

## **Impact of signing CPTPP on UK creative economy**

### **Creative exports**

The UK's creative industries have very strong links with the USA and European countries, and we believe these should be priority trading partners post-Brexit<sup>1</sup>. Common language, culture and geographical proximity are factors that play a significant role in the demand for UK creative exports. The UK's main aim should be to preserve these trading relationships and establish independent partnerships after leaving the EU.

The huge success of the creative industries is a direct result of a robust legal framework. We consider the UK's intellectual property and data protection frameworks are the strongest models and an asset for the UK to bring to the negotiating table. It should be preserved in the UK and used as a benchmark for future trade, rather than undermined by any plurilateral agreements that include nations with weaker intellectual property regimes.

### **Chapter 18 on Intellectual Property**

The intellectual property (IP) chapter is concerning as it does not acknowledge the rights of creators and the need for them to enjoy exclusive rights – something which underpins their ability to generate income from their work. These rights are enshrined in UK law. If the CPTPP does not recognise those rights, UK law and sovereignty is being compromised.

We support language that balances the exclusive rights of creators and the need for users to access content. The CPTPP replaces this language with 'a balance of rights and obligations' in the interest or promotion of technological advances. This fails to recognise the need for creators to generate income from their work, alongside the rights of consumers to access content.

Article 18:3 is concerning as it frames the rights of a creator to exercise exclusivity as potentially abusive. It goes on to state that copyright shouldn't interfere with the international transfer of technology. We are concerned that this language could give undue influence to technology and social media companies enabling them to define whether reasonable rights for creators impede their business models. A worst-case scenario may be that this influence leads to the weakened copyright law in any of the CPTPP countries.

Article 18:4 calls for IP frameworks to operate competitively, so if one country waters down their law, others may do the same to retain a competitive IP regime within the CPTPP market. Another worst-case scenario is a domino effect of weakened copyright laws among CPTPP countries, which affects UK creators.

The IP chapter is weighted in favour of greater exceptions than currently exist in UK law (Articles 18:13 and 18:15). These exceptions are not presented alongside the need to preserve fair remuneration or compensation models for creators. The previous draft of the TPP contained some extra measures to protect creators, but these have been struck out of the CPTPP. These provisions relate to term of copyright protection, technical protection measures and rights management information.

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<sup>1</sup> Alliance for IP *Trading Places* report, see p. 3 for summary of priority markets by sector:  
[https://docs.wixstatic.com/ugd/e1dfe1\\_84e21db5fbc54000be3116e09508663a.pdf?index=true](https://docs.wixstatic.com/ugd/e1dfe1_84e21db5fbc54000be3116e09508663a.pdf?index=true)

## E-Commerce

The Digital Charter, unveiled by DCMS in 2018, was welcomed by the creative industries who have engaged in the programme of work to promote a safe internet that protects creativity and allows businesses to grow in a safe environment. The CPTPP, however, will undermine Government's vital role in this conversation, as Article 14:7 anticipates that developing governance around e-commerce will be carried out by the private sector.

The CPTPP's provisions on privacy rights lag far behind the UK's legal framework, demonstrate a concerning lack of privacy law in two of the signatory countries and undermine the Government's work on the Digital Charter.

Article 14:8 and 14:14, which cover the protection of personal information in e-commerce and e-messages, are weak provisions that place very light responsibilities on nations to protect the data of individuals from other CPTPP parties. This would severely curtail the level of data protection UK citizens enjoy in the UK and abroad under the Data Protection Act 2018.

Vietnam and Brunei do not have any legal framework for data protection and as such are not required to adopt even the basic principles in Article 14:8 until they implement national data protection laws. Vietnam is experiencing a surge in e-commerce platforms<sup>2</sup>, but trading with countries with no data protection framework poses a significant risk to the safety of UK citizens when their data is shared online.

## Barriers to future trade

The UK is poised to conduct bilateral trade agreements with priority markets such as the USA, New Zealand and Australia. In signing the CPTPP first, the UK would need to actively consider how it impacts future trade agreements. Article 1 makes it clear that inconsistencies with the CPTPP and *existing* free trade agreements could be resolved, however this will not apply for future trade agreements.

## Concluding statements

The creative industries are a UK success story. We want the sector to have access to lucrative markets abroad. This type of trade must be underpinned by strong rights - such as those outlined in existing UK law – for creators. This enables them to produce the quality content upon which our economy depends.

The UK, Europe and the USA all prioritise the export of **new** creative content, whereas signatories to the CPTPP are often **users** of creative content. The CPTPP reflects this reality, so we must make sure that any trade deal does not restrict our ability to export UK creativity, and that the benefits of are felt by the creative workforce at home.

We believe that the CPTPP in its current form will not support free and fair trade for the UK creative sector.

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<sup>2</sup> *Promoting e-commerce in Vietnam*, article by Nhan Dan online magazine, accessed 23.10.18 <http://en.nhandan.org.vn/business/item/6054002-promoting-e-commerce-in-vietnam.html>