



House of Commons – Westminster Hall debate
Wednesday 25th November - 2.30pm to 4pm
“That this House has considered UK musicians performing overseas”

1. Introduction

This briefing has been produced by UK Music and the Musicians' Union (MU) to inform the debate on UK musicians performing overseas. Both organisations welcome the opportunity to provide information to those participating in the debate.

The MU represents over 30,000 musicians across the UK working in all genres of music performing live, recording, teaching and composing.

UK Music is the umbrella body representing the collective interests of the UK's commercial music industry, from songwriters and composers to artists and musicians, studio producers, music managers, music publishers, major and independent record labels, music licensing companies and the live music sector. A full list of our members, including the MU, is listed in annex to this briefing.

This briefing focuses specifically on the problems faced by UK musicians in obtaining visas¹ to perform in America which is relevant to the debate. The issue has recently been raised in Parliament via Patrick Grady MP's Early Day Motion 609 which has so far attracted 38 signatures and has been signed by MPs from the Conservatives, Labour, SNP, Liberal Democrats, Democratic Unionists, Green Party and Plaid Cymru.²

2. American Visas

North America is second to Europe as the biggest music market in the world, generating revenues of \$5.24billion.³ In 2014 the US market increased in value by 2.1%. Digital revenues topped \$3.5 billion in 2014 and now account for nearly three-quarters of the recorded music market (71%) in the country.⁴

Breaking the American music market can be integral to a musician or bands career. The UK is fortunate in that a number of artists from these shores have gone on to great

¹ <http://consequenceofsound.net/2015/11/the-uphill-battle-of-international-touring/>

² <http://www.parliament.uk/edm/2015-16/609>

³ <http://www.ifpi.org/news/Global-digital-music-revenues-match-physical-format-sales-for-first-time>

⁴ <http://www.ifpi.org/downloads/Digital-Music-Report-2015.pdf>

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success in the United States over the decades. From the initial “British Invasion” of the mid-60s when the likes of the Beatles, the Rolling Stones, the Who and the Kinks broke America, to the “second British Invasion” of the 80s where Duran Duran, Simple Minds and the Human League scored number one hits on the Billboard Hot 100. Succeeding in the American music market contributes significantly to the UK music industry’s £2.1 billion export strength.⁵

British music success in America is not a thing of the past – Adele has topped the Hot 100 in the USA this decade, and other acts such as One Direction, Ed Sheeran and Sam Smith have had considerable success. However, the ability of more UK musicians to break this pivotal market is hampered by problems associated with acquiring visas to perform in the USA.

The UK Music Industry has for many years been tackling the issue of UK musicians working in the USA. In particular, between 2011 and 2012 there was a concerted campaign⁶ to seek the support⁷ of the UK Government⁸ and then engage with the American Embassy to simplify procedures following problems associated with UK acts attempting to enter America to perform at the annual SXSW (South-by-South-West) music showcase in Austin, Texas. This campaign led to a nominated person at the Embassy⁹ acting as a point of liaison for UK Music and the MU for when problems arise. However, this designated official has subsequently been redeployed and an alternative route for the industry to raise concerns about the administration of the visa system has not been established.

It must also be remembered that in many instances when artists and bands travel to the US for gigs and tours they may also have an accompanying live event crew and that they could be subject to the same difficulties concerning obtaining visas as musicians.

3. Problems with the process

The process whereby UK musicians have to apply for a US work visa is long, complex and prohibitively expensive. Whilst most musicians understand the reasons for requiring visas, the administration of it acts as a significant barrier to a musicians’ trade.

As mentioned in EDM 609, the American visa application process requires face-to-face meetings in either Belfast or London which may require expensive overnight stays for musicians and bands that live outside these cities. Delays in the US visa application process can lead to flights, shows and, in some cases, full tours being cancelled. Homeland security is generally cited as the reason for delays.

There is little reciprocity as the UK visa process for US musicians entering the UK to work is far simpler and less costly. The UK visa system clearly recognises the value in cultural exchange.

⁵ <http://www.ukmusic.org/research/measuring-music-2015/>

⁶ <http://louderthanwar.com/john-robb-goes-to-parliament-to-sort-out-american-visa-problem/>

⁷ <http://louderthanwar.com/british-musicians-continuing-visa-problems-for-the-usa-a-blog/>

⁸ <http://louderthanwar.com/update-on-american-visa-campaign/>

⁹ <http://louderthanwar.com/campaign-for-making-musicians-visas-for-america-better-we-meet-the-american-embassy/>

Over the past year the MU has increasingly received complaints from its members who, through no fault of their own have had to cancel shows and rebook flights due to difficulties and delays at the US Embassy in London. A number of case studies are detailed later in this briefing.

Despite meetings with US officials over the years, little has been done to alleviate the problems encountered by musicians.

Most musicians, who travel to the US, want to earn a fee, sell merchandise, sell CDs. The visa process as it currently stands not only restricts that practice but is also unreliable.

To our knowledge there has been no offer of any compensation when musicians have had to cancel and rebook flights or cancel shows due to delays in visa processing.

4. Costs

The costs involved in obtaining a US visa are often high due to the requirement to use a facilitator, which can ensure the process is dealt with professionally as the petition needs to be lodged by the company in the US.

For example, the cost of petition from Tamizdat, an organisation which facilitates cultural exchange, would typically cost around £880 and may require a further £650 to be fast tracked within 3 months. Assuming the band is a four-piece a further Embassy fee is likely to be around £480. With further associated costs and fees the total cost is likely to be around £2,500.

Such costs for young musicians are quite prohibitive when you consider that more than half of musicians earn under £20,000 a year.

Evidence of work and testimonials are also required to support an artist's application.

Furthermore, visa applications to the USA are per visit/length of the tour. There is a 3 year visa available but the burden of proof falls on to the musician to prove that work is booked for that 3 year period. This is unrealistic.

Research has shown that when a promotor brings across a US musician, who holds a US passport, to the UK they can enter without a visa but with a work permit that is issued by the promotor at a cost of £21.

Whereas a Tier 5¹⁰ temporary creative or sporting person visa costs just £225.

There is a huge variance in circumstances that affect whether musicians seek to perform in the USA. It may be a solo musician performing a one off concert or groups of musicians performing either at showcases or on tours in venues across the country. There is a clear need for a cultural exchange that benefits all on fair reciprocal terms

¹⁰ <https://www.gov.uk/tier-5-temporary-worker-creative-and-sporting-visa>

and allows for an efficient flow of work opportunities for artists from both the USA and the UK.

5. Solutions

There are a number of solutions which the MU and UK Music would welcome the support of Government in order to address problems associated with applications for visas to perform in the USA:-

- TTIP

As part of the continuing discussion between the European Union and the United States on a proposed free trade agreement, Transatlantic Trade and Investment Partnership (TTIP), we urge the UK Government to seek to eliminate a process for performers which acts as a restrictive barrier to trade. The UK music industry has previously made representations to the Government and the European Commission on this.¹¹

- Government engagement with Embassy

Last month the MU wrote to the American Ambassador to the UK to request a meeting and engagement on this issue. The industry awaits his team to “reach out” to us. The Embassy’s engagement on this issue is urgent given the next SXSW, when many UK musicians will be attempting to perform in America, is only four months away. We seek the UK Government’s support in raising this matter in their dealings with the American Embassy and suggest that they urge the Embassy to engage directly with the UK music industry to find a workable solution.

- Simplification of the system

There are certain sensible interim measures that could be put in place that would not mean the America has to compromise its visa system entirely – such as an ability to add more dates to a tour once an application has been made and granted without having to start all over again.

- Location of application meetings/interviews

The UK Government should consider whether an arrangement can be reached with the American Embassy whereby alternative locations can be used for meetings for visa application meetings for artists and bands to be held closer to where they live. County council offices or local registration/registrar offices for example could be used to fulfil this role.

- Creative Industries Council

The Creative Industries Council has been established to bring together the Government and the creative industries. The Council has developed an industrial strategy which includes exports and trade amongst its work plan. Led by the MU and involving British

¹¹ http://www.ukmusic.org/assets/general/Karel_de_Gucht.pdf

Underground and UK Music, the music industry is developing a taskforce to channel work associated with American visas. This taskforce should be allowed to directly report in to the Creative Industries Council. Alleviating problems with visas should be addressed in any update of the CreateUK industrial strategy from the Council.¹²

- Coordinate work of agencies and public bodies

The Government has relationships, either via Royal Charter or via legislation, with bodies such as UKTI, the British Council and VisitBritain. All these bodies have interests in promoting the UK's cultural value and attractiveness overseas. The Government should work with these bodies to ensure they can play a part in eradicating restrictive visa issues which threaten UK growth and also identify steps to enable UK musicians to perform at showcases in America and not be thwarted by restrictive visa processes.

6. Case studies

The Musicians Union has been provided with a number of case studies which we are sharing in this briefing to enhance understanding of the issue.

- Case study 1

This guitarist has been performing in the USA since 1990. Recently he has been doing two-month long tours in the States with the odd festival here and there too. His last visa expired in August following a virtually continuous series of visas and work permits. He has never committed any offences in the USA or overstayed a permitted entry period.

His agent applied for a renewal but was told two/three year visas were no longer being issued. The cost of the new visa is \$2,250, which includes the cost of the agent handling the application. Whilst this has generally been the cost previously in the past it was possible for him to spread the cost across a number of tours. He must now have a new visa for each working period as the visa only extends to the last booked date. This is a very damaging cost to add per tour.

Most of his bookings are a maximum of three or four months ahead – often only coming to contract a month ahead, a few outliers are arts centres that might programme a year ahead. These are sometimes the anchor dates around which tours are planned. His bookings are usually in volunteer-run clubs and arts centres – these are the listening rooms, the mainstay of the broader guitar culture in the USA.

His continuing activity is now seriously curtailed by the visa changes. Festivals are out of the question unless they can be tied into a tour period, as are one-off special guest spots.

- Case study 2

¹² http://www.thecreativeindustries.co.uk/media/243587/cic_report_final-hi-res-.pdf

Following an interview at the US Embassy in London regarding visa applications, Welsh Folk band Calan applied for visas to perform in advance of a tour of the USA and Canada. All members of the group had their applications approved and were told their passports would be returned to them with the visa printed within 3 to 5 days.

Whilst some members of the group who had earlier meetings in June at the Embassy received their passports in time, other members of the group that were expecting to receive them by mid-June were left waiting for the documents to be returned as departure for their tour approached.

Their manager contacted the courier service who were responsible for delivering the passports. No passports had been given to them for delivery by the Embassy. The manager then contacted the Embassy and sent a few emails to which there was no reply. He eventually managed to get hold of the US Embassy call centre where he was told they were unable to comment on visa applications. The manager went online to the Embassy website where it was there he discovered that due to a computer glitch on their system they were not able to print visas in any passports.

As a result Calan's first show at the River Theatre Summer Solstice Festival, Cumberland, US, had to be cancelled. The band lost income from this cancelled festival appearance (\$1500) and also lost around £900 in seats on flights which could not be taken. This could have been avoided through better communication from the Embassy.

- Case study 3

In October a long established and respected UK punk band told us that they still have no visas and will have to cancel their first two gigs. As a result they have had to cancel non-refundable flights and will now have to book last minute flights if the Embassy print their visas in time for the remaining dates of the tour.

The band paid £3660 to an American agent for visas and an extra £1000 to speed up the process. Costs associated with their visit to the American embassy in London for an interview was at least £1200.

- Case study 4

At immigration controls in America, an artist taking part in a folk showcasing event was stopped and asked to come to an interrogation room. She was then interrogated by a border guard in what appears to be a very aggressive manner as a result of which the artist had an anxiety attack. This resulted in the artist being told she was not welcome in the US and had to return to the UK. She was subsequently told that any future applications for a work visa or an ESTA will be declined.

Whilst we hope that this was an isolated occurrence which is possible to overcome via a complaint, the fact remains this performer lost out on a showcasing opportunity and is severely out of pocket because of what appears to be a gross over-reaction by a US border guard, potentially hindering the development of this artists career.

Annex

UK Music's membership comprises of:-

- AIM – Association of Independent Music - representing over 850 small and medium sized independent music companies.
- BASCA - British Academy of Songwriters, Composers and Authors – BASCA is the professional association for music writers and exists to support and protect the artistic, professional, commercial and copyright interests of songwriters, lyricists and composers of all genres of music and to celebrate and encourage excellence in British music writing
- BPI - the trade body of the recorded music industry representing 3 major record labels and over 300 independent record labels.
- FAC – The Featured Artists Coalition – the voice of the featured artists.
- MMF - Music Managers Forum - representing 425 managers throughout the music Industry.
- MPG - Music Producers Guild - representing and promoting the interests of all those involved in the production of recorded music – including producers, engineers, mixers, re-mixers, programmers and mastering engineers.
- MPA - Music Publishers Association - with 260 major and independent music publishers in membership, representing close to 4,000 catalogues across all genres of music.
- Musicians' Union representing 30,000 musicians.
- PPL is the music licensing company which works on behalf of over 90,000 record companies and performers to license recorded music played in public (at pubs, nightclubs, restaurants, shops, offices and many other business types) and broadcast (TV and radio) in the UK.
- PRS for Music is responsible for the collective licensing of rights in the musical works of 100,000 composers, songwriters and publishers and an international repertoire of 10 million songs.
- UK Live Music Group, representing the main trade associations and representative bodies of the live music sector

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