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## **„Brexit 2020 – was bedeutet er für den deutsch-britischen Buchmarkt?“**

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### **Brexit 2020 - what does it mean for the German-British book market?**

#### **Introduction**

Good afternoon and many thanks for having me. My name is Dan Conway and I am the Director of External Affairs at the UK Publishers Association.

I am delighted to have the opportunity to speak to you all today about the current state of the British Book market and, most importantly and most interesting for you all I'm sure, how Brexit will impact publishing over the next few years.

To be completely honest, in the UK I think we're all pretty exhausted by Brexit!

I don't think it matters whether you voted to Remain or to Leave in the UK referendum three and a half years ago. It has been a marathon for everyone concerned.

We've experienced parliamentary deadlock, a relentless media frenzy, and frankly an embarrassing inability to make any concrete political decisions. This has led to the widespread frustration on the part of the British people and many of us are acutely aware how it is perceived on the international stage.

If you wanted to leave the European Union in the first place, then Prime Minister Theresa May's leadership was a busted flush and the proposals put on the table did not constitute regulatory freedom.

And if you wanted to Remain, then the frustration has been with those political movements able to theoretically alter Britain's course and their complete incapacity to articulate either the benefits of EU membership during the referendum campaign or a route to reversing it afterwards.

Of course, following the recent General Election and corresponding Conservative majority government, the domestic parliamentary stalemate is now broken and I will try and discuss some of the repercussions of that today.

At home it has been a time of division and discord. Families have fallen out with each other, political parties have split in the voting lobbies of the British parliament, and unexpected alliances have been created as never before seen.

At the Publishers Association we've been watching all of this play out from the front row. We are heavily involved with many UK MP groupings and with many departments of UK Government. We have been working ceaselessly throughout to advocate for Publishing and to try and maintain a business environment that works for us all.

It is important to note that advocacy during this period has required the Association to take a pragmatic and a non-partisan view of Brexit. And I am personally very proud of that. I am sure many books will be written about the social impact of Brexit in Britain and the rest of the EU for years to come, but what is clear is that tribal politics returned to the UK in a way not seen since the 1980s.

At the Publishers Association we have tried to remain calm and analytical throughout. It would have been very easy to be swept up by the strong emotional winds buffeting UK politics and much of the associated press. Instead, we have in good faith tried throughout to analyse the various scenarios and to work with those involved on all sides to safeguard our great industry for future generations. And of course, in order to do that, ongoing collaboration with EU markets is absolutely key.

So, to reiterate, I am delighted to be here to speak to you today. Over the next few minutes I will try and sum up the current situation following the UK General Election; talk a little about the British book market and how it has responded to events thus far; and then to discuss some of the potential scenarios facing European publishers over the next few years.

### **The current situation**

Turning to the current political situation in Britain. Following the recent General Election, things will begin to happen very quickly. The domestic paralysis, for better or worse, is over.

The Conservative Party in the UK, seeking election on a manifesto slogan to "get Brexit done", delivered a dramatic and almost completely unpredicted 80 seat majority. This has enabled the government to bring forward its Withdrawal Bill and on 20th December MPs voted 358 to 234 in favour.

Yesterday, this Bill went through the House of Lords for third reading, paving the way for Britain's exit at 11pm on 31 January. Ladies and Gentlemen, in case anyone hadn't noticed, that is in 8 days' time.

### **The UK publishing industry**

From a business perspective, the UK book industry has reacted with resilience to unprecedented regulatory and political uncertainty.

The Publishers Association's latest market statistics indicate that the industry revenue from books, journals and rights sales have actually grown slightly since the referendum, now totalling 6bn pound sterling, or roughly 7bn Euros.

It is important to note that, out of this whole, 3.5bn sterling or roughly 60%, is export sales from around the globe. And if you look at the physical book market, 35% of the total value is made up European sales. So, as you can imagine, any disruption in trade with Europe could prove devastating to UK book publishers.

Where foreign language rights are concerned, German is the leading individual language. Latest figures show that German foreign language rights sales totalled 12% of overall revenue, ahead of

Chinese (11%); and French and Italian (8%). That relates to by about £18m in rights and coeditions income from German sales, a figure that has increased by about a fifth in the last 5 years.

So the UK industry is doing well. Of course, there are areas where the trends are not quite where we'd like them to be, but overall the industry is in good health. That may be a little unsurprising, however, given that in political and regulatory terms nothing has yet actually happened to upset the apple cart. That's not to say, I'm afraid, that there aren't still potential risks on the horizon.

### **Do German publishers have anything to fear immediately?**

In immediate terms, German publishers have very little to fear from Brexit thanks to the 11 month "transition period". This is a grace period that ends in 11 months' time on 31<sup>st</sup> December 2020.

During this period, all rules will stay the same. Citizens' rights will remain; the UK will continue to participate in the EU Customs Union and the Single Market; and freedom of movement of people will continue. So the publishers in this room should not expect publishing and business norms to be upset in the time leading up to 31 December 2020. And that is very good news for us all.

However, as of 1 January 2021, there are a number of scenarios that could play out.

Firstly, the EU and UK could have agreed a full free trade agreement. This would dictate the settled future relationship. The basis for this free trade agreement is the mutually agreed so-called "Political Declaration", which gives a (very brief) direction of travel including the establishment of "high levels of protection" for intellectual property assets. An independent immigration policy would also need to be put in place amid decisions on areas of regulatory alignment.

Secondly, and less optimistically by far, the EU and the UK could not agree a free trade agreement in the 11 month period we have (the EU Commission has already expressed doubts) and the transition period could not be extended. This would trigger a so-called "disorderly" Brexit, where the trading relationship is severed with no bandage in place.

A disorderly, no deal Brexit would potentially cause a significant rift in terms of customs arrangements and business practices. Shipping books across the channel could prove time-consuming (your UK "distributor" becomes an "importer") and the provision of personal data between German companies and UK suppliers and retailers could prove more complicated.

Perhaps most importantly, there would almost certainly also be economic shocks triggered in this scenario, potentially harming consumer buying patterns in both countries. This is the scenario that (almost without exception) no one, anywhere, wants!

Thirdly, the UK and the EU could fail to reach an agreement and the transition period could be once more extended while they continue to try and do so.

In short, the transition buys us all in European publishing a little time and London and Frankfurt Book Fairs 2020 are not a current concern. The question is, what comes next?

### **Brexit scenario-planning**

So let's look at those scenarios in a little more depth.

#### *Free Trade Agreement scenario*

Firstly, the Free trade agreement scenario. In all my discussions with UK Government there seems to be scepticism that we can do this in time. Not from Government officials, of course, who are holding the party-line, but from other interested parties. That's not to say it can't be done, but there's a great deal of scepticism out there about how likely this scenario is.

The Free Trade Agreement scenario and the setting of the future relationship would, you would presume, end the period of regulatory volatility and closes the book on Brexit. The key questions for Publishers, both UK and EU, would be:

1. People. Freedom of movement would end and the UK's independent immigration policy would begin. It is currently reported that the Prime Minister wants to bring in a points-based system, and wants to do so on 1 January 2021, ditching the previous extension until 2023 committed to by Theresa May. This would bring in a salary cap on migrants to the UK, the current figure attached to which is £35k per annum. Publishing is an international, multi-lingual business. The question remains, can we attract the people that we need to continue to make the industry work?
2. Copyright and Intellectual Property. The Political Declaration says there will be 'protection and enforcement of intellectual property rights beyond multilateral treaties to stimulate innovation, creativity and economic activity.' This means keeping to and building on the international frameworks, such as the Berne Convention, which we already abide by and is good for publishing. Both the Political Declaration and the Withdrawal Agreement say we will continue to work together in international forums, which is also positive.

A key question in legal terms is will the provisions in the Digital Single Market Copyright Directive be implemented in the UK, or will publishers selling across Europe be selling into two very different systems. Currently, implementation of the DSM looks pretty unlikely in this scenario.

Copyright exhaustion may change following Brexit too. This could mean that when a book is sold into the UK from the EU, the copyright would not exhaust (as it does in other European countries). This means that a book sold into the UK would not automatically be able to be sold back into the European Economic Area, or indeed a separate consent from the rightsholder would need to be sought to do so. Books that are already on the market would remain exhausted in both the EU and UK, as per the wording in the current Withdrawal Agreement.

3. Tariffs, customs and data. What are the processes set up for treatment of UK/EU goods and services for tariff purposes and customs? Luckily books and journals are very unlikely to have anything but a zero-tariffs associated with them, but what will the import and export requirements be? Also, you would hope that by this point a "data adequacy agreement" is put in place so that data will be allowed to flow freely across borders.

There are lots of unknowns about what would be negotiated and a level of scepticism about whether it is possible to do so in time. But there is a distinct chance that this could work for Publishing if the provisions facilitate trade in goods (i.e. books) and services (i.e. digital and rights sales).

The Publishers Association has a seat on an “Expert Advisory Group” specifically set up by the UK Government to advise on this Deal. This group will be meeting often and be long, I imagine.

### *No Deal / Disorderly Brexit scenario*

Secondly, let’s move to the No Deal scenario. It is the No Deal “disorderly” Brexit which brings with it the greatest level of risk. The Publishers Association ran a significant workstream preparing UK publishers for this outcome and I am able to share below some of the key takeaways from this work:

1. Firstly, citizens’ rights. I know this is a big concern for a lot of people. UK nationals living here, and German nationals living in the UK. The current situation is that EU citizens living in the UK have until 30 June 2021 to apply for “Settled Status”. So far the number of applicants to the scheme has hit more than 2.7 million people. The UK has also confirmed that those who don’t apply will not face automatic deportation. Under the withdrawal agreement, access to UK healthcare will also not be impacted.
2. Secondly, travelling. After Brexit, we have been told that we will need to make sure we have 6 months validity on our passports to travel and EU citizens may need to ensure you have appropriate travel health insurance. For trips of up to 90 days no VISA will be needed, but you may need one for longer holidays or business trips. This will also be true in a free trade agreement scenario.
3. Thirdly, movement of physical books between UK and EU. From a practical perspective, your businesses need to understand your supply chains (both from suppliers and to consumers) and identify customs support ahead of time. This means contacting freight forwarders and customs agents to manage potential risks.

On tariffs it’s good news. Our legal advice indicates that all physical books will not incur any tariffs even in a hard Brexit scenario.

Although, we have been told, there will be some changes: books would become subject to import VAT. Also, regardless of whether any additional taxes are payable, customs declarations would be required causing significant administrative burden to businesses.

Also, importantly, to move books between UK and EU the both parties will need to have EORI number (Economic Operators Registration and Identification Number). Without this number the books won’t clear customs. There may also be additional requirements as “distributors” become “importers” on both sides.

#### 4. Data

Without an “adequacy agreement” between the UK and the EU, the rules for transferring personal data will change. Specifically, transferring data from the EU to the UK could become more difficult and EU businesses should prepare for this by making sure that the right contractual clauses are signed with UK partners and retailers. In practical terms, if the UK and EU data regimes diverge then German companies may need to appoint their own data representatives in the UK. Don’t take my word for it, it’s worth seeking bespoke advice on this if this happens.

#### 5. Economic shocks

Finally, perhaps the most important impact of a disorderly Brexit is the wider economic impact. The extent of this is conjecture and has been hotly contested. But if the worse predictions are to be believed then this could be considerable and shock all consumer markets, not least books.

#### *Extension to the transition*

Finally, we could again extend the transition period in which case we would not need to worry about a great deal of the above for a longer period of time.

#### **Conclusion**

In conclusion, the transition period buys us all some time this year and you should not be worried about London or Frankfurt Book fairs.

However, I'm afraid there are a great deal of unknowns after that. Broadly speaking, we should all be economically better off if the UK is able to sign up to a full free trade agreement with the EU and we avoid a No Deal Brexit.

I will leave you with 1 final factor that we are considering in the UK: President Donald Trump and the United States.

The UK is concurrently considering a Free Trade Agreement with the United States as well. This is the other mega regulatory power in the Western world aside from the EU. All eyes are also on this US trade deal and the possible impact that that could have on the future of UK trade. It may prove impossible to do concurrent deals on regulatory alignment with the EU and the US at the same time, so these contradictions may present themselves strongly in coming months as negotiations deepen.

Frankly, UK publishers are worried about the US Deal. The US political administration is in thrall to big tech companies and big tech tends to push for the loosening of copyright and championing the culture of free information. As the trade deals discussions continue, the UK is looking West as well as East and frankly that is a big concern for us.

In terms of Brexit, I am sorry to say that is just the beginning. We have signed the divorce papers, but the future relationship is still unclear. Correspondingly, so is the business impact on publishing. We can only work to ask the right questions and prepare accordingly.

One thing we can be sure of is that the crucial interconnection between UK and German publishers and readers will stay strong, whatever the terms of Brexit.

Thank you all very much for the chance to speak today, I hope you have found some of it useful.

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**\* Abdruck der Rede – auch in Auszügen – nur nach vorheriger Rücksprache mit dem Autor:**

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