HOUSE OF LORDS
European Union Committee

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The primary purpose of the House of Lords European Union Select Committee is to scrutinise EU law in draft before the Government take a position on it in the EU Council of Ministers. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published where appropriate.

This edition includes correspondence from 1 August to 31 December 2018

EU INTERNAL MARKET SUB-COMMITTEE

CONTENTS

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for the Explanatory Memorandum (EM) dated 29 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 13 September 2018.

Has the potential impact of this proposal in the context of the UK's withdrawal from the EU been considered? Do you see a risk that, should the Commission decide to grant block exemptions for State aid falling in the new categories, this might create a competitive disadvantage for comparable UK initiatives?

We would also be interested to know if the Commission is already planning to adopt regulations granting block exemptions for the new categories of State aid, and if so in what timeframe.

We have decided to retain the file under scrutiny. We look forward to a response to this letter in due course.

14 September 2018

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

Thank you for your letter of 14 September in which you ask about the potential impact of the proposal in the context of the UK's withdrawal from the EU, and the timing of the adoption of block exemption for the new categories of State aid.

I am grateful to be able to provide more detail on these points.

In terms of timing, the Commission's expectation is that both the Regulation itself and the exemptions should be quickly agreed, with drafting and discussion of the Regulation and the exemptions being done in parallel.

Although the Council's approval can never be presumed, based on the lack of any opposition to the proposal from Member States at two Council Working Groups, and the Commission's exclusive competence for the exemptions themselves, meaning that (when the Regulation is amended) they will be able to adopt the exemptions without reference to the Council, I consider this a reasonable expectation. Indeed, we now expect the Regulation itself to be adopted on Monday.

Therefore, both the Regulation and any exemptions made under it should be adopted prior to exit. In which case these would then be preserved in the UK under the EU (Withdrawal) Act 2018 on exit day. Based on this and the Government's policy to implement a UK legislative framework for State aid that would mirror the relevant EU rules on day 1 after exit, the exemptions themselves would be available in the UK. And in an implementation period the EU rules (including any exemptions) would continue to apply in the UK. As a result, we would not expect to be at a competitive disadvantage.

I hope that the Committee find this helpful clarification and can clear the Regulation from scrutiny.

23 November 2018

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

Thank you for your letter dated 23 November 2018 on the above proposal. The EU Internal Market Sub-Committee considered your letter at its meeting on 20 December 2018.

We note that your letter arrived over two months after we wrote to you and only a few days before the proposal was due to be adopted. We have since been informed by your officials that the UK abstained in the Council vote. Nonetheless, may we emphasise the importance of timely correspondence on fast-moving files so that the scrutiny process can be conducted effectively.

We have decided to clear the file from scrutiny. We would nonetheless like to understand if the Government expects the UK's post-Brexit State aid framework to provide exemptions for comparable domestic funds? We looking forward to receiving your response in due course.

21 December 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON SAFEGUARDING COMPETITION IN AIR TRANSPORT, REPEALING REGULATION (EC) NO 868/2004 (10146/17)

Letter from Baroness Sugg, Transport Minister for Aviation, International and Security.

I am writing to update you on the progress of the above proposal and, in particular, the outcome of trilogue negotiations with the European Parliament.

In my letters of 8 May and 23 July 2018, I set out the positive progress that had been made. I am pleased to report that following trilogues between the Council and the European Parliament, a provisional agreement has been reached which continues to be aligned with UK objectives.

In the text of the proposed agreement, there continues to be an explicit recognition that fair competition between air carriers should preferably be addressed in the context of air transport or air services agreements with third countries. The text also retains the provisions enabling an investigation to be suspended if the Member States involved intend to address the practice being investigated under an applicable agreement they have concluded with the third country concerned. Traffic rights remain specifically excluded from potential use as redressive measures, which was another of our key objectives.

I previously outlined two issues that remained controversial in the General Approach reached at the June Transport Council. These related to how decisions about imposing redressive measures should take place and the concept of 'Threat of Injury" which was included in the Commission's original proposal.

Regarding the process for imposing redressive measures, the UK's preferred approach (through comitology) has been adopted in the proposed agreement. Furthermore, additional detail has been provisionally agreed regarding the reporting process for the application and implementation of this regulation.

As you may recall, the concept of 'Threat of Injury' had been removed in the previous proposal — a decision we supported due to the uncertainty it might cause regarding the application of the proposed regulation. The concept has now returned to the text of the provisional agreement. However, additional language has been added, clarifying the concept and ensuring it relates to more definite circumstances, beyond just conjecture or remote possibility. Perhaps most significantly, it was provisionally agreed that redressive measures will not enter into force before the threat of injury has developed into actual injury. In the constructive sprit that the UK and other Member States have approached these discussions, this is an acceptable outcome.

The positive developments reported in my previous letters remain in a satisfactory condition in the provisional agreement, and I therefore believe that the text strikes a balance between allowing the aviation market between the EU and third countries to continue to grow and innovate, while ensuring that growth takes place within an environment that promotes fair competition.

No further changes are now expected before the proposed agreement is put to the European Parliament and the Council of Ministers for final adoption, dates of which are to be confirmed. I would be grateful if your Committee could therefore clear this proposal from scrutiny.

11 December 2018

Letter from the Chairman to Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media and Sport

Thank you for your Explanatory Memorandum (EM) dated 4 July 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 25 October 2018.

Your EM makes reference to the Government's objective of concluding comprehensive cooperation accords with the EU on science and innovation as well as education and culture but does not make any specific comments on the implications of this proposal for the UK. What assessment has the Government made of the benefits and drawbacks of UK participation in Digital Europe?

Please could you provide further information on the extent to which UK entities have benefitted from existing EU initiatives that will be brought under the umbrella of Digital Europe?

We would also be grateful if you could confirm if third country participation in Digital Europe can only be achieved by a standalone agreement or could be included as part of another, wider, agreement.

We have decided to retain the file under scrutiny. We look forward to a response to this letter, as well as a general update on negotiations, in due course.

26 October 2018

Letter from Margot James MP, Minister for Digital and the Creative Industries

I am writing to give you an update on this proposal.

The Telecoms Council of 4 December will hold a vote on the proposed Digital Europe regulation. I am requesting a waiver to vote in favour of a partial general approach in accordance with the qualified majority voting format.

The main reasons for the requested waiver are:

1. **To avoid blocking proposed legislation with the potential to support highgrowth sectors of the UK economy**

   Given the strength of the UK vote under the QMV system, an abstention may result in the proposal failing to gather enough momentum to pass. It may be important for the UK to use its position in a positive way and to avoid preventing the passage of proposed piece of legislation that promotes cooperation and collaboration in high growth areas for digital and data sectors, and the wider UK economy. The UK becoming part of a blocking measure, however inadvertently, could have significant negative impact on any desired future participation in the programme.

2. **To ensure the programme is fit for purpose and supports our domestic digital priorities**

   It is possible that the UK will pursue participation in the programme or access to certain workstreams, either through negotiations on our future relationship with the EU or as part of our wider cooperation as a third country. It is important that we demonstrate our commitment to cooperation on digital issues as negotiations are ongoing.

Crucially, the vote at the Telecoms Council will not be about UK participation in Digital Europe, but on the proposed text of the Regulation. The partial general approach will not incorporate the final budget and spending figures; I will write further on financing negotiated within the Council on the Regulation before any vote.

In previous correspondence you asked what assessment the Government has made of the benefits and drawbacks of UK participation in Digital Europe. The proposal covers cooperation and funding on a number of high growth areas, such as artificial intelligence and cyber security. My officials are still assessing whether the UK will benefit from paying for access to the Digital Europe programme as part

of our broader relationship with the EU Member States, or whether the cost of participation would be better spent on domestic programmes. Nonetheless, I believe it is important at the present moment to demonstrate the UK's support for continuing European collaboration in digital and data sectors that exhibit high growth in the UK economy. Moreover I would reiterate that this vote in favour would not commit the UK to any spending requirement at this stage.

You also asked for further information on the extent to which UK entities have benefitted from existing EU initiatives that will be brought under the umbrella of Digital Europe. Digital Europe will incorporate several work streams that have previously been funded under the Connecting Europe Facility for Telecoms, including the TESTA-ng computer network. Data from the European Commission shows that UK entities have received €9.8 million between 2014-17 for projects funded under CEF Telecom.

Please find below an overview of how funding for UK entities has been split by digital service infrastructure ("DSI"):

UK funding in DSI building blocks:

- eDelivery - €0.3 million
- eID and eSignature - €0.7 million
- eInvoicing - €1.2 million
- eTranslation - €0.7 million

UK funding in sector-specific DSIs:

- eHealth - €0.6 million
- Electronic Exchange of Social Security Information (EESSI) - €1 million
- eProcurement - €0.4 million
- Europeana - €0.4 million
- Public Open Data - €0.3 million
- Safer Internet - €4.2 million

With regard to third country participation, the proposed text requires "a specific agreement covering the participation of the third country to any Union programme", but does not elaborate on whether this could form part of a wider agreement.

I hope this is helpful and I am, of course, happy to answer any further queries.

21 November 2018

Letter from Margot James MP, Minister for Digital and the Creative Industries

Further to my letter of 21 November, I am writing to inform you that the Telecoms Council of 4 December held a vote on a partial general approach on the proposed Digital Europe regulation. The UK voted in favour of the partial general approach without a scrutiny waiver from the European Union Committee, for which I apologise.

DCMS takes its responsibilities under the parliamentary scrutiny reserve very seriously, and this action was not undertaken lightly. Due to time constraints on establishing a cross-government position on this file before the vote on 4 December, unfortunately it was not possible to provide you with a letter requesting a waiver in time for the last committee meeting held before the vote (22 November).

The primary reason for this action was to demonstrate the UK's support for continued engagement with our European partners in digital sectors, which represent high growth in the UK economy. Had the UK chosen to abstain at this vote, it would have been the only Member State to do so, and this would have sent a significantly detrimental message concerning our interests in this area.

As I mentioned in my previous letter, it is possible that the UK will pursue participation in the Digital Europe programme or access to certain workstreams, either through negotiations on our future relationship with the EU or as part of our wider cooperation as a third country. It is important that we demonstrate our commitment to cooperation on digital issues as negotiations are ongoing.

You have my assurances that I will write further on the financing negotiated within the Council on the Digital Europe Regulation before any future vote, seeking any scrutiny clearance as is needed. The partial general approach on 4 December did not incorporate the final budget and spending figures for the Regulation, and did not concern UK participation in Digital Europe as a third country.

If you have any further queries, I and my officials will endeavour to respond as soon as possible

12 December 2018

COMMISSION REGULATION (EU) .../... OF XXX AMENDING DIRECTIVE 2007/46/EC, COMMISSION REGULATION 1(EC) NO 692/2008 AND COMMISSION REGULATION (EU) 2017/1151 FOR THE PURPOSE OF IMPROVING THE EMISSION TYPE APPROVAL TESTS AND PROCEDURES FOR LIGHT PASSENGER AND COMMERCIAL VEHICLES, INCLUDING THOSE FOR IN-SERVICE CONFORMITY AND REAL-DRIVING EMISSIONS AND INTRODUCING DEVICES FOR MONITORING THE CONSUMPTION OF FUEL AND ELECTRIC ENERGY (11057/18)

Letter from Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

I am writing this letter to accompany the above Explanatory Memorandum on the latest package of Commission measures on Real Driving Emissions (RDE) and the World harmonised Light-duty vehicle Test Procedure (WLTP). There have been three previous 'packages' of RDE proposals, introduced under the pre-Lisbon comitology procedure, and we are now at the stage of the fourth and final proposal. The Government has always supported these proposals, and the UK has been active in the relevant experts committee.

Although the RDE and WLTP packages are comitology measures, the Government has always regarded these documents as automatically depositable due to their high level of importance and interest, especially following the Volkswagen emissions scandal. These proposals are no exception. Previously, officials were under the impression that the documents setting out the RDE4 and WLTP 2nd Act proposals had not yet been issued, having been delayed in translation. Officials expected them to be published shortly, triggering the three month period for the Council and European Parliament stages during October-November ahead of adoption. Officials intended to deposit the documents and submit an EM to the Committees at that point (or shortly before), so that the documents would be available to the Committees by the time they considered the EM.

Unfortunately the Department has recently been informed that the documents were transmitted in July. The usual process is that once the Council Secretariat receives such documents from the Commission they then transmit them to Member States via the Delegates Portal. Officials then receive an automatic notification from the Portal; in addition DExEU run a daily sift of documents issued on the Portal and contact the lead departments if a document is or may be depositable. Officials believe that there was some technical problem at this point, because they did not receive the usual prompt for this document (or others published the same day), and DExEU did not see the document during their sift process.

As the document was transmitted in July, the three month period for the Council and European Parliament stages ended on 7th October, and the combination of the late receipt of the document and the Conference recess unfortunately means that the Committees are unable to consider the EM before this point. As we had been unable to complete the scrutiny process, the UK abstained at Council and laid a minute statement welcoming the proposal but recording the reason for its abstention.

I am afraid this state of affairs is very far from ideal. I hope that, nonetheless, the Explanatory Memorandum will be of interest to your Committee in completing its consideration of the Real Driving Emissions and WLTP packages, and of course in the improvements that the UK has been able to secure during this process.

10 October 2018

PROPOSAL FOR A COUNCIL DECISION ESTABLISHING THE POSITION TO BE ADOPTED BY THE UNION AT THE 12TH GENERAL ASSEMBLY OF OTIF AS REGARDS CERTAIN AMENDMENTS TO THE CONVENTION CONCERNING INTERNATIONAL CARRIAGE BY RAIL (COTIF) AND TO ITS APPENDICES (11154/15)

Letter from Jo Johnson MP, Minister of Sate and Minister for London, Department for Transport

When Claire Perry wrote to you on 2 October 2015 about the above proposal, she mentioned the related proceedings taking place in the European Court of Justice. I am writing to inform you of the Judgement of the European Court of Justice (CJEU) in case C600/14, which was delivered on 5 December 2017. This follows the Advocate General's opinion on 24 April 2017, and informal contact at official level with Committee Clerks regarding progress on the case. I am sorry for the delay in writing to you, which was caused by an administrative oversight within my Department.

As you may recall, in this case Germany challenged the Council's decision to exercise competence to vote on behalf of the Member States regarding some of the proposed amendments to the COTIF (Convention Regarding International Carriage by Rail) appendices. The main thrust of Germany's case was that the Council's power to adopt a position on behalf of the Union in relation to legal acts of an international body is confined to cases where internal EU rules already exist (i.e. the EU must have exclusive external competence).

The UK, and another Member State, had supported Germany's case initially but had not provided oral evidence to the court as, after taking legal advice, we felt it unlikely that the case would be successful.

The European Court (CJEU) judgement dismissed the three grounds of challenge by Germany to partially annul the Council Decision for an EU co-ordinated position at the Revision Committee of OTIF to discuss amendments to the Convention's uniform rules on international carriage by rail.

The Court held on the main ground of challenge – ie the competence challenge - that it was not necessary for the EU to have adopted internal rules before establishing a common position to be adopted in relation to an international agreement and that Article 216(1) of TFEU expressly provides for the EU to conclude an international agreement where this is necessary to achieve a Treaty objective.

The Court did not address the issue of relevance to the UK – namely whether the EU can on this basis require a Member State to lift a reservation on an international treaty where there are no EU rules likely to be affected and none foreseen.

5 November 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for the letters dated 2 October 2015 and 5 November 2018 on the above proposal. The EU Internal Market Sub-Committee considered them at its meeting on 20 December 2018 and decided to clear the file from scrutiny.

21 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL DISCONTINUING SEASONAL CHANGES OF TIME AND REPEALING DIRECTIVE 2000/84/EC (12118/18)

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for your Explanatory Memorandum (EM) dated 11 October 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 1 November 2018.

The Sub-Committee undertook early consideration of the proposal and concluded that it did not comply with the principle of subsidiarity. The European Union Select Committee published a report on

22 October 2018 recommending a reasoned opinion, which was agreed by the House on 24 October 2018 and issued on 25 October 2018.1 We now turn to our scrutiny of the policy implications of the file.

Your EM supports the use of Article 114 TFEU as a legal basis for this proposal. We note that the rationale for successive pieces of EU legislation on summertime arrangements was to harmonise pre-existing Member State arrangements. We therefore accept that precedent has been set that the EU has competence under Article 114 TFEU to coordinate the dates of clock changes, but we question whether this extends to removing the ability for Member States to observe these arrangements entirely. Has the Government made any further assessment of the scope of competence conferred under Article 114 TFEU in relation to this proposal?

The Commission's proposal arises, at least in part, from its public consultation exercise earlier this year, to which the UK had the lowest number of respondents as a percentage of population. Does the Government usually publicise Commission consultations in the UK? Was this particular exercise publicised in the UK, by the Government or otherwise?

We share the Government's concern over the proposed 2019 implementation deadline. Is the Government preparing for this possibility, including for a public consultation? We would also be interested to know the initial views of the devolved administrations on this proposal and if you have received any representations from UK stakeholders.

We have decided to retain the file under scrutiny. We look forward to a response to this letter, including an update on negotiations, within 10 working days.

2 November 2018

Letter from the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

I am writing on behalf of the Minister for Small Business, Consumers & Corporate Responsibility, Kelly Tolhurst MP, to inform you of the proposed UK position and approach to negotiations on the EU proposal to abolish daylight saving.

The European Commission published a proposal to discontinue seasonal changes of time on 12 September 2018. The proposal would repeal the existing directive on summer time arrangements, which mandates seasonal time changes on specific dates. It proposes new arrangements, whereby seasonal time changes would not happen in future, but Member States would have a choice of whether to remain permanently on summer time or winter time. Member States would, as now, retain competence over which time zone they wish to be in. However, Article 2 of the proposal includes a new requirement to notify the Commission of changes to time zone. The Commission proposes that the new arrangements would come into force in 2019 with Member notifying the Commission of their chosen time zone by April 2019.

The Commission notes in the proposal that the overall impact is likely to differ depending on the geographical situation of each Member State. The northern Member States have a larger variance in available daylight over the course of the year. As one of the more northern Member States, this would lead to a proportionately larger impact on the United Kingdom. It would also affect particular sectors, such as agriculture, energy, health, transport, sport and logistics. The Commission has produced very little evidence in support of the proposal, which in my view falls short of the standard required to justify such a wide-ranging change. The government's assessment of the evidence put forward by the Commission and areas of potential impact are covered in the Analytical Checklist which is appended to this letter.

I consider that in bringing forward the proposal, the Commission has failed to provide sufficient evidence to demonstrate a strong case for changing the existing arrangements. In addition, there is limited assessment of the impacts of a change that would affect every citizen in the EU and a timetable for implementation that is unworkable.

The UK Government has no plans to change Daylight Saving Time, and Government ministers are actively working to convince other Member States to block this proposal.

I will now turn to a number of specific issues which have been raised by both Committees in your deliberations so far on this Directive.

Update on negotiations

A significant majority of Member States have raised concerns about both the content of the proposals or the speed at which the Commission is intending to push them through. At the recent informal Transport Council in Graz which I attended for the UK, both Portugal and Greece also spoke out strongly against the proposal. At that time Cyprus, the Netherlands, Ireland, France and Denmark had not taken a position. There is widespread agreement that the evidence base is lacking to justify this change, and that more time is needed for domestic consultation and implementation, including to ensure that the final arrangement of time zones does not result in a 'patchwork' across the EU. Amendments to the text to provide for a longer implementation and notification period have been proposed and gained broad support. However, negotiations are ongoing in Council and in the European Parliament.

Legal base

We believe that the Commission is able to bring forward proposals relating to daylight savings, such as further harmonisation, under Article 114 TFEU. The existing Directive (2000/84/EC) was introduced under the predecessor of this legal base. However, it is clear to me that this new proposal would not change the level of harmonisation across the EU. It would simply change the type of harmonisation and with little evidence that it would improve conditions for the functioning of the internal market. We therefore do not believe that it is appropriate to bring these proposals forward under this legal base as such benefits have not been demonstrated by the Commission.

In my view the case for change has not been made and the principles of subsidiarity and proportionality have not been met. Given this Directive would not increase the degree of harmonisation, there is no justification for EU level action.

The European Commission's consultation

The Commission brought forward the proposal following a public consultation in July and August 2018 and increasing interest from the European Parliament. However, less than 0.02% of the UK population responded.

It is not standard practice to publicise European Commission consultations, and therefore, we did not do so.

Devolved Administrations

Timescales, time zones and the subject matter of the Summer Time Act 1972 are reserved to Westminster for Scotland and Wales. There is no equivalent reservation or exception for Northern Ireland, so it is within the gift of the Executive and Assembly to change the arrangements as long as they remain compliant with EU law, for which the UK Government is responsible. The Summer Time Order 2002, which implements the last Directive on this subject, is a single instrument which extends to Great Britain and Northern Ireland.

All the Devolved Administrations have an interest in these proposals. Historically, the Scottish Government's view has been that the current system of daylight saving should be maintained to avoid putting practical difficulties in the way of those making a living in northern and rural areas. My officials are working with officials in all the Devolved Administrations to understand the potential impacts. I have also written to the Devolved Administrations with an update on the proposals and have asked them to share with me any further views that they have on the proposals.

Timetable

In order to meet the Commission's timetable, the intention would be for a General Approach to be agreed in December. The Presidency has already indicated that this will not be possible. The next available opportunity would likely be in Transport Council, anticipated to be in March 2019.

Given the government's position set out above to oppose this Directive, we do not consider it necessary to consult on this Directive. As I have stated above, we have no plans to change Daylight Saving Time.

EU exit

We have been clear that the implementation period should be based on the existing structure of EU rules and regulations, so that people and businesses only need to make one set of changes as we move

to our future partnership. Of course we need to discuss how all of this will work in practice in the next phase of the negotiations, including how we'll contribute UK views and share expertise during the period. Beyond the implementation period, the UK's relationship to EU legislation will be a matter for negotiations on the future relationship.

I hope that I have provided enough clarity over our position that scrutiny can be lifted, or a waiver provided, to enable us to vote on this proposal if necessary. Let me be clear, we have no plans to change the current arrangements and will continue to oppose this Directive.

19 November 2018

Letter from the Chairman to the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State

Thank you for your letter dated 19 November 2018 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 20 December 2018.

As set out in our Reasoned Opinion, published on 22 October 2018, we strongly support your view that the Commission has failed to provide sufficient evidence to demonstrate a compelling case for changing existing seasonal time arrangements. Nonetheless, negotiations on the file continue and appear to focus on extending the timeframe for Member States to prepare for the proposed changes.

Should the UK and EU reach an agreement according to the terms of the draft Withdrawal Agreement, Union law would be applicable to the UK during the transition period. Do you therefore accept the possibility that the UK may be required to comply with this proposal? If so, we reiterate our request to understand how the Government is preparing for this possibility and whether a public consultation would be required. We would also be interested to know if you have raised concerns on the use of Article 114 TFEU as a legal base during negotiations.

Please share with us any further feedback you have received from the devolved administrations, following your most recent correspondence with them.

We have decided to retain the file under scrutiny. We look forward to a response to this letter, including an update on negotiations and on the likelihood of Council agreement, within 30 working days.

21 December 2018

PROPOSAL FOR A REGULATION FOR THE FREE FLOW OF NON-PERSONAL DATA IN THE EUROPEAN UNION (12244/17)

Letter from the Chairman to Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media and Sport

Thank you for your letter dated 9 July 2018 on the above proposal. The EU Internal Market Sub-Committee considered your letter at its meeting on 6 September 2018.

We have decided to clear the file from scrutiny. We would be grateful for an update should any further substantive changes be made to the final text before adoption.

6 September 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE EUROPEAN ELECTRONIC COMMUNICATIONS CODE (RECAST) (12252/16)

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE BODY OF EUROPEAN REGULATORS FOR ELECTRONIC COMMUNICATIONS (12257/16)

Letter from the Chairman to Margot James MP, Minister for Digital and the Creative Industries

Thank you for your letters dated 23 May 2018 and 16 July 2018 on the above proposal. The EU Internal Market Sub-Committee considered your letters at its meeting on 6 September 2018.

We note that the Committee cleared the BEREC Regulation in December 2017. We have decided to clear the file on the European Electronic Communications Code from scrutiny.

6 September 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2009/33/EU ON THE PROMOTION OF CLEAN AND ENERGY-EFFICIENT ROAD TRANSPORT VEHICLES (14183/17)

Letter from Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

I last wrote to you on 24 July to provide further information requested by the EU Internal Market Sub-Committee on the above proposal. I am writing now to inform you of further developments in negotiations, and of the Austrian Presidency's aim to seek a General Approach at the 3 December Transport Council.

It is not yet clear whether the Presidency will be able to achieve this ambition. There has been some further working group discussion of the proposal since I wrote in July, but there remains little substantive progress to date and most Member States, including the UK, are still considering their position on the proposals. These discussions continue to focus on two main issues:

• the definition of a 'clean vehicle' where we are seeking consistency with parallel negotiations on new CO2 emission reduction targets for new cars and light commercial vehicles and on heavy duty vehicles. We have had some success in discussions so far on this point and hope to build on this at the next working group meeting on 15 November. We are also seeking a definition that focuses on the outcomes to be achieved (reductions in carbon and air pollutant emissions) rather than on specific technologies to achieve this – part of the current wording under discussion is for a definition that refers to vehicles using 'alternative fuels'. Currently there is no consensus of opinion on the benefits of all alternative fuels. For example, as noted in the Government's Road to Zero strategy, buses that use natural gas are estimated to increase greenhouse gas emissions by 12% compared to a standard diesel bus over a mixed urban and extra-urban drive cycle and when compared to the latest 'efficient diesel' models, which are increasingly becoming the default choice for operators, gas bus greenhouse gas emissions were found to be 24% higher; and

• introducing public sector 'clean vehicles' procurement targets (different levels depending the different types of vehicle) by 2025 and 2030. As I noted previously the Government already shares the view that the public sector has an important role to play in the transition to electric vehicles, as part of a long-term solution to emissions from road transport. The Road to Zero notes that the UK already has a government fleet commitment of 25% of cars to be ultra-low emission by 2022, 100% in 2030. The revised Government Buying Standards (GBS) mandate that all new government vehicle purchases should be zero or ultra-low emission by default, with alternatives considered only in exceptional circumstances. It encourages local authorities and others to do the same. However, as noted in my previous letter to the Committee, it is inappropriate to impose the proposal on the wider public sector, given the costs

involved in investing in clean vehicles and the associated infrastructure. It should be for Member States to decide the scope of any targets.

My previous letter gave an initial response to your question as to the impacts and costs. Since then, we have carried out some initial work based on analysis of the Commission's Impact Assessment and what this might mean for the UK but are unable to provide a robust conclusion at this stage. We require further data, and are engaging with local authorities and others to gather this to assess the impacts of the directive.

As mentioned previously, the Presidency is continuing to take the proposal forward, with an ambition to reach a General Approach at the Transport Council on 3 December. It is unclear whether this will be possible, and I appreciate that the Committee will wish to retain the proposal under scrutiny pending further developments. However, I would be grateful if the Committee would consider granting a scrutiny waiver ahead of the 3 December Council, to enable the UK to support a balanced General Approach, if this is on the final agenda.

I will, of course, continue to keep you informed of further progress. The European Parliament also continues to consider the proposal, and its report on it was overwhelmingly voted through plenary on 25 October.

14 November 2018

Letter from Lord Boswell to Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letters dated 24 July 2018 and 14 November 2018 on the above proposal. The Internal Market Sub-Committee considered them at its meeting on 22 November 2018.

We are grateful for your comprehensive account of the progress of negotiations. Please share with us your final analysis of the Commission's impact assessment and how this influences your assessment of the proposal's expected impact on the UK, as well as any input from the Devolved Administrations.

We look forward to a response to this letter in due course.

22 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) NO 1073/2009 ON COMMON RULES FOR ACCESS TO THE INTERNATIONAL MARKET FOR COACH AND BUS SERVICES (14184/17)

Letter from the Chairman to Nusrat Ghani MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your letter dated 14 May 2018 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 20 December 2018.

We share your concern that if services carrying passengers for 100 kilometres or more were automatically authorised, it would "enable new entrants to select the more profitable routes without any assessment of the knock-on consequences for the socially necessary services" provided under a public service contract. We note that this is a key matter in Northern Ireland and would like to know how the Government is addressing it in negotiations.

We have decided to retain the file under scrutiny. We look to a response to this letter, including an update on negotiations and the planned assessment of the proposal's impact on the UK bus and coach market, in due course

21 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL AMENDING DIRECTIVE 92/106/EEC ON THE ESTABLISHMENT OF COMMON RULES FOR CERTAIN TYPES OF COMBINE TRANSPORT OF GOODS BETWEEN MEMBER STATES (14213/17)

Letter from Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

I am writing to provide you with an update on the negotiations on the above proposal, in advance of the Transport Council on 3 December 2018 where we expect the Austrian Presidency to seek a General Approach on it.

I wrote to you on 2 July, in response to your letter of 18 May and to inform you of the outcome of the June Transport Council. As you may recall, the Bulgarian Presidency decided, in the event, that the proposal was not yet ready for a General Approach at the June Council, and instead produced a Progress Report on it.

In a previous letter of 8 May, I outlined a number of compromises which had been included in the latest working text and which represented a significant change from the Commission's original proposal. This included amendments to the provisions in the original proposal requiring Member States to support investment in transhipment terminals which, importantly, were amended so that it would be optional for Member States to take such measures. My letter also reported that the provisions to specify the maximum distance between transhipment terminals had been removed from the main text and were instead specified as an aim in a recital. In addition, I reported that our initial concerns that the proposal might cover articulated lorries carried in the Channel Tunnel were mitigated through clarifications that such journeys would not be considered as Combined Transport.

Subsequent negotiations have led to some further amendments since then, which mainly concern three changes to the proposal. We support these changes in principle, as they would provide more flexibility for Member States than the original proposal, in respect of issues we consider to be somewhat marginal to the Commission's rationale for changes.

To put these changes in context, a Combined Transport operation is defined as one consisting of an initial or final road leg, or both, as well as one or more non-road legs using rail, inland waterway or maritime transport. Such road legs should not exceed 150km in distance, allowing operators, in theory, to connect with terminals for switching to road from non-road transport. The three main proposed changes are as follows:

- An amendment to the text to limit the scope to international operations only, in line with the existing Directive (the original proposal extended the scope to national combined transport operations). This amendment therefore removes a planned application of EU rules into an area previously not subject to them. As set out in the initial Explanatory Memorandum, such operations in the UK are relatively limited and we do not expect this change to have a significant impact here. Despite this change, operators will still be able to seek financial support in these cases, as in the examples set out to you in my letter of 20 April 2018.

- A new amendment would give Member States the flexibility to dis-apply some of the support measures of Combined Transport, for example in relation to weight exemptions, for road legs that transit a territory without loading or unloading. Given that distance limits for these legs are set at 150km, it is not anticipated there would be many instances where this could apply to the UK.

- The amendments now provide flexibility to Member States to allow operators to exceed this distance limit, in the event that a suitable terminal cannot be found. Given that certain parts of the UK, for example areas of South West England and Scotland, are not within the 150km limit, the UK supports this amendment.

The most significant matters have been resolved on this file, and some useful improvements have been made and problematic areas addressed. Overall, I consider that the proposed General Approach is satisfactory provided that, as we expect, it remains broadly as outlined above. I would therefore be grateful if the Committee would consider giving scrutiny clearance ahead of the expected General Approach at the 3 December Transport Council.

I will, of course, inform the Committee of the outcome of the Transport Council and of progress on the proposal. The European Parliament's TRAN Committee completed its report on the proposal in July. The report conveyed a desire to encourage the development of the Combined Transport sector, while not creating overly disproportionate financial burdens for Member States.

Many of the amendments made in the TRAN report also relate to the issues mentioned above, for example in relation to investment in and distance between transhipment terminals, and are broadly consistent with the amendments made in working group. However, in some areas, for example on economic support measures, the European Parliament goes further in their aims to support the sector. The report also makes references to accelerating a shift to digitisation. The Government welcomes this; however we would be cautious of any attempt to phase out the use of paper documents entirely.

14 November 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter dated 14 November 2018 on the above proposal. The EU Internal Market Sub-Committee considered your letter at its meeting on 22 November 2018 and decided to clear the document from scrutiny.

22 November 2018

PROPOSAL FOR A REGULATION SETTING EMISSION PERFORMANCE STANDARDS FOR NEW PASSENGER CARDS AND LIGHT COMMERCIAL VEHICLES AS PART OF THE UNION'S INTEGRATED APPROACH TO REDUCE CO2 EMISSIONS FROM LIGHT-DUTY VEHICLES AND AMENDING REGULATION (EC) NO 715/2007 (14217/17)

Letter from Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your letter of 1 March. I am writing to update you on progress and answer your specific questions on the above proposal. I am afraid it has taken officials some time to update their understanding of the situation.

The proposal has been discussed in a number of working group meetings but there have been very few amendments to date and progress has been slow. The Bulgarian Presidency scheduled a policy debate at June's Environment Council to seek Ministers' views on the level of ambition of CO_2 emissions reduction targets and on the incentives for manufacturers to increase the supply of low and zero emission vehicles.

During the debate Ministers welcomed the proposals, but the Council was divided on the level of ambition. While many supported greater ambition, including the UK, a small group of Member States either preferred the Commission's proposal or felt it was already too ambitious. Some Member States have yet to declare a position.

Nonetheless, the Austrian Presidency hopes to reach a General Approach at the next Environment Council on 09 October. As there will be only one further working group meeting between now and then, on the 14 September, this is evidently ambitious.

In your letter, you asked to be notified once the Government had published its strategy on the move to zero emission vehicles in the UK. The Road to Zero strategy was published on 9 July 2018 and confirms Government support for a higher ambition than the European Commission has proposed. Please find the full strategy here:

https://www.gov.uk/government/publications/reducing-emissions-from-road-transport-road-to-zero-strategy.

The strategy sets out the steps the Government will take to embrace a cleaner future for road vehicles and deliver our industrial strategy. Regulation is one of the most important levers to deliver this change and it is our mission for all new cars to be effectively zero emission by 2040 while providing a stable environment for industry investment.

You requested further details on the proposal for an in-service conformity procedure, and whether manufacturers will be penalised for vehicles found to have significant deviations between in-service CO_2 emissions and those reported during type approval.

The European Commission has proposed the addition of this Article to type-approval legislation and has not yet brought forward any proposed implementing acts to provide details of how this verification procedure will work. There has also been no mention or discussion of what will happen should a vehicle fail this in-service conformity procedure. I will be happy to write to you again in due course once the draft implementing act has been published.

You requested further information on the number of UK manufacturers that currently make use of the 'niche' derogation for manufacturers that register 10,000-300,000 vehicles per year. Five manufacturers have currently been awarded a niche derogation: Fuji Heavy Industries Ltd; Mazda Motor Corporation; Suzuki Pool; Ssangyong; and Tata Motors Jaguar Cars Land Rover.

You asked whether the Government intends to consult with consumer groups regarding the estimated increase in vehicle costs arising from this proposal, and looked forward to a summary of the views shared in our stakeholder consultations.

Although the production cost of such low and zero emission vehicles is presently higher than that of combustion engine vehicles, this higher cost is offset over the lifetime of the vehicle by savings in vehicle maintenance (as zero emission vehicles have fewer moving parts and therefore require fewer repairs) and in significant fuel savings. As part of the Road to Zero process, the Government extensively consulted with stakeholders in order to inform the development of the document. This included working with most consumer groups on the wider strategy, which covered this proposed Regulation.

The Presidency's objective of reaching a General Approach at the Environment Council on 9 October is ambitious, given the divergence of Member State views at this point, and we expect that it may depend on the outcome of negotiations at the Council itself. I do, of course, appreciate that the Committee will wish to retain the proposal under scrutiny given the further developments that are likely to take place during Conference recess at the final working group meeting and at the Environment Council, but I would be grateful if the Committee would consider granting a scrutiny waiver ahead of the Council to enable the UK to support a General Approach.

The European Parliament's Environment Committee is also considering the proposal and is scheduled to adopt its report on 10 September with a plenary vote in October. Early amendments from MEPs suggest they will look to increase the overall ambition of the proposal and push for a higher CO_2 emissions targets and higher zero emission vehicle benchmarks.

I will, of course, continue to keep your Committee informed of further developments on this proposal.

30 August 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter received on 30 August 2018 on the above proposal. The EU Internal Market Sub-Committee considered your letter at its meeting on 6 September 2018.

We are content to grant a scrutiny waiver for the 9 October Council. We look forward to an update on negotiations, including the status of the 'niche' derogation for manufacturers that register between 10000 and 300000 vehicles a year, in due course.

We would welcome further details on the in-service conformity procedure once the draft implementing act is published. We are also interested to know how this proposal interacts with limits for pollutant emissions other than CO2, if at all.

6 September 2018

Letter from Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter of 6 September on this proposal, and thank you for providing a scrutiny waiver for the 9 October Environment Council. I am writing as requested to provide you with an update on the negotiations and to answer your specific questions on the above proposal.

The UK was represented at the Environment Council by Claire Perry, Minister of State for Energy and Clean Growth, who intervened strongly in support of the proposal, calling for more ambitions to reach climate goals. The negotiations went largely as expected. There were two distinct groups within the Member States: one group calling for increased ambition; the other calling for reduced ambition/agreeing with the Commission's proposal.

Both groups held a blocking minority, necessitating a compromise, and the UK played a key role in helping the Presidency to reach a final agreement. The General Approach was finally reached after 14 hours of negotiations. The text included an increase in the CO2 reduction target for cars to 35% by 2030; an increase in the zero and low emission benchmark for cars to 35% by 2030; and strengthened reporting requirements for manufacturers in order to ensure that current CO2 declarations are not artificially inflated. The proposals for vans were agreed without a change in ambition.

You asked for more information on the status of niche derogations for manufacturers registering between 10,000 and 300,000 vehicles per year.

The original proposal was that niche derogations would end in 2025. In negotiations the UK helped to ensure that niche derogations are extended to 2030. This will help to ensure that smaller manufacturers (including some based in the UK) which register vehicles into the EU market can continue to remain competitive against manufacturers that have greater economic capacity to deploy new technologies.

You requested more information on how this proposal relates to limits for pollutant emissions other than CO2. From a legislative perspective, there is no significant overlap with regulations for other pollutants. Pollutants such as NO2 and particulates are the subject of maximum limits that cannot be breached in order for the vehicle to be sold, while CO2 is regulated in such a way that only the fleet average for the individual manufacturer is taken into account. There is no upper boundary for CO2 that a particular vehicle may not breach.

From a real-world perspective, there is a minor overlap as some of the technologies that reduce NO2 and particulate emissions require fuel to operate. Requiring a vehicle to be more fuel efficient may mean that the vehicle has less fuel available in order to operate these additional technologies. However, the vehicles are still subject to upper bounds on the pollutant emissions, which may not be breached.

Trilogue negotiations with the European Parliament and European Commission have now commenced on this proposal. The European Parliament has called for increased ambition, calling for a CO2 reduction of 20% by 2025 and 40% by 2030 for both cars and vans, as well as increased ambition on zero and low-emission vehicles benchmarks.

I will, of course, continue to keep your Committee informed of further developments on this proposal.

13 November 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE APPROXIMATION OF THE LAWS, REGULATIONS AND ADMINISTRATIVE PROVISIONS OF THE MEMBER STATES AS REGARDS THE ACCESSIBILITY REQUIREMENTS FOR PRODUCTS AND SERVICES (14799/15)

Letter from the Chairman to the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

Thank you for your letter dated 17 July 2018 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting on 6 September 2018.

We note the significant disagreement between the Council and the European Parliament on the proposed scope of the Act. We would like to know which sectors the European Parliament proposes to include, and what implications these additions to scope would have for the UK, taking into consideration existing obligations for businesses under UK legislation.

We have decided to retain this file under scrutiny. We look forward to a response to our letter within 30 working days.

6 September 2018

Letter from the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State

Thank you for your letter dated 6 September regarding the above proposal, referred to as the European Accessibility Act (EAA). The Committee asked to know which sectors the European Parliament proposes to include, and what implications these additions to scope would have for the UK, taking into consideration existing obligations for businesses under UK legislation.

Sectors proposed for inclusion by the European Parliament

The European Parliament (EP) has proposed that the following sectors, not included in the Council's General Approach, be incorporated in the scope of the Directive: Tourism (accommodation and catering), emergency answering services, urban transport as well as non-urban transport, and taxis/hire cars.

Tourism (accommodation and food services)

The EP report contained an amendment adding tourism services to the scope of the EAA. It was unclear precisely which services were envisaged and had the potential to be very broad. Following further clarification, we understand that these provisions would focus on accommodation and food services.

There are currently no specific legal obligations on accessibility of accommodation and food service businesses in the UK. However, the 2010 Equality Act imposes a duty on providers to make "reasonable adjustments" in order to prevent discrimination on grounds of disability.

Emergency answering services

In its proposal, the Commission included "emergency services" as a part of "telephony services", which has now become "electronic communication services" in the emerging compromise text. The EP kept this reference without any changes, whereas the Council decided that emergency communication services should not be regulated in the EAA.

In the UK, there are currently two main options for end-users who are deaf or have hearing and/or speaking disabilities. Firstly, we offer eSMS, an SMS-based facility allowing over a quarter of a million signed-up subscribers to contact the emergency services. Secondly, there is next generation text relay (NGTR), a third-party relay service which can be used to call the emergency services via an intermediary / translator, who links the caller into the Public Service Answering Point (British Telecom, in the UK). This is a form of real-time text service which could potentially meet some of the obligations that could be imposed by the EAA.

Urban passenger transport

The EP is seeking to include intermodal connections and urban passenger transport into the scope of the Directive, on top of current provisions for 'non-urban' (i.e. longer distance) transport.

In the rail industry, every Train Operating Company (TOC) is required to have in place a Disabled People's Protection Policy (DPPP) as a licence requirement. Within it, TOCs are required to provide details of their policy for assisting disabled passengers in connecting to other services operating from the station, such as light rail, buses and taxis. They are also required to provide details of their policy on the assistance their staff can and cannot provide.

TOCs must commit to providing information about the availability of accessible transport from the station, such as accessible taxis. Where access by non-licensed taxis to stations is regulated under contract with the station operator, the terms of the contract must include, from the earliest opportunity, the requirement for the taxi operator to provide wheelchair-accessible vehicles. TOCs are required to make clear in their DPPP whether such arrangements are in place at any of their stations.

With respect to maritime transport, extending the requirements proposed by the act to intermodal connections would be a departure from the current maritime passenger rights regime. All information must be provided in an accessible format but currently our legislation only requires operators to provide information on connections if passengers miss a 'connecting transport service'.

Taxis and private hire vehicles

The EP report added taxis and private hire vehicle (PHV) services to the transport services covered by the Directive.

In Great Britain, taxis and PHVs, their operators and drivers, are licensed by Local Licensing Authorities, who have considerable scope to determine the composition of vehicle fleets, the standards that drivers must meet and the sanctions that are applied when conditions are not met. We already encourage them to use these powers to ensure that drivers understand their legal duties towards disabled passengers, and that robust action is taken against those found to have discriminated illegally.

In Great Britain the Equality Act 2010 also places duties on drivers to ensure that passengers in wheelchairs or accompanied by assistance dogs are able to access taxi and PHV services and are not charged extra. Drivers must also make reasonable adjustments to ensure that their services are accessible.

Update on negotiations

The Austrian Presidency held a 5th trilogue on the EAA on 10 July and a 6th trilogue on 2 October. There will now be further technical discussions. The next trilogue will take place on 8 November

18 October 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PREVENTIVE RESTRUCTURING FRAMEWORKS, SECOND CHANCE AND MEASURES TO INCREASE THE EFFICIENCY OF RESTRUCTURING, INSOLVENCY AND DISCHARGE PROCEDURES AND AMENDING DIRECTIVE 2012/30/EU (14875/16)

OPINION OF THE EUROPEAN CENTRAL BANK PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PREVENTIVE RESTRUCTURING FRAMEWORKS, SECOND CHANCE AND MEASURES TO INCREASE THE EFFICIENCY OF RESTRUCTURING, INSOLVENCY AND DISCHARGE PROCEDURES AND AMENDING DIRECTIVE 2012/30/EU (10182/17)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

My predecessor's letter of 25 June updated the Committee on the outcome of the discussions at the June meeting of the Justice and Home Affairs (JHA) Council on a partial general approach on Titles III, IV and V of the above draft Directive (discharge from insolvency, efficiency of procedures and data collections requirements). It said that we anticipated that the incoming Austrian Presidency would wish to seek a general approach on the proposals as a whole at the JHA Council meeting either in October or December and promised to keep you informed when we had more definite news on the timing.

I can confirm that the Austrian Presidency has now made clear that they intend to seek a general approach on the Directive at the JHA Council meeting planned for 11 and 12 October. This will consider the remaining three Titles of the Directive, which were not covered by the earlier partial general approach, that is Title I – General Provisions, Title II – Preventive Restructuring Frameworks, Title VI – Final Provisions.

As a result of the discussions under both the Austrian and previous Bulgarian Presidency, we believe that there have been a number of improvements to the proposals. We are pleased to see that UK suggestions have been adopted providing greater protection for creditors who vote against a restructuring plan and greater flexibility for courts in applying cross-class cram down (the imposition of a restructuring plan on classes of creditors who voted against the proposed plan) where it is necessary to achieve the aims of the restructuring plan and where the plan does not unfairly prejudice the rights and interests of creditors.

Before the summer break, the Austrian Presidency circulated a further revised text of Titles I and II. While there have been some further improvements, there are still areas where we think the Directive needs greater clarification and less prescription and we also have some particular concerns about the interaction of the Directive with other legal instruments, including international agreements. Over the next couple of months, we will work closely with other Member States, the Commission and Presidency to resolve these remaining concerns and will continue to contribute constructively to the negotiations

with the aim of achieving an acceptable package of measures that delivers the best possible outcomes for encouraging business rescue, balanced with fair treatment for creditors.

As indicated in previous letters, it still seems unlikely that the UK will be required to implement the provisions of the Directive after withdrawal from the EU, subject to the terms of any negotiated settlement on insolvency.

Given that recess dates mean that it will not be possible to update the Committee on developments on the draft Directive nearer the time of the October Council meeting, I would be grateful if the Committee would agree to a scrutiny waiver now in order that UK Ministers may participate actively in the discussions at Council. I will, of course, update the Committee on the outcome of those discussions.

24 August 2018

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

Thank you for your letter dated 24 August 2018 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting on 6 September 2018.

We have decided to clear the document from scrutiny. We look forward to an update on the aspects of the proposed Directive you highlight as requiring further clarification, as well as on the outcome of the Council meeting, in due course.

6 September 2018

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

Thank you for your letter of 6 September 2018 informing me that the EU Internal Market Sub-Committee had cleared the proposed Directive from scrutiny at its meeting that day. A general approach (GA) on Titles I, II and VI of the Directive (general provisions, preventive restructuring frameworks and final provisions) was agreed at the Justice and Home Affairs Council on 11 October. There was broad support for the GA, although some Member States noted that they would have preferred greater flexibility, whilst one Member State thought greater harmonisation would have been useful. I am pleased to provide a copy of the text of the GA.

The key proposals agreed by the GA are the provisions on preventive restructuring frameworks in Title II of the Directive. These create a mechanism under which a financially-distressed debtor may restructure a business with the objective of avoiding insolvency and securing a viable future. To enable negotiation of the plan, the debtor may request the protection of a stay or moratorium during which creditors would be prevented from taking action to enforce their claims. The UK, together with a number of other Member States, successfully argued for the option of introducing a viability test to access a restructuring plan, so that debtors that are not viable cannot prolong an inevitable insolvency.

The proposal for restructuring may be approved by a required majority of creditors (and, where applicable, shareholders) divided into classes with substantially similar interests. This feature closely resembles the existing English scheme of arrangement procedure, which likewise provides for debt restructuring. If approved by all classes of creditors (and shareholders where applicable), the court will make a decision whether or not to confirm the restructuring plan. However, unlike the scheme of arrangement, under the Directive the court will still be able to confirm the plan where not all classes have voted in favour, providing there is compliance with certain safeguards.

The two most important safeguards are a 'best interests of creditors test' and a provision which requires that a dissenting voting class of creditors is satisfied in full if a more junior class of creditors (i.e. lower priority) is to receive any payment or keep any interest under the restructuring plan. This latter requirement is similar to a feature in Chapter 11 of the US Bankruptcy Code and a number of other international regimes, which is referred to as the "absolute priority rule". Neither the "best interest of creditors test", nor the "absolute priority rule" currently exist in the UK's insolvency and restructuring frameworks. The UK successfully pushed for changes to the text in respect of these features. The 'best interests of creditors test' ensures that creditors are no worse off than they would

be in liquidation or the next best alternative scenario. The "next best alternative" was inserted at the UK's request as, under our regime, alternatives to liquidation, such as administration, may produce a better outcome and return for creditors than liquidation. It is important therefore that this is recognised in the safeguard. The UK also successfully argued for flexibility in the absolute priority rule so that the court can derogate from the rule where it is necessary to achieve the aims of the restructuring and it does not unfairly prejudice any creditor.

You asked for an update on areas I had highlighted as requiring clarification. The Directive allows Member States to limit access to the restructuring provisions to legal persons. This posed a difficulty for the UK in that English and Scottish partnerships have different legal status and it would have created the potential for inconsistent treatment. We were able to secure agreement to text confirming that in Member States with different legal systems, where the same type of entity has a different legal status in those legal systems, they may apply one uniform regime to all these types of entities. This would enable English and Scottish partnerships to be treated in the same way and carved out of the restructuring provisions, which the Government believes are not well-suited to such entities. The proposal also now makes clear that existing EU measures regulating financial markets prevail over the Directive. Further, there is now clarification about the relationship between the restructuring provisions in Title II of the Directive and the Convention on international interests in mobile equipment and its Protocol on matters specific to aircraft equipment (the Cape Town Convention Aircraft Protocol), which the UK ratified in 2015. As a result of interventions from the UK, Sweden and Ireland, changes were made to the text shortly before the GA was agreed, ensuring that the special provisions of the Aircraft Protocol will not be adversely affected. This allows the UK to preserve the financial benefits of the Cape Town Convention Aircraft Protocol, which is important to UK airlines and UK aerospace companies.

The position on UK implementation of the Directive remains as before, that is, under the terms of the current planned withdrawal period, we do not expect to have to implement the Directive proposals, subject to any negotiated settlement on insolvency

Lastly, I would like to draw the Committee's attention to the publication of the Government response to the 2016 Review of the corporate insolvency framework. This was included in the response to the 2018 consultation on Insolvency and Corporate Governance and sets out the way forward on a package of measures aimed at improving rescue opportunities for financially-distressed but ultimately viable companies. The package features, in common with the proposed Directive, a moratorium (stay), restructuring plan procedure, and measures aimed at restricting a supplier's ability to terminate contracts when a business enters a rescue or insolvency procedure. I attach a copy of the Government response, which can also be found at the following link on the government website: https://www.gov.uk/government/consultations/insolvency-and-corporate-governance

The European Parliament has already finalised its examination of the proposed Directive and trilogue discussions are now underway. I will provide a further update on the Directive in due course once these discussions have concluded.

12 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN RULES AND PROCEDURES FOR COMPLIANCE WITH AND ENFORCEMENT OF UNION HARMONISATION LEGISLATION ON PRODUCTS AND AMENDING REGULATIONS (EU) NO 305/2011, (EU) NO 528/2012, (EU) 2016/424, (EU) 2016/425, (EU) 2016/426 AND (EU) 2017/1369 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AND DIRECTIVES 2004/42/EC, 2009/48/EC, 2010/35/EU, 2013/29/EU, 2013/53/EU, 2014/28/EU, 2014/29/EU, 2014/30/EU, 2014/31/EU, 2014/32/EU, 2014/33/EU, 2014/34/EU, 2014/35/EU, 2014/53/EU, 2014/68/EU AND 2014/90/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (15950/17)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

I am writing to update you on the progress of the proposal since our last letter to you on 28 March 2018. Over the last few weeks negotiations have proceeded swiftly and we anticipate the Austrian

Presidency will look to seek agreement as swiftly as possible, with the Committee of Permanent Representatives in the European Union (COREPER) expected to consider the proposal on 23 November and moving to Council before the end of the month. We are therefore requesting scrutiny to be lifted or a waiver be granted to enable the Government to take a formal position.

In March you wrote to Andrew Griffiths MP seeking further information. I have set out the key points below in relation to those areas you specifically highlighted:

The necessity of measures to increase cooperation between market surveillance authorities and customs authorities, and to introduce single liaison offices

The Government assessed this, and overall supported the Commission's intention to bring greater coherence to the organisation of market surveillance in the EU. This function already exists in the UK through my Department's Market Surveillance Coordination Committee and we therefore considered that formally establishing a single liaison Office would have limited benefit in a UK context. However, we were flexible on this point, and as the proposal currently stands there is a requirement for Member States to establish Single Liaison Offices.

Potential unintended consequences of the common set of powers afforded to market surveillance authorities

The Government assessed this and had concerns that the measures put forward by the Commission were more prescriptive than existing legislation and were disproportionate for tackling products that present minor concerns with technical compliance. Other Member States shared our concerns and there have been significant amendments to Article 14 (the powers and duties of market surveillance authorities) which would make the powers afforded to market surveillance authorities more proportionate.

The proportionality of the framework for the control of products entering the EU

The measures in this section of the proposal provided for a strengthened framework for controls on products entering the Union market and aligned with the Union Customs Code. Therefore the Government did not raise any specific objections to the proportionality of these provisions and supported them. We have, however, pushed for clarity in relation to the potential costs of developing any underpinning IT infrastructure and how this will dovetail with national systems.

The Union Product Compliance Network

The Government opposed the Network in the format set out in the original proposal. We were concerned that representatives from business and consumer groups may be indirectly empowered to impose obligations on market surveillance authorities, removing competence from national governments. Through the negotiations, the format of the Network has been substantially amended with much greater clarity and specificity added about its composition, operation, and the roles and responsibilities of its representatives.

The implications of the framework for cooperation and information-sharing with third countries, and the pre-export control system, for the UK in the context of Brexit

The proposed framework facilitates legitimate trade in specific sectors and/or with trusted partners. The Government supported these measures. As they stand, the provisions allow the Commission to exchange market surveillance related information with the regulatory authorities of third countries, and to approve specific systems of product-related pre-export control carried out by third countries. How these proposals impact on the UK will depend on the outcome of exit negotiations.

The rationale for the Commission's powers to adopt various implementing acts

The UK, alongside other Member States, have challenged many of the areas where the Commission sought to use implementing acts. Consequently the number of implementing acts, as well as the powers granted in them, have been reduced.

The requirement to have a contact responsible for compliance established in the EU before products can be made available on the Single Market

The Government opposed this measure. We were concerned that it may have a disproportionate impact on businesses which operate from third countries, and that it could prompt a reactive response

from global trading partners which might then introduce similar measures. In addition, the cost involved in establishing and maintaining a relationship of this nature would appear to be disproportionately burdensome, in particular for SMEs which wish to trade with the EU. The Commission's Impact Assessment estimated the costs for SMEs to be between €360 and €1,500 per annum. However, this assessment is based on costs as a proportion of the company's turnover which may not be accurate for SMEs where the cost of compliance is likely to be fixed rather than variable. Although many member states support the article on principle, the detail has been contentious and the Government has worked with other Member States to revise the provision to ensure that it is more effectively focused on high risk areas. Whilst this requirement is still in the proposal, its scope has been significantly reduced. This article has yet to be finalised but currently the Austrian Presidency is developing a more risk-based proposal which is intended to target the provisions more effectively to apply only to products which carry a higher degree of risk to the consumer.

We note your potential subsidiarity concerns in relation to whether proposed measures to make market surveillance uniform across the EU intrude on Member States' competence for market surveillance. Are these concerns shared by other Member States, and have you reached a view on the necessity of this action by the Commission?

Other Member States did share our concerns, and we have worked with them to make amendments to the proposal so that it is less prescriptive and better preserves Member State competency.

We would also like to know the timeframe for the public consultation on this proposal, and to receive a copy of the outcome of this consultation in due course

Andrew Griffiths in his letter to you, mentioned that we were hoping to conduct a public consultation in June. It has not been feasible to do this, but we have sought the views of key stakeholders in relation to the Regulation in order to better understand potential impacts on UK business and the work of the market surveillance authorities. We have spoken to industry stakeholders such as the British Retail Consortium, Amazon and the Association of Manufacturers of Domestic Appliances (AMDEA) about the proposal. We have raised it in discussions with my department's Business Reference Panel, which comprises of over 120 business representative groups across a wide range of sectors. We have also discussed with market surveillance authorities across central and local government through the Market Surveillance Co-ordination Committee and the National Product Safety Focus Group.

The UK Government considers that the current proposal is an improvement on the original, but we still have some concerns, notably that the requirement to have a person responsible for compliance established in the EU is not sufficiently targeted at products which present the highest risk to consumers. Given this, the Government will determine its final position depending upon what further progress can be made on Chapter II. However, the Government would not be able to support the proposal unless there was further amendment to Article 4.

I hope letter gives enough reassurance to allow the proposal to be released from scrutiny, or for a waiver to be granted, ahead of consideration at COREPER on 23 November.

13 November 2018

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

Thank you for the letters dated 28 March and 13 November 2018 on the above proposal. The EU Internal Market Sub-Committee considered them at its meeting on 20 December 2018.

We previously asked about the Government's policy position on measures to increase cooperation between market surveillance authorities and customs authorities and would be grateful for an update in this regard. Could you please also outline feedback gathered from stakeholders in the various discussions on the proposal?

Finally, we would be interested to know if the Government has obtained clarification on the costs of developing any new IT infrastructure and how this would dovetail with national systems.

We have decided to retain the file under scrutiny. We look forward to a response to this letter, including an update on further developments in negotiations, in due course.

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE MUTUAL RECOGNITION OF GOODS LAWFULLY MARKETED IN ANOTHER MEMBER STATE (15965/17)

Letter from the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

Following my letter of 2 May, I am writing to update the Committee on the progress of the Commission's proposal for a Regulation on the mutual recognition of goods lawfully marketed in another Member State.

Following clearance from scrutiny by the Committee on 18 May, the UK supported adoption of the General Approach at the Competitiveness Council on 28 May. On 6 September, the European Parliament adopted its first reading position on the Commission's proposal and the Regulation has now entered trilogues. The Austrian Presidency has indicated that it intends to go to Coreper with a proposed mandate on 23 November or 12 December, ahead of going to Council for final agreement shortly afterwards.

The UK is broadly supportive of the General Approach agreed at Council back in May, as it achieves the Government's objectives to ensure that:

- the new Regulation does not introduce disproportionate new administrative burdens for businesses and that the administrative provisions are implemented in a clear and business-friendly manner;
- the new Regulation does not alter the existing balance between facilitating trade in non-harmonised goods while preserving Member States' right to regulate nationally in certain circumstances.

I have enclosed a short summary of the General Approach amendments to the Commission's proposal in Annex A to demonstrate where the UK has achieved its objectives.

There are only minor differences between the European Parliament's proposal and the Council's General Approach position. Even so, my officials identified a number of issues to seek to address during trilogues in order to support our aforementioned objectives. My officials have worked with like-minded Member States to seek resolution, namely on:

- The voluntary mutual recognition declaration, which is intended to help businesses demonstrate that their products have been lawfully marketed in one Member State. The European Parliament's draft amendments introduced requirements on businesses, which are open to interpretation so could result in a disproportionate administrative burden. Following trilogue discussions, the European Parliament has indicated that it is prepared to accept the process outlined in the General Approach, which is clearer for businesses and better reflects the UK's position.
- The process for assessing goods, whereby a Member State authority determines whether the good has been lawfully marketed and informs the relevant business of its decision. We have always been supportive of a clear and transparent process for this assessment. However, the European Parliament's draft proposal would introduce a much vaguer process, which would make it more difficult to ensure that businesses seeking to rely on the MRP are not being discriminated against. Following negotiations, the process is closer to that agreed in the General Approach with explicit timeframes and responsibilities for both competent authorities and businesses.

Negotiations will continue throughout November, with working groups in Council scheduled for 7 and 19 November and a likely final trilogue on 22 November. The Austrian Presidency has indicated that it intends to go to Coreper with a proposed mandate on 23 November or 12 December, ahead of going to Council for final agreement shortly afterwards. My officials will continue to work with other Member States to improve the text and monitor its progress very carefully.

As our views on the proposal are shared by most other Member States, coupled with the Presidency's desire to make rapid progress, I envisage few circumstances in which the UK would not be able to support the mandate when it is put to vote at Council. I will, of course, continue to keep the Committee updated on any future developments on this file.

5 November 2018

PROPOSAL FOR A DIRECTIVE ON TRANSPARENT AND PREDICTABLE WORKING CONDITIONS IN THE EUROPEAN UNION (16018/17)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

I am writing to provide an update on the above file following the EPSCO Council meeting on 21 June.

The Presidency was seeking agreement on a General Approach on the Transparent and Predictable Working Conditions Directive at EPSCO. In advance of the meeting there was disagreement from a number of Member States, including the UK, on the definition of 'worker' in the Directive. We sought to allow Member States the flexibility to define who the Directive should apply to, as currently exists in the Written Statements Directive which this will replace.

During a negotiation on the day, the Presidency agreed to an amendment to provide Member States this flexibility. The General Approach was agreed by a qualified majority. The UK voted in favour of the Directive and we noted that the Directive reflects many of the proposals being taken forward through the implementation of the Taylor Review of Modern Working Practices.

Austria, Belgium and Germany abstained. The Commission issued a statement to confirm that where existing provisions are more protective, Member States would not have to amend them and thereby reopen collective agreements that have been struck by social partners.

The European Parliament are considering the draft Directive. Once it has agreed a text, we will move into trilogues. We expect these to begin in September or October, though this is dependent upon the Parliament's timetable and the priorities of the incoming Austrian Presidency.

31 August 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE ENFORCEMENT OF THE DIRECTIVE 2006/123/EC ON SERVICES IN THE INTERNAL MARKET, LAYING DOWN A NOTIFICATION PROCEDURE FOR AUTHORISATION SCHEMES AND REQUIREMENTS RELATED TO SERVICES, AND AMENDING DIRECTIVE 2006/123/EC AND REGULATION (EU) NO 1024/2012 ON ADMINISTRATIVE COOPERATION THROUGH THE INTERNAL MARKET INFORMATION SYSTEM (5278/17)

Letter from the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

I am writing to provide an update on the progress of the Notifications Directive. I last wrote to you on this subject on 12th April 2018. In my previous correspondence, I indicated that the file was progressing, with only a few issues to be negotiated. I felt that there was even a possibility that a vote on the file would take place before the conclusion of the Bulgarian Presidency of the Council of the EU.

Since April, progress in the trilogue discussions has slowed. There are two main drivers for this. Firstly, the Visser Vastgoed (C-360/15 & C-31/16) ruling of the Court of Justice of the European Union (CJEU), handed down last January, is currently informing discussion in working group. This judgment clarified that the scope of the notification obligation of the Services Directive extends to urban land use/zoning plans, where those plans impose restrictions on service activities. Secondly, at the request of several Member States, the Council Legal Service published an opinion on the Decision and Recommendation power provided for in the proposed Notifications Directive. Both developments have occupied a great deal of working group time and taken away focus from progressing compromise text.

Urban land use plans

Following a referral from the Dutch Supreme Administrate Court, the CJEU ruled on the Visser Vastgoed case in January 2018. This concerned the application of the Services Directive to retail zoning/planning decisions, and has read-across to the proposed Notifications Directive. The zoning plans in question stipulated that non-voluminous retail trade was only permitted in the city-centre; and voluminous retail trade should take place outside the city centre. The CJEU held that activity comprised of retail trade in goods constitutes a "service" under the Services Directive. It considered that regulating the geographical area of certain types of retail within a zoning plan qualifies as a requirement under Article 14 and 15 of the Services Directive, and these requirements must be assessed against the conditions laid down in Article 15(3).

Concerns have been raised by some Member States about the administrative burden and cost placed upon local authorities required to prepare notifications for each local planning application that fell within scope of the Services Directive. The UK position is that the compromise text should seek a balance between the need to avoid excessive administrative burden whilst ensuring that the exemption on urban land use plans is not used as a means of avoiding notification of measures, including territorial restrictions, that affect access to, or the exercise of, a service activity. The UK will continue to work with member states to draft a compromise text that achieves these ambitions.

Commission Decision Powers

The Services Directive contains a decision power that allows the European Commission to request Member States to refrain from adopting new measures. The Notifications Directive will extend the types of measures that are required to be notified, which has prompted discussion from Member States as to the legality of where the European Commission should act.

Several Member States have queried the legality of the agreed General Approach and are keen to use this matter as an opportunity to limit the European Commission's power so that the Commission could make *recommendations* on notified measures only, as opposed to the Commissions existing *Decision* power. Member States have sought to use this proposal to limit the Commission's powers not only in respect of the additional measures that are brought in scope of the Notifications Directive, but also to the Notifications under the existing procedure contained within the Services Directive. The UK, and the Presidency oppose this view, and will continue to negotiate a compromise text that does not reduce the Commission's *Decision* power.

The Council Legal Service have highlighted that the decision power in the amended notification procedure mirrors that of the decision power contained within the Services Directive and considers that it does not contradict the principles of institutional balance and proportionality.

Updates to the original text

The UK's primary interest of securing a proportionality assessment for notifications has been retained within the compromise text. Additionally, the UK is pleased that the scope of the requirement to make a notification is to be broadened.

The Austrian Presidency is working towards a balanced compromise on urban land use plans and is attempting to address Member State concerns regarding the Commission's decision powers. Should they succeed in doing so and achieve an agreement with the European Parliament which continues to meet the Government's negotiating objectives, the Government would wish to vote in favour in any subsequent Council meetings.

I note that you have granted clearance from scrutiny on this file from your letter dated 17 September 2017, and therefore I am updating the Committee that the UK will be supporting the proposal in a vote at the next Council meeting.

20 November 2018

Letter from Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy & Industrial Strategy

I am writing to you with an update on the European High-Performance Computing (EuroHPC) Joint Undertaking. As I wrote in my letter to the Committee of 18 June, the UK has played an active role in official level discussions on the EuroHPC establishing regulation. These discussions have now reached their conclusion such that I expect the proposal to be formally adopted by Ministerial vote at the end of September. I intend to vote in favour on this matter.

At the time of my previous letter, the proposed EuroHPC regulation would have ruled out voting rights for participating states associated to Horizon 2020. I was concerned that this could undermine potential UK involvement in EuroHPC in future and set a precedent that would affect similar initiatives funded through the next Framework Programme.

The final text, however, includes a complex but ultimately satisfactory amendment that safeguards voting rights for participating states associated to Horizon 2020 (or its successor programmes) for research and innovation activities. As such, I am content with the proposed regulation. I believe it is important to support the progression of this file as it will enhance high-performance computing capabilities in Europe, potentially benefitting UK researchers should we choose to participate at a later date.

As I have previously explained, no decision has been taken on whether the UK will join EuroHPC. This is something UKRI are considering as part of their Research Infrastructure roadmap. We will also have to consider the UK's future relationship with the EU when it comes to deciding whether and how to participate.

I hope that this provides enough information that you will feel able to remove the current scrutiny reserve placed on the file.

4 September 2018

Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letter dated 4 September 2018 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting on 13 September 2018.

We have decided to clear the document from scrutiny. We look forward to an update on the outcome of the Council meeting, as well as on the Government's decision regarding UK participation in the Joint Undertaking, in due course.

13 September 2018

Letter from Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation

I am writing to you with an update on the European High-Performance Computing (EuroHPC) Joint Undertaking. As I wrote in my letter to the Committee on 3 September, the UK has played an active role in official level discussions on the EuroHPC establishing regulation. The proposal has now been formally adopted by Ministerial vote at the 28 September Competitiveness Council. After the UK successfully helped to negotiate the retention of voting rights for associated states, I voted in favour on this matter. The EuroHPC Joint Undertaking will be legally created by the end of October.

As I have previously explained, no decision has been taken on whether the UK will join EuroHPC for the longer term. This is something UKRI are considering as part of their Research Infrastructure roadmap. We will also have to consider the UK's future relationship with the EU when it comes to deciding whether and how to participate.

In the short term, we are considering participating in EuroHPC for the duration of Horizon 2020. This would allow the UK to continue accessing Horizon 2020 R&I funding for High-Performance Computing

projects in 2019 and 2020, which the Commission has recently mandated will only be available to EuroHPC members. This funding significantly benefits UK industry and academia. As with our longer term participation, we will need to consider the UK's future relationship with the EU and the UKRI Roadmap in making a decision.

Future official discussions will take place at EuroHPC Governing Board meetings. We will attend these meetings as a EuroHPC Observer State. There are no commitments required for doing this. Although Observer States have no voting rights, we will be able to fully participate in Governing Board discussions. This would allow us to continue influencing the file so that, should we join EuroHPC until the end of Horizon 2020, the work programme and strategic priorities will be more closely aligned with UK objectives.

22 October 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL CONCERNING THE RESPECT FOR PRIVATE LIFE AND THE PROTECTION OF PERSONAL DATA IN ELECTRONIC COMMUNICATIONS AND REPEALING DIRECTIVE 2002/58/EC (REGULATION ON PRIVACY AND ELECTRONIC COMMUNICATIONS) (5358/17)

Letter from Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media and Sport

Further to my letter of 18 June, I am writing to provide an update on the proposed EU ePrivacy Regulation (5358/17).

Discussions in Council have been ongoing since my last update of 18 June. As the Austrian Presidency's progress report set out, and as shown by the discussion at the 4 December Telecoms Council, there continues to be debate on the most complex articles of the proposed Regulation text (Articles 6, 8 and 10). Member States have also continued to seek clarity on two principal issues: the relationship between the proposed Regulation and the GDPR, and which services will be captured by the scope of the Regulation. For the above reasons, many Member States are yet to take a position on the text until this is clarified.

As you are aware, the Government takes both the protection of personal data and the right to privacy extremely seriously and we welcome the opportunity to update the current ePrivacy Directive, to address technological developments and the evolving digital landscape. We reached collective agreement on the UK's negotiating position on the Regulation on 29 November. We believe that the Austrian Presidency's Council text is going in the right direction, however we still have a number of concerns with some articles in the proposed Regulation, which, if we do not get right could: lead to legal uncertainty for those who have to apply the Regulation; restrict some legitimate and proportionate data processing from taking place; and may impact digital innovation.

Specifically, we believe that the legal bases for processing should align further with the legal bases from the GDPR. A more risk-based approach is necessary to ensure that legitimate reasons for processing data, such as in instances of vital interests, are not negatively impacted. There should be proportionate flexibility for stakeholders to perform their functions and for future technological developments, whilst at the same time ensuring that robust data protection and privacy standards are in place.

We also believe that the text needs to be clear that processing electronic communications data for the purposes of tackling crimes such as online child sexual exploitation is not restricted (or that it is sufficiently covered in other legislation). We appreciate the Austrian Presidency's attempt to clarify this issue through specifying in the text (Recital 26) that processing electronic communications for the 'prevention, investigation, detection or prosecution of criminal offences, including dissemination of child pornography' can be exempted by Member State law, however the requirement for individual Member State action is likely to make the exemption ineffective given:

- sharing imagery or victim to offender communications commonly involve individuals in different countries or jurisdictions communicating with each other

● data may be stored in multiple or indeterminate jurisdictions rendering the risk to service providers of being in breach too high.

● There is a high risk that existing scanning may not be continued if service providers are not certain that an adequate exemption for this has been enacted in all Member States.

We believe that an explicit condition permitting this processing under Article 6 is vitally important. This is a global issue, which requires a coordinated multilateral approach to tackling it.

Encryption

Regarding the UK's position on the (then) proposed Article 17 of the ePrivacy Regulation: this Article has now been removed from the draft Regulation text and was replicated in Article 40(3) of the recently recast European Electronic Communications Code (EECC). The scope of Article 40(3) targets network and service operators; Over The Top Providers (OTTs) would not come under its scope as they do not control signal conveyance across the network. In the EECC negotiations there was consensus across the majority of Member States to explicitly remove proposed mandatory encryption requirements.

The UK does not support the mandating of end-to-end encryption. The Government is in favour of strong encryption: it is critical to protect UK citizens from harm online and billions of people worldwide use it every day for a range of services including banking, commerce and communications. But, like many powerful technologies, encrypted services are abused by a small minority of people. There is a particular problem with endto-end encryption where certain providers have deliberately designed their systems so that even they cannot see the content of the message, preventing them from complying with lawful requests for exceptional access. The abuse of end-to-end encryption by terrorists and other criminals is having a significant impact on the ability of UK agencies responsible for national security and serious criminal investigations to access the content of lawfully intercepted messages. We do not want unfettered access to all communications but we do need to ensure our law enforcement and intelligence agencies are able to gain lawful and exceptional access to the communications they need to keep us safe. We want to work with service providers to fulfil our collective responsibility to protect us from terrorists and those who commit serious crimes, while allowing providers to protect user privacy. The actual solutions that can deliver the access to the information we require will depend on the technology, architecture and functionality of each provider's systems. We believe there are potential technical options that could deliver exceptional access to the communications of terrorists and criminals without undermining the privacy of lawful users.

National Security

With regards to any possible impact of the proposed ePrivacy Regulation on national security activities: the ePrivacy Regulation is intended to repeal and replace the current ePrivacy Directive (Directive 2002/58/EC) which was the EU legislation considered by the Court of Justice of the European Union (CJEU) in the Watson/Tele 2 judgment (C-698/15 and C-203/15). The Investigatory Powers Tribunal (IPT) has made a reference to the CJEU asking whether that judgment applies to bulk communications data acquired from telecommunications operators by the intelligence agencies and, if so, to what extent (in the Privacy International case which is listed as C-623/17 before the CJEU). The IPT expressed its concern about the impact of the Watson/Tele 2 judgment to such retention and access, and the Government agrees. The Government's position is that the judgment does not apply and it is defending this before the CJEU. We expect the case will be heard in the CJEU next year with a judgment following roughly six months later.

Since April 2017, Member States have collectively been considering the impact of the judgment in the context of the ePrivacy Regulation proposal. Consistent with the Government's position in the IPT reference, it is seeking to ensure that the provisions of the proposed Regulation, should it be adopted, do not impact on national security activities. We believe that the text needs to be clear that national security is outside the scope of Union law. The UK is not alone in looking at the boundaries of the decision in Watson/Tele2, including whether it applies to national security activities. Further references have been made to the CJEU by courts in Belgium (C-520/18) and France (C511/18 and C-512/18). Those cases are proceeding behind the Privacy International case.

Applicability

Finally, regarding the implications of the Regulation either being adopted during the implementation period or adopted after the implementation period, as the proposed Regulation is yet to be agreed, the

timing of applicability is uncertain. We will continue to work with other Member States in Council to ensure that the proposals protect the confidentiality of electronic communications while encouraging digital innovation. Under the provisions on the implementation period in the Withdrawal Agreement, Union law on the protection of personal data, including the current ePrivacy Directive and any other Union law which becomes applicable during the implementation period, will continue to apply to personal data during the implementation period.

The current Council text has proposed a 24 month transposition period before the Regulation would become applicable (after it has come into force), the original Commission proposals sought for the Regulation to become applicable at the same time as the GDPR, but that was unattainable. The proposed ePrivacy Regulation will apply automatically in the UK if it becomes applicable in the EU before the end of the implementation period. The UK will take an active diplomatic interest in any measures which will affect the UK during the implementation period as part of our dialogue with the EU Institutions and Member States. If the Regulation is adopted and becomes applicable after the implementation period, we would need to consider whether there would be any advantage in updating our domestic law to reflect the Regulation. We will continue to ensure that our domestic legislation has high standards on protecting personal data and the right to privacy, as well as encouraging innovation in the data economy.

20 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 96/71/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 16 DECEMBER 1996 CONCERNING THE POSTING OF WORKERS IN THE FRAMEWORK OF THE PROVISION OF SERVICES (6987/16)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

I am writing to provide an update on the above file following the EPSCO Council meeting on 21 June.

The Presidency was seeking agreement on a General Approach on the Transparent and Predictable Working Conditions Directive at EPSCO. In advance of the meeting there was disagreement from a number of Member States, including the UK, on the definition of 'worker' in the Directive. We sought to allow Member States the flexibility to define who the Directive should apply to, as currently exists in the Written Statements Directive which this will replace.

During a negotiation on the day, the Presidency agreed to an amendment to provide Member States this flexibility. The General Approach was agreed by a qualified majority. The UK voted in favour of the Directive and we noted that the Directive reflects many of the proposals being taken forward through the implementation of the Taylor Review of Modern Working Practices.

Austria, Belgium and Germany abstained. The Commission issued a statement to confirm that where existing provisions are more protective, Member States would not have to amend them and thereby reopen collective agreements that have been struck by social partners.

The European Parliament are considering the draft Directive. Once it has agreed a text, we will move into trilogues. We expect these to begin in September or October, though this is dependent upon the Parliament's timetable and the priorities of the incoming Austrian Presidency

6 October 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A EUROPEAN LABOUR AUTHORITY (7203/18)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for your letter dated 9 July 2018. You asked a number of questions relating to the European Labour Authority (ELA) proposal. I will answer your questions in turn.

Enforcement of EU labour mobility rules

The UK currently provides freedom of movement for all EU nationals who wish to work in the UK. The Impact Assessment checklist produced in March 2018 sets out that labour inspectorates do not have much experience of joint inspections with other EU countries. In the UK, the Gangmasters and Labour Abuse Authority (GLAA) has previously cooperated with Bulgarian and Romanian labour inspectorates. When the GLAA licences overseas agencies providing labour to the UK, it carries out an inspection. Over the period 2008 to 2017, the GLAA carried out 116 licensing inspections of agencies from other EU countries. The Employment Agency Standards Inspectorate enforces the rules in the Posting of Workers Directive and is the main contact point for the Internal Market Information System (IMI) requests from other Member States relating to this topic, so have experience engaging with counterparts across the EU.

Coordination of UK enforcement bodies' cooperation with the ELA

The ELA regulation does not seek to change arrangements of national authorities in Member States. Employment enforcement bodies in the UK already work closely with each other. The Director of Labour Market Enforcement Sir David Metcalf will continue to set the strategic priorities for all employment enforcement bodies. The Commission proposes a 'National Liaison Officer' will be responsible for communicating between ELA and national authorities. The UK aims to ensure that this role does not duplicate the role of the Director of Labour Market Enforcement.

Devolution and views of the Devolved Administrations

At the current stage, we believe that the ELA should have no significant impact on the actual substance of social security coordination as it will only have a structural and administrative scope. Social security coordination matters are devolved to different extents. Employment legislation is devolved in Northern Ireland and the Employment Agency Inspectorate (EAI) in Northern Ireland enforce compliance under the Employment (Miscellaneous Provisions) (Northern Ireland) Order 1981 and the Conduct of Employment Agencies and Employment Business Regulations (Northern Ireland) 2005. These agencies are not within the remit of the Director of Labour Market Enforcement. The Devolved Administrations have raised no issues so far and we will continue to consult with them as this proposal develops.

Data protection

The ELA and national authorities will have to comply with the EU law on data protection, including the General Data Protection Regulation (GDPR). In addition, we understand that the ELA will not handle sensitive data and any data it does handle will be anonymised. The UK has strict data protection laws which will be upheld in data sharing requests from the ELA. We have been clear on this point in negotiations on this file to date and will continue to work to ensure the regulation clearly respects domestic legislation in the area of data sharing and data protection.

Next steps and timetable

We expect the next working party for discussion of the ELA proposal to be held in September. The Commission expects the European Labour Authority to be established in January 2019 and reach full capacity within two years. It is not possible at this stage to say when the Presidency will seek agreement to a General Approach from Council on this file. I will write to you again in advance of this.

31 August 2018

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

I am writing to provide you with an update on the ELA file and inform you of the reasons why I believe it is right, exceptionally, to vote in favour of this file at EPSCO on 6 December, before the Committees have cleared the proposals from scrutiny.

The government supports the overall aim of the file to increase cooperation between national authorities and facilitate information dissemination. We believe that this could add value to Member States and are not concerned about potential 'competence creep'. We had concerns about the inclusion of social security coordination being within the scope of ELA. However, the Presidency has now removed social security coordination from the proposal, a compromise the UK can support. The government is content that the proposal will add value to work enforcing the rights of workers across the EU.

In October, the Dutch Ministry of Social and Employment Affairs organised a two-day conference, where social partners, policy officials, stakeholders, and representatives of the European Commission and Parliament came together to discuss the outstanding issues of the proposal and the practicalities establishing the ELA. This conference was beneficial to the policy discussions ahead of the final working group in November.

The ELA Regulation is supported by all Member States, but five Member States have expressed regret at the removal of social security coordination. I have decided to override the Committee to ensure that the Presidency does not feel the need to put forward a different compromise which would be worse for the UK, in order to gain support from this Minority group.

The three UK labour inspectorates Employment Agency Standards (EAS), Gangmasters Labour Abuse Authority (GLAA) and HMRC National Minimum Wage (NMW) enforcement team have been consulted on this proposal and have supported our negotiating strategy. If this Regulation is agreed, we will continue to coordinate with inspectors to ensure a smooth establishment of the authority and creation of the National Liaison Officer (NLO).

The EU Commission strongly encouraged the Austrian Presidency to reach General Approach on this file at December EPSCO, hence the short time frame for scrutiny to be lifted on this file. I understand and respect the role of the EU Scrutiny Committees and have not taken the decision to override the Committees lightly. However, as the UK has succeeded in negotiating a compromise that is supported by the majority of Member States and the file does not impact Member State competence or national legislation, I feel comfortable this was the correct decision in this exceptional scenario.

3 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL TO EMPOWER THE COMPETITION AUTHORITIES OF THE MEMBER STATES TO BE MORE EFFECTIVE ENFORCERS AND TO ENSURE THE PROPER FUNCTIONING OF THE INTERNAL MARKET (7621/17)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

I am writing to update you on the progress on the above Directive. As previously outlined by my predecessor, the European Parliament and the Council have reached an agreement on a compromise that is within the Government's negotiating objectives. The European Parliament adopted the text at its last plenary, and the vote in the Council will take place on 3 December. The UK will vote in favour of the Directive. Member States will then have two years to transpose the Directive. This will include the UK under the terms of the implementation period as set out in the Withdrawal Agreement.

29 November 2018

PROPOSAL FOR A REGULATION ON PROMOTING FAIRNESS AND TRANSPARENCY FOR BUSINESS USERS OF ONLINE INTERMEDIATION SERVICES (8413/18)

Letter from the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

I am writing to provide you with an update on the Regulation of Online Intermediation Services (also known as the 'Platform-to-Business' Regulation), following my previous letter to you on 9 August; and to request a scrutiny waiver in advance of Competitiveness Council to be held on 29/30 November.

As you know, on 26 April 2018 the European Commission published their proposal for a Regulation to improve fairness and transparency for business users of online platforms. The text focussed on transparency for business users of online platforms and redress mechanisms for handling the complaints of business users. The proposed Regulation was also accompanied by a Commission Decision on the establishment of an 'EU Observatory', a body that will monitor the platform economy and consider emerging issues. Specifically, the proposed Regulation sets out the following provisions:

Transparency

- Online platforms must ensure their terms and conditions are accessible and that any changes to terms and conditions are announced with at least 15 days' notice.
- The terms and conditions must clarify:
  - when and how a business may be suspended or delisted from the platform;
  - how businesses are ranked in search criteria;
  - how and whether a business can access data generated on the platform;
  - possible restrictions from offering different pricing elsewhere; and
  - any differentiated treatment that applies to the platform itself and select business users
- Terms and conditions which do not meet the required standards would not be legally binding.

Redress

- Online platforms must establish internal complaint-handling systems, specify mediators with which they are willing to cooperate to facilitate out-of-court dispute resolution, and cover at least half of the costs of mediation.
- The Commission would encourage industry to set up specialised mediation bodies and encourage online intermediation service providers to draw up codes of conduct.
- Organisations and associations that have certain defined interests in representing relevant users of online intermediation services will be empowered to take court action on behalf of businesses in relation to breaches of the regulation.

The UK has been broadly supportive of the proposal to date. We are keen to ensure that it is proportionate, reflecting the concerns of business users without stifling competition or innovation amongst online platforms. I am aware ensuring a balanced approach between promoting innovation and protecting dependent businesses was a key concern of your Committee. We are also keen to see the proposal agreed swiftly to ensure that the UK is not timed out of negotiations.

The Austrian Presidency has moved quickly on this file and will aim to agree a General Approach at Competitiveness Council on the 29/30 November 2018. The proposal has not undergone major changes during negotiations. Some changes of interest include:

- the clarification that the Regulation will contribute to the proper functioning of the internal market;
- terms and conditions that do not comply with the transparency requirements are 'non-binding' rather than 'null and void';
- explanations of suspension or termination must be communicated to the business users via a 'durable medium', and;
- search engines will not have to disclose the reasons for the relative importance of ranking criteria.

Next steps

I hope that this update will allow you to grant us a scrutiny waiver which would enable us to fully participate in the discussions at Competitiveness Council on the proposal on 29/30 November.

I will of course keep you updated on any further progress on this file.

5 November 2018

Letter from the Chairman to the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State

Thank you for your letters dated 17 July and 5 November 2018 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 14 November 2018.

Your earlier letter explains that the proposed measures would be reviewed three years after coming into force and an EU Observatory would be established to monitor emerging issues and effectiveness of intervention in the platform economy. Does the Government intend to establish domestic arrangements to mirror these activities after the UK leaves the EU? We would also be grateful for your view on when this proposal is likely to come into force and your assessment of its likely overall impact.

We have decided to clear the file from scrutiny. We look forward to a response to this letter, including an update on the outcome of the upcoming Competitiveness Council, in due course.

15 November 2018

PROPOSAL FOR A REGULATION ON THE IMPLEMENTATION AND FUNCTIONING OF THE .EU TOP LEVEL DOMAIN NAME AND REPEALING REGULATION (EC) NO 733/2002 AND COMMISSION REGULATION (EC) NO 874/2004 (8468/18)

Letter from Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media and Sport

I am writing to provide an update on the progress of the proposed Regulation for the **implementation and functioning of the .eu Top Level Domain (TLD)** since your letter of 5 July, in which you cleared this file from Scrutiny. This letter also responds to your question regarding businesses currently with .eu domain names.

Current state of play of negotiations

The UK government is broadly supportive of the proposed regulation, however, we will negotiate to reinstate the not-for-profit status of the Registry. This is a proven model that best serves the public interest in terms of affordability. We will also encourage a more strategic, rather than administrative focus for the Multi-Stakeholder Council.

The majority of Member States are also supportive of the current draft. Like the UK, other Member States do not support removing the not-for-profit status of .eu and are actively pushing for it to be reinstated, which the Presidency has proposed in its latest compromise text. The Austrian Presidency hopes that later this month, the Committee of Permanent Representatives in the European Union will endorse a mandate to enter into informal trilogues with the European Parliament.

The European Parliament has yet to finalise its position on the .eu draft regulation. The Committee on Industry, Research and Energy published its draft report on 30 August. This report welcomed the proposal and did not raise any major issues with the Regulation but it underlined the promotion of EU values such as multilingualism, respect of users' privacy and security, consumer protection and human rights.

How DCMS is helping those businesses currently with .eu domain names prepare for losing them when the UK leaves the EU?

DCMS has consulted various business organisations to raise awareness amongst businesses registered with .eu. While we believe awareness of the impact on UK holders of .eu registrations in the business community has increased, we have not received any substantial representations from either business organisations or businesses themselves. As part of our exit negotiations we are seeking the best possible deal which takes into account the interests of UK citizens and business who currently hold .eu domains.

I hope the Committee finds this update helpful, and my officials are happy to provide further clarifications where needed.

19 October 2018

PROPOSAL FOR A DIRECTIVE AMENDING DIRECTIVE (EU) 2017/1132 AS REGARDS THE USE OF DIGITAL TOOLS AND PROCESSES IN COMPANY LAW (8560/18)

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE (EU) 2017/1132 AS REGARDS CROSS-BORDER CONVERSIONS, MERGERS AND DIVISIONS (8561/18)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for your letter of 5 July 2018 in relation to the above proposals. I am writing to update you on negotiations on these proposals and to provide an update on the Government's policy position on the cross-border conversions, mergers and divisions proposal.

Due to the technical nature of both proposals, Council working group negotiations are progressing slowly. It is unclear at this stage whether they will conclude before the UK leaves the EU in March 2019. If the Directives are adopted during the course of any agreed implementation period, the current transposition deadlines in each of the proposals make it unlikely that the UK will have to transpose the proposals into domestic law. Nevertheless, Cabinet Clearance has been sought to support the Commission's overarching intention on both proposals, as the UK seeks to maintain a positive dialogue with the Commission, Presidency and Member States as we progress discussions on our future relationship.

The proposal on the use of digital tools in company law (8560/18) is broadly supported by all Member States in the Council but negotiations on the technical details of the use of digital tools and processes continue. Due to the changes to digital systems required for transposition, many Member States are pressing for a 36-month transposition period, as opposed to the standard 24 months.

The proposal on cross-border conversions, mergers and divisions (8561/18) has many areas of contention for Member States, particularly on whether rights around "employee participation" should be preserved in the conversion process. The role and functions of the independent expert and the status of their report have also been subject to extensive debate. Member States in the Council continue to negotiate the technical and procedural detail in this area.

As it is not anticipated that the UK will have to transpose the proposals into domestic law, there is no anticipated impact on the UK.

My officials will seek opportunities to engage with MEPs on both proposals in order to ensure that our views broadly supporting the Commission's intentions are sustained after EU Exit, particularly in view of the Government's commitment to enhanced corporate transparency to combat economic crime both here and internationally. These proposals align with this view and will contribute to this aim.

22 November 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON WORK-LIFE BALANCE FOR PARENTS AND CARERS AND REPEALING COUNCIL DIRECTIVE 2010/18/EU (8633/17)

Letter from Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

I am writing to provide an update on the above file following the EPSCO Council meeting on 21 June and to respond to your specific questions in your letter of 7 June 2018.

The Presidency was seeking agreement on a General Approach on the Work Life Balance Directive at EPSCO. As indicated in previous correspondence with the Committee, we have been working with other Member States to ensure the minimum standards it provides allows for different approaches to improving work-life balance, tailored to each Member State.

During EPSCO we worked with other Member States to reduce the mandatory length of parental leave for which Member States are required to provide a payment or allowance, to help maintain scope for

Member States to set leave and pay rates according to their circumstances and priorities. In light of the changes we secured, we supported the General Approach.

The European Parliament are considering the draft Directive. Once it has agreed a text, we will move into trilogue. We expect these to begin in September or October, though this is dependent upon the Parliament's timetable and the priorities of the incoming Austrian Presidency.

I now turn to your specific questions.

Definition of 'worker'

Regarding the definition of 'worker', we are satisfied with the definition included in the Directive following concessions made to satisfy the request of many Member States, including the UK, for greater flexibility. The groups of workers who will be eligible for the rights in the Directive will be considered during the implementation of the Directive, in consultation with stakeholders.

Parental leave

On parental leave, as noted above, the current text retains the right to four months of leave. The right to pay is linked to the portion of parental leave which is non-transferable between the two parents. In the current text the duration of this period is one and a half months.

Carer's leave

The current provisions on carer's leave do not include a requirement to provide pay or an allowance, and it is for Member States to define the terms of the entitlement to carers' leave including the length of the leave. As set out in the Carer's Action Plan which we published in June, we are considering the questions that arise around introducing dedicated employment rights so that any emerging carer's leave proposal is effective and appropriate in the UK context. The Directive should only seek to set out the minimum standards for Member States, recognising the shared competence in this area, and provide sufficient scope for Member States to implement policies that work best for them in addition to this minimum.

Impact on Small and Medium Enterprises (SMEs)

The main costs to business will be the cost of covering absences (re-organisation costs) for both parental leave and carers leave and the cost of statutory payments for paid parental leave (the majority of which businesses will be able to recover from the Exchequer). Our analysis assumes business will cover absences to maintain output.

We assume that the costs are proportionate to the number of parents and carers employed by an individual business and that parents and carers are evenly distributed across the workforce. Therefore SMEs are not anticipated to be disproportionately affected by the costs of the Directive. There will be a similar burden on business regardless of size, but there is not anticipated to be an extra burden on SME's when compared to large enterprises.

Our latest assessment of the average annual cost per business is £510 across all businesses, which relates to £260 on average for SMEs and £47,100 for large enterprises. If the Committee would like further details of how we have undertaken our analysis, my officials are able to discuss these with your Clerks.

31 August 2018

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

I am writing to update you on trilogue discussions on the above proposal and to request that scrutiny is lifted in case sufficient progress has been made for the file to go for adoption at the EPSCO meeting on 6 December.

Throughout negotiations, the UK Government has worked constructively with the EU Institutions and other Member States to improve the legal clarity of the proposals. We have sought to secure as much flexibility as possible for Member States to maintain or develop their own systems of leave and pay for workers with caring responsibilities, for paternity leave, and for parental leave as we consider it more

appropriate for this to remain in the remit of Member States. We have also resisted attempts to establish an EU level definition of a worker.

At EPSCO on 21 June we judged that a combination of the progress made in negotiations, recognition of the merits of the objectives and support of the principle of promoting equal opportunity in the labour market provided sufficient grounds to support the directive.

The Council met on 24 September to analyse the amendments of the European Parliament and to re-affirm their support for the General Approach agreed on 21 June. Trilogue negotiations on the substance of the proposal commenced on 8 October with both the Presidency and European Parliament proposing potential areas for compromise.

There are some areas of convergence between the positions of Council and the European Parliament including on the scope of the directive and I believe that there may be the possibility to reach a compromise without major material differences from the General Approach. However, I am acutely aware of the risk of increased costs to both the Exchequer and business if the Presidency concede too much to the European Parliament. This is of particular concern for provisions on parental leave and pay, which represent a major proportion of the costs. We have some (albeit limited) room for manoeuvre on other aspects of the directive to reach a compromise that we can support. However, any significant material changes from the General Approach on pay would require careful consideration of the UK position on the overall package.

The Government will continue to monitor the progress of Trilogue negotiations and engage with other Member States to maintain support for the General Approach. When the Committee has had the opportunity to consider this letter, I would be grateful for a response ahead of the EPSCO meeting on 6 December 2018 waiving or lifting scrutiny, so we are able to vote on this directive.

13 November 2018

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility

Thank you for your letters dated 31 August and 13 November on the above proposal. The EU Internal Market Sub-Committee considered your letters at its meeting on 22 November 2018.

We have decided to grant your request for a scrutiny waiver for the EPSCO Council of 6 December. Please update us on the details of the final provisions of the text (if adopted on 6 December), including the transposition deadline, in due course.

22 November 2018

PROPOSAL FOR A REGULATION SETTING CO2 EMISSION PERFORMANCE STANDARDS FOR NEW HEAVY-DUTY VEHICLES (8922/18)

PROPOSAL FOR A REGULATION ON THE LABELLING OF TYRES WITH RESPECT TO FUEL EFFICIENCY AND OTHER ESSENTIAL PARAMETERS AND REPEALING REGULATION (EC) NO 1222/2009 (9185/18)

PROPOSAL FOR A DECISION AMENDING COUNCIL DIRECTIVE 96/53/EC AS REGARDS THE TIME LIMIT FOR THE IMPLEMENTATION OF THE SPECIAL RULES REGARDING MAXIMUM LENGTH IN CASE OF CABS DELIVERING IMPROVED AERODYNAMIC PERFORMANCE, ENERGY EFFICIENCY AND SAFETY PERFORMANCE (9144/18)

COMMISSION STAFF WORKING DOCUMENT: REPORT ON RAW MATERIALS FOR BATTERY APPLICATIONS AND STRATEGIC ACTION PLAN ON BATTERIES (9179/18)

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum (EM) dated 26 June 2018 on the above proposals. The EU Internal Market Sub-Committee considered your EM at its meeting on 6 September 2018.

We would be grateful for information on the size of the HDV manufacturing industry in the UK and the potential cost implications of this proposal for the freight sector. In addition, we would like to understand what consultation the Government is undertaking with UK manufacturers on the package and the views that have been expressed.

We would also be grateful for further information on the implications of Brexit for the UK's involvement with the European Battery Alliance.

We have decided to retain the file under scrutiny and look forward to a response to this letter and more detail on the Government's position on the proposed Regulation on heavy-duty vehicle emissions within 30 working days

6 September 2018

Letter from Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter of 6 September 2018. I am writing to provide an update on the proposed heavy-duty vehicles (HDV) CO_2 emission regulation and a response to your queries on that proposal and on the implications of the UK's exit from EU for the UK's involvement with the European Battery Alliance, which relates to Commission Working Document 9179/18.

The HDV CO_2 emissions proposal has been discussed at six working group meetings so far. Most Member States are still formulating their positions and discussions have therefore concentrated on better understanding the technical detail of the Commission's proposal, together with high-level discussion of the proposed targets and the suggested incentive system for zero and low emission vehicles. The Presidency scheduled a policy debate on the proposal at the meeting of the Environment Council on 9 October 2018. In the debate, the UK expressed its support for the proposal's aims to reduce CO_2 emissions for heavy-duty vehicles, and supported other Member States' calls for ambition on CO_2 target levels and zero and low emission vehicles. The UK highlighted an interest in ensuring this proposal leads to economic benefits by supporting the future competitiveness of industry. Officials also took the opportunity to outline the aims in the Road to Zero Strategy for developing and deploying zero emission HDVs in the long-term and achieving substantial emission reductions from existing HDV technologies while these solutions are developed.

The Environment Committee of the European Parliament is also considering the proposal, and is planning to complete its report by 18 October. It is possible that the Parliament could be ready for trilogues as early as the end of this month. The Presidency had originally planned to put the proposal

to the 20 December Environment Council for a General Approach, which would have meant that trilogues could not begin until January. However, in recognition of the limited time available to pass this proposal ahead of the European Parliament elections in May, there is a possibility that the Presidency will seek a mandate from Coreper in November to open trilogue negotiations as soon as possible. This is an ambitious objective given that many Member States are still considering their positions. However, should the Presidency make quick progress in the coming weeks, it may be achievable.

In your letter of 6 September, you asked for information on the size of the HDV manufacturing industry in the UK and the potential cost implications of this proposal for the freight sector. You also asked what consultation the Government is undertaking with UK manufacturers on the package and for an update on the views that have been expressed.

According to the Society of Motor Manufacturers and Traders (SMMT), more than 78,000 commercial vehicles were built in the UK in 2017 and 62.5% of these vehicles were exported outside the UK. Major HDV manufacturers in the UK include Leyland Trucks, Alexander Dennis, Optare and Wrightbus as well as Cummins who are primarily an engine supplier.

The European Commission published an impact assessment alongside its proposed HDV Regulation. For the proposal of CO_2 reduction targets of 15% by 2025 and 30% by 2030 the impact assessment estimates that the additional manufacturing costs per lorry will be €3,088 in 2025 and €19,291 in 2030. However, it is expected that road freight operators will benefit from fuel savings that will outweigh these additional vehicle costs. For example, the Commission calculates that, with their proposed CO_2 targets, hauliers will realise net savings of €23,438 and €58,005 from the first use of trucks sold in 2025 and 2030 respectively. As many UK road haulage companies are small or medium-sized enterprises, the proposal and these estimated savings are particularly expected to benefit smaller businesses in the UK. The expected savings for road freight operators should also lead to cheaper freight and goods for customers and businesses in the UK, which would in turn bring wider economic benefits.

The Government has discussed the proposal with a number of manufacturers and the SMMT and will continue to do so as negotiations progress. Most manufacturers support the European Automobile Manufacturers' Association's (ACEA) view that the proposal should be less ambitious. For example, ACEA have recommended CO_2 reduction targets of 7% and 16% by 2025 and 2030 respectively. However, other manufacturers' views suggest the proposed targets are ambitious but achievable and provide an opportunity to take advantage of an emerging zero and ultra-low emission HDV vehicle market. The Government is currently reviewing the proposal but in recent documents, including the Road to Zero, Clean Growth and Industrial Strategy, we have clearly set out our ambitions for reducing road transport and heavy-duty vehicle emissions. The Government wants to make sure that the proposal is sufficiently ambitious to achieve its aims and that it helps road freight operators to realise the potential commercial benefits of more fuel efficient heavy-duty vehicles.

Finally, you asked for further information on the implications of Brexit for the UK's involvement with the European Battery Alliance. As set out in the White Paper, the Government wants a deep and comprehensive partnership with the EU. As part of that agreement the UK would like to explore participation in EU networks and infrastructures, but this will be a matter for negotiations.

18 October 2018

Letter from Jesse Norman MP, Parliamentary Under Secretary of State

I am writing to provide a further update on the proposed heavy-duty vehicles (HDVs) CO_2 emission regulation.

The Presidency has confirmed that it intends to seek a General Approach on the proposal at the 20 December Environment Council. This is an ambitious objective, because although there has been some progress in recent working party meetings, most Member States have not yet confirmed their positions. As a result, further discussion is needed on the most significant issues, which will only be resolved at the Environment Council itself. Despite this, there is broad support from Member States for the Presidency's plans to reach a General Approach at the Council because this will enable the dossier to be finalised ahead of the European Parliament's elections in May 2019. We share this preference to complete negotiations as soon as possible; Europe is the only major global market without CO_2 emission

standards for trucks and this threatens industry investment in new technology and its future competitiveness.

The Presidency's latest suggested compromises cover some minor technical changes and clarifications, but do not deviate from the Commission's original proposal on most of the main issues. We expect the Presidency to put forward further suggested compromises before the Environment Council, but do not yet know what these will cover.

Working party discussions have focused on the following issues:

- the level of ambition of CO_2 reduction targets and whether they are binding or indicative;
- incentives for zero and low emission HDVs; and
- whether the regulation should include incentives for zero emission buses and coaches.

The proposal includes targets that would require manufacturers to reduce the average CO_2 emissions from new HDVs by 15% by 2025 and 30% by 2030. A number of Member States are pushing for more ambitious CO_2 reduction targets, but others have indicated support for the original proposal.

The Presidency has clarified that the 2030 target is indicative and would stay at the same level as the 2025 target if it was not made binding during a proposed review of the regulation in 2022. Many Member States are opposed to this and would prefer to agree a binding 2030 target now, but retain the option of increasing its ambition following the 2022 review.

Zero and low emission HDVs would be incentivised through super credits with HDVs meeting specific emissions criteria counted up to twice for the purposes of calculating manufacturer's compliance. Member States are split on whether more ambitious incentives are needed or if the super credits system currently proposed is appropriate. Some have expressed support for a minimum sales targets for zero and low emission HDV manufacturers. It was proposed that zero emission buses and coaches would be eligible for super credits, but most Member States appear to be opposed to this.

The Government welcomes the objectives of the Commission's proposal because it will help to deliver our long-term commitment to decarbonising road transport and developing and deploying zero emission HDVs. It is important that the proposal is sufficiently ambitious to maximise the clear benefits of zero emission HDVs. We have discussed with other Member States and MEPs the level of CO_2 reduction targets, incentives for zero and low emission HDVs and whether to exclude incentives for zero emission buses and coaches from the regulation.

The Government supports ambitious CO_2 reduction targets that will help ensure that the proposal delivers the required carbon savings as set out in the Clean Growth Strategy, and will benefit the future economic competitiveness of the industry. Ambitious CO_2 targets should also lead to commercial benefits for road haulage operators. This is because more fuel efficient HDVs will lead to fuel savings, which will in turn lead to wider economic benefits due to cheaper freight and goods for customers and businesses.

The inclusion of incentives for zero and low emission HDVs in the proposal could help deliver necessary ambition. This will help support our aims for developing and deploying zero emission solutions for all road transport, including HDVs, which we set out in the Road to Zero Strategy earlier this year. It will also support clean growth for UK industry. However, there is a risk that the current super credits proposal will not act as a strong incentive for manufacturers to invest in and supply zero and low emission vehicles. Ambitious incentives will ensure industry invests in these technologies, and will therefore help deliver our aims towards zero emission road transport.

The development and uptake of zero and low carbon buses is far more advanced compared to trucks. Therefore, the inclusion of incentives for these vehicles in the super credits system risks weakening the proposal's CO_2 reduction targets for HDVs themselves and its overall ambition, as it would be relatively easy for manufacturers to offset CO_2 savings by supplying zero emission buses. Incentives for zero emission buses would also distort competition between manufacturers, because they would favour HDV manufacturers that produce buses over those that do not.

Given that negotiations on the most significant aspects of the proposal will only take place at the Council itself, it is not possible at this stage to predict the final shape of the General Approach. However, on the basis of negotiations to date we can expect that the level of ambition will be no less than the level

set out in the original proposal, and may well be higher. As there are currently no CO_2 reduction targets or zero and low emission HDV incentives in EU law, the introduction of targets and incentives will, in itself, support the UK's objectives. We will seek to ensure that the General Approach reached at the Environment Council is as ambitious as possible, but we accept that Member States will need to show flexibility if a General Approach is to be reached.

Your Committee will, of course, want to hold the proposal under scrutiny until it has had the opportunity to consider further developments. However, I would be grateful if the Committee could provide a scrutiny waiver for this proposal before the Environment Council takes place on 20 December. I will provide the Committee with a full report of developments after the Council and will also continue to keep you informed of progress in the remaining negotiations, including the outcome of trilogue discussions with the European Parliament.

If a General Approach is achieved, we expect that the forthcoming Romanian Presidency will open trilogue negotiations with the European Parliament as soon as possible next year. The European Parliament Environment Committee adopted its report on the proposal on 18 October. The report strongly supported higher CO_2 reduction targets of 20% by 2025 and 35% by 2030, excluding incentives for zero emission buses from the regulation, and introducing ambitious sales targets for zero and low emission trucks.

6 December 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letters dated 18 October and 6 December 2018. The EU Internal Market Sub-Committee considered them at its meeting on 13 December 2018.

We are grateful for your comprehensive update on negotiations regarding emission standards for heavy-duty vehicles (HDVs) and on the Department's engagement with manufacturers. We share your view that the inclusion of incentives for zero and low carbon buses could be counterproductive and hope that you will reiterate this point ahead of the vote in the 20 December Environment Council.

We are content to grant a scrutiny waiver for the December Council and look forward to an update on the outcome. We have decided to clear 9179/18 from scrutiny.

13 December 2018

COMMUNICATION FROM THE COMMISSION – SUSTAINABLE MOBILITY FOR EUROPE: SAFE, CONNECTED AND CLEAN (9141/18)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON TYPE-APPROVAL REQUIREMENTS FOR MOTOR VEHICLES AND THEIR TRAILERS, AND SYSTEMS, COMPONENTS AND SEPARATE TECHNICAL UNITS INTENDED FOR SUCH VEHICLES, AS REGARDS THEIR GENERAL SAFETY AND THE PROTECTION OF VEHICLE OCCUPANTS AND VULNERABLE ROAD USERS, AMENDING REGULATION (EU) 2018/… AND REPEALING REGULATIONS (EC) NO 78/2009, (EC) NO 79/2009 AND (EC) NO 661/2009 (9006/18)

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2008/96/EC ON ROAD INFRASTRUCTURE SAFETY MANAGEMENT (9040/18)

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum (EM) dated 26 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 6 September 2018.

We note your disagreement with the Commission on the value of road signage and markings for automated vehicle navigation. Has consultation with automated vehicle manufacturers supported this view? Do other Member States share your concerns about the Commission's assumptions? We would also like more detail regarding your opposition to the road safety key performance indicators proposed in the Directive.

We would like to know if you have consulted on these proposals with organisations representing vulnerable road users? We would be grateful for a further update on the Regulation once you have considered the Commission's Impact Assessment.

We have decided to retain the file under scrutiny. We look forward to a response to this letter within 30 working days.

6 September 2018

Letter from Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter of 6 September. I am writing as requested to provide your Committee with further information on the proposal to amend the EU Directive on Road Infrastructure Safety Management.

This letter also provides an update on the negotiations that have taken place so far. The proposal has been discussed at a number of collaborative and positive Working Group meetings, at which Member States broadly welcomed it but expressed concerns about some of the detail. The Presidency has brought forward some initial suggested compromise text to address these. Member States have strongly supported this as a move in the right direction, and although there are still issues to be resolved it seems likely that the Presidency will achieve its objective of a General Approach at the 3 December Transport Council. The proposal is also being considered by the European Parliament TRAN Committee, which aims to conclude its report on the same date.

The Committee asked for the Government's view on four key points in the Directive, which I have addressed below:

1. The Committee asked whether consultation with automated vehicle manufacturers supported the Government's view on the value of road signage and markings for automated vehicle navigation, and whether other Member States share our concerns about the Commission's assumptions.

There has been no formal consultation with automated vehicle manufacturers by the Department for Transport: the view given in my Explanatory Memorandum was based on pragmatic observations based on professional engineering judgement and informal road marking industry representations.

In principle, we agree with the Commission on the value of road signing and markings for navigation by both automated and human driven vehicles. However, the original proposal introduced a new Article 6c requiring Member States to ensure that road markings and road signs are properly designed and maintained in such a way that they can be easily and reliably recognised by both human drivers and vehicles equipped with driver assistance systems or higher levels of automation. The new text also included powers for the Commission to develop general performance requirements to facilitate the recognition of road markings and road signs, by means of an implementing act.

Our concern has been that this text had the potential for additional requirements to be introduced in a future implementing act that cannot be delivered in the real road environment. Although it is unlikely that the Commission would seek to do this, I felt that without knowing what minimum specification is necessary to ensure that road markings and signs can be easily and reliably recognised by automated vehicles, it is impossible to commit to supplying that level of marking and signs.

This concern was shared by other Member States, many of whom felt that the text should be deleted. As a result the Presidency's proposed compromise has replaced the proposed Article 6c with a requirement for the Commission to 'submit a report to the European Parliament and to the Council regarding road markings and road signs and their visibility and detectability by both human drivers and vehicles equipped with driver assistance systems or higher levels of automation. The report shall be prepared in cooperation with experts designated by the Member States.' This wording has the support of Member States, including the UK, and removes the requirement from the amended Directive.

2. The Committee also asked for more detail regarding the Government's opposition to the road safety key performance indicators proposed in the Directive, whether we have consulted on these proposals with organisations representing vulnerable road users, and for a further update on the Regulation once we have considered the Commission's Impact Assessment.

The Commission's Impact Assessment suggested that the increase in costs of implementing the amended directive would be less than £1 million. We believe that the cost to the UK hinges on the definition of 'primary roads'. If 'primary roads' are defined by each Member State, then costs would be minimal. The Presidency's proposed compromise text would enable this to happen. For example, in England, primary roads would likely be defined as the existing strategic road network, where the original Directive is already applied. If the scope had remained as originally proposed, there would have be somewhat higher additional costs as the primary road network would have taken in around 23,000 miles of additional roads.

3. The Committee also asked for more detail regarding my opposition to the road safety key performance indicators proposed in the Directive.

KPIs in the RISM Directive are mentioned in Recital 14; "In order to achieve transparency and improve accountability, key performance indicators should be reported." Paragraph 42 in the Explanatory Memorandum states "With regard to road safety, the Government supports the proposal's objective to reduce road casualties although the proposed KPIs will need to be revisited through negotiations." Please note that our statement does not imply any opposition for the need to report, and is merely an observation that where KPIs are used or developed they need to be agreed with Member States. This is to ensure that they are relevant and consistent, and therefore support transparency.

A proposed set of KPIs, developed by Road Safety groups and the European Commission was introduced to the High Level Road Safety Expert Group earlier this year and the Group is in the process of discussing the implications, further refining the options.

4. The Committee also asked if the Department consulted on these proposals with organisations representing vulnerable road users.

We have not formally consulted with organisations representing vulnerable road users on the proposals. Both Ministers and Departmental Officials meet with various organisations on a regular basis in high-level forums such as the Road Safety Delivery Group and the Motorists Forum. There is also regular input from the Disabled Persons Transport Advisory Committee (DPTAC), various passenger and special interest groups.

We will, of course, continue to keep the Committee informed of further developments on this proposal.

8 November 2018

Letter from Jesse Norman MP, Parliamentary Under Secretary of State

I am writing to provide your Committee with further information on the proposal to amend the EU General Safety Regulation and repeal the Pedestrian Safety Regulation and Hydrogen Safety Regulation, and to keep you informed of progress in negotiations.

The Austrian Presidency has taken the proposal forward in Working Group negotiations, most recently on 23 October, and has made good progress. Member States are generally supportive of the aims of the proposal and the amendments made during the discussions, and the Presidency therefore plans to seek a General Approach at the Competitiveness Council on 29 November, preceded by a COREPER stage on 14 November.

In your letter of 6 September, you asked specifically if the Government has consulted on these proposals with organisations representing vulnerable road users.

The Government has not undertaken any formal consultation with organisations representing vulnerable road users but we have reported developments through the Motorists Forum and engaged with the Parliamentary Advisory Council on Transport Safety, both of which have members with keen interest in promoting improved safety for vulnerable road users. We have also used other informal opportunities to raise awareness of this work with road safety groups and seek their views. Generally,

they are very supportive of the package of interventions proposed by the European Commission and would like to see them implemented as quickly as possible.

This is in the context of the European Commission's extensive work in building the evidence base and engaging a broad range of European stakeholders in developing the original proposal. The Commission held two 2-day stakeholder meetings, the first in 2015 in Brussels and the second in 2016 in London. The latter was attended by 72 people from 54 organisations, including the motor vehicle industry, Government bodies, consumer groups and road safety advocates. The Commission's formal consultation took place between July and October 2017 and received 118 responses in total from a broad range of stakeholders.

You also requested a further update on the proposed Regulation once we had considered the Commission's Impact Assessment. The Commission has developed a detailed assessment of the costs and benefits from across the Union using the respected UK-based research organisation TRL. Their preferred policy option has been assessed over the 16-year period from 2021 to 2037 and is calculated to have a present value cost of €57.4bn and an associated present value benefit of €72.8bn. This comprises an estimated 24,794 fatal casualties prevented and 140,740 serious casualties prevented.

The Government has reviewed the Commission's Impact Assessment and carried out its own supplementary analysis which indicates overall costs to UK business of between £0.6 bn - £2 bn over the 10 year period from 2021 to 2030.

These ranges represent scenarios with differing counterfactual uptake of safety measures in the absence of regulation. The high cost scenario represents a worse case and assumes nearly no uptake of the safety measures proposed – which is highly unlikely due to the market incentives created by consumer programmes such as the European New Car Assessment Programme (Euro NCAP). Both scenarios are expected to result in similar benefit to cost ratios because, while the costs are higher in the lower uptake scenario, the benefits which can be realised will also be higher.

This establishes a best estimate benefit to cost ratio for the UK of 1.27, which is comparable with the 1.26 given in the European Commission's Impact Assessment for the Union. This represents low value for money, but as a proportion of fatal casualties prevented across the Union, it is estimated to save 1085 fatalities in the UK over the 10 year period assessed. The Government believes this makes a good case for intervention due to the devastating human consequences of road casualties and the cost of road collisions to the economy.

During the Council Working Group negotiations, some Member States sought a more ambitious timeframe for the legislation to come into force. However, the Government considers that the Commission has undertaken significant work to establish a reasonable implementation timetable, which is based largely on the known maturity of the particular safety systems. The timetable needs to allow sufficient time for manufacturers to develop appropriate solutions and implement these into their production, while allowing additional time for the development of the detailed technical requirements where these do not currently exist.

The Government has therefore been arguing in Council for the entry into force date to remain at 36 months. We see little scope for bringing the implementation dates forward without compromising the development of the technical requirements or placing undue burden onto the manufacturing industry.

Discussions in the Council Working Group have also resulted in amendments to the proposed powers provided to the Commission to lay down detailed rules concerning specific test procedures and technical requirements. The original proposal included provisions for the use of delegated acts, however the compromise text suggested by the Presidency has amended this to implementing acts. The Government welcomes this, as the use of implementing acts will ensure that the UK, and other Member States, will be closely involved in the development of these requirements.

In addition, it is the intention of this Regulation to utilise the harmonised standards of the United Nations Economic Commission for Europe (UNECE). The UNECE Working Party on Automated/Autonomous and Connected Vehicles (GRVA) is very active in this area and is chaired by the UK. The UK's attendance at this Working Party will be unaffected by the UK's exit from the European Union.

The UK has been working closely with other Member States in the Council Working Group, to ensure the proposed text is neither prescriptive, nor threatens technological neutrality. We are content that the proposed language adequately addresses this issue,

The Government is broadly content with the outcome of Working Group negotiations and believes that the Presidency will be able to achieve a General Approach at the Competitiveness Council on 29 November. I would therefore be grateful if the Committee could clear the proposal from scrutiny before that date.

The European Parliament is also considering the proposal and is expected to complete its report in early 2019, so it will fall to the Romanian Presidency to take forward the trilogue negotiations. I will, of course, be happy to keep the Committee informed of further developments.

14 November 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State

We are grateful for your clarifications on the Road Safety Management Directive. We are content to clear the proposal from scrutiny and would welcome an update on the outcome of the vote in the Council meeting of 3 December in due course. We would nonetheless be interested to know more about the responses of the Devolved Administrations to the proposal and to developments in negotiations. Regarding the proposed General Safety Regulation, we note your opposition to the bringing forward of its application date. Could you clarify if the Austrian Presidency is proposing any changes in this regard? You also highlight that under the Presidency's compromise, detailed rules on test procedures and technical requirements will be introduced through implementing acts rather than delegated acts. Do you see a possibility for the UK to influence the development of these requirements?

We have decided to grant a scrutiny waiver on the General Safety Regulation. We look forward to a response to our questions, and an update on the outcome of the Competitiveness Council meeting, in due course.

22 November 2018

PROPOSAL FOR A REGULATION ESTABLISHING A EUROPEAN MARITIME SINGLE WINDOW ENVIRONMENT AND REPEALING DIRECTIVE 2010/65/EU (9051/18)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ELECTRONIC FREIGHT TRANSPORT INFORMATION (9060/18)

Letter from the Chairman to Nusrat Ghani MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum (EM) dated 25 June 2018 on the above proposals. The EU Internal Market Sub-Committee considered your EM at its meeting on 6 September 2018.

We note your assertion that the NMSW Regulation would not have any policy implications for the UK, since it will be introduced after the UK has left the European Union. What would be the implications for the UK's interactions with the EU as a third country? For example, how would the changes affect UK ships calling at EU ports after Brexit?

We note that you raise a number of questions about the necessity of Commission action on electronic freight consignment information and its interaction with the relevant UN protocol. You say that you are consulting stakeholders on these questions. We would be grateful for a further update once the Government has considered this issue further, including a summary of views expressed by stakeholders.

We have decided to retain both files under scrutiny. We look forward to a response to this letter within 30 working days.

6 September 2018

Letter from Nusrat Ghani MP, Parliamentary Under Secretary of State

Thank you for your letter of 6 September on the above proposals. I am writing in response to the Committee's queries as set out in your letter.

With regard to the **Maritime Single Window**, you sought clarification about the implications for the UK's interactions with the EU as a third country in future such as how the proposed changes would affect UK ships calling at EU ports after Brexit.

The Explanatory Memorandum notes that the information which is recorded in current Member State Single Windows is mandated at international level. It must be supplied by all ships, regardless of flag state, 24 hours (or as soon as possible if the voyage is of shorter duration) in advance of arrival. The Single Window system is designed solely to provide a mechanism for the electronic transmission of that data and there will, therefore, be no difference in terms of the information which would need to be supplied by UK ships calling at EU ports in future.

Whether any additional information above and beyond that currently required might need to be supplied by UK ships calling at EU ports in future will be a function of any customs arrangements which may be agreed between the UK and the EU.

Discussions in working group meetings to date have been positive, and the UK has been able to share its existing expertise in this area. The Presidency has scheduled further discussions later this month and is likely to achieve its objective of a General Approach at the 3 December Transport Council.

Turning to the proposal on **electronic freight transport information**, your letter notes that we raised a number of questions about the necessity of Commission action on electronic freight consignment information and its interaction with the relevant UN protocol, and asked for an update on our consideration of this.

As you will recall from the Explanatory Memorandum, the proposal aims to correct a lack of standardisation of acceptance by Member States of electronic freight documents, which currently leads to many businesses having to carry paper documents. Some Member States have already tried to tackle this problem by ratifying an additional UN Protocol allowing for electronic consignment notes to be accepted, but this protocol has not been uniformly ratified. The UK has not ratified it but we are discussing with freight stakeholders what steps would need to be taken to implement this as a precursor to possible ratification of the protocol.

In formulating the proposal, the Commission noted that, despite the adoption of the protocol some years ago, the uptake rate of digital solutions remains low, and that the uncoordinated development of different solutions and standards and the patchwork of protocol ratifications by EU Member States deters the uptake of digital solutions. The proposal seeks to address these and also to exceed the remit of the UN protocol by widening the scope to cover different modes of transport, not just roads. The scope includes Union Acts on Combined Transport, which also include rail and maritime, Aviation Security and Dangerous Goods.

The EM notes that the proposal seeks to ensure the establishment, in all EU Member States, of the obligation of acceptance of electronic freight transport documents by all relevant public authorities. Operators would be able to continue using paper documents if they wish to – there will be no obligation on them to move to electronic documents.

For operators that choose to use electronic documents, the proposal seeks to ensure the interoperability of the IT systems used by them for the electronic exchange of freight transport information. Separately, Member State authorities will be required to develop solutions that allow them to view this information, with various public enforcement bodies being able to gain access to the information. This is likely to include the Civil Aviation Authority and, in the case of Dangerous Goods, the police and Health and Safety Executive. We consider that there will be benefits for Member States of this investment in a digital solution. Enforcement bodies should, by the removal of paper documents, see more efficiency in their operations through a move to digital documents. In the case of DVSA for example, this would allow them to focus on other important areas such as roadworthiness. We therefore welcome the development of this, and welcome the proposals more widely.

You noted that officials would be consulting stakeholders and you requested a summary of views expressed by them. Mindful of the potential burden for law enforcement functions but also the potential

benefit, we have consulted both across Whitehall and with the two key freight representative bodies. We have spoken with DVSA who have confirmed that they do not envisage an enforcement burden from these changes. In practice, they often do accept digital documents at the roadside so this would merely formalise an existing process.

Separately, we have spoken to HMRC about our plans on the protocol and they welcome our plans on adoption. They also welcome opportunities to build on the information collected as part of it and opportunities to collect customs data too. HMRC foresee any sharing of data between digital systems to be beneficial and, linked to this, welcome the Commission's proposals on electronic documentation. They acknowledge that this would be a next chronological step on from Protocol and something that could be worked towards. We will keep HMRC involved as the proposals develop so that where there is specific information they would find useful to have, we can attempt to ensure this is included in any technological solutions. We are naturally mindful that other factors such as EU exit could affect the sort of information that would be most helpful for HMRC.

Officials also informed HMRC that the Commission's proposal covers different modes of transport and that there could be scope for customs enforcement bodies to gain access to the digital solution. On questions about ownership of the digital solution, officials confirmed that the decision on who would build it would be taken later, however there were two immediate examples of digital solutions being developed by the Department for Transport, namely around Blue Badge and Street Works.

HM Treasury welcomed the new proposals and, while they fielded queries around digital costs, they would be open to considering investment where it could reduce friction at the border.

We have also discussed the proposals with organisations representing stakeholders. They welcomed that the proposal gives industry the option about whether they wish to move to electronic documents. While broadly supportive of the proposals, one of these organisations reiterated the need for adequate security in the systems, to protect market sensitive information. Officials were able to reassure them that confidentiality would be built into the system. Another organisation was interested to understand the link with electronic consignment notes. We will meet with them in the autumn to discuss this further. A third organisation was concerned that some of their smaller members would have to develop IT solutions as part of this. However, they were reassured that IT solutions would, in practice, probably be developed by the market. Developers would then have the possibility of certifying their solutions and offering them for subscription.

In the two working groups that have taken place so far on the electronic documentation proposals (both in July), interventions from Member States have mainly centred on the more technical aspects of the proposal. To date, no further working groups have taken place and we await further information on Austrian Presidency's timetable and plans for this dossier.

We will, of course, keep you informed of any new developments on both proposals. The European Parliament TRAN Committee is also considering both proposals and aims to complete its reports on them in January.

18 October 2018

Letter from the Chairman to Nusrat Ghani MP, Parliamentary Under Secretary of State

We have decided to clear proposal 9051/18 from scrutiny. We look forward to an update on the outcome of the 3 December Council in due course.

We have decided to retain proposal 9060/18 under scrutiny. We would be grateful for an update on negotiations in due course, including on areas that you described as potentially problematic in your Explanatory Memorandum of 25 June 2018, such as the scope of the Commission's delegated powers and third country participation in the proposed certification system. We would also be interested in a broader assessment of the proposal's implications in light of Brexit, specifically in terms of interoperability between any IT systems developed in the UK and equivalent systems in the EU.

22 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON STREAMLINING MEASURES FOR ADVANCING THE REALISATION OF THE TRANS-EUROPEAN TRANSPORT NETWORK (9075/18)

Letter from the Baroness Sugg CBE, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum (EM) dated 26 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 25 October 2018.

Your EM states that this proposal would have a "significant impact"; we seek further information about what this might mean for the UK. In particular, which UK TEN-T 'Core Network' projects would be affected? What views have the devolved administrations expressed about this proposal? What implications would Brexit have on the UK's ongoing compliance with these rules if adopted as proposed?

We note that the proposal is based on a series of consultation activities conducted between 2017 and early 2018. We would be grateful for more information about the involvement of UK stakeholders and any feedback they may have provided.

We would also be interested to know if the Government is considering alternative approaches to streamlining approval procedures for transport infrastructure projects in the UK.

We have decided to retain the file under scrutiny. We look forward to a response to this letter, as well as a general update on negotiations on the file, in due course.

26 October 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE CREATIVE EUROPE PROGRAMME (2021 TO 2027) AND REPEALING REGULATION (EU) NO 1295/2013 (9170/18)

Letter from the Chairman to Michael Ellis MP, Minister for Arts, Heritage and Tourism, Department for Digital, Culture, Media and Sport

Thank you for your Explanatory Memorandum (EM) dated 14 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 25 October 2018.

We would be grateful if you would set out in greater detail the conditions for third country participation in the new Creative Europe programme and the potential implications for the UK post-Brexit. In particular:

- Would you please confirm if third country participation can only be achieved by a standalone agreement or could this be included as part of another, wider, agreement?
- What assessment has the Government made of the benefits and drawbacks of UK participation in Creative Europe?
- What arrangements will the Government make to maintain support for the UK creative sector if the UK does not associate with Creative Europe?
- Does the Government expect UK-based entities to be able to benefit from the new Creative Europe programme even if the UK was not associated to it?

Finally, we would like to know if you are continuing to engage with the devolved administrations on this proposal and what responses, if any, they have provided.

We have decided to retain the file under scrutiny. We look forward to a response to this letter, as well as a general update on negotiations, in due course.

25 October 2018

Letter from Michael Ellis MP, Minister for Arts, Heritage and Tourism

I am writing to give you an update on this proposal.

The Environment Council of 20 December is expected to hold a vote on the proposed Creative Europe regulation. I understand your Committee still has queries on the progress of negotiations on the file and have therefore kept this file under scrutiny. Nonetheless, I am writing to you to request a waiver to vote in favour of a partial general approach in accordance with the qualified majority voting format.

The main reason for the requested waiver is to ensure future positive collaboration with the EU, in a key government policy area. Not voting in favour risks sending a negative message to the EU about the UK's commitment to future cultural collaboration and strong cultural partnership. There has been a consistent narrative from the UK to continue cultural collaboration with the EU.

The Political Declaration sets out that we will establish general principles, terms and conditions for UK participation in EU programmes in these areas of shared interest, and wider dialogues to allow us to share best practice and act together in our mutual interest. Creative Europe is one such programme that the UK may seek continued participation in.

The PM announced in her Mansion House speech that the UK would want to explore a far reaching pact with the EU on culture and education, allowing the UK to participate in key programme with EU partners, "to promote our shared values and enhance our intellectual strength in the world".

This message has been further expanded in a number of fora, including on the 8th February 2018, where the Minister for Digital and the Creative Industries spoke in parliament agreeing that 'Creative Europe has been a success… we are very committed to our role in Creative Europe. We recognise its value, and...we can be optimistic, although of course during negotiations, there can be no guarantees'. The Secretary of State recently wrote to Commissioner for Education, Culture, Youth and Sport Tibor Navracsics outlining the UK's desire 'to build on our long history of working together to continue to produce and promote excellent culture ...and are keen to explore options for future participation in reative Europe as a third country'.

I want to make clear that the articles pertaining to cost and third country participation will not be voted on. A vote in favour, on this occasion, would not commit the UK to any spending requirement at this stage.

It is important to continue to demonstrate the UK's support for continuing collaboration with our European partners. Not voting in favour would likely send a negative message to the EU about the UK's commitment to future cultural collaboration and strong culture partnership.

I will continue to correspond with you and update you on the progress on this file.

12 December 2018

Letter from the Chairman to Michael Ellis MP, Minister for Arts, Heritage and Tourism

Thank you for your letters dated 28 November and 12 December 2018 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 13 December 2018.

You note in your earlier letter that you will assess the benefits and drawbacks of association to Creative Europe "as we prepare to leave the EU". Could you confirm when you expect this assessment process to begin, if it hasn't already?

We have decided to grant your request for a scrutiny waiver. We look forward to a response to this letter, including an update on the outcome of the 20 December Environment Council and on developments in negotiations, within 30 days.

13 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2009/103/EC OF THE EUROPEAN PARLIAMENT AND THE COUNCIL OF 16 SEPTEMBER 2009 RELATING TO INSURANCE AGAINST CIVIL LIABILITY IN RESPECT OF THE USE OF MOTOR VEHICLES, AND THE ENFORCEMENT OF THE OBLIGATION TO INSURE AGAINST SUCH LIABILITY (9365/18)

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum (EM) dated 20 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 6 September 2018.

We share your concern at the potential impacts of the codification of the Vnuk CJEU judgement. We have the following questions on this issue:

• Since, as you note in your EM, vehicles used on private land rarely cross into different Member States, do you consider the proposal as currently drafted a contravention of the subsidiarity principle?

• Are other Member States similarly concerned about the proposal?

• Is the Government considering diverging from this area of EU law after Brexit, should the UK be unsuccessful in influencing the Directive? What implications would this have, if any, for the UK's intention to retain access to the Green Card-free area?

We would also like to be kept updated on your correspondence with the Commission over retained access to the Green Card-free area after Brexit. Please could you share with us a copy of your initial letter and the Commission's eventual response?

We would be grateful for an update on your discussions regarding future motor insurance arrangements between the Republic of Ireland and Northern Ireland, once they have progressed further.

We have decided to retain the file under scrutiny and look forward to a response to this letter within 30 working days

6 September 2018

Letter from Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter dated 6 September 2018 on this proposal. I am writing in response to the Internal Market Sub-Committee's questions on the proposed codification of the Vnuk judgment and our approach to motor insurance after EU Exit.

The Committee asked whether we consider the proposal as currently drafted a contravention of the subsidiarity principle, given that vehicles used on private land rarely cross into different Member States.

The Government recognises that there are arguments that the proposal complies with the principle of subsidiarity, in particular the protection of victims of accidents in EU Member States other than that of their residence, and of domestic victims of an accident caused by a driver from another Member State. However, the Government is concerned that the extension of the scope of compulsory motor insurance to the use of a vehicle on private land is not proportionate and, as set out in paragraph 34 of the Explanatory Memorandum, during negotiations the Government will explore further the alternative option, presented in the Commission's consultation, of limiting the scope of the Directive to vehicles used on publically accessible land.

The Government believes that further consideration should be given to whether the protection of victims of accidents away from the public road network could be achieved more proportionately through alternative insurance regimes, many of which are already in place in Member States and appear to be working well.

The Committee asked whether other Member States have similar concerns about the proposal. Overall, most Member States have expressed their support for the objectives of the Commission's proposal, but have emphasised their concern about the proposal to codify the CJEU judgments on the

Directive's scope. The exact nature and extent of Member States' concerns varies depending on the types of vehicles commonly in use in their countries and their existing insurance law and practises. We are currently engaging with various Member States to better understand their positions better.

Negotiations are still at a very early stage, with a preliminary working level discussion on 7 September. The Austrian Presidency is currently gathering comments from Member States about the detail of the proposal and will then schedule a further Working Party discussion. The timetable for the proposal to be considered at the Council of Ministers remains undecided. In the European Parliament, the proposal has been allocated to the Internal Market Committee, which intends to complete its report on the proposal by the end of January. I will, of course, continue to keep the Committee informed of further negotiations on this proposal.

The Committee asked whether the Government is considering diverging from this area of EU law after EU Exit, if we are unsuccessful in influencing the Directive, and what implications this would have for the UK's intention to retain access to the Green Card-free area.

The Government's general approach to adhering to this area of EU law after EU Exit is a matter for negotiations. However, irrespective of the outcome of negotiations, we can guarantee that we will maintain the mandatory requirement for all policies sold by UK insurance providers to include third party motor insurance cover for driving a car to EU or EEA countries. This is a requirement for remaining part of the Green Card-free circulation area.

As stated in the Explanatory Memorandum, we wrote to the Commission stating that the UK already meets, and will continue to meet, the requirements to remain part of this system. Of particular importance, in addition to the motor insurance coverage issue discussed above, is our commitment to refrain from carrying out systematic checks on third party motor insurance for vehicles from Green Card-free circulation area countries entering the UK. We therefore asked for the Commission to confirm its intention to issue an Implementing Decision, guaranteeing the UK's continued membership on exit day. In response, the Commission stated that their Taskforce on Article 50 negotiations has been made aware of the UK's position, and they will continue to review the situation closely and will take action, should they consider it appropriate.

You have requested to be kept up to date on correspondence with the Commission on retained access to the Green Card-free circulation area, as well as discussions regarding future motor insurance arrangements between the Republic of Ireland and Northern Ireland. We are happy to do so.

17 October 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter dated 17 October 2018 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting on 20 December 2018.

We would be grateful for a summary of responses to the consultation on the Vnuk judgement and for an indication of when the Government's response is expected to be published. Could you please also explain in more detail how insurance checks at borders would be implemented under the proposal?

We have decided to retain the file under scrutiny and look forward to a further update on negotiations, in due course.

We also note your commitment to keep us updated on the UK's future access to the Green Card-free circulation area as well as discussions on future motor insurance arrangements between the Republic of Ireland and Northern Ireland.

21 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2010/13/EU ON THE COORDINATION OF CERTAIN PROVISIONS LAID DOWN BY LAW, REGULATION OR ADMINISTRATIVE ACTION IN MEMBER STATS CONCERNING THE PROVISION OF AUDIOVISUAL MEDIA SERVICES IN VIEW OF CHANGING MARKET REALITIES (9479/16)

Letter from Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media and Sport

I am grateful to the Committee for clearing from scrutiny the proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2010/13/EU, at your meeting on 5 July.

I am writing to inform the Committee that the negotiations on the revision of the Audiovisual Media Services Directive (AVMSD) have been completed. Following the last interinstitutional trilogue meeting between the European Parliament, Council and Commission in early summer, the Directive was approved by the European Parliament plenary vote on 2 October 2018. The Council vote will take place at the Economic and Financial Affairs Council on 6 November 2018.

The revision, initiated by the European Commission as part of its Digital Single Market Strategy, has aimed to bring the Directive in line with the new media landscapes and shifting market realities. The newly introduced and amended regulatory provisions have been designed to level the playing field for all audiovisual media services: traditional linear services, video-on-demand and, for the first time, also video-sharing platforms.

The revised AVMSD focuses on reinforcing the protection of minors and combating hate speech and public provocation to commit terrorist offences in all audiovisual content. The new rules also place an emphasis on promoting production and distribution of European works; strengthening the Country of Origin principle; allowing more flexibility in television advertising; permitting levies for video-on-demand and linear services in the country of operation; and guaranteeing the independence of audiovisual regulators.

The revised Directive is not expected to have a negative impact on broadcasting in the UK. Our largest concern was on the potential impact of levies on industry. Although this is a purely optional measure and it is clear only some and not all of the Member States intend to introduce such a levy, we consider it to diminish the Country of Origin principle and have a potential negative impact on the industry. However, whilst we were initially concerned about extending the scope of video-sharing platforms beyond the Commission's initial proposal, we recognise that the new provisions reflect HMG's current work on the Digital Charter and the 2017 Manifesto commitments on making the UK the safest place to be online. Priorities of the Digital Charter include work on reducing online harms by protecting people from harmful content and behaviour, and looking at the legal liability that online platforms have for the content shared on their sites. As such, the aims of HMG's emerging work in this space are closely aligned with the provisions on regulating video-sharing platforms in the updated AVMSD. We are broadly supportive of the measures within the Directive, except for the levies on industry, which we consider will have a negative impact.

Following the Council vote in early November and the official signature of the Directive is in Strasbourg on 14 November 2019, the AVMSD will be published in the Official Journal of the EU. After the publication, the AVMSD will have to be transposed into national law within 21 months. This is because under the Withdrawal Agreement, the transposition deadline will fall within the Brexit implementation period. DCMS policy teams are working on the implementation plan to ensure that the Directive is implemented to the highest possible standard.

24 October 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON A MECHANISM TO RESOLVE LEGAL AND ADMINISTRATIVE OBSTACLES IN A CROSS-BORDER CONTEXT (9555/18)

Letter from the Chairman to the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

Thank you for your Explanatory Memorandum (EM) dated 13 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 6 September 2018 and decided to clear the proposal from scrutiny.

6 September 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE COUNCIL AMENDING REGULATION (EC) NO 1071/2009 AND REGULATION (EC) NO 1072/2009 WITH A VIEW TO ADAPTING THEM TO DEVELOPMENTS IN THE SECTOR (9668/17)

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2006/1/EC ON THE USE OF VEHICLES HIRED WITHOUT DRIVERS FOR THE CARRIAGE OF GOODS BY ROAD (9969/17)

Letter from to Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

I last wrote to you on the above proposals on 8 May, ahead of the June Transport Council. I am writing now to update you on subsequent negotiations ahead of the next Transport Council on 3 December, and to respond to questions set out in your letter of 18 May.

As your Committee will recall, the proposals form the 'market pillar' of the first phase of the Commission's Mobility Package, and negotiations on them were taken forward by the Bulgarian Presidency with the aim of reaching General Approaches at the June Council. I am grateful to your Committee for granting a scrutiny waiver on the proposed Regulation, and clearance on the proposed Directive, ahead of that Council. As you may know the Bulgarian Presidency decided that the proposed Regulation on access to the market and the profession was not ready for a General Approach in June, and instead produced a Progress Report on it. They still hoped to achieve a General Approach on the proposed Directive on hired goods vehicles, but there was insufficient support for this at the June Transport Council because a number of Member States wanted further discussion.

The current Austrian Presidency has also made the first phase of the Mobility Package one of its priority areas, and has worked hard to find compromises that would enable Member States to reach General Approaches on Mobility Package proposals at the Transport Council on 3 December 2018. Overall, this focus is welcome, and I support the Presidency's efforts to overcome the difficulty in finding agreement on some aspects of the files.

In negotiations on the market pillar, the Presidency has concentrated on the proposal to amend Regulations (EC) 1071/2009 on market access and 1072/2009 on access to the occupation of road transport operator. It does not intend to bring the proposed Directive on hired goods vehicles to the December Transport Council.

In relation to the proposed amendments to Regulation 1071/2009 on market access, the latest working text retains the significant changes which I outlined in my letter of 8 May. This includes the requirement for vans weighing more than 2.5 tonnes which do international work for hire and reward to be brought into operator licensing requirements. It also includes the compromise text allowing Member States to impose additional requirements for operator licensing, which would allow the UK to continue to mandate the provision of sufficient parking at bases for all vehicles operated from them.

A less welcome development has been the introduction of a requirement for a vehicle used for international carriage to return to one of its operational centres in its Member State of establishment. The latest working text proposes that this must happen every four weeks, based on a yearly average,

and in any event within six weeks. This provision is intended to prevent "letterbox" or "shell" companies which purport to be established in one country but are functionally based in another. We can see some benefit in the average-based limit, but consider a hard limit in particular to be unnecessarily prescriptive. The provision has been generally unpopular at working group level, however, and we expect that it could yet be further softened in the final text.

In relation to the proposed amendments to Regulation 1072/2009 on market access, the Presidency has retained the proposed compromises which I set out in my letter of 8 May on enforcement of cabotage, as well as the number of days and number of trips allowed for it. On the latter, Member States' positions on this issue remain entrenched and polarised, and the Presidency has therefore proposed what appears to be the least unpopular compromise, namely maintaining the current maximum of three cabotage operations in seven days. We can support this as it is in line with the UK objective of achieving a balanced outcome.

The provision for an additional "cooling-off period" for cabotage has also been retained. The "cooling-off" period would set a period of days following the end of a set of cabotage operations, during which an operator would not be able to undertake further cabotage in the same Member State. The latest working text sets the number of days at ten, which is a reduction from the fourteen days initially proposed. However, the UK, along with a large number of other Member States, has continued to press for this to be further reduced.

You asked how the cabotage provisions might affect hauliers operating across the Irish border. It is difficult to comment on this until we know the exact number of days for the "cooling-off" period. There is an added complication in the context of EU Exit. Until we are clear whether cabotage rights can be secured in wider EU Exit negotiations, it is difficult to estimate the impacts of this specific change. However, a lower number of days would, other things being equal, correspond to a smaller impact.

My officials have discussed this with their counterparts in both Northern Ireland and the Republic of Ireland, and all parties are aware that we will need to work jointly to ensure these provisions are not excessively burdensome across the island of Ireland. My officials will continue to engage with officials in Northern Ireland, both leading up to and after EU Exit, to find a workable solution so that any negative impacts can be minimised.

Overall, I am content with the developments on these proposals. The final working group discussions of this text took place on 5 and 6 November, and it is unlikely that there will be further substantial amendments ahead of the Council, apart from possible proposed compromises on the "cooling-off" period. I would be grateful, therefore, if the Committee would clear this proposal from scrutiny, or grant a scrutiny waiver, ahead of the 3 December Transport Council.

As the Committee may know, the European Parliament considered the TRAN reports on these proposals and the social pillar of the Package at its plenary session in July and referred them back to the TRAN Committee to be re-worked. We understand that the Rapporteurs are seeking compromises, but we do not yet know the timetable for TRAN to complete this work; nor do we yet have an indication of the likely contents of the re-worked report.

I will, of course, inform the Committee of the outcome of the Transport Council and of progress on both of these proposals.

14 November 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter dated 14 November 2018 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 22 November 2018.

We have decided to grant your request for a scrutiny waiver for the 3 December Transport Council. We are particularly interested in the provision for a 'cooling-off' period and its impact on the island of Ireland, as well as the measure to require vehicles to return to the Member State of establishment at specified intervals. We look forward to an update on these matters in due course.

22 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) NO 561/2006 AS REGARDS ON MINIMUM REQUIREMENTS ON MAXIMUM DAILY AND WEEKLY DRIVING TIMES, MINIMUM BREAKS AND DAILY AND WEEKLY REST PERIODS AND REGULATION (EU) 165/2014 AS REGARDS POSITIONING BY MEANS OF TACHOGRAPHS (9670/17)

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2006/22/EC AS REGARDS ENFORCEMENT REQUIREMENTS AND LAYING DOWN SPECIFIC RULES WITH RESPECT TO DIRECTIVE 96/71/EC AND DIRECTIVE 2014/67/EU FOR POSTING DRIVERS IN THE ROAD TRANSPORT SECTOR (9671/17)

Letter from Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

I last wrote to you on the above proposals on 8 May, ahead of the June Transport Council. I am grateful to your Committee for clearing the proposal on driving and rest times from scrutiny, and granting a waiver for the proposal on enforcement and posting of workers. I am now writing to inform you of the latest developments in the negotiations on these proposals, which form the 'social pillar' of the first phase of the Commission's Mobility Package.

Prior to the June Transport Council, the Bulgarian Presidency decided that these proposals were not yet ready for a General Approach, and instead produced a Progress Report. The current Austrian Presidency has made the first phase of the Mobility Package one of its priority areas and has significantly developed some of the proposals, with a view to finding compromises to enable General Approaches to be reached at the Transport Council on 3 December 2018. Overall, this focus is welcome, and I am supportive of the Presidency's efforts to overcome the difficulty in finding agreement on some aspects of the files by bringing new thinking to bear.

Proposed Regulation on driving and rest time (9670/17)

In relation to the driving and rest time proposals, the latest working texts have undergone a small number of changes since I wrote to you in May.

The Presidency has re-introduced the additional flexibility proposed by the Commission in respect of reduced weekly rest period, such that two consecutive weekly rest periods of 24 hours (rather than the usual 45 hours) would be permitted. The reduction in weekly rest time would need to be compensated for within three weeks. This change is not the UK's preferred outcome, on the basis that the potential effects on road safety are unclear. However, the nature of the policy is not suited to a quantitative assessment of the road safety effect. Risks are being controlled by the rest compensation rule, and we do not consider that there are identifiable adverse safety effects.

The latest amendments to the text reduce the proposed obligation for drivers to be able to return to their home base from every 6 weeks to every 4 weeks, with a view to enhancing a driver's ability to properly recuperate and enjoy a home life. The Presidency has argued that the ability to take consecutive reduced weekly rests increase the scope for a driver to take a longer weekly rest (including compensation) when he or she returns home. The Presidency has resisted calls for the fortnightly driving time limit of 90 hours to be moved to a monthly limit of 180 hours, and the effect of this limit is to constrain the effective additional flexibility significantly; for example, it is not possible to drive for 56 hours (the weekly theoretical maximum in the case of reduced weekly rest) for two consecutive weeks.

In addition, the latest amendments reduce (from two hours to one hour) the time for which a driver can exceptionally deviate from the usual driving time limits in order to reach a place of weekly rest (for example if caught in unexpected traffic).

As I indicated in my letter to you of 8 May, the UK welcomed the previous addition of a provision to enable weekly rests to be taken in the vehicle, provided it is parked in a suitable area with adequate security and welfare facilities. This is in line with the UK's view that it is proportionate to ban 'cab sleeping' where this is done in unsuitable locations such as lay-bys. I consider that this provision has

been further improved, with the addition of a temporary 3-year derogation to enable weekly rests to be taken in cabs fitted with suitable sleeping facilities outside designated areas, but away from public roads, to enable the parking infrastructure to be developed where this is needed.

I am therefore content with the developments on driving and rest time rules. The final working group discussions of this text took place in early November, and it is unlikely that there will be further significant amendments ahead of the Council.

Proposed Directive on enforcement and posting of workers (9671/17)

The proposed enforcement measures set out in my letter of 8 May have been retained in the latest working texts. I welcome this because they enhance cross-border enforcement cooperation and data exchange, and strictly limit the roadside check obligations on Member States in respect of the working time rules.

The Presidency has tabled an alternative formulation on the proposals in relation to the posting of workers in the road transport sector, in order to resolve the political deadlock that has characterised discussions on this file to date. Specifically, they propose that there should be an exemption from posting of workers rules for workers engaged in "bilateral international carriage". For example, this exemption would apply to a transport operation between Country A and Country B, by an operator based in country A. Other types of transport operation, such as cabotage and 'cross-trade' (an operation between Country A and Country B, by an operator based in Country C), would remain in scope of postings rules. The Presidency proposes two 'additional activities' that would be undertaken as part of bilateral international carriage and remain exempt. For example, a driver could pick up an additional load in one of the countries he or she crosses as part of the bilateral carriage. The specific enforcement provisions around postings, including an exhaustive list of administrative burdens for drivers, have been retained.

This approach meets the UK's objectives in this area, and would create a clear and logical distinction between two fundamentally different types of work as regards the application of the postings rules. We consider this an improvement on the Commission's original proposal for a 'days-based' exemption rule.

These developments have, in principle, been largely welcomed in working group meetings, although many Member States have reserved their judgement and we therefore expect that negotiations on this proposal will only be resolved at political level during the Transport Council itself, and in the wider policy context of the rest of the social pillar and the market pillar of the Package. We expect, however, that the General Approach will be acceptable to the UK.

I appreciate that the Committee may wish to hold this proposal under scrutiny until it is able to consider further developments. However, I would be grateful if the Committee would grant a scrutiny waiver for this file ahead of the Transport Council on 3 December.

I will, of course, inform the Committee of the outcome of the Transport Council and of progress on both of these proposals. As the Committee may already know, the European Parliament considered these proposals and the Market Pillar of the Package at its plenary session in July and referred them back to the TRAN Committee to be re-worked. We do not yet know the timetable for TRAN to complete this work.

14 November 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter dated 14 November 2018 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 22 November 2018.

We are content to grant your request for a scrutiny waiver for the upcoming Transport Council and look forward to an update in due course

22 November 2018

Letter from the Chairman to Jesse Norman MP, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum (EM) dated 20 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 6 September 2018 and decided to clear the document from scrutiny.

We note that this proposal provides necessary assurance to vehicle manufacturers with UK type approvals in case of 'no deal'. What reciprocal preparations is the Government making for the continuity of EU-27 type approval certifications in the UK? Has the Government assessed the potential loss of income to VCA if an agreement is not reached that allows VCA approvals to be recognised in the EU post-Brexit?

We would be grateful for a response to our questions and an update on the specified time period during which manufacturers would be able to transfer UK approvals to EU-27 TAAs, in due course.

6 September 2018

Letter from Jesse Norman MP, Parliamentary Under Secretary of State

Thank you for your letter of 6 September on the above proposal. I am writing in response to the Committee's questions on the domestic preparations of the Department in case of 'no deal', and the future of the Vehicle Certification Agency (VCA) in that context.

The Committee asked what reciprocal preparations the Government is making for the continuity of EU-27 type approval certifications in the UK.

In a no deal scenario, the UK will no longer accept EU27 type-approval certifications for sale and registration. Instead, the Government is introducing a domestic UK type-approval scheme, based on the current EU scheme. This domestic scheme will permit the conversion of existing EU27 type-approvals into a UK approval by the Vehicle Certification Agency without the need for re-testing.

This will ensure that the VCA holds responsibility for the approvals used to place vehicles on the market, and ongoing oversight of procedures to ensure compliance with legal requirements such as conformity of production.

The Government has set out its approach in a technical notice, published on 13th September. These plans have been designed with manufacturers in mind, and are as pragmatic and simple as possible, avoiding unnecessary costs to industry.

The Committee asked whether the Government has assessed the potential loss of income to VCA if an agreement is not reached that allows VCA approvals to be recognised in the EU post-Brexit.

The VCA will remain the UK's type approval authority earning fees through the operation of the new UK type-approval scheme, and the continued work on United Nations Economic Commission for Europe (UNECE) approvals.

UNECE regulations make up a significant proportion of approvals needed to achieve an EU whole vehicle approval, and VCA would expect to retain much of this business given the continuing capacity issues among approval authorities.

The VCA is also currently a designated technical service to the Swedish and Dutch type-approval authorities, and is putting measures in place to continue this work stream. As a technical service, the VCA can continue to be responsible for much, if not all, of testing required for issuing an EU approval depending on the needs of the EU approval authority and manufacturer.

The work that VCA currently does will change, but there will be other opportunities for income to be generated, as outlined above.

The Committee requested an update on the specified time period during which manufacturers would be able to transfer UK approvals to EU-27 TAAs, in due course.

The proposal allows for transferral of VCA-issued EU approvals up until at least the end of the Implementation Period. In case of a no-deal scenario, manufacturers need to have applied for transferral before the 29th of March. As soon as the proposal has been adopted, manufacturers will be able to initiate the transferral process. No further details have emerged about timing during the negotiations in the Council working group.

Negotiations on the proposal in the Council working group have been swift and are now complete. During these discussions a number of helpful amendments have been made, including clarification that any costs must be set out by the approval authority, providing manufacturers the information to make a commercial decision when choosing their approval authority.

The Austrian Presidency is continuing to improve the proposal and the Government expects the final measure to preserve existing derogations put in place prior to UK exit, allowing vehicles to continue being placed on the market where the transfer of type approval has yet to be finalised by an EU27 type approval authority, and special provision to ensure stocks of unsold vehicles can be placed on the market. The Government expects these to be part of the final package and supports their inclusion as it will avoid unnecessary costs on UK manufacturers in a 'no deal' outcome.

The Department now expects that the proposal will be put to the Council of Ministers in November to reach a General Approach. The European Parliament is also considering the proposal and aims to complete its draft report by the end of October. Trilogue discussions will then be taken forward to reach a deal between the Council and European Parliament positions and enable the final legislation to be adopted.

22 October 2018

PROPOSAL FOR A REGULATION AND DECISION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING HORIZON EUROPE- THE FRAMEWORK PROGRAMME FOR RESEARCH AND INNOVATION, LAYING DOWN ITS RULES FOR PARTICIPATION AND DISSEMINATION (9865/18)

Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy & Industrial Strategy

Thank you for your Explanatory Memorandum (EM) dated 25 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 6 September 2018.

We are often reminded of the vital role of Horizon 2020 in UK science and innovation. It is therefore pleasing that the successor framework programme broadly aligns with the Government's criteria for association. We welcome the Government's efforts to influence the creation of a programme that is in the mutual interests of the UK and the EU.

We look forward to a general update on negotiations and their influence on potential UK association. We also request specific updates on the following:

- The meaning of "decisional power" in relation to Association Agreements.
- The influence of EU institutions in the evaluation process for proposals (Articles 24- 27).
- Any restrictions on third country access for complementary or combined funding.
- Whether a Partial General Approach under the Austrian Presidency remains an "ambitious" target.

We have decided to retain the file under scrutiny, we look forward to a response to this letter within 30 working days.

6 September 2018

Letter from Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letter dated 6 September 2018, seeking further information about the development of the Horizon Europe Regulation. As your letter points out, the EU framework programmes for research and innovation make a significant contribution to the UK, and we are working hard to ensure that they will continue to do so.

Your letter asked for an update on several topics. I will respond to these in order below.

1) **We look forward to a general update on negotiations and their influence on potential UK association.**

The negotiations on the Horizon Europe Regulation continue apace. The Austrian Presidency have been running two working groups a week for the Council to examine the draft text, and the European Parliament have produced their first round of proposed amendments to the text of both the Regulation (9865/18) and the Specific Programme (9870/18). A range of topics have been covered at a broad level to date, however the process is ongoing, and it would be premature to comment on the implications for the UK's future relationship with the programme at this stage.

2) **The meaning of "decisional power" in relation to Association Agreements.**

The phrase "decisional power" has not been defined in the Regulation, and it is uncertain where it will ultimately be defined. It may be further clarified during the ongoing negotiations on the Multiannual Financial Framework, or in any future negotiations on association.

3) **The influence of EU institutions in the evaluation process for proposals (Articles 24- 27).**

The proposed evaluation process remains largely in line with the process in Horizon 2020, with any exceptions outlined below.

Article 24 sets out conditions under which the Commission or funding body should assess the financial capacity of applicants, to ensure that EU funding is responsibly allocated.

Article 25 sets out the evaluation criteria. The work programmes may lay down further details of how these criteria should be applied. Member States agree the work programmes with the Commission, in discussion with Associate Countries.

Article 26 of the Regulation sets out details of the evaluation process, where (as drafted by the Commission) the evaluation committee may be fully or partially composed of external independent experts, and may include representatives of Union Institutions or bodies. In practice we expect that in most cases the evaluation will be conducted entirely by independent experts, continuing the approach of previous Framework Programmes. There may be exceptions in parts of the programme, such as missions, where it is necessary to consider how the overall portfolio of projects aligns with the EU's objectives. In these cases proposal evaluation should still be supported by independent experts. The UK will continue to advocate for an excellence-based approach to project evaluation throughout the Horizon Europe programme.

Article 27 sets out the scope for an evaluation review, but does not specify the role of the Commission or other EU Institutions.

4) **Any restrictions on third country access for complementary or combined funding.**

Article 11 of the Regulation sets out how complementary or combined funding will work under Horizon Europe. This is applicable when a project cannot receive funding under Horizon Europe due to budgetary constraints, and allows for funding to be provided instead by another EU programme under certain conditions. As currently drafted by the Commission, the text states that the rules of the fund providing the support will apply, which will include any rules concerning third country access.

5) **Whether a Partial General Approach under the Austrian Presidency remains an "ambitious" target.**

The Austrian presidency continues to work towards a Partial General Approach (PGA) by the end of November, and we continue to support them in this goal. Depending on how much is agreed through this PGA, this could be a faster process than we have seen for previous Framework Programmes.

15 October 2018

Letter from Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation

I am writing to you to request a scrutiny waiver for the Explanatory Memorandum covering 9865/18 and 9870/18, which was submitted to Parliament in June. The documents concern the proposals for the Horizon Europe programme.

The Austrian Presidency of the Council of the EU is seeking a Partial General Approach (PGA) on the Horizon Europe proposals at the upcoming Competitiveness Council to be held across 29th/30th November. If it goes ahead, the PGA is expected to focus on the less contentious elements of the proposals on which agreement is likely to be more easily reached. At this point in time we do not know exactly which articles of the Regulation and Decision will be covered by the PGA, and we are unlikely to have this information until approximately a week ahead of the Competitiveness Council meeting. It will be too late to write to you requesting a waiver at that stage, so I am writing to you now, providing what information I can.

The UK continues to actively participate in the Council discussions on this programme. As set out in our Explanatory Memorandum our priorities for the programme are:

i) That it delivers excellent science
ii) That it is open and transparent
iii) That it is value for money.

These continue to be the criteria on which we will assess the final programme.

Broadly we are content with the current direction of travel of both the Regulation and Decision, but will continue to monitor developments closely to identify any new amendments with significant impact on the UK. We have been told that Article 12.1(d) of the Regulation, the Article setting out the terms of association for third countries that would be most relevant to future UK association, will not be included in this PGA. Our recent letter to you, dated 15 October, provided an update on particular aspects of the Horizon Europe regulation, including: the meaning of "decisional power" in relation to Association Agreements; the influence of EU institutions in the evaluation process for proposals; and any restrictions on third country access for complementary or combined funding.

Our Explanatory Memorandum highlighted that we would take a strong interest in the development of missions within Horizon Europe, and that we would like to further explore the evaluation process for proposals. We continue to have an interest in the development of missions, particularly in the selection process being used, and will further discuss these with the rest of the European Council and the European Commission to ensure they can provide the greatest value to Europe as a whole. On the evaluation process, we understand that the new aspects of the proposals have been introduced to support evaluation of applications under new areas of the programme, such as the European Innovation Council and missions, and we are happy to support them. It is not clear whether these areas will be covered by the PGA, however based on current proposals, neither of these areas are likely to be critical issues for the UK.

Provided there are no major changes to the content of the proposals – which, for example, would jeopardise the excellence of the programme, make it less open to other countries, or significantly reduce its potential value to the UK – the Government is likely to seek to support the PGA at the Competitiveness Council. However any final decision on the UK's approach will be based on consideration of the text within the PGA as a whole.

6 November 2018

Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letters dated 15 October and 6 November 2018 on the above proposal, which the EU Internal Market Sub-Committee considered at its meeting on 14 November 2018.

Although the terms of the Partial General Approach remain unclear, we welcome your efforts to provide us with an update on negotiations and request a scrutiny waiver in good time. We have decided to grant your request for a waiver for the upcoming Competitiveness Council and look forward to an update on the outcome of this meeting.

We are aware of reports of two points of contention in negotiations, namely the inclusion of 'Industry' TFEU Titles as legal bases and the extent to which Horizon Europe should attempt to address the regional divide in EU research funding. We are interested to know the Government's view on these issues and your assessment of whether they are likely to impact the overall timetable for reaching a final agreement on Horizon Europe.

Finally, we would be grateful for an update on any developments relevant to Article 12 and future UK association to Horizon Europe and the meaning of "decisional power" in relation to Association Agreements, in due course.

15 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE PROGRAMME FOR SINGLE MARKET, COMPETITIVENESS OF ENTERPRISES, INCLUDING SMALL AND MEDIUM-SIZED ENTERPRISES AND EUROPEAN STATISTICS AND REPEALING REGULATIONS (EU) NO 99/2013, (EU) NO 1287/2013, (EU) NO 254/2014, (EU) NO 258/2014, (EU) NO 652/2014 AND (EU) 2017/826 (9890/18)

Letter from the Chairman to Kelly Tolhurst MP, Minister for Business, Consumers and Corporate Responsibility, Department for Business, Energy & Industrial Strategy

Thank you for the Explanatory Memorandum (EM) dated 3 July 2018 on the above proposal. The EU Internal Market Sub-Committee considered the EM at its meeting on 6 September 2018.

We would like to understand:

• Will the Government seek access to the new Single Market Programme after Brexit?

• Will the UK be pushing for the proposed Regulation to allow for more open third country access?

• What evidence does the Government have of the benefits to the UK of the COSME programme to date?

• How would discontinued participation in COSME, including its business support programmes and access to finance initiatives, affect UK businesses?

• How might the Government replace the support offered to UK businesses by the COSME programme if the UK does lose access to COSME?

You note that you have consulted the devolved administrations in preparation of the EM. We would be interested in hearing a more detailed account of their views on this proposal.

We have decided to retain the file under scrutiny, we look forward to a response to this letter in due course.

6 September 2018

Letter from the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State, Department for Business, Energy & Industrial Strategy

Thank you for your letter dated 6 September 2018 to Kelly Tolhurst, concerning EM 9890 dated 3 July 2018. The EM was considered by the EU Internal Market Sub-Committee on 6 September 2018.

At your Committee's meeting on 6 September 2018 you decided to keep this proposal under scrutiny. You asked several questions relating to the EU's proposed Single Market Programme and UK participation in the Competitiveness of SMEs (COSME) programme. As the Minister responsible for EU single market on-going business, I will answer your questions in turn.

Will the Government seek access to the new Single Market Programme after Brexit?

Will the UK be pushing for the proposed Regulation to allow for more open third country access?

As set out in the White Paper on the future relationship between the United Kingdom and the European Union, the UK proposes new cooperative accords that provide for a more strategic approach than simply agreeing to participation in EU programmes on a case-by-case basis. The UK also wants to consider participation in other EU programmes in addition to those covered by the accords. Ultimately, the decision on which programmes, terms and corresponding costs will all be decided as part of the future partnership negotiations. Clearly there are many moving parts, and the details of UK involvement will need to be subject to the wider decisions on the Multiannual Financial Framework (MFF) package.

What evidence does the Government have of the benefits to the UK of the COSME programme to date?

COSME is an EU programme supporting SMEs across the EU for the 2014-20 MFF period. It provides a range of support focused around four components i.e. access to finance; access to markets; improving framework conditions (better regulations); and actions to support entrepreneurship.

Across the above actions, UK participation in COSME has been uneven. Our main engagement has been in the access to markets component i.e. the Enterprise Europe Network (EEN) and, to a lesser extent, the COSME financial instruments (FIs).

The EEN is an EU-funded business support network focused on supporting SMEs to grow, innovate and expand into other markets within the EU and beyond. As well as providing advice on laws and promoting innovation, the EEN provides access to a business database portal for facilitating and brokering collaborative partnerships. Around 450,000 SMEs across the EU received support through the EEN in 2015. An external evaluation for the EU in 2015 for the previous (2007-13) EEN programme concluded that SMEs that used the EEN grew 3.1% more than those that did not, in terms of both employment and turnover (based on Eurobarometer survey data). Around two thirds of SMEs who used all of the EEN's services agreed that the network helped safeguard/enhance employment and turnover.

The Technopolis March 2018 Review of EEN activities in the UK stated that: "EEN is a key entry point for business support in the UK and is fully in line with the national-level business support strategy […] it appears to be well positioned to help a range of companies providing a broader range of services".

UK Research and Innovation (UKRI) and Scottish Enterprise (SE) are responsible for delivering EEN objectives in the UK and between January 2015 to December 2018 they have supported 10,590 UK SMEs' engagement in the EEN. The total value of the grants received from the EU during the same period is €26,909,136.

The COSME access to finance component comprises 2 financial instruments i.e. the Loan Guarantee Facility (LGF) and the Equity Facility for Growth (EFG). Both instruments target Member State financial intermediaries (FIs). The LGF is administered by the European Investment Fund. Member State financial intermediaries provide loans (backed by a COSME-funded guarantee) to SMEs and can draw down funds from the guarantee to cover an agreed portion of losses resulting from loan defaults. To date, approximately 3000 UK SMEs have benefitted from a COSME-backed loan, with a loan portfolio of around €66m and €3.2m provided in guarantees. No UK FI offers the COSME EFG.

Although the European Commission does provide an impact assessment, this is at EU level. One of the problems with the assessing overall impact of COSME is the disparate nature of the programme, and the UK's relatively short engagement in it.

How would discontinued participation in COSME, including its business support programmes and access to finance initiatives, affect UK businesses?

How might the Government replace the support offered to UK businesses by the COSME programme if the UK does lose access to COSME?

In case of a no-deal, the Chancellor announced in August and October 2016 that the Government will guarantee EU funding agreed before we leave the EU, to provide more certainty for UK organisations over the course of EU Exit. In July 2018, the Government extended the guarantee up to 2020, meaning that even in a no-deal scenario, beneficiaries can now continue to sign projects after EU Exit up to 2020, as they would have, should the UK have remained a Member State. This guarantee ensures that UK businesses will continue to receive funding over a project's lifetime if they successfully bid for funding before the end of 2020. This includes the Enterprise Europe Network (EEN) under the "access to markets" component of COSME.

However, under a no deal scenario for COSME the UK would not be granted any new tranches of financial instruments funding after Exit. The financial instruments under COSME (the Loan Guarantee and the Equity Facility for Growth) do not form part of the competitive bidding elements of COSME and would therefore not be covered by the Government's guarantee.

Under the terms of the draft Withdrawal Agreement, the UK will participate in COSME until the current programme ends in December 2021.

Devolved Authorities - engagement to date

EM 9890 was submitted in July, following cross Whitehall circulation and circulation to the Devolved Administrations, to confirm policy interest. The BEIS Policy Team is continuing to engage with policy leads and expects to continue receiving input regarding policy positions during the technical discussion process at the level of European Working Groups.

31 October 2018

Letter from the Rt Hon Lord Henley PC, Parliamentary Under Secretary of State

Thank you for notifying me that you were keeping under scrutiny EM 9890/18 on the proposed EU Single Market Programme.

I am writing to you to request a scrutiny waiver on EM 9890, ahead of a Competitiveness Council that I will be attending in Brussels on 29 November. I am asking for this waiver to enable HM Government to vote in favour of the regulation, which is expected to be subject to a partial general approach.

At the technical working party level, progress on the Single Market Programme proposal has been swift, and in general Member States, including the United Kingdom, are content with the most recent drafting of the regulation.

Voting in favour of the regulation would send a signal of goodwill to the EU and other Member States and would keep the United Kingdom's options open in relation to any future engagement with the programme (no decision on participation has yet been taken in relation to this programme). A vote in favour at this Competitiveness Council would not commit the United Kingdom to participating in the Single Market Programme, nor to any financial matters, as the vote is entirely concerned with the regulatory framework of the programme.

15 November 2018

REGULATION ESTABLISHING THE SPACE PROGRAMME OF THE UNION AND THE EUROPEAN UNION AGENCY FOR THE SPACE PROGRAMME AND REPEALING REGULATIONS (EU) NO 912/2010, (EU) NO 377/2014 AND DECISION 541/2014/EU (9898/18)

Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation, Department for Business, Energy & Industrial Strategy

Thank you for your Explanatory Memorandum (EM) dated 25 June 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 13 September 2018.

We were grateful for the opportunity to discuss with you matters relating to UK participation in EU space programmes in an oral evidence session on 12 July 2018. During this session and in a follow-up letter, dated 1 August 2018, you told us that the Government would seek to ensure that this proposed Regulation would enable third country access at the required level.

Please set out in detail the proposed third country access and industrial participation arrangements for Copernicus, GovSatCom and SST. Do the proposed arrangements for Galileo PRS differ from the Commission's published slides dated 13 June 2018? We would also welcome further details on where the Government intends to focus its efforts to achieve more open access.

Jan Wörner, Director-General of the European Space Agency (ESA), has voiced opposition to the proposal to establish a new EU Agency for the Space Programme and you state in your EM that you will seek to ensure the new body does not encroach on the ESA's remit. We support a significant and distinct role for ESA and look forward to an update on this matter as negotiations progress.

We have decided to retain the file under scrutiny. We look forward to a response to this letter in 30 working days.

14 September 2018

Letter from Sam Gyimah MP, Minister of State for Universities, Science, Research and Innovation

Thank you for your letter of 14 September, regarding the above proposal. You asked that I set out in detail the proposed third country access and industrial participation arrangements for Copernicus, GovSatCom and EU Space Surveillance and Tracking (EUSST). You also asked whether the proposed arrangements for Galileo PRS differ from the Commission's published slides of 13 June 2018, and for an update on how the proposals will affect the European Space Agency.

Scrutiny Process Update

Firstly, I would like to explain where we are in the scrutiny process. The Commission published their initial proposal on 6 June 2018. Since then, a dual scrutiny process has been underway in European Council Working Groups and the European Parliament.

The Council Working Groups have now discussed all articles at least once, and all Member States have had an opportunity to feed in written amendments. The UK is a frequent speaker in the Working Groups, and submitted detailed written amendments in August, and additional amendments in October.

On the basis of the written amendments and discussions in Working Groups, the Austrian Presidency have produced new draft text for Council delegates. Discussions are now being taken forward on the basis of this new text, which will itself soon be replaced by a further draft as a result of those discussions. The Presidency is hoping to secure agreement to significant portions of the text at the Competitiveness Council on 30 November.

Scrutiny in the European Parliament is being led by Rapporteur Massimiliano Salini, on behalf of the Industry, Research and Energy Committee (ITRE). Similar to the Council process, MEPs have been able to propose amendments to the original text, and the Rapporteur has begun to draw this together into a new proposal for the Committee to consider. Although the Government has no direct influence over this process, officials are in regular contact with MEPs to advise on UK priorities, and a significant proportion of our desired amendments have been tabled as part of the European Parliamentary process.

Regulation Proposals on Third Country Access

The arrangements for third country access to the EU Space Programme are set out in Article 7 of the draft regulation, and follow the standard text which has been included across a number of draft EU programme regulations. The terms are set out in Article 7(2) and 7(3):

> *7(2) The Programme's components, with the exception of the SST, shall also be open to any third country or international organisation, in accordance with the conditions laid down in a specific agreement covering the participation of the third country or of the international organisation to any Union programme, provided that the agreement:*

a) ensures a fair balance as regards the contributions and benefits of the third country or international organisation participating in the Union programmes;

b) lays down the conditions of participation in the programmes, including the calculation of financial contributions to individual programmes and their administrative costs. These contributions shall constitute assigned revenues in accordance with Article [21(5)] of [the new Financial Regulation];

c) does not confer to the third country or international organisation a decisional power on the programme;

d) guarantees the rights of the Union to ensure sound financial management and to protect its financial interests.

7(3) The Programme's components shall only be open to the third countries and international organisations referred to in paragraphs 1 and 2 provided that the essential security interests of the Union and its Member States are preserved.

This means that the fine detail of UK participation in the EU Space Programme will not be set by this regulation, but by the 'specific agreement' governing that participation. This allows the EU the flexibility to differentiate the terms agreed with different third countries, depending on the specific relationship with each country. Only the boundaries of what is possible will be determined by this regulation. Should UK participation be agreed as part of a larger treaty level agreement between the EU and UK, rather than through individual component level participation agreements, then that treaty would have legal primacy over this regulation.

It will be possible to negotiate UK participation in **Copernicus** within the rules set out in Article 7. No Copernicus specific constraints are added elsewhere.

The arrangements for access to **GovSatCom** are set out in Article 8(1), which states that third countries may become GovSatCom participants if they have entered 'into an agreement laying down the terms and conditions of the detailed rules for access to [GovSatCom] data, information, capacities and services, and the framework for exchanging and protecting classified information'. This is a higher threshold to meet than Copernicus, which reflects the higher security requirements of GovSatCom. There is no objection in principle to the idea of third country participation.

Article 8 provides for third country access to **EUSST** services, which requires the same agreements as those needed to be a GovSatCom participant. It currently makes no provision for third country participation in EUSST.

Access to **Galileo PRS** is subject to the terms set out in Decision No 1104/2011/EU, which the draft regulation does not propose to amend or repeal. This is entirely consistent with the Commission's published slides of 13 June, which were based on existing rules. Access to the non-PRS elements of Galileo is possible in line with the requirements in Article 7.

The arrangements for **industrial participation** are primarily governed by the procurement principles in Article 14, and restrictions to preserve essential security interests in Article 25. Article 14 emphasises that Programme procurement should 'foster the autonomy of the Union' and 'ensure the security of the components of the Programme'. Article 25 proposes a strict approach to security, whereby wherever it is deemed necessary 'for the protection of the essential security interests of the Union', it will be possible to restrict contracts not just to entities established within the EU, but to entities which are 'effectively controlled' from within the EU. This appears to allow for the possibility of EU companies with a parent company located outside the EU being prohibited from bidding for particularly sensitive contracts. If unchanged, this could place a constraint on the level of industrial participation in the programme the UK is able to negotiate.

UK priorities for third country access

The UK is emphasising the benefits to the EU of the EU Space Programme being open to meaningful participation by third countries, particularly in terms of third country industrial and scientific participation supporting the efficient and effective delivery of Programme services. We are also consistently highlighting the importance of industrial and scientific participation to third countries making value for money decisions about whether to participate, and have drawn on the EU's own

principle that third country agreements must ensure a demonstrably fair balance of contributions and benefits to support this point.

In terms of the specific components of the Programme:

- The terms of third country participation in **Copernicus** and **GovSatCom** will be settled as part of subsequent negotiations on the participation agreements. We are seeking to ensure this flexibility is retained, as it allows maximum scope for any participation agreements to reflect the unique circumstances of the UK's relationship with the EU, including the significant value which the UK, and UK industry and academia, could potentially bring to the Programme.
- There is a significant risk that this flexibility is undermined by restrictions on industrial participation elsewhere in the text, and in Article 25 in particular. We are seeking to mitigate this risk by securing a recognition that third country industrial and scientific involvement is both desirable and possible, even on potentially sensitive contracts.
- We are challenging the idea that **EUSST** will be effective if third country participation is prohibited, particularly given the leading role the UK has played in the EUSST consortium to date. We are pressing for the possibility of participation to be included in the text.
- On **Galileo PRS**, we have proposed changes which are consistent with the requirements set out in the UK's technical note of 24 May. As we set out there, the UK has a strong objection to its ongoing exclusion from security-related discussions pertaining to the post-2019 development of Galileo and the PRS, and to the exclusion of UK industry from competing for secure contracts. We are also continuing to press these points in the Galileo negotiations with the European Commission. As with discussions elsewhere on Galileo, the EU has shown little appetite so far to change the draft regulation to support UK participation.

European Space Agency

The UK is a founding member of the European Space Agency (ESA), and has a long-standing relationship which predates our membership of the EU. In December 2016, the UK showed its strong commitment by investing €1.44 bn in ESA programmes. The Government remains fully committed to ESA's role as the independent space agency for Europe.

ESA has played a vital role in establishing Europe as a world leader in space, and its technical and scientific expertise has few global rivals. I am glad to hear that the Lords European Union Committee shares the Government's view that ESA should continue to play a significant and distinct role in delivering both UK and EU ambitions in space. It is important to emphasise that ESA is an international organisation established by treaty, and is not a body of the EU.

The draft regulation contains a number of proposals which could threaten the role of ESA as an essential partner in the delivery of the EU Space Programme. The most important proposals are to:

- extend the remit of the EU's European Global Navigation Satellite Systems Agency (GSA), which could encroach upon some areas of the Programme which have traditionally been delivered by ESA.
- rename the GSA the 'European Union Agency for the Space Programme' (hereafter 'the EU Agency').
- make the Financial Framework Partnership Agreement, which will define ESA's role in delivering the EU Space Programme, contingent on ESA changing its decision making structures to clarify how it will comply with EU decisions, including on areas of ESA own spend.

We have challenged all of these proposals. In particular, we have called for a clearer division of responsibilities between ESA and the EU Agency, which recognises ESA's key role in the delivery of the EU Space Programme and which explicitly states that the EU Agency will not seek to duplicate any areas of ESA competence. We have also called for the deletion of the text which suggests the EU should have any say over ESA's decision making processes.

I will be attending the ESA Intermediate Ministerial Meeting in Madrid on the 25th October, which provides an opportunity for ESA member states to agree on their vision for the continued relationship

between ESA and the EU. I will use this meeting to press for ESA Ministerial agreement that we should counter the challenges to ESA's independence, and secure its role as delivery partner of choice for the EU Space Programme.

The UK's membership of ESA will be unaffected by our withdrawal from the EU, and we are currently preparing the case for continued subscriptions to ESA, to be agreed at the 2019 ESA Ministerial Meeting.

I hope that this response provides the additional information you were seeking in relation to this proposal. I will write to you again ahead of any vote on the draft regulation in Council.

26 October 2018

Letter from Chris Skidmore MP, Minister of State for Universities, Science, Research and Innovation

I am writing to provide you with an update on the progress of this draft regulation, following that provided by my predecessor on 26 October.

The European Parliament have now agreed on a first reading of the draft text. The Industry, Research and Energy Committee (ITRE) reached agreement on their amended text on 21 November, and the draft was finalised in a full Parliamentary vote on 13 December.

The EU Council, under the leadership of the Austrian Presidency, are also close to finalising a Partial General Approach. The Presidency plans to seek a COREPER mandate at a meeting on 19 December, in order to enable trilogues with the Parliament and the Commission to begin in January.

I am writing in in order to ensure that Parliament is sighted on the state of play regarding the key issues of concern to the UK, and our stance in COREPER.

Development of proposals

In his letter of 26 October, my predecessor explained that the fine detail of UK participation in the EU Space Programme will not be set by this regulation, but by specific agreements which will be negotiated at a later date. This approach allows the EU the flexibility to differentiate the terms agreed with different third countries on different elements of the programme, with only the boundaries of what is possible to be determined by this regulation. This remains the case.

The core articles relating to third country participation in the programme (Articles 7 and 8) have been excluded from the agreement being sought at COREPER. They will instead be considered as part of horizontal negotiations, alongside similar clauses across other programmes. This approach also applies to the budget allocation for the space programme (Article 11), and has recently been extended to Article 25, which governs industrial participation in sensitive contracts relating to the 'essential security interests of the Union'. Article 25 remains a key concern given its potential to limit future UK industrial involvement in the programme. However, it is not included in the mandate being sought at COREPER.

A key UK priority has been to ensure that Copernicus remains partnership driven, with a full, free and open data policy at its core. The regulation provides for this, with only limited occasions where this policy is restricted due to the potential sensitivity of data. Concerns have however been raised about whether the European Centre for Medium-Range Weather Forecasting (ECMWF) can continue to provide Copernicus services from its base in Reading once the UK has left the EU. The UK will continue to press for it to be able to do so.

The treatment of the European Space Agency (ESA) in the regulation has also been a priority for the UK. The Government remains fully committed to ESA's role as the independent space agency for Europe. Our objectives have been to:

1. Ensure that ESA's independence is maintained
2. Ensure a clear and coherent division of responsibilities between ESA and the EU, avoiding any duplication of competence
3. Secure ESA's role as the delivery partner of choice for the EU Space Programme

Although some concerns about the transfer of competence from ESA to the Global Navigation Satellite System Agency (GSA) remain, significant progress has been made on all of these objectives, and the text is much improved on the original draft.

Given the significant progress which has been made on all issues, partly as a result of strong relationships built with the Presidency and like-minded Member States, the fact that key UK concerns are excluded from the mandate being sought, and the importance that progress can continue to be made ahead of European Parliamentary elections in mid-2019, the UK will not voice opposition to the proposals being taken forward to trilogues in the new year. However, we will voice strong support for ESA at COREPER, and for the ECMWF to continue to be able to deliver Copernicus services from Reading.

17 December 2018

PROPOSAL FOR A REGULATION ESTABLISHING THE CONNECTING EUROPE FACILITY AND REPEALING REGULATIONS (EU) NO 1316/2013 AND (EU) NO 283/2014 (9951/18)

Letter from the Chairman to the Baroness Sugg CBE, Parliamentary Under Secretary of State, Department for Transport

Thank you for your Explanatory Memorandum (EM) dated 2 July 2018 on the above proposal. The EU Internal Market Sub-Committee considered your EM at its meeting on 25 October 2018.

We note that the UK has benefitted from a number of CEF-funded projects, however your EM does not make any specific comments on the implications of this proposal for the UK. We would be grateful for information on how much total funding UK-projects received from the last CEF and what assessment has the Government made of the benefits and drawbacks of UK participation in this CEF? If the Government chooses not to seek participation, what consequences would this have for domestic infrastructure funding?

We note with interest, the inclusion of funding for military mobility, how does the Commission propose to define infrastructure projects that support military mobility?

Please would you also confirm if third country participation in this CEF can only be achieved by a standalone agreement or could this be included as part of another, wider, agreement?

We have decided to retain the file under scrutiny. We look forward to a response to this letter, as well as a general update on negotiations, in due course.

26 October 2018

Letter from the Baroness Sugg CBE, Parliamentary Under Secretary of State

Thank you for your letter of 26 October. I am writing in response to the questions raised by the EU Internal Market Sub-Committee on the proposal to establish the Connecting Europe Facility (CEF) for the next EU Budgeting period (2021 to 2027), and to bring you up to date on negotiations on this proposal ahead of an expected general approach at the 3 December Transport Council.

Funding for UK projects under the current Connecting Europe Facility (CEF) programme

The UK has involvement in over 50 transport projects that have been awarded a total of over €340 million in funding. To date, ten Energy projects with UK impact have been awarded around €90 million. For telecoms the UK has involvement in over 30 projects with total awards of €8 million.

The current legislative proposal has no implications for ongoing projects. Under the draft Withdrawal Agreement, the UK will continue to participate in all EU funding programmes for the current budget period (2014-2020) including CEF, until programme closure. This means that UK projects will continue to be able to bid for CEF funding until the end of the programme in 2020. To provide greater certainty, the Chancellor has guaranteed funding for certain EU funded projects agreed before the end of 2020. This ensures that UK organisations, such as charities, businesses and universities, will continue to receive funding over a project's lifetime if they successfully bid into EU-funded programmes before the UK leaves the EU.

Future UK participation in the CEF after EU Exit

The Government continues to evaluate which funding programmes the UK would seek to participate in after we leave the EU. An important consideration in this case is that, as with the current CEF regulation, third countries may not receive financial assistance from the programme unless it is indispensable to the achievement of the objectives of EU projects of common interest.

If both sides were to agree to future UK participation, we understand that a specific agreement between the EU and a third country would be needed which would set out the conditions of any participation. During negotiations on the new CEF Regulation the UK has sought to ensure that the text does not preclude future participation, but this would need to be negotiated and no decisions have yet been taken on whether the UK should seek participation. It should be noted that in the case of transport, the largest component of CEF, UK receipts have been less than 3% of the programme funds available compared to an average UK contribution of 13% to the EU Budget.

Impact on domestic infrastructure funding

If the UK does not negotiate participation in the CEF for the next MFF period, we do not believe that this will significantly affect domestic infrastructure funding. The Government's National Infrastructure Delivery plan sets out our priorities for investment from 2016 until 2021. The next iteration of the plan will continue to address the development of our local, regional and national infrastructure. The Government is committed to deliver better infrastructure in the UK to enable economic growth and promote opportunities for people across the country.

Military mobility

The additional €6.5 billion proposed for the CEF aims to support the Commission's Action Plan on Military Mobility. It will be used for the development of dual-use transport infrastructure that meets civilian and military needs. The Commission is working to identify the areas of the trans-European Transport Network (TEN-T) suitable for military transport and the appropriate standards that will be needed. This work will be drawing to a close in 2019. Union funding will be implemented through specific work programmes that will be based on this analysis.

Update on negotiations

The current Austrian Presidency has made the CEF one of its priorities and is working to find a compromise to enable a General Approach to be agreed at the Transport Council on 3 December 2018.

I would be grateful therefore if the Committee would consider clearing the proposal from scrutiny or granting a scrutiny waiver ahead of that date.

I will inform the Committee of the outcome of the Transport Council and will continue to keep the Committee informed of progress on this proposal. The European Parliament is also considering the proposal and is expected to complete its report on it later this month.

13 November 2018

Letter from the Chairman to the Baroness Sugg CBE, Parliamentary Under Secretary of State

Thank you for your letter dated 13 November 2018 on the above proposal. The EU Internal Market Sub-Committee considered your letter at its meeting on 22 November 2018 and decided to clear the file from scrutiny.

We remain interested in negotiations on the CEF and how these may influence the UK's decision on participation. We look forward to an update on these matters in due course.

22 November 2018

PROPOSAL FOR A COUNCIL DECISION ON THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE INTERNATIONAL CIVIL AVIATION ORGANIZATION, IN RESPECT OF THE FIRST EDITION OF THE INTERNATIONAL STANDARDS AND RECOMMENDED PRACTICES ON ENVIRONMENTAL PROTECTION - CARBON OFFSETTING AND REDUCTION SCHEME FOR INTERNATIONAL AVIATION (OTNYR)

Letter from the Baroness Sugg CBE, Parliamentary Under Secretary of State, Department for Transport

I am writing this letter to accompany an unnumbered Explanatory Memorandum (EM) on the above proposal.

The proposal is classified as 'limité' and is not publicly available at this time, as publishing it could affect ongoing negotiations in ICAO. Unfortunately, this means that we are not yet able to provide your Committee with details of the proposed position or our views on it. I will of course be happy to provide this information when we are able to do so.

As explained in the EM, the proposal is expected to be put to the Council of Ministers for agreement before 1 December 2018, the date by which all ICAO-contracting States are required to notify ICAO of any differences that will exist on 1 January 2019 between their national regulations and the provisions of the CORSIA SARPs. I would be grateful, therefore, if your Committee would grant a scrutiny waiver before 1 December 2018.

19 November 2018