A blueprint for UK publishing

Our ideas, our stories, our future
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Foreword
by PA CEO, Stephen Lotinga

From the very earliest days of printing technology to the present day digital revolution, British writers and their publishers have been collectively using new technology to entertain, educate and inform the people of the world. In the course of doing so, the UK’s consumer, academic and education publishers have not only built a successful industry, they have helped make the UK a global centre of thought, discovery and creation.

The stories we create and discoveries we make have projected Britain’s people, landscape, values and culture into the hearts and homes of billions all around the globe and in doing so have provided a living for generations of British authors and publishers. Their collective endeavour has also enabled our country to exert unprecedented soft power to such an extent that our values, language, commerce and culture have helped to shape laws, politics and perspectives around the world. Not bad for a country with just 1% of the world’s population.

For this success to continue, stories and information must not only be written, but must be found and shared. The UK is fortunate to have the world’s best publishers. The work they produce has an enormous impact on British society; transforming and enabling life in this country in ways we often take for granted.

In addition to our social impact, we are a major economic contributor, paying taxes, directly employing more than 29,000 people and a trade surplus of £1.1 billion. Our educational materials and academic journals are prized global exports. We power much of the value generated by film, television and theatre sectors as works published in the UK are the foundation for so much of what appears on stages and screens around the world.

The publishing sector is also critical to the success of our university and research sector, where it plays a vital role in curating, facilitating and validating the exchange of ideas and research outputs. The financial, banking and professional services sector on which the UK economy relies is fuelled by data, research, insight and information that British publishers collect, improve and disseminate.

As we stand at this moment of national change and renewal, it is vital that government fully understands why British publishing has been so successful and why that matters to the health and wealth of our nation. And as we also look to fashion new relationships with old friends and new partners, it is critical that the government pursues policy, trade and regulatory outcomes which will enable the UK publishing sector to compete and thrive all over the world.

The publishing sector has drawn up this blueprint to help the government maintain the prosperity and influence that the UK derives from publishing as it forge its bespoke economic relationship with the EU and begins to embark on future free trade agreements with other countries. This process will set the regulatory environment for the UK’s trading relationship with the rest of the world. And because this comes at a time where policy makers around the world are working together to develop a new regulatory framework for digital trade and behaviour, what the UK government chooses to do now will likely determine the success of UK publishing for generations to come.

In its speeches and position papers to date, the UK government has already indicated its support for some of the policy approaches that we need. This blueprint will help provide them with additional justification for the positions they are taking, as well as remind them of the other more specific things we need for the UK publishing industry to continue to serve our society, support our economy and enable the UK to exert soft power and influence around the world.

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Stephen Lotinga
Chief Executive of the Publishers Association
Our industry priorities and asks of Government

In order for us to maintain our world-leading publishing sector, we ask for the government’s support in maintaining the environment within which UK publishers can create, export and digitise their works. We set out below our specific asks in respect of each of these three areas.

ENCOURAGE THE WORLD’S BEST NEW CREATIVE, EDUCATION AND ACADEMIC WORKS

One cannot have a great publishing industry without great authors. The UK is blessed in this regard. But being home to this world class authorial talent does not automatically mean we will also have a world class publishing industry. Rather, this has come about because of the creativity, ingenuity, ambition, risk taking and entrepreneurialism of the people who built and sustained it and the legal, creative and business environment provided to them by governments over many decades. The UK deciding to leave the European Union has inevitably led to a disruption to the regulatory status quo. But we believe that with the government’s help, UK publishing will be able to take full advantage of new opportunities while at the same time strengthening the foundations of our sector.

What should the UK Government do?

1. MAINTAIN ACCESS TO GLOBAL TALENT AND IDEAS

The UK has benefitted greatly from being able to attract skilled people to the UK, irrespective of culture or nationality. The government needs to ensure that the UK remains a place where those with the right skills are able and want to come to live and work, by ensuring appropriate visa and immigration rules that make this possible and attractive for them. In addition to enabling companies to effect internal corporate transfers, this means making sure that if there are future visa requirements for EU and European Economic Area (EEA) nationals (i.e. either an expanded Tier 2 or some equivalent system) to work in the UK then these should reflect the skills and salary levels of our industry. Our new visa arrangements should not create unnecessary barriers for students who wish to remain and work in the UK after their studies, for example by facilitating transfers from Tier 4 to Tier 2 visas. Related to this, it is imperative that the government supports the higher education sector more generally. Our world-leading academic and education publishers in particular have deep connections to the UK’s universities. Higher education policy settings need to ensure ongoing access to research funding and close integration with top European and international institutions and programmes. With that in mind, we welcome the government’s assurance that it recognises the importance of securing this as part of its negotiations with the European Union and its desire to build links with the rest of the world.

2. SUPPORT AND IMPROVE OUR GOLD STANDARD COPYRIGHT FRAMEWORK

Copyright is the cornerstone of our industry. It is an enabler of freedom to publish which is a fundamental tenet of freedom of expression and the bedrock of an open democratic society. It creates a marketplace for ideas and creative works and provides protections and incentives that ensure people can earn a living from their minds as well as their hands. It ensures that society gets the breadth and quality of books that it needs. And it achieves all of this by creating economic rights for those creating and supplying books and then balancing these with the rights of those wishing to access them. The UK parliament was the original creator of this concept with the Act for the Encouragement of Learning in 1710 and has, over time, successfully adapted and modernised this framework by working with like-minded people in other countries to take account of new industries and technologies. This is an ongoing process and one with which authors and publishers are fully engaged.

But as this digital debate has evolved, we have been concerned about calls to broaden copyright exceptions to enable wider access to material online, particularly in the education and academic space. The current UK approach provides certainty and fairness for all concerned. And were these calls for change to be heeded, for example by moving towards a US-style “fair use regime”, the copyright balance would be disrupted in a way that threatens the ongoing investment in these works, something that would be to the detriment of not just the UK economy, but also society as a whole.

We note that the government does not intend for the UK to be part of the EU Digital Single Market, but is nonetheless seeking “cohesion” around intellectual property (IP) laws with the EU. We welcome the clarity already provided around registered IP rights. But as both Brexit and the other FTA negotiations progress and the government develops further its new approach to digital behaviours and trade regulation, we call upon them to preserve the current approach to copyright exceptions under UK law at home and then seek to enshrine this model more generally as the “gold-standard” for free trade agreements with other countries.

We also believe that it is critical that the UK works, both during its remaining time as an EU member and thereafter, to promote a strong copyright regime internationally. The UK should also use its independent seat at the World Trade Organisation (WTO) and World Intellectual Property Organisation (WIPO) to drive a positive international agenda that champions the international IP framework and hold other countries to their international law obligations. Additionally, the UK should expand its network of IP attachés both by creating larger teams in the most important markets and by widening their geographical reach.

Our ideas, our stories, our future.
3. COMMIT TO FREE SPEECH AND FREEDOM TO PUBLISH
The strength of the UK’s publishing industry – historically and today – is built on our country’s commitment to free and open expression of thoughts and ideas. We welcome recent government commitments to preserving free speech, particularly on university campuses. In future trade agreements and international instruments, we urge the UK to champion its commitment to free speech and the unfettered freedom to publish. Ensuring that trading partners commit to these principles not only advances an inherent human right, but also limits the scope for state censorship or publishing restrictions to be used as a non-tariff barrier against the UK publishing industry. When considering this issue, the government should be mindful of not just those countries where direct censorship policies are well known, but also note the potentially chilling effect that can occur via other less direct ways of placing legal constraints on freedom of expression, for example in the areas of data protection, media regulation and laws around access to information.

4. MAINTAIN A SUSTAINABLE APPROACH TO OPEN ACCESS POLICY FOR RESEARCH
Open Access (OA) is a policy that ensures the published outputs of academic research are made available to the public as soon and as widely as possible. A world-leading science and research sector and a world-leading academic publishing sector go hand in hand. The UK is fortunate to have both and by being the best place in the world to both conduct and publish research, UK-based academics and researchers benefit enormously. But the UK itself also benefits from this, not just because of the opportunities it provides UK students, but also because of the export opportunities generated.

In recent years, the UK has led the way in developing OA policies that ensure that society benefits from the outputs of academic research being made available as widely and quickly as possible, whilst still maintaining a sustainable output of high quality research. This has been achieved by the UK’s academic and publishing communities working in partnership to develop a balanced OA framework which has enabled the publishing industry to offer broad and flexible publishing options to researchers, including hybrid journals and Gold OA which mean that research outputs are widely available but publishers are still sufficiently remunerated. We note that the UK intends to seek ongoing collaboration with the EU on its research and science programmes post-Brexit. As it does so, we ask that the government ensures that any further developments in its approach to OA policy happen via a process that includes all stakeholders and government departments and takes into account the wider benefits to the UK economy and society that academic publishing can bring. In particular, it is critical that the UK maintains a flexible and balanced OA model that not only benefits our students and researchers at home, but is mindful of the fact that thanks in part to the strength of our publishers, the UK accounts for 16% of the world’s most highly cited journal articles, despite having just 4% of the world’s researchers based in this country.

SUPPORT THE GLOBAL REACH OF UK PUBLISHING
Publishing is already a major export industry with exports accounting for £2.9 billion (57%) of the industry’s revenue, of which £1.1 billion comes from academic publishing. 70% of this revenue comes from exports to non-EU markets. Publishing has in recent times been one of the fastest growing exporters of the UK’s creative industries, with the UK exporting more physical books than any other country in the world. Although the UK’s publishing sector has a strong international position, the industry needs government to set policy conditions and pursue international trade priorities that will help the industry maintain its world beating status. Initiatives such as the government’s Tradeshows Access Programme grant scheme have been important in terms of starting smaller publishers on their export journey and, at this important time for international trade, we would ask that recent cuts to the funding available for publishers from this scheme be reversed.

What should the UK Government do?
Our export success story starts at home, with a strong and vibrant domestic market for books and journals. In building this, British authors and publishers have benefitted greatly from the UK’s participation in the IP trading framework of the EEA which has enabled us to prevent counterfeit books and also those intended for non-EEA markets being sold in the UK against the author and publisher’s wishes. This trading framework, known as “regional exhaustion”, has also supported our efforts to turn the English language into a great export story, as it allows us to create with confidence books in the English language for developing markets and then price them appropriately for each country around the world. Together, these domestic and export markets have meant that British publishers can afford to invest in British authors and employ people in this country, confident that this investment can be recovered.
As the UK leaves the European Union, we ask that the government explores ways to keep Britain in the EEA’s “regional exhaustion” framework. If this proves legally or politically impractical, we ask instead that the UK adopts a “national exhaustion” framework. Making this choice would best preserve the status quo and thus enable publishers to keep a healthy industry at home whilst also ensuring we maintain the value of our export markets, which in turn enable the global spread and prevalence of the English language. All it would require is a simple and single decision to replace “EEA” with “UK” in S.18 of the Copyright, Designs and Patents Act. If instead the UK were to choose an “international exhaustion” regime, there is a risk that books could be imported to the UK that undermine the quality and integrity of the books available to UK consumers whilst also risking our position as the world’s leading book exporter. This is the case because publishers would explore relocating to a country that provides them with either a more affordable cost base, or a more supportive IP exhaustion regime.

6. MAXIMISE OUR ABILITY TO EXPORT TO ALL MARKETS

British export success relies on good access to markets. As the UK leaves the European Union we call on the government to ensure that the UK’s agreement with the EU requires that the books we produce can move from our warehouses and ports into homes and classrooms as quickly as possible. This means a focus on reducing or eliminating all non-tariff barriers to digital or physical trade and ensuring maximum participation of British publishers in public procurement and tender opportunities all around the world.

Despite recent positive developments on the Brexit Implementation Period, publishers are facing considerable uncertainty about the impact that Brexit may have on the location of their manufacturing and warehousing facilities. Publishers ask that clarification on future customs provisions between the UK and the EU is achieved as a priority in the upcoming talks, to provide certainty as soon as possible on what if any changes there will be to the export to the EU of product manufactured and stored in the UK. We call in particular for ongoing participation in the Common Transit Convention, the inclusion in our agreement with the EU of customs arrangements as close as possible to the Union Customs Code and clarity on the technical and procedural preparations being made for handling trade across our borders.

We also urge action to ensure that trade with non-EU countries is not damaged by Brexit. As a minimum, UK trading arrangements with those countries with whom we trade via existing EU trade agreements should continue on the same terms and without disruption as a result of Brexit.

Finally, a guiding principle of international trade is national treatment. That is, goods and services exported to foreign markets should receive the same treatment in tax, regulation and market access as goods and services produced and sold in those countries. The UK could usefully reinforce this important WTO principle by ensuring its explicit inclusion in FTAs.

7. LEAD THE WAY ON RIGHTS ENFORCEMENT

In addition to ensuring we have the right intellectual property framework in place, to be of any value, intellectual property rules must also be capable of being enforced. Therefore, in addition to ensuring that the UK remains a part of either the Brussels Recast Regulation or the Lugano Convention and that there is reciprocity between the UK and EU’s registered rights regimes, the UK’s trade negotiators, need to ensure that our free trade agreements with the EU and other countries include mutual commitments to the highest standards of IP enforcement. These agreements should also create the capacity to innovate further on enforcement approaches as online market threats develop and enable close cooperation between the UK’s Intellectual Property Office and IP enforcement agencies in trading partner countries. This includes the ability to share data, know-how and best practice and to tackle organised cross border crime. We further ask that the UK government improve funding for the Police Intellectual Property Crime Unit (PIPCU) and use their success in recent years to encourage similar innovation on law enforcement around the world.
The rapid pace of technological change and digitalisation of services have had a major impact on the way we live our lives. Few sectors have adjusted to this new environment as well as the UK’s publishing industry, with digital sales accounting for 35% of revenue. Although the industry has adapted successfully, major challenges remain on the horizon which require appropriate policy responses.

We note the government’s recent statements that it intends to leave the EU Digital Single Market and its launch of the Digital Charter. We are acutely aware that digital has an increased prominence in government’s policy thinking, not least exemplified by the renaming of the Department for Digital, Culture, Media and Sport in July 2017. And as the Digital Charter programme of work turns these principles into law, we look forward to actively contributing our experience and perspective.

What should the UK Government do?

8. ENABLE CROSS-BORDER DATA FLOWS

In the modern era, data has become a central part of the publishing industry, whether this is through generating insights into customers’ patterns and behaviours; or enabling education publishers to provide teachers with up to date information on their students’ learning progress; or by allowing academic publishers to provide better search, discovery and analysis tools for researchers. Due to the global nature of the publishing industry this data needs to be able to flow freely across borders. But many markets are vulnerable to disruption of cross-border data flows by governments with divergent data privacy and/or data localisation rules, or those seeking to engage in protectionism or censorship. The government should do everything it can to ensure that data can cross borders without risk of improper or unnecessary restriction.

With that in mind, we welcome the government’s commitment that it will be seeking to ensure that the UK is assessed, from the day it becomes a “third country” under the EU’s General Data Protection Regulation, to have an “adequate level of protection” and also the EU’s positive statement of intent in this regard. We now ask that these statements of intent be translated into a binding agreement as soon as possible. Thereafter, the UK’s other free trade agreements should also guarantee the free flow of non-personal data across borders subject only to reasonable limitations and eliminating any unnecessary data localisation requirements.

9. ZERO RATE VAT ON EPUBLICATIONS

When the UK entered the European Union, it was proud to say that it did not tax reading or knowledge by virtue of its 0% rate of VAT on books. This long standing fiscal policy helped ensure that reading remained affordable and accessible to people of all ages, incomes and abilities which benefitted both the reader and UK society more generally.

Since that time, publishing has moved into the digital age, but VAT policy has not kept pace as, contrary to this principle, VAT is still applied to epublications.

EU rules currently prevent the UK government from applying a zero rate VAT to epublications. However, the EU is in the process of changing this rule to provide more flexibility to Member States. Leaving the European Union gives the UK government a unique opportunity to steal a march on our European counterparts and remove this tax discrimination on digital products ahead of time.

The seemingly arbitrary distinction between print and digital currently drives up the price of epublications for readers of all kinds. This has a particularly disproportionate impact on vulnerable groups who are unable to use printed publications. It also increases the cost to the tax payer of publications being used by our schools and universities.
We are grateful to hear that the Treasury Select Committee is launching an inquiry on VAT post Brexit. We support the principles stated in that consultation, namely that UK VAT should be fair, support growth, encourage competition and provide certainty, stability, practicality and coherence. In particular, we urge the UK Government to move as soon as possible to apply a zero rate on epublications and ensure that the principle of avoiding tax on knowledge is upheld. This is particularly important post-Brexit, as the UK could be left behind once the European Commission passes the legislation and we would not want UK readers and learners to be in a position where they are paying more than those in the EU27.

The government is presented with a huge opportunity to remove this out-of-date tax on learning and knowledge and continue to lead the world in valuing the written word. Pledging to zero-rate ebooks and epublications ahead of leaving the European Union would support readers of all kinds (including notably students); maximise the benefits to authors and publishers by stimulating a healthy and dynamic market; bring down the cost pressure on academic libraries and universities; and, perhaps most importantly, promote increased literacy in all age groups for the benefit of the individual and society as a whole.

10. ENSURE FAIR ONLINE MARKETS
UK publishers are competing successfully in an increasingly tough landscape, with truly global distributors. UK readers benefit from having access to a wide range of works published and distributed by multiple publishers and retailers. This ensures that the breadth of written works is maintained and that people continue to have access to a broad range of creative, educational and academic ideas.

However, as the government develops its own digital trade policy, it needs to be vigilant in monitoring how the global online publishing marketplace evolves. Consumers’ interests and the wider interests of the UK are best served by an online marketplace which ensures the ongoing availability of all written works, and fair competition on all platforms. Furthermore, as the government’s review into the UK newspaper industry makes clear, it is vital that online marketplaces respect the IP and other rights of authors, other content creators, and all those who work to provide the news, information, education and entertainment society needs.

The best way to deliver available, high quality, and affordable content for UK consumers is through ensuring healthy, competitive marketplaces. In order to achieve this, the government needs to support a robust, well-funded pro-market-competition regulator that strives for the best possible outcomes for the UK consumer and society.

CONCLUSION

The UK is the World’s Publisher and the industry is inextricably bound in our country’s history and its values. We plan to work tirelessly to make sure that the industry has an even greater role in our country’s future.

We thank you for taking the time to read our story.