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 10 July 2015 – 22 January 2016

EU INTERNAL MARKET SUB-COMMITTEE

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A NEW APPROACH TO BUSINESS FAILURE AND INSOLVENCY (7859/14)

Letter from Anna Soubry MP, Minister for Small Business, Industry and Enterprise, Department for Business, Innovation and Skills, to the Chairman

As you know, the last Government undertook a call for evidence on the above Recommendation, with the intention of using the evidence gathered to inform the Government's response to the Commission's review of the Recommendation. As part of the review, the Commission circulated a questionnaire to Member States.

The UK has completed and returned the questionnaire, and I enclose a copy of the response for your information [not printed]. Additionally, I would also like to take this opportunity to inform the Committee that the above Regulation has also now been formally adopted by both the European Parliament and European Council.

14 July 2015

Letter from the Chairman to Anna Soubry MP

Thank you for your letter of 14 July 2015 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 12 October 2015.

We welcome your update and were pleased to be informed of the Government's submission to the Commission regarding its review of Regulation. Please could you share with us the Commission's response to this Questionnaire when this is available? Are you aware of how other Member States' responded to the Commission's questionnaire? Was the Government's submission in line with other Member States? We request this information, because as noted in your Explanatory Memorandum, the Recommendation was intended to develop insolvency regimes in some Member States, and that legislative proposals may follow "if the Commission believes that an insufficient number of Member States have complied with the Recommendation."

Do you think it is likely that the Commission may introduce legislation to replace the Recommendation? If so, when do you believe this is likely to take place? As expressed previously, we remain concerned about the competency of the EU to act in this area.

We look forward to receiving a response to our questions raised in this letter in due course.

14 October 2015

Letter from Anna Soubry MP to the Chairman

Thank you for your letter of 14 October on the above proposal.

My previous letter to you explained that the Government had completed a questionnaire in order to facilitate the Commission's review of the implementation of its Recommendation in EU Member States. The Commission has now published its review of the Recommendation, as part of its Capital Markets Union action plan. I enclose a copy [not printed] of the review for your information.

Member States' submissions have not yet been published by the Commission, although we understand they plan to do so. The review does however, highlight the fact that several Member States "consider that they already largely comply" with the recommendation, which includes the UK.

The Commission has concluded that although the Recommendation has been positively received, it has not had the desired impact in terms of facilitating the rescue of businesses. Therefore, the Commission is proposing a legislative initiative on business insolvency. We note your concerns regarding their competency to do so. We will look carefully at any proposals that they bring forward with this very much in mind. A consultation will be issued by the Commission shortly, with the legislative initiative anticipated for late 2016.

14 December 2015

BLUE BELT, A SINGLE TRANSPORT AREA FOR SHIPPING (12193/13)

Letter from Robert Goodwill MP, Minister of State for Transport, Department for Transport, to the Chairman

When the Sub-Committee on the Internal Market, Infrastructure and Employment considered the above Explanatory Memorandum on the Commission's "Blue Belt" Communication, the Committee noted the early stage of the e-Manifest proposal, supported the Single Market aspects of the Communication, echoed the Government's concerns about the implementation timetable and asked to be kept informed of developments.

After long and extensive negotiations, often highly technical, for which HMRC led for the UK, the principles of what was the Blue Belt proposal have now been incorporated into the Union Customs Code Implementing Provisions as part of the electronic Proof of Union Status (PoUS) system. This supports the idea of a standard electronic manifest approach. Carriers wanting to use an electronic manifest as a PoUS will be able to do so - applicable conditions will depend on whether the carrier is approved or unapproved to operate the system. E-manifest is now being re-introduced to the PoUS project within the multi-annual strategic plan.

We are content that this is a good outcome with our earlier concerns about burdens on trade alleviated and strong support from trade for the benefits that they identify.

20 November 2015

CARRIAGE OF GOODS BY INLAND WATERWAYS (CMNI) (17025/14)

Letter from the Chairman to Robert Goodwill MP, Minister of State for Transport, Department for Transport

Thank you for your letter of 8 July 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 20 July 2015.

We note that the Government abstained from agreeing to this proposal and that the Government was able to table a statement reflecting the Government's wider policy position to exercise an Opt-in wherever a Title V legal base is used.

As this document is already cleared from scrutiny, a reply to this letter is not required.

21 July 2015

CONSUMER PRODUCT SAFETY AND MARKET SURVEILLANCE OF PRODUCTS (5890/13, 5892/13)

Letter from Anna Soubry MP, Minister for Small Business, Industry and Enterprise, Department for Business, Innovation and Skills, to the Chairman

I am writing further to Matthew Hancock's letter to you of 4 March to bring you up-to-date with the above package. The overall status of the package is unchanged since my colleague last wrote to you and the issue of country of origin labelling remains as a key focus of this negotiation.

CURRENT POSITION

As noted in Mr Hancock's letter, in 2014 the Commission commissioned an external consultant to produce a study looking into the country of origin marking issue. The report was issued in May this year, and this complements the findings of the UK's own study into the costs and benefits of origin marking published in March. Both of the studies support the UK's concerns about country of origin marking, and while the Commission study implied that the measure would be easier to implement in the ceramics and footwear sectors, the "potential net benefits" of introducing the measure overall were not proven.

Nevertheless, the Latvian Presidency felt that the publication of the study gave sufficient new impetus to the debate to seek a general approach at Competitiveness Council on 28 May. This was based on a compromise proposal centred on requiring country of origin marking in only a limited number of sectors (ceramics and footwear). Whilst this compromise was acceptable to some Member States (specifically some, but not all, those in favour of mandatory country of origin marking), ultimately national positions remained unchanged and no progress was made.

In an attempt to move the discussion forward, the Presidency then invited Ministers to discuss the file again in a closed session over lunch, in which Baroness Neville-Rolfe participated. However, following this the Presidency reported that progress had not been possible and that it was for Member States and the Commission to reflect on how to move forward.

The Commission's study can be found at:

http://ec.europa.eu/consumers/consumers_safety/product_safety_legislation/product_safety_and_market_surveillance_package/docs/indication_origin_study_en.pdf [external link]

As before, we will continue to work with the Commission and other Members States to find a way forward on the country of origin marking issue and the wider Package.

20 July 2015

Letter from the Chairman to Anna Soubry MP

Thank you for your letter dated 20 July 2015 on the above proposals. This was considered by the EU Internal Market, Infrastructure and Employment Sub-Committee at its meeting of 26 October 2015.

We are grateful for your update on the progress of negotiations and note the ongoing difference of opinion between Member States regarding country of origin labelling.

The Committee shares your analysis that the negative impact that these proposals could have on UK businesses is disproportionate to the limited benefits they would bring to consumers, and consider that the studies commissioned by the Government and the European Commission support this view.

We therefore wish to retain the documents under scrutiny. We look forward to receiving further updates from you when there are any significant developments in negotiations.

27 October 2015

CROSS-BORDER EXCHANGE OF INFORMATION ON ROAD SAFETY RELATED TRAFFIC OFFENCES (12107/14)

Letter from the Chairman to Robert Goodwill MP, Minister of State for Transport, Department for Transport

Thank you for your letter of 23 March 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 13 July 2015.

We are grateful to have been informed that this Directive has finally been adopted. A response to this letter is not required.

14 July 2015

DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS: LUXEMBOURG PRESIDENCY PRIORITIES (UNNUMBERED)

Letter from Sajid Javid MP, Secretary of State for Business, Innovation and Skills, Department for Business, Innovation and Skills, to the Chairman

Luxembourg assumed the Presidency of the Council of the European Union on 1st July 2015. I am writing to summarise the policy areas within BIS' remit that we expect to be prioritised by the Luxembourg Presidency.

SINGLE MARKET

The Commission will publish its single market strategy during the Luxembourg Presidency. Accordingly, development of the single market is a priority for Luxembourg. They want the EU to make greater use of harmonisation and mutual recognition in order to reduce regulatory costs for companies and ensure customer choice within the single market.

Luxembourg will also prioritise the digital single market. They want the EU to become digital by default and to remove all remaining barriers to e-commerce, priorities that the UK shares.

During their Presidency, Luxembourg will also: support efforts to implement the regulatory fitness (REFIT) programme; prioritise the revision of the Small Business Act; aim to finalise the proposed Directive on Trade Secrets; and take forward work on the reform of EU copyright.

PRESIDENT JUNCKER'S INVESTMENT PLAN

Luxembourg welcomed President Juncker's Investment Plan for Europe and the expansion in the role of the Luxembourg based European Investment Bank (EIB) in particular. Their priority will be to ensure implementation of the plan in the latter half of 2015. Our priorities for the Investment Plan will be to try to shape both the EIB's and the European Commission's plans for developing new instruments for SMEs. This is part of our wider efforts to make more financial support available for SMEs and to make it easier to set up a business anywhere in the EU.

FREE TRADE AGREEMENTS (FTAS)

Luxembourg will prioritise signing of the Comprehensive Economic Trade Agreement (CETA) with Canada and advancing negotiations on the EU/US Free Trade Agreement during their Presidency. The UK fully supports both these priorities. On the EU/US FTA we believe that negotiators need to take advantage of a window of opportunity in 2015, before US Presidential elections in 2016, to reach an

ambitious agreement on reducing tariffs, increasing market access, and improving regulatory coherence in a number of sectors including automotive, pharmaceuticals, and engineering.

I hope you find this information useful. Should your committee be interested in further information on the priorities for this Presidency, I and my officials would be happy to assist with an informal briefing session on topics you may be interested to hear more about.

21 July 2015

DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS: NETHERLANDS PRESIDENCY PRIORITIES (UNNUMBERED)

Letter from Sajid Javid MP, Secretary of State for Business, Innovation and Skills, Department for Business, Innovation and Skills, to the Chairman

The Netherlands assumed the Presidency of the Council of the European Union on 1st January 2016. I am writing to summarise the policy areas within the BIS remit that we expect the Netherlands to prioritise.

SINGLE MARKET STRATEGY

The Netherlands will begin a Trio Presidency (with Slovakia and Malta) that is explicitly supportive of the Single Market reform programme, as set out in the Commission's recently published Single Market Strategy. The Dutch Presidency can be expected to seek progress on proposals which aim to create opportunities for consumers and businesses, including: the sharing economy, helping SMEs and start-ups grow, price discrimination and opening up the single market for services through the introduction of a Services Passport in priority sectors. We understand that the informal Competitiveness Council in January will focus on services, geo blocking and the sharing economy.

DIGITAL SINGLE MARKET (DSM)

It will be under the Dutch Presidency that Member States will have their first opportunity to begin substantive negotiations on DSM legislative proposals. In January, the Council will begin debating proposals on content portability, contracts for the supply of digital content and contracts for the online sales of goods. We are pressing for as much progress as possible to be made under the Netherlands Presidency on each of these files. Additionally, the Netherlands will concentrate on removing barriers to e-commerce, guaranteeing cyber security, modernising copyright and increasing confidence in the digital economy (e.g. on big data and smart industry). We support these priorities.

BETTER REGULATION

The Netherlands Presidency will pay particular attention to the strengthening and implementing of the Commission's package of better regulation measures, which was released on 19th May 2015. We expect the Netherlands to focus on the methodology for setting targets, quantifying costs / benefits and monitoring. The Netherlands will also take forward work on Impact Assessments (IAs) and will be looking for working groups to play a role in scrutinising IAs prepared for digital single market proposals. The Netherlands Presidency intends to issue Council conclusions to give further guidance from the Council to Member States as to the approach to better regulation.

RESEARCH AND INNOVATION

As part of their objective to improve the framework conditions for research and innovation, the Netherlands will be looking for effective implementation of European programmes that support research, scientific excellence, and innovation. They will move forward with the implementation of Council Conclusions from the Luxembourg Presidency on the simplification of the structure of the European Research Area (ERA) and they will also prioritise the evaluation of the Seventh Framework Programme for Research and Technological Development (2007-2013). They are keen to push Open Science, and in particular, open-access to research papers. The European research infrastructures

roadmap will also be updated. There is a consistency between the views of the Netherlands and the UK on many of these issues, and the Dutch will be looking for the UK to help to keep the tempo.

EQUAL PAY FOR EQUAL WORK IN THE SAME PLACE

The Netherlands has announced that one of their EU Presidency priorities under the social and employment chapeau is to ensure 'equal pay for posted workers who are performing equal work in the same work place as local workers.' To achieve this objective the 1996 Posting of Workers Directive would need to be revised. The European Commission have announced they will review this Directive and examine this 'equal pay principle' as part of their review. We believe any review should wait until after the implementation of the 2014 Posting of Workers Enforcement Directive and that in the meantime, the European Commission should focus on improving their evidence base about what the problems with the 1996 Posting of Workers Directive actually are.

TRADE

The Netherlands are firm believers of free trade and are one of our closest allies on the trade agenda. The Netherlands sees the work on EU-US Free Trade Agreement as an important tool for boosting growth and jobs across Europe. This is a view shared by the (Conservative-Liberal / Labour Party) coalition Government, a number of opposition parties, and other stakeholders such as key companies and employers, and other business sector representatives. During their Presidency they will hope for a break through on the EU-US Free Trade Agreement. Other priorities include the implementation reached in contest of the Doha agreement, and completion of the Free Trade Agreement with Canada.

8 January 2016

DEPARTMENTAL PRIORITIES UNDER THE DUTCH PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION (UNNUMBERED)

Letter from Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

I am writing to inform you of our priorities for the next 6 months under the Dutch Presidency of the Council of the European Union.

You may recall that I indicated in my letter of July that the overarching priority for the long-term was the Digital Single Market, with a specific short-term focus on the **review of the electronic communications framework** (e-Comms) and the **review of the Audio-Visual and Media services (AVMS) directive**. You will recall that BIS is the lead Department for the Digital Single Market, but I think that it is worth noting these specific Departmental responsibilities given that they fit into the wider whole in relation to the drive to complete the digital single market and its series of actions.

The Commission's public consultations covering each of these proposals recently closed.

I wrote to the European scrutiny committees in December summarising our response to the e-Comms consultation. I am anticipating the proposals for changes to both the AVMS directive and the e-Comms Framework to be put forward in the final months of the Dutch presidency.

We expect **the regulatory measure to address wholesale roaming prices**, another digital single market measure, to be proposed around a similar time. You may recall that this is one of the implementation actions from the Connected Continent regulation that will result in the cessation of mobile roaming charges in June 2017.

In order to progress digital single market matters, the Presidency are planning a 'Digital Council'. This will, for the first time, combine the Competition and Telecoms Councils into a single meeting. It is due to take place on 26th May.

I now turn to issues that lie outwith the matter of the digital single market.

With regard to culture, media and the creative industries the Netherlands Presidency will strive for a debate and Council conclusions on the infrastructure and platforms required for European digital heritage (such as Europeana, the digital repository of European cultural and academic institutions).

The Presidency are also holding a conference on the promotion of cross-border circulation of European Audiovisual works on 3rd-4th March and the Education,

Youth, Culture and Sport Council will take place on 30th-31st May.

13 January 2016

DEPARTMENTAL PRIORITIES UNDER THE LUXEMBOURG PRESIDENCY OF THE COUNCIL OF THE EUROPEAN UNION (UNNUMBERED)

Letter from Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

I am writing to inform you of our priorities for the next 6 months under the Luxembourg Presidency of the Council of the European Union.

Our overarching priority, which will continue over the next two years, is the **Digital Single Market**: specifically focussing on the review of the Audiovisual Media Services Directive and the Telecoms Framework Review.

The Commission launched its Digital Single Market strategy in May this year, and we can expect a number of the actions in the strategy to commence or continue under the new Presidency. For two of these, DCMS has the lead: the **review of the electronic communications framework** and the **review of the Audio-Visual and Media Services (AVMS) Directive**. We also have a strong interest in the proposals around **copyright reform** and the work on **platforms** that are expected to be announced in the latter stages of the Presidency's tenure.

I am anticipating that the Commission will consult on the review of the **electronic communications framework**. So as to implement the recently agreed date of June 2017 that will see the cessation of mobile roaming charges in the EU as part of **The Connected Continent Regulation**, the Commission and the Body of European Regulators of Electronic Communications (BEREC) will be consulting on a review of the mobile pricing regime; DCMS and OFCOM will be providing input at the appropriate stages. You are aware that the Connected Continent Regulation is currently held under scrutiny: 13555/13

We expect the Presidency to play a role in driving this process forward, and will be engaging in working group discussions on the framework as well as making a formal response. There are plans to hold a debate on telecoms at the December Ministerial Council.

Commission activity on **internet governance** is also of key interest this year, with the UN's 10 year review of the World Summit on the Information Society (WSIS) taking place in December 2015.

We look forward to working closely with the Luxembourg Presidency to ensure that the review addresses development challenges as well as helping to bridge the digital divide. It will also be the occasion to extend the mandate of an improved Internet Governance Forum (IGF), and we aim to strengthen open and inclusive governance systems which will involve all stakeholders.

The primary aim of the WSIS review should be to bridge the digital divide and to help support all parts of the world to build the Information Society and harness its social and economic benefits. It is also an opportunity to underscore the role of the Information Society as a driver of development. Perhaps most crucially, it is an opportunity to align the WSIS Action Lines with the post-2015 Sustainable Development Goals.

In the **sport** sector we remain focussed on the issue of corruption, both in international organisations, and in such areas as match fixing. We look forward to working with the Luxembourg Presidency to maintain political pressure on these problems: to articulate the case for increased public scrutiny: and to confirm the importance of the role of civil society in this respect.

You will be aware that the UK approach to the JHA opt-in in relation to the EU Commission's proposal to sign the Council of Europe's Convention on the Manipulation of Sports Competitions has been held under scrutiny: 6720/15 and 6721/15.

Finally in the **culture** sector our priorities are to maintain momentum on work undertaken to better understand the opportunities and risks inherent in the process of digitisation, as well as developing metrics concerning the relationship between culture, creativity, innovation, and new business models – especially for SMEs.

28 July 2015

DIGITAL SINGLE MARKET STRATEGY FOR EUROPE (8672/15)

Letter from Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

Thank you very much for your letter of 10 July. Answers to your questions are below.

Does Government intend to submit evidence to the Commission's comprehensive assessment of the role of online platforms and, if so, whether this can be made available to the Committee?

The Government is already providing information to the Commission informally. We have shared the Competition and Market Authority's two recent reports (on Online Reviews & Endorsements and Commercial Use of Consumer Data) to help build its evidence base. We have also offered to support the Commission where we are able, and to share our internal analysis and potentially an externally commissioned study, where appropriate. We understand that there may be a formal call for information later this year. We would need to see further detail on the Commission's proposals before we take a decision as to whether there is further evidence that we could submit.

We would be more than happy to share the information which we have given the Commission, including the CMA's two reports.

Does the Government agree in principle with the Commission's view that better coordination of spectrum allocation would be more efficient, increase competition and help to develop the single market in Telecommunications?

The Government wants to maximise the opportunities for growth from effective and efficient use of spectrum in Member States, and this means allowing scope for innovation in spectrum use at a Member State level as well as an appropriate level of coordination between Member States.

In principle, the Government agrees that better coordination of spectrum allocation would be more efficient, tackle regulatory fragmentation, increase competition to allow economies of scale and help to develop the Single Market in Electronic Communications. The question is how best to achieve this where possible - and how to identify where it is not. We are therefore approaching the issue with caution. We think that the Commission has an important facilitating role in achieving harmonisation but moving towards a mandated approach may fail to take into account specific conditions within Member States, delay necessary changes, have unintended consequences and thus lead to a worse outcome for Europe.

How confident is the Government that the political will exists among the Member States to reduce the regulatory, tax and administrative burden on SMEs? What action is the Government taking to build political support among those Member States that have previously resisted similar proposals?

There is significant support among EU Member States for efforts to reduce unnecessary regulatory burdens on SMEs from EU legislation. In December 2014, the Competitiveness Council unanimously called on the Commission to put in place regulatory burden reduction targets, especially for SMEs. The Council also called for a commitment by all three main EU institutions to the 'Think Small First' principle, supported by an SME Test in all impact assessments.

The Prime Minister welcomed the Commission's better regulation package as "a significant step in the right direction….It shows that the EU does listen to us and that we can achieve success on issues that really matter to UK business".

The UK is leading a group of like-minded Member States to press for the better regulation agenda at EU level, including coordinated a joint letter to Commission First Vice-President Timmermans in April, calling for net regulatory burden reduction targets, a single independent Impact Assessment Board and a commitment to the 'Think Small First' principle. The letter was signed by eleven Member States. We will work with these partners to press Mr Timmermans, for concrete progress on EU burden reduction targets when he appears at the EU Competitiveness Council on 1 October.

We are also engaging with other Member States at official and ministerial level in the negotiations on a new EU Inter-Institutional Agreement on Better Regulation (IIA) which began in June. This is an opportunity to get all three EU institutions to firmly embed the principles of better regulation into the policy-making process. We will be keen to use the IIA negotiations to make progress on our top EU better regulation priorities

Turning to the harmonisation of contract and consumer law, the Commission plans to introduce "simple and effective cross-border contract rules for consumers and businesses". This would enable "sellers to rely on their national laws" to a greater extent, but would also introduce a set of mandatory EU contractual rights for domestic and cross-border online sales of tangible goods. This was felt to be one of the most important initiatives, and the Committee would like to hear your assessment of what the key points of contention are likely to be in this area.

The Government has also identified changes to the consumer protection framework as one of the most important initiatives in the package, as it will contribute to making e-commerce easier across the EU. Although it is hard to be definitive in the absence of firm proposals, key issues seem likely to be:

— Which key rights relating to the sale of tangible goods online would be harmonised?

— Would this work so as to allow "sellers to rely on their national laws"?

— What impact would this have on UK consumer protections which currently go beyond the provisions of minimum harmonisation directives?

— Would this bring about extensive differences in consumer protections, depending on whether goods were brought online or off-line, and what would be the consequences of that?

— To what extent will the Commission draw upon the approach of the UK in recently legislating in the Consumer Rights Act 2015 for consumer rights and remedies in respect of faulty digital content, and what would be the consequences of any differences?

— What is the evidence to justify the changes?

What approach do you believe would best enable efficient implementation and enforcement of the changes to contract rules affecting businesses and consumers?

The most efficient implementation method will fundamentally depend on the shape of the proposal(s) from the Commission, which is still being drafted. We understand it is not yet settled whether the Commission will propose a Regulation(s) or a Directive(s). We will have to wait to see the detail of what the Commission proposes.

The Government agrees on the importance of effective enforcement. The Commission is reviewing the efficiency and effectiveness of the Consumer Protection Cooperation (CPC) Regulation in light of the Digital Single Market Strategy, covering the efficiency and effectiveness of the cooperation, market surveillance, alert mechanisms, and investigation and enforcement powers, available to EU enforcement authorities. The aim is to improve consistency in the application of consumer law across the EU. We believe that the ability to detect, investigate and take enforcement action in the event of cross-border infringements of consumer rights is fundamental to ensuring consumer confidence for the future and so we support the review.

…the Commission has subsequently clarified that that it does not consider the territorial dimension of copyright to be 'unjustified', and that its proposed restrictions on geo-blocking will be predominantly concerned with price discrimination and ensuring the portability of content purchased online. Does the Government support proposals to restrict geo-blocking when it is used for these purposes?

The Government shares the Committee's concern with regard to consumer access to information online and believes that large businesses should be transparent about why consumers in one place may be offered a different deal to those in another. We have called on the Commission to take action on unfair price discrimination, while recognising that certain factors such as content licensing arrangements are legitimately reflected in price differences.

The Government believes that consumers have a reasonable expectation that they will be able to continue to access content they have paid for in their home country, when they travel abroad. We are therefore supportive of reforms to enable content portability within the single market, which would negate the need for geoblocking in this context, and will continue to seek and encourage stakeholder input into proposals.

The Government also welcomes the Commission's clarification that geo-blocking is in some instances justified, for example, for compliance with local laws (e.g. on gambling) or when a distributor does not have the appropriate copyright clearances. We will continue to encourage the Commission to promote evidence-based reforms that improve access to services from other Member states and make cross-border licensing easier for right holders and service providers to enable more cross border sales to take place, by building on existing law and the overall framework of territorial licensing and ensuring that creativity is properly protected and rewarded.

The Committee also notes that two analyses have been produced by the European Parliament and the European Commission that attempt to estimate the economic benefits that a digital single market could bring.[1] To what extent does the Government believe that these analyses are reliable and accurate? Has the Government commissioned or produced any analysis regarding the probable economic impact of a digital single market?

Economic evidence shows that the digital single market offers great potential for economic growth and productivity gains. As my noble Friend states, recent studies by the European Parliament and the European Commission both suggest that appropriate action in this area could add around 3% to EU GDP. To achieve these gains in practice, the Commission will need to table ambitious concrete proposals. We will assess the potential economic impact of each of those individual proposals as they arrive. The Government has not commissioned any additional analysis regarding the probable economic impact of a Digital Single Market.

Does the Government believe that the European Fund for Strategic Investments will result in significant investment in Digital Infrastructure, and how is the Government engaging with EFSI on this point?

The European Fund for Strategic Investment (EFSI) is a broad based initiative and can be used to support projects in relation to the development of infrastructure; research and development and innovation; investment in education and training, health, information and communications technology; the energy sector; and support for SMEs. EFSI aims to leverage in other sources of funding alongside EIB funding and therefore maximise the mobilisation of private sector capital. In addition, EFSI aims to support operations which address market failures or sub-optimal investment situations and which could not have been carried out in that period under normal EIB instruments without EFSI support. Whilst investment in digital infrastructure is therefore in scope, the focus of EFSI is somewhat broader than this and digital infrastructure projects would have to meet the same investment conditions as any other project. The Government is keen to support UK applications if it can and is happy to work with applicants, but equally applicants are free to approach the EIB directly.

On the question of ministerial responsibility, members were struck by the fact that the Secretary of State for Education was not included. The Committee also wished to reiterate the recommendation of the House of Lords Digital Skills Committee that the Digital Agenda should be the responsibility of a Cabinet Minister in the Cabinet Office, who would assume ultimate responsibility for driving the Digital Agenda across all Government departments. Might you address these points, and provide the Committee with an account of how the Government is internally co-ordinating work on this proposal?

Work on the Digital Single Market is led by the Secretary of State for Business. I am the Minister for the Digital Economy and Chair of the Digital Infrastructure and Inclusion Implementation Taskforce. I have a clear mandate to work with Ministers across Government to drive the digital agenda. This ensures there is coordinated activity to safeguard the UK position as a world-leading digital nation.

Policy work on each of the dossiers will be undertaken by the relevant departmental Ministers, and Co-ordinated through the European Affairs Committee.

The Committee would like to commend the Government's preference for an "evidence based" approach to the Digital Single Market Strategy, and to ask whether the Government believes any of the Commission's proposals in their current form are not justified by the evidence and analysis provided by the Commission, or, indeed, whether any key initiatives have been omitted from the Strategy?

The Commission's strategy highlights sixteen areas for further action. We believe these are broadly right, and indeed they reflect the Prime Minister's priorities set out in January. There are no concrete proposals on the table yet – these will follow in the months and years ahead. We are already engaging with the Commission to ensure that when do make their specific proposals they will be supported with a robust evidence base.

Finally, in order to inform the Committee's deliberations on this legislative package, can the Government, drawing on its engagement with (i) SMEs and start-ups and (ii) consumers indicate what both groups want from the Digital Single Market Strategy, and outline what engagement has taken place?

We are actively engaging with both SME, start-ups and consumer groups, including the Federation of Small Businesses (FSB), the Confederation of British Industry (CBI), Coadec, Tech City UK, Which?, and the Competition and Markets Authority. We have held multiple meetings, events, workshops, roundtables, and presentations which have encouraged both groups to get involved and help shape the debate on DSM.

SMEs/ Start-ups have sector specific preferences; however some general priorities that have been highlighted include:

— A reduction of barriers to E-commerce- implementation of an EU wide VAT threshold to help comply with VAT changes from Jan 1st - there is also support for home country controls in cross border sales including a single point of registration for VAT.

— SME- Start-ups want all new legislative proposals to be innovation friendly to ensure that we do not disrupt innovation or inhibit future technological advances. – 'think small first' principle has also been encouraged.

Consumers groups have stressed that:

— Consumers support increased competition and choice which leads to lower prices across the single market.

— Relevant parts of the Consumer Rights Act 2015 should be used as the basis for any new European legislation.

— There is support for consumer protection cooperation regulation that has effective alert

— Consumers also want more transparency on how their data is used.

I hope that this answers all of your questions.

22 July 2015

Letter from the Chairman to Ed Vaizey MP

Thank you very much for your letters of 10 July and 23 July regarding the Digital Single Market Strategy. These were considered by the EU Internal Market Sub-Committee at its meeting of 12 October 2015 and the Committee found your responses very thorough.

On this basis we are content to clear this Explanatory Memorandum from scrutiny and hereafter to engage with explanatory memoranda on the individual initiatives that make up the Digital Single Market Strategy, with the caveat that the Committee is not endorsing every initiative the Strategy contains.

We would also like to remind you that we are currently undertaking an inquiry on the subject of online platforms and the question of whether any form of regulatory change is required, which also constitutes one strand of the Digital Single Market Strategy. The Committee intends for its analysis to be balanced and to take into account the benefits that online platforms bring as well as any problems, and to ensure that its recommendations are evidence-based.

If you wish to communicate with us further regarding the Digital Single Market Strategy as a whole, in your cross-cutting digital role, please do not hesitate to do so.

Please note that this letter does not require a response.

14 October 2015

DWP PRIORITIES DURING THE LUXEMBOURG PRESIDENCY OF THE EU: JULY TO DECEMBER 2015 (UNNUMBERED)

Letter from Priti Patel MP, Minister of State for Employment, Department for Work and Pensions, to the Chairman

The Luxembourg Presidency of the EU started on 1 July 2015, and it is now clearer what business the Presidency is expecting to take forward, so I would like to update you on my Department's plans and priorities over the coming months. This letter sets out the key dossiers that will be progressed. I apologise that I could not get this update to you sooner.

The Luxembourg Presidency work programme is based around 7 priorities: stimulating investment to boost growth and employment; deepening the EU's social dimension; managing migration, including freedom, justice and security; revitalising the single market with a focus on its digital dimension; placing EU competitiveness in a global and transparent framework; promoting sustainable development and strengthening the EU's presence on the global stage.

EMPLOYMENT AND SOCIAL POLICY COUNCIL (EPSCO)

INFORMAL COUNCIL

The informal EPSCO took place on 16 and 17 July in Luxembourg. Ministers discussed issues around social inequalities, youth unemployment and gender equality. A letter providing a full account of the meeting will be with you on return from Parliamentary Recess.

FORMAL COUNCILS

The two formal EPSCO Councils during the Presidency will be on 5 October in Luxembourg and on 7 December in Brussels. Although provisional agendas have been circulated for these meetings, the content is likely to change during the run up to each Council. My officials will provide your committee with annotated agendas and I will make the usual written statement before and after each Council meeting to set out the agendas and outcomes.

BUSINESS DURING THE LUXEMBOURG PRESIDENCY

EUROPE 2020:

Council Conclusions on Adequate Retirement Incomes in the context of Ageing Societies are planned, with the intention of encouraging Member States to pursue reforms which avoid future adequacy risks while securing the long-term financial sustainability of pensions. While the Government is content with the draft, a final discussion is expected at the Social Protection Committee in September before adoption in October.

A General Approach to **Guidelines for the Employment Policies of the Member States** in support of the Europe 2020 Strategy was discussed at the June EPSCO. EU Member States are invited to take the Employment Guidelines into account when drafting their national employment policies. The guidelines are associated with the Broad EU Guidelines for economic policies; together they form integrated guidelines for Europe 2020.

Council Conclusions on Social Governance (including the social dimension of the EU and the Semester) are also expected as a way to address social and employment challenges in Europe. While Member States may face similar social issues, the Government continues firmly to believe that responding to these is a national competence.

LONG-TERM UNEMPLOYMENT INITIATIVE:

Work has progressed on a 'Council recommendation on the integration of the long-term unemployed people in the labour market'. My officials have been working closely with the Commission to influence their thinking, as well as with other Member States, to build consensus on potential options. We have shared our national approach and have been trying to ensure that the initiative is not too prescriptive. The launch of the initiative is due around the 15th of September 2015.

EUROPEAN EMPLOYMENT SERVICE (EURES)

The EURES (the European network of Employment Services, workers' access to mobility services and the further integration of labour markets) regulation that I referred to in my last letter has made steady progress. The European Parliament (EP) has now voted through amendments to the Commission proposal, and like the Council's General Approach, the current compromise text broadly reflects the Government's position, with provision being made for employers to be able to choose whether or not to advertise on the EURES portal. The trilogue process started relatively informally in July. My officials are working to influence the mandates given by both Committees to ensure a successful trilogue negotiation. It is expected that the final compromise text will be presented to the EP plenary and to the Council for adoption in December 2015.

LABOUR MOBILITY PACKAGE

The Commission has announced it is progressing rapidly with its Labour Mobility Package which it plans to adopt on 9 December 2015. This is due to include a targeted review of the Posting of Workers Directive (96/71/EC) alongside amendments to the Social Security Coordination Regulation (883/2004). As part of finalising its plans for this package, the Commission has recently published a public consultation and will release an impact assessment of potential options. Although the precise details of the package are still to be finalised, we understand the Commission is considering changes to the way that mobile workers access unemployment benefits across Member States and the export of family benefits. Consistent with its broader EU reform objectives, the Government welcomes proposals to reform the social security coordination rules and will continue to consider further ways to make changes to the rules that would provide a fairer balance of responsibilities between Member States.

OCCUPATIONAL SAFETY AND HEALTH

The Luxembourg Presidency has proposed a set of Council conclusions on occupational safety and health (OSH). This follows the set of conclusions on OSH adopted under the Latvian Presidency in March 2015. While we have expressed reservations about another set of conclusions so soon after March, the Presidency is pressing ahead with discussions on its draft text. We will be making the case for the two texts to be complementary, particularly on the importance of better regulation. The text adopted in March calls for action on the latter.

I hope you find this information helpful.

5 September 2015

Letter from the Chairman to Andrew Jones MP, Parliamentary Under Secretary of State for Transport, Department for Transport

Thank you for your explanatory memorandum (EM) 18 November, which was considered by the EU Internal Market Sub-Committee at its meeting on 7 December 2015.

We recognise the need to rapidly introduce this proposal and others to ensure that Real Driving Emission (RDE) testing is part of the type approval process for vehicles across the EU. We agree that this proposal will play an important part in helping the UK to address concerns about air quality. Your EM notes that the proposal outlines a tight timetable for introduction. Which aspects of the implementation of the proposal are expected to be the most challenging, and what steps are you taking to address them in order to prevent delays?

We welcome the provision within the proposal that all cars will have to meet the higher conformity factor for urban and city areas. Your EM notes that the UK Air Quality Plan will need to be updated to reflect the conformity factors in the proposal and the dates for its introduction. Presumably, the Government plans to update this Plan once the proposal has been formally adopted. By how much does the Government estimate the introduction of these conformity factors will reduce NO_x emissions in the UK's cities and urban areas by 2020?

Your EM supports the use of family testing of vehicles to reduce the administrative burden of implementing this new test "while still giving a reasonable certainty of compliance for all vehicles in the family." Can you explain in more detail how this system of testing will be carried out, and what other safeguards exist to ensure a high level of compliance?

Your EM notes that this proposal is likely to disproportionately affect smaller manufacturers. However, it also argues that the vehicles produced by small manufacturers make up a small proportion of the numbers of vehicles sold in the EU and, as they tend to have petrol engines, overall they only account for a small proportion of air pollution. Can you provide us with your figures for the number of cars produced by small manufacturers across Europe, and what proportion of them are diesel or petrol vehicles? Can you also outline in more detail what provisions you hoped to see included in the final text to reduce the burden on smaller manufacturers?

The EM informs the Committee that CO_2 emissions will not be measured through RDE testing and that approval authorities will still rely on laboratory testing. Can you explain why this decision has been made? We do recognise that laboratory testing is being enhanced to remove procedural flexibilities and improve the drive cycle to address some of these concerns. Can you provide more details regarding how the laboratory testing will be strengthened and when proposals for this might come forward? We note that there are technological limits to accurate measuring particulates, and note that testing for them will be introduced at a later date. Do you have in mind a particular timetable for their introduction?

We note that the proposal requires manufacturers to provide approval authorities with information on "emission control strategies", fuel system controllers and modes of operation. This means that manufacturers will be required to disclose the presence of "defeat devices." Can you provide more information about this aspect of the proposal and explain whether you believe it goes far enough to help prevent a similar instance to that of VW? Considering recent events, we expect that there will be greater scrutiny of these measures.

In closing, the European Parliament has the power to approve or reject this proposal but not to amend it. When is the European Parliament likely to consider this proposal? Has the Government engaged with members of the European Parliament on this issue? Do you believe it is likely to be approved?

In the light of the questions raised above, we have decided to retain the document under scrutiny.

We look forward to a reply to this letter at your earliest convenience.

8 December 2015

Letter from the Chairman to Claire Perry MP, Parliamentary Under-Secretary of State for Transport, Department for Transport

Thank you for your letter of 16 March 2015 on the above proposal. This was considered by EU Internal Market Sub-Committee at its meeting of 20 July 2015.

We welcomed an update on this proposal just ahead of the dissolution of parliament. We note at that time you thought it was unlikely that agreement on this proposal would be reached in the near future. Nonetheless, as some time has passed, we would like to know what, if any, progress this proposal made since March.

Your letter outlines the areas of this proposal which are currently under contention, and in response, we have a few questions.

Your letter raised concerns about the Commission's use of delegated powers to set the limit for nitrogen oxide (NO_2). Your Explanatory Memorandum said that the Government would consider pushing this through by co-decision rather than a Delegated Act. Have you adopted this approach to negotiations? Furthermore, your letter stated that industry was concerned about this limit being evidence based. Has the Commission come forward with a methodology for setting this limit which meets this request from industry?

Your original Explanatory Memorandum also highlighted concerns about changes to the temperature at which hydrocarbon and carbon monoxide was measured. This part of the proposal was not mentioned in your last letter. We would like to know whether the Government still opposes this aspect of the proposal and whether a decision on this issue would be subject to co-decision or a Delegated Act.

We welcome the news that the Government has consulted industry on this technical but important proposal. Who did the Government consult and what was the outcome of this consultation? We would also like to know whether the Government has considered how this proposal may affect the competitiveness of different manufacturers, including those who would seek to export beyond Europe. We would also like to know whether the Government has assessed whether this proposal has created any uncertainty for small businesses.

In closing, we note that you expect the European Parliament to present its report on this proposal in September. The Committee would like to know whether this timeline is still realistic and what steps the Government is taking to engage with MEPs on this proposal, ahead of trilogue negotiations.

We look forward to a response in due course.

21 July 2015

Letter from Andrew Jones MP, Parliamentary Under Secretary of State for Transport, Department for Transport, to the Chairman

Thank you for your letter of 21 July. I am writing to update your Committee on the proposed Regulation on the reduction of pollutant emissions from road vehicles.

Since I last wrote to you in March the European Parliament ENVI Committee has published their report, progress has been made in the Council Working Group, and a consensus is close.

As you will recall, we have supported the proposal's overriding aim to improve air quality but raised concerns about the Commission's approach to achieve this, notably the proposals to delegate powers to the Commission on setting emission limits. This is an area where the Commission is seeking powers to introduce for the first time a limit value for nitrogen dioxide (NO_2) in addition to the current nitrogen oxide (NOx) limit and to amend the limit values for hydrocarbons, carbon monoxide and NOx when measured under low ambient temperatures.

We have continued to argue that emission limits should be set through the co-decision process based on supporting evidence. The Presidency recognised that this position had considerable support among other Member States, and urged the Commission to bring forward limit values for inclusion.

Disappointingly the Commission have not done this and it now seems likely that the proposal will be adopted without changes to the limit values.

Instead, amendments have been made in Working Group requiring the Commission to carry out reviews in each area where they have indicated changes to limit values are necessary and, if appropriate, to bring forward proposals to the Council and Parliament in the future under the ordinary legislative procedure on the basis of an impact assessment and taking into account the technical feasibility. This approach addresses our original concerns as it does not empower the Commission to bring forward delegated acts to set emission limits. The ENVI Committee also amended the text to require such proposals to be brought forward under the ordinary legislative procedure.

I mentioned previously that some Member States and industry were not convinced by the Commission's proposal to reclassify methane as a greenhouse gas. We argued that the proposal initially be limited to natural gas vehicles to address concerns that other types of engines would be disadvantaged. The ENVI Committee has also raised concerns about the wider implications for the assessment of greenhouse gas emissions and this is an area where I now expect the proposal will be amended to require the Commission to conduct a more comprehensive review before making future proposals. I believe this is the best conclusion, and gives us an opportunity to further influence the final outcome.

The ENVI Committee supported the proposal to increase the upper mass limit for approval of light duty vehicles, recognising the potential to reduce burdens on industry. However there was no clear agreement on this among Member States, and some have raised concerns that giving access to the light duty requirements for some heavier vehicles may unintentionally weaken the requirements for these vehicles. While I do not believe this would be the case it is clear that the preference among others is to now defer this issue and include it in the list of items that the Commission must review further and bring forward proposals in the future where appropriate. I propose to accept this outcome and we will need to ensure that this study is completed and proposals are brought forward without delay.

The Commission's intention to remove the application of the ammonia limit to positive ignition (petrol and natural gas) vehicles has met with resistance from many Member States. Ammonia limits are needed on compression ignition (diesel) engines to ensure that high quantities are not generated as a by-product of the pollutant control equipment which is used. This is not an issue for positive ignition engines, which control emissions differently, but the measurement method penalises natural gas engines which tend to emit small quantities of ammonia. Recognising that ammonia emissions are sensitive for many Member States that have difficulty in complying with air quality obligations in this area, the Commission is now proposing to retain the limit for positive ignition engines but introduce a technology neutral approach to its measurement. This is a good compromise which should satisfy those who wish to retain the limit and remove the existing burden from manufacturers of natural gas vehicles.

The ENVI Committee has proposed the inclusion of measures to encourage eco driving techniques. In particular they would like to mandate the fitment of fuel consumption meters (FCM) on all vehicles and to review the fitment of gear shift indicators (GSI) which are currently mandatory only for passenger cars and car derived vans. I am minded to support the fitment of FCM on passenger cars as a low cost measure which the Commission's impact assessment shows could bring a 3% reduction in CO2 emissions when combined with existing gear shift indicators. The benefits for heavy duty vehicles are smaller since the operating range of such vehicles is narrower than for passenger cars and a significant proportion are driven by professional drivers with training in driving in a fuel efficient manner. However, due to the low cost of fitment, I believe accepting this aspect of the proposal is an acceptable compromise in order to reach agreement on the whole package.

The European Parliament Committee has also inserted a requirement for the Commission to bring forward new requirements implementing real driving emissions (RDE) from 2017. This has been overtaken by recent events such as the proposed amending legislation, the subject of my unnumbered EM of 18 November, which will implement RDE in two steps beginning in 2017. I am minded, however, to accept the intent of the proposal provided the text is revised to recognise the latest progress.

In light of the current VW issue, text has been proposed requiring the Commission to review the requirements on the fitment of defeat devices. This is sensible and I support its inclusion. Again, this

has to some extent been overtaken by the recent RDE proposal which has included additional requirements that would require the manufacture to declare all emission strategies, making the detection of defeat devices an easier task.

Throughout the negotiation process officials have maintained a dialogue with the industry through both the Society of Motor Manufacturers and Traders, and direct discussions with interested manufacturers. The likely outcome of negotiations is largely in line with their expectations. They will feel disappointed that, while there is a commitment to extend the scope of light duty regulations, this will be subject to the outcome of a further review; and we will need to impress on the Commission the need to progress this.

Your letter of 21 July asked how the proposal might affect the competitiveness of manufacturers or create uncertainty for small businesses. The outcome is unlikely to have significant impacts on the competitiveness of UK manufacturers against their EU or global counterparts and there are no disproportionate burdens being placed on smaller companies. We will however continue to engage with the Commission to ensure a balanced view of both air quality concerns and burden on industry is taken in the reviews that they will be obliged to undertake.

You also asked what steps the Government was taking to engage with MEPs. Officials have ensured that members of the ENVI Committee have been fully briefed on the issues during their consideration of the proposal.

Trilogue discussions with ENVI and the Commission have now opened and it appears that there is a broad consensus on the matters highlighted above. I believe that the expected compromise will represents a satisfactory outcome to negotiations, and I expect the Presidency to seek adoption of the proposal on this basis before the end of the year.

21 December 2015

EMPLOYMENT, SOCIAL POLICY, HEALTH AND CONSUMER AFFAIRS COUNCIL (EPSCO) – 1-17 JULY 2015 (UNNUMBERED)

Letter from Priti Patel MP, Minister of State for Employment, Department for Work and Pensions, to the Chairman

Departments are required to provide a factual written Ministerial Statement after each Council, setting out how each agenda item was handled. However, as this falls during a recess period, I am writing to you now to advise you of these details, in line with the Cabinet Office agreement.

The informal meeting of the Employment, Social Policy, Health and Consumer Affairs Council took place on 16-17 July 2015 in Luxembourg. I represented the UK on day one of this meeting and Charles Ramesden, Head of EU and International Policy from the Government Equalities Office, represented the UK on day two.

There was broad agreement that the EU must do more to tackle social inequalities that have increased after the economic crisis. I intervened to stress that the focus of the EU should be on the delivery of reforms, not on monitoring, and that with regard to Country Specific Recommendations, national ownership and respect for national competence to drive forward reform was essential. Other Ministers supported the UK view that existing policy tools should be used for this.

Ministers discussed the Youth Guarantee over lunch. Emphasis was placed on importance of investing in skills and education as quality apprenticeships could lead to quality jobs. The International Labour Organisation felt that the level of youth unemployment in the EU was unacceptably high and alongside Sweden suggested that individual tailored support was needed, especially for the hardest to help.

Ministers welcomed a Presidency initiative to tackle youth unemployment in the Maghreb countries and many agreed with the UK that knowledge sharing of best practice could assist the Maghreb countries in tackling their extremely high rates of youth employment.

On the second day of the meeting, Ministers discussed gender equality and welcomed the Commission announcement that it is examining new proposals following the recent withdrawal of the Maternity Leave Directive. Most Member States used the opportunity to highlight the maternity leave entitlement policies in their own countries. The UK highlighted its focus on efforts undertaken to

close the gender gap in companies. The Presidency agreed with the UK line that 'flexible working' was 'intelligent working'.

19 August 2015

EMPLOYMENT, SOCIAL POLICY, HEALTH AND CONSUMER AFFAIRS COUNCIL (EPSCO) – 5 OCTOBER 2015 (UNNUMBERED)

Letter from Priti Patel MP, Minister of State for Employment, Department for Work and Pensions, to the Chairman

Departments are required to provide a factual written Ministerial Statement after each Council, setting out how each agenda item was handled. However, as this falls during the recess period, I am writing to you now to advise you of these details.

Shan Morgan, the UK Deputy Permanent Representative to the European Union will represent the UK at the Employment, Social Policy, Health and Consumer Affairs Council which will take place on 5th October 2015 in Luxembourg**.**

There will be a policy debate on the way forward for social governance in an inclusive Europe, and as part of the discussion, the Council will endorse key messages from the report of the Social Protection Committee on the social policy reforms for growth and cohesion; and a proposal for a Council Recommendation on the integration of the long-term unemployed into the labour market.

The Presidency will seek a general approach on the proposals for a Directive of the European Parliament and the Council on improving the gender balance among non-executive directors of companies listed on stock exchanges and related measures.

The Council will also seek to adopt draft Council Conclusions on adequate retirement incomes in the context of ageing societies; draft Council Conclusions on a new Agenda for Health and Safety at Work to foster better working conditions; and the proposal for a Council Decision on guidelines for the employment policies of the Member States.

The Council will receive information from the Commission and the Presidency on the relaunch of the social dialogue at European level.

Under any other business, the Luxembourg Presidency will inform the Council on the informal meeting of the employment and social affairs ministers of the Member States of the euro area taking place on 5th October 2015, and the conference on 'Working conditions for tomorrow' held in Luxembourg on 10-11 September 2015. The Commission will provide information on labour mobility: facts, figures and issues.

2 October 2015

EQUAL TREATMENT IN THE SUPPLY OF GOODS AND SERVICES (8612/15)

Letter from the Chairman to Caroline Dinenage MP, Parliamentary Under Secretary of State for Women, Equalities and Family Justice, Ministry of Justice and Department for Education

Thank you for your explanatory memorandum (EM) of 3 June 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 13 July 2015.

As you are aware, over the course of 2004, this Committee conducted an inquiry on the above the Directive. Its report, *Sexual Equality in Access to Goods and Services* (27th Report, Session 2003-04, HL Paper 165-I), was published in September 2004.

We welcome the Commission's evaluation of the implementation of this Directive ten years after it was introduced, especially in the light of the Test-Achat judgment. This judgment significantly extended the scope of the Directive to remove the use of gender as a determining factor on actuarial and statistical data in setting premiums and benefits for insurance contracts.

The Committee's previous report considered the possible implications of the Directive on both insurance and in particular life assurance, pensions and annuities. We welcome the assessment by the Commission, and to which you agree as stated in your EM, that changes to actuarial practices regarding gender has not had the detrimental impact on consumers that was anticipated.

Furthermore, we wondered what the impact of this judgment had been on pensioners who relied on annuities. The Committee's report concluded that such a move "would produce only marginal advantages for women in the short run because few women have sizeable annuities. At the same time, the many households which are still likely to be depend on the annuity of a male breadwinner would tend to lose out."[1] Was this assessment accurate? Moreover, the Committee raised concerns about what impact such a move would have on the UK, home to one of the largest annuity markets in the world. What is your assessment of this change have on the UK's annuity market?

The Commission's report concludes by stating that it intends to evaluate the application of sex-segregated actuarial factors in occupational pensions. At present the Commission is negotiating a proposal to reform governance arrangements and engagement of Institutions for Occupational Retirement Provision or IORPs. The Government and the Committee oppose this proposal on the grounds of subsidiarity, as they believe that the Commission has not provided a strong enough case for EU level action. In the light of this, can the Government comment on the Commission's plans to look into the application of this Directive to actuarial factors in occupational pensions?

Finally, the report raises a number of concerns about the challenges expectant mothers and those who have undergone gender re-assignment face in accessing goods and services. What assessment have you made about whether this Directive has improved access to goods and services for these two groups? What steps is the Government taking to support other Member States and the Commission in implementing these important aspects of the Directive.

While we have a number of outstanding queries regarding this report, as it is a non-legislative document, we have decided to clear it from scrutiny.

We look forward to a reply to this letter within 10 working days.

14 July 2015

EU COMPETITIVENESS COUNCIL 1ST OCTOBER 2015 (UNNUMBERED)

Letter from Baroness Neville-Rolfe, Parliamentary Under Secretary of State and Minister for Intellectual Property, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

The Competitiveness Council is taking place in Luxembourg on 1st October. I will be representing the UK.

There are no legislative items on the agenda for this council. The first item will be a 'competitiveness check-up,' during which the Commission will set out the latest economic data related to competitiveness and the Luxembourg Presidency will present its assessment of which Commission proposals impact on competitiveness. This will then be followed by an exchange of views on the single market and better regulation.

The agenda items under Any Other Business are a report from the Presidency on a meeting between the Council of the European Union and European Space Agency; the Commission providing an update on the restoration of a level playing field as regards the transparency obligation in the Accounting Directive (this item has been requested by the Netherlands); and an update on the current state of play of the Unitary Patent.

Our objective for the Council is to press the Commission to take ambitious action to deepen the single market and reduce regulation.

I will write again to confirm the outcome of this Council. A copy of both letters will be placed in both Libraries once Parliament has returned.

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[1] *Sexual Equality in Access to Goods and Services* (27th Report, Session 2003-04, HL Paper 165-I) p 47

Letter from Baroness Neville-Rolfe to the Chairman

The Competitiveness Council took place on 1 October in Luxembourg. I represented the UK.

The first item on the agenda was a 'Competitiveness Check-Up'. Commissioner Bienkowska opened the debate by highlighting the importance of integrating trade in the single market and that regulatory burdens were lower in the United States than in the EU. She went on to highlight the differences between Member States in retail and professional services. The Presidency noted ongoing discussions across different Council formations which had significant competitiveness impacts.

I supported the Presidency in their introduction of a check-up and welcomed the adoption of the Telecoms package, which signals the end of roaming charges, and the action plan for the Capital Markets Union. I emphasised to the Commission and other Member States the importance of showing a high level of ambition in the forthcoming Single Market Strategy (due to be published on 27 October). Several Member States supported the nature of the debate and my intervention by highlighting the importance of the single market in services. The Presidency concluded that there was support for the new debate format and would prepare a similar item for the next Council on 30th November, and would include more detailed macroeconomic data and information on global competitiveness.

There then followed an item on the informal Space Council under any other business. The Presidency announced its intention to hold a Space Council after the next Competitiveness Council. The Commission noted that while it shared the Presidency's objectives, it did not support the proposed mechanism for holding a discussion. The Commission argued that the framework agreement on EU-ESA relations was outdated and did not reflect the EU's shared competence in space matters. I, along with other influential Member States, intervened to support the Presidency.

Transparency obligations under the Accounting Directive were also raised as an any other business item. This was requested by the Netherlands amid concerns about the delay in implementing the rules on transparency in the United States. The Commission confirmed that the US Securities and Exchange Commission remained committed to introducing country by country reporting and that it would continue to press the US and keep the Council informed. Several Member States supported my intervention calling for an early agreement.

The final point on the agenda was an update on the Unitary Patent. The Commission formally announced that Italy will join the unitary patent and pressed Member States to make progress, particularly stressing that national interests should not influence the patent fees debate. I intervened to highlight that domestic preparations for ratification would be completed for next spring and called for a fair outcome on patent fees and for all Member States to be flexible.

The Council was followed by was the signing of the Protocol on Provisional Application of the Unified Patent Court Agreement. I signed for the UK alongside six other Member States. This represents a key milestone in bringing the Unified Patent Court into force, expected at the beginning of 2017.

A copy of both letters will be placed in both Libraries once Parliament has returned.

9 October 2015

EU REVIEW OF THE ELECTRONIC COMMUNICATIONS FRAMEWORK (UNNUMBERED)

Letter from Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

I am writing to update you, your Committee and the Commons European Scrutiny Committee on the work that has been undertaken so far and how the UK is preparing to play a leading role in the European Commission's review of the EU Electronics Communications Framework, kicking off in earnest mid-year, 2016.

Although detailed Commission proposals are not expected until the middle of next year, when I will be seeking clearance for the UK's negotiating position from Parliament's Scrutiny Committees, there has been much government activity recently on preparations for the review and I want to take this opportunity to bring this to the Committees' attention.

On 7th September 2015, the Commission published its "Public consultation on the evaluation and the review of the regulatory framework for electronic communications networks and services", a review of the effectiveness of the existing Framework. A copy of the questionnaire was deposited with the House Libraries but at that time my officials agreed with Committee Clerks that the questionnaire itself should not be subject to the scrutiny process. Instead they agreed DCMS would update the Committees when we had submitted our response to the questionnaire.

The deadline for responses to the Commission passed on 7th December 2015 and this letter updates your Committee on the work that the UK has undertaken in responding to the Commission, including identification of our early priorities for the Framework review, work we have undertaken with stakeholders to reach those conclusions, and the early work we have undertaken to take leadership in Europe and influence the thinking of the Commission and other Member States.

BACKGROUND:

The review of the regulatory framework is one of 16 actions of the Digital Single Market (DSM) strategy and a key element for creating the right conditions for digital networks and services to flourish. The DSM sets out a range of targeted actions for completion by the end of 2017.

The Framework itself comprises five Directives and two Regulations:

- the Framework Directive (2002/21/EC);
- the Access Directive (2002/19/EC);
- the Authorisation Directive (2002/20/EC);
- the Universal Service Directive (2002/22/EC);
- the E-Privacy Directive (2002/58/EC);
- the Body of European Regulators for Electronic Communications (BEREC) Regulation (1211/2009); and,
- the Roaming Regulation (531/2012)

The Framework regulates all transmission networks and services for electronic communications, including fixed and mobile telecommunications, some email, access to the internet and content related broadcasting.

It has in-built provision for a five-yearly review. The last Framework review concluded in 2009 with national implementation due for 26th November 2011. The UK was one of five Member States, and the only large one, to implement in full and on time.

A separate review of the e-Privacy Directive, a further action under the DSM strategy, will be launched next year when negotiations on the General Data Protection Regulation (GDPR) are concluded (expected before Christmas). The Roaming Regulation is also excluded from the Commission's review of the Framework.

My Department is also undertaking a Post Implementation Reviews (PIR), as required under UK legislation, to consider all aspects of our 2011 implementation. Responses to a range of stakeholder questionnaires and events associated with the PIR, plus stakeholder responses to Ofcom's landmark Digital Communications Review (DCR), have helped establish our position for the forthcoming Framework negotiations.

ESTABLISHING LEADERSHIP IN EUROPE AND PARTNERSHIPS WITH LIKE-MINDED MEMBER STATES

The UK moved early to establish itself as a leading player in the review and to influence the early thinking of the Commission and other Member States. On 1st October 2015 the UK published a non-

paper[2] that sets out key issues that we believe merit close consideration during the review if our objectives for a flexible, future-proofed Framework that promotes private investment, competition, innovation, consumer choice and protection, and growth are to be achieved.

That non-paper has been circulated to other Member States and I have followed up with conversations with Henk Kamp, Minister for Economic Affairs of the Netherlands (of course, the Netherlands hold the Presidency from the New Year); Mehmet Kaplan, Minister for Housing, Urban Development and Information Technology of Sweden; and, Jurand Drop, then Deputy Minister for Administration and Digitization in Poland. The Secretary of State and I have also met recently with senior representatives of the European Commission. My officials have also discussed the non-paper with a number of other Member States.

PREPARING THE UK'S POLICY POSITION AND INFORMING OUR RESPONSE

The UK's non-paper identifies the six objectives for the review. We developed these in consultation with government, industry and regulatory stakeholders, and drew on the government's Digital Infrastructure Communication Strategy published earlier this year. We want to see a revised Framework that:

1. Supports investment and innovation, and accommodates changes in technology and market structure;
2. Encourages competition as the most effective way to deliver the desired outcomes, through simpler and more proportionate regulation
3. Supports deployment of communication networks that meet the needs of users over the next decade enabling competitiveness and economic growth and delivering social benefits;
4. Offers every citizen access to an acceptable level of connectivity;
5. Empowers and protects consumers through greater transparency and awareness of services and safeguards consumer privacy and use of their data;
6. Respects the principle of subsidiarity and ensures Member States' competency (national security and justice and home affairs (JHA) matters) such that their ability to place appropriate obligations on service providers is not eroded.

The non-paper also encourages the Commission to apply better regulation principles, reflecting the UK's strong reputation in this area. Beyond these objectives and general principles the UK has identified key issues that we feel the review should focus on to ensure the Framework continues to be flexible, future-proofed, and fit for purpose. These are:

Investment and competition

The UK believes competition is the most effective way to deliver investment in innovative services that meet consumer needs. We want to see a regulatory framework that encourages competition through simple and more proportionate regulation.

At an EU High Level Electronic Communications Framework gathering in Brussels on 7th October Roberto Viola, Director General of DG Connect posed the question, "How can Europe attract investment to meet the investment challenge in the telecommunications sector?" Our response to the Commission emphasises that levels of current investment do not appear to have kept pace with ambitions for the sector and framework objectives such as universality of services and quality of experience.

In the UK, as in other Member States, publically funded intervention has been required. We anticipate that even if technological developments help reduce the future costs of infrastructure provision and deployment, ***future investment requirements will be significant*** - with estimates from some suggesting as much as €200bn[3] is required to meet the EU's digital goals

[2] The UK published its non-paper on 1st October 2015. It has been shared with the Commission, other MS and key UK stakeholders. It is available on the Government's website: https://www.gov.uk/government/publications/uk-non-paper-review-of-the-electronic-communications-regulatory-framework [external link]

[3] Five Priorities for Achieving Europe's Digital Single Market, Boston Consulting Group, October 2015

Quality of service/experience

Complete quality of service provision will enable consumers and businesses to do what they want to do, where they want to and when they want to. This will be crucial in anticipating future use of technologies, like the Internet of Things and 5G. Services will be as critically dependent on geographic coverage, security, reliability and latency, as they are on speed of connection or bandwidth. In addition, the effectiveness of networks needs to be judged by the quality of experience enjoyed, or suffered, by the user. Transparency of quality of service metrics, unpinned by a robust regulatory enforcement regime will drive competition and be more effective at raising standards than prescriptive EU-wide rules.

Roberto Viola also queried whether broadband and mobile data targets were attractive to consumers. He raised the prospect of a "soft intervention" target of 1 gigabit per second (1,000,000,000 bits per second). ***Ofcom research shows that beyond a certain network speed, speed of connection becomes less of an impact*** on the quality of service provision, and other factors such as the ISPs network come into play.

There is a suggestion in the Commission consultation that we need investment in fibre networks, ultimately to every home, but the UK believes this is not currently supported by evidence, and risks dismissing technologies – including satellite, which would not support such high speeds - that provide critical services in hard to reach areas. Nor is there evidence of a business case for 1 Gbps speeds and the UK believes that at this stage, the business case for fibre to the home remains uncertain. We therefore believe that a range of technologies still have a role to play in meeting the UK's connectivity needs and the Framework should therefore support industry to deploy the technology most appropriate to meeting consumer demand.

Reliability, bandwidth capacity, latency and resilience, are becoming just as important as connection speed to the user experience. In order to drive up standards of network performance, the quality of the user's experience should be a key consideration for the framework.

Spectrum:

We share the Commission's desire to achieve more effective spectrum management, but we do not wish to see legislative harmonisation nor believe it is the best route to achieve this.

We want to see a reorientation of EU spectrum policy towards achieving the greatest practicable convergence between the practices of Member States, and away from legislative harmonisation. Such non-legislative approaches could most readily achieve the Commission's goal to speed up the deployment of telecoms services.

Our response to the Commission's consultation rejects their desire to introduce further legislative harmonisation of spectrum. We instead believe that spectrum use should be coordinated on a global level and offer to discuss with the Commission the need for further non-legislative coordination. We also propose to work with like-minded member states to identify minimum standards of further harmonisation that would be mutually acceptable to use in negotiation with the Commission.

Over the top (OTT) services:

We recommend that the Commission considers a light touch, proportionate approach, based on their own better regulation principles, recognising the differences between OTT and more traditional services. We encourage the Commission to take a deregulatory approach to existing electronic communications services where this does not harm consumer interests, undermine regulatory enforcement powers, or compromise national security, public security or prevention, detection and prosecution of criminal offences

New regulation should not be used to shield companies from the competition of legitimate, more popular alternatives. The Commission should use the existing competition framework effectively where there is evidence of market abuse.

Over-the-top (OTT) services are increasingly seen by end-users as substitutes for traditional Electronic Communication Services (ECS) used for interpersonal communications, such as voice telephony and SMS. Such OTT services, however, are not subject to the same regulatory regime as more traditional ECS.

As a consequence, the issue of a level playing field has been raised by the Commission, with some stakeholders calling for a re-evaluation of the existing provisions, with a view to ensuring that wherever the activities of providers of competing services give rise to similar public-policy concerns, they would have the same obligations and rights (i.e. end-users' protection, interconnection, numbering, etc.) and the Commission has sought views on this in its consultation.

It is important to remember that this is not one sided: ***OTT services drive up user demand for data and hence use of operators networks. OTTs provide services that consumers want and we should not stifle innovative new services with disproportionate regulation.*** We believe that telecoms regulation should not simply be extended to all OTT services as services that may appear the same are technologically different. Regulation should only be extended where there is clear evidence that it is needed to address consumer harm.

NEXT STEPS

The Commission is expected to publish its initial proposals anytime from mid-June through to September 2016 when we will seek Scrutiny clearance for our negotiating position.

We continue to maintain dialogue with Member States and explore what joint action, if any, we might take with like-minded Member States. We are also continuing to maintain dialogue with the Commission on our priorities.

17 December 2015

EU TRANSPORT COUNCIL 8 OCTOBER 2015 (UNNUMBERED)

Letter from Patrick McLoughlin MP, Secretary of State for Transport, Department for Transport, to the Chairman

I will attend the first Transport Council under the Luxembourg Presidency (the Presidency), taking place in Luxembourg, on Thursday 8 October.

The Presidency is aiming for general approaches on two proposals which form the "market pillar" of the Fourth Railway Package: the proposed Directive **amending Directive 2012/34 establishing a Single European Railway Area, as regards the opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure** and the proposed Regulation **amending Regulation (EC) No 1370/2007 concerning the opening of the market for domestic passenger transport services by rail**. I welcome the efforts of the Presidency to progress the market pillar proposals, but I am disappointed that many Member States have opposed widening the requirement to use competitive tendering for public service rail contracts within the EU. As a result, the latest versions of the texts represent a significant change from the Commission's original proposals. I will update the Committee on the outcome of discussions in Transport Council.

The Presidency will provide an **update on the European Fund for Strategic Investments (EFSI)** and the transport infrastructure investment opportunities available. The Government supports the Commission's investment plan and its aim of boosting jobs and growth in Europe. The Government aims to build on our already impressive strong track record of successfully securing European Investment Bank (EIB) and European Investment Fund (EIF) financing. The Chancellor has announced that the Government will co-finance EFSI infrastructure projects in the UK, and that the UK has stepped up its bilateral engagement with the EIB. My objective is to reiterate the UK's support and continue to maximise the benefits of EFSI financing opportunities in the UK.

There will a policy debate on the Commission's review of the **Transport White Paper**. The European Commission published its Transport White Paper in March 2011 with the stated objective of removing major barriers and bottlenecks in key areas including transport infrastructure and investment, innovation and the internal market. Four years on, the Commission is taking stock of progress made against its stated aims. A consultation exercise to gather Member States' and other stakeholders' views concluded in June. The UK's response to the consultation expressed support for the Commission's long-term vision and ambitious agenda to enhance the transport internal market and commended progress made to date, for example on air cargo security and innovation measures

including Shift2Rail, CO2 emissions, traffic management and alternative fuel infrastructure. The Presidency has set two broad questions to help structure the policy debate: firstly regarding which initiatives Member States consider are most urgent for the next decade, taking into consideration the developments of the last years in the transport sector; and secondly regarding whether Member States consider that the White Paper's targets and the ten goals for a competitive and resource-efficient transport system are realistic for the years to come. I welcome this opportunity to emphasise the need for any future EU actions to demonstrate benefits for growth, to be accompanied by rigorous and robust impact assessments, to avoid excessive regulatory burdens on business, and to respect the principles of subsidiarity and proportionality.

Over lunch, there will be debate on **Rail Security** following the Thalys incident. I intend to offer our support for further exchange of best practice for rail security amongst EU Member States and rail transport operators, rather than EU legislation or guidelines.

Under Any Other Business, the Commission will provide an update on **new emissions testing procedures and the state of play on the real emissions driving tests** and the Presidency will report on the **outcome of the Informal Transport Council** to be held on 7 October which will focus on cycling.

6 October 2015

EUROPEAN NETWORK OF EMPLOYMENT SERVICES, WORKERS' ACCESS TO MOBILITY SERVICES AND THE FURTHER INTEGRATION OF LABOUR MARKETS (EURES) (5567/14)

Letter from Priti Patel MP, Minister of State for Employment, Department for Work and Pensions, to the Chairman

Thank you for your continued interest in this proposal and I'm pleased to update you on developments within the European Parliament, including the trilogue negotiations.

European Parliament negotiations concluded with a vote on amendments on 23 June 2015. We worked closely with rapporteurs and MEPs to influence the proposal and have successfully protected and advanced our interests, especially regarding the vacancy sharing amendments in Article 14. My officials are now working to influence the mandates given by both Committees to ensure a successful trilogue negotiation. It is currently expected that the final compromise text will be presented to the EP plenary and to the Council for adoption in December 2015.

I am also taking this opportunity to draw your attention to the House of Commons European Scrutiny Committee's latest enquiries and my subsequent responses.

ARTICLE 14 AND EMPLOYER FLEXIBILITY PROVISIONS

The House of Commons Scrutiny Committee questioned whether the new provisions on employer flexibility were as great as suggested and urged that any obligations imposed on employers by Article 14 and their discharge are made clear in the final text.

I explained that at this stage of negotiations, after the European Parliament vote, Article 14 and accompanying Recital 18a have remained consistent with the agreed Council Approach. The draft regulation gives us the legislative backing for our domestic changes which in themselves do not require employers to document the reason behind their decision on where to advertise, beyond ticking yes or no to the question in Universal Jobmatch. I therefore believe our current system of asking employers to consider whether they could find candidates locally with the right skills and aptitudes goes far enough to fulfil the proposal's requirements.

DISCRETIONARY EXCEPTIONS

The House of Commons Scrutiny Committee then asked to be informed if there was any prospect of the UK using two discretionary exceptions to the requirement to advertise job vacancies on EURES – certain categories of traineeships and apprenticeships, and job vacancies related to active labour market policies, such as subsidised jobs.

I again confirmed that the discretionary exceptions will remain unused for the time being.

UK VACANCIES ON EURES

In regards to the scale of the reduction in the number of UK vacancies on EURES, the proportion has remained consistently at about 15% of the total number of vacancies posted on EURES. Before we brought in the new rules giving British employers a choice whether to advertise on EURES, 60% of all the jobs advertised were from the UK. Since we started giving employers the choice, this has fallen to 15%. 73% (617,659) of current UK job vacancies advertised on Universal Jobsmatch are not advertised on EURES.

29 August 2015

Letter from the Chairman to Priti Patel MP

Thank you for your letter of 29 August 2015 on the above proposal. This was considered by EU Internal Market Sub-Committee at its meeting of 12 October 2015.

We thank you for your update on the progress of this proposal, and look forward to an update when the final compromise text is agreed.

We also wondered if you could provide us with the current breakdown by nationality of EURES vacancy advertisements and any further analysis of the reasons for this distribution that you are aware of.

14 October 2015

EXTERNAL COORDINATION OF SOCIAL SECURITY SYSTEMS (8556/12)

Letter from the Chairman to Priti Patel MP, Minister of State for Employment, Department for Work and Pensions

Thank you for your letter of 22 February 2015. This was considered by the Internal Market Sub-Committee at its meeting of 13 July 2015.

We are grateful for the update on the outcome of litigation on the EU-Turkey Association Agreement. The Court has now confirmed for a third time that Article 79 TFEU is to be used for the purposes of a common immigration policy, rather than for social security provisions under association agreements. We draw your attention to our report, *The UK's opt-in Protocol: implications of the Government's approach*, published in March this year (9th Report of Session 2014), which considered these three judgments and recommended the Government against bringing similar legal challenges. We ask you to confirm that the Government now accepts that a clear precedent has been set by the Court, and that it will not bring similar legal challenges in the future.

We would be grateful for a detailed explanation of the consequences of this Decision (should it be accepted in full by Turkey in the Association Council) for the UK's social security obligations to Turkish workers and their families in the UK, and for Turkey's obligations to UK workers and their families in Turkey.

We ask to be kept informed of developments in the negotiations in the Association Council on this Decision.

In the meantime, the Decision remains under scrutiny.

14 July 2015

EXTRAORDINARY COMPETITIVENESS COUNCIL - POST COUNCIL STATEMENT (UNNUMBERED)

Letter from Sajid Javid MP, Secretary of State for Business, Innovation and Skills, Department for Business, Innovation and Skills, to the Chairman

An extraordinary Competiveness Council to discuss the steel industry met on 9th November. I represented the UK.

Please find attached [not printed] a Post council Written Statement on the subject, which is being laid in both Houses.

10 November 2015

FINANCIAL MANAGEMENT AND FUNDING TO SUPPORT MICRO-FINANCE ENTREPRENEURS: AUDIT (UNNUMBERED)

Letter from the Chairman to David Gauke MP, Financial Secretary, HM Treasury

Thank you for your Explanatory Memorandum of 11 August, which was considered by the EU Internal Market Sub-Committee at its meeting on 26 October 2015.

The Court of Auditor's report has raised a number of important concerns regarding the effectiveness of EU level funding to support micro-entrepreneurs. We do urge you to encourage the Commission to actively follow through on all of the report's recommendations. There are only a small number of providers in the UK making use of the European Progress Micro-finance Facility.

As this report is not a legislative document, we have decided to clear your Explanatory Memorandum from scrutiny.

A response to this letter is not required.

27 October 2015

IMPLEMENTATION OF THE EUROPEAN PROGRESS MICROFINANCE FACILITY – 2013 (14642/14)

Letter from Anna Soubry MP, Minister for Small Business, Industry and Enterprise, Department for Business, Innovation and Skills, to the Chairman

Further to your letter of 24 February to the Department for Business Innovation and Skills on the European Progress Microfinance Facility –(EPMF) in which you ask for more detail about the reach and impact of the UK financial providers. The European Progress Microcredit Finance Facility (2007-2013) was made available to finance providers via a direct application to the European Investment Fund. The UK Government does not have a direct part to play as this was a guarantee provided by the EU to help social inclusion and employment. Furthermore, UK finance providers are not obliged to report to UK government on the number of loans given under this facility. For these reasons, the government does not hold data on the use by UK providers of this microfinance guarantee or the loans that have been made as a result.

However, the British Business Bank has provided the following information from their records and while this is not a full list, it illustrates the type of transactions that have taken place for the three providers you asked about.

Microcredit Guarantee	Date signed	Volume expected in Euros
Fair Finance	24-May-13	1,000,000
EZBOB	07-Oct-13	6,000,000
GLE	18-Dec-13	4,800,000

I trust that this information, while limited, will be helpful to the committee.

16 November 2015

FINANCIAL SERVICES: PAYMENT SERVICES (12990/13, 12991/13)

Letter from Harriett Baldwin MP, Economic Secretary, HM Treasury, to the Chairman

I am writing to provide you with an update on these files ahead of summer recess and in response to your letter of 8 July on the revised Payment Services Directive II (PSDII).

PSDII concluded trilogue negotiations in May. The Lawyer Linguists' process is due to start in September, where the file will be scrutinised for technical errors. Once the Lawyer Linguists' process has concluded, PSDII will go to the European Parliament's Economic and Monetary Affairs Committee for final political agreement. We expect this to happen by the end of the year, and for PSDII to come into effect in 2017 following a period of transposition. The government will continue to ensure that PSDII complements the Digital Market Strategy as the file goes through this process.

This file was cleared from scrutiny by your Committee on 17 March 2015 and by the House of Commons' European Scrutiny Committee on 3 December 2014.

Since the last letter to you of 9 March from the Financial Secretary to the Treasury, David Gauke, I am pleased to say that the policy position of PSDII has not changed. As you know, the European Parliament and the UK shared the same key priorities

In your letter, you ask specifically about whether a satisfactory compromise has been reached for independent ATM providers. I am pleased to say that the exemption has remained in the text, with the compromise being that providers are obligated to be transparent about the fees they charge for withdrawing cash. The government was content with this compromise as ATM providers in the UK are already transparent about fees, therefore this will not have a negative impact.

Turning to the Interchange Fee Regulation, this file was published in the Official Journal of the European Union on 19 May. The key provisions will come into effect on 9 December and are directly applicable in the UK. We are launching a consultation later this month on the design of the regulatory regime. We will also consult on the national discretions afforded to Member States. These are as following:

— credit card caps. Member States can decide to implement lower interchange fee caps for domestic card transactions than the caps set out in the Regulation;

— debit card caps. Member States can decide to implement lower caps on interchange fees for domestic card transactions than the caps set-out in the Regulation. There are also other flexibilities in the way Member States can apply interchange fee caps, such as being able to applying a weighted average for a period of up to of 5 years; and

— Member States can, based on an assessment of market shares, exempt three-party card systems that operate with licensee issuers and/or acquirers from caps to interchange fees for a period of up to three years.

19 July 2015

Letter from the Chairman to Harriett Baldwin MP

Thank you for your letter of 19 July 2015 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 7 September 2015.

We were grateful to receive your update on the final text for the Payment Services Directive. Once again, we reiterate our support for this proposal in including and encouraging digital payments,

especially those transactions conducted over a mobile device. We note that the exemption for independent ATMs remained part of this text and that UK providers already meet the Directive's requirements regarding transparency on fees. However, we wished to have more detail regarding the obligation placed upon independent ATM providers in other Member States to be transparent about the fees they charge for withdrawals.

The Committee also welcomed your update on the implementation of the Interchange Fees Regulation, which we recognise will be of benefit to many SMEs. We support the Government's consultation with stakeholders on the likely impact of the Regulation and your efforts to ensure that the cap is introduced in such a way as to benefit businesses and consumers.

As both proposals have completed the legislative process, we look forward to the response to our one remaining query before closing correspondence on these dossiers.

8 September 2015

Letter from Harriett Baldwin MP to the Chairman

Thank you for your letter of 8 September, requesting further information on the revised Payments Services Directive (PSDII), specifically detail on the obligation placed upon independent ATM providers on the transparency of fees.

As you know, the exemption for independent ATM providers has remained in the text. The UK negotiated hard for this provision, with the compromise being that providers are obliged to be transparent about the fees they charge for withdrawing cash. In practice, this means that the information that independent ATM providers give to a customer about a transaction will need to include:

— any withdrawal charges payable by the consumer for that withdrawal, and a breakdown of those charges where applicable; and

— any charges for currency conversion payable by the consumer for that withdrawal.

— In my previous letter, I mentioned that the Government was content with this compromise as ATM providers in the UK already provide this information and therefore this will not have a negative impact. In other Member States where independent ATM providers may not currently provide this information, they will be required to do so from when the Payments Service Directive comes into effect in 2017.

PSDII will go to the European Parliament's Economic and Monetary Affairs Committee for final political agreement in the coming months. We expect this to happen by the end of the year, and for PSDII to come into effect in 2017 following a period of transposition.

I hope that this provides you with the information required. Thank you for your support during the negotiations.

29 September 2015

Letter from the Chairman to Harriett Baldwin MP

Thank you for your letter of 29 September 2015 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 19 October 2015.

We were grateful for your response to our final remaining query regarding the Directive and therefore, we wish to close correspondence on this dossier. A response to this letter is not required.

20 October 2015

Letter Robert Goodwill MP, Minister of State for Transport, Department for Transport, to the Chairman

I am writing to bring your Committee up to date with progress on the proposed Port Services Regulation.

As you will recall, the changes we secured in the General Approach in October 2014 represented a very significant improvement compared with the Commission's original proposal. There has been no further discussion in the Council of Ministers since the General Approach and the main focus has been on the European Parliament's consideration of the dossier.

When my predecessor John Hayes last wrote to you in March 2015 there was no timetable set for consideration of the proposal by the European Parliament. Since then, progress in the EP has been protracted, with the dossier attracting a high number of proposed amendments, both from the Rapporteur in his draft report and from members of the TRAN Committee more widely. I have not attached the Rapporteur's draft report and the proposed amendments to this letter as they total more than 400 pages, but they can be seen at the TRAN Committee website[4].

I understand that in recent weeks the Rapporteur has been working to create proposed compromise and composite amendments, which have not yet been formally published, for consideration by the TRAN Committee. The latest position is that TRAN is due to vote on these on 25 January 2016. Following this, it is expected that the Dutch Presidency will open trilogue negotiations with EP representatives in the second half of their Presidency, ahead of an EP plenary vote currently scheduled for 7 June 2016.

As you will know, the EP's first reading of any co-decided dossier is based on the Commission's original proposal rather than any General Approach reached by the Council. In practice, however, the Rapporteur and MEPs have clearly taken note of the General Approach on PSR and many of their proposed amendments also tend towards lighter regulation of procurement and access to port service provision, in particular, regarding the scope of services covered; the reduction of regulatory burdens in Article 7 (procurement requirements); and the restriction of some of the provisions to ports operated in accordance with Public Service Obligations.

I can therefore welcome many of the amendments proposed by TRAN Committee members, and also many of the proposed compromise amendments that I understand the Rapporteur has prepared. In many cases these amendments, like the General Approach of the Council, would reduce administrative burdens as compared with the original proposal, while retaining the desirable requirements for financial transparency of public funding.

As your Committee has recognised, consideration by the European Parliament and the subsequent stage of trilogue discussions will be vital to the final outcome. For this reason I have made working with the European Parliament my top priority during its consideration of the dossier to date – and, of course, in the stages that are still to come. Your Committee is no doubt also aware that there is considerable overlap between the views of the Government and the Opposition on the proposal, and that safeguarding the UK's competitive ports sector is a priority for both parties. In light of this, I am most grateful to Shadow Maritime Minister Richard Burden for joining me in a recent visit to Brussels to lobby some of the most influential TRAN Committee MEPs on this dossier, including the Rapporteur. We were able to present a united position on those provisions where there was a broad degree of agreement between us (while recognizing a few areas on which we take different views), and I believe that MEPs were receptive to this unusual approach.

I hope that this update is helpful and will, of course, continue to keep you informed of further developments.

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[4] http://www.europarl.europa.eu/committees/en/tran/home.html. [external link]
The Rapporteur's draft report is at http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-557.153+01+DOC+PDF+V0//EN&language=EN. [external link]
Amendments 99 – 409 are at http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-557.328+01+DOC+PDF+V0//EN&language=EN. [external link]
Amendments 410 – 712 are at http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//NONSGML+COMPARL+PE-560.894+02+DOC+PDF+V0//EN&language=EN [external link]

FOURTH RAILWAY PACKAGE (5855/13, 5960/13, 5985/13, 6020/13, 6019/13, 6012/13, 6013/13, 6014/13, 6017/13)

Letter the Chairman to Robert Goodwill MP, Minister of State for Transport, Department for Transport

Thank you for your letter of 15 July 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 20 July 2015.

We were grateful to receive news that there has been significant progress on the Technical Pillar of this important Railway Package. The railway industry across Europe looks to benefit from a simplified process through which to secure authorisation for rail operators and rolling stock manufacturers.

Your letter informed the Committee that the European Parliament agreed to adopt the "choice model", through which those applying for safety and technical authorisation retain the option of going through the European Railways Agency (ERA) or equivalent national bodies if the trains do not travel cross-border.

However, you letter also noted that as a concession to the European Parliament, the Commission will be granted more powers through Delegated Acts to implement this legislation; and that as a result the Government intends to vote against this part of the Package. We would like clarification as to why the Government considers the use of a Delegated Act to be considered a "red line" in this instance?

Nonetheless, as there is unlikely to be any significant change to the text on the Technical Pillar, and an acceptable transposition period has also been secured, the Committee is content to clear documents 6013/13 and 6014/13 from scrutiny.

Turning to the Political/Market Pillar of the Package, we have also noticed the incoming Luxembourg Presidency's stated focus on achieving agreement to this contentious aspect of the proposal in the Transport Council meeting on 8 October. As we still retain all the documents relating to this pillar under scrutiny, we request to have received an update on this aspect of the Package ahead of our Committee meetings in the first two weeks of September in order to whether to clear these documents from scrutiny.

If an agreement is not reached by at this Council meeting, do you think that is likely that the two pillars will be taken forward separately? What would be the advantages and disadvantages of such an approach?

We look forward to a reply to this letter by 20 August 2015.

21 July 2015

Letter from Claire Perry MP, Parliamentary Under-Secretary of State for Transport, Department for Transport, to the Chairman

Thank you for your letter of 21 July in response to my letter on progress with the Fourth Railway Package ("the Package"). I am writing to provide the further information you requested on both of the legislative 'pillars' of the package.

THE TECHNICAL PILLAR (6012/13, 6013/13, 6014/13)

You asked for clarification about the Government's position on delegated acts and the technical pillar. The proposed use of delegated acts in this instance is not consistent with the UK's preferred approach on the use of secondary legislation powers. With regards to the recast of the Safety Directive, the Government objects to the politicisation of technical safety issues through the use of delegated act powers for the adoption of the following:

— Common Safety Methods ("CSMs") - these describe how safety levels, achievement of safety targets and compliance with other safety requirements should be assessed;

— Common Safety Targets ("CSTs") – these represent the safety levels and safety performance that must at least be reached by the system as a whole within each Member State.

The delegated acts power would give the European Parliament a role in determining the technical content of CSM and CST and they would be able to block a measure by simple majority, as indeed can the Council by Qualified Majority Voting. This would be unacceptable to the UK as there would be no formal role for national experts and no formal scope for amendment.

THE POLITICAL/MARKET PILLAR (5960/13, 5985/13)

You also asked for an update on this aspect of the Package ahead of your meetings in September. There have been two further working group meetings since my letter of 15 July, which again demonstrated the differences in position among Member States across all elements of the proposals. The Presidency has scheduled up to six further working group discussions in September, and remains very keen to seek a general approach at the 8 October Transport Council. This is a challenging objective, and at this point we cannot tell whether it will be achievable.

Given this current lack of progress I appreciate that your Committee cannot be expected to release the documents from scrutiny yet, and I also note that due to the Conference recess the Committee will not meet again until after the Transport Council. I do want to ensure that the Committee is kept informed of these important negotiations, and has the opportunity to consider them before any general approach is reached at the Council. To that end, I would be grateful if the Committee would be willing to make special arrangements to consider a further update during recess following further working group discussions, if the proposals remain on the agenda for a general approach in October.

10 September 2015

Letter from the Chairman to Claire Perry MP

Thank you for your letter of 10 September 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 14 September 2015.

We were grateful to receive your arguments against the use of Delegated Acts under the Technical Pillar (for Common Safety Methods (CSMs) and Common Safety Targets). Your letter states that the Government objects to use of Delegated Acts in this instance because "there would be no formal role for national experts and no formal scope for amendment." We are aware that a Common Understanding has been reached between the European Parliament, the Council and the Commission, under which the Commission will consult widely, including with Member States' experts well in advance of tabling a proposal for delegated legislation. Each institution has also agreed to keep the other institutions informed of the steps they are considering to enable proper consideration by those other institutions. Moreover, we understand that the European Parliament has rarely made use of its power in relation to Delegated Acts in the last five years.

Taking into account what we have outlined above, do you think that negotiations over Delegated Acts under the Technical Pillar are a special instance in which the European Parliament may decide to invoke its powers? Secondly, does the Government believe that the provisions of the Common Understanding do not go far enough to ensure the inclusion of national experts or the opportunity to discuss the positions of the different institutions, and thus informally consider possible amendments? Considering that the Government has these other avenues the Government to mitigate its concerns about the use of Delegated Acts, is it still of the view that abstaining from supporting these measures under the Technical Pillar is in the national interest?

We welcome your update regarding the Political/Market pillar. Given the Luxembourg Presidency's intent to seek a General Approach on this part of the package at the Transport Council on 8 October, we are willing to make special arrangements and will consider a further update during the recess.

We look forward to an update as soon as this is can be reasonably achieved.

15 September 2015

Letter from Claire Perry MP to the Chairman

Thank you for your letter of 15 September. I am grateful to the EU Internal Market Sub-Committee for agreeing to consider a further update on the Political/Market Pillar of the Fourth Railway Package during recess, and am writing now to bring you up to date with progress in advance of expected General Approaches on the proposals at the forthcoming Transport Council on 8 October.

You will recall that the Political/Market Pillar is comprised of the proposed recast Regulation on the opening of the market for domestic passenger transport services by rail (5960/13, "The Public Service Obligations, or PSO, Regulation"), and the proposed recast Directive on establishing a single European railway area opening of the market for domestic passenger transport services by rail and the governance of the railway infrastructure (5985/13, "The Governance Directive")

The Explanatory Memorandum on these proposals noted that we supported the objective of further market opening in the domestic passenger transport markets, but wanted to ensure that the proposals were flexible enough to work within the UK's passenger transport structure, and were compatible with UK rail industry structures. We felt that:

The Pillar represented an important opportunity for market liberalisation and the creation of a single European railway market, and is intended to bring other Member States broadly in line with current GB practice of competitive tendering of rail public service contracts.

During negotiations, we argued in favour of the principle of the single European railway market and the removal of obstructions to it, whilst seeking to minimise administrative, regulatory and cost burden for the industry.

As explained in my letters of 15 July and 10 September, Working Group discussions made little progress for a very long time owing to considerable differences in position among Member States across all elements of the proposals. Discussions intensified during the remainder of September, with the final meeting on 30 September 2015. The latest working versions of the texts represent a significant change from the Commission's original proposals, and do not go as far as we would like, but it now looks likely that General Approaches will be possible on both dossiers.

The proposed **PSO Regulation** (5960/13) in particular has been altered considerably. We have been keen to ensure that competitive award is the default method for the award of PSOs, and that any exceptions to this rule must be objective and justifiable. Within this, we have been successful in seeking to retain sufficient flexibility for the UK, as, despite our competitive tendering arrangements, we occasionally need to make use of directly awarded contracts, for example to extend existing contracts or to phase a series of franchise competitions to ensure that there is sufficient capacity in the market to submit an adequate number of good quality bids.

Several derogations have been inserted regarding the establishment of competitive award as the default procedure for tendering of rail services, following objections from a large number of Member States who prefer to award contracts directly by default. This will enable the use of direct award in a broader range of circumstances than was originally proposed by the Commission, but in fewer circumstances than are possible under the current Regulation. Some of these derogations are justifiable because they can only be used in exceptional circumstances and as a temporary measure. However, others are very broadly drafted and are likely to permit Member States to continue to use direct awards as a means of limiting competition in their railway markets.

Potentially burdensome requirements for the publication of 'passenger transport plans', an original area of concern for the UK, have been changed to a simpler and more proportionate requirement for public service contracts to be aligned with wider transport policy. Provisions which could have restricted the size of UK rail franchises, have also been removed. I welcome both of these changes.

Regarding the proposed **Governance Directive** (5985/13), requirements for infrastructure managers to establish coordination committees for their networks to involve existing and potential applicants, user representatives and regional and local authority representatives have been altered so as to specify that they apply only where appropriate. I welcome this as it was not clear how such specific requirements would have sat with Network Rail's existing arrangements which include extensive public and industry consultation obligations, or how the proposal would impact on smaller UK Infrastructure Managers.

In negotiations, we have sought to ensure that partnership working between infrastructure managers and train operating companies remains possible. The proposed General Approach meets this

objective because it would allow a wide range of arrangements, including operational structures such as joint control centres through to far deeper "alliances". It also includes a range of proportionate safeguards designed to ensure that cooperation of this sort does not result in discrimination against other train operating companies.

The original proposal also granted a right to train operating companies to operate domestic passenger services in any Member State ("market opening"), provided that those services did not compromise the "economic equilibrium" of a public service contract. The proposed General Approach still contains these provisions, however in the closing stages of negotiations one Member State has attempted to introduce changes which would appear to weaken this right where a public service contract involves the granting of "exclusive rights" to a single operator. This type of contract could not be used in GB without changes to primary legislation, and the proposed changes seem intended to allow Member States to exempt themselves unfairly from market opening. There is some support for these changes amongst a number of other Member States, who do not share our concerns. We are continuing to work on this aspect of the proposal to retain the balance between the various market opening provisions. I anticipate this matter may only be resolved during the negotiation in Transport Council.

The Presidency intends to seek a general approach on both of these proposals at the forthcoming Transport Council. Overall, although negotiations on the Political/Market Pillar have been disappointing in terms of opening the market elsewhere in the EU, the outcome is compatible with the UK's objectives in relation to the domestic structures. The proposed General Approach on the **PSO Regulation** (5960/13) represents a positive, if limited, move towards establishing a single market in passenger rail services, and I would wish to support it. I would be grateful if the Committee could clear this proposal from scrutiny.

On the **Governance Directive** (5985/13), provided that there is not a detriment to UK rail policy arising from the last-minute proposed amendments, the proposed General Approach is also satisfactory because excessive costs and burdens have been removed, and it too represents a further, if limited, step towards the establishment of a single European railway market. It appears likely that it will also be acceptable to other Member States. I appreciate that the Committee may wish to retain this proposal under scrutiny pending the outcome of discussions at the Transport Council, but would be most grateful if the Committee would consider granting a scrutiny waiver ahead of Transport Council on 8 October.

I will, of course, inform the Committee of the outcome of the Transport Council, and will continue to keep the Committee informed of progress on this dossier.

2 October 2015

Letter from the Chairman to Claire Perry MP

Thank you for your letter of 2 October 2015, which was considered by the EU Internal Market Sub-Committee via correspondence on 5-6 October 2015.

We were grateful to receive your update on the negotiations for the Market/Political Pillar of the Fourth Railway Package. Do you believe that both proposals in their current form would help to achieve, first, sufficient opening of the domestic railway market, and secondly, boost the development of international rail services? What assessment has the Government made of the costs and benefits of this current text for the UK rail market?

With regard to the Public Service Obligations Regulation (5960/13), we welcomed amendments to ensure that the requirement for "passenger transport plans" is flexible and no longer raises subsidiarity concerns. We support the provision in the final text which ensures that competitive award is the default method for the award of Public Sector Obligations. Nonetheless, we welcome the flexibility within this to allow the Government to directly award contracts in "exceptional circumstances". Could you provide more detail about what these "exceptional circumstances" might be for the UK?

We note your concern about the wording of some derogations suggested by Member States, which could in your view "permit Member States to continue to use direct awards as a means of limiting competition in their railway markets." Considering the importance of this aspect of the proposal,

what steps can be taken to prevent Member States' abusing such derogations, if the current text was agreed to as drafted?

There were, however, a number of aspects of the proposal not touched upon in your letter.

Your Explanatory Memorandum (EM) on this draft Regulation noted that Article 4.8 required the provision of technical, operational and financial information about the Public Service Contract to be tendered. The EM expressed concern about the scope of such a requirement and its impact on existing measures. We wish to know whether this concern has been adequately addressed over the course of negotiations.

The EM also raised concerns about the Commission's proposal for a definition of a competent local authority, and how this would impact the existing local government and transport structures in the UK. We request to know whether this concern has been addressed.

We now turn to the Governance Directive (5985/13). We recognise that a fundamental part of the Commission's proposal was whether Member States could agree to adopt the "separated model" between infrastructure managers and train company operators. Your letter outlines the compromise which has been proposed in the draft text, whereby both the integrated and separated models could remain in use, with suitable adjustments made in Member States. This would also allow the Government to continue with its separated model, enabling partnership working between infrastructure managers and train company operators.

We understand that the compromise proposed relies upon safeguard measures to avoid discrimination, whereby infrastructure managers cannot give preferential treatment to their parent rail companies. Some measures include limits on the movement of employees between the two sides of such companies. What other measures are included to effectively deter and prevent discrimination? In your view, do they go far enough?

Your EM explained that Northern Ireland and the Chanel Tunnel and Eurotunnel operate according to an integrated model within the UK. What impact will the proposed text have on their governance?

An outstanding issue raised in your letter relates to the right for train operating companies to operate domestic passenger services in other Member States so long as those services do not compromise the "economic equilibrium" of a public service contract. Your letter raised concern about a recent amendment to extend this exemption to "exclusive rights" contracts, which incidentally are not used in the UK. The Government is concerned that this exemption may enable Member States to obfuscate from market opening. Has support increased for the Government's view?

The Governance Directive also included measures to integrate ticketing between all train operators across all Member States. We understand that this has been made an optional requirement in the current versions of the text, although the European Parliament voted in support for such a measure. This is an important aspect of the proposal and so we wish to know whether the Government oppose the introduction of integrated ticketing, and if so, why?

While we have raised a number of queries regarding the implications of the proposed text for both proposals under the Market/Political Pillar, we agree that these texts "represent a positive, if limited move towards establishing a single market in passenger rail services." Accordingly, we have decided to grant scrutiny waivers on both the Public Service Obligation Regulation (5960/13) and the Governance Directive (5985/13), on the basis that the final proposed texts are not detrimental to UK rail policy.

We look forward to an update on the General Approach for the Market/Political Pillar, and a response to our questions pending the use of a Delegated Act under the Technical Pillar in due course.

7 October 2015

Letter from Claire Perry MP to the Chairman

Thank you for your letter of 7 October 2015 granting scrutiny waivers for the Public Service Obligation ("PSO") Regulation (5960/13) and the Governance Directive (5985/13), the Market Pillar of the Fourth Railway Package. I am particularly grateful for your consideration of the proposals at short notice during recess.

I am writing now as requested to provide an update following the Transport Council on 8 October. The Council unanimously agreed General Approaches on both proposals, which mandate competitive tendering for public service contracts as a rule, but with several derogations to allow for direct awards in certain circumstances.

In your letter you asked for further information on a number of issues which I set out below, and I include further details about the General Approaches at each point.

Whether the proposals in their current form would help to achieve sufficient opening of the domestic railway market and boost the development of international rail services?

I do not expect the proposals to have an impact on opening the domestic market in the UK, because the market in Great Britain is already open to competition. "Competition for the market" exists in the form of competition for rail franchise contracts. "Competition in the market" is also possible because Train Operating Companies (TOCs) are able to apply to run passenger services on an "open access" basis.

No competition currently exists in or for the market in Northern Ireland. The proposals in their current form would permit the operation of open access services. However, the geographical, technical and economic characteristics of the railway network in Northern Ireland mean that it is unlikely that any such services will be launched.

I do expect some market opening to occur in the domestic markets in other EU Member States. The General Approach text will enable TOCs to apply to run passenger services on an open access basis in all EU Member States provided that they do not compromise the "economic equilibrium" of public service contracts.

Competitive award will also become the default method for the award of rail public service contracts. However, direct awards of up to ten years will remain possible in a range of circumstances, including where the competent authority demonstrates that a new directly awarded contract will result in improvements to either cost efficiency or quality compared to an existing contact. This is a broad derogation and I am disappointed that the development of the single market in this area will be more limited than was envisaged by the Commission's original proposal.

The General Approach makes no changes in respect of the ownership of TOCs. Therefore, competent authorities, such as the Department for Transport or Transport Scotland, will, subject to domestic legislation, be able to continue to award contracts to publicly or privately owned TOCs.

The market for international passenger services within the EU was opened by Directive 2007/58/EC. I therefore do not expect the proposals to have a direct impact on boosting the development of international rail services. However, both international and domestic services will benefit from the measures in the General Approach, which are designed to reduce the risk of discrimination against TOCs by Infrastructure Managers in all EU Member States.

What assessment has the Government made of the costs and benefits of this current text for the UK rail market?

We have not yet made a full assessment of the costs and benefits of the General Approach for the UK rail market. However, I do not anticipate a significant impact for the reasons set out above.

THE PSO REGULATION (5960/13)

What might "exceptional circumstances" be for the UK, and what steps can be taken to prevent Member States abusing such derogations?

The exceptional circumstances derogation in the PSO Regulation covers such eventualities as the quality or number of bids in a competitive tender being insufficient to guarantee good value for money, or the likelihood that the number of competitive tenders being run will have an adverse effect on the quantity or quality of bids received. The latter point is particularly important in the UK; and the use of direct awards has been necessary to avoid precisely this kind of market saturation. The UK has used Direct Awards in order to spread out the renewal dates of PSO contracts. The DfT franchise competitions are now evenly spaced with a clear timetable which runs to 2022. This allows train operators to plan ahead and submit high quality bids.

The General Approach contains a number of safeguards to prevent abuse of this derogation. It can only be used where the competent authority has previously used a competitive tender to award the public service contract. This means that it can only be used as a temporary measure in markets where competitive award is the norm. When using this derogation, the competent authority is also required to publish a substantiated decision and to inform the Commission. The length of contracts awarded under derogation is also limited to seven years.

Whether concerns about the scope of Article 4.8 requirements for the provision of technical, operational and financial information about the Public Service Contract have been adequately addressed?

Our concerns about the Commission's proposal arose because of the deregulated nature of the UK bus market. We were concerned that in future competent authorities, especially local authorities, would not be able to fulfil the requirement to provide technical, operational or financial information when procuring bus services where those bus services had previously been provided commercially. In those cases the local authority might not be able to access that information because it would be held by the commercial operator and the operator might be unwilling to provide it citing reasons of commercial confidentiality. The General Approach addresses our concerns because it now requires the information to be provided while "taking into consideration the legitimate protection of confidential business information."

Whether concerns about the proposed definition of a competent local authority, and how this would impact existing UK local government and transport structures have been addressed?

The Commission's original proposal for a definition of a competent local authority has been removed from the General Approach text. Wording is included in Article 5.1 to clarify that any such contracts 'may only cover the transport needs of urban agglomerations and/or rural areas', thereby addressing the UK's concern and catering for situations where local transport authorities cover both urban and rural areas.

THE GOVERNANCE DIRECTIVE (5985/13):

Regarding safeguard measures on infrastructure managers – what other measures are included to effectively deter and prevent discrimination, and do they go far enough?

The General Approach contains a number of safeguards designed to prevent and deter discrimination while avoiding excessive regulatory burden on infrastructure managers, be they vertically integrated or separated.

No individual can be employed as a member of the management board of an infrastructure manager and of a TOC at the same time. The same applies to members of any supervisory boards. Supervisory boards of this sort do not exist for UK infrastructure managers. Individuals employed by the infrastructure manager and responsible for the "essential functions" of decisions relating to train path allocation and charging cannot at the same time be employed as members of the management board of railway undertakings.

Infrastructure managers must be impartial in respect of traffic management and planning of maintenance and renewal works. Where an infrastructure manager outsources or shares its functions with other entities, it must ensure that no conflicts of interest arise and that it retains supervisory power and ultimate responsibility over the exercise of those functions. All infrastructure managers are also prohibited from granting or receiving loans to railway undertakings.

The risk of discrimination is higher within vertically integrated undertakings, so these are subject to additional safeguards. Members of the management board and persons in charge of essential functions may not receive any financial benefits from railway undertakings or bonuses principally related to the financial performance of particular railway undertakings. Within vertically integrated undertakings, access to sensitive information relating to essential functions must be restricted to authorised staff of the infrastructure manager.

The principle of non-discrimination is well established in the UK and, in my view, these measures are proportionate to prevent conflicts of interests and discrimination by all types of infrastructure manager.

A number of obligations are also placed on Member States. They must ensure that no entities exercise decisive influence on infrastructure managers in relation to the essential functions. They must ensure that railway undertakings have no decisive influence on the appointments and dismissals of persons in charge of these functions. They must also ensure that conflicts of interest are not created when persons in charge of essential functions move job, for example if an individual in charge of essential functions at an infrastructure manager begins working for a railway undertaking. In my view, the essential functions are the area where the greatest risk of discrimination arises. The safeguards are welcome because they leave some discretion to Member States to implement in a way appropriate for their individual circumstances, in line with the principle of subsidiarity.

What impact will the proposed text have on the governance of NI, Channel Tunnel and Eurotunnel?

The General Approach text allows for vertically integrated undertakings to exist provided that they comply with certain requirements. Unlike the original proposal, the General Approach would also allow Member States to create new vertically integrated undertakings if they so wish.

The structures of the infrastructure manager and railway undertaking in Northern Ireland and regarding Eurotunnel are vertically integrated. They would be required to comply with the safeguard measures for infrastructure managers contained the General Approach, as set out above. However, the principle of non-discrimination is already well established in the UK so I expect the safeguard measures to have a minimal impact on Eurotunnel and Northern Ireland Railways.

The General Approach text would also require a greater level of financial transparency within vertically integrated undertakings; a clear separation of debts and accounts between the infrastructure manager and other legal entities within the undertaking is specified, and the infrastructure manager would have to keep detailed records of any commercial and financial relations with the other legal entities within a vertically integrated undertaking. Existing loans between entities within vertically integrated undertakings can continue until their maturity.

These requirements are considerably less burdensome than those in the original proposal, but I expect that vertically integrated undertakings, such as Eurotunnel and Northern Ireland Railways, may incur some transitional costs from adapting how they present their accounts.

Has support increased for the Government's concerns about the proposed amendment to extend the exemption to "exclusive rights" contracts?

Our concerns were not shared by most Member States because their interpretation of the amendment's impact differed from ours and they thought it unlikely that it would have any impact in practice. Their view was that it would not allow the exemption for "exclusive rights" contracts to be extended. It was therefore included in the General Approach.

As these contracts are not used in GB and could not be used without changes to primary legislation, the proposal will not have a direct impact on UK rail policy either in terms of current contracts or limiting future options. There is potential indirect impact on UK Train Operating Companies, if other Member States use the exemption to keep their railway markets closed, thereby preventing UK TOCs from starting open-access services in those states. However, the risk that this will happen is low, given the statements by other Member States that the provision cannot be used in this way.

In view of this, we did not seek further amendments on this point at the Transport Council as we felt that re-opening the text at that stage posed a greater risk. We believed that other Member States might take the opportunity to re-open other aspects of the General Approach text with which they were not entirely satisfied. Changes of that sort could have altered the balance of the General Approach and had real impacts on the UK. We therefore supported the General Approach despite the inclusion of this amendment, because there is not a detriment to the UK.

Whether the Government opposes the introduction of integrated ticketing, and if so, why?

Our position is that requirements for integrated ticketing should be determined by each Member State, taking into account the structure of their railway market and in line with the principle of subsidiarity. An integrated ticketing scheme for rail already exists in the UK allowing passengers to purchase tickets to and from any station and travelling by any operator. I do not support the European Parliament's proposed amendment which would require TOCs in all Member States to participate in an EU-wide integrated through-ticketing scheme. It is highly questionable whether such a system would be technically feasible or whether it would offer sufficient benefits to justify its costs.

We expect that the Presidency will now seek trilogue discussions with the European Parliament on this pillar of the Package, and I will, of course, continue to keep the Committee informed of progress.

Whether the Government thinks that negotiations over Delegated Acts under the Technical Pillar are a special instance in which the European Parliament may decide to invoke its powers

We cannot be certain about the intentions of the European Parliament in this respect. During the trilogue meetings, the use of Delegated Acts for the adoption of all Common Safety Methods ("CSMs"), Common Safety Targets ("CSTs") *and* Technical Specifications for Interoperability was flagged as a significant issue for the EP and they issued a Press Release highlighting this. MEPs have consistently demonstrated a strong interest in railway issues in the past with a particular focus on safety matters. It is conceivable that the EP will invoke such powers.

Whether the Government believes the provisions of the Common Understanding do not go far enough to ensure the inclusion of national experts or the opportunity to discuss the positions of the different institutions, and consider possible amendments

During negotiations, the UK and others sought the involvement of Member State experts in as many aspects as possible of the development of new or revised CSMs or CSTs. However, it was not possible to mandate the requirement for such consultation in the text of the Railway Safety Directive since this would be a significant change to the usual process. The text refers to the importance of the Commission following its usual practice of consulting with Member State experts. Given the detailed and technical nature of the subject matter, we believe that this will happen and will actively push for it, but the text places the Commission under no firm obligation to do so.

Whether the Government still considers that abstaining on these Technical Pillar measures is in the national interest?

As noted in my letter of 10 September, the proposed use of Delegated Acts in this instance is not consistent with the UK's preferred approach on the use of secondary legislation powers. We are continuing to scrutinise the use of deferred powers to the Commission for the adoption of Delegated Acts and Implementing Acts and are using every opportunity to ensure that Member States' rights are duly respected. We are, in particular, pursuing the possibility of extended use of national experts during the adoption of Delegated Acts, through ongoing negotiations on the Interinstitutional Agreement on Better Regulation.

Throughout negotiations on the Technical Pillar, Member States were made aware of the UK's stance and that the inclusion of Delegated Act powers in the recast Railway Safety Directive meant we would be unable to accept the final text. However, we intend to give a clear signal of support for the other elements of the technical pillar which we support.

20 November 2015

Letter from the Chairman to Claire Perry MP

Thank you for your letter of 20 November 2015, which was considered by the EU Internal Market Sub-Committee via correspondence on 14 December 2015.

We welcome your helpful update on the agreements made at the Transport Council meeting on 8 October and your comprehensive and detailed response to our questions.

We note that the Public Service Obligation (PSO) Regulation and Governance Directive were both agreed to unanimously. We also acknowledge your response to our questions regarding the use of a Delegated Act under the Technical Pillar of the Fourth Railway Package.

Nonetheless, given the importance of this proposal, we have decided to retain these documents under scrutiny. We request further updates about the progress made during trialogue negotiations.

15 December 2015

Letter from Anna Soubry MP, Minister for Small Business, Industry and Enterprise, Department for Business, Innovation and Skills, to the Chairman

Further to your letter of 24 February to the Department for Business Innovation and Skills on the European Progress Microfinance Facility –(EPMF) in which you ask for more detail about the reach and impact of the UK financial providers. The European Progress Microcredit Finance Facility (2007-2013) was made available to finance providers via a direct application to the European Investment Fund. The UK Government does not have a direct part to play as this was a guarantee provided by the EU to help social inclusion and employment. Furthermore, UK finance providers are not obliged to report to UK government on the number of loans given under this facility. For these reasons, the government does not hold data on the use by UK providers of this microfinance guarantee or the loans that have been made as a result.

However, the British Business Bank has provided the following information from their records and while this is not a full list, it illustrates the type of transactions that have taken place for the three providers you asked about.

Microcredit Guarantee	Date signed	Volume expected in Euros
Fair Finance	24-May-13	1,000,000
EZBOB	07-Oct-13	6,000,000
GLE	18-Dec-13	4,800,000

I trust that this information, while limited, will be helpful to the committee.

16 November 2015

IMPLEMENTING THE PRINCIPLE OF EQUAL TREATMENT BETWEEN PERSONS IRRESPECTIVE OF RELIGION OR BELIEF, AGE OR SEXUAL ORIENTATION (9010/15)

Letter from the Chairman to Caroline Dinenage MP, Parliamentary Under Secretary of State for Women, Equalities and Family Justice, Ministry of Justice and Department for Education

Thank you for your explanatory memorandum of 20 October, which was considered by the EU Internal Market Sub-Committee at its meeting on 2 November 2015.

We were disappointed to receive your Explanatory Memorandum (EM) on this important proposal well after the extended date agreed. While the EM provided an update on the Government's remaining concerns about the scope of the draft Directive, these appear to largely reflect the Minister's views as expressed in a letter to the Committee dated 25 February 2015, at a time before the new Council text had been published. In addition to this we found your consideration of the policy implications to be lacking sufficient detail.

The EM noted that the text of the current draft Directive would "only have a minimal impact on domestic policy" although it would require "minor amendments to the Equality Act 2010." Under the current draft text, could you explain which parts of the Equality Act 2010 would require changing, and why?

The EM also highlights the Government's concern about the scope of the draft Directive in three areas: education, social protection and the inclusion of under-18s.

The Directive as drafted would currently prohibit discrimination in relation to "access to education" which includes the process of seeking information, applying and registration as well as admission and participation in educational services. However, this is balanced against Recital 17g which reinforces

the exclusive competence of Member States to organise their own educational systems including "for setting of the conditions for eligibility, including for example, age limits…scholarships or courses." Could you explain what reservations the Government has about this aspect of the Directive, and why Recital 17g does not go far enough?

Moreover, your EM expresses concern that the draft Directive could also "affect our freedom of manoeuvre" in the setting of benefit entitlement rules and benefit rates. Nonetheless, Recital 17f describes the exclusive competence of Member States with relation to the organisation of their social protection, including "determining the substance, the amount, the calculation and the duration of benefits and services". On this point too, could you explain in further detail in what way the current text of the Directive could lead to such an outcome and why the text included in Recital 17f is not sufficient.

In addition, your EM fails to address concerns raised in previous correspondence regarding the scope of the proposal in the provision of other services such as healthcare and housing. On 21 January 2010, the Minister informed the House of Commons Committee that amendments had been made to Article 3 to ensure that that Directive only applied to "access" to services in these areas and, in a particular, that an amendment had been included which stated that the proposal did not "alter the division of competences between the European Community and the Member States." While Article 3 of the newly drafted text includes clauses explaining that the Directive would not apply to the organisation or funding of these services by Member States, the previous amendment regarding the division of competence has been removed. What is the Government's view about the significance of this change?

The EM describes very briefly the Government's opposition to including under-18s in the scope of the Directive. The EM also notes that the Northern Ireland Assembly has recently conducted a consultation on proposals to extend discrimination legislation to protect young people over the age of 16 from harmful or unfair discrimination on the grounds of age. Does this represent a divergence of views between the Government and the Northern Ireland Assembly? If so, what steps are you taking either to engage with the Northern Ireland Assembly regarding this - to ensure their views are reflected in negotiations? What steps is the Government is taking to engage with devolved assemblies on this proposal more widely?

In closing, we request to know whether you believe the new Council text is likely to address the concerns of Member States and make it more likely that this proposal will be agreed to.

Owing to the number of issues raised in this letter, we have decided to retain this document under scrutiny.

While we expect to receive an update on the discussions in the December Council meeting, we look forward to a reply to the concerns raised in this letter in the next ten working days.

4 November 2015

Letter from Caroline Dinenage MP to the Chairman

Thank you for your letter of 4 November 2015 about the Government's recent Explanatory Memorandum on the above draft Directive. I am sorry that a late submission of the Memorandum missed your deadline and may have hindered timely consideration of the current state of play on the Directive.

You have raised a number of questions about the Memorandum and I shall seek to respond to each of these in turn. I can confirm that my responses address the latest version of the draft text.

CHANGES REQUIRED TO THE EQUALITY ACT 2010

The Memorandum noted that most of the requirements of the draft were already in UK law – The Equality Act 2010 and equivalent legislation in Northern Ireland. You have asked which parts of the Equality Act would require changing. For the United Kingdom, the following proposals in the Directive are not currently implemented:

- Protection from harassment related to religion or belief and sexual orientation

Implementation of the above requirements would require amendment of Section 29(8) (Provisions of services etc.) to remove the exceptions for religion or belief and sexual orientation. Removal of this

text would result in the prohibition of harassment related to the aforementioned protected characteristics.

- Protection from age discrimination for people aged under 18 (or in the case of Northern Ireland, under 16, as proposed)

In terms of the Equality Act 2010, implementation of protection for the under 18s from age discrimination would require amendment of Section 28(1) (Application of this Part), removing text that currently excludes the under 18s from protection. Children were not included in the age discrimination prohibition because this would have caused difficulty for some service providers – for example, age restrictions in children's play areas.

I should also note for completeness that, as discussed elsewhere, Northern Ireland is still in the process of introducing an age discrimination ban, which would be required by the Directive. Protection in Northern Ireland is intended to apply to those aged 16 and over, so would still fall short of the Directive requirement that people of all ages be covered.

THE INCLUSION OF EDUCATION AND SOCIAL PROTECTION WITHIN THE DIRECTIVE'S SCOPE

You asked if recitals 17g and 17f were not in our view sufficient to preserve member States' competence in the areas of education and social protection, respectively. The Government is opposed on competence grounds to any EU legislative activity relating to education. Despite what Recital 17g may say, there remains some ambiguity on this point so long as education is included in the Directive's scope and there is potential for the courts to interpret this, and we do not want to run the risk of any competence creep by it being included in the proposal.

Similar comments apply in relation to social protection, which encompasses social security, social housing and healthcare. While the Government agrees that Recital 17f indicates an intention to preserve the exclusive competence of Member States – something that we welcome – the fact remains that recitals, in setting out the purpose of the Directive, will be used as a guide to interpretation but cannot take precedence over the substantive proposals of the relevant Article. This means that phrases like "access to" continue to be ambiguous in their precise scope. As such we are continuing to look at whether further amendments might be needed and are currently unable to "sign off" this part of the Directive's text.

SOCIAL HOUSING AND HEALTH

You ask about the current wording of Article 3 which includes, as noted above, the words "access to" and drew attention to the absence of a reference to the exclusive competence of Member States in these fields. As noted above in relation to social protection as a whole, the arrangements for exclusive competence are now to be found in Recital 17f. As previously explained, there is some concern that Recital text carries less weight in legal interpretation than the Articles of a Directive, but it is certainly preferable to have this area set out somewhere in the text, than for it to be entirely absent.

EXCLUSIONS OF UNDER 18S FROM PROTECTION FROM AGE DISCRIMINATION

You ask whether the Government's view on the exclusion of under 18s from age discrimination protection differs from that of the Northern Ireland Executive (Equal Opportunities is a devolved matter in Northern Ireland, in contrast to the rest of the United Kingdom). I think that is self-evidently true. The Government has had useful discussions with the Executive at official level, where we explained the rationale for the approach in Great Britain. The Northern Ireland approach has not as yet been embedded in our negotiating position because the Executive's proposals have not been finalised or implemented, but I would expect due regard to be paid to their position if this ultimately becomes law in the Province.

Other than the Northern Ireland Executive, we have not hitherto substantively engaged with the other devolved administrations on the Directive because equal opportunities legislation (which encompasses equalities) is a reserved matter in Great Britain. However, the Scotland Bill, when enacted, will devolve some legislative competence to the Scottish Parliament and at that point I would expect my officials to begin consulting their Scottish counterparts as part of the preparation for future negotiations on the Directive.

I do hope this has been of assistance to the Committee and should any further questions arise as a result of my reply please do not hesitate to contact me.

16 November 2015

Letter from the Chairman to Caroline Dinenage MP

Thank you for your explanatory memorandum of 16 November 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 14 December 2015.

We were grateful to receive your letter, which responded to the questions raised in our previous letter.

We note the Government's concern regarding the scope of the proposal and your desire to reduce ambiguity. Has the Government put forward any further amendments to the Articles to reflect the competences of individual Member States in the areas of social security, social housing and health care provision?

We welcome your co-operation with Northern Ireland on the Directive. We note that a similar approach will be taken with the government of Scotland, as may be required under the Scotland Bill.

15 December 2015

IMPROVING THE GENDER BALANCE AMONG NON-EXECUTIVE DIRECTORS OF COMPANIES (16433/12)

Letter from Baroness Neville-Rolfe, Parliamentary Under Secretary of State and Minister for Intellectual Property, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

As the Minister in BIS responsible for Women on Boards, I would like to update you on this draft Directive.

We continue to keenly monitor progress but there has not been much progress on this draft Directive over the last few months.

The draft Directive was due for discussion at the Employment and Social Affairs Council (EPSCO) on 18 June 2015. This was on the agenda as an item for update. The Commission stated they were optimistic that movement would take place under the Luxembourg Presidency and suggested the possibility of a General Approach at the October EPSCO Council. The Luxembourgish Presidency have not yet arranged any working groups on this draft Directive or circulated any potential text changes. We will of course update you if they set forward any compromise proposals or if we glean there is a real possibility of a General Approach in October.

This Government's position on the draft Directive has not changed. We, along with some other Member States, continue to believe that EU level action is not required and continue to form part of the blocking minority against this draft Directive.

The Government believes that we have made excellent progress in the UK with a business led voluntary approach and FTSE 100 companies have now exceeded the 25% target set by Lord Davies in 2011. Representation of women is currently 25.8% across the FTSE 100.

Lord Davies and his Steering Group will be publishing their final report in October 2015 with recommendations for next steps, we will consider where to go next with this policy following his recommendations. I am keen for businesses to focus on improving the pipeline of executive talent so that the success of the voluntary approach to board representation continues.

20 August 2015

Letter from Baroness Neville-Rolfe to the Chairman

I would like to take this opportunity to provide you with further update on this dossier and address the queries highlighted in the report and conclusions from your Committee meeting of 9 September.

Despite optimistic expectations from the Commission for significant progress in the second half of the year, the Luxembourg Presidency has still not yet arranged any working groups on this draft Directive

nor circulated any potential text changes. I have recently spoken to the Dutch Government, who will hold the next Presidency and they are very interested in the voluntary approach we have undertaken in the UK.

The Minister for Employment, Priti Patel, wrote to you setting out handling of the dossiers at the Employment, Social Policy, Health and Consumer Affairs (EPSCO) meeting on Monday 5 October. This draft Directive was on the agenda. However it has been eventually withdrawn. A few member states expressed disappointment and sought further progress in time for December's Council.

Whilst I am not in a position to make public the list of member states in the blocking minority, I can reassure you that, for the time being, this is still standing. Some movement, in both directions, may occur in the coming months, as we are aware that some countries are considering their positions. We will, of course, inform you of any other relevant developments.

With regards to the "Flexibility Clause", this aims to introduce the opportunity for member states to potentially make use of existing national measures, instead of all the proposed means, to attain the gender balance objectives. The "Flexibility Clause" does not exempt countries from suspending all aspects of the Directive. According to the draft text, the UK would not currently be eligible for exemption as the scope of the Directive goes further than the UK approach. However, given the success of our voluntary, business-led approach (as recommended by Lord Davies's Women on Boards 2011 Report), the UK may become eligible in future.

As currently drafted, the Directive would apply to all large listed companies. The number of large listed companies fluctuates but we believe this could affect between 450-550 companies registered in the UK.

The targets set by Lord Davies instead, focused on the top listed: a target of 25% for FTSE 100 companies to be achieved by 2015 and FTSE 100 companies have now exceeded this target, with current representation at 26.1%. There are now no all-male boards in the FTSE 100 (there were 21 in 2011). Representation has also improved on FTSE 250 companies and there is 19.6% representation of women (up from 7.8% in 2011). There are now only 15 all-male in the FTSE 250 (there were 131 in 2011).

It is also worth noting that the current text of the proposal is still in a draft stage subject to further amendments. Taking also into account the current state of play of the dossier, it is difficult to anticipate its final shape.

As anticipated, Lord Davies and his Steering Group will be publishing their final report on 29 October 2015. It is expected that their recommendations will help to shape future policy on representation of women on the Boards of UK companies.

13 October 2015

Letter from the Chairman to Baroness Neville-Rolfe

Thank you for your letters dated 20 August and 13 October 2015 on the above proposal. These were considered by the House of Lords EU Internal Market Sub-Committee at its meetings of 12 and 26 October 2015.

We were grateful to receive both letters regarding developments on this draft Directive. Your most recent letter informed us that a General Approach was not sought by the Luxembourg Presidency at the EPSCO Council meeting on 5 October. Your letter mentions that "a few member states expressed disappointment and sought further progress in time for December's Council." Do you think it is likely that the Luxembourg Presidency will continue to press for a General Approach at the next EPSCO Council meeting in December? From your letter, we assume that this may be the last opportunity for some time for the Council to agree a General Approach.

Given that there may be some pressure for progress on this proposal at the EPSCO Council meeting in December, what steps is the Government taking to engage with the Member States in the blocking minority ahead of this meeting? We understand that you are not in position to publicise the details of those Member States who form the blocking minority to this proposal.

We welcome your explanation of the "Flexibility Clause" in your latest letter. We note that while the UK would not currently be eligible for an exemption under such a clause, it may become eligible in future given the success of its voluntary business-led approach. Could you elaborate further as to

how this would be possible? Would it depend on the UK widening the scope of its gender balance targets; or employing different policy tools?

The future eligibility of the UK under the "Flexibility Clause" may well depend on the recommendations made by Lord Davies and his Steering Group at the end of October. Once this report has been published, could you please inform us about which of the recommendations the Government intends to support (and which it does not), and why.

As stated in your letter, we look forward to timely updates regarding any proposed text for council agreement, in particular detailing the implications that it would have on the UK.

We have decided to retain the proposal under scrutiny.

27 October 2015

Letter from Baroness Neville-Rolfe to the Chairman

Thank you for your letter of 27 October. I would like to update you on latest developments on this dossier and address your recent queries.

As you correctly anticipated, following the withdrawal of the proposal from the agenda, at the Employment, Social Policy, Health and Consumer Affairs (EPSCO) meeting on 5 October, the Luxembourg Presidency has put this proposed Directive on the agenda for the meeting on 7th December and it appears it will press for a General Approach.

A revised text was discussed during two working group meetings in Council on 5 and 17 November. I enclose the latest draft [not printed], for your information. The introduction to the text provides some details on other Member States' positions.

You have asked for an explanation of the "flexibility clause". The proposed Directive sets out a mechanism in Article 4a for selecting candidates for appointment. It is designed to achieve the objectives of the Directive (in brief 40% of non-executive positions in listed companies being held by members of the under-represented sex or 33% of both executive and non-executive directors in those companies being held by members of the under-represented sex). The Directive does not apply to small or medium sized companies, even if they are listed. The "flexibility clause" allows a Member State to introduce alternative measures which either achieve the Directive objectives or come close to doing so. In addition, if the Member State has met one of the two Directive objectives, with or without taking measures to do so, it is not required to implement Article 4a. This flexibility clause is time limited; it cannot be relied on beyond the end of 2022 unless one of the objectives has been met or the Member State has in place legislation which fulfils certain criteria. The amendments in the latest draft of the proposed Directive affect aspects of the "flexibility clause" and do not change the potential impact of the proposed Directive on the UK. The revisions also extend the implementation date and the date on which the Directive will cease to have effect.

— The Women on Boards Davies Review Five Year Summary was published on 29 October. Main achievements in just over four years:

— More women on FTSE 350 boards than ever before, with representation of women more than doubling since 2011 - now 26.1% on FTSE 100 boards and 19.6% on FTSE 250 boards. 550 new women appointments.

— Dramatic reduction in the number of all-male boards – 152 across FTSE 350 in 2011, now no all-male boards in the FTSE 100 and only 15 in the FTSE 250.

The new Davies' report sets also a new voluntary, business-led target, for women's representation on Boards of FTSE 350 companies, of 33% to be achieved in the next five years.

If the EU proposed Directive is agreed in its current format, this target would not be sufficient to benefit from the flexibility clause unless the UK achieved one of the two Directive objectives (that is 40% of non-executive positions in listed companies being members of the under-represented sex or 33% of both executive and non-executive directors in those companies). This is because the scope of the proposed Directive is much wider than the UK Women on Boards initiative. The Directive would impact on around 450-550 UK companies; the Women on Boards initiative impacts on 350 UK companies.

The Government agrees that the progress made so far by the Women on Boards initiative must be sustained and that we need a renewed focus on the Executive Pipeline where progress is slow. We have accepted Lord Davies' recommendation to establish a new review on women on boards, with a new reviewer. We believe that this work must remain business led if it is to have full impact and we therefore expect that the remaining recommendations published in October will be for the new steering group to consider.

The proposed EU regulatory intervention in this area, could impact negatively on business practice, not only by moving away from business-led arrangements for increasing representation of women on boards, but by introducing EU rules for selecting candidates for appointment which might be a burden on companies.

It is for these same reasons that I remain of the view that we should continue to oppose any regulatory intervention at EU level, which would risk undermining the progress made so far.

You have asked how we have engaged with those member states in the blocking minority.

We continue to engage with our blocking minority partners, both at official as well as at Ministerial level. I am aware that the blocking minority is not as strong as it once was and positions could easily shift in the coming weeks.

26 November 2015

Letter from the Chairman to Baroness Neville-Rolfe

Thank you for your letter dated 26 November 2015 on the above proposal. This letter was considered by the House of Lords EU Internal Market Sub-Committee at its meeting of 2 December 2015.

We are grateful for your update and to be informed that the Luxembourg Presidency will be pushing for a General Approach on this text at the EPSCO Council meeting on 7 December. We welcome the opportunity to review the proposed text and the positions of other Member States. We have respected the terms outlined in your letter relating to the confidentiality of this document.

We note that the UK will not benefit from the "flexibility clause" and that the objectives and requirements of the Directive will apply to the UK without exception. We recognise the uncertainty regarding the future of the blocking minority. As your letter reiterated the Government's opposition to the proposal and made no request for the proposal to be cleared from scrutiny, we assume that the Government will vote against a General Approach at this Council meeting. Nonetheless, we have decided to retain the proposal under scrutiny.

If a General Approach is agreed, we request to know how quickly this proposal will progress through trilogue negotiations, whether the Government will consider legal challenge and whether the Government will undertake an impact assessment regarding the implementation of this Directive. We also request that the General Approach text is shared with the Committee. If a General Approach is not agreed, we request to be informed of the likely future of the proposal under subsequent Presidencies.

The Women on Boards Davies Review Five Year Summary highlights some of the successes of a business led approach. We note that the number of women on boards has almost doubled in the last five years. We also welcome the Government's endorsement of a new target for 33 per cent of women on all boards by 2020.

3 December 2015

Letter from Baroness Neville-Rolfe to the Chairman

Thank you for your letter of 3 December. I would like to provide you with a brief update on this file.
The proposed Directive was the first item on the agenda at the Employment, Social Policy, Health and Consumer Affairs (EPSCO) meeting, on 7 December. As anticipated, the Luxembourgish Presidency urged the Council to agree the revised text.
Vera Jourova, DG Justice Commissioner, argued that the directive was necessary not only to promote gender equality, but also as an economic tool to ensure that companies made the best use of all the talent available.

The latest text was welcomed by several Member States who noted its flexibility. Other Ministers, despite supporting the Directive, were nevertheless obliged to maintain a scrutiny reservation, due to political disagreement within their governments.

The UK led interventions from the blocking minority group, setting out the significant success which had been achieved through our domestic business led, voluntary approach. I explained how the UK continued to believe that, particularly in this area, Member States should be able to choose the approach appropriate to them. Our subsidiarity concerns were shared by the members of the blocking minority.

The Luxembourgish Presidency concluded that there was insufficient support for the proposal and expressed hope that the next Dutch Presidency would resolve the deadlock surrounding the dossier. However, Minister Lydia Mutsch also stated that she was realistic, given the Netherlands had opposed the proposal since its original publication.

The Dutch have not yet given any indication on how they plan to handle this dossier in the next six months. For the time being, the file remains blocked and it is clear that further work on the proposal would be necessary before possible options on a way forward are explored.

16 December 2015

INTEGRATION OF THE LONG-TERM UNEMPLOYED INTO THE LABOUR MARKET (12081/15)

Letter from the Chairman to Priti Patel MP, Minister of State for Employment, Department for Work and Pensions

Thank you for your explanatory memorandum of 2 October 2015 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 19 October.

We are content to clear the document from scrutiny.

Please note that this letter does not require a response.

20 October 2015

INTERNATIONAL RAIL TRANSPORT: THE CONVENTION CONCERNING THE INTERNATIONAL CARRIAGE BY RAIL (COTIF) (11154/15)

Letter from the Chairman to Claire Perry MP, Parliamentary Under-Secretary of State for Transport, Department for Transport

Thank you for your explanatory memorandum of 7 September, which was considered by the EU Internal Market Sub-Committee at its meeting on 14 September 2015

We understand that the Government finds no fault with the policy implications of agreeing to the proposed revision of Article 12 and Appendix D, Items 8 and 10 of the agenda of the OTIF General Assembly on 29-30 September. However, it remains concerned that the "Council has gone further than it should and asserted that the EU has exclusive external competence when the UK's view is that it only shares competence with Member States."

We would be grateful if you could explain why you believe this to be the case in this instance, and why the Government has intervened to support Germany in their legal case against the Council. We are unable to assess the strengths of your concerns without further information.

Pending your reply, we have decided to retain the document under scrutiny.

We look forward to a reply to this letter within 10 working days.

15 September 2015

Letter from Claire Perry MP to the Chairman

Thank you for your letter of 15 September concerning the Explanatory Memorandum on the proposal for a Council Decision establishing the EU's position on certain amendments to COTIF and to its Appendices.

As noted in the Explanatory Memorandum, although the Government has no concerns with the substance of the proposed amendments to Article 12 of the Basic Convention and to Appendix D, these amendments are the subject of on-going proceedings before the Court of Justice of the EU in Case C-600/14: Germany v Council of the EU. Therefore our view was that if we were unable to secure amendments to make clear that the EU shares competence with the Member States as regards these amendments, the UK would abstain on the Council Decision.

Despite lobbying and interventions by the UK, and two other Member States, we were unable to obtain the clarity in the Council's Decision that we wanted concerning the division of competence. In order not to pre-empt the judgment of the European Court in Case C-600/14, the UK and one other Member State abstained on the Decision while another voted against it.

You asked for further information on the division of competence. Appendix D to COTIF deals with Contracts of Use of Vehicles in International Traffic ("CUV"). The provisions of CUV only concern the rights and obligations of parties to a contract of use of vehicles in international rail traffic. There is no EU legislation regulating such contracts. The CUV rules are expressly without prejudice to the prescriptions relating to technical admission of vehicles to circulate in international traffic. They are completely separate from EU regulatory rules governing vehicle maintenance and safety which would apply irrespective of the CUV. Therefore the relevant amendments (including the consequential amendment to Article 12 of the Basic Convention) could neither affect EU rules on the maintenance and safety of railway vehicles nor alter their scope.

In the UK's view the EU shares competence with the Member States in this area and we want to guard against "competence creep" where it has not been shown that action by the Member States may have an adverse effect on the operation of the EU's internal rules. As I am sure you will appreciate, the principle of the sound administration of justice, means that we are not in a position to disclose further details whilst the litigation is on-going.

2 October 2015

NON-ROAD MOBILE MACHINERY: EMISSION LIMITS (13690/14)

Letter from Andrew Jones MP, Parliamentary Under Secretary of State for Transport, Department for Transport, to the Chairman

I am writing to update you on the progress of the above proposal ahead of a possible first reading deal with the European Parliament.

The previous Latvian Presidency was not able to achieve as much progress as it had hoped, and the negotiations have since been taken forward by the Luxembourg Presidency. We have been able to secure a number of key UK objectives in working group negotiations. These include provisions for the like-for-like replacement of a broken or worn-out engine in still serviceable machinery and the inclusion of a derogation for lifeboat launch vehicles, avoiding technical difficulties from wholly meeting the requirements of the proposal that could have impacted the UK manufacturers.

For Inland Waterway Vessels we have been able to secure a better position than that originally proposed by the Commission, although industry has argued that it will still be a challenge to meet. However, a number of Member States with far larger inland waterway fleets than the UK have issues with emissions from this sector, which the text will help resolve, so we have therefore supported the consensus on the emission requirements in this area.

Consultation with key industry stakeholders has indicated that there is unanimous support for the Commission's proposal overall as, even though it will mean more stringent emissions limits, it will widen the available market and reduce compliance costs by aligning with the emission standards in the US. Industry is particularly keen to see quick adoption of the legislation to give certainty on regulatory requirements.

The Commission's impact assessment concluded that the economic costs of meeting the proposed requirements are outweighed by the environmental benefits. This is in part due to the necessary technologies already having been developed by the road sector. As a result any expense will generally be limited to implementation costs. Industry are aware and accepting of the need to address the emissions from this sector and so are willing to make the investment. These costs are offset by the monetised impact of the air quality emissions gained if these changes are adopted. Overall the net benefit is estimated at approximately €20 billion EU wide up to 2040. We fully support these findings and the overall ambition of the proposal makes economic and environmental sense given that a reduction of as much as 12% in nitrogen oxides (NO_x) emissions and 50% reduction in particulate matter emissions from this sector could be achieved.

The European Parliament ENVI Committee completed its report on the proposal in September 2015. In general, the ENVI Committee's proposed amendments are not substantial, and trilogue discussions have been taking place between MEPs and the Presidency in order to find a compromise text. In these discussions, we have been able to maintain key UK elements such as:

— Derogation for lifeboat launch vehicles

— Specific requirements for 'ATEX' engines5

— Appropriate use of the statement of conformity to avoid burden on business

— Continuation of the current provision for replacement engines in railcar and locomotives

A proposed first reading deal between the Council and the Parliament is likely to be finalised shortly, but there is an important item to the UK yet to be agreed. This is replacement engines for categories other than rail, which the incoming Dutch Presidency will be seeking to resolve, and is beneficial to smaller businesses. The duration of such a provision has been the main issue here, with the period likely to be between 15 to 20 years. We will be seeking the full 20 years but I do recognise that we may have to compromise in order to secure a timely and successful consensus. I anticipate that the Dutch Presidency will be concluding trilogue negotiations in early 2016 and we support the timely adoption that overall will provide legislation that is both helpful to industry and in meeting our air quality aims.

I hope that this update is helpful and will, of course, keep you informed of further developments.

14 January 2016

PREGNANT WORKERS AND WORKERS WHO HAVE RECENTLY GIVEN BIRTH OR ARE BREASTFEEDING (13983/08)

Letter from Nick Boles MP, Minister of State for Skills, Department for Business, Innovation and Skills and Department for Education, to the Chairman

I am writing to provide you with an update on the above proposal.

As you will be aware, in 2008 the European Commission proposed a revision to the 1992 Pregnant Workers Directive. At its first reading in October 2010, the European Parliament (EP) as co-legislators, substantially amended the Commission's draft text to include, among other things, 20 weeks' maternity leave on full pay and 2 weeks paternity leave on full pay. Since December 2010, the Council position has been firm that no further negotiations could take place as the EP text was unacceptable to the Council. The UK has been part of the group of Member States to whom the text of the Directive was unacceptable since December 2010.

In December 2014, the European Commission's Work Programme set out the proposal that the dossier would be withdrawn and replaced by a new initiative as part of its Regulatory Fitness agenda if no substantial progress was achieved within six months.

In August 2015, the Commission withdrew the 2008 proposal and published a roadmap for a replacement initiative. The title of the new initiative is: "*New start to address the challenges of work-life*

[5] Engines certified for use in explosive atmospheres

balance faced by working families". Roadmaps set out early proposals for planned Commission initiatives. They describe the problem that the initiative aims to address and possible policy options. It outlines a wide-ranging set of possible legislative and non-legislative proposals. Please see Annex A [not printed].

The Commission will now consult on the options in the roadmap with European Social Partners and prepare an impact assessment before the initiative is finalised. The new initiative is expected be included in the 2016 Commission Work Programme which comes out in autumn.

I will provide the Committee with a new Explanatory Memorandum when the Commission officially submits their proposal to the Council.

7 September 2015

Letter from the Chairman to Nick Boles MP

Thank you for your *letter* of 7 September 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 19 October 2015.

We were grateful for your letter which confirmed that this proposal was formally withdrawn by the Commission in August. We have therefore cleared this document from scrutiny.

We await further developments regarding the Commission's roadmap on its new initiative -*New start to address the challenges of work-life balance faced by working families.*

27 October 2015

RESEARCH AND INNOVATION PERFORMANCE IN THE EU (13615/14)

Letter from Jo Johnson MP, Minister of State for Universities and Science, Department for Business, Innovation and Skills, to the Chairman

Thank you for your letter of 10 March to my predecessor, the Rt Hon Greg Clark MP, requesting further information on issues arising from the Explanatory Memorandum he submitted on this document on 10 December 2014. I will address the issues in the order you raised them in your March letter.

UK SUPPORT FOR BASIC SKILLS IN THE LABOUR MARKET

To raise standards of literacy and numeracy in the adult workforce, we have embedded English and mathematics into all major programmes, including 16-19 study programmes, apprenticeships and traineeships. We fully fund all adults to achieve their first English and mathematics GCSE as well as other qualifications which help them get to that level. We now require 16 year olds who did not achieve at least a grade C at GCSE in English and mathematics at school to continue to study those subjects post-16.

We have invested over £30M to improve the quality of teaching and learning in Further Education. This includes upskilling current English and mathematics teachers to teach these subjects to a high level, and providing bursaries to encourage well-qualified graduates to join the profession.

The Committee specifically requested more details on the objectives, deadline and cost of the Government's research programme on adult skills. I should make clear at the outset that the specific intervention mentioned in the Explanatory Memorandum is part of a broader research effort in this area.

Since the Skills for Life Survey in 2011, we have published an extensive body of research on adult literacy and numeracy, and the Government has committed almost £8M to this research programme in order to develop robust evidence on which to base policy. It includes a comprehensive literature review and studies to follow up the Organisation for Economic Cooperation and Development (OECD) Programme for the International Assessment of Adult Competencies (PIAAC) survey reports on basic skills in England, including investigating the relationship between basic skills and young people's transition to the labour market. A number of research projects are ongoing and due to report between now and spring 2016. These will provide insights into: the impact of poor literacy

and numeracy on employers in England; further disaggregating the labour market returns to English and mathematics qualifications in Further Education; the impact of Further Education reforms, including those around English and mathematics, on what is offered on levels of participation; a randomised controlled trial on different learning methods; and a longitudinal study of skills gain and loss over time.

As mentioned in the Explanatory Memorandum, in April 2014 we launched the Behavioural Research Centre for Adult Skills and Knowledge (ASK) in partnership with the Behavioural Insights Team to bring insights from behavioural science to the challenge of getting adults to participate and succeed in English and mathematics. The Government has committed £2.9M to this over 3 years (£1.1M for 2015/16, 2016/17 funding and work programme to be agreed by the ASK Board), and it will involve a number of research strands with different deadlines. Results from early projects will be published shortly. Early trials are showing promising results. For example, a simple text messaging intervention has been shown to reduce mid-term drop-out amongst learners on English and mathematics courses in college by 36%.

FINANCE FOR RESEARCH FROM ABROAD AND THE NON-PROFIT SECTOR

As indicated in the Commission's Staff Working Document, the UK has unusually high levels of foreign R&D as a share of total R&D. The UK has a world leading research base where opportunities for knowledge-sharing with public and university research organisations and the availability of high quality R&D personnel make the UK an attractive destination for multinational R&D investment. Foreign investment into UK R&D has helped to maintain business R&D intensity in recent years and, while some inward investment competes for R&D resources with domestic R&D activity, this leads overall to an improvement in resource allocation and ultimately an expansion of the UK R&D base. The evidence broadly points to the attractiveness of the UK to foreign investment as being a positive feature for the UK which should continue to be promoted.

As indicated in the report, funding from non-profit organisations is another important characteristic of the UK research system. The Government regards this as positive: charities and other non-profit organisations provide a significant contribution to science and research and are an integral part of the funding landscape of UK academic research.

For us the issue is not over-reliance on foreign investment or the non-profit sector, but the relatively poor R&D performance of UK domestic firms, and this is where the Government is focusing its efforts. Innovate UK, funded by BIS, has a range of programmes to support different types of business and different innovation objectives. Grant support for innovation has been shown to substantially increase UK firms' innovation performance, with significant impacts noted for small and medium enterprises. Furthermore, projects that involve cooperation with universities and Public Sector Research Establishments have been shown to have additional impacts compared to projects just involving financial support.

EUROPEAN FUND FOR STRATEGIC INVESTMENTS (EFSI)

The Government welcomes the European Fund for Strategic Investment (EFSI). The Fund represents a great opportunity to increase investment across the EU, including in UK projects, and the scope of the Fund specifically includes research and innovation.

The UK is well placed to benefit from EFSI and build on our impressive record of securing increasing amounts of financing from the European Investment Bank (EIB) in recent years. The UK received EIB lending worth a record €7BN (£5BN) in 2014: an increase of 20% on the previous year's share, which itself was a 56% increase on the year before. And in 2014, UK SMEs received 20% of overall European Investment Fund activity, more than any other Member State.

During the negotiation of EFSI the Government worked to maximise the potential for UK projects to benefit from the Fund. We secured amendments to the text of the implementing regulation, for example, that ensure that the Investment Committee will have one or more members with a background in research, development and innovation and that universities and charities can access EFSI.

The European Investment Bank (EIB) is responsible for identifying projects for support under the terms of the EFSI and we are pleased it has already begun this process. The Government fully expects that UK projects will, in due course, benefit from the EIB's decisions. Projects must be subject to independent approval by the EIB and we cannot pre-judge those decisions. We are, however,

proactively working to identify and promote projects that could be relevant for EFSI support, and to ensure relevant institutions and stakeholders can engage with EIB in order to access EFSI support.

INDEPENDENT SCIENTIFIC ADVICE

The model of science advice to governments and the way that informs national research and development strategies varies significantly across EU Member States. The French Government, for example, set up a 'Strategic Research Council' in December 2013 to help define its national research and innovation strategy. Advice does not always follow an annual cycle. Sweden, for example, uses an overarching quadrennial Research and Innovation Bill to detail its science and innovation policy, and this is shaped through consultation with the scientific community. In view of these variations, the Government is not persuaded that collecting this information in the Commission's report would add significant benefit.

The Committee also asked about the future provision of science advice to the European Commission, and there have been important developments on this issue since March. The Commission announced its proposals for a new science advice mechanism on 13 May 2015. The announcement outlined a future mechanism which will draw on the wide range of scientific expertise in Europe, through a close relationship with national academies and other bodies, coordinated by a High-Level Group of independent Scientists. The Commission has appointed an identification committee which will make a recommendation on suitable candidates for the High Level Panel, and I am delighted that this committee includes Professor Sir David King. The High Level Panel should be in place by autumn this year. The Government will continue to engage with the Commission on this matter and will provide advice to the Commission when needed.

13 July 2015

Letter from the Chairman to Jo Johnson MP

Thank you for your response of 13 July on the above document. This was considered by the EU Internal Market Sub-Committee at its meeting of 12 October 2015.

We were encouraged to hear about the range of investigations that are being undertaken to ascertain how the literacy and numeracy of the workforce can be improved. We also concur with your analysis that the relatively poor R&D performance of UK domestic firms is a concern.

Members of the Committee commented that because EU investment in R&I is significantly lower than some other advanced economies, including the US, comparing the UK's performance to the rest of the EU was not necessarily a good indicator, and could lead to complacency. Do you share this view?

We also noted that you referred to the United Kingdom at a number of points during your letter. Can you clarify whether, when you make reference to the UK, you are indicating that you have consulted with colleagues in the Scottish Parliament and the Welsh and Northern Irish assemblies regarding these issues? Can you provide us with an update on any engagement of this kind that has taken place?

We also wished to correspond with your regarding the European Fund for Strategic Investments (EFSI). On 6 July the Chancellor of the Exchequer announced that the Government was investing £6bn in this fund, the scope of which, as you state, includes research and innovation. Given the scale of this investment, and the multiplier effect that the Commission anticipates the Fund will generate, the Committee felt that maximising this opportunity for UK-based research and innovation was extremely important.

Although you mention that the Government is working to identify and promote projects that could be relevant for EFSI support, the Committee would like to be assured that the level of this engagement is proportionate to the level of investment. At a recent Remotely Piloted Aircraft conference that members of the Committee attended, a range of innovators and entrepreneurs operating in this high-growth market discussed the difficulty of accessing investment in the UK. These individuals had no knowledge of the European Fund for Strategic Investment.

Can you provide the Committee with a thorough account of how precisely the Government is working to identify and promote projects that could be eligible for EFSI support, and to ensure that relevant institutions and stakeholders can engage with the EIB? Can you also update us on specific EFSI-related engagement that has taken place with the devolved assemblies and Scottish Parliament?

The Committee would like to clear this EM from scrutiny, but looks forward to your response at your earliest convenience.

14 October 2015

Letter from Jo Johnson MP to the Chairman

Thank you for your letter of 14 October, requesting further information on issues arising from the Explanatory Memorandum (EM) submitted on this document on 10 December 2014. I will address the issues in the order you raised them in your letter.

COMPARISONS OF UK R&I PERFORMANCE WITH THE REST OF THE EU

While the Government agrees that comparing UK R&D performance only to that of other EU countries forgoes comparison with other countries, consideration of our R&D performance against the EU is still a reasonable comparison to make as Europe, particularly Western Europe, remains an important comparator for the UK. Germany, for example, is the UKs most significant research collaboration partner, with over 45,000 co-authored papers in the period 2008-12. The Commission document covered in the Explanatory Memorandum therefore provides us with valuable information.

However the Government recognises that to continue to as a focal point for global research it is important that the UK considers its position in comparison to all its major research partners. In a recent international benchmarking exercise the following were identified as key science and innovation comparator countries: Australia, Canada, Finland, France, Germany, Japan, South Korea and the United States. The UK has a globally connected research base, with the world's highest bilateral flow of researchers to and from the United States, with almost 22,000 moves in either direction from 1996 to 2013.

CONSULTATION WITH THE DEVOLVED ADMINISTRATIONS

Your letter raised the issue of consultation with the Scottish Parliament and the Welsh and Northern Irish assemblies. All the Devolved Administrations (DAs) were consulted on the issues raised by the EM and the Government reply in July to your first letter. This was particularly important in the case of the material on skills policy as this is a devolved matter. My officials also updated the Devolved Administrations on the Government position on the provision of scientific advice to the European Commission, via the Horizon 2020 Network group, which includes representatives from all the Devolved Administrations. The Devolved Administrations are also participants in the European Fund for Strategic Investments coordination group as outlined below.

EUROPEAN FUND FOR STRATEGIC INVESTMENTS (EFSI)

As regards the European Fund for Strategic Investments (EFSI), the Government, led by HMT, has established a coordinating group of officials from key Departments and the Devolved Administrations who are working with their respective stakeholders and sectoral interests to promote awareness of the funding opportunities provided by EFSI. Interested parties are not required to apply via Government for funding and are encouraged to approach the European Investment Bank (EIB) directly in most instances, but there may also be occasions where it is appropriate for Government to provide guidance to applicants in developing their proposals. The coordinating group also includes representatives of the British Business Bank and Green Investment Bank. We are still in the relatively early stages of the operation of EFSI and I recognise that awareness of the opportunities may not yet have spread to all potential applicants, but Government will continue to work to promote the Fund so that the UK makes maximum use of the opportunities provided. On a point of clarification, please note that the sum of £6bn referred to in the Chancellor's announcement in July represents UK co-financing alongside EIB investments under the EFSI guarantee, rather than a direct investment in the Fund itself.

30 October 2015

RESEARCH AND TECHNOLOGICAL ACTIVITIES OF THE EUROPEAN UNION IN 2014 (11504/15)

Letter from the Chairman to Jo Johnson MP, Minister of State for Universities and Science, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum (EM) of 8 September, which was considered by the EU Internal Market Sub-Committee at its meeting on 19 October 2015.

We read your EM with some interest as it related to a number of important issues covered in our previous report *The Effectiveness of EU Research and Innovation Proposals,* published in 2013.

As the Commission's report is a non-legislative document and does not contain recommendations for future legislation, we have decided to clear this document from scrutiny. A response to this letter is not required.

20 October 2015

SAFETY STANDARDS FOR FISHERMEN (13350/13)

Letter from the Chairman to Robert Goodwill MP, Minister of State for Transport, Department for Transport

Thank you for your letter of 19 March 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 20 July 2015.

We were grateful to receive your update confirming that a final text on this proposal had been adopted at the Transport Council meeting in December.

A response to this letter is not necessary.

21 July 2015

SHAREHOLDER RIGHTS (8847/14)

Letter from Baroness Neville-Rolfe, Parliamentary Under Secretary of State and Minister for Intellectual Property, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

As Minister responsible for Corporate Governance and Company Law, I would like to provide you with further update on the status of the Shareholders Rights Directive (SRD).

I also wish to update you on the developments in the European Parliament.

The EP voted their amendments in Plenary on 8 July. BIS officials established a constructive dialogue with the Rapporteur and other MEPs; we appreciated the EP's efforts on this dossier: the text is balanced and recognises member states' need to retain some flexibility, to accommodate the variety of corporate governance systems.

This is a very positive result for the UK where the impact of the proposed measures would be negligible. The EP text is broadly in line with the Council compromise; MEPs' intention is to seek agreement on the final version of the legislation in first reading.

Successful outcome was in particular achieved on the following:

1. Deletion of mandatory measures encouraging long-term shareholdings through mechanisms such as additional multiple voting rights or tax incentives.
2. Deletion from the Remuneration policy and report of a "ratio" between the average pay of directors and full time employees.

3. Introduction of "comply of explain" in the measures aiming at increasing transparency amongst Institutional Investors and Asset Managers, which reflects the UK approach in the Stewardship Code.
4. Deletion of mandatory requirements for companies to have employees representation on boards
5. Limit the scope to listed companies only

As anticipated, however, MEPs have voted in favour of the amendment proposing to introduce mandatory tax disclosures. This aspect was not part of the Commission proposal; therefore the Luxembourg Presidency will consult member states on their position, ahead of any trilogue discussions.

HM Treasury has policy lead on tax and we have agreed that the UK position on this matter will be not to support the introduction of public country-by-country reporting (CBCR) on tax. The UK has already put in place legislation which gives us the power to implement the G20-OECD template for CBCR to our tax authorities for large UK-headed multi nationals.

We have informally engaged with other member states who have confirmed a similar approach. Together, we shall encourage the Presidency to focus on securing agreement on this Directive and on monitoring the implementation and assessing the impact of existing policy interventions in the corporate governance area, rather than developing further policy proposals at this stage.

30 July 2015

Letter from the Chairman to Baroness Neville-Rolfe

Thank you for your letter of 30 July 2015 on the above proposal. This was considered by the EU Internal Market, Infrastructure and Employment Sub-Committee at its meeting on 12 October 2015.

We were grateful for your update on negotiations in the Council and the European Parliament. We note your concern regarding the European Parliament's amendment to the text to include Country-by-Country reporting on tax and your view that the UK is already in the process of implementing similar legislation through the OECD-G20 template for CBCR.

We appreciate that this initiative by the OECD and G20 is already far advanced, and to be implemented by the beginning of 2016.

However, we are also aware that this initiative differs somewhat from text agreed to by the European Parliament. Do you think that the OECD-G20 template is sufficient to increase transparency and prevent aggressive tax planning by Multi-National Corporations (MNC) considering that it only applies to large MNCs worth over €750 million as opposed to €100 million, as proposed by the European Parliament? The European Parliamentary amendment also requests detailed information from MNC on a number of metrics. Does the OECD-G20 template includes the same metrics, and if not, why not? Will the template enable different countries to compare the taxation paid by different MNC's in their territory? As negotiations in the Council are still ongoing, we also wish to know which other Member States agree with the Government's opposition to this amendment. While we have some reservations regarding whether it is appropriate to include such a provision in a Directive principally focused on shareholders' rights, we would welcome a response to our questions above.

14 October 2015

Letter from Baroness Neville-Rolfe to the Chairman

I would like to provide you with a further update on the status of the Shareholders Rights Directive (SRD).

Following adoption of the European Parliament's amendments on 8 July, the Luxembourgish Presidency, the Commission and member states permanent representations in Brussels, had a first meeting on 14 September to consider the amendments. I enclose the 4 column-table [not printed] with the Commission proposal, the Council mandate and the European Parliament's position. This document has been made public.

Member States agreed that the EP proposed measures, on "country by country" reporting (CBCR) on tax, were not appropriate to this file and negotiations should aim at identifying options for compromise on the original proposal.

Further clarifications on CBCR, particularly with regards to the OECD G-20 model, as requested in your letter of 14 October, are enclosed in the Annex [not printed].

During the first trilogue meeting, on 27 October, the EP agreed to postpone any discussions on CBCR and priorities the main text. A couple of technical meetings have taken place since, but there was not been any relevant progress. The Proposal was not on the agenda at the Competitiveness Council of 30 November-1 December.

Going forward, the incoming Dutch Presidency has yet to inform delegations on priorities for the next six months and, in particular, their plans on handling this file. I will update you again once any further details will be available.

18 December 2015

SINGLE-MEMBER PRIVATE LIMITED LIABILITY COMPANIES (8842/14)

Letter from Baroness Neville-Rolfe, Parliamentary Under Secretary of State and Minister for Intellectual Property, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

Thank you for your letter of 8th July on the above proposal. I apologise for the slight delay in responding within the 10 working days. You raised a number of questions; my response is se out below.

The Delegated Act in this case will simply allow the Commission to amend the list of companies that the proposal applies to once they have been informed of a new company form by a Member State. Under these narrow circumstances I am content for the Delegated Act to be part of a final agreement. Should there be the opportunity to remove the Delegated Act as part of further discussions with the Parliament we will support the change.

I am aware that some Member States have suggested that the proposal could be used for money laundering or tax avoidance. This Directive is aimed at simplifying registration, and it is clear that the Directive should work alongside Member States other company law rules. Where there is any suggestion of criminal activity Member States will still be able to undertake additional checks on individuals including face to face checks if necessary, as required by their national laws.

The UK achieved changes to the text to ensure that we are able to collect beneficial ownership information in line with changes made as part of the Small Business Enterprise and Employment Act.

I fully support your comments relating to the UK working with MEPs during the trilogue stage. My officials have already produced briefing for MEPs and are ready to add to this as required. I was recently in Strasbourg where I was able to raise this issue with a number of MEPs. Further meetings and briefings are planned for the autumn.

We are waiting further details from the Luxembourg Presidency on their plans to engage with MEPs and move forward with the trilogues. I will ensure that the Committee is updated as we move forward.

27 July 2015

Letter from the Chairman to Baroness Neville-Rolfe

Thank you for your letter dated 27 July 2015 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 7 September 2015.

We were grateful to receive your letter, which responded directly to our concerns about the Commission's use of a Delegated Act to amend the list of companies which can register as a SUP. As long as this is provision is used in the narrow way described in your letter, it seems an important practical tool to enable the Commission to implement this Directive effectively.

We also take on board your comments about the potential for money laundering and tax avoidance through this proposal. We accept that this simplifying legislation should be supported by existing company law in Member States, and that when taken together, it will still be possible for Member States to request more information from registering businesses if and when it is required.

We urge you to continue your engagement with MEPs on this proposal as it enters trilogue negotiations. We look forward to receiving an update in due course.

8 September 2015

SUPPLEMENTARY RESEARCH PROGRAMME FOR THE ITER PROJECT (2014-2018) (5058/12)

Letter from Jo Johnson MP, Minister of State for Universities and Science, Department for Business, Innovation and Skills, to the Chairman

I am writing to inform you that the above proposal has been formally withdrawn by the Commission. Please find attached link to the official communication confirming the removal. http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2015:080:FULL&from=EN [external link]

It has been replaced by COM (2013) 607 Final – Proposal for a Council Decision amending Decision 2007/198/Erratum establishing the European Joint Undertaking for ITER and the Development of Fusion Energy and conferring advantages upon it (EM 13253/13).

The purpose of the latest Proposal is to align the ITER funding with the Multiannual Financial Framework (the MFF), i.e. the EU's budget. According to the Proposal it will secure ITER's funding until 2020 and came into force on 1 January 2014.

30 October 2015

TACKLING YOUTH UNEMPLOYMENT - THE YOUTH GUARANTEE (7880/15)

Letter from the Chairman to Priti Patel MP, Minister of State for Employment, Department for Work and Pensions

Thank you for your explanatory memorandum (EM) of 8 June, which was considered by the EU Internal Market Sub-Committee at its meeting on 13 July.

At its meeting the Committee agreed with the Government that the Council's recommendations regarding the EU Youth Guarantee were non-binding and that the direct impact on the UK was therefore limited.

However, Members felt that the concerns expressed in the ECA report were nevertheless of some importance in relation to the reduction of youth unemployment both in the UK and in other Member States. In particular, members recalled the Committee's "Youth Unemployment in the EU: a scarred generation" Inquiry, which concluded that the EU could add value on the issue of youth unemployment: "by encouraging the exchange of good practice between Member States, by supporting them to address the problem in a coordinated way, and by kick-starting structural changes."[6]

Furthermore, although the Government has had success in reducing unemployment, the Committee notes that levels of youth unemployment remain significantly higher than in a number of other EU Member States, and that young people in the UK remain roughly three times as likely to be unemployed as members of the general population, leading the OECD to observe that this issue remains a "relative black spot despite recent improvements".

On this basis, the Committee would like to know what sharing of best practice the Government has undertaken or plans to engage in with other Member States, in order to improve the effectiveness

[6] Youth Unemployment in the EU: a scarred generation (House of Lords, 2014) p 67

with which the blight of youth unemployment is tackled? Has the Government has taken any specific lessons from this engagement that it intends to put into practice?

The Committee has decided to retain the document under scrutiny.

We look forward to a reply to this letter within 10 working days.

14 July 2015

Letter from Priti Patel MP to the Chairman

Thank you for your letter of 14 July further to my Explanatory Memorandum of 8 June. I am sorry for the delay in replying.

I agree that we must continue energetically to tackle youth unemployment. There has already been significant progress, with 85% of all 16-24 year olds now either in work or full-time education and the number of young people claiming unemployment benefits is the lowest since the 1970s. Your selected quote from this year's OECD Employment Outlook should be taken in context. Elsewhere in its publication the OECD noted that the UK employment rate reached record levels this year and on the latest available comparable figures was well above the average for the OECD, G7 countries and the Euro area. On our broader measure, which excludes full-time students, youth unemployment is nearly 180,000 lower than in 2010 and just below pre-recession levels.

Nevertheless, the job is not finished and there is more to do. That is why the Government has set itself the ambitious aim of achieving full employment and abolishing long-term youth unemployment. To meet this, existing measures are reinforced and refined as necessary, with new ones to come. For example, from April 2017 a new Youth Obligation will ensure that every young person aged 18-21 who finds themselves out of work receives the support, skills, experience and motivation to move into work.

The Government believes that the sharing of experience and best practice between or among Member States can be useful, particularly in areas such as employment and social policy where the EU's powers are rightly circumscribed and the principle of Subsidiarity must be respected. Given the recency of my appointment I have so far only once had the opportunity to meet my counterparts from the Council, but I look forward to future exchanges with them on a range of matters.

My officials attend a range of meetings, committees and themed events, connected with the European Semester or otherwise. They present and explain our situation, progress and plans, and receive information from the other delegations. Interesting and potentially useful information is passed back to policy colleagues. I think it is fair to say that there is considerable interest abroad in how the United Kingdom is striving to increase youth employment, and succeeding. This interest is welcome. However, I firmly believe that the solutions that each country pursues must be adapted to its own specific circumstances.

19 September 2015

Letter from the Chairman to Priti Patel MP

Thank you for your letter of 19 September 2015 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 12 October 2015.

We agree that the employment outlook in the UK is very positive overall, and we are reassured that you believe that more remains to be done to reduce youth unemployment.

We also welcome the fact that you intend to work with other EU Member States to share best practice in this area.

The Committee felt that one way to begin to share best practice would be to consider comparative data about how the UK's (partly) EU-funded youth employment schemes had performed relative to other Member States' schemes. The Committee understands from the Court of Auditors report that data of this kind is being gathered by the Commission. Are you able to provide us with any comparative data of this kind? If not, do you know when such information is likely to be available?

We are content to clear the document from scrutiny.

We look forward to a response to this letter at your earliest convenience.

14 October 2015

Letter from Priti Patel MP to the Chairman

Thank you for your letter of 14 October, confirming that your Committee has cleared this document from scrutiny.

I welcome your acknowledgement both of the positive outlook on employment in the UK and of the Government's commitment to do more to tackle youth unemployment.

You rightly point out that the European Commission is gathering information on Member States' schemes and measures to tackle youth unemployment, which can in part be supported by EU funding. Data collection is underway, and the UK is sharing information in the context of this. It is not yet clear to us when the European Commission will be in a position to make comparable results from this information gathering exercise available.

23 November 2015

TELECOMUNICATIONS COUNCIL - 11TH DECEMBER 2015 – POST COUNCIL WRITTEN STATEMENT (UNNUMBERED)

Letter from Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

I am pleased to enclose a copy of my written statement to Parliament outlining the discussions, which took place and the positions that the UK took at the Telecommunications Council in Brussels on 11th December 2015.

MINISTERIAL WRITTEN STATEMENT
FRIDAY 11TH DECEMBER 2015
TELECOMMUNICATIONS COUNCIL

The Telecommunications Council took place in Brussels on 11th December 2015. The UK's Deputy Permanent Representative to the EU, Shan Morgan, represented the UK.

The first item was a Progress Report from the Presidency regarding the Proposal for a Directive of the European Parliament and of the Council on the accessibility to public sector bodies' web-sites (First reading - EM16006/11). There was no substantive debate on this item.

The second item was a report from the Presidency on the outcome of negotiations, specifically Trilogues, regarding the Proposal for a Directive of the European Parliament and of the Council concerning measures to ensure a high level of network and information security across the Union (First reading – EM6342/13). There was no substantive debate on this item.

These items were followed by a round-table debate on the review of the European Electronic Communications Framework. EU Commissioner Oettinger introduced the debate by noting that the EU had moved away from the era of fixed-line telephones, and highlighted the range of new technologies which are reliant on internet connectivity.

Member State interventions by Finland, Sweden, Denmark, Estonia, the UK, Slovakia, Poland, Belgium, Czech Republic, Ireland, Latvia and Lithuania all spoke against over-regulating the new "over-the-top" services such as WhatsApp or Skype. However, Germany, France, Spain, Greece and Portugal spoke in support of the need for "equivalent" regulation for such services.

Delivering investment in telecommunications networks through competition was also common theme, as was the importance of flexibility in EU state aid to support investment in areas where the market was not well placed to deliver.

Many Member States also raised the issue of spectrum management, and although several spoke of the benefits of increased coordination between Member States for the allocation of spectrum, none supported a greater role for the Commission.

Better regulation was also raised by several Member States, who saw the review of the Electronic Communications Framework as a good opportunity to reduce the regulatory burden on operators. The UK's intervention was as per my Pre-Council Statement.

This was followed by two items under AOB led by the Commission. The first being information from the Commission on current Internet Governance issues, and the second an update on the telecommunication and ICT aspects of the negotiation of the Transatlantic Trade and Investment Partnership (TTIP). There were no substantive interventions on either of these items.

Finally, the Dutch delegation informed the Council of their priorities for their forthcoming Presidency before Council adjourned until the next meeting in May 2016.

17 December 2015

TELECOMMUNICATIONS SINGLE MARKET (13562/13, 13555/13)

Letter from the Chairman to Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport

Thank you for your letter of 9 July 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 20 July 2015.

The Committee was pleased to hear that an agreement had been reached in principle to abolish roaming charges, which is significant for consumers. We were grateful to receive such a comprehensive letter detailing the process of negotiations and the nature of the agreement. Whilst we look forward to discussing many of these issues in further detail with you at our meeting on 7 September, we would also like to ask a few questions through correspondence ahead of that time.

The abolition of roaming charges is an important step towards creating a single market in Telecommunications. As you helpfully outline in your letter, abolishing roaming charges by 2017 is dependent upon the Commission and BEREC conducting a review into wholesale prices, which are charged between home and visiting network operators for customers using their devices in another Member State. How does the Government think that this review will be conducted? Do you think that there remains a risk that the conclusions of this review could delay or prevent the abolition of roaming charges? Will the abolition of roaming charges incur an additional cost for UK consumers, and if so, what overall does the Government estimate this cost to be?

Furthermore, at present the text includes a "fair use" clause for network operators. The potential benefits and risks of this clause will depend upon the discretion given to national regulators and network operators to define "fair use." How do you think fair use should be defined under this Regulation? We aware that this "fair use" clause is being discussed with a view to preventing instances in which individuals are able to purchase cheap SIM cards in one Member State and "permanently roam" in another. However, in what other instances do you think that such a clause may be applicable? What impact will a fair use clause have on UK consumers? Considering that one aim of the Connected Continent Strategy is to create an internal market in telecoms, do you think that this "fair use" clause should be seen as a transitional measure?

Your letter informed the Committee that the text on net neutrality may lead to significant changes in the UK current's system of voluntary parental control filters. The Government may be required to introduce legislation to ensure that these controls, offered by broadband and mobile providers, can continue in their current form. Do you intend to bring forward such legislation? Is this likely to be primary or secondary legislation? Do you think that this can be achieved, given the deadline of December 2016? What steps is the Government taking to engage stakeholders on their concerns regarding such a proposal?

Whilst we found your letter to be informative, there have been considerable changes to the proposal since it was introduced and accompanied by an Explanatory Memorandum from the Government.

There is also a degree of uncertainty regarding when the Council may agree to the final text and when the European Parliament may have its plenary session.

Considering the importance of this proposal, we have therefore decided to retain the document under scrutiny and we request that a new EM be sent to the Committee once a final text has been drafted. Nonetheless, we welcome the opportunity to discuss further progress on this proposal and its implications with you in person on 7 September 2015.

We look forward to a reply to this letter by 20 August 2015.

21 July 2015

Letter from Ed Vaizey MP to the Chairman

Following my letter of 9th July, in which I reported that political agreement had been reached within the European institutions regarding the above proposal, your committee responded on 21st July and raised a number of queries. This letter is in response to those queries.

The responses are based on what I understand to be the situation as formal negotiations closed. However, I anticipate that some of the technical and process detail will be further finessed once the institutions reconvene following the Summer break and it is my intention that the requested Explanatory Memorandum will provide fuller detail once the final text has been drafted and passes through the jurist-linguist process.

I begin by addressing the series of queries that cover the mobile roaming element of the Regulation.

First, with regard to how the review of wholesale prices will be conducted. I can report that BEREC laid the foundations for this process during negotiations when it provided technical advice to the European institutions on this matter. The specific details of how the review will be conducted, beyond the timeline and requirement to do so as set out by the Regulation, have yet to be determined. However, drawing on a prior and parallel example - the action to harmonise mobile termination rates (MTRs) - I expect that the Commission will request that BEREC consider this issue further and ask they put forward a preferred option and methodology. This option would then be considered, and potentially refined, during the usual comitological processes – most likely under the auspices of the Communications Committee – before the Commission lays down the necessary regulatory mechanism. I anticipate that the outcome of the consultation will also determine this mechanism.

Regarding whether the review's outcomes could be delayed to the extent that the cessation of charges itself is delayed; I accept that there is such a risk but offer the view that this risk is small. I believe this small risk can be effectively managed through the application of the collective pressure of Council through the auspices of the Presidency, as well as individual pressure from Member States, on the Commission and BEREC to ensure that it manages the process in such a way that this outcome does not manifest itself. It is also worth recalling that the cessation of mobile roaming charges has universal support from the European Parliament, thus applying further pressure to complete this action in accordance with the deadline. Finally, given that President Junker has made the creation of the *digital single market* his priority, the pressure to ensure the timely completion of the review and adoption of its outcomes is not inconsiderable. Bearing this in mind, I do not believe that any potential delay, should it arise, would completely prevent the cessation of mobile roaming charges. As such, the risk associated with this outcome is extremely small and would be politically unacceptable to the European institutions.

With regard to the matter of UK consumers incurring additional charges following the abolition of mobile roaming charges – the so-called 'waterbed effect' - I believe I should make it clear that should the MNOs fully pass on the costs of a cessation of mobile roaming charges to consumers, this would be symptomatic of there being a complete absence of competitiveness in this market; a situation that I believe is certainly not applicable to the UK's domestic market. Further, any theoretical maximum figure is somewhat difficult to calculate. An estimate can be calculated by dividing the current total income for MNOs from roaming between the current number of active mobile subscriptions in the UK. This shows that any theoretical increase should be no more than £2.00 per annum per subscriber in the UK. It is my view that any 'waterbed effect' is likely to be much smaller than this value, should it manifest itself at all, and those on pre-pay and post-pay contracts may see differing amounts of increase.

With regard to the issue of 'fair use' clauses, I believe it worth recalling that such mechanisms currently exist with regard to both existing domestic mobile and fixed-line provisions; especially so for those tariffs that offer 'unlimited' data provision, for example. In this instance, the finer detail of how 'fair use' clauses will be constituted remains subject to further consideration and discussion, but with existing models already in operation in domestic markets, any outcome is foreseen to be based on these. As such, I believe any wider impact on UK consumers to be limited. During discussions on this matter, it was solely the issue of 'permanent roaming', and the related risk of arbitrage, that drove the inclusion of such a requirement in the Regulation and, as such, this is the primary aim of such clauses. Whether such clauses will be used to manage other situations currently remains open. One additional benefit may be to limit or prevent activities that drive high data usage, such as the unlawful downloading of copyrighted material through torrent or file-sharing. Finally on this matter, I do not anticipate such matters to be regarded as transitional, unless another mechanism can be adopted to address the identified risks above. However, the risk of permanent roaming will diminish as market conditions for mobile services converge as a result of the planned wholesale price action. That said, network operators and national regulators will be at liberty to lift such clauses and I also anticipate that the Commission would review their use if they were seen to be having a negative impact on the creation of the internal market or the clauses are so restrictive that they prevent consumers from benefiting from the cessation of roaming charges.

I now turn the series of queries raised with regard to the provisions within the Regulation that cover matters relating to net neutrality. The regulation states that internet access services may not engage in traffic management practices as defined in the regulation except to the extent necessary to comply with, inter alia, national legislation. It is my intention to ensure that the UK's voluntary system of parental control filters is not adversely affected by this Regulation by protecting the system in law. I am currently exploring what options are open to me to do so and consider that this can, most likely, be done through secondary legislation. I have every confidence that we will be able to enact necessary legislation by the deadline of December 2016. I can confirm that my officials are currently undertaking consultation with the full range of stakeholders who would be impacted. It is worth noting that the outcomes of this consultation will influence the exact form that any legislation will take.

I very much look forward to our planned meeting on 7th September but I note that further progress with regard to this proposal, beyond what has already been reported in my previous letters and above, may be somewhat limited, given its timing and the anticipated resumption of business by the European institutions following the Summer break shortly preceding same.

2 September 2015

TELECOMMUNICATIONS SINGLE MARKET: OPEN INTERNET ACCESS AND USERS' RIGHTS RELATING TO ELECTRONIC COMMUNICATIONS NETWORKS AND SERVICES ROAMING ON PUBLIC MOBILE (10788/15)

Letter from the Chairman to Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport

Thank you for your explanatory memorandum of 22 October 2015, which was considered by the EU Internal Market Sub-Committee at its meeting on 2 November.

The Committee welcomes the final text of this Regulation which will abolish roaming charges and introduce the principle of net neutrality, both of which represent positive developments for UK and European consumers. As the Regulation has now been adopted by the European institutions we would like to clear this file from scrutiny.

We also welcome your assurance that the regulation does not impact on the ability of the Internet Watch Foundation to prevent access to illegal child sex abuse material, and notes that it may be necessary to introduce secondary legislation to enable the Government's family friendly internet filters to continue as at present. The Committee's view was that legislation should be introduced unless you are very confident that compliance can be achieved without it.

We would be grateful for an update in due course on the outcome of BEREC's review of wholesale pricing as well as the definition of 'fair use' that is eventually settled on, both of which will have a substantial bearing on how the abolition of roaming charges is implemented.

3 November 2015

THE EU AND INTERNATIONAL TELECOMMUNICATION UNION (ITU) WORLD RADIOCOMMUNICATION CONFERENCE 2015 (WRC-15) (9455/15)

Letter from the Chairman to Ed Vaizey MP, Minister of State for Culture and the Digital Economy, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport

Thank you for your explanatory memorandum (EM) dated 15 June 2015 on the above Communication. It was considered by the EU Internal Market Sub-Committee at its meeting on 13 July 2015.

The Committee was grateful for the Government's careful analysis of the question of competence regarding the WTC-15 negotiations and whether the Radio Regulations would affect common EU rules or alter their scope, as asserted by the Commission.

On this contested point, the Government stated that revisions to the Radio Regulations, rather than mandating the use of frequency bands, in fact permit the assignment to a station of any frequency, subject to a number of requirements. By contrast, the Commission's proposal argues that revisions in the Radio Regulations at WTC negotiations have a significant impact on the way in which spectrum is allocated and that these changes will therefore have an effect on the common rules of the internal market.

Whilst the Government has expressed its technical position clearly in the EM, we wanted to seek its opinion on the extent to which the Radio Regulations agreed at World Radiocommunication Conferences shape the allocation of spectrum within participating states. In practice, does signing up to these revisions tend to have a somewhat broader impact on how spectrum is actually allocated than the Government's technical analysis of the requirements incumbent on signatories might suggest?

The Committee was also interested by the Government's view that there was not "any rationale" for changing the EU's approach to WTC negotiations. Having considered the Commission's proposal and a number of related documents, the Committee felt that one rationale was that if the Member States did not establish a common position, their influence in the negotiations would be diminished and potentially result in an inferior outcome than might otherwise have been achieved.

Whilst this is not the Government's preferred approach, do you consider the above to provide a rationale? If you think it is flawed, could you explain why more clearly?

The Committee was also keen to understand what the substantive differences of opinion between the Commission and the Government were with regards to the WTC-15 agenda itself. The Commission has set out the positions that it believes the EU 28 should adopt: can the Government clarify which of these it disagrees with and briefly indicate why?

We were also interested to learn that a recent survey on the "Lamy Report" on spectrum allocation found that only 5% of participants were opposed to European coordination during WRC-15, whilst 66.6% wanted the EU to speak with one voice. Furthermore, we have learned that UK broadcasters including the BBC, Channel 4 and ITV submitted a joint response to the Lamy consultation, which stated: "We consider it vital that there is a common European position on key spectrum decisions at WRC-15."[7]

What engagement has the Government undertaken with key broadcasters and other stakeholders in the UK to determine whether they support or oppose a common European position on spectrum decisions at the World Radiocommunication Conference?

Finally, the Committee is aware that the telecommunications aspect of the Digital Single Market Strategy proposes "a consistent single market approach to spectrum policy and management". The

[7] Lamy Report Consultation – response from Digital UK Digital UK, 12 April 2015 [external link]

analysis produced in support of this Strategy, as well as a range of other EU documents including the Radio Spectrum Policy Programme, made the case that the un-co-ordinated way in which radio spectrum is currently allocated across Europe results in the inefficient use of resources, a high degree of market fragmentation, higher costs for businesses and consumers, and has obstructed the emergence of a single market in telecommunications.

We would be grateful to know which aspects of these analyses the Government agrees and disagrees with, and its rationale for doing so. This information would be most helpful to the Committee as it seeks to frame its approach to the Digital Single Market package.

We retain the document under scrutiny and look forward to receiving your responses within 10 days.

14 July 2015

Letter from Ed Vaizey MP to the Chairman

Further to my deposit in Parliament on 16 June 2015 of an Explanatory Memorandum in relation to the above document, I am now in a position to provide you with an update on our position.

HMG remains opposed to the draft Council Decision for the following reasons:

— It would undermine the position of the European Conference of Postal and Telecommunications Administrations (CEPT) – it is important that CEPT maintains its current mandate and role in order to bind in non-EU Member States.

— It would reduce the flexibility that we have during the negotiations. WRC is a global conference and Europe will inevitably have to make compromises. Increasing the need for formal EU coordination and decision-making processes during the negotiation would be cumbersome. It could put us at a disadvantage in the negotiations and potentially alienate non-EU CEPT members.

— It does not add any value to the existing processes, which have worked well.

— It would set a precedent for using binding Council Decisions for ITU WRC negotiations.

— It would appear to amount to the Commission seeking to extend its exercise of exclusive external competence. HMG continues to analyse this position and is in contact with other Member States about this issue.

On this basis, I have asked my officials to pursue the option of achieving a co-ordinated EU approach (which is what the Commission seeks) but combined with the flexibility that the UK and other Member States need of being able to maintain an adaptable negotiating position e.g. by agreeing non-binding Council Conclusions. We would not want to concede any extension of Commission competence in this area.

CURRENT POSITION

Following the last Telecoms Working Group on 16 July, I understand the Commission intends to come back in Autumn 2015 with a revised proposal. As it stands it seems likely that this will be a new draft Decision but one where the operative language will be changed and the annex made more flexible. We await details of this but it was confirmed at the Working Group that a number of other Member States have concerns about the Commission's approach.

NEXT STEPS

My officials will take advantage of any opportunity that presents itself to influence the Commission, and other Member States prior to the receipt of the next draft. After the Commission's summer break, they will then continue to work with other Member States to pursue the non-binding Council Conclusion option once the diplomatic stations return to full strength. HMG will of course keep this position under review as new drafts or alternative procedures are proposed.

Whilst it can be confirmed that a number of other Member States have considerable concerns about the Commission's current draft Decision and it seems unlikely that the Commission's revised draft of the proposed Decision will satisfy all of those concerns, it is not yet possible to provide any assessment of whether or not the Commission is likely to pursue its claim of exclusive competence to litigation. I will be better placed to provide an update on this once the revised draft Decision has been issued by the Commission.

In response to queries raised by the House of Lords European Union Committee in your letter of 14 July 2015, I would comment as follows:

Amendments to the Radio Regulations (RR) have to be differentiated from actual allocation and use of systems and applications. It is up to each ITU Member state or group of Member States (for example, acting under a regional group such as CEPT) to decide on the actual use of frequency bands in their countries and they do so taking into account the sharing conditions and coordination requirements defined in the RR in order to protect spectrum use in other countries. Therefore whilst the RR set a broad framework for spectrum internationally, it remains a matter for individual states (and regional groupings of states where appropriate) to deliver on their international commitments at home, taking into account local and regional specific issues.

We agree that a common position within Europe is useful, when achievable, but believe this is better arrived at by way of Member States agreement in non-binding Council Conclusions. This avoids the tying of hands in negotiations, plus we have developed positions as part of CEPT over a period of time. Negotiating as part of the larger CEPT group is likely to enhance rather than diminish UK influence relative to an EU-only position.

As stated in my EM, HMG has no objection to the substance of the Commission's suggested positions in response to the WRC agenda items - it is simply that adoption of the draft proposal, in its current form, raises issues of competency that could potentially have implications beyond this negotiation and possibly beyond the realm of spectrum management. It could also reduce UK and European influence. Being firmly tied into positions means that the UK and other Member States limit the flexibility that they are able to utilise in order to achieve the most advantageous outcome from any negotiations. CEPT positions are agreed over a period time in between WRCs whereas in this case we are being asked to bind ourselves to one place without the opportunity to influence the outcome that we have with CEPT. It is this restriction on us and other Member States that is at the heart of our opposition to the draft proposal.

In order to properly ascertain the views of the position to be taken on WRC negotiations across government and more widely with stakeholders, Ofcom, who participate in WRC negotiations on behalf of the UK, have a thorough and comprehensive consultation process. Ofcom have kept the Government informed of its evolving position on various issues and has published updates on its current thinking, most recently on 6 January 2015. Through the process it takes into account the views of commercial operators including broadcasters and the impact decisions might have on consumers. As noted above, HMG agrees that the EU Member States should seek to reach a common position by way of Council Conclusions.

HMG's current understanding of the Digital Single Market (DSM) is that the Commission wants to introduce a harmonised framework to address an absence of consistent EU-wide objectives and criteria for spectrum assignment, which it believes creates barriers to entry, hinders competition and reduces certainty for investors. We opposed the Commission's Telecoms Single Market (TSM) proposals to centralise spectrum management, which might be revived in some form as part of the DSM, on the basis that these were not appropriate and carried risks.

HMG recognises that more effective spectrum management can be useful, but also believes that this should be achieved through non-regulatory means, e.g. by enhancing the role of the existing EU spectrum management advisory group (RPSG), and also using existing regulatory and Commission powers. We believe the Commission can have a facilitating role here, but should not be able to mandate outcomes. Our approach to this draft proposal therefore remains consistent with that view.

1 September 2015

Letter from Ed Vaizey MP to the Chairman

Further to my deposit in Parliament on 16 June 2015 of an Explanatory Memorandum in relation to the above document, and to my letter of 1 September updating you on the emerging position, I am writing to set out the further progress the UK has made and the Government's intentions.

As I indicated previously, the Government's concern with this particular measure has not been its substance but its implications for Member State competence on spectrum management issues. In seeking a Council Decision, the European Commission took the position that it had exclusive competence over any element of the multi-state WRC-15 process that was subject to common EU rules, or where such harmonisation was in prospect. The UK remains unconvinced of this argument. Instead, with France and Germany we proposed the adoption of non-binding Council Conclusions, as used for previous World Radiocommunication Conferences.

Finding that the Council would not accept a Decision, and in view of the limited time available before WRC-15, the Presidency has proposed draft Council Conclusions.

The Government has worked to ensure the text of these Conclusions is acceptable in competence terms and remains acceptable in substance.

As the key concern over competence in this measure has been resolved, and the final form of this measure is not a binding legal instrument, the Government intends to support the Conclusions. I hope that the Committee's concerns have also been met, and would welcome your confirmation on this point.

I would also draw to the Committee's attention that the underlying competence issue between the Commission and Member States remains unresolved.

15 October 2015

Letter from the Chairman to Ed Vaizey MP

Thank you for your letters of 1 September and 15 October regarding the above Communication. They were considered by the EU Internal Market Sub-Committee at its meeting on 19 October 2015.

The Committee agrees that the replacement of the Commission's proposal for a Council Decision which would mandate an approach to WRC-15 negotiations with a Recommendation that contains non-binding conclusions means that the scrutiny reserve no longer applies. We are therefore content to clear the document from scrutiny.

Regarding what the best approach to these negotiations may be, and the broader question about how Member States should co-ordinate the allocation of radio spectrum, we do not wish to endorse a specific approach at this time. This is a complicated policy area, in which technical, geographical and political considerations interact, and we are of the view that further analysis is required.

The Committee may choose to examine this issue more carefully in relation to the Telecoms Framework element of the Digital Single Market Strategy.

Please note that this letter does not require a response.

20 October 2015

THE EUROPEAN SOCIAL FUND (6107/15)

Letter from Anna Soubry MP, Minister for Small Business, Industry and Enterprise, Department for Business, Innovation and Skills, to the Chairman

I refer to your letter of 24 March 2015 addressed to Esther McVey, the then Minister for Employment.

Amongst the issues you raised in your letter was the Youth Employment Initiative. You asked for further updates on the progress of negotiations with regard to an amendment to the European Social Fund regulation to increase pre-financing for the Youth Employment Initiative.

The amendment has been adopted with no changes made from the original Commission proposal. Both the Council of Ministers and the European Parliament wanted to avoid protracted negotiations that would have run counter to the objective of the proposal to speed up implementation of the Youth Employment Initiative. The adoption of the regulation follows the approval of the European Parliament on 29 April 2015 and adoption by the General Affairs Council on 19 May 2015.

26 August 2015

Letter from the Chairman to Anna Soubry MP

Thank you for your letter of 26 August 2015 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 12 October 2015.

We are pleased to note that the Council of Ministers and the Parliament co-operated to enable the additional Youth Employment Initiative pre-financing to be made available as rapidly as possible. We consider this to be an appropriate response.

Please note that this letter does not require a response.

15 October 2015

THE INFORMAL COMPETITIVENESS COUNCIL (UNNUMBERED)

Letter from Baroness Neville-Rolfe, Parliamentary Under Secretary of State and Minister for Intellectual Property, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport, to the Chairman

The Informal Competitiveness Council took place in Luxembourg on 20-21 July. I and Peter Stephens (Deputy Director, European Reform Directorate) represented the UK on day one, with Jeremy Clayton (Director, Knowledge and Innovation) representing the UK on day two.

The Council was entitled 'Trading beyond borders, competing globally, what the EU can do for you' and involved one main plenary discussion on competitive framework conditions for businesses, a break-out session on better regulation and a lunchtime discussion.

The main plenary session involved interventions from local business leaders, Ann Mettler (Head, European Political Strategy Centre, European Commission), Pascal Lamy (former Trade Commissioner and Director General of the World Trade Organisation as well as EU Commissioner Elzbieta Bienkowska. The discussion opened with Pascal Lamy emphasising the importance of services to the single market and that there was still work to do on digital, especially on telecoms. He stressed that it was important that there was a link between the Single Market Strategy and the EU-US Free Trade Agreement. Ann Mettler went further on digital and highlighted that the digital age would be one of customisation, bringing together goods and services to create smart and interactive products. She also emphasised the importance of the investment environment.

Commissioner Bienkowska argued that there was not enough co-operation between Member States' competent authorities to tackle protectionist measures and she also stressed the need prioritise further liberalisation of services in business services, retail and construction.

I intervened to press for further action on the single market in services as only 20% of trade within the EU was cross-border. I outlined three steps that were needed to improve this: an innovative single market that recognised the growing convergence of goods, services and digital; a high productivity single market to help our businesses compete on a global stage; and a single market that worked for SMEs, as not enough SMEs traded in the single market. I also highlighted the important role that the Competitiveness Council could play and stressed the need to help start-ups and microenterprises by having lighter regimes and by setting an EU regulatory reduction target. This is a key priority for the UK's single market reform.

Due to urgent Parliamentary business I left the Council at this point, with Peter Stephens representing the UK at the breakout session focussing on better regulation. The UK intervened to stress that business does not want to focus on regulation; they want to focus on customer and profits. The UK also highlighted the problem of imprecise EU legislation which led to differing interpretations and

implementations. Other Member States called for a single portal which would bring together information on regulated professions, tax systems, accounting requirements and national product regulations. Better regulation was discussed further in the working lunch.

The second day of the Informal Competitiveness Council was devoted to research issues, and the United Kingdom was represented by Mr Jeremy Clayton, Director, International Knowledge & Innovation in the Department of Business, Innovation and Skills. The research day was chaired for the Presidency by Mr Marc Hansen, Secretary of State for Higher Education and Research in the Luxembourg Government.

The morning session of the meeting was a discussion on Promoting Research Integrity in the European Research Area, based on a paper presented by the Presidency. The topic relates to the trustworthiness of research due to the soundness of its methods and the honesty and accuracy of its presentation. The discussion was preceded by introductory remarks from the Presidency and from Commissioner Carlos Moedas, and two presentations from experts on the subject of research integrity, Professor Julian Kinderlerer (Cape Town, Sheffield and Delft) and Dr Maura Hiney (the Health Research Board of Ireland). A range of views was put forward in the table round, with frequent references to the different legal environments in different Member States, the importance of training, and reducing the incentives on academics to publish large volumes of papers. The UK intervention emphasised the need to avoid one-size-fits-all solutions, and drew attention to the UK's 2012 Concordat on Research Integrity, produced by the research councils and Higher Education funding bodies. Following concluding remarks from the Commissioner, the Presidency summarised the discussion and closed the point.

In the afternoon, the topic was Advancing Gender Equality in the European Research Area, again based on a Presidency paper. The discussion was introduced by the Presidency and the Commissioner. There then followed two presentations, from a consultant (Ms Beate Scholz) and a representative of a research organisation (Mr Alain Fuchs of the Centre Nationale de la Recherche Scientifique). In the table round, all delegations welcomed the Presidency's emphasis on the topic of gender equality, and it was noted that societal attitudes still differ widely across the European Union. Some Member States had found quotas helpful in promoting equality, while others argued equally strongly that quotas were unhelpful. The UK intervention urged the Council not to overlook the importance of a wider perspective on diversity, and noted that the UK had found it more productive to encourage approaches targeted at specific organisational change rather than quotas. In their concluding remarks, both the Commissioner and the Presidency emphasised the importance of leadership and communication.

4 August 2015

THE PREVENTION AND DETERRENCE OF UNDECLARED WORK (9008/14)

Letter from David Gauke MP, Financial Secretary, HM Treasury, to the Chairman

I am writing to update the Committee on progress in relation to the proposal to create a European Platform on Undeclared Work. This matter, which previously fell to BIS, transferred to me as Minister responsible for HMRC, the lead Department on the matter, in October last year.

Firstly, please accept my apologies for not providing an update since October's Employment, Social Policy, Heath and Consumer Affairs (EPSCO) Council, where agreement was reached on a General Approach, notwithstanding that no substantive decisions were taken between then and the dissolution of Parliament on the 30th of March.

The General Approach was agreed at the EPSCO Council on October 16th last year, although a formal vote was not taken. The Government retained its Parliamentary scrutiny reservation, with ministers neither supporting nor contesting the agreement.

The General Approach - which you will find attached [not printed] - provides for participation in the Platform itself to be mandatory, but for participation in initiatives approved by the Platform to be voluntary on a state-by-state and initiative-by-initiative basis (the latter being clarified by Recitals 11a and 11b of the General Approach). Our view is that this delivers our objectives with respect to the Platform and addresses the previous concerns regarding subsidiarity.

After lengthy discussion, the European Parliament voted the proposal through with amendments on May 7th, so it has now entered the final stage of the legislative process.

A notable difference between the Parliament's adopted text and the General Approach is that the Parliament's text does not include the clarificatory recitals (Recitals 11a and 11b) secured in the General Approach. These recitals make clear that participation by Member States in the specific initiatives approved by the Platform would be voluntary.

Our understanding from the negotiations is that these recitals were not included in the Parliament's adopted text specifically because the Parliament considers that Member State participation in initiatives approved by the Platform should be mandatory.

Our view is that whilst Article 153(2)(a) cannot be used as the legal basis for creating any substantive obligations on Member States, whether directly or indirectly, absence of the clarificatory recitals would cast doubt as to the status of initiatives approved by the platform – and would mean that it is arguable that participation by Member States in initiatives approved by the platform is mandatory.

This lack of clarity is at best unhelpful and at worst could result in a position being taken against a Member State who failed to give effect to an initiative adopted by the Platform. The government is actively pressing - with the support of the majority of other Member States - for re-inclusion of recitals 11a and 11b of the General Approach in the final text.

To summarise the Parliament's significant amendments:

— In Article 1(2)(ba) of the EP text, an amendment gives full membership of the Platform to up to four representatives of social partners, giving them much more say over the workings of the platform than in the Commission or Council's texts, where they are observers. Article 1(3)(a) also specifies that an additional group of social partners, numbering up to fourteen, should 'be actively involved' in the Platform as observers, 'and their contributions taken into due consideration'.

— As mentioned above, there is nothing in the Parliament's text that has the same effect as recitals 11a and 11b of the General Approach, which specifically state that Member States remain competent to decide on their level of involvement in the initiatives approved at plenary level by the Platform.

— The EP amendments seek to extend the scope of the platform (beyond that of the Commission Proposal and the General Approach) to include the promotion of declared work (see Article 1a 'Definitions', and Article 2 of the EP's text). There is also reference to other tasks given to the platform that we would consider, as a matter of policy, to lie outside the Platform's intended operational remit. For example, creating a system of data exchange (Recital 10a & Article 4(1)f), enhancing the role of national labour inspectorates (Rec 14a), and the provision of support to victimised workers (4(1)(ia)

— The list of initiatives at Article 4 is greatly expanded from that in the Commission Proposal and the General Approach. In the General Approach, the description of the initiatives to be undertaken by the platform is, in our view (and when read in context with the General Approach, ie with the clarification provided by recitals 11a and 11b) consistent with the legal base of the Commission Proposal (Article 153(2)(a) TFEU). We consider a number of the Parliament's amendments to Article 4 to take the Proposal outside its legal base in that those amendments move closer towards harmonising and mandating policy: for example, the reference to (i) creating 'comprehensive definitions' (Article 4(1)(a)), (ii) guidelines for enforcement (4(1)(d)) (iii) developing information exchange tools (4(1)(f)); and (iv) putting country-specific policy recommendations to the EU (4)(1)(ha) and (hb)).

I know the Committee has previously raised concerns about the potential for mandatory participation in the Platform, regarding this as a breach of the subsidiarity principle. Our key objective remains to ensure that participation in the initiatives approved by the Platform is voluntary.

The majority of the Parliament's amendments are also contrary to our broader position, which is:

— To accept that participation in the Platform can be mandatory for Member States, but participation in initiatives adopted by the platform should be voluntary on a case by case basis.

— The scope of the Proposal should be limited to the prevention and deterrence of undeclared work.

— The Proposal should sit clearly within the parameters of the legal base underpinning the measure.

— The Platform should seek to share and promote good practice, rather than creating and mandating standardised approaches.

— The Platform should not make recommendations (especially binding recommendations) to Member States.

— Social partners (trade unions) and other bodies can play a role as observers and stakeholders but should not be made full members on a par with member states' nominated representatives.

If these points – which we believe are captured in the General Approach – are retained in the final text, and most of the more significant European Parliament amendments are discarded, we think the Platform can be a useful forum for cooperating and exchanging information with other Member States that will not be onerous on the UK.

Our view therefore is that the Council should stick as closely as possible to the General Approach agreed in October. Based on early Social Questions Working Group meetings, all of the other Member States are very close to our position. In particular, there is a strong common desire to see the substance of Recitals 11a and 11b in the Council's general approach – which addresses the issue of voluntary participation in the platform – included in the final text. Due to this level of consensus among Member States, we think there is a good chance of the trilogues delivering a final text that achieves most of our goals.

So far, only initial trilogue discussions have taken place, at which there was a clarification of views between the Parliament and Presidency, but no real negotiation. Discussions are expected to resume in September, under the Luxembourg presidency.

As negotiations continue, we will seek to ensure that all of our key objectives are delivered.

11 August 2015

Letter from the Chairman to David Gauke MP

Thank you for the letter of 11 August 2015 on the above proposal. It was considered by the EU Internal Market Sub-Committee at its meeting on 7 September 2015.

The incidence of undeclared work across the EU is rightly of concern to Member States and the Commission, although we recognise that it is challenging to collect evidence or to determine the cross-border nature of the issue. Therefore, while we appreciate your update, we were disappointed by such a delayed response to our letter dated 18 November 2014. We note the gulf between the Council's General Approach and the European Parliament's agreed text outlined in your letter and consider that this raises fundamental questions about the legality of the proposal. In particular we are concerned by the European Parliament's decision to remove Recitals 11a and 11b, especially as this is motivated by a belief that "Parliament considers that Member State participation in initiatives approved by the Platform should be mandatory." We doubt whether the proposal would fall within the limits of the competence conferred on the EU by Article 153(2)(a) TFEU, the proposed legal base, in the absence of these two recitals. We also question whether the proposed extension of the type of initiatives undertaken by the Platform, such as the creation of comprehensive definitions, guidelines for enforcement and putting country specific policy recommendations to the EU, would fall within the confines of Article 153(2)(a). We would, therefore, be very concerned if trilogue negotiations led to a compromise being agreed which incorporated the European Parliament's amendments. Do you think that this is likely to happen? Which Member States share your, and our, concerns? Has the Council

legal service been asked to consider the European Parliament's amendments, and if so with what result?

Nonetheless, even if the proposal finally adopted met the Government's objectives, which you helpfully outlined in your letter, we remain concerned that the practical implementation of the Platform would be challenging at best. In our last letter we requested to know how the Government intended to make best use of the Platform considering that attendance would be mandatory but subsequent action would not. This will be an important practical consideration for the Platform, which will have to find a way to balance the interests of Member States participating in different initiatives and those only wishing to share best practice. How do you envisage the Platform practically operating?

Our last letter requested to know whether the Government was feeding into discussions about how the effectiveness of this Platform would be evaluated in four years' time. We were concerned that the qualitative objectives listed under Article 2 would be difficult to assess. The dissonance between the Council and the European Parliament's views on the objectives of the Platform only exacerbates our concerns. Do you share our concerns, and what steps have been taken to ensure that this review is robust?

In closing, we reiterate our request to have sight of the Government's impact assessment on this proposal as soon as possible.

Due to the reasons outlined above, we have decided to retain this document under scrutiny.

I look forward to a response by 5 October 2015.

8 September 2015

Letter from David Gauke MP to the Chairman

Thank you for your letter of 8 September 2015.

We share your concerns regarding the European Parliament's amendments, which are contrary to the Government's position. As outlined in my previous letter, our key objective remains to ensure that participation in the initiatives approved by the Platform is voluntary for Member States.

Whilst we cannot predict the outcome of the trilogue process with any certainty, there are a large number of Member States who share your, and our, concerns. We will work closely with these Member States to reach a final text that gives us discretion regarding participation in the Platform's initiatives.

The Council Legal Service have not issued a formal opinion on the European Parliament's proposed amendments. However, there have been several Working Groups to discuss the amendments. The Council Legal Service have been present, and have participated, in those discussions to help inform the Council's position.

Although our current focus is on the trilogue negotiations, thought has been given to the practical operation of the Platform. We envisage an HMRC representative to be the UK's senior representative who attends the meetings of the Platform. The representative would share information and best practice as appropriate. They would feed back any insights, proposals and progress to relevant departments and other bodies in the UK as appropriate, and liaise with representatives of other interested UK agencies to decide whether to participate in activities.

We agree that the platform requires a rigorous mechanism to evaluate its impact. So far, our discussions have been focussed on ensuring that participation in the Platform does not place an unnecessary burden on Member States, and the remit of its activity is properly defined and delimited in legislation. Once the Platform is in place, we will work with the other members to ensure a credible process is in place for evaluating its performance.

The Government has not conducted an impact assessment of the Platform itself, as it presents no significant cost to Government or businesses. Participation in the Platform's activities may have an impact – the Government will look to assess impact here on a case by case basis once the exact nature of the Platform is agreed. An estimate of the cost to the European Commission for administration and carrying out the Platform's activities is given in the Commission's own impact assessment, which is attached [not printed].

A further trilogue session has taken place since my last letter, but no significant progress has been made on areas of disagreement between the Council and the European Parliament. I will write to you again once progress towards a compromise has been made.

23 September 2015

Letter from the Chairman to David Gauke MP

Thank you for the letter of 23 September 2015 on the above proposal. It was considered by the EU Internal Market Sub-Committee at its meeting on 26 October 2015.

We welcome your prompt and helpful response to our previous letter. We note that the Government and other Member States share the Committee's concerns regarding the legality of the European Parliament's amendments to this proposal.

As negotiations are ongoing, we have decided to retain this document under scrutiny and request that you provide further updates in due course.

27 October 2015

Letter from David Gauke MP to the Chairman

Thank you for your letter of 27 October.

Since I last wrote to you concerning the above proposal on 23 September, trilogue negotiations have made significant headway, following months of little progress. The negotiations have now delivered provisional agreement on most of the text and are nearing conclusion. HM Revenue & Customs expect COREPER to consider a final text on 18 November, with a vote in Council possible soon afterwards.

Whilst a few points are still outstanding at the time of writing, the areas of disagreement between the European Parliament and Council that caused the Government and the Committee concern have been resolved favourably, and I wanted to provide you with an update as early as possible.

Unfortunately the Parliamentary timetables in Brussels and Westminster have not allowed me to write earlier and give you more time to consider my request ahead of the COREPER session.

MEMBER STATE COMPETENCE & PARTICIPATION IN THE PLATFORM

You have written in the past to express your concern that participation in any activities of the Platform could be compulsory, a concern I entirely share. I am pleased that the negotiations in trilogue have resulted in an approach **which reflects the wording of the General Approach.** This provides for participation in the Platform itself to be mandatory, but for participation in initiatives approved by the Platform to be voluntary on a state by state and initiative by initiative basis (clarification being provided by recitals 11a and 11b).

This is provided for by:

— Recital 11(a) providing assurance that Member States remain competent to decide on their level of involvement in the initiatives of the Platform.

— Recital 11(bb) confirms that Member States and their relevant authorities remain competent to decide what measures to take at a national level to give effect to initiatives adopted by the platform.

— Recital 8(c) further clarifies that taking part in the Platform's activities is without prejudice to Member States' national and international responsibilities in this field.

LEGAL BASE

The legal base in the compromise text encompasses TFEU Article 153(2)(a), in conjunction with Article 153(1), points (a), (b), (h) and (j). This was widened slightly at a late stage of the negotiation

from the Council's General Approach (by the addition of 153 (1)(a)), but is narrower than the proposed amendments of the European Parliament which previously caused you concerns. The inclusion of Recital 11(a) and (b) from the General Approach addresses this concern.

Additionally, there is no longer a reference to country specific policy recommendations, and it is our assessment that the presence of Recital 11(a) and (b) from the General Approach meets the concerns regarding references to 'comprehensive definitions' (which has now been modified to 'shared definitions') and 'guidelines for enforcement'.

HMRC's view is that this delivers the Government's objectives with respect to the Platform and addresses the previous concerns regarding subsidiarity. As a matter of policy we will continue to push at the final Platform working group on 9th November for specific references to the Platform's voluntary nature, such as 'non-binding' guidelines in Article 4(d), to be reinserted into the final text. Adding this text would strengthen the legal cover for the UK's position. However, were these references to not be added, the Government's position would rest on the text at recital 11, which as discussed above HMRC considers to be a sufficiently plausible argument for the initiatives of the Platform to be legally non-binding.

OPERATION OF THE PLATFORM

You have previously expressed concerns at how the Platform would operate successfully once established.

The current compromise text provides for one senior representative, with voting rights, from each member state, who should be sufficiently authorised to represent all relevant national authorities. It is our current intention to consult with the key stakeholders across government ahead of the Platform becoming operational, to plan our involvement, ensure the UK can maximise the benefits of the Platform, and that the representative can adequately represent a cross-government view. These discussions will also include considerations on how to ensure the added value of the Platform can be measured and evaluated in a meaningful way, following the four year period, as set out in Article 11.

Any decision to participate in any of the Platform's activities will be taken on a case-by-case basis and in consultation with key stakeholders from across government.

Therefore, it is our assessment that the compromise text as currently proposed meets the Government's key requirements, and gives us the flexibility to participate in the Platform's activities as and when we consider it to be beneficial. On this basis, the Government would like to vote for the proposal in Council, provided:

a) that key points of the compromise text remain unchanged, and
b) subject to any developments in COREPER.

In recognition of the fact that the Committee may not be able to consider the scrutiny position before 18 November, I have asked UKREP to abstain in any vote that may occur at COREPER in this case. We expect the final vote at Council to take place at EPSCO in early December, and I would therefore like to ask the Committee to consider granting a scrutiny waiver ahead of then in order for the Government to be able to support this proposal granted the caveats mentioned above are indeed met.

Should you require any further information on the Platform or the outcome of the COREPER discussions before reaching a decision on the status of scrutiny, I would be more than happy to oblige.

9 November 2015

Letter from the Chairman to David Gauke MP

Thank you for the letter of 9 November 2015 on the above proposal. It was considered by the EU Internal Market Sub-Committee at its meeting on 19 November 2015.

Your letter provided us with a helpful update on the state of negotiations. We welcome the re-insertion of Recitals 11(a) and 11(bb). As stated in your letter these recitals clarify the role of the Platform to help Member States co-ordinate their policies on undeclared work, instead of harmonising and mandating policy. Moreover, we recognise that the amendments proposed by the European Parliament to increase the scope of tasks and initiatives undertaken by Platform have been

brought closer into line with the General Approach agreed by the Council. With both these changes in place, we are now satisfied that Article Article 153 (2) (a) forms an appropriate legal basis for the proposal.

Nonetheless, we understand that the Council is pushing to include reference to Article 153(1)(a)(b)(h)(j) in the final text. We understand that while this change is significant, it is not relevant to our concerns about the extent to which the activities of the Platform were supported by Article 152 (2) (a). Therefore, all we request is that you update us on these developments in your next letter.

We also welcome your commitment to consult widely with the relevant stakeholders in the UK about the purpose and role of the Platform to ensure that the benefits of its membership are maximised and that it can be effectively evaluated in due course. If an agreement is reached at the COREPER meeting on 20 November and the Council of Minister signs off the proposal at the EPSCO meeting in December, when is it likely that the Platform will become operational? When would the Government plan to undertake its consultation?

In light of the information you have provided to the Committee, we have decided to grant a scrutiny waiver on this document ahead of the COREPER and EPSCO Council meetings. This is on the condition that the final agreement remains faithful to the terms outlined in your letter. We request a further update detailing the outcome of these meetings.

20 November 2015

UPGRADING THE SINGLE MARKET: MORE OPPORTUNITIES FOR PEOPLE AND BUSINESS (13370/15)

Letter from the Chairman to Baroness Neville-Rolfe, Parliamentary Under Secretary of State and Minister for Intellectual Property, Department for Business, Innovation and Skills and the Department for Culture, Media and Sport

Thank you for your explanatory memorandum of 12 November 2015 regarding the Single Market Strategy. This was considered by the EU Internal Market Sub-Committee at its meeting of 7 December.

We note that the Government welcomes the Single Market Strategy and encourages the Commission to focus on delivering its commitments as rapidly as possible. The Committee supports your assessment, and considers the strategy to be a positive prospectus for the development of the single market.

The Committee particularly welcomes the focus on promoting start-ups and SMEs to scale-up, including the creation of a venture capital 'fund of funds' for this purpose. We have heard in recent months from a range of digital businesses and start-ups that the lack of access to venture capital is one of the key barriers to growth that they face in the UK and Europe.

We also welcome the focus on achieving better compliance and enforcement with existing EU single market legislation, which is consistent with the 'Better Regulation' agenda. Our recent engagement with industry, including the British Chambers of Commerce and the Confederation of British Industry, suggests that poor implementation, compliance and enforcement are making it difficult for UK businesses to expand into some European markets.

The implementation of the Services Directive has been a longstanding concern for the UK, and so we strongly welcome the proposal to introduce a 'services passport'. However, we note that this initiative appears to be a highly complex undertaking. Given past issues concerning the implementation of this directive, is the Government confident that the creation of a fully functioning services passport scheme, including an 'electronic document repository', is achievable in practice, both in the UK and across the EU?

We were also interested that ten Member States did not sign the letter to Commissioner Bienkowska that you mention. Is this because these Member States objected to the contents of the letter? If so, can you give us an indication of the main points of disagreement?

Regarding the collaborative economy, the Committee notes that the Vice-President of the Commission, when launching the strategy, rejected the instinct to "kill new business models in favour of traditional ways to do things" and said that "it would be sad if Europe was [the] only continent to deny new business models." Nevertheless, the Commission's approach indicates that the growth of the sharing economy will involve clarifying the regulatory frameworks that apply to it, and whether specific regulations should be removed or applied to these businesses. Can you provide us with the Government's view regarding how EU law applies to different collaborative economy businesses?

Finally, we welcome the fact that the Commission's strategy is broadly aligned with the UK's desire to promote innovation and boost productivity and competitiveness. Some of the statistics that the 'Integration and Competitiveness Report' contained were of concern in this regard. Although the UK economy performed well in many areas, its allocative efficiency in distributive trade received a score of minus 25 per cent, which was the lowest in the EU; we are also one of the lowest ranking Member States in transport storage. This report also shows that the UK economy's allocative efficiency in information and communication services declined between 2007 and 2013, along with that of most other Member States.

What is the Government's assessment of the causes of the low or declining allocative efficiency in these areas, and the significance of these figures?

We have decided to clear this item from scrutiny and look forward to a response to this letter within ten days.

8 December 2015

Letter from Baroness Neville-Rolfe to the Chairman

Thank you very much for your letter of 8 December and for clearing the Explanatory Memorandum regarding the Single Market Strategy from scrutiny.

I have noted the questions you raised in your letter and have provided answers to them below.

The implementation of the Services Directive has been a longstanding concern for the UK, and so we strongly welcome the proposal to introduce a 'services passport'. However, we note that this initiative appears to be a highly complex undertaking. Given past issues concerning the implementation of this directive, is the Government confident that the creation of a fully functioning services passport scheme, including an 'electronic document repository', is achievable in practice, both in the UK and across the EU?

I agree with your assessment that there is great untapped potential in reforming the services market within Europe. Despite the fact that the service sector is responsible for 9 out of 10 new jobs created and it generates almost 80% of EU GPD, the sector makes up only 20% of intra-EU trade. I therefore welcome your support for the services passport initiative, which we hope will deepen the single market for services.

The creation of a services passport is something the Prime Minister publically called for in his joint op-ed piece with Spanish Prime Minister Mariano Rajoy in September. The op-ed highlighted that the EU must agree a meaningful services passport allowing a business, once it has been given the green light to do business in one EU country, to operate in them all. Equally, the initiative was included in the like-minded letter sent to Commissioner Bieńkowska in the autumn – demonstrating that a large number of Member States do strongly support this initiative.

Agreeing an ambitious services passport will be challenging and we, with other Members States, are seeking clarity from the Commission about their vision for the passport. However, securing an ambitious passport that will be of benefit to consumers and businesses within the EU will, be treated as a priority by this Government. I will continue to push for a services passport which removes regulatory barriers and advances mutual recognition in professional business services and construction sectors (as the most economically important), and which abolishes unnecessary rules on company ownership for professionals. I will, of course, write to you again with further details concerning the passport as it is developed by the Commission.

We were also interested that ten Member States did not sign the letter to Commissioner Bienkowska that you mention. Is this because these Member States

objected to the contents of the letter? If so, can you give us an indication of the main points of disagreement?

Our letter to Commissioner Bieńkowska was generally well received by all Member States, including those who, for varying reasons, did not sign it. In a number of cases Member States agreed with us on the substance but could not achieve necessary clearances to sign the letter. Where there were divergences of opinion on the substance in the letter, and this was limited to only one or two Member States, this was largely in respect of the services sector and the sharing economy.

Regarding the collaborative economy, the Committee notes that the Vice-President of the Commission, when launching the strategy, rejected the instinct to "kill new business models in favour of traditional ways to do things" and said that "it would be sad if Europe was [the] only continent to deny new business models." Nevertheless, the Commission's approach indicates that the growth of the sharing economy will involve clarifying the regulatory frameworks that apply to it, and whether specific regulations should be removed or applied to these businesses. Can you provide us with the Government's view regarding how EU law applies to different collaborative economy businesses?

As outlined in my Explanatory Memorandum on the Single Market strategy, the Government welcomes the Commission's commitment to publish guidance on how existing Single Market rules, including the Services Directive, apply to the collaborative economy.

HMG is keen to support the collaborative economy, as we recognise that it helps providers and consumers connect, creates value, streamlines commerce, and makes accessing markets (and employment) easier. We are strongly in favour of encouraging competition and innovation, and therefore called for guidance on the collaborative economy in our UK sharing economy non-paper published in July this year (the paper can be found here: https://www.gov.uk/government/publications/sharing-economy-vision-for-the-eu) [external link].

Legal certainty about how existing EU rules are interpreted is important to help enable businesses to scale up and grow across Europe; Member States must not be able to place unjustified, disproportionate restrictions on innovative businesses scaling up across the EU. We are working with the Commission and other Member States to ensure the guidance facilitates the growth of the sector. Furthermore, we will also be working to persuade the Commission and other Member States that any changes to the regulatory framework for platforms will need to be carefully targeted and their impact closely assessed to avoid hampering innovation, competition and efficiency in the digital economy overall.

Finally, we welcome the fact that the Commission's strategy is broadly aligned with the UK's desire to promote innovation and boost productivity and competitiveness. Some of the statistics that the 'Integration and Competitiveness Report' contained were of concern in this regard. Although the UK economy performed well in many areas, its allocative efficiency in distributive trade received a score of minus 25 per cent, which was the lowest in the EU; we are also one of the lowest ranking Member States in transport storage. This report also shows that the UK economy's allocative efficiency in information and communication services declined between 2007 and 2013, along with that of most other Member States.

What is the Government's assessment of the causes of the low or declining allocative efficiency in these areas, and the significance of these figures?

The Commission's measure of allocative efficiency (AE) examines the efficiency of labour allocations across size classes of businesses within particular sectors relative to a baseline scenario where labour is allocated equally across each size class for each sector. A negative or declining AE score for a sector implies that labour is relatively concentrated in less productive size classes of business within that sector. However, the methodology does not allow an exact determination of the cause of such a score. It could be due to: inflexible labour markets; time lags between productivity improvements in particular size classes and movements of workers to businesses of those sizes; new technology not yet spreading from one size class to others; a natural structure of the sector that differs from the Commission's assumed baseline; etc. Moreover, the Commission's focus on firm sizes, and on highly aggregated sector groupings, makes it difficult to pin point the sector-level mechanics driving the AE score. For instance, since 2010 the retail sector (part of the 'distributive trade' sector which has an

AE score of -25%), has seen growth of around 1.4% per annum and productivity gains far in excess of the economy as a whole.

Methodological issues aside, the Commission's work highlights the need for all EU economies, including the UK, to continue to improve labour market flexibility, and drive economy-wide productivity growth. This is why it is right that the Government is prioritising skills and aims to raise UK productivity through the Productivity Plan.

I hope that this answers all of your questions.

17 December 2015

WHITE PAPER – 'TOWARDS MORE EFFECTIVE EU MERGER CONTROL (11976/14)

Letter from Nick Boles MP, Minister of State for Skills, Department for Business, Innovation and Skills and Department for Education, to the Chairman

Thank you for your letter of 8 July 2015 on the above proposal. I note your decision to again retain the document under scrutiny pending further information on the issues set out in your letter.

It is worth pointing out, first of all, that this dossier does not feature in the Commission's work plan for this year. Officials are in contact with the relevant policy team in the Commission and we understand that the new Commissioner has not yet decided whether to bring forward a proposal on this file.

If a proposal does emerge from the White Paper, we think Articles 103 and 352 TFEU provide the likely legal base for provisions about the acquisition of non-controlling minority shareholdings.

I understand the importance of the question about whether the principle of subsidiarity would apply to a proposal arising from the White Paper, should such a proposal emerge in the future. We do not think the principle would apply. You raise an interesting and novel question about whether the principle might become relevant if an argument were to be made that proposed amendments to the EU Merger Regulation were not "necessary for the functioning of the single market" (in the terms of Article 3(1)(b) TFEU). Subject to the fact that we are not currently faced with an actual legislative proposal, we find it very difficult to envisage the powers in Articles 103 and 352 TFEU being available to make rules which are not "necessary for the functioning of the internal market".

Of course, the principle of proportionality does apply to measures within exclusive competence and, as such, we agree that the principle of proportionality does provide concrete grounds for the Government to pursue its opposition to the proposals.

As we have previously mentioned, the Commission appears to have applied subsidiarity considerations in putting forward the proposals in the White Paper. It may be that this is for historical policy reasons, since subsidiarity considerations appear to have played a role, as a matter of policy, in framing the EU merger control regime. Therefore, although we do not think that the principle of subsidiarity would apply to legislative proposals arising from the White Paper, it seems reasonable to respond to the Commission's policy arguments.

21 July 2015

Letter from the Chairman to Nick Boles MP

We were grateful to receive your letter on 21 July 2015 on the above document. This was considered by the EU Internal Market Sub-Committee at its meeting on 7 September 2015.

The Committee welcomes your clarification on the question of subsidiarity; namely that the principle of subsidiarity would not apply to a proposal on the acquisition of non-controlling minority shareholdings arising from the White Paper. This accords with our own view, as you know, and revises the views you expressed in earlier correspondence. We note, however, that you consider such a proposal could be opposed on the grounds of proportionality. If and when a formal proposal is introduced, it will be subject to the normal scrutiny process.

We have no further questions to ask on the White Paper and now clear it from scrutiny. A response to this letter is not required.

8 September 2015