounting to over £125 billion. This inquiry will consider the impact of the provisions set out in the UK-EU Trade and Cooperation Agreement (“the Agreement”) on the UK's services sector, with a particular focus on trade in services with the EU.

The service sectors of interest to the Committee's inquiry include, but are not limited to:

- Financial services;
- Professional and business services (such as legal services, accountancy, auditing, architecture, engineering, advertising, market research, recruitment services);
- Research and education;
- Creative industries (including audio-visual services); and
- Data and digital services.

The Committee is interested to hear from companies, membership organisations, representative bodies, Government, non-governmental organisations, academics, and interested stakeholders and individuals about the impact of the UK-EU Trade and Cooperation Agreement on trade in services. The Committee would welcome views on areas of interest which are cross-cutting and may impact on a large number of services sectors, as well as specific sectoral implications. Submissions are also invited to reflect upon future UK-EU relations on trade in services more broadly.

The inquiry

The Committee seeks evidence on the following questions in particular:

Cross-cutting issues:

- (1) What does the presence of a UK-EU free trade agreement mean for trade in services, in comparison to a ‘no agreement’ scenario?
- (2) What effect may national reservations to the UK-EU Trade and Cooperation Agreement have on trade in services with the EU?
- (3) What effect will arrangements on the mobility of professionals have on trade in services between the UK and EU?
- (4) How will the intellectual property provisions set out in the Agreement affect UK-EU trade in services?

Financial services:

- (5) How will the arrangements in the UK-EU Trade and Cooperation Agreement shape UK-EU trade in financial services?
- (6) The Joint Declaration on Financial Services Regulatory Cooperation sets out that both sides seek to establish structured regulatory cooperation on financial services. What form should this dialogue take?

Professional and business services:

- (7) How will the new UK-EU framework for the mutual recognition of professional qualifications affect professionals and service sector businesses?
- (8) What will be the impact of the Agreement’s provisions on the cross-border supply of services and rights of establishment, such as commitments on local presence and economic needs tests?

Research and education:

- (9) Under the future relationship agreement, the UK will become an associate member of Horizon Europe but will not associate with the Erasmus+ programme. What impact will this have on the UK’s research and education sector and students in the UK and EU?

Creative industries:

- (10) How will the provisions in the UK-EU Trade and Cooperation Agreement affect the creative industries sector?

Data and digital services:

- (11) The EU has granted the UK a six-month data adequacy ‘bridge’ to allow the free flow of personal data until the EU determines whether or not to grant a data adequacy decision to the UK. How would the absence of a data adequacy decision at the end of this bridging period affect trade in services?
- (12) What impact will the arrangements agreed have on digital trade and trade in digital services between the UK and EU?

You do not need to answer all of these questions.