



No-deal Brexit: Impact on media, sport and entertainment

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By: Nick Fitzpatrick

While a range of outcomes, including [a departure under the terms of the current Withdrawal Agreement](#), remains possible, it is important for businesses to plan for a no-deal Brexit, in which the UK leaves the EU without a withdrawal agreement or other deal. Here we look at the potential impact of a no-deal Brexit on media, sport and entertainment companies

Broadcasting

- The Audio Visual Media Services Directive will no longer have force in the UK, impacting on pan-European/overseas audio-visual services that currently fall under the UK regime.
- The UK has therefore implemented legislation covering two broad principles:
 1. a continued country-of-origin principle that will operate under the European Convention of Transfrontier Television (ECTT), but which does not cover Video on Demand (VOD) services and does not include seven EU member states; and
 2. a new country-of-destination principle for broadcast services originating from countries that are not parties to the ECTT, but can be accessed by means of a regulated UK electronic programme guide.
- UK VOD services will only need to notify Ofcom if their head office and editorial decision-making capacity are UK based. Outside the UK, VOD providers should check regulatory requirements in the countries they wish to operate in.

Online guidance is available from Ofcom.

Copyright

- **Database rights:** EU Directives and Regulations on copyright will be preserved by UK law meaning database owners are given equivalent UK rights. There will be no obligation for EEA states to provide similar database rights, so owners of UK database rights may find their rights unenforceable in the EEA.
- **Portability of online content:** The Portability Regulation will cease to apply to UK nationals when they travel to the EU. UK consumers may see restrictions to their online content services when they temporarily visit the EU.
- **Copyright clearance in satellite broadcasting:** UK-based broadcasters that currently rely on the country-of-origin copyright clearance rule may need to obtain copyright clearance for each member state that they broadcast into.
- **Orphan works copyright exception:** UK-based Cultural Heritage Institutions that make works available online in the EEA under the exception may be infringing copyright.
- **Collective Management of Copyright:** UK collective management organisations will not be able to mandate EEA Collective Management Organisations to provide multi-territorial licensing of the online rights in musical works.

Online guidance is available from the UK Government.

Trademarks and design

- Existing registered EU trademarks, and registered and unregistered Community designs will continue to be valid in EU member states. Protection of existing registered EU trademarks or Community designs in the UK will be through a new, equivalent, UK right, and rights holders will be notified that a new UK right has been granted.

Online guidance is available from the UK Government.

Patents

- The current patent system will remain unaffected, as it is governed by the (non-EU) European Patent Convention. UK businesses can continue to apply to the European Patent Office for patent protection which will include the UK. Existing European patents covering the UK are also unaffected.

Online guidance is available from the UK Government.

Exhaustion rights

- The UK will continue to recognise the EEA exhaustion regime. There will be no change to the rules affecting imports of IP-protected goods into the UK. However, there may be restrictions on the export of parallel goods from the UK to the EEA. UK to EEA exporters will need to check with EU rights holders to see if permission is needed.

Online guidance is available from the UK Government.

How DLA Piper can help

DLA Piper has been advising clients on these issues following the 2016 Referendum. For a more detailed analysis, please contact Nick Fitzpatrick or your usual DLA Piper contact.

AUTHORS



Nick Fitzpatrick

Partner

London | T: +44 (0)20 7349 0296 [UK Switchboard]

nick.fitzpatrick@dlapiper.com
