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

This edition includes correspondence from 1 December 2013- 3 June 2014

INTERNAL MARKET, INFRASTRUCTURE AND EMPLOYMENT
(SUB-COMMITTEE B)

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AMENDMENTS TO THE CODE OF THE MARITIME LABOUR CONVENTION (7978/14)

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

Thank you for your Explanatory Memorandum of 3 April 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014.

Given that the EU is not a Member of the International Labour Organisation in its own right, we do not feel that an agreement ahead of the upcoming international conference is in order.

We have recently seen a number of proposals which attempt to agree an EU position ahead of an international conference (for example, Council No. 8988/14). Given the frequency with which this situation arises, the Committee shares your view that it is important that Member State competency is respected and that ‘competence creep’ does not occur. We therefore support your decision to oppose the Decision on this basis.

Given that our concerns are aligned with yours, we are content to clear the document from scrutiny. We would be grateful for a report back after the conference.

14 May 2014

BALANCE OF COMPETENCES REVIEW (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

Further to my letter of 13 February announcing publication of the second set of Balance of Competences reports, I am pleased to be able to inform you of the launch of the fourth and final semester Calls for Evidence.
The Calls for Evidence for the final seven reports will be open until the week of 30th June. This semester again covers a broad array of issues, including: Economic and Monetary Policy; Information Rights; Police & Criminal Justice; Education; Enlargement; Voting, Consular and Statistics; and Subsidiarity and Proportionality. They can be found at www.gov.uk/review-of-the-balance-of-competences.

As you know, I am keen that Parliament uses its expertise to contribute to the review and therefore wanted to take this opportunity, in particular, to provide more detail on the three reports being led by the Foreign and Commonwealth Office. These cover Enlargement, Subsidiarity and Proportionality, and the report on Voting, Consular and Statistics (jointly with the Cabinet Office and UK Statistics Authority).

The Enlargement report will assess the balance of competences between the EU and the UK in the field of enlargement of the European Union, including the impact of enlargement on UK interests, the development and effectiveness of the EU enlargement process and lessons learned from previous enlargements, the role of the Member States and EU Institutions in the process, the use of conditionality and of financial and technical assistance, and future challenges and opportunities that enlargement will bring.

The Subsidiarity and Proportionality report covers the concepts of subsidiarity and proportionality which are fundamental principles to the functioning of the EU. It will address how these are used and applied in practice across EU activity: whether the EU acts only when necessary, and whether action takes place at the lowest level possible, and that the means are proportionate to the end. The report also covers Article 352 which provides the EU with the power to act to achieve any of the objectives laid down in the EU Treaties where no other treaty article provides for this. Unlike other Balance of Competences reports, this report does not cover a distinct area of competence.

The Voting, Consular and Statistics review covers three strands each led by the relevant department: Cabinet Office (voting), the Foreign and Commonwealth Office (consular) and the National Statistician on behalf of the UK Statistics Authority (statistics). The voting strand seeks views on the balance of competences on subjects including how to vote and stand as a candidate at elections, the franchise and EU democratic engagement initiatives (such as the European Citizens’ Initiative). The consular strand will consider the EU’s limited competence in Consular Services, which extends to the coordination of efforts between Member States and the requirement for Member States to treat unrepresented EU citizens, in consular matters, in the same way as they would treat their own nationals. The statistics strand looks at EU competence to require statistical reports, and how that impacts issues such as data collection, respondent burden and the level of demand for information at a time of resource pressure.

As I reiterated in my recent letter, I am grateful for the continued engagement of your committee and I know departments have found the material provided to the first three semesters a valuable contribution to their evidence base. As the Committee is aware, 14 of the 32 reports have now been published and reveal a variety of views and perspectives on the broad range of issues covered. Much of the evidence substantiates HMG’s arguments on the need for the EU to reform to deliver greater growth and prosperity. The Review is essential to ensuring that our national debate about our relationship with Europe is grounded in evidence and I’m pleased that many organisations are starting to draw on the reports and evidence to inform their own views.

I will provide a further update on progress at publication of the semester three reports due this summer, and of course would be happy to arrange for further briefings as desired.

27 March 2014

CIVIL AVIATION: AIRPORTS (18008/11)

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

I am writing to update you on the latest position with this proposal since Simon Burns’ letter of 7 May 2013.

There has been no further progress on the proposal until last month. The proposal was, as you will recall, originally treated as part of the “Airports Package” of measures which also included proposals on slots and groundhandling. However, difficulties with progressing the other dossiers have led to the decision to split this noise proposal from the package and to take it forward separately. This proposal is considered the least difficult of the three and the intention is to secure agreement before the
European Parliamentary elections in May 2014. The current Lithuanian Presidency has therefore recently scheduled working groups to discuss possible compromises with the Parliament in preparation for trilogue negotiations in the New Year.

We are supportive of the general approach reached by the Transport Council in June 2012. We played an active role in the working group negotiations leading up to this, and the outcome largely addressed our concerns with the Commission’s original proposal. As you may recall from Simon Burns’ letter of 18 January, we can also support the majority of amendments voted by the European Parliament (EP) in December 2012 as these are broadly consistent with the general approach reached at Transport Council. As such it would appear to be possible to find an acceptable compromise during trilogue negotiations.

We expect that the two main substantive issues for discussion will be around the question of health assessment and the definition of marginally compliant aircraft. The first of these is likely to be the most difficult. The Parliament has proposed amendments which would make health assessment a mandatory part of the process. As there is no common method to assess the health impacts of aviation noise, Member States are reluctant to agree the inclusion of any formal requirement to assess health and we will continue to resist this, working closely with Defra who have overall responsibility for noise policy.

Directive 2002/30/EC introduces the concept of marginally compliant aircraft, which are the noisiest aircraft types still in common operation. The Directive allows Member States to phase out these aircraft on an airport by airport basis if such a measure is needed to reduce noise. As these tend to be the oldest aircraft, the proposed Regulation is aimed at updating this definition to include slightly quieter aircraft. The Commission’s proposal was to set the threshold at 10 decibels below the ICAO Chapter 3 noise standard but the EP and Council reduced this to 8 decibels (which captures fewer aircraft) for a transitional period of four years.

Although the EP and Council agree on this point, we know that the Commission wishes to re-open the definition of marginally compliant aircraft on the basis of the time elapsed since the Council’s and EP’s positions and that the definition will not be sufficiently ambitious or realistic by the time the Regulation becomes law. This definition will determine the types of aircraft which may be phased out at EU airports in the coming years. This is not a critical issue for us, but we have some sympathy with the Commission’s views. However, most other Member States seem unwilling to re-open this point given the EP and Council’s common stance. As an alternative, the Commission has suggested that the EP and Council reconsider giving the Commission a delegated power to amend the definition. We have previously resisted this as we consider this definition is political rather than technical in nature. Both the EP and Council deleted this provision from the Commission’s original proposal.

We understand that it will be necessary to secure the endorsement of the EP’s Transport Committee to any deal by 11 February, so there is likely to be intensive activity before then. We expect the incoming Greek Presidency to schedule further working groups in January as trilogue negotiations begin, and the dossier to be on the agenda of the March Transport Council.

20 December 2013

Letter from Robert Goodwill MP to the Chairman

Following my letter of 20 December 2013, I am writing to inform you of the outcome of trilogue negotiations.

As expected, trilogue negotiations took place in January and a proposed agreement was reached following two meetings. We played an active role in the Council working groups which prepared the Council’s negotiating position and we view the final proposed agreement as one which is acceptable to the UK and maintains the Council’s general approach on the issues of most importance.

Despite our concerns about the Parliament’s position on the issues of health assessment, as mentioned in my letter of 20 December, in the final outcome it was possible to reach a compromise, consisting of some relatively minor textual changes which satisfy the Parliament without placing unacceptable obligations on Member States. The compromise also included a commitment by the Commission to review Directive 2002/49 (the Environmental Noise Directive) with a view to including new methodology on health implications of noise. Defra will lead negotiations on any review of this Directive.

On the question of the definition of marginally compliant aircraft, which I also raised in my previous letter, in the event this point was not re-opened and the position remains consistent with the Council’s general approach.
At the request of the Council, a provision was added which makes explicit that noise-related operating restrictions which were already introduced before the entry into force date may remain in force until revised in accordance with this Regulation. This was particularly important to Germany among other Member States and is something we agreed was useful to add.

We understand that the proposed deal will be put to the Council of Ministers shortly, with a view to the endorsement of a political agreement on this file.

The Regulation would enter into force 24 months after its publication in the Official Journal. The main consideration for UK implementation will be the designation of an independent competent authority required under the Regulation to oversee the process to be followed when adopting new operating restrictions.

14 February 2014

Letter from Robert Goodwill MP to the Chairman

Thank you for your letters of the 20 December 2013 and 14 February 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 February 2014.

The Committee recalls that the proposal on noise-related operating restrictions has been the least contentious throughout negotiations. Given your concerns (shared by this Committee) on the Gibraltar issue, with respect to the groundhandling dossier, we consider that separating this proposal from the package will enable you to better press your point on the groundhandling proposal, and maintain your position on Gibraltar.

Since the Committee has already cleared this dossier from scrutiny, and negotiations have progressed at a reasonable pace, we are content to close correspondence on this proposed Regulation, and will consider separately progress on the groundhandling dossier.

25 February 2014

CIVIL AVIATION: PASSENGER PROTECTION (7615/13)

Letter from Robert Goodwill MP, Parliamentary Under-Secretary of State, Department for Transport

I am writing to provide an update on these proposals.

Although the Lithuanian Presidency worked hard on this proposal, progress was somewhat slower than expected and, therefore, discussion has been limited in Transport Council to an Orientation Debate on 10 October 2013 and a Progress Report on 5 December.

The Greek Presidency has, since January, made significant progress. A number of the key issues are moving in the right direction (albeit not to the liking of some Member States), including the introduction of the 5/9/12 hour trigger points for when compensation is due and the definition and structure around the use of extraordinary circumstances, which now specifically links technical related circumstances to flight safety shortcomings. The Greek Presidency is expected to push hard for a political agreement, or possibly a partial form of political agreement, at the Transport Council on 5 June.

However, it is not yet clear whether this is achievable as a number of outstanding issues remain. Most important of these is the treatment of connecting flights (which is likely to impact on regional connectivity and transit times) and limits on the period in which extraordinary circumstances can be used, which is likely to lead to significant negative impacts on charter/leisure operators. It has not been possible to provide a quantitative assessment of the impacts associated with these issues due to a lack of data.

You will recall that the checklist that accompanied our Explanatory Memorandum provided our analysis of the costs and benefits of the original proposal. We will provide further qualitative and quantitative (which will be limited to the impact of moving to a 5/9/12 hour compensation regime) analysis of the costs and benefits for you to consider in early June and ahead of the Transport Council on 5 June once the proposed Council text becomes clearer (it remains a moving position at this present time).
On the 5 February the European Parliament’s first reading Plenary adopted a wide range of amendments to the European Commission’s proposal. The European Parliament has taken a very pro-consumer line meaning some of the amendments are substantially different from the emerging Council position and would substantially increase the burdens on UK Industry. These included amending the compensation regime to 3/5/7 hours and significantly restricting what constitutes an extraordinary circumstance. These amendments alone would be likely to double the cost of the Regulation to airlines. The European Parliament also voted to maintain (albeit on a more limited basis) the concept of compensation for missed connecting flights.

I am pleased to say, however, that the European Parliament voted to lift the suspension of Gibraltar Airport from the Regulation. The UK’s position in Council remains that the Regulation, along with all other aviation legislation, must apply to Gibraltar Airport and we will continue to push for this in Council. The FCO has tried to engage constructively with Spain to find a solution. It has made clear, on numerous occasions, to the European Commission and Spain, that Gibraltar Airport should be included in the Regulation.

As some of the European Parliament’s amendments are substantially different from the emerging Council position, we currently believe that a 1st reading agreement between the Council and European Parliament is highly unlikely and, therefore, an agreement is not anticipated until several months after the European elections and, in all likelihood, not until 2015.

I will of course continue to keep your Committee informed of developments, and will provide further explanation of where the costs and benefits of the Regulation may fall, and where possible, the likely scale of these.

24 April 2014

Letter from the Chairman to Robert Goodwill MP

Thank you for your letter of 24 April 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014.

We share your continued concern about the omission of Gibraltar from the Commission’s proposal and the potentially serious consequences this could have. We are encouraged by the position taken by the European Parliament in including Gibraltar within the scope of this proposal. We support you in continuing to seek a diplomatic resolution of this matter.

We note your intention to conduct an urgent analysis of the impact that moving to a system of trigger points for compensation at 3/5/7 hours would have. Will this assessment examine the costs and benefits to stakeholders other than airlines, such as passengers and airport vendors?

We have decided to grant a scrutiny waiver ahead of the Transport Council meeting on 5 June. We would be grateful to receive a written update on the outcome of that meeting, particularly on the issue of compensation for passengers, within 10 working days thereafter.

14 May 2014

CLASSIFICATION, LABELLING AND PACKAGING OF SUBSTANCES AND MIXTURES
(7036/13)

Letter from Mike Penning MP, Minister of State for Disabled People, Department for Work and Pensions, to the Chairman

You will recall that, Mark Hoban, the then Minster for Employment, provided an Explanatory Memorandum, dated 15 March 2013, on the proposal to amend five worker protection directives to align them with changes to the EU’s system for classifying hazardous chemicals. You wrote in June 2013 to confirm the proposal had cleared scrutiny, and to ask for sight of any further work on potential costs to business.

The European Commission’s proposal was intended to be a technical update only, designed to take the minimum action necessary to ensure the continued effectiveness of existing policy, without introducing any additional requirements.

The main objective of the Government was to ensure the necessary alignment of the directives with the updated chemicals classification system to maintain adequate levels of protection of workers, while ensuring that burdens on business were kept to a minimum.
One aspect of the proposal, to update workplace signage for some hazards to reflect the new system of warning symbols, has the potential to result in costs to business. When the directive was proposed an impact assessment checklist was prepared which confirmed that at that stage it was not possible to credibly estimate these costs. The intention was to make a further assessment when developing the negotiating strategy. However, in the event it was not possible to do this as relevant data was not available.

During the negotiations to help mitigate the impact of the proposed changes the UK successfully achieved the reinstatement of an important exemption from workplace signage requirements that had been omitted in the original proposal by the Commission. The UK also allied with several other member states and the Presidency to oppose a proposal to extensively redraft the annexes to the Safety Signs at Work Directive (92/58/EEC) which would have resulted in significant burdens on business.

Feedback from business is that because of the long lead in for the changes to the chemicals classification system many suppliers are already using the new warning symbols on their products and informing customers of the changes so awareness is growing. To mitigate the practical effect of the changes guidance will be provided to reassure business that a risk based and proportionate enforcement approach would be taken in relation to any failure to display the correct sign. Taking these factors into account the impact on business of these changes is not expected to be significant. An impact assessment will be prepared as part of the implementation process.

The proposal was agreed in trilogue between the European Parliament and the Council in early December 2013 and was adopted as a Directive on 20 February by the Council.

27 February 2014

CONTRIBUTION TO THE ANNUAL GROWTH SURVEY 2014 (16171/13)

Letter from the Chairman to Lord Livingstone of Parkhead, Minister of State for Trade and Investment, UK Trade and Investment

Thank you for your Explanatory Memorandum of 11 December on the above document. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 January 2014. This has already been cleared from scrutiny by the Committee.

As you will be aware, much of the content of this report goes over aspects of the European Union’s Single Market strategy that the Committee has already encountered, and scrutinised in more detail. We have shared with you our views on the priorities in separate correspondence.

We note that you agree with the Commission’s view that there is a need for better implementation of the Services Directive, and that you have been calling for a more ambitious approach towards its implementation for three years. You suggest that there is a need for more active enforcement at EU level, or for the Commission to carry out the relevant proportionality assessments. Given your strong position on this, which we share, it would be useful to have further information with respect to the Annex to the Commission document, which shows that the UK has a pending infringement case for non-conformity with one of the Services Directives. We would be grateful for more information on the background to this, and whether you think that it has had any impact on your negotiations with the Commission in this area and if so, how.

I look forward to a response as soon as possible within the usual 10 working day deadline.

14 January 2014

Letter from Lord Livingstone of Parkhead to the Chairman

Thank you for your letter dated 14 January 2014 and your question on the recent infraction of the UK in respect of the EU Directive on Services in the Internal Market (2006/123/EC).

The Commission concern relates to the national applicability of authorisations, or licences, to provide services. The Directive requires that a licence granted by a competent authority shall be effective nationwide unless there are good public interest reasons otherwise (Article 10(4) of the Directive). The Directive was implemented in the UK by the Provision of Services Regulations 2009 (‘the implementing Regulations’).
The national applicability requirement in Article 10(4) of the Directive was transposed in regulation 15(5) of the implementing Regulations. Regulation 15(6) of the implementing Regulations, however, provides, as an exception to the requirement in regulation 15(5), that a licence issued by a competent authority whose functions relate only to one ‘part’ of the UK will apply only in that ‘part’ of the UK.

In the Commission’s view regulation 15(6) infringes Article 10(4) of the Directive. BIS Legal’s view is that if this was to go to the ECJ, we would likely lose. On 17 October 2013, the Commission issued an Article 258 letter of formal notice.

Consequently we have to amend the implementing Regulations and probably a number of other Acts relating to licensing bodies to address the defect identified by the Commission. Following a public consultation in Spring 2013, we propose introducing a form of mutual recognition, under which all ‘personal’ licences (i.e. ‘fit and proper person’ type licences) issued by competent authorities whose functions relate to at least one of the four component ‘parts’, shall be valid throughout the UK. However, there will be important exceptions on the grounds of overriding public interest in appropriate cases.

My officials have discussed the issue and the course of action to be taken with other Government Departments and Devolved Administrations officials. Relevant Departments and Devolved Administrations officials were asked to identify licensing schemes and relevant legislation affected by the proposal and to indicate whether an exemption for particular licensing regimes is appropriate. Due to the horizontal nature of this Directive, this was, and still is, a complex and time-consuming task.

My officials are currently preparing the UK Government response to the infraction letter. We will then focus on a removal of regulation 15(6) of the implementing Regulations. This amendment will come into force by the beginning of 2016 which will allow for a transitional period during which licensing authorities can take appropriate measures to ensure that mutual recognition will work in practice, where appropriate. Amendments to primary and secondary legislation governing licensing authorities are likely to be required because the removal of regulation 15(6) might put existing legislation in conflict with the requirement for national applicability in regulation 15(5) of the implementing Regulations.

The infraction of the Services Directive has had no impact on the UK negotiations with the Commission on services so far, but it does cloud the issue when we have long called for full implementation of the Services Directive (‘zero tolerance’ approach). With the new Commission due in the autumn, we hope to have the issue resolved to be in a position to influence the stance of the new Commissioner without our position being undermined.

4 February 2014

COURT OF AUDITORS REPORT OF THE ENIAC JU ACCOUNTS FOR 2012
(UNNUMBERED)

Letter from the Chairman to David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum (EM) of 5 December on the above document. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 January 2014.

We note that the Court of Auditors delivered a qualified opinion on the ENIAC Joint Undertaking’s (JUs) annual accounts, on the basis that the JUs ex-post strategy of auditing collaborative R&D projects did not include important practical details on the implementation of the strategy.

In the EM you state that you are a strong advocate of sound financial management and budget discipline. However, neither the Joint Undertaking’s reply to the qualified opinion nor your EM, clarify how the issue raised by the Court of Auditors will be resolved. We would be grateful for further information on how this issue is to be rectified, and would encourage HMG to take a robust stance on ensuring that it is resolved.

14 January 2014
Letter from David Willetts MP to the Chairman

I’m replying to your letter of 14th January in response to the Explanatory Memorandum on the report by the Court of Auditors (CoA) on the accounts of the ENIAC Joint Undertaking for 2012.

In the letter you drew attention to the report cited by the CoA that reported the lack of practical details on the implementation of the ex-post strategy and asked how this lack of practical details was to be resolved, noting the need to ensure sound financial management of public funds. Briefly the lack of practical details arose because the work underpinning the report was undertaken before the ex post audit strategy had been developed. This was a reasonable approach as none of the ENIA projects were near conclusion so establishing the ex post strategy was not the most pressing issue for the JU. However since that report more work has been undertaken on the strategy. Before providing more detail I think it would be useful to provide some background on the approach to the ex-post audit strategy for ENIAC.

Projects supported under ENIAC are funded under a so-called “tri-partite” model in which public funding is provided by National Funding Agencies (NFAs - for the UK, the Technology Strategy Board) and the Union budget, with the project-partners providing approximately matching funding in the form of resources committed to the projects. The grant-agreement under which the funding is offered to a participant is generally on the terms-and-conditions, which include ex-post audits, of those used by its NFA.

The study “Assessing the Audit Strategies of Member States of ENIAC Joint Undertaking”, mentioned in the CoA report and in your letter, reported to the Joint Undertaking. The evidence-gathering for the report was carried out in early 2011 although the report was only published in late 2012. As the work was carried out before any projects had finished the study could only address the setting-up of the ex-post audit system. The report did not comment in detail on the “practical details” mentioned in the footnote of the CoA report, simply listing those that needed to be addressed: “concrete actions, means, technical details and timelines”.

Following the receipt of the report the finance and audit staff of the ENIAC Joint Undertaking have been holding discussions with the relevant staff from the NFAs to get confirmation that their ex-post audit strategies comply with relevant audit standards and to remind them that the NFA should provide details of the ex-post audit procedure used and the audit results. The TSB has provided this information for the UK.

Some ENIAC projects have now finished. Preliminary results of the ex-post audits were reported to the ENIAC Governing Board in November 2013 showing that at the 95% confidence level the total error rate in ex-post checks is less than 2% and the level of materiality is less than 5%. The ENIAC staff are still seeking details on the concrete actions, means, technical details and timelines of the ex-post audit processes of many of the NFAs and are therefore reluctant at this stage to declare these as ex-post audit results, referring to them instead as ex-post checks.

I will ensure that, through its seat on the Governing Board of ECSEL, the successor programme, BIS ensures that ex-post audit arrangements are in place for all NFAs and for those that are note a timetable is agreed to get them in place.

18 March 2014

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

Letter from Ed Vaizey MP, Minister for Culture, Communications and Creative Industries, to the Chairman

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

A key area for early engagement in the next six months will continue to be in relation to the Digital Agenda for Europe and the role of the 13555/13s & ICT sectors. Commission Vice-President Kroes has launched an initiative to further integrate the European Single Market in electronic communications; this also should make a contribution towards the creation of the Digital Single Market.

The Commission’s current activity focusses around three main elements: the continued roll-out of broadband; completion of the telecommunications single market; and the creation of the digital single
market. The proposals are largely regulatory in nature, running the full range of self-regulatory
guidelines to legal instruments that are directly applicable in a Member State’s domestic law. The
overarching aim of the Commission is to drive EU’s economic growth and competitiveness and there
is a direct link between the Digital Agenda for Europe to the EU2020 strategy (EU2020). The UK is
seen by the Commission and several Member States as leaders in this policy area.

The Commission has proposed a series of regulatory changes associated with the Connected
Continent Communication. The Telecoms Single Market package – as it has become known – aims to
further complete the telecoms single market and is also referred to as a digital single market measure.
It was discussed briefly at the October 2013 European Council where deadlines of 2015 were given
for measures on cybersecurity and data-protection. These aims are closely concordant with UK single
market policy. The UK welcomes the Commission’s overarching ambition to raise cyber capabilities
across the EU, but seeks to ensure that any legislative agreement does not place disproportionate
burdens on businesses or public administrations; or create the wrong incentives for sharing
information.

We also strongly support the Proposal for a Regulation to reduce the costs of deploying high-speed
electronic communications networks. However, we do not think that the use of a Regulation is the
best way to achieve this, and remain of the view that a Directive would be a more appropriate
instrument: in that it would give Member States more scope to implement relevant cost-reducing
measures in a proportionate, flexible and cost-effective manner.

The UK welcomes the objectives of the proposal for a Regulation laying down measures concerning
the European single market for electronic communications and to achieve a Connected Europe. We
nevertheless remain concerned that the link between the stated aims and the constituent elements of
the package remain unclear or unproven in a number of circumstances. Conversely we support action
at EU level for the pro-consumer parts of the package; for the eventual reduction of the EU roaming
rates to zero; and for proposals that could accelerate the roll out of new technologies across the EU.

In respect to Council Conclusions on the Digital Economy, we acknowledge the importance of its
potential to drive innovation, growth and employment across the EU, but do not believe that there is
any justification for a new regulatory framework.

The Commission is now in the process of implementing its State Aid Modernisation (SAM)
programme. This reform package provides a real opportunity to secure improvements in the focus,
transparency and effectiveness of the decision making processes around State aid. DCMS is key
supporter of these measures and will play its part in helping the Commission move forward with the
operational changes needed to implement this package of measures (for example by providing its
support for seconded national experts (SNEs)).

In addition to the SAM programme, there is also specific and ongoing engagement with the
Commission regarding state aid approval of UK plans to develop our telecoms and broadband
infrastructure. In addition, DCMS is now starting the early work on its State aid strategy for its
Superfast Extension Programme (SEP). We do not expect to begin formal interactions in relation to
SEP until the summer of 2014 but this will become increasingly important as the year progresses given
it is likely that SEP will require a new State aid decision when the existing BDUK decision expires in
June 2015.

There are indications that the European Commission wishes to broaden the scope of the Audiovisual
Media Services Directive (AVMSD), and while there is no formal decision yet to develop a new or
revised AVMSD, the Green Paper kicks off a process of seeking views on what may need to change.
DCMS is concerned that an increase in scope or depth of EU regulation of AVMS could (in most, but
not all areas) harm UK growth in this area. The Connectivity, Content and Consumers paper set out
our national strategy in this area. The UK regards further EU regulation as unnecessary as
convergence has not reached the consumer (yet), predictions for future developments regarding
technical development and consumer behaviour are uncertain and potential needs can be best catered
for on a national level

The UK is at the forefront of digital technology in Europe and will both feel and shape the impact of
convergence before other Member States. This puts us in an excellent position to influence
Commission thinking in this area early in the process. It is DCMS’ objective to make sure that if a new
AVMS Directive is proposed it does not harm growth.

DCMS is actively engaged in the proposed revision of the Directive on the return of cultural objects
unlawfully removed from a Member State. We expect significant engagement to ensure UK interests
are protected, given the relatively large number of cultural objects in UK galleries and museums which
originate from abroad. A handling plan has been developed to minimise the potential for the Directive
to provide a platform for the long running debate over the Parthenon Sculptures during the Greek EU Presidency.

We also continue to work with like-minded Member States to influence the Commission away from the Women on Boards Directive. We will be seeking further information on proposals on equal pay so that we can seek an appropriate proposal for the UK.

I hope this gives you a general overview of our EU engagement work, and look forward to providing you with further updates as we approach the Ministerial Councils in the autumn.

23 January 2014

DEPLOYMENT OF THE E-CALL IN-VEHICLE SYSTEM (11124/13)

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

I am writing to update your Committee on the proposed Regulation for deployment of the eCall in-vehicle system, further to my Explanatory Memorandum last year.

I am sorry that the initial delay in discussions prevented the provision of earlier updates on this dossier. The proposal was not taken forward during the Lithuanian Presidency. Working group negotiations began on 16 January with a second working group on 25 February and further discussions on 13 March and 14 April.

Your Committee may be interested to see the attached report, published in March, which updates the cost/benefit analysis for the UK of eCall. Key findings from the updated report are:

— The Benefit Cost Ratio (BCR) for the UK of mandatory eCall would be 0.16, and even applying more optimistic values to the benefits this would only reach 0.44;
— The estimated costs for the in-vehicle eCall technology in the UK are between £320-£445 million for new vehicle purchasers (annual new vehicle parc of over 2.5 million cars and vans);
— Even using the best estimates of benefits in terms of reduced casualties indicates that the UK would not reach break-even point within the 20 year appraisal period.

As you are aware, the basis for our opposition to this measure is that the costs to the UK outweigh the benefits, and this analysis confirms our position. We provided copies of this report to officials in other Member States to help inform the discussions on the proposed Regulation. Unfortunately, however, it has become clear that there is very little support for the UK position and no possibility of blocking this legislation. The Commission has estimated that the eCall system will save 747 lives per year once roll-out is complete by around 2033, although there are differences between Member States. The UK has been the only Member State to question these figures, or to share or refer to its own impact analysis. In addition, other aspects of the eCall system are already in place, and many Member States want to make the installation of eCall compulsory in new vehicle types in order to make the most of the system. For instance, several Member States have invested in the eCall infrastructure through pilot schemes, and a separate Decision to require that Member States establish the required telecommunications infrastructure by 1 October 2017 (on which DCMS lead) has recently been agreed.

Given the absence of support for blocking the Regulation, we are therefore working with other Member States to minimise the potential burdens on manufacturers and the potential cost to consumers. I can report that we are having some success in this, although of course negotiations are still continuing.

It now looks likely that the proposed Regulation would apply to new models of vehicle only, and not to models already on sale on the date of application. Progress in the negotiations suggests that we are likely to succeed in obtaining an exemption for low volume vehicles. There is support in Council for the exemptions to be specified in the Regulation rather than left to the Commission to adopt through a delegated act, but we are still pressing for an exemption for special purpose vehicles (e.g. motor caravans).

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There is general consensus that the target date of 1 October 2015 for fitment of eCall systems to new vehicles is too ambitious. It is therefore likely that the date of application will be significantly later, and we are pushing for it to be delayed until at least three years after the adoption of the Regulation. There also appears to be support for our position to permit the continued provision of third-party (private) eCall.

With regard to the rules on privacy and data protection, other Member States have expressed similar concerns to us, for example about the potential for constant tracking of vehicles via the eCall systems, and the need for key provisions to be contained in the Regulation and not delegated acts prepared by the Commission. We continue to work with Ministry of Justice and Department for Culture Media and Sport to draft suitable safeguards.

There are a number of areas where the Commission are seeking delegated powers to draft detailed specifications, for example on exemptions, type approval procedure and detailed privacy specifications. There is not yet a clear conclusion on all of this, although Member States are moving towards a view that at least some areas will be spelled out in the basic act or that they will instead be dealt with as implementing acts. We continue to guard against delegation of powers to the Commission unless it is absolutely necessary, and only where reliable constraints are in place, to ensure the delegation is limited and subject to consultation and oversight.

In addition, Member States look likely to ensure that powers to adopt delegated acts are limited to 5 years rather than an indefinite period of time. Our experience of delegated acts in the fields of motorcycles and tractors indicates that we can be cautiously positive that the Commission does indeed respect the need to consult widely during preparation of delegated acts in these fields, when required to do so.

The proposal has also been under consideration by the European Parliament, who completed their First Reading on 26 February. They have accepted that the vehicle owner has the right to use another eCall system (third party system) as well as the regulated one, as long as it meets standards, and that there should be exemptions from compulsory fitment for low volume and special purpose vehicles.

The EP called for eCall systems to comply with Directives 95/46/EC and 2002/58/EC on Privacy and Data Protection, and called for manufacturers to provide transparency about the system to owners, including the fact that there is no tracking beyond collection of the minimum set of data that is necessary when reporting an incident. These objectives are in line with our position and that of most Member States.

The EP accepted the Commission’s proposal for the date of application to be 1 October 2015, which as noted neither we nor other Member States support.

The EP would like regular roadworthiness testing (MOT) of the eCall system, which has not been discussed by Member States and which we would oppose. Finally, they called for the Commission to encourage the voluntary fitment of eCall (prior to compulsory fit) to increase penetration. Again this has not been discussed by Member States and we would not be in favour.

We expect working group discussions to continue during April and May, with a possible general approach at the Competitiveness Council on 26 May. Negotiations on a possible second reading agreement would then take place with the new European Parliament.

I will of course keep your Committee informed of further negotiations ahead of the Competitiveness Council.

22 April 2014

**Letter from Stephen Hammond MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman**

I am writing to update your Committee on the proposed Regulation for deployment of the eCall in-vehicle system, further to Robert Goodwill’s letter of 22 April.

Following that letter, our discussions with the Presidency and their revised draft agenda indicated that they planned to schedule a progress report at the 26 May Competitiveness Council, and would not seek a General Approach. However, there was a further Council working group meeting on 7 May, at which the Presidency announced that they would submit the document to the Competitiveness Council for agreement of a General Approach.

As noted previously, we have worked with other Member States to minimise the potential burdens on manufacturers and the potential cost to consumers, and have achieved many of the improvements we proposed during the negotiations. The General Approach will include these improvements.
Compared to the situation as described in Robert’s letter, I can therefore now confirm the following:

— The proposed Regulation would apply to new models of vehicle only, and not to models already on sale on the date of application. It contains an exemption for low volume vehicles and we have achieved a partial exemption for special purpose vehicles (e.g. motor caravans), which is applicable when it is most necessary, i.e. where an eCall system is not already fitted to the base vehicle.

— We have succeeded in pushing back the date of application until three years after the adoption of the Regulation, and obtaining permission for the continued provision of third-party (private) eCall.

— With regard to the rules on privacy and data protection, text that we proposed has now been agreed, to prevent the collection and retention of vehicle location data – except that which is necessary to notify the emergency services of the vehicle’s precise location and direction of travel. This will prevent any tracking of the vehicle via the eCall device by third parties, contrary to allegations in recent press coverage.

— The Commission have been granted delegated powers to draft detailed specifications on exemptions and the type approval procedure, whilst detailed privacy specifications will instead be dealt with as implementing acts, where a vote from Member States will be needed to agree them. In addition, Member States have agreed that powers to adopt the delegated acts would be limited to 5 years rather than an indefinite period of time.

As you are aware, a number of Government Departments have an interest in this dossier, and it was therefore necessary to reach further cross-Whitehall agreement on the UK’s final negotiating and voting position. During this process, the Government gave careful consideration to the position that we should take, noting that we appreciate the work that the Presidency has done to improve the technical details of the Regulation and welcome the revisions made to the text. Nevertheless, we are concerned that some details are still not right, and we remain opposed to the mandatory requirement for manufacturers to fit eCall devices to new vehicle types. The Government therefore concluded that we should oppose the General Approach, on the basis that although improvements in the text have been made, in principle we still oppose the measure due to the limited benefits that would accrue to the UK, compared to the costs that would be incurred.

Assuming a General Approach is agreed, negotiations on a possible second reading agreement are likely to take place with the new European Parliament in the autumn. We will, of course, continue to work to minimise the impact of the proposal on UK businesses and consumers, as well as to protect the concessions we have already gained, and I will continue to keep you informed of further developments.

29 May 2014

DISCLOSURE OF NON-FINANCIAL AND DIVERSITY INFORMATION BY COMPANIES (8638/13)

Letter from Jenny Willott MP, Parliamentary Under-Secretary for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman

The UK has supported the European Commission proposal, as being broadly in line with domestic legislation.

Negotiations are now potentially in their final stages. The European Parliament’s lead Committee position was agreed by a unanimous vote in December 2013. Since then, the Greek Presidency has held a first Informal Trilogue, with a second scheduled for 11 February. The Presidency consequently hopes to reach a First Reading agreement before the EP elections this May.
KEY ISSUES IN DETAIL

SCOPE
Your main concern was around the impact of application of the two main negotiating points concerning the proposals’ scope.

The Commission’s original proposal covered large public and private undertakings. We estimate that this would affect some 7,455 UK companies. By contrast UK narrative reporting laws cover all listed undertakings (irrespective of size – equivalent to around 1,300 companies).

The UK position was to limit the scope to large-listed companies (around 380), but was prepared to accept a slightly wider application, to large-PIEs (Public Interest Entities). Our best estimate is that if this is agreed it would cover around 500-600 companies. This would, I believe, strike a better balance than the original proposal.

COUNTRY BY COUNTRY REPORTING OF TAX
The second main negotiating point concerns company reporting on tax.

Following the initial publication, the Commission proposed the inclusion in the proposal of a mandatory requirement for companies in all sectors to publicly report on tax on a country-by-country basis (CBCR). This proposal was not supported by many Member States, including the UK. The EP’s formal position is to argue for a review clause allowing the Commission to consider the merits and possible extensions of CBCR of tax in future. The Commission is of course always able to do this accordingly. We believe that, depending on the shape of the rest of the proposal, this ought to be an acceptable compromise position provided it is consistent with other related UK government efforts.

OTHER ISSUES
Negotiations are ongoing over a number of outstanding technicalities, but I judge these to be of second order importance.

SMEs
The Committees had previously enquired about the impact on SMEs.

Both the direct and indirect impact of this Directive on SMEs in the UK ought to be negligible in terms of additional burdens, particularly given the positions I have outlined above on scope.

FINANCIAL COSTS
The UK narrative reporting requirements that came into force in October 2013 already apply to all listed companies. The proposed compromise on a wider scope would not add any significant extra costs to them.

With regard to the inclusion of Public Interest Entities, these are also already covered by the new Accounting Directive and hence already required to produce annual reports and to include non-financial information. The impact of including them in the new Non-Financial Reporting Directive would be only to add some additional extra disclosure obligations, the cost of which I judge would not be material given the size of businesses concerned.

NEXT STEPS
Overall, these proposals continue to broadly mirror the UK’s new narrative reporting framework adopted by Parliament in October last year. On balance, and subject to a satisfactory outcome on the two points highlighted above, I therefore believe that adoption of these proposals is in the UK’s interest.

For this reason, I would be grateful if the Committees would consider raising your scrutiny reserves.

8 February 2014
Letter from the Chairman to Jenny Willott MP

Thank you for your letter dated 8 February 2014, which was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 10 March 2014. We decided to clear the document from scrutiny.

We are grateful for this update, and note the assurance from the Minister that the burden on SMEs will be negligible, to which we attach great importance. We feel very strongly that small companies should not be burdened with mandatory adherence to the requirements of this Directive.

We also note the importance of promoting diversity in business, and support an approach where all companies are encouraged to make a clear statement as to their diversity policy on a voluntary basis. We welcomed the statement by the Minister (Baroness Northover) in the recent House of Lords debate on female board membership, in which she welcomed the use of a voluntary diversity code among those recruiting for board positions. ¹

No response to this letter is required.

11 March 2014

DWP PRIORITIES DURING THE GREEK PRESIDENCY OF THE EU: JANUARY TO JUNE 2014

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

The Greek Presidency of the EU started in January, and it is now clearer what 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 update you sooner but some of the Presidency’s plans have only recently been announced.

The focus of the Greek Presidency will be on EU issues that will promote jobs, competitiveness and stability.

The following DWP legislative dossiers will possibly reach agreement in Council during the Greek Presidency:

— The European network of Employment Services, workers’ access to mobility services and the further integration of labour markets (EURES) (5567/14 & ADD1 - 4)
— Tripartite Social Summit for Growth and Employment (16118/13)
— Enhanced co-operation between Public Employment Services (PES) (11474-13)

EURES REFORM

The proposal for a Regulation aims to enhance workers access to intra EU labour mobility support services, to support fair mobility and increase access to employment opportunities throughout the Union. The UK is pushing for a reformed EURES focused on targeted migration to meet labour shortages in skilled occupations. Currently not all Member states make available to the EURES portal all job vacancies published and available at national level. The UK is one of only a few Member States to comply with our obligations in this regard. This proposal redresses this issue by strengthening the wording of the obligations so that it will be more difficult for other Member States to fail to comply. We intend to pursue this compliance during negotiations and work with other Member States to ensure the proposed measures are proportionate and do not go beyond what is necessary to achieve the objectives and that a positive outcome is achieved for the UK. EURES has been functioning since 1993, and takes its original authority from EEC Regulation 1612/1968.

TRIPARTITE SOCIAL SUMMIT FOR GROWTH AND EMPLOYMENT

Strengthening employment, social protection and the role of social partners is a key strand of work running through the Greek Presidency’s agenda. The Presidency seeks to make progress on a

¹ HL Deb, 10 March 2014, col 1545
Commission proposal to update the Council Decision on the Tri-Partite Social Summit (TSS), the instrument that underpins this long-established forum for high-level consultation between the EU institutions and the EU social partners. A new decision is needed to take account of changes in the EU's legal and institutional framework in the last decade such as Treaty change, the role of the European Council and the advent the EU2020 Strategy. This light touch consolidation is uncontroversial in and of itself, however the use of Article 352 TFEU as legal base for means that the UK's agreement to adoption will depend on the approval of Parliament in line with Section 8 of the EU Act 2011.

ENHANCED CO-OPERATION BETWEEN PUBLIC EMPLOYMENT SERVICES (PES)

Following the General Agreement reached at December’s EPSCO, the Presidency is keen to finalise this Council Decision. This legislative proposal aims to expand, reinforce and consolidate on-going initiatives to modernise PES and improve the operation of labour markets. This would include the establishment of a legally based PES Network which it is envisaged will replace the current informal experts’ advisory group which was established in 1997. The UK is supportive of the policy objective to enhance co-operation between PES.

Following the final trilogue at the beginning of February 2014 the Presidency concluded that it had sufficient support for the final compromise text which will be forwarded to the Parliament for final approval.

EMPLOYMENT AND SOCIAL POLICY COUNCIL (EPSCO)
INFORMAL COUNCIL

The Informal meeting of Ministers for Employment and Social Affairs will be held on 28-29 April in Athens. The focus of this meeting will be on the Social Dimension in the framework of the EUROPE 2020 Strategy.

FORMAL COUNCILS

The two formal EPSCO Councils during the Presidency will be on 10 March in Brussels and on 19 June in Luxembourg. Although we have provisional agendas 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.

PROVISIONAL EPSCO AGENDA – 10 MARCH 2014

We anticipate a possible general approach on the Guidelines for the Employment Policies of the Member States.

This will be followed by information from the Presidency on the Tripartite Social Summit (to be held on 13-14 March 2014), the Posting of Workers and the conventions concerning the safety of chemicals at work and decent work for domestic workers.

There will be information from the Commission on Occupational Health and Safety, the Gender Recast Directive, on two Anti-discrimination Directives, Europe 2020 Headlines, Employment Performance Monitor, cooperation with Social Partners in the European Semester, the Alert Mechanism Report and on a proposal on working time in inland waterway transport.

The chairs of the SPC and EMCO will outline their respective work programmes for the year.

PROVISIONAL EPSCO AGENDA – 19 JUNE 2014

The Presidency has outlined that there may be a general approach on the Women on Boards Directive, though the provisional agenda acknowledges that this may end up being only a Progress Report. In addition, the Presidency is hoping for political agreement on the re-establishing of EURES.

There will be an exchange of views on the European Semester 2014, approval and endorsement of the National Reform Programmes 2014, and implementation of the 2013 Country-Specific Recommendations and the Employment Performance Monitor and Benchmarks. Further, the Council will receive reports on the assessment of the 2014 package of Council Recommendations on cross-cutting issues, the principle of equal treatment and Youth Employment. Council will adopt draft conclusions on Women and the Economy and also Occupational Safety and Health.
OTHER BUSINESS LIKELY TO BE PROGRESSED DURING THE GREEK PRESIDENCY

SOCIAL SECURITY

We are expecting the Commission to bring forward a package of amendments to the Social Security Coordination Regulation 883/2004 in Spring 2014.

There are two areas where the Commission will be making proposals: on Long Term Care (LTC), where the Commission is looking to clarify the current provisions and where we will work closely with Department of Health colleagues; and on Unemployment Benefits, where we expect the Commission to make changes in the way that mobile workers access Unemployment Benefits across Member States. The UK welcomes the Commission’s proposals to simplify the social security coordination rules. However we are also concerned to see a fairer balance of responsibilities. Therefore as well as the Commission proposals to change the rules which support the free movement of workers, we are considering ways to make changes to the rules on how non working EU citizens access benefits when they move between Member States.

PENSIONS

We anticipate proposals for a directive for minimum requirements or enhancing worker mobility by improving the acquisition & preservation of supplementary pension rights will be adopted during the Presidency. The Directive would ensure that workers who join an occupational pension scheme would become entitled to an occupational pension after contributing for 3 years or more; and the pension rights of former employees would be treated fairly in respect to those of current employees. We anticipate no implications for the UK.

Any proposals on the "Institutions for Retirement Provision" (IORP II) Directive are likely to cover initiatives on the governance of occupational pension schemes, including transparency & information to members. The UK is likely to oppose the proposals, not least because they lack a true European focus, but also because they may be a Trojan Horse for eventual proposals for new solvency requirements for occupational schemes that could add at least an extra £150 billion to scheme liabilities.

HEALTH AND SAFETY

Most of the work on the amendment of certain health and safety at work directives to align them with the European Regulation on the classification, labelling and packaging of substances and mixtures, and on the amendment of the European Regulation on the marketing and use of biocidal products to correct some administrative errors in the original Regulation, was done under the Lithuanian Presidency with informal first reading deals on both reached in December 2013. The EP subsequently voted to approve the deal on classification, labelling and packaging in early February. It is due to vote on the deal on biocidal products at the end of February. Both deals are acceptable to the UK.

EU ACCESSIBILITY ACT

The Commission may move forward on this Directive, which we are still awaiting details. It is part of the Internal Market and so falls under the Competitiveness Council. We have no current indication of timing or of the Presidency’s plans.

We have established contact with key Ministers and officials in Greece and will be working closely with them on their forward agenda. I look forward to continuing to work closely with your committee to achieve the necessary scrutiny clearance before any agreement at Council.

I hope you find this information helpful.

22 February 2014
Letter from the Chairman to Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills

Thank you for your letter of 3 December 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 16 December 2013.

We note the developments that have taken place in negotiations on this proposal, and welcome in particular the reduction in scope of the use of delegated and implementing acts in the proposal. We are aware that the forthcoming Greek Presidency of the EU is keen to make progress on agreeing this proposal, and we would therefore be grateful for further updates as negotiations progress.

In the meantime, we have decided to retain this proposal under scrutiny.

19 December 2014

Letter from Michael Fallon MP to the Chairman

Further to my letter dated 3rd December in which I updated you on negotiations concerning the Electronic Identification and Trust Services (EIDAS) Regulation, I am now writing to formally request that your Committee lifts the reserve it placed on this Regulation in your letter to Norman Lamb MP dated 24th July 2012. I believe that the information provided below addresses all of the concerns raised previously.

THE PROPOSED USE OF DELEGATED ACTS AND IMPLEMENTING POWERS

The original proposal contained 29 implementing acts and 19 delegated acts. Further detail on the 19 delegated acts from the original draft is provided in the table attached at Annex A [not printed]. An overview of the outcome on the 29 implementing acts from the original draft is also provided below in paragraphs 5-8 and in the table attached at Annex B [not printed].

DETAILED OVERVIEW OF THE PROPOSED DELEGATED ACTS AND NEGOTIATION OUTCOMES

There were particular concerns about the uncertainty of the extent of some delegated acts, in particular, that they related to essential elements of the Proposal. Article 290 TFEU provides that a legislative act may delegate to the Commission the power to adopt non-legislative acts to supplement or amend certain non-essential elements of the legislative act. As requested by the Committee, the table at Annex A [not printed] sets out the articles of the Proposal containing delegated acts, and the outcome in relation to each.

As the Committee will see, the revised text contains only three delegated acts. The UK and other Member States have been successful in achieving the deletion of delegated acts that were considered excessive and inappropriate given the constraints in Article 290 TFEU. The UK is therefore satisfied that these remaining delegated acts are appropriate.

DETAILED OVERVIEW OF THE PROPOSED IMPLEMENTING ACTS AND NEGOTIATION OUTCOMES FOR EID (ARTICLES 5-8)

The Council text now provides for tertiary legislation in four areas where experts need to be involved in making cross-border recognition work:

— implementing acts to set European assurance levels in relation to identity (Article 6a(2))
— implementing acts on the format and procedure for notifying a scheme (Article 7(4))
— implementing acts on cooperation to build trust and understanding of other member states’ approaches to identity assurance (Article 8(2))
— implementing acts to address the practical questions on interoperability (Article 8(2a))
By ensuring that these are implementing acts rather than delegated acts, the Council has ensured that member states retain a greater role in their agreement.

Through the implementing act required by Article 6a, the Regulation makes provision for standards for different assurance levels. The importance of this is set out in the section on assurance levels below. Setting these levels in an implementing act should ensure that the standards will be flexible enough to update as international thinking changes and as the technology develops. The scope of the implementing act is clearly defined - Article 6a sets a clear basis and set of criteria to be taken into account when setting standards. The linked recital in the Council text also ensures that the levels set by the Commission will be tied to other international work on assurance levels, in which the UK is heavily involved.

The implementing act provided for in Article 7 relates to the circumstances, format and procedure of a notification of an eID scheme. It provides an opportunity to ensure that all Member States take a uniform approach to notification of their schemes. Exactly what needs to be included in the notification of a scheme depends on the interoperability framework so use of an implementing act here means that the notification can be flexible according to that framework.

Article 8 now provides for two implementing acts rather than delegated acts. The text also now contains a lot more detail on the areas to be covered by those implementing acts. Article 8(1)(a) and (b) set criteria related to the interoperability framework and Articles 8(1)(c) and (d) set criteria related to cooperation between Member States. These ensure that the parameters for the implementing acts are set out clearly in the Regulation, rather than giving a completely open hand to the Commission.

FOR TRUST SERVICES

The implementing acts in Articles 14, 20, 28 and 34 have been deleted. Although replacement implementing acts are allowed for in the new Articles 20a and 28a these are much more closely defined. Minor amendments have been made in a number of other provisions for implementing acts, including deleting the word "circumstances", for example, in relation to the implementing acts allowed for in Articles 13 and 15. The UK considers that these amendments significantly reduce the scope of the implementing acts in question.

Also, the implementing act in Article 16 has been amended to constrain its scope to establishing reference numbers for existing standards for conformity assessment bodies, whereas, the original implementing act empowered the Commission to define the circumstances, procedures and formats applicable to assessment of conformity assessment bodies – a much wider power. In light of these changes, the UK is satisfied that the remaining, as well as new and replacement, implementing acts contained in the text agreed by Coreper on the 28th February are appropriate in the circumstances. More detail on these is set out in the table at Annex B [not printed].

OTHER CONSIDERATIONS RELATING TO ELECTRONIC IDENTIFICATION (EID)

SCOPE

In the Council text, the scope of the Regulation has now been limited so that it only places the obligation to accept eID from other member states on public sector services that are already accepting eID domestically, and that require significant assurance that a person is who they say they are. The Regulation also allows for public sector service providers to accept eIDs with a lower assurance level where they choose to do so. The limitation of scope means the implementation can focus on services where there is genuine cross-border relevance rather than having to ensure that all service providers have to consider how to ensure compliance.

ART 6(1)(A) – INCLUSION OF ID PROVIDED BY PRIVATE IDENTITY PROVIDERS (IDPs)

The wording of Article 6(1)(a) has been made broader to ensure that eID systems involving private identity providers can also be notified under the Regulation. Several member states’ eID systems (including the one being developed in the UK) rely on private sector IDPs, so this change can ensure that the Regulation fits with the different approaches being developed on identity assurance across the EU.

PROVISIONS IN RELATION TO SECURITY BREACH

Article 7a has been introduced to ensure that it is clear what steps need to be taken and who needs to be notified should there be a security breach in relation to a notified eID solution.
LIABILITY

The new Article 7b attributes liability amongst different parties involved in providing an eID solution. It now provides more detail around liability, referring to liability being determined in accordance with national law, and introducing a test of intention or negligence before the liability provisions can take effect.

ASSURANCE LEVELS AND USE OF THE TERM ‘UNAMBIGUOUSLY’ IN RELATION TO ELECTRONIC IDENTIFICATION (eID)

The original proposal made reference to the fact that eID needs to "unambiguously link the person (which can be a natural or legal person) to the person identification data" and required that Member States take liability for this link being established. As initially drafted, the Regulation set a single threshold, which had to be met by national eID schemes in order for them to be notified. Services accepting eID domestically in an EU member state would then also have had to accept all such notified eIDs. Under that initial draft text, the threshold to be met was simply that the person identification data had to be attributed ‘unambiguously’ to the relevant person. There was no definition of ‘unambiguous attribution’, and no chance to ensure that other aspects of identity assurance (for example the strength of the log-in process) were sufficiently robust.

The Council text, Article 5, now sets up a system whereby the service provider only has to accept a notified eID, which meets the assurance level it requires domestically, or a higher level. An undefined concept of unambiguous attribution is no longer included in the draft text. As explained above, assurance levels will be set out in an implementing act to enable comparison of domestic levels. This is now in line with the UK’s approach to identity assurance, which means that service providers can require end users to establish their identity to a level appropriate to that service’s requirements. It is also better aligned to wider international thinking, including the approach taken by the International Standards Organisation.

CONSIDERATIONS RELATING TO TRUST SERVICES

Given the lack of clarity in the original proposal, a significant amount of work has been done to ensure that the final text has been amended and expanded in order to provide the level of detail needed to understand how it will work in practice. Some of the more significant amendments to the Regulation that have been negotiated in respect of trust services are set out below for information although this is not an exhaustive list:

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- Article 2 - Scope - has been amended to make it clear that the requirements set out in this Regulation do not apply to private networks.

- Article 9 - Liability - has been amended and clarified to allow for a “reverse burden of proof” in respect of matters of liability and trust service providers below the level of “qualified”. This article now also allows for the national rules on liability to apply.

- Article 11 - Data processing and protection - has been deleted given that this is covered by specific data protection legislation. The new Article 4a on this subject now refers specifically to Directive 95/46/EC.

- Article 13 - Supervisory body – this has been considerably amended and expanded in order to define more precisely the supervisory body’s roles and responsibilities.

- Article 16 - Supervision of qualified trust service providers - has been amended to ensure that qualified trust service providers are only audited every two years instead of annually as originally proposed. This will reduce the potential costs to businesses of providing a service.

- Section 6 - Electronic Documents - this section has been deleted. The UK has always maintained that electronic documents are not a trust service so we are pleased that this has been taken on board.

- Article 37 – website authentication certificates - this has been amended so that it is clear that this is a voluntary service and not a legal requirement.
OTHER CONSIDERATIONS

Financial implications Electronic identification - pending a clearer picture on technical interoperability, it is difficult to estimate the costs related to implementation. However, as the Regulation is now in line with the approach the UK is taking to identity assurance domestically, we are now much better placed to build compliance with the Regulation into the domestic identity solution we are developing, rather than having to establish costly, parallel systems.

TRUST SERVICES

Although Member States will still be required to establish a “supervisory body”, the principle of only taking a light-touch supervisory role in respect of trust services below the level of “qualified” (the highest level) has now been accepted. I believe that the UK should be able to adapt its existing supervisory arrangements in respect of electronic signatures at minimal additional cost in order to meet the new supervisory requirements set out in this Regulation.

IMPACT ASSESSMENT

As you may recall, the lack of detail in the original proposal has meant that it has not been possible to carry out an impact assessment. In my update of 3rd December 2013, I included an impact assessment checklist, and I can confirm that my officials will carry out a full impact assessment now that the final text is all but agreed. I will let you know the outcome of that assessment once it has been done.

TIMETABLE

This dossier was agreed at Coreper on Friday 28th February and will go to the European Parliament Plenary session in April and then to a ministerial Council for agreement. It’s worth noting that, subject to the implementing acts being drafted and agreed, we expect that the various elements will be staggered and thus come into practical effect during 2015-18.

CONCLUSION

I attach [not printed] a copy of the draft text of the proposal that was agreed at Coreper. This document is being provided to the Committee under the Government’s authority and arrangements agreed between the Government and the Committee for sharing EU documents carrying a limité marking. As such, it cannot be published, nor can it be reported on in any way that would bring detail contained in the document into the public domain.

Based on the above and in light of the significant work that has been done since the proposal was first published in 2012, I am convinced that the final outcome of these negotiations meets the strategic objectives of the UK in delivering a key element of the (Digital) Single Market. I trust, therefore, that this letter provides you with the additional information you require in order to be able to lift the scrutiny reserve. Please do not hesitate to contact me if you have any further questions.

12 March 2014

Letter from the Chairman to Michael Fallon MP

Thank you for your letter of 12 March 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 March 2014.

We note the developments that have taken place in negotiations on this proposal, and we note that you are satisfied that the remaining Delegated acts are appropriate.

We have therefore decided to clear this proposal from scrutiny. We would be grateful to receive confirmation if and when the proposal is finally agreed to.

25 March 2014
Letter from the Baroness Kramer, Minister of State, Department for Transport, to the Chairman

Further to Robert Goodwill’s letter of 08th October 2013, I am writing to update you on progress in the negotiations that will determine how manufacturers will meet existing EU level target of 95g CO2/km by 2020.

Robert’s letter noted that a proposed first reading deal would be put to the Environment Council on 14th October, and commented that although the proposed deal was positive for the UK it was unlikely that agreement would be possible at that stage because of concerns raised by another Member State.

I can confirm that there was no agreement to the proposed deal at the October Environment Council, and the Lithuanian Presidency therefore reopened negotiations with the European Parliament. The Presidency’s objective was to negotiate a proposed compromise which would generate greater consensus while still achieving the objectives of the earlier proposed deal, and to seek a swift resolution.

These further discussions were completed on 26 November. The new proposed first reading deal would introduce a 1 year phase in for manufacturers meeting the 95g target in 2020, requiring 95% compliance by 2020 and 100% by 2021, as well as additional flexibility on super-credits changing the annual cap of 2.5g into a 7.5g cap on their use over the period 2020 - 2022. This means that a manufacturer could use all of their flexibility in a single year, provided they had earned it by supplying the market with sufficient numbers of very low emission vehicles.

The package remains hugely positive for the UK when assessed against our priorities for the negotiation, and still delivers against all of our objectives. Our key priority was to retain the derogations for niche and small volume manufacturers and this deal sees them continue. The phase-in will apply equally to manufacturers holding either of these derogations removing any potential for competitiveness impacts. The new de minimis threshold for small volume manufacturers reported in Robert’s letter of 08th October is retained and could save up to seven UK SMEs over £20k each in total administrative burdens out to 2020.

The phase-in represents a significant concession from the European Parliament, reflecting the importance of securing a first reading deal. The proposed deal would deliver regulatory certainty and ensure that CO2 emissions will continue their long-term downward trend.

Whilst there may be some reduction in absolute CO2 emissions savings during 2020 and 2021, it is worth noting that the UK has overachieved against the new car CO2 regulations to date and that the impacts from some of the alternative proposals put forward during negotiations could have been much worse.

We expect the new proposed deal to be acceptable to all Member States. It will now need to be formally agreed at Council following the European Parliament Plenary consideration of the deal, currently scheduled for January 2014.

3 December 2014

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

Thank you for your letter of 3 December 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 16 December 2013.

We are grateful for the further detail provided by your officials, with regards to the rationale behind the concerns expressed by an individual Member State.

The Committee cleared the dossier from scrutiny in its 10 July letter, on the basis that you had made significant gains in negotiations and were happy with the proposed text. While it is unfortunate that the Council was not able to agree that text, the rationale behind your willingness to reach a consensus with the individual Member State seems sound, and reciprocates the sensitivity shown by other Member States to the individual circumstances of the UK.
It is disappointing that these changes will result in a reduction of CO2 emissions saving in 2020 and 2021, as compared to the previously proposed text. Are you content with this reduction of CO2 emissions saving, and what impact do you think this will have on the EU emissions reduction strategy?

Since there have been significant changes to the proposal, we ask that we are kept updated on any further changes to the text in the course of negotiations.

I look forward to a response in due course.

19 December 2014

ESTABLISHING A SPACE SURVEILLANCE AND TRACKING SUPPORT PROGRAMME
(6952/13)

Letter from David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills, to the Chairman

I wrote to you in March 2013 to introduce the proposal for a decision of the European Parliament and the Council establishing a Space Surveillance and Tracking (SST) support programme. At that time you noted the proposal and sought clarification on the scope of its activities.

You will remember that the Commission’s envisaged programme aims to establish a SST capability in Europe with emphasis on: exploitation of existing national sensors (optical and radar) to survey and track space objects; the establishment and operation of a processing function to process and analyse SST data to produce SST information to support risk assessment involving collision avoidance in orbit and re-entry of objects into the Earth’s atmosphere; the setting up and operation of a SST service function (anticipated to be delivered via the EU Satellite Centre) to support spacecraft operators and public authorities.

No substantive negotiations took place between June 2013 and November 2013. In November a redraft of the Proposal emerged with the proposed SST support programme presented as a framework activity instead of a programme with funding allocated rather than drawn from perceived beneficiary programmes including Galileo and Copernicus.

An updated draft reflecting the “framework” nature of the programme was made available by the Presidency in December 2013. With the support of the Commission, the Greek Presidency has pushed for an agreement on this proposal within the current parliamentary period. Substantive negotiations were conducted at the Space Working Group on 10 January 2014 with the UK negotiating team managing to secure significant wins for UK in redrafting the Commission’s draft text to reflect our major policy and security concerns. Recognising that the negotiations are now entering into the final phase, with informal Trilogue discussions with the European Parliament, I consider it important that I update you on progress and restate our general position. The most recent version of the Council draft text is attached [not printed]. The document is being provided to the Committee under the Government’s authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limité marking. It cannot be published, nor can it be reported on in any way which would bring detail contained in the document into the public domain.

We continue to seek a solution wherein the EU SST support activity will be delivered by national entities comprising sensor and data centres, deriving SST information from observation data and releasing services in the form of collision warning, in-orbit breakup detection, and re-entry estimation, and delivering services via the EU Satellite Centre (which is currently performing a similar role for delivery of Earth observation services). We believe this operational approach enables us to address security concerns over release of sensitive orbit data and related information. Our position on security and the respective roles of capable Member State entities is well aligned with the major SST players in Europe.

Our biggest policy concern has related to previous references to the Internal Security Fund (ISF) which the UK team has successfully negotiated deletion of in the latest Council draft of the proposal, though references remain in the European Parliament text.

22 January 2014
Letter from David Willetts MP to the Chairman

I provided you with an update in January 2014 to reflect the outcome of negotiations conducted during November/December 2013. The latest version of the proposal (attached [not printed]) was that approved by Coreper on 29 January 2014. This will now be reviewed by the legal-linguist experts in anticipation of approval by the plenary of the European Parliament in April 2014 and subsequent ratification by the Council. This document is being provided to the Committee under the Government’s authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limité marking. In providing this update, it is worthwhile addressing some points raised by the Chair of the EU Committee in the House of Commons:

— On the issue of the clarity on governance and management of the system to ensure that EU aspirations are practicable and deliverable, the proposal recognises that the SST service will be delivered through a consortium of Member State entities, exploiting existing national assets, and agreeing the nature of level of service, and most notably the security of SST data and information. Both MOD and UKSA officials have been working with their international counterparts who will contribute to this service and are reassured that the envisaged service is possible with existing assets and that national control of those assets will provide the necessary oversight/control of activities.

— UKSA and MOD officials visited EUSatCen in January 2014 and can confirm that its demonstrated expertise in SST is compatible with the envisaged functions it would perform in support of national entities.

— Member States will retain control of the data, information and product made available to the EUSatCen for onward transmission to third parties. This information may be enhanced by EUSatCen (e.g. risk assessment of over-flight of territories by uncontrolled objects tailored to civil contingency entities in Member States).

— Data security is addressed through appropriate risk management structures identified in Recital 14 established by the participating Member States and the EUSatCen noting the underlying requirement in Article 8 that the security of SST data shall be ensured. The mechanisms for achieving this are well understood and already implemented at national level within Member States who will be able to reflect this experience through the consortium and the formal management processes of the EUSatCen.

— On the issue of funding, a new legal structure was created under which interested Member States with necessary expertise/infrastructure could enter into a consortium to receive funding from the Commission. Funding which would be allocated by the relevant funding programmes such as H2020 and Copernicus from within their current MFF allocations. A notional budget of ~70M Euros (~£57M) has been estimated for the envisaged activities and will be limited by the allocations made from the contributing programmes that will benefit from the SST service.

Finally in relation to the SST proposal, I am pleased to report that the UK negotiating team has been successful in removing all references to the Internal Security Fund in the text, thereby avoiding involvement of Justice and Home Affairs and the potential triggering of a UK opt-in.

17 March 2014

ESTABLISHING A QUALITY FRAMEWORK FOR TRAINEESHIPS (17367/13)

Letter from the Chairman to Matthew Hancock MP, Minister for Skills and Enterprise, Department for Business

Thank you for your Explanatory Memorandum (EM) of 6 January 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 27 January 2014. We decided to hold the document under scrutiny.

As you know, we are currently conducting an inquiry into EU measures to tackle youth unemployment, and this proposal is particularly relevant to its subject matter. We intend to report
the findings of the inquiry in the spring, in which we will outline our views on EU measures in this area more fully, after we have fully deliberated on all the evidence we have received.

Much of the evidence that we have heard so far highlights the importance of quality jobs, internships and traineeships. We therefore ask for further clarity on how you envisage the Commission should spread best practice. Since the proposal would not commit Member States to implementing the Quality Framework for Traineeships, on what basis do you disagree with the use of a Recommendation as a mechanism to spread the ‘best practice’ example of Member States who already have a regulatory system in place for traineeships?

We note from paragraph 27a of your EM, that the majority of traineeships in the UK are “already satisfactory”. We welcome this reassurance, but wish to ask for further clarification as to why, since this is the case, formalising the minimum standards would create a significant burden for UK employers. On a similar point, we acknowledge the assertion in paragraph 28 and 29 of your EM that the Recommendation may not have the desired effect due to UK law, and we would appreciate a fuller explanation as to what the legal position would be in the UK.

Lastly, we understand from your EM, that you do not currently have a clear picture of the scope of the Recommendation, and which traineeships it would involve. We see this as a central point which raises other significant issues: for example, if it is anticipated that the Recommendation will cover more than just graduate traineeships, it will be important to observe that how ‘quality’ is defined will be different for different traineeships – school leavers will require a traineeship to incorporate different content than graduates.

We would urge you to clarify this central point with the Commission, and would be grateful for further information as soon as it is available.

I look forward to a response in the usual 10 working days.

28 January 2014

Letter from Matthew Hancock MP to the Chairman

Thank you for your letter dated 28 January 2014 in response to my Explanatory Memorandum (EM) on the above proposal. I understand that following the meeting of the EU Sub-Committee B on the Internal Market, Infrastructure and Employment, on the 27 January 2014, a decision was made to hold the document under scrutiny and to seek further clarification.

In response to your first point, whilst not legally binding, I do not believe that a Council Recommendation is an appropriate mechanism to spread best practice between Member States. In general, my strong preference would be for looser forms of policy competition and cooperation between Member States rather than any attempt to co-ordinate approaches via agreement in Brussels. In my experience, targeted bilateral benchmarking and study visits are a more effective way of learning from our European neighbours, and more likely to produce good results.

There are several EU mechanisms, for example through the newly established Erasmus Plus programme, which can be used to facilitate this looser and more effective form of benchmarking at the levels of policymakers, institutions and practitioners. Other possibilities for spreading best practice include better use of the myriad of meetings, conferences and expert groups which take place. It might also have been possible for the Commission to have brought forward a much looser “Framework” which simply highlighted some of the different and successful national approaches to the design and implementation of Traineeships without seeking a normative approach.

This links to your second point about the potential burden for UK employers. You are right that the actual implementation of a framework would present little difficulty for good employers whose practice already complies with its main elements. However, were the UK to adopt the Recommendation, we would need to monitor its implementation and report back to the Commission. This would create an extra administrative burden both for government and for employers. At this stage we do not know how many employers would be involved because we have no record of the number of internships and traineeships within scope of the proposal currently offered and no plans to collect such data.

As to the legal position, there is no separate employment status for trainees under UK law at present. Anyone who is classified as a “worker” under UK law benefits from certain statutory employment law rights. An employee has a higher level of employment law protection and this includes a right to a written statement of terms and conditions.
The nature of the working relationship determines whether a person is a worker or an employee; some trainees will not fall into either of these categories. If trainees do qualify for employment rights, they are more likely to do so as workers. They are less likely to be an employee under UK law because of the nature of the employment relationship. The introduction of a written agreement formalises the traineeship relationship and depending on how it does so, it could impact on the status of the trainee (we don’t think this is the case at the moment but if the requirements become more prescriptive it could become the case). It could also be confusing as in the UK only employees are entitled to a written statement of terms and conditions (although some employer provide workers with contracts as an employer can choose to offer contractual rights that are more generous than those provided for in statute).

Discussions are continuing in the Working Groups about the precise definition of “traineeship” and Member States have different views about what should be included, with some wanting the definition broadened. Without knowing the exact scope of the Recommendation it is not easy to predict its potential impact, but, if implemented, we would expect it to reduce flexibility for employers and for young people within the UK labour market, at a time when we need that flexibility to help young people into work.

Some Member States also have difficulty with the level of prescription in this proposal, and, as such, we can expect the text to change before the Recommendation is finalised. However, I do not consider it likely that the extent of any changes to the text would be sufficient to alleviate the concerns I have outlined above.

10 February 2014

Letter from Matthew Hancock MP to the Chairman

Further to our earlier correspondence about the UK’s position on the above proposal I can now update you on the latest position.

Changes were made to the text to meet the concerns of other Member States, and negotiations were completed at the end of February with agreement on a compromise text (see attached [not printed]). The UK received thanks from the Presidency for its constructive and co-operative approach throughout the negotiations despite not being able to support the Recommendation.

The compromise text was adopted at the Employment, Social Policy, Health and Consumer Affairs Council in Brussels on 10th March. The UK noted that the non-legislative nature of the Recommendation, which reflected the recommendation of the EU Business Taskforce, was welcome. However, the UK continued to have a principled objection to the Recommendation which was too prescriptive, would impose unnecessary burdens on both Governments and employees, and risked resulting in fewer traineeships being offered. The UK stressed that whilst it was committed to tackling the issue of youth unemployment and had put in place a range of measures to that effect, any EU initiatives should focus more on best practice exchange, rather than prescribing a rigid framework that failed to take sufficient account of national priorities.

In conclusion, whilst the Recommendation has been adopted, by qualified majority, the UK opposed the measure and has made it clear that we will not be implementing it. However, we will continue to work with stakeholders to improve the quality of internships and work experience across the UK, focussing our efforts on education, advice and guidance for employers and for young people, rather than on extra regulation.

2 April 2014

ESTABLISHING THE CONNECTING EUROPE FACILITY (16176/11)

Letter from Nicky Morgan MP, Economic Secretary to the Treasury, HM Treasury, to the Chairman

Thank you for your letter dated 15 October on the Connecting Europe Facility (CEF). You asked to be notified once this regulation had had been formally agreed by Council. I can confirm that it was formally agreed by Council on 5 December.

As the Financial Secretary set out in his set out in his letter of 26 August, (and as explained in Robert Goodwill’s letter to you of 26 November) while the UK supported the overall CEF package, we continued to have concerns regarding the annex proposed by the European Commission on the Rail
Freight Corridors and their extensions to be included in CEF. On these grounds we decided to abstain from supporting CEF and have sent a written statement to the Council Secretariat explaining our concerns. A copy of the statements made by the UK and other Member States is attached at Annex A [not printed].

6 February 2014

Letter from the Chairman to Andrea Leadsom MP, Economic Secretary to the Treasury, HM Treasury

Thank you for the letter from your predecessor, Nicky Morgan MP, dated 1 February 2014 on the above proposals. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014.

We regret the delay in considering this letter, and we are grateful for the confirmation of agreement on the Connective Europe Facility. We now consider correspondence on this matter to be closed.

The Committee has cleared Documents 16176/11, 15629/11, 16499/11 and 15813/11 from scrutiny. We retain Document 16006/11 under scrutiny and we will continue to copy you in to our correspondence with other Government departments on this proposal.

A response to this letter is not required.

14 May 2014

EU BUSINESS UNDER THE GREEK PRESIDENCY (UNNUMBERED)

Letter from Vince Cable, Secretary of State for Business, Innovation and Skills, Department for Business, Innovation and Skills, to the Chairman

Greece will assume the EU Presidency on 1st January 2014.

I am writing to summarise the areas of BIS policy that we expect to be most active during the Greek Presidency, which will in effect run up to the May European Parliament elections.

The Greeks list jobs and growth within their main priorities. Full and effective implementation of the Compact for Growth and Jobs will be the core of Presidency. They will champion youth unemployment and SME financing initiatives. They also have a growing interest in UK priorities on the Single Market, Digital Single Market, Better Regulation and the Transatlantic Trade and Investment Partnership.

GROWTH, COMPETITIVENESS AND JOBS

The Greek Presidency will focus on tackling youth unemployment and see implementation of the Youth Employment Initiative as an important aspect of this. DWP is the main lead on this but there are areas that relate to education and training.

The Greek Presidency also intends to prioritise the Commission’s Recommendation for a Quality Framework for Traineeships. We will shortly be submitting an EM on this proposal.

The UK is in favour of supporting the development of the EU skills agenda where it adds value to action being taken by Member States. We feel that Member States should adopt initiatives with regard to their own needs and existing systems.

We recognise the value of shared learning across the EU but this could be achieved through less bureaucratic routes than a European Alliance for Apprenticeships. Therefore, the UK Government welcomes that membership of the Alliance is voluntary and accordingly does not propose to participate. Employers, training providers and other partners in the UK will be free to choose whether or not to participate.

The Presidency will target a first reading deal on the Posting of Workers Enforcement Directive. Council reached a common position on the file at the December Employment Council. This file will now enter trilogue negotiations with the European Parliament. The UK voted against the common position and our objective for trilogues will be to avoid extension of its provisions.

The Greek Presidency’s priority will be to help businesses through cutting EU red tape, and improving access to finance for SMEs.
The EU better regulation agenda was last covered at the October European Council, where leaders called for further substantial proposals from the Commission to reduce the burden of EU regulation and committed to return to these issues in June 2014. Our priority will be to press for implementation of the recommendations made in the report produced by the Prime Minister’s Business Taskforce on EU Regulation.

The February European Council meeting will focus on European industrial policy. The Greek Presidency are keen to ensure the discussion focuses on the business environment, access to finance (in particular for SMEs) markets and innovation.

On the SME initiative, Greece has been one of the keenest advocates of EU-level schemes for guarantees and securitisation, and will want to make a success of this initiative. The initiative is voluntary and much will depend on how many Member States decide to participate and how much they contribute.

The Presidency will work to deliver the outstanding proposals from Single Market Act I and Single Market Act II.

The UK welcomes the rapid progress that was made on the proposed Directive on Antitrust Damages during the Lithuanian Presidency and we are glad it is one of the Greek priorities. We have been very supportive of the proposals in the Directive which will give consumers greater access to redress, further deter anti-competitive behaviour and protect the public enforcement regime operated by competition authorities in each Member State.

Progress on the Product Safety and Market Surveillance Package in negotiations has stalled due to difficulties around a key provision on Country of Origin Marking. Member States are evenly split on this issue, with no immediate prospect of a compromise, whilst both the European Parliament and the Commission are in favour. The Greek Presidency is keen to broker a deal in order to break the deadlock and secure agreement on the package before the European Parliamentary elections.

The proposal to review the Trade Mark system is currently being discussed at the Council and the European Parliament. The Greeks hope to steer the Council towards agreement before the end of the Parliament’s mandate. Although the current system is working well, there are improvements that can be made that will make it more business friendly and therefore enable UK SMEs to protect their brands in Europe more effectively. We support the need for reform but there remain some significant issues to resolve, although limited progress has been made on these. Early indications suggest that the Greeks will follow the Lithuanian example and run an intense programme of Working Groups. Even so, given the number of issues to resolve and the size of the dossier we expect the debate to carry on into in the next Parliament.

A proposal for a Directive on the protection of Trade Secrets was published in November. This contains a definition of trade secrets and civil law remedies and procedures that should be available to businesses seeking redress for the unlawful acquisition, use or disclosure of their confidential business information. Negotiations have not yet begun. Greece does not therefore expect to reach a first reading deal, but is aiming for agreement to a General Approach.

The Greek Presidency has expressed its intention to pay particular attention to the revision of the Insolvency Regulation with the aim of reaching final agreement. The Government welcomes the priority and time devoted to these proposals in previous Presidencies. It considers that the Commission proposal is balanced, targeted at key issues and timely given the current economic situation. Given the importance of good insolvency procedures to promoting recovery and growth it is important to get this negotiation right and avoid the risk of losing the coherence of the original proposals with too many changes.

The European Parliament passed the Women on Boards Directive at first reading on 20 November, with a large majority. In Council at least ten Member States share our concerns on subsidiarity and proportionality. In view of these fundamental objections, it is difficult to see a compromise position emerging. The Greek presidency has not declared this dossier to be a priority; hence the likely outcome is for there to be no further progress until after the European elections.

TRADE

The Greeks will prioritise growth through further promoting ongoing talks on Trade Agreements with the US and other strategic partners.

The Transatlantic Trade and Investment Partnership (TTIP) will be a priority for the Presidency. They are planning to hold a dedicated TTIP event in February. The agreement is a top priority for the UK. Negotiations are progressing as planned, with two rounds completed and a third taking place this
week. An important milestone will be the political stocktake between EU Trade Commissioner De Gucht and US Trade Representative in late January / early February 2014. The negotiations will be tough but we hope that a deal can be reached by early 2015.

Regarding other bilateral trade negotiations, the finishing touches should be made over the coming months to the EU-Canada trade agreement which reached political agreement under the Lithuanian Presidency and a review of progress of the EU-Japan negotiations will take place in the spring. During the Greek Presidency we may also see an exchange of market access offers in the EU-Mercosur FTA negotiations. This will be a busy period for the EU’s ambitious programme of bilateral trade negotiations.

On the regulatory front, the Greek Presidency will need to seek political agreement in the trilogue process on the Enforcement Regulation to establish a legislative framework for taking measures to safeguard EU rights under multinational and bilateral trade agreements. After two trilogue sessions it is clear this will be a challenging task. The Greek Presidency will also need to take forward the Commission’s proposal for regulatory changes as the central part of its Modernisation of the EU’s Trade Defence Instruments. Here they will need to try to find a compromise between two evenly balanced Member State blocs to agree a Council mandate with which to open and if possible conclude a trilogue process with a Parliament which seems similarly, if not so evenly, divided.

With regard to investment, the Greek Presidency will seek to reach political agreement in the trilogue process for the Regulation on Financial Responsibility for Investor-State Dispute Settlement. Informal trilogue negotiations began in November and there is currently some distance between the Council’s position which limits the role of the Commission as a respondent and the Parliament’s view which would see the Commission empowered to intervene in broader circumstances.

DIGITAL SINGLE MARKET

On digital, the Presidency will focus on delivering proposals to complete the digital single market that are already under negotiation, namely the Connected Continent Package and proposals on e-invoicing, e-ID and trust services, network information security, broadband roll-out and web accessibility.

The Electronic Identification and Trust Services Regulation (EIDAS) was a priority under the Lithuanian Presidency and the Greek Presidency has since confirmed that completing this dossier is a priority. The Greek Presidency has scheduled a number of meetings of the Telecoms working group in January and February in order to complete these negotiations before the cut-off for next year’s European elections. Considerable progress has been made under the Lithuanian Presidency and the Greeks will be looking to maintain and build on this momentum.

They will also continue work on the Network and Information Security Directive following a slow start from the Irish and Lithuanian Presidencies. The Greeks have publicly stated that they are not aiming for agreement on this complex and sensitive dossier before the European Parliament elections; most likely they will secure a Council General Approach at the June Telecoms Council. We support the aim of the proposal to increase levels of network and information security across the EU but do have concerns about details, many of which are shared by a notable number of other Member States.

RESEARCH AND SPACE

With the Horizon 2020 legal package agreed and the programme formally launched, the Greek Presidency’s main legal activity will be seeking agreement on a series of public-public partnerships under Article 185 TEU and public-private ones under Article 187 which will be supported by Horizon 2020. The Article 185 partnerships are subject to co-decision and, following political agreement on the legal texts at the December Competitiveness Council, the Greeks will be undertaking the trilogue process with the aim of reaching a first reading deal. The Article 187 texts are not subject to co-decision, though the views of the European Parliament will still need to be taken into account before final agreement. The UK supports these partnerships.

On the European Research Area (ERA), following the publication of the progress report on the implementation of the ERA last September, we expect Council Conclusions to be put to the February Competitiveness Council. These will draw on the European Research Area and Innovation Committee (ERAC)’s Opinion on the Report. ERAC will continue to oversee the process of monitoring ERA developments; work on evidence gathering for the 2014 Progress Report is already in hand.
The Greek Presidency hopes to conclude early in 2014 the Regulation to amend the functions of the EU Agency working on Galileo and EGNOS (the GSA) so that it reflects the wider role assigned to it in the main Galileo regulation.

The Decision on the proposed European space surveillance and tracking support system is expected to reach general approach early in 2014 although a number of outstanding financial and governance issues remain to be resolved to the satisfaction of Member States.

Work will continue to be undertaken on the relationship between the European Space Agency and the European Union during 2014 but is dependent on analytical work to be undertaken by the European Commission and ESA.

The Commission is expected to adopt a proposal for a regulation on the sale and transfer of data from Earth observation satellites as part of the follow up to their Communication on a Space Industrial Strategy. The UK is unconvinced of the need for a legislative proposal.

Negotiation on Regulation for the governance and funding of the Copernicus system is expected to conclude in early 2014.

I hope you find the above information useful. The Department will keep you updated on progress throughout the Presidency.

20 December 2013

EU PROGRAMME FOR SOCIAL CHANGE AND INNOVATION (15451/11)

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

Your letter of 15 October 2013 noted the favourable outcome to the negotiations on this proposal with the European Parliament, particularly on the issues of budgetary allocations and avoiding duplication of programmes. You also asked for an update once the proposal was agreed and for an assessment of the final outcome.

I am happy to report that the Regulation implementing the new Programme, adopted on 11 December, fully reflects the position previously agreed with the European Parliament and set out in detail in my predecessor’s letter of 12 August. In particular, as you noted, EaSI has not adopted a range of unhelpful proposals from the European Parliament, which would have added significant costs and duplication.

On substance, the new programme is the successor to earlier employment and social policy spending programmes, versions of which have existed under each EU budget. It will contribute to the delivery of the Europe 2020 strategy for smart, sustainable and inclusive growth, by supporting actions – analysis and mutual learning, and support for stakeholders, worker mobility, micro and social enterprise - aiming to promote agreed EU-level policies, consistent with EU Treaty objectives for a high level of employment and adequate social protection, to combat social exclusion and poverty, and to improve working conditions.

In terms of future management, the first EaSI work plan was agreed by Member States on 27 January, at the inaugural meeting of the programme management committee. This also fully reflects the UK’s objectives to restrict spending to current levels and existing broad areas of activity, while improving added value. My officials, who represent the UK on that committee, will continue to keep this under review. The same officials also either represent or liaise closely with UK colleagues on the Social Protection, Employment, Heads of Public Employment Services and other EU Committees and Council Working Groups, where much of the policy that EaSI supports is negotiated. This helps ensure that EaSI only supports agreed policy, as well as improving consistency and complementarity, and added value.

My assessment is therefore that this is a successful final outcome to these lengthy negotiations, although we will continue to be vigilant over the future operation of the programme.

11 February 2014
Letter from Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman

Thank for your letters of 12 November about the Commission Communications on REFIT and Evaluation respectively.

With regard to REFIT, I can confirm that the Government is keeping track of the initiatives published in the Annex to the REFIT Communication. Responsibility for engaging with individual proposals, Fitness Checks and evaluations sits with policy-owning Departments and agencies. However, my officials will continue to press the Commission directly for progress on REFIT initiatives which have the potential to deliver substantive savings for UK businesses.

As soon as I have further information, I will provide you with an update on the Commission’s timetable for REFIT, and its plans for a ‘fast-track’ legislative procedure. Disappointingly, the Commission’s Work Programme for 2014, published on 22 October, does not provide any further clarity on timing. Nonetheless, I can report that the Conclusions of the October European Council call for the rapid implementation of the REFIT programme.

You may be aware that the Prime Minister’s business-led Taskforce presented its report (https://www.gov.uk/government/publications/cut-eu-red-tape-report-from-the-business-taskforce) on EU regulatory reform to the Government last month. The Taskforce’s report ‘Cut EU red tape’ put forward thirty specific recommendations to reform the most burdensome EU rules which could save businesses billions of pounds. The Government is also pressing the Commission for action to take forward the recommendations of the Taskforce.

Regarding evaluation, I can inform you that the Commission launched its consultation on 12 November. The consultation will run until 25 February 2014. Thank you for highlighting your Committee’s report, The Effectiveness of EU Research and Innovation Proposals, and the desirability of expert involvement in sectoral evaluations. I look forward to providing you with a copy of the Government’s submission to the consultation in due course.

3 December 2013

EU SPACE INDUSTRIAL POLICY (6950/13, 6952/13)

Letter from David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills, to the Chairman

I wrote to you in March 2013 to introduce the proposal for a decision of the European Parliament and the Council establishing a Space Surveillance and Tracking (SST) support programme. At that time you noted the proposal and sought clarification on the scope of its activities.

You will remember that the Commission’s envisaged programme aims to establish a SST capability in Europe with emphasis on: exploitation of existing national sensors (optical and radar) to survey and track space objects; the establishment and operation of a processing function to process and analyse SST data to produce SST information to support risk assessment involving collision avoidance in orbit and re-entry of objects into the Earth’s atmosphere; the setting up and operation of a SST service function (anticipated to be delivered via the EU Satellite Centre) to support spacecraft operators and public authorities.

No substantive negotiations took place between June 2013 and November 2013. In November a redraft of the Proposal emerged with the proposed SST support programme presented as a framework activity instead of a programme with funding allocated rather than drawn from perceived beneficiary programmes including Galileo and Copernicus.

An updated draft reflecting the “framework” nature of the programme was made available by the Presidency in December 2013. With the support of the Commission, the Greek Presidency has pushed for an agreement on this proposal within the current parliamentary period. Substantive negotiations were conducted at the Space Working Group on 10 January 2014 with the UK negotiating team managing to secure significant wins for UK in redrafting the Commission’s draft text to reflect our major policy and security concerns. Recognising that the negotiations are now entering into the final phase, with informal Trilogue discussions with the European Parliament, I consider it important that I update you on progress and restate our general position. The most recent version of
the Council draft text is attached [not printed]. The document is being provided to the Committee under the Government’s authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limité marking. It cannot be published, nor can it be reported on in any way which would bring detail contained in the document into the public domain.

We continue to seek a solution wherein the EU SST support activity will be delivered by national entities comprising sensor and data centres, deriving SST information from observation data and releasing services in the form of collision warning, in-orbit breakup detection, and re-entry estimation, and delivering services via the EU Satellite Centre (which is currently performing a similar role for delivery of Earth observation services). We believe this operational approach enables us to address security concerns over release of sensitive orbit data and related information. Our position on security and the respective roles of capable Member State entities is well aligned with the major SST players in Europe.

Our biggest policy concern has related to previous references to the Internal Security Fund (ISF) which the UK team has successfully negotiated deletion of in the latest Council draft of the proposal, though references remain in the European Parliament text.

22 January 2014

Letter from David Willetts MP to the Chairman

I provided you with an update in January 2014 to reflect the outcome of negotiations conducted during November/December 2013. The latest version of the proposal (attached [not printed]) was that approved by Coreper on 29 January 2014. This will now be reviewed by the legal-linguist experts in anticipation of approval by the plenary of the European Parliament in April 2014 and subsequent ratification by the Council. This document is being provided to the Committee under the Government’s authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limité marking. In providing this update, it is worthwhile addressing some points raised by the Chair of the EU Committee in the House of Commons:

— On the issue of the clarity on governance and management of the system to ensure that EU aspirations are practicable and deliverable, the proposal recognises that the SST service will be delivered through a consortium of Member State entities, exploiting existing national assets, and agreeing the nature of level of service, and most notably the security of SST data and information. Both MOD and UKSA officials have been working with their international counterparts who will contribute to this service and are reassured that the envisaged service is possible with existing assets and that national control of those assets will provide the necessary oversight/control of activities.

— UKSA and MOD officials visited EUSatCen in January 2014 and can confirm that its demonstrated expertise in SST is compatible with the envisaged functions it would perform in support of national entities.

— Member States will retain control of the data, information and product made available to the EUSatCen for onward transmission to third parties. This information may be enhanced by EUSatCen (e.g. risk assessment of over-flight of territories by uncontrolled objects tailored to civil contingency entities in Member States).

— Data security is addressed through appropriate risk management structures identified in Recital 14 established by the participating Member States and the EUSatCen noting the underlying requirement in Article 8 that the security of SST data shall be ensured. The mechanisms for achieving this are well understood and already implemented at national level within Member States who will be able to reflect this experience through the consortium and the formal management processes of the EUSatCen.

— On the issue of funding, a new legal structure was created under which interested Member States with necessary expertise/infrastructure could enter into a consortium to receive funding from the Commission. Funding which would be allocated by the relevant funding programmes such as H2020 and Copernicus from within their current MFF allocations. A notional budget of ~70M Euros [~£57M] has been estimated for the envisaged
activities and will be limited by the allocations made from the contributing programmes that will benefit from the SST service.

Finally in relation to the SST proposal, I am pleased to report that the UK negotiating team has been successful in removing all references to the Internal Security Fund in the text, thereby avoiding involvement of Justice and Home Affairs and the potential triggering of a UK opt-in.

17 March 2014

EUROPEAN EARTH OBSERVATION PROGRAMME ("COPERNICUS") (10275/13), (13562/13)

Letter from Lord de Mauley, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman

Thank you for your letter dated the 27 November, in which you requested an update on the outcome of the Competitiveness Council meeting on the 3 December. I am sorry that the Committee feels disappointed with level of communication provided on this dossier. Progress was slow on this dossier until the last two Council working groups in November when the Commission decided to prioritise and move quickly towards an agreement on this.

The UK has no outstanding reservations and accepted the text as agreed at Competitiveness Council on 3 December. Some Member States (MS) and the Commission have reservations namely:

COMMISSION ON CONTRACTING AUTHORITIES

Under the GMES (Global Monitoring for Environment and Security) programme 2008 - 2013 (now renamed Copernicus), the European Space Agency (ESA) have held 'full contracting authority' in the implementation of the programme. The last five years have shown this model to be successful and MS would like to ensure that this approach is retained in the next phase of the programme, from 2014 onwards. This means that ESA would retain responsibility for the day-to-day implementation of the programme including management of industrial contracts, whilst respecting any programmatic decisions by the Commission and its MS. The Commission intend to withdraw the full 'Contracting Authority' from ESA under the Copernicus programme and hold it at Commission level. Going forward, the UK needs to determine what negotiating flexibility exists for this.

CZECH REPUBLIC WANTED ADDITIONAL LANGUAGE IN THE SECURITY ARTICLES (SAYING "WHERE APPROPRIATE AND IN DULY JUSTIFIED CASES ENSURING COST-EFFECTIVE APPROACH, EXECUTION OF SOME SECURITY TASKS MAY BE ENTRUSTED TO OTHER EU AGENCIES").

The UK successfully maintained the current text to satisfy concerns over security issues arising from Copernicus. At a minimum, a robust procedure must be in place, which sets out both the principles under which the Commission will operate, and the mechanisms through which security issues will be considered and addressed. As negotiations progress, the UK could support the Czech Republic, if necessary, as it does not affect our overall position on security.

CZECH REPUBLIC ON THE INCLUSION OF THE EUROPEAN GNSS 2 AGENCY (GSA) AMONG THE ENTITIES ENTRUSTED WITH MANAGEMENT TASKS OF COPERNICUS PROGRAMME.

Although the UK is happy to support the text for the general inclusion of European agencies as service operators, GSA should not be named specifically as a service provider. GSA already manages Galileo, which is a very challenging programme and in the short term it would be more beneficial for both Galileo and Copernicus if the GSA were to focus on its core mission.

DATA POLICY: A FEW MSs SHARED THE VIEW THAT ACCESS TO COPERNICUS DATA SHOULD BE BASED ON RECIPROCITY

Both the Commission and the UK opposed any efforts to undermine the free and open nature of the data policy. The UK is firmly committed to the principle that Copernicus data policy should be based on free and open access, as far as possible. An open data policy will maximise the benefits of

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2 Global Navigation Satellite System
Copernicus by enabling innovation, new business and job creation in the private sector, and increased efficiency in the public sector. The Commission will carry out an evaluation of data policy in 2017.

NEXT STEPS

The European Parliament amendments were agreed at the European Parliament Committee on Industry, Research, Telecommunications and Energy (ITRE) Committee on 28 November. There is considerable agreement between the text from ITRE and the text from the Competitiveness Council as we move into the final stages of the negotiation.

Negotiations are proceeding very rapidly and the trialogue discussions will continue until Christmas and then into the New Year if necessary, until agreement on a final text is reached.

11 December 2013

Letter from the Chairman to Lord de Mauley

Thank you for your letter dated 11 December 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 January 2014.

We are grateful for your update on the outcome of the Council meeting on 3 December, and note the broad agreement between the European Parliament and the Council on the text of the proposal.

As we have already cleared this document from scrutiny, and it appears that there are no outstanding issues of concern, we are content to close our correspondence on this issue.

14 January 2014

Letter from Ed Vaizey MP, Minister for Culture, Communications and Creative Industries, to the Chairman

This letter is reporting on negotiations of the proposed Regulation associated with the Connected Continent Communication – also known as the telecoms single market (SM) package. This letter is generated as a result of negotiations passing a major milestone - the European Parliament (EP) adopting a First Reading position - when the Commons committee requested an update, as well as a number of issues contained in the Common’s Report requiring clarification.

As such, the letter is written in five main sections: a general update on progress of the proposal; an examination of the major risks and opportunities to HMG’s negotiating mandate; addressing those issues raised by the Commons committee not already addressed elsewhere in this letter; before concluding with a forward look at the next milestones and possible outcomes generated by same.

UPDATE

I begin the wider update by focussing on the outcomes of the recent First Reading vote of the EP. In effect, the EP accepted those amendments contained within the ITRE Report and no other amendments, with the specific exception of a series of amendments concerning net neutrality (the reasons for which are covered in the net neutrality section below).

The main outcomes of this vote were:

— An agreement that leads to the cessation of mobile roaming charges by end-2015 (although not through the mechanism as contained in the proposed Regulation);

— Removal of the proposed authorisation process for telecoms operators but retention of the concept of a single harmonised notification process;

— That changes to consumer protection associated with the telecoms acquis would be brought about by amending the Universal Service directive rather than through the mechanism of an additional stand-alone Regulation;

— A more restrictive approach to this issue of net neutrality, through introducing a specific definition of “net neutrality” and a more restrictive approach to “specialised services” and “traffic management” than proposed by the ITRE Report;
Support for the proposals that increase Commission oversight of spectrum award processes, along with an additional requirement for a minimum licence duration of 25 years for existing and future licences;

A rejection of the proposed introduction of wholesale access broadband products for businesses;

A rejection of the proposed changes to BEREC governance regarding the Chair; and

On obligation placed on the Commission to review and propose changes to the existing Telecoms Framework (2009) by mid-2016 – with an extensive list of issues requiring addressing.

It is clear that the outcome of this vote presents a series of opportunities and challenges to HMG’s current negotiating mandate, as well as further reducing the probability of an agreement being reached by the end of 2014 as the views of Council and the EP further diverge, and I cover these below in further detail.

The package was also again the focus of the March European Council where Conclusions noted the important role that the package could play in driving single market completion and growth. However, this focus by Council did not have any effect on the progression of discussions at Working Group level, which have been glacially slow at best and the first read-through is already well behind the Presidency’s schedule ie that schedule indicated this would be completed in time for the Easter break and completion is now due end-May.

This slow progress is, in the main, driven by the agreed approach to exam the proposed Regulation ‘Article by Article’ – an inherently slower approach than that advocated by UK when asking for a ‘Chapter by Chapter’ approach. However, this approach adopted by the Presidency is a reflection of both the previously indicated prioritisation of the package, as well as those Member States favouring a slower approach being the overwhelming majority in Working Group. This slow progress is also being hampered by those Member States who have also adopted a filibustering strategy to further slow the progress of the package. As such, discussions at Working Group level are around half-way through the Regulation; spectrum is currently being considered and discussions on the consumer protection Articles that include both the issues of roaming and net neutrality have yet to take place.

In order to counteract this decelerating effect on progress, UK and Germany published a non-paper on the package following the Prime Minister and the German Chancellor giving joint speeches at a recent telecoms event in March 2014. This non-paper is attached as Annex A [not printed] to this letter and this has begun to act as a point of nucleation for those Member States who are seeking agreement on a simplified Regulation. This activity does have the potential to sway the possible outcome of negotiations and I cover this in more detail below. However, its potential is currently limited as those Member States remain a small minority in Council and the Presidency is yet to agree to adopt the principle of a simplified Regulation. As such, there is some current activity focussed around trying to influence the neutral Member States, as well as encouraging the Presidency to adopt the strategy of developing a simplified Regulation. Success, or otherwise, of this initiative will become more apparent over the next two months or so as Working Group completes its first read-through in time for the Telecoms Council in early June 2014 and whether those Member States can achieve agreement at a more granular level.

**Opportunities**

The current position of the EP and Council, along with a rapidly approaching deadline means that we are faced with two situations: a protracted negotiation of the full Regulation that will miss the indicated deadline of December 2014; or for a simplified Regulation to be agreed to same deadline.

Given that there is some agreement in principle between Council and Parliament around some of the elements of the Regulation, agreeing these to meet the deadline through delivering a simplified Regulation remains a viable outcome. Whilst those Member States who wish to see a simplified Regulation agreed remain in the minority in Council, the recent push by UK and Germany is gathering further support and there is a possibility that the balance may tip over during the Easter period in our favour. This will then require the Presidency to begin to push forward with a simplified Regulation. With the UK leading this work, it places us in a position to heavily influence the content of a simplified Regulation and shape it to suit our current negotiating mandate and address specific risks associated with the net neutrality and spectrum elements (both of which I cover in the risks section below).
Thus, whilst there remains a strong possibility that should a package may be eventually agreed, the current configuration of EP and Council means that those elements that were attractive to businesses – wholesale access products and a harmonised notification process – may be removed in order to reach an overall agreement and thus the outcome would be one that could be consider to be very consumer-centric.

Another opportunity presented by the current relative positions of the EP and Council could result in the eventual cessation of mobile roaming charges within the EU. Whilst Council has yet to formally discuss this specific issue at Working Group, it is clear that there is appetite in both Council and the EP to take action. The only real point of difference between Council and the EP is that of timing: EP indicating by December 2015 (a shift from an earlier position of 2014 as per the Digital Agenda for Europe) and Council currently favouring 2016 (a position based in the main on the technical changes necessary to achieve such a change). It is also worth noting that two large Member States – Spain and Germany – prefer a later date of 2018 but it is recognised that this would not be acceptable across the European institutions. I do not believe that the issue of timing is insurmountable and a compromise can be found as negotiations progress.

RISKS

I believe there are two major risks to HMG’s desired outcomes based on the current positions of the European institutions.

The first is associated with the spectrum proposals in that the EP has formalised its support for the Commission’s proposals, as well as adding to them. Whilst Council has reaffirmed its general opposition to the proposals, it is becoming increasingly clear that some form of action will need to be taken that addresses the Commission’s concerns that does not compromise the current existing balance of competence between individual Member States and the Commission.

As part of its work to develop a simplified Regulation, UK is putting forward proposals that would further evolve the current governance structures and processes for the management of spectrum within the EU, as well as encouraging the Commission to exercise its existing powers to ensure that those Member States who have yet to meet existing obligation do so. This approach enjoys the general support of Council and this may be the mechanism by which wider agreement on the proposals can be reached without the noted further compromise of Member State sovereignty in this area.

I understand that the initial reaction by Ofcom to the proposal for extended licence durations is favourable and I am current considering policy advice on this issue before forming a formal position on same.

I remain optimistic that the risks associated with the spectrum element can be satisfactory managed to suit the current negotiating mandate and provide an overall positive outcome.

A second, and more serious risk, is the current situation regarding the proposals for net neutrality. To recap, the current negotiating mandate is to resist the introduction of regulation specific to net neutrality, whilst exploring the options around same.

I begin with noting that the outcome of the EP First Reading deal was not as expected ie in line with the recommendations put forward by the ITRE Report. This was, in the main, due to the ALDE (liberal) Group within the EP withdrawing its support for the content of the ITRE Report covering this issue after voting for its adoption, and then aligning itself with the positions previously adopted by the Socialists & Democrats and Green Groups by jointly putting forward a series of amendments. It was these amendments that were voted passed during the Plenary vote rather than those in the ITRE Report.

As noted above, the result is that the EP First Reading now contains a specific definition of “net neutrality”, as well as a more restrictive approach to “specialised services” and “traffic management”. This is in direct opposition to HMG’s current negotiating stance and underlines the contentious nature of this issue as previously noted in the most recent Commons Committee Report.

I can confirm that I remain convinced that self-regulation and transparency of traffic management measures will be more effective in delivering an open internet than regulation and that any Regulation risks being too prescriptive, inflexible and may have unintended consequences, including higher consumer bills. Further, First Reading text includes amendments that may have implications for our work on child internet safety. I also remain of the view that it is difficult to accurately define many of the more technical terms used in this area.
Thus, whilst I do not believe regulation to be the answer, we are committed to working with the Commission and other Member States to ensure that the text produced in Council addresses as many of these issues as possible in order to manage the risks I identify above and taking into account that the introduction of regulation in this area enjoys broad support from the EP and Council. That said, the issue has yet to be fully discussed at Working Group level and so the situation may change but taking into account early indications of Member States’ views in this area, we cannot rely on a change on the position from one where UK’s remains relatively isolated in its opposition. It is worth noting that the issue of net neutrality is one that is covered by the UK and German initiative.

Further, HMG has also engaged with industry, through the Broadband Stakeholder Group (BSG), to accurately understand the impact of regulation in this area, for both content producers and communications providers alike. We will continue to work closely with industry and Ofcom to ensure that our input into negotiations is as influential as possible. Should the European institutions decide that Regulation is the only way forward and UK is unable to gain wider support for its self-regulatory stance, we should prepare to ensure that any adopted text is as workable as possible given the current state of the UK market and the existing self-regulatory approach.

ISSUES RAISED BY THE COMMONS COMMITTEE REPORT NOT COVERED ELSEWHERE

In the Commons committee’s Report, an explanation of Wholesale access products was requested, along with an explanation of the potential business benefits. The following supplements the content of the associated EM that covered same in paragraphs 15 – 16 and 58 – 62 inclusive.

Wholesale access products are regulated products by which access to networks operated by companies having significant market power (SMP) – BT in the UK - must be offered to competing communications providers. The initial proposal covered three closely-specified types of virtual unbundled local access (VULA) products, which would then be standardised offerings across the EU. It was felt that businesses (outside the telecoms sector) often encounter difficulties when connecting across borders, in the main because of different specifications for such products in each Member States. As such, the provision of harmonised wholesale access products would enable businesses to simplify their connections and could help drive savings.

Whilst I believe that there is scope for the adoption of harmonised standards for these products - possibly under the aegis of BEREC - the harmonisation of regulated products across the EU would require a cumbersome amount of analysis (in the main to establish the relevant markets and the degrees of market power of the players in these markets) and may require the introduction of further regulation.

Thus, the level of savings indicated with the original proposal is doubtful and unproven and I believe it is worth noting at this point that the inclusion of this element within any agreed Regulation is now looking remote as it does not enjoy support from Council or the EP.

There was also a request in the Report for further detail on the single authorisation proposal and how this could be developed into a harmonised non-mandatory notification process. The following supplements the content of the associated EM that covered same in paragraphs 12–13 and 51–54 inclusive.

The single authorisation proposal is, in effect, in two parts: the first being the single authorisation itself; and the second being details of how electronic communications providers would notify the relevant national regulatory authorities before beginning to operate.

The proposal currently indicates that communications providers would need to only seek authorisation in one Member State (subject to the specified notification process) before being able to operate in all Member States.

However, the proposal also lays down a complex relationship between the national regulatory authority in the Member State in which the authorisation was obtained and the other Member States in which the provider operates. I am of the firm view that this would increase the regulatory burdens on industry and would likely lead to disputes between national regulatory authorities. In addition, there is a paucity of evidence that would drive action to be take in this way. This is a view supported by industry and Ofcom.

Furthermore, the proposal would be an administrative burden for communications companies operating in the UK since UK does not require any notification (in common with Denmark).

HMG believes that the best approach is to restrict the proposal to a harmonised notification process in order to address the current situation whereby, currently, there are 26 different notification processes – one for each of the Member States other than UK and Denmark - currently in operation.
These notifications exist despite there being no obligation placed on Member States by the current Telecoms Framework to operate such a notification system outside of the general authorisation process as set out within the Authorisation directive.

Thus, HMG is proposing that Member States first consider what the minimum requirements for notification (if, indeed, a notification process is necessary) and this would be followed by adoption of a pan-EU simplified and standardised notification system, with BEREC playing a role in both development and management of the process.

This approach does have the potential benefit of reducing existing and managing future potential administrative and regulatory burdens for communication providers.

The Common’s Report requested that I provide some further detail of the IMCO Opinion that was adopted end-January. For the sake of brevity and bearing in mind the IMCO Opinion covered some 30-plus pages, the following bullets provide a summary of the main points:

— The mechanism for adopting the changes should not be a stand-alone Regulation but an alteration of and addition to the existing consumer rights currently enshrined in the Universal Services directive;

— Contract duration & termination: deletion of the proposal allowing consumers to terminate their contract up to six months after entering into same and the remaining proposals made applicable to consumers only (rather than the wider ‘end users’ in the original proposal)

— Bundles: unchanged;

— Broadband speeds: a change of wording from [speeds] “actually available” to an indication of speeds normally available and an expected minimum for both upload and download speeds;

— Net neutrality: a proposed redefinition of ‘internet access service’ and ‘specialised service’, along with a provision to ensure technology-neutrality regarding the device used to access the Internet and changes to the definition of, and application of ‘traffic management’; and

— Costs of international calls: a complete deletion of this element.

I understand that the ITRE Committee agreed to incorporate the IMCO Opinion into their Report without change.

On the issue of BEREC and its future: it is clear that the Commission’s proposal regarding the appointment process of the Chair does not enjoy support from either Council and the EP and so is very likely to be dropped from any agreement. Whilst there are currently no further proposals for wider changes to BEREC, it should be anticipated that BEREC, its role and wider governance issues may very well be subject to review and proposed changes during the anticipated review of the existing Telecoms Framework (that included the Regulation establishing BEREC) that is due to start in the next two years or so. It should be recalled that the 2009 Framework proposals included the creation of a single pan-EU telecoms regulator under the auspices of the Commission. However, this was not supported by either Council or the EP, and with BEREC currently seen as a relatively new agency who has performed well thus far, whilst it remains a risk that the Commission may propose the creation of a pan-EU regulator once again in the medium term, these are likely to be once again rejected by Council and the EP.

NEXT STAGES

With the noted slow progress of discussion at Working Group level, the differences of views on spectrum and the potential divergence in views on net neutrality between Council and the EP, the most likely scenario is that this issue will be the subject of a Progress Report rather than a General Approach at the upcoming Telecoms Council on 6th June 2014.

I am aware that the Italian administration has indicated that they will make this package a priority under their Presidency when they take over on 1st July 2014, it may prove difficult for the Italians to make this the top priority with other issues seeking attention in the first part of their Presidency. As such, it very much remains the case that much depends on whether those Member States who wish to see some form of agreement remain in the minority and whether any existing momentum imparted by the joint UK-German initiative can be maintained over the Summer period in time for negotiations begin again in September 2014. It remains a possible outcome that no agreement, or action on
roaming alone is the ultimate outcome of this proposal as the current deadline of reaching agreement by end-2014 fast approaches. Therefore, unless there are any immediate issues that your committee would like me to address and bearing in mind I will be sending your committee a copy of my Pre- and Post-Council statements as per usual, I suggest that an appropriate time for my next update should be shortly after the Telecoms Council and as preparations to handover to the incoming Italian Presidency become firmer ie mid-June 2014.

16 May 2014

EUROPEAN STRATEGY FOR MORE GROWTH AND JOBS IN COASTAL AND MARITIME TOURISM (6875/14, 6872/14)

Letter from the Chairman to Maria Miller MP, Secretary of State for Culture, Media and Sport and Minister for Women and Equalities, Department for Culture, Media and Sport

We received Explanatory Memoranda (EMs) dated 10 March 2014 from your department on the above proposals. These were considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 31 March 2014.

It was not clear which Minister in your Department was responsible for sending the above EMs, so have addressed our letter to you in your role as Secretary of State.

We also wish to register our strong disappointment with the general lack of information provided in both documents. For example, in the EM for document 6872/14, paragraph 11 says that there are no policy implications for the UK, but provides no information to support this statement, which is surprising given that the UK is an island. The EM for document 6875/14 makes no attempt to analyse how the Commission’s Communication could be relevant to the maritime tourism industry in the UK. It also makes no reference to the Department for Transport’s role in promoting the shipping industry, which is a crucial part of maritime tourism.

We consider that both EMs fall short of the Cabinet Office’s guidance for Government departments in producing EMs for parliamentary scrutiny. We therefore request that revised EMs in line with the Cabinet Office guidance be submitted for the Committee to scrutinise.

1 April 2014

Letter from Helen Grant MP, Minister for Sport, Tourism and Equalities, Department for Culture, Media and Sport, to the Chairman

Thank you for your letter of 1 April to the Rt Hon Maria Miller MP regarding the draft Explanatory Memoranda (EMs) 6875/14 and 6872/14.

I hope you will accept my apologies for my Department’s failure to meet the standards set out in the Cabinet Office guidance for EMs. I hope you have received my letter of 28 March to William Cash MP, Chair of the House of Commons European Scrutiny Committee, where we have acknowledged that the EMs require significant further work before can be considered again by both Scrutiny Committees.

You might like to know that following the 2nd Working Group meeting that took place on 8 April, the proposal for European Tourism Quality Principles as originally set out by the Commission has been dropped by the Presidency. We are waiting to see if the Commission will bring a revised proposal to the table at a later date, but it will no longer be included on the agenda for the Competitiveness Council meeting on 26 May. In the circumstances, we will return seeking Scrutiny clearance once and new proposals have been received.

In the meantime, we will be working with the Devolved Administration and key Whitehall Departments on providing a robust EM for clearance in respect of the Commission Communication on Coastal and Maritime Tourism.

30 April 2014
Letter from Saijid Javid MP, Secretary of State for Culture, Media and Sport and Minister for Equalities, Department for Culture, Media and Sport, to the Chairman

Further to Helen Grant’s letter of 30 April, I am writing to provide the information requested in your letter of 1 April to the Rt Hon Maria Miller MP.

This letter and the attached [not printed] revised EM provides further information in advance of the next meeting of the General Affairs Council on 24 June where the Council is likely to agree a set of Council Conclusions on Integrated Maritime Policy. These Conclusions will cover a wide range of policy areas but within them there will be a short, non-substantive ‘welcoming’ or ‘noting’ of this Communication. I hope the information allows to you complete your examination of the Communication. I would of course be happy to report further after the Council if you would find that helpful.

My officials have discussed the Communication on coastal and maritime tourism this with their colleagues in other Whitehall Departments where there is a policy lead or interest. Given that tourism is a devolved matter, they have also discussed this with colleagues in the Devolved Administrations to ensure that our position reflects the position of all key partners across Government.

I hope that many of the questions and concerns raised by the previous EM are now addressed in this replacement version, so I will not repeat them here. My view, supported by the outcome of the above discussions, is that much of what is proposed through the Communication is consistent with existing policies and practice in the UK.

You were, however, particularly concerned that my Department had made no analysis of how the Communication could be relevant to the maritime tourism industry in the UK. Cruise tourism is now also covered in the draft EM and better recognises that shipping and maritime services are big business here in the UK worth up to £14bn per year to the economy and steadily growing. Our maritime services provides 263,000 jobs, with 146,000 jobs in shipping, up to 107,000 in ports employment and 10,000 jobs in business services.

Maritime Statistics show that turnaround cruises to or from the UK grew at a Compound Annual Growth Rate (CAGR) of 11% from 1999 to 2012 (the last year for publicly available statistics). The CAGR do mask some pretty large fluctuations in year-on-year growth (30% in 2003, 0.4% in 2009) but in none of these years spanning the recession did the total actually fall, despite the downturn. What this really shows is that the cruise industry is perfectly capable of very vigorous growth without the help of any sort of European strategy.

Overall, I feel that the pan-European aspects of the proposal offer little commercial benefit to an island nation with a mature tourism product. So, given the voluntary nature of the Communication, we do not need to take them forward if they run contrary to our approach or if we feel by taking them forward, it may have resource implications.

I would also like to update you on where things are in respect of the draft Council Recommendation on European Tourism Quality Principles (ETQP). The Greek Presidency dropped the ETQP from the agenda for the Competitiveness Council meeting on 26 May in the face of opposition from many Member States, which included the UK (a position supported by the Devolved Administrations).

Our position is that the proposals add no value to the quality schemes in place in the UK. The impact on the market, even if these are voluntary proposals has not been assessed by the Commission.

The Commission continues to ask Member States to find common ground on the ETQP but as yet has made no new suggestions on how its proposal might be revised. We understand that the Italian Presidency has not yet decided how it might take this up.

It is clear however, whatever new proposals are put forward by the Commission, we need to expand our arguments on the policy implications of introducing the ETQP. However I hope that you will agree that we should return to the concerns you raised once any new proposal is submitted by the Commission.

29 May 2014
Letter from Nicky Morgan MP, Financial Secretary to the Treasury, HM Treasury, to the Chairman

Thank you for your Explanatory Memorandum (EM) of 31 March on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014. We decided to clear the document from scrutiny.

The Commission’s analysis of the progress so far with the Europe 2020 strategy is interesting, and the evaluation in the Communication seems to be robust. We agree with the Commission’s analysis that 2014 is the right time to conduct a review of Europe 2020 and move towards a post-crisis strategy, given that the economic trajectory over the next five years is now clearer. We also welcome the Commission’s intention to consult before proposing a post-crisis strategy.

We observe that there is little reference to supply-side reforms in the Commission’s Communication. We believe that the UK has a lot of expertise to share with EU colleagues on these reforms, and we would be interested to learn whether you are taking steps to share good practice in this area.

We noted the Commission’s view that the complexity of the European Semester may act as a barrier to delivering reform. We ask whether you agree with this analysis, and for further information on the steps the Commission and the Government intend to take in order to overcome this.

The UK is below the average in a number of areas including: the area of R&D intensity, renewable energy (the Commission says that the UK has made only “moderate progress” since 2005 and is third from bottom in the table of 28 Member States), energy efficiency (the UK was one of the 11 Member States which had not already met their target in 2012), and 18-24 year olds not in education and training. In our 2012 report on The Effectiveness of Research and Innovation proposals, we noted that the UK has historically been a world leader in the areas of R&D. We ask whether you still consider this area to be a priority. As you know, we recently published a report on youth unemployment in the EU entitled Youth unemployment in the EU: a scarred generation? We refer you to the views and conclusions outlined in this report, and reiterate that while the UK’s performance in this area is average within the EU28, there is no room for complacency, given the performance of Member States such as Germany, Austria and the Netherlands.

It is notable that for a number of the Europe 2020 target areas the UK is the only Member State that has opted not to set a national target. These areas include employment and R&D intensity, where the UK’s performance is well below average. In your EM you explain that you have moved away from setting top-down targets in line with the Public Services Transparency Framework launched at the 2010 Spending Review. We seek further information on the rationale behind this decision, and on how you intend to measure the UK’s progress in general and against that of comparable Member States without setting a target.

I look forward to a response in the usual 10 working days.

15 May 2014

EUROPEAN SATELLITE NAVIGATION SYSTEMS (17844/11)

Letter from David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills, to the Chairman

Following your letter of 26 June 2013 I would like to offer you an update on the above Regulation.

The agreement of the Multiannual Financial Framework last year set the budget for the European satellite navigation systems, Galileo and EGNOS, at €6.3 billion (£5.25bn) at 2011 prices, 10% less than the Commission requested. The Commission’s proposed budget was too high and I welcome the reduction. The Commission has confirmed that it can continue to deliver the programme within this reduced budget.

3R&D intensity is a measure of country’s R&D spending in knowledge and technology to increase factor productivity and saleable output.

4The data in the Communication do not take into account 18-24 year olds who are qualified beyond “lower secondary education” level.
The agreement to the budget was the last remaining element for the negotiation of the Regulation. The Regulation was concluded on 11 December and came into force on 1 January 2014 (Regulation 1285/2013). This new Regulation should deliver real improvements to the governance and management of the Galileo and EGNOS programmes in the future. In particular, it will ensure that the Commission has an appropriate supervisory role without managing the day-to-day activities of the programmes.

1 April 2014

Letter from the Chairman to David Willetts MP

Thank you for your letter of the 1 April 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014. We are grateful for your update on the outcome of negotiations and agreement of the proposal. We now consider correspondence on this proposal to be closed. A response to this letter is not required.

14 May 2014

EUROPEAN SINGLE MARKET FOR ELECTRONIC COMMUNICATIONS AND TO ACHIEVE A CONNECTED CONTINENT (13555/13)

Letter from Ed Vaizey MP, Minister for Culture, Communications and Creative Industries, to the Chairman

Thank you for your letter of 23 October regarding the Explanatory Memorandum of 10th October covering the above Proposal. This letter requested further information on various aspects of the package; my responses are below.

DCMS VIEW ON THE COMMISSION’S ESTIMATED COSTS AND BENEFITS ASSOCIATED WITH THE PROPOSAL.

I am concerned that the Commission’s Impact Assessment only looks at the potential benefits of the complete package and does not identify specific costs and benefits attributable to each element of the proposal.

My Department is currently conducting a further analysis of the Impact Assessment in order to ascertain the costs and benefits of each element i.e. we will attempt to disaggregate both costs and benefits for consumers and businesses alike.

UK’s concerns about the robustness of the IA have been echoed by a number of Member States and they are conducting similar reviews of the IA, as well as calling for further discussion on same at Working Group level.

DCMS consultation with stakeholders on the pro-consumer elements of the proposal.

My officials have already met consumer groups, including Which?, to garner their views on the package. They are in the main supportive of the Commission’s aims in respect of the consumer-focused parts of the package. Which? has undertaken extensive economic study of the consumer-protection elements of the package and this will feed into the above process.

It is worth noting that stakeholders more widely challenged the Commission on what appeared to be a lack of consultation before publication. The Commission indicated that it was their view that sufficient consultation had taken place, although the consultation may not have been specifically badged or associated with the package.

THE PACKAGE’S CURRENT TIMETABLE

I share your concerns on the timetable and, in its current form, I doubted that the package could be adopted by end-May 2014 as was originally proposed. This is especially so in the face of opposition from both Council and European Parliament (EP) on some of the elements.

However, the Commission indicated last week a revised timetable where that they would be seeking a vote on the proposals by the EP during April 2014, in order to ensure the package passes onto the
newly-elected EP after May 2014. Business would then resume, with an eventual adoption of the package prior to the election of the next College of Commissioners in November 2014.

Many still see this as a very challenging timetable. Although a nominal six calendar months appears to have been gained, two of these months fall within the summer period when little or no progress will take place. The UK, along with wide support from other Member States, also made its concerns known regarding the timetable. I know that the European Parliament is also very concerned and it is not obvious that this latest timetable is achievable due to a currently heavy legislative loading in the EP. Finally, I also intend to raise this matter at the upcoming Telecoms Council if the opportunity arises.

HAVE THE CURRENT QUASI-LEGISLATIVE EU COORDINATION INITIATIVES WITH REGARD TO SPECTRUM FAILED?

For HMG, the spectrum proposals are the most problematic part of the package and like your Committee, we are concerned with the Commission’s apparent aim to gain more control over Member States’ radio spectrum allocation processes.

I am of the view that it is not the current EU coordination framework of spectrum that has failed, but there has been a failure to apply what currently exists in a consistent and effective manner. This failure, in the main, lies with the Commission itself. This should be fully addressed before an accurate assessment is made regarding the failure or success of the current system and, therefore, whether it is appropriate to apportion the Commission further powers. One such example is the failure of the Commission to tackle those Member States who have yet to authorise the 800MHz band for 4G mobile use across the EU.

HMG will therefore strongly resist the Commission acquiring any new competences in this area and we will call to improve cooperation and sharing of best-practice on aspects of spectrum management within the existing, well-established EU framework.

IS UK’S CURRENT SELF-REGULATORY REGIME ON NET NEUTRALITY WORKING?

Yes, I believe that the UK’s self-regulatory system is working, which is why I oppose a regulation in this area.

Broadband speeds can be influenced by many factors, including in-house wiring, the distance of a property from a cabinet or exchange or a number of wider technical factors. Ofcom have carried out significant work in this area, and all major ISPs have signed up to a Code of Practice which commits them to informing consumers of the speed they can expect at the point of sale.

Where broadband speeds are decreased by an ISP due to traffic management, ISPs have been encouraged to adopt a similar approach. I accept that some traffic management is often necessary to ensure networks can function efficiently, but it is important that consumers are aware of an ISP’s traffic management policies at the point of sale. I believe that transparency is fundamental and vital if self-regulation is to succeed.

Further, Ofcom research showed that whilst there is no evidence of consumer harm caused by traffic management policies, there are improvements ISPs can make to ensure consumers are aware of these policies. Ofcom will be working with industry, through the Broadband Stakeholder Group, to improve the Transparency Code of Practice that the major ISPs signed in 2011. Ofcom also published a guide for consumers to help them understand how ISPs may manage traffic that flows over their network. There is a clear synergy between this issue and those proposals to increase transparency of consumer contracts.

As such, I am committed to ensuring the UK has an open internet and believe self-regulation is the best way to deliver this in the UK and across the EU.

A POSSIBLE THREAT TO BEREC’S INDEPENDENCE

It is my clear view that an independent national regulator is essential for a properly functioning market and it is logical to extend this to BEREC in order to ensure that NRAs collectively remain free from undue political interference. It is not clear from the proposals how this independence is safeguarded by the newly proposed appointment process nor why it is necessary given both the relative newness of BEREC as an Agency who first two reviews were generally positive.

I close by noting that the package is due to be discussed at the Telecoms Council on Friday 6th December 2013 and this may provide an opportune moment to provide a further update on progress to you and your committee.
Letter from Ed Vaizey MP to the Chairman

The purpose of this letter is to provide you with an update on the progress of the above proposal and to ensure that your committee is fully aware of progress thus far and the latest policy developments before the anticipated start of negotiations at Working Group level later this year.

DISCUSSIONS AT OCTOBER EUROPEAN COUNCIL AND TELECOMS COUNCIL (DECEMBER 2013)

There was only a short discussion on the package at the October Council, much less than was originally expected and, in the main, due to other matters on which Council wished to focus.

Council Conclusions welcomed the presentation on the proposals from the Commission and “…encourages the legislator to carry out an intensive examination with a view to timely adoption”. This was regarded as Council indicating agreement with the aims of the proposals but reflecting concern about some of the detail.

What was notable was that other measures also covered in the same section of the Conclusions – those promoting the Digital Single Market - were assigned specific completion dates and this can be seen as a reflection of the relative importance assigned by Council to the telecoms proposal.

The discussion that took place at the Telecoms Council was notable for in that it all Member States welcomed the aims of the package, it was clear that they believed that other current proposals – such as the eIDAS, Reducing Broadband Costs and Network & Information Security packages - and should take priority over this package.

The Commission were keen to stress the urgency of the proposal, whilst Member States were of a single mind regarding 'right not rushed' and thus flagging that the nominal deadline of 1 November 2014 was ambitious if all elements of the package remained.

The net neutrality and consumer protection elements were those that gained most support from Council, whereas the spectrum management and single authorisation elements were roundly opposed. Further, Council indicated support for the cessation of mobile roaming charges, but not through the mechanism proposed in the Regulation.

There have been no further discussions at Working Group level beyond those on the Impact Assessment that took place prior to the Telecoms Council, with these only taking place as the outgoing Lithuanian Presidency capitulated to the intense pressure exerted by the Commission to begin discussions before the Greeks assumed the Presidency.

THE POSITION OF THE EUROPEAN PARLIAMENT

Whilst Council has made little or no formal progress with the package, that same cannot be said for the European Parliament who have reached a position whereby they will be adopting a First Reading position before their elections in May.

Based on the assumption that the lead (ITRE) committee’s Report remains largely unchanged and accepted, along with the Opinion issued by IMCO, the EP’s position can be summarised as:

— Supporting and amending: the spectrum management, net neutrality and consumer protections elements;
— Supporting: the cessation of mobile roaming prices but not through the mechanisms proposed in the Regulation; and
— Opposition (amendments that remove from the Regulation): single authorisation, wholesale access products, costs of international calls and changes to the BEREC chair.

There are currently some 1500 amendments collectively put down by the EP and the final First Reading position will be clearer once the voting has taken place; the last of these in April.

Finally, whilst it is usual for a new EP to be bound by the decisions of the previous in terms of First Readings, there is a mechanism whereby the new EP can trigger a new First Reading process. This is a small risk and officials are monitoring the situation.
OPPORTUNITIES AND RISKS

The current position presents a series of opportunities and one major risk to UK’s current negotiating position.

On the former, it would appear, based on the current positions of both EP and Council, that some form of agreement for a ‘simplified’ Regulation is possible. Such a Regulation could contain: action achieving the cessation mobile roaming by 2016; increased consumer rights as generally set out in the proposal; and the introduction of wholesale access products (for the benefit of industry) in what may be a package very much in the favour of consumers. In addition, it may be possible to alter the ‘single authorisation’ proposal to one that harmonises ‘notification’ processes but without being mandatory in nature. It should also be possible to prevent the introduction of further spectrum management functions for the Commission but this will very much rely on Member States individually and collectively taking action that addresses Commission’s concerns in this area. This outcome is clearly within the current negotiating mandate and chimes well with current domestic policy regarding the telecoms sector.

The main current risk has net neutrality as its locus where it is clear that UK is isolated in its position regarding the need for regulation in this area; the proposal enjoys strong support from both Council and EP. Whilst I remain convinced that selfregulation is most appropriate for the UK, this may not be true in the cases of the remaining 27 national markets. The current negotiating mandate indicates that whilst UK should resist the introduction of regulation, we are also required to consider what other options are open to us before reaching a final decision. Given the strong support for a regulation across the EP and the Council, I and my officials have begun to explore whether there are other options that will deliver the outcomes that the EP and Council are looking for in this area.

It is clear that there is much that remains open to negotiation and if the UK can show leadership by championing a ‘simplified’ Regulation and help achieve an agreement by the indicated deadline, there are many benefits to be gained, along with managing the perceived negative impacts of the proposal. My officials are currently testing the proposal of a ‘simplified’ Regulation in advance of further discussions at Working Group before other Member States’ positions become fixed and to identify if the EP can support such a proposal, with the content as indicated. Reaction will inform our on-going negotiating strategy.

NEXT STAGES

It remains unclear when the Greek Presidency will begin discussions on this package at Working Group level, although I am aware that the Commission continues to exert a large amount of pressure on them to begin progress. UKRep officials have informed me that it is most likely that discussions at Working Group level will begin either at the end of February or start of March. If this is the case, it is likely that sufficient progress will then be made such that a Progress Report can be anticipated at the Telecoms Council (currently scheduled for 6th June). However, there is a small risk that Commissioner Kroes may seek to hold an ad-hoc Council before the scheduled Council if further political agreement on the shape and content of the proposal is required.

Given the current lack of progress and that the content of the Regulation will remain in a state of flux, I propose that I provide my next updating letter following the June Telecoms Council. However, I will keep progress under review and write again if there are any major changes that I believe will impact on outcomes. If you have any questions in the interim, please don’t hesitate to write to me.

30 January 2014

Letter from the Chairman to Ed Vaizey MP

Thank you for your letters dated 18 December 2013 and 30 January 2014 on the above proposal. These were considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 17 March 2014.

We are grateful to the answers to our questions that you provided in your letter of 18 December 2013, and for your update on the progress of negotiations on 30 January 2014. We are also grateful for the subsequent informal update that we received from your officials.

As the Communication (13562/13) has no legislative or financial impact on the UK, we have decided to clear it from scrutiny.

However, there remain a number of outstanding issues with regards to the proposal for a Regulation (13555/13), and we have therefore decided to retain it under scrutiny.
We would be grateful to receive further updates on the progress of negotiations on the proposed Regulation in due course.

25 March 2014

Letter from Ed Vaizey MP to the Chairman

This letter is reporting on negotiations of the proposed Regulation associated with the Connected Continent Communication – also known as the telecoms single market (SM) package. This letter is generated as a result of negotiations passing a major milestone - the European Parliament (EP) adopting a First Reading position - when the Commons committee requested an update, as well as a number of issues contained in the Common’s Report requiring clarification.

As such, the letter is written in five main sections: a general update on progress of the proposal; an examination of the major risks and opportunities to HMG’s negotiating mandate; addressing those issues raised by the Commons committee not already addressed elsewhere in this letter; before concluding with a forward look at the next milestones and possible outcomes generated by same.

UPDATE

I begin the wider update by focussing on the outcomes of the recent First Reading vote of the EP. In effect, the EP accepted those amendments contained within the ITRE Report and no other amendments, with the specific exception of a series of amendments concerning net neutrality (the reasons for which are covered in the net neutrality section below).

The main outcomes of this vote were:

- An agreement that leads to the cessation of mobile roaming charges by end-2015 (although not through the mechanism as contained in the proposed Regulation);
- Removal of the proposed authorisation process for telecoms operators but retention of the concept of a single harmonised notification process;
- That changes to consumer protection associated with the telecoms acquis would be brought about by amending the Universal Service directive rather than through the mechanism of an additional stand-alone Regulation;
- A more restrictive approach to this issue of net neutrality, through introducing a specific definition of “net neutrality” and a more restrictive approach to “specialised services” and “traffic management” than proposed by the ITRE Report;
- Support for the proposals that increase Commission oversight of spectrum award processes, along with an additional requirement for a minimum licence duration of 25 years for existing and future licences;
- A rejection of the proposed introduction of wholesale access broadband products for businesses;
- A rejection of the proposed changes to BEREC governance regarding the Chair; and
- On obligation placed on the Commission to review and propose changes to the existing Telecoms Framework (2009) by mid-2016 – with an extensive list of issues requiring addressing.

It is clear that the outcome of this vote presents a series of opportunities and challenges to HMG’s current negotiating mandate, as well as further reducing the probability of an agreement being reached by the end of 2014 as the views of Council and the EP further diverge, and I cover these below in further detail.

The package was also again the focus of the March European Council where Conclusions noted the important role that the package could play in driving single market completion and growth. However, this focus by Council did not have any effect on the progression of discussions at Working Group level, which have been glacially slow at best and the first read-through is already well behind the Presidency’s schedule ie that schedule indicated this would be completed in time for the Easter break and completion is now due end-May.
This slow progress is, in the main, driven by the agreed approach to exam the proposed Regulation ‘Article by Article’ – an inherently slower approach than that advocated by UK when asking for a ‘Chapter by Chapter’ approach. However, this approach adopted by the Presidency is a reflection of both the previously indicated prioritisation of the package, as well as those Member States favouring a slower approach being the overwhelming majority in Working Group. This slow progress is also being hampered by those Member States who have also adopted a filibustering strategy to further slow the progress of the package. As such, discussions at Working Group level are around half-way through the Regulation; spectrum is currently being considered and discussions on the consumer protection Articles that include both the issues of roaming and net neutrality have yet to take place.

In order to counteract this decelerating effect on progress, UK and Germany published a non-paper on the package following the Prime Minister and the German Chancellor giving joint speeches at a recent telecoms event in March 2014. This non-paper is attached as Annex A [not printed] to this letter and this has begun to act as a point of nucleation for those Member States who are seeking agreement on a simplified Regulation. This activity does have the potential to sway the possible outcome of negotiations and I cover this in more detail below. However, its potential is currently limited as those Member States remain a small minority in Council and the Presidency is yet to agree to adopt the principle of a simplified Regulation. As such, there is some current activity focussed around trying to influence the neutral Member States, as well as encouraging the Presidency to adopt the strategy of developing a simplified Regulation. Success, or otherwise, of this initiative will become more apparent over the next two months or so as Working Group completes its first read-through in time for the Telecoms Council in early June 2014 and whether those Member States can achieve agreement at a more granular level.

**OPPORTUNITIES**

The current position of the EP and Council, along with a rapidly approaching deadline means that we are faced with two situations: a protracted negotiation of the full Regulation that will miss the indicated deadline of December 2014; or for a simplified Regulation to be agreed to same deadline.

Given that there is some agreement in principle between Council and Parliament around some of the elements of the Regulation, agreeing these to meet the deadline through delivering a simplified Regulation remains a viable outcome. Whilst those Member States who wish to see a simplified Regulation agreed remain in the minority in Council, the recent push by UK and Germany is gathering further support and there is a possibility that the balance may tip over during the Easter period in our favour. This will then require the Presidency to begin to push forward with a simplified Regulation. With the UK leading this work, it places us in a position to heavily influence the content of a simplified Regulation and shape it to suit our current negotiating mandate and address specific risks associated with the net neutrality and spectrum elements (both of which I cover in the risks section below).

Thus, whilst there remains a strong possibility that should a package may be eventually agreed, the current configuration of EP and Council means that those elements that were attractive to businesses – wholesale access products and a harmonised notification process – may be removed in order to reach an overall agreement and thus the outcome would be one that could be consider to be very consumer-centric.

Another opportunity presented by the current relative positions of the EP and Council could result in the eventual cessation of mobile roaming charges within the EU. Whilst Council has yet to formally discuss this specific issue at Working Group, it is clear that there is appetite in both Council and the EP to take action. The only real point of difference between Council and the EP is that of timing: EP indicating by December 2015 (a shift from an earlier position of 2014 as per the Digital Agenda for Europe) and Council currently favouring 2016 (a position based in the main on the technical changes necessary to achieve such a change). It is also worth noting that two large Member States – Spain and Germany – prefer a later date of 2018 but it is recognised that this would not be acceptable across the European institutions. I do not believe that the issue of timing is insurmountable and a compromise can be found as negotiations progress.

**RISKS**

I believe there are two major risks to HMG’s desired outcomes based on the current positions of the European institutions.

The first is associated with the spectrum proposals in that the EP has formalised its support for the Commission’s proposals, as well as adding to them. Whilst Council has reaffirmed its general opposition to the proposals, it is becoming increasingly clear that some form of action will need to be
taken that addresses the Commission’s concerns that does not compromise the current existing balance of competence between individual Member States and the Commission.

As part of its work to develop a simplified Regulation, UK is putting forward proposals that would further evolve the current governance structures and processes for the management of spectrum within the EU, as well as encouraging the Commission to exercise its existing powers to ensure that those Member States who have yet to meet existing obligation do so. This approach enjoys the general support of Council and this may be the mechanism by which wider agreement on the proposals can be reached without the noted further compromise of Member State sovereignty in this area.

I understand that the initial reaction by Ofcom to the proposal for extended licence durations is favourable and I am currently considering policy advice on this issue before forming a formal position on same.

I remain optimistic that the risks associated with the spectrum element can be satisfactorily managed to suit the current negotiating mandate and provide an overall positive outcome.

A second, and more serious risk, is the current situation regarding the proposals for net neutrality. To recap, the current negotiating mandate is to resist the introduction of regulation specific to net neutrality. As noted above, the result is that the EP First Reading now contains a specific definition of “net neutrality”, as well as a more restrictive approach to “specialised services” and “traffic management”. This is in direct opposition to HMG’s current negotiating stance and underlines the contentious nature of this issue as previously noted in the most recent Commons Committee Report.

As noted above, I remain convinced that self-regulation and transparency of traffic management measures will be more effective in delivering an open internet than regulation and that any Regulation risks being too prescriptive, inflexible and may have unintended consequences, including higher consumer bills. Further, First Reading text includes amendments that may have implications for our work on child internet safety. I also remain of the view that it is difficult to accurately define many of the more technical terms used in this area.

Thus, whilst I do not believe regulation to be the answer, we are committed to working with the Commission and other Member States to ensure that the text produced in Council addresses as many of these issues as possible in order to manage the risks I identify above and taking into account that the introduction of regulation in this area enjoys broad support from the EP and Council. That said, the issue has yet to be fully discussed at Working Group level and so the situation may change but taking into account early indications of Member States’ views in this area, we cannot rely on a change on the position from one where UK’s remains relatively isolated in its opposition. It is worth noting that the issue of net neutrality is one that is covered by the UK and German initiative.

Further, HMG has also engaged with industry, through the Broadband Stakeholder Group (BSG), to accurately understand the impact of regulation in this area, for both content producers and communications providers alike. We will continue to work closely with industry and Ofcom to ensure that our input into negotiations is as influential as possible. Should the European institutions decide that Regulation is the only way forward and UK is unable to gain wider support for its self-regulatory stance, we should prepare to ensure that any adopted text is as workable as possible given the current state of the UK market and the existing self-regulatory approach.

ISSUES RAISED BY THE COMMONS COMMITTEE REPORT NOT COVERED ELSEWHERE

In the Commons committee’s Report, an explanation of Wholesale access products was requested, along with an explanation of the potential business benefits. The following supplements the content of the associated EM that covered same in paragraphs 15 – 16 and 58 – 62 inclusive.

Wholesale access products are regulated products by which access to networks operated by companies having significant market power (SMP) – BT in the UK - must be offered to competing communications providers. The initial proposal covered three closely-specified types of virtual
unbundled local access (VULA) products, which would then be standardised offerings across the EU. It was felt that businesses (outside the telecoms sector) often encounter difficulties when connecting across borders, in the main because of different specifications for such products in each Member States. As such, the provision of harmonised wholesale access products would enable businesses to simplify their connections and could help drive savings.

Whilst I believe that there is scope for the adoption of harmonised standards for these products - possibly under the aegis of BEREC - the harmonisation of regulated products across the EU would require a cumbersome amount of analysis (in the main to establish the relevant markets and the degrees of market power of the players in these markets) and may require the introduction of further regulation.

Thus, the level of savings indicated with the original proposal is doubtful and unproven and I believe it is worth noting at this point that the inclusion of this element within any agreed Regulation is now looking remote as it does not enjoy support from Council or the EP.

There was also a request in the Report for further detail on the single authorisation proposal and how this could be developed into a harmonised non-mandatory notification process. The following supplements the content of the associated EM that covered same in paragraphs 12–13 and 51–54 inclusive.

The single authorisation proposal is, in effect, in two parts: the first being the single authorisation itself; and the second being details of how electronic communications providers would notify the relevant national regulatory authorities before beginning to operate.

The proposal currently indicates that communications providers would need to only seek authorisation in one Member State (subject to the specified notification process) before being able to operate in all Member States.

However, the proposal also lays down a complex relationship between the national regulatory authority in the Member State in which the authorisation was obtained and the other Member States in which the provider operates. I am of the firm view that this would increase the regulatory burdens on industry and would likely lead to disputes between national regulatory authorities. In addition, there is a paucity of evidence that would drive action to be take in this way. This is a view supported by industry and Ofcom.

Furthermore, the proposal would be an administrative burden for communications companies operating in the UK since UK does not require any notification (in common with Denmark).

HMG believes that the best approach is to restrict the proposal to a harmonised notification process in order to address the current situation whereby, currently, there are 26 different notification processes – one for each of the Member States other than UK and Denmark - currently in operation. These notifications exist despite there being no obligation placed on Member States by the current Telecoms Framework to operate such a notification system outside of the general authorisation process as set out within the Authorisation directive.

Thus, HMG is proposing that Member States first consider what the minimum requirements for notification (if, indeed, a notification process is necessary) and this would be followed by adoption of a pan-EU simplified and standardised notification system, with BEREC playing a role in both development and management of the process.

This approach does have the potential benefit of reducing existing and managing future potential administrative and regulatory burdens for communication providers.

The Common’s Report requested that I provide some further detail of the IMCO Opinion that was adopted end-January. For the sake of brevity and bearing in mind the IMCO Opinion covered some 30-plus pages, the following bullets provide a summary of the main points:

— The mechanism for adopting the changes should not be a stand-alone Regulation but an alteration of and addition to the existing consumer rights currently enshrined in the Universal Services directive;

— Contract duration & termination: deletion of the proposal allowing consumers to terminate their contract up to six months after entering into same and the remaining proposals made applicable to consumers only (rather than the wider 'end users' in the original proposal)

— Bundles: unchanged;
— Broadband speeds: a change of wording from [speeds] “actually available” to an indication of speeds normally available and an expected minimum for both upload and download speeds;

— Net neutrality: a proposed redefinition of ‘internet access service’ and ‘specialised service’, along with a provision to ensure technology-neutrality regarding the device used to access the Internet and changes to the definition of, and application of ‘traffic management’; and

— Costs of international calls: a complete deletion of this element.

I understand that the ITRE Committee agreed to incorporate the IMCO Opinion into their Report without change.

On the issue of BEREC and its future: it is clear that the Commission’s proposal regarding the appointment process of the Chair does not enjoy support from either Council and the EP and so is very likely to be dropped from any agreement. Whilst there are currently no further proposals for wider changes to BEREC, it should be anticipated that BEREC, its role and wider governance issues may very well be subject to review and proposed changes during the anticipated review of the existing Telecoms Framework (that included the Regulation establishing BEREC) that is due to start in the next two years or so. It should be recalled that the 2009 Framework proposals included the creation of a single pan-EU telecoms regulator under the auspices of the Commission. However, this was not supported by either Council or the EP, and with BEREC currently seen as a relatively new agency who has performed well thus far, whilst it remains a risk that the Commission may propose the creation of a pan-EU regulator once again in the medium term, these are likely to be once again rejected by Council and the EP.

NEXT STAGES

With the noted slow progress of discussion at Working Group level, the differences of views on spectrum and the potential divergence in views on net neutrality between Council and the EP, the most likely scenario is that this issue will be the subject of a Progress Report rather than a General Approach at the upcoming Telecoms Council on 6th June 2014.

I am aware that the Italian administration has indicated that they will make this package a priority under their Presidency when they take over on 1st July 2014, it may prove difficult for the Italians to make this the top priority with other issues seeking attention in the first part of their Presidency. As such, it very much remains the case that much depends on whether those Member States who wish to see some form of agreement remain in the minority and whether any existing momentum imparted by the joint UK-German initiative can be maintained over the Summer period in time for negotiations begin again in September 2014. It remains a possible outcome that no agreement, or action on roaming alone is the ultimate outcome of this proposal as the current deadline of reaching agreement by end-2014 fast approaches.

Therefore, unless there are any immediate issues that your committee would like me to address and bearing in mind I will be sending your committee a copy of my Pre- and Post-Council statements as per usual, I suggest that an appropriate time for my next update should be shortly after the Telecoms Council and as preparations to handover to the incoming Italian Presidency become firmer ie mid-June 2014.

16 May 2014

EXTERNAL COORDINATION OF SOCIAL SECURITY SYSTEMS - THIRD COUNTRY AGREEMENTS (16231/11)

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

Thank you for your letter of 15 November 2013. This was considered by the Internal Market, Infrastructure and Employment Sub-Committee at its meeting of 27 January 2014.

The EEA proposal (7591/11) has already been cleared from scrutiny. We decided to clear the first Switzerland proposal (11630/11) as this has been superseded, and to retain the second Switzerland (16231/11) and Turkey (8556/12) proposals under scrutiny pending the outcome of the current litigation affecting them.
We are grateful for the update on the progress of litigation.

In the light of the judgment in Case C-431/11, does the Government now accept that the Opt-In Protocol 5 is only engaged where the proposal in question cites a Title V legal basis?

We are particularly interested in clarifying your position, as we are aware that the outcome of this ruling is relevant to a number of other matters under scrutiny, including by other Sub Committees.

We should be grateful for a response to this letter within 10 working days.

28 January 2014

Letter from Esther McVey MP to the Chairman

I wrote to you in November to inform you of the outcome of the legal action brought by the UK to annul the Decision amending the social security provisions of the EEA Agreement where the Court of Justice of the EU dismissed the UK’s application. The Court has now reached a judgment in the second of the actions concerning amendments to the EU-Switzerland Free Movement of Persons Agreement, more specifically the replacement of Annex II to the EU-Swiss Agreement, which contains provisions on the coordination of social security schemes. The new Annex II reflects the regime of social security coordination established within the EU by Regulations 883/2004 and 987/2009, which has replaced the regime of Regulation 1408/1971. The United Kingdom contends that the disputed Decision ought not to have been adopted on the basis of Article 48 TFEU but rather on that of Article 79(2)(b) TFEU (and therefore within the scope of Title V of the TFEU in respect of which matters the UK is able to exercise an opt-in power).

In considering the context, aim and content of the measure, the Court has again dismissed the UK’s application. Although the Court notes that Switzerland decided not to join the EEA or the EU’s internal market, it is “nevertheless linked to the European Union by numerous bilateral agreements covering vast fields and prescribing specific rights and obligations, analogous in some respects to those established by the TFEU”.

The Court considers the aim of the contested decision as being to update the relevant parts of the EU-Swiss Agreement to preserve a coherent and correct application of the legal acts of the EU and to avoid administrative and possibly legal difficulties. It aims to retain the extension of social rights to citizens of the States concerned. The Court says that the extension of scope of protection afforded by Regulation 883/04 cannot be regarded as the “main or predominant aim” of the contested measure but was incidental.

The Court dismisses the UK’s arguments that Article 48 is inappropriate for facilitating free movement between the EU and a third state and considers that this is not an objection where “the third State has already been equated … with a Member State [of the EU]” and where the aim of the decision is to update the regulations already applicable. It is therefore not an objection to the use of Article 48 TFEU as the legal base for the measure.

The Court does not repeat its consideration in the EEA judgment that differential application of the free movement provisions with Switzerland because of Protocol 21 was itself a reason for preferring an Article 48 TFEU base. It does say however that the legality of the choice of legal base is not affected by the consequences of the application of Protocol 21.

You asked in your report on the external coordination of social security systems in January for further information on the Government’s position on the application of the UK’s Title V opt-in Protocol to EU measures which do not cite a Title V legal base. The Government is considering these social security cases in conjunction with others across Government and will report back to the committee.

8 March 2014

5 Protocol 21.
Letter from Sajid Javid MP, Financial Secretary, HM Treasury, to the Chairman

Following my letter of 13 September 2013 on the Payment Account Directive, I wanted to update you of the progress that was made at the end of last year and the position that the Government has achieved on this proposal.

There is significant pressure from the European Parliament to conclude this Directive ahead of the European elections in the spring. The European Parliament voted on the Directive at the beginning of December, which put additional pressure on the Lithuanian Presidency to also get a ‘general approach’ before the end of the year. Therefore the discussions in the European Council picked up pace and were pushed to a general approach just before Christmas.

The Government wanted to seek to ensure the Directive avoids putting unnecessary burdens on industry, and achieves the right outcome for UK consumers. The UK priorities were to:

— Clarify and amend the definition of a payment account to include ‘current accounts’ only. The proposed Directive could cover an unknown range of different products, such as credit cards, saving accounts and e-money.

— Restrict proposals to domestic not cross border switching. Cross border switching will impose significant burdens on industry because of the technical and practical concerns involved. There is also no substantial evidence of consumer demand.

— Ensure existing Member State arrangements are recognised in the Directive for switching. The UK’s Current Account Switching Service already goes further than the Commission’s proposal by introducing a fully automated process for the consumer. The UK wants to ensure that Member States who have already taken action face no additional unnecessary burdens.

— Ensure existing Member State arrangements are recognised in the Directive for basic bank accounts. The major UK banks already voluntarily offer basic bank accounts. The UK wants to ensure that Member States who have already taken action face no additional unnecessary burdens.

— Ensure that basic bank provisions allow anti-fraud and anti-money laundering requirements to be met. Mandating basic bank accounts with an EU right to access could place a significant additional burden on UK industry.

— Block the inclusion of comparison websites in the Directive. The proposal represents a significant intervention in a market that is currently unregulated. It should also be noted that websites were not included in the Single Market Act II.

As set out above, at the end of last year there was rapid progress on the Directive. The Lithuanian Presidency forced the file to a general approach at COREPER on 20 December by which time, the UK achieved five out of our six priorities. On our sixth priority, relating to comparison websites, we ensured that the ‘general approach’ would have a limited impact.

The UK also made a written statement at COREPER which set out the UK’s continued and significant concerns about the inclusion of comparison websites and the need to ensure that the Directive recognises existing agreements in Member States for both basic bank accounts and current account switching.

Given the proposal also remains under scrutiny, the UK abstained from voting at COREPER. However, the Presidency concluded that a general approach was reached and preceded to trilogues.

Trilogues, for final agreement on the Directive, have started and we expect to accelerate rapidly over the coming weeks. Given there is likely to be pressure for an agreement in the coming months, I would be grateful if you could confirm whether you are content to grant scrutiny clearance.

14 February 2014
Letter from the Baroness Kramer, Minister of State, Department for Transport, to the Chairman

I am writing further to Simon Burns’ letter of 3 October which sought a scrutiny waiver to allow the UK to support a general approach on the recast Railway Safety Directive at the Transport Council of 10 October.

I can now report that a general approach was agreed at the Council.

The general approach aims to provide further clarity to the roles and responsibilities of the actors in the railway safety chain. I can confirm that, as set out in Simon Burns’ letter, the text of the general approach replaces the current two-part safety certificate with a single safety certificate. It also includes a similar approach to safety certification as that agreed, following successful proposals from the UK, for authorisations under the interoperability regime. This is designed to give applicants a choice to use national safety authorities where operations are limited to a single Member State’s territory.

One Member State maintained reservations on the text but the Presidency concluded that there was a qualified majority in favour.

Council working groups are now in progress on the final element of the “technical pillar” of the Fourth Railway Package, a recast of the Regulation which established the European Railway Agency. We anticipate that these will continue into the New Year with a view to presenting a general approach under the Greek Presidency perhaps in time for the Transport Council on 14 March. Once the technical pillar is complete, negotiations will begin on the market opening elements of the Package.

The European Parliament is considering the Package as a whole and MEPs have tabled a number of amendments. We expect the Parliament to complete its consideration by spring 2014 with a view to reaching a first reading deal prior to the European elections in May.

18 December 2013

Letter from the Chairman to the Baroness Kramer

Thank you for your letter dated 18 December 2013 on the above legislative package.

We note the agreements that have been reached so far in the Council, and the European Parliament Transport Committee’s adoption of a position on the proposal on 17 December last year.

We look forward to receiving further updates on the progress of negotiations, and ask that any requests for a scrutiny waiver are sent as much in advance, and with as much policy detail, as possible.

28 January 2014

Letter from the Baroness Kramer to the Chairman

I am writing to bring you up to date with progress on this package and to request scrutiny clearance for the proposed recast Regulation on the European Union Agency for Railways (6012/13) (“the ERA Regulation”) in advance of an expected general approach at the forthcoming Transport Council on 14 March.

The ERA Regulation is the third element (and final part of the “technical pillar”) of the Fourth Railway Package to be taken forward following the general approaches reached on the recast Railway Interoperability and Safety Directives during 2013.

The Explanatory Memorandum on this proposal noted that we wanted to consider the suggested revisions to the roles and responsibilities of key actors, and in particular, the justification for the extension of powers for the European Railway Agency (“ERA”) to issue interoperability authorisations and safety certificates and how this might support the Commission’s market opening objectives.

As you may recall, following further consideration of the proposals, the position we have taken on the technical pillar is that the European Union should build on processes that already work well, and where appropriate, modify these to recognise changes such as the introduction of the single safety certificate.
Working group discussions on the ERA Regulation began last October with the final meeting on 27 February. In these discussions we have argued that the ERA Regulation should reflect existing agreements in the general approach texts for the recast Railway Safety and Interoperability Directives.

I am pleased to say that the principles established in those texts have been incorporated into the proposed ERA Regulation, including the UK proposals to offer applicants for an interoperability authorisation or a single safety certificate the opportunity to use national safety authorities – as currently – instead of ERA, if use is restricted to within a single Member State’s territory.

This is a significant change from the Commission’s original proposals, in which ERA was to become the issuing authority for all interoperability authorisations and safety certificates. We consider that this amendment will deliver consistency of application across the interoperability and safety regimes.

A major proportion of the working group meetings has been taken up with consideration of the administrative and process arrangements which will support the proposals and with implementation of the Commission’s road map for decentralised agencies. None of the issues discussed were in areas which represented red lines or would create potential problems for the UK.

The Presidency intends to seek a general approach on the proposal at the forthcoming Transport Council. The proposed general approach does not contain any issues of concern for the UK and is expected to be acceptable to Member States. It represents a significant improvement over the original proposal, and now supports the streamlining of existing procedures, minimising additional costs and burdens on the sector, whilst also addressing the key issues identified in the Commission’s impact assessment. I therefore fully support the text, and would be most grateful if this proposal could be cleared from scrutiny ahead of Transport Council on 14 March.

I will inform the Committee of the outcome of the Transport Council meeting in due course and will, of course, continue to keep the Committee informed of progress on this dossier and the rest of the Fourth Railway Package.

6 March 2014

Letter from the Chairman to the Baroness Kramer

Thank you for your letter dated 6 March 2014 on the ERA Regulation in the above package. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 10 March 2014.

We note the agreements that have been reached so far in the Council on the related Safety and Interoperability Directives. We were content with the position agreed on these Directives, and are therefore content to clear the ERA Regulation (6012/13) from scrutiny. We trust this will enable you to come to an agreement which brings this Regulation into line with the agreements on the Safety and Interoperability Directives.

We ask for an explanation as to why your letter was not sent until Thursday 6 March, for consideration on Monday 10 March. Sending correspondence at such short notice makes it difficult for us to carry out effective Parliamentary scrutiny. We trust that you can give us assurance that any future requests for scrutiny waivers or clearance will be sent within a reasonable timescale.

We look forward to a response in due course.

11 March 2014

Letter from the Baroness Kramer to the Chairman

Thank you for your letter of 11 March granting scrutiny clearance for the UK to vote on the Greek Presidency’s general approach text for the European Railway Agency (“ERA”) Regulation at Transport Council (“the Council”) on 14 March.

I am extremely grateful to the Committee for its swift consideration of this proposal and apologise for the unavoidable necessity of submitting a clearance request so close to the date of the Committee’s meeting. Ideally, we would like to be in a position to give the Committee at least a fortnight to consider any requests for clearance or a waiver but, as you will be aware, the Greek Presidency is attempting to complete a significant number of work packages within a truncated period of time due to the forthcoming European Parliament elections and working groups are therefore being scheduled extremely close to the dates of forthcoming Transport Councils.

In the case of the ERA Regulation, there were working group meetings on 17, 20 and 27 February. Other Member States raised a number of new issues of substance for discussion at the final working
group meeting on 27 February, including the conditions of appointment of the Executive Director and working practices of the ERA Management Board, and the outcome of these negotiations could have affected the improvements that we had sought. It was therefore necessary for us to wait until we had received the Presidency’s suggested compromise text to facilitate a final check with stakeholders to ensure that none of the amendments disturbed the UK’s position. This, in turn, ensured that we were able to give the Committee the level of detailed policy information which it has requested in the past.

In order to maintain the good working relationship which I know we have built up in the past on these matters, it would be useful to understand what might be a reasonable timescale for the Committee to consider scrutiny waiver or clearance requests. My officials have discussed this with the Committee Clerk and understand that the Committee would prefer to be able to consider requests at an earlier meeting if possible but they realise that the pace of significant final negotiations can prevent this and, in such cases, would prefer to receive Ministerial letters as far as possible in advance of the weekly circulation of documents to Committee members. The Department will, of course, seek to honour these in future whenever possible and will continue to request advice from the Committee Clerk as to the best course of action as soon as possible in circumstances where these timescales might present additional challenges.

I would also like to take this opportunity to bring you up to date with the outcome of the Council on 14 March.

I can now report that a general approach was agreed at the Council. The general approach aims to provide further clarity to ERA’s role and powers and supports the agreements reached in the general approach texts for the recast Railway Interoperability and Safety Directives. It also delivers the European Commission’s “Road Map” for a common approach to the management structures of all decentralised agencies.

Further Council working groups have been scheduled by the Greek Presidency to discuss the recitals of the Technical Pillar general approach texts and we will keep the Committee updated on progress.

The European Parliament is considering the Fourth Railway Package as a whole and MEPs have recently adopted a first reading position. I will be writing to you shortly with our analysis of the European Parliament’s position on the package, which we understand to be quite different from that of the Council.

4 April 2014

Letter from the Chairman to the Baroness Kramer

Thank you for your letter dated 4 April 2014 on the ERA Regulation in the above package. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014.

We are grateful for your explanation of the reasons for submitting a late request for scrutiny clearance ahead of the Transport Council meeting on 14 March. I am aware that the Committee Secretariat has been in contact with officials in your Department, and I sincerely hope that such a situation can be avoided in future.

We note the outcomes of the Council meeting on 14 March, and look forward to receiving your analysis of the European Parliament’s position on the package, which we understand to be quite different from that of the Council.

14 May 2014

FREE MOVEMENT OF WORKERS DIRECTIVE (9124/13)

Letter from Mark Harper MP, Minister of State for Immigration, Home Office, to the Chairman

Thank you for your further correspondence of 15 October regarding the above proposed Directive. I apologise that it was not possible to provide a response within your requested timeframe, but I now write to provide the Committee with a summary of the negotiations on this Directive, as well as to respond to the further points you raise. You will wish to note that we expect the text to be presented for adoption this month.
Member States at official level agreed a final Council position on the Directive at a meeting of the Social Questions Working Party on 11 November. The final Council text met the UK’s objectives, as well as reflecting a number of our proposed amendments which were intended to allow flexibility for existing institutions within the UK to implement the Directive with minimal additional burdens. These include language under Article 5 of the Directive which aligns with the independence of the EHRC, but will also allow other responsibilities where the EHRC does not have competence to act to be carried out by central Government Departments. We also secured reference within the text to the responsibilities as well as rights which are afforded to EU workers under the Treaty and Regulation 492/2011.

Separately, the European Parliament (EP) voted on its amendments to the Directive on 5 November. Many of these amendments sought to expand the Directive in ways which would have been unacceptable to the UK and the majority of other Member States. These included language on measures which would extend the scope of the Directive to other spheres of discrimination beyond nationality; measures which would conflict with the subsidiarity principle and measures which would impose disproportionate burdens on Member States.

Trilogue negotiations on the Directive commenced between the Council and the European Parliament on 2 December, and a final text was approved by Deputy Permanent Representatives (Coreper I) on 20 December. The final text is positive in that it mitigates the most problematic of the EP’s amendments, which in many cases reflects pressure from the UK Government. The final text does not expand the existing rights available to EU workers, and will have minimal impact upon existing Government practice. However, the UK declined to support the adoption of the Directive at official level and we plan to vote against the text when it is formally adopted. We do not agree that legislative measures are a necessary or proportionate means of addressing these issues, and we consider that the Directive was adopted with undue haste.

Your letter also refers to the extent of available data concerning free movement abuse and, in particular, abuse of the social welfare system. Specifically, you ask whether the data on EU benefits claimants provided in my previous correspondence can be broken down further. Unfortunately, these statistics do not extend analyses to the duration of benefit claimants.

As I have previously stated to the Committee, the Government believes that freedom of movement is an important principle of the EU but it cannot be a completely unqualified one. We are concerned about the impact of abuse of free movement on welfare systems and public services. We need to make sure that people who come to the UK from the EU do so for the right reasons.

We need to protect our social security system from the risk of abuse. That is what people expect of the Government and what the Government is committed to doing. We are establishing processes to collect data on the nationality of benefit claimants through the new Universal Credit. That will allow us to better understand future trends in migrant access to benefits. But the issue is broader than numbers; it is about protecting the integrity of our system and maintaining public confidence in how it operates. EU rules on free movement were designed in a different era, when migrant flows were much smaller and most social security systems were contribution-based. Member States remain responsible for the design and funding of their systems; EU rules need to respect variation in national systems and each Member State’s responsibility to protect these.

Our focus is on cutting out the abuse of free movement between EU Member States and addressing the factors that drive European immigration to Britain. Across Government, we are working to tackle free movement abuse and further tighten our controls on accessing benefits and services, including the NHS and social housing. You will be aware that in March 2013 and again on 27 November the Prime Minister announced a number of measures to put this principle into effect.

At the European level, it is clear that the EU of today is different to the EU of thirty years ago and the Prime Minister has recently been clear that transition to free movement for future accession countries cannot be done on the same basis as it was in the past. The Home Secretary has consistently raised concerns about free movement abuse at the Justice and Home Affairs (JHA) Council and has consistently lobbied the Commission to start listening to the concerns of Member States and bring forward meaningful solutions. At the JHA Council on 8 October, for the first time, we saw the Commission acknowledging that there is a problem and a shared responsibility across Member States and the European Institutions for addressing it. We also obtained support for our position from at least 11 Member States, which demonstrates that our concerns are reflected widely across Europe.

At the JHA Council on 5 December, the Commission presented its report on free movement and an action plan to address free movement abuse (see Explanatory Memorandum on Dossier 16930/13 re "Free Movement of EU Citizens and their Families: Five Actions to make a Difference). This came as
a result of pressure from the UK over recent months, and the UK and other Member States have supplied the Commission with detailed information on free movement abuse to contribute to the report and action plan. I attach copies of evidence which was submitted by the UK Government to the European Commission ahead of the October and December JHA Councils.

At the December JHA Council, the Home Secretary stated that it was disappointing that the Commission had failed to take proper account of the evidence provided by the Member States. She also argued that she did not believe the Commission’s proposed action would make a real difference to the problems faced by Member States. She told the Council that the UK would continue to press ahead with domestic reforms that will tighten our implementation of the free movement rules and protect local communities, public services and our benefits system. At the EU level, we will continue to work with other Member States to create a fairer system that maintains popular support for free movement.

I will continue to update the Committee on these important issues. However, I hope you can appreciate that these concerns are not primarily associated with the document you retain under scrutiny, which is focused on ensuring the better and more uniform application of the free movement rights conferred on EU workers. I note that you were reassured by my previous response concerning the Directive, and I hope that, with the information I have now provided, you will be content to lift the scrutiny that you currently retain over this document.

20 January 2014

Letter from the Chairman to James Brokenshire MP, Minister of State for Immigration, Home Office

Thank you for the letter from your predecessor Mark Harper MP of 20 January 2014 on document no 9124/13, and for his explanatory memorandum of 12 December 2013 on document no 16930/13. These two items were considered together by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 10 March 2014.

We expressed our view in our letter of 4 September 2013 that, while there is scope for non-legislative action at EU level, the proposal for a Directive is not necessary, and that the Commission should concentrate its efforts on enforcing existing legislation. We therefore note your intention to vote against the adoption of the proposal in Council. We also note your view that the Commission’s Communication does not go far enough in recognising Member States’ concerns about the scope and seriousness of free movement fraud and abuse.

We are grateful for the documents (‘Free Movement Rights – Initial Information for the European Commission (UK)’ and ‘Evidence of fraud and abuse of movement in the UK’) that Mr Harper enclosed with his letter of 20 January. The information contained in them goes some way towards answering the questions that we raised with Mr Harper during the evidence session we had on 22 July 2013 and in subsequent correspondence. Further to this evidence, we repeat our support for the Government’s general aim to find effective means to prevent benefit fraud by foreign nationals.

However, the documents sent by Mr Harper say that the Commission places too much emphasis on quantitative evidence, and that qualitative evidence is equally important in demonstrating the abuse of free movement rights. While we understand the current limitations on gathering data on levels of abuse of social welfare by EU nationals in the UK, we believe that, given the political and economic importance of the issue, the Government should be forming their policy positions on the basis of robust quantitative information.

We reiterate the view expressed in our letter of 4 September 2013 that the free movement of persons is a fundamental part of the Single Market, and should be recognised as such. One of the concerns raised by the Commission in its proposal is that some individuals working in a foreign EU Member State do not have proper access to information about their rights. We would be grateful for further details on how you are working to address this here in the UK.

We have decided to clear both documents from scrutiny. A copy of this letter has been sent for information to the House of Lords EU Sub-Committee on Home Affairs, Health and Education.

11 March 2014

Letter from James Brokenshire MP to the Chairman

Thank you for your letter of 11 March on the above document and for your confirmation that you have cleared this from scrutiny. I should clarify that further to the letter of 20 January from my predecessor, in which he stated that he expected the Directive to be presented for adoption later
that month, adoption took place on the later date of 14 April. The UK voted against the Directive, for the reasons set out previously.

You ask a further question about EU nationals’ access to information about their rights whilst working in the UK. As my predecessor has noted, there is no evidence to suggest that free movement rights are not being correctly implemented in the UK; and there exists a range of information and support services for workers, including EEA nationals working in the UK, about their rights under UK law.

Guidance on the general rights of free movement which apply to EEA nationals in the UK is available on the Gov.UK website. This covers matters such as rights of admission to the UK, including rights to work, study or reside as a self-sufficient person, as well as the conditions of free movement rights and the principles established by case law. TheGov.UK website also provides information on workers’ rights and rights in relation to trade unions.

On matters of discrimination, the Equality and Human Rights Commission (EHRC) publishes an Employment Code of Practice, which explains how the workplace provisions in the Equality Act 2010 protect workers in the UK. To supplement this, the EHRC produces several guides for job applicants and workers which include information on rights to equality at work, covering matters such as working hours, training, dismissal, redundancy and retirement. The EHRC also publishes advice for workers on other matters including pay and benefits, disability, age discrimination, religion or belief and workers’ rights if pregnant or on maternity leave. The EHRC website also links to other workplace organisations that can provide advice and support, including trade unions, trade organisations, equality lobby groups and voluntary organisations. All of this information is easily available via the EHRC website and free to use.

Complaints and queries about rights for workers which are enforced by government - including issues related to the National Minimum Wage, maximum weekly working hours and agricultural workers’ rights - can be made via the Pay and Work Rights Helpline. This service provides information and will refer any complaints or complex queries to the relevant enforcement bodies, if appropriate.

Free confidential advice about rights which are enforced by individuals is provided in Great Britain by the Advisory and Conciliation Service (ACAS) through a national helpline and the Labour Relations Agency in Northern Ireland. Individuals can bring cases to an employment tribunal on a range of issues, including discrimination.

Additionally, anyone who feels that they have suffered discrimination can contact the Equality Advisory and Support Service, an independent service that provides free advice, information and guidance to individuals on equality, discrimination and human rights issues.

22 April 2014

FUND FOR EUROPEAN AID TO THE MOST DEPRIVED (15865/12)

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

I am writing with an update on negotiations on this proposal which your committee has retained under scrutiny.

Since I wrote to you on 10 October 2013, the Presidency has had four first reading ‘trilogue’ meetings with European Parliament negotiators and the European Commission. These have resulted in a revised text of the proposal which the Presidency presented to COREPER on 11 December.

The revised text retains the key changes made by the Council to the Commission’s original proposal including broadening the scope to include social inclusion measures and taking account of Member States’ preferences for their financial allocations. The UK’s allocation remains at €3.5 million over the seven years from 2014 to 2020, the minimum level possible.

The main changes in the text presented to COREPER on 11 December are:

— enhanced references to avoiding food waste;
— clarification that the Fund can target the most deprived people in specific geographical areas; and
— clarification that the Fund should not overlap with the European Social Fund or support active labour market measures.
At COREPER on 11 December, the Presidency concluded that it had the support of sufficient Member States to secure a first reading agreement. The UK reaffirmed its concern that the Fund was inconsistent with the principle of subsidiarity, and that food and material assistance for the most deprived should be the responsibility of individual Member States. In view of this concern, the UK will vote against the proposal at Council. In the meantime, the UK has maintained its general and parliamentary scrutiny reserves.

The revised text will be considered by the European Parliament’s Employment Committee on 17 December and will then be voted on at a plenary meeting of the European Parliament. If the text is acceptable to the European Parliament, we expect it to be formally adopted by the Council and European Parliament in early 2014.

17 December 2013

Letter from the Chairman to Esther McVey MP

Thank you for your letter of 17 December 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 January 2014.

We are grateful to you for your update on the progress of negotiations on this proposal. We continue to share your concerns about this proposal and its compliance with the principle of subsidiarity, and note your decision to vote against it at the next Council meeting.

We would be grateful to continue to receive further updates from you in due course on the outcome of the next Council meeting and on the progress of any subsequent trilogue negotiations.

14 January 2014

Letter from Esther McVey MP to the Chairman

I am writing with an update on this proposal which your committee has retained under scrutiny.

As indicated in my letter of 12 December 2013, the Lithuanian Presidency concluded at COREPER on 11 December that it had the support of sufficient Member States to secure a first reading agreement on the amended proposal which had emerged from trilogue discussions. Subsequently the European Parliament’s Employment Committee endorsed the text on 17 December. There were no further trilogue negotiations. Some minor linguistic amendments were made to the text.

The European Parliament voted in a plenary session on 25 February 2014 to adopt the proposal. The Employment, Social Policy, Health and Consumer Affairs Council voted to adopt the proposal as an A point on 10 March with the UK voting against because of its concern that the proposal did not comply with the principle of subsidiarity. The Regulation was formally adopted by the European Parliament and Council on 11 March, and published in the Official Journal of the European Union as Regulation 223/2014 on 12 March.

I hope your committee can now clear this proposal from scrutiny.

The European Commission has confirmed that the UK allocation from the Fund for 2014-2020 in current prices will be €3,958,514. The allocation in 2011 prices annexed to the Regulation was €3,500,000. We are considering how the UK allocation should be used. The deadline for submitting to the European Commission a proposal for spending the allocation is 11 September 2014.

26 April 2014

GREEK PRESIDENCY PRIORITIES (UNNUMBERED)

Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman

In line with our commitment to proper scrutiny of EU business, the Government is committed to keeping Parliament informed on issues relating to each EU Presidency programme.

I attach [not printed] a summary of the Greek priorities for their Presidency of the Council of the European Union, as well as a calendar of Ministerial meetings and key events. I have also placed a copy of the summary in the library of the House, in the interest of informing all members. As always, I very much look forward to hearing your views and engaging with you on the key issues.
The Greek Government’s Presidency role will be shaped largely by the inherited agenda. Just like with the Lithuanian Presidency before, there is a good degree of convergence between the UK’s EU priorities and those of the Greek Presidency, primarily in policies aimed at promoting growth, employment and economic stabilisation, particularly of the Eurozone. The Greek Government is seeking a strengthened Pact for Growth and Employment and intends to champion initiatives on youth unemployment and SME financing. They want to press forward on Banking Union and wider economic governance measures. There is an increased interest in UK priorities aimed at advancing growth and competitiveness, such as the widening of the Single Market, Better Regulation and the Transatlantic Trade and Investment Partnership negotiations and we look forward to working closely with Greece on these.

Greece will focus on tackling migration. This will work across all aspects of migration policy, particularly sea routes, and will include action in countries of origin, which the UK strongly supports. They have also indicated a cross-cutting maritime theme, informing their priorities and EU policy, with a comprehensive agenda ranging across security of maritime borders, ‘blue development’, tourism, fisheries and energy issues. We are supportive of this. Within the maritime agenda, Greece has also indicated an interest in taking forward implementation of the UN Convention on the Law of the Sea, especially Exclusive Economic Zones in the Mediterranean. Naturally, any such initiatives will need to take into account the interests of other coastal states in the region.

Greece will seek to take forward Enlargement with the countries in the Western Balkans and hopes to makes progress in negotiations with Serbia, Albania and Turkey in particular.

The European Parliament elections in May fall during the Greek Presidency, with the selection of the new European Commission to follow.

I will of course be happy to provide your Committee with more information on any of these issues. 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.

7 January 2014

GUIDELINES FOR THE EMPLOYMENT POLICIES OF THE MEMBER STATES (16220/13)

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

Thank you for your explanatory memorandum of 28 November 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 16 December 2013.

We note that the guidelines are in line with Government priorities, but put pressure on Member States who need to reform their employment markets to do so in a transparent manner. We also observe that the guidelines do not have any legislative or financial implications.

We have therefore decided to clear this document from scrutiny.

No response to this letter is required.

19 December 2013

INFORMAL TRANSPORT COUNCIL, 7-8 MAY 2014 (UNNUMBERED)

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

I am writing to let you know the outcome of the two Informal EU Transport Councils held under the Greek Presidency in Athens on 7-8 May, covering the issues of maritime transport and road safety. The UK was represented at senior official level during both Councils. I was unable to attend myself due to Parliamentary commitments.
INFORMAL MARITIME COUNCIL

The Informal Maritime Transport Council provided all Member States present with the opportunity to discuss a Presidency-proposed Declaration relating to progress on the EU Maritime Transport Strategy up to 2018. The debate was intended to refocus efforts on delivering the goals of the EU Maritime Transport Strategy. This Strategy aims to strengthen the competitiveness of the EU maritime sector enhancing its environmental performance. The stated aims and recommendations of the original Commission Communication published in 2009 (EM 5779/09) focused on two main issues:

— The ability of the maritime transport sector to provide cost-efficient maritime transport services adapted to the needs of sustainable economic growth of the EU and world economies; and

— The long-term competitiveness of the EU shipping sector, enhancing its capacity to generate value and employment in the EU, both directly and indirectly, through the whole cluster of maritime industries.

As with all Member States present, the UK was able to fully support the Athens Declaration, which included text on our key priorities. In doing so, we used the opportunity to emphasise the importance of compliance with international standards, which should be developed primarily by the International Maritime Organization (IMO) in order to achieve the aims of the Strategy. The Declaration acknowledges that internationally-agreed rules and Conventions – in particular by the IMO and International Labour Organization – and their worldwide ratification, effective implementation and enforcement, are needed to ensure a global level playing field for safe, secure and environmentally-friendly maritime transport, and to secure the long-term competitiveness of the EU’s maritime industry.

Furthermore, we stressed the importance of a stable fiscal and regulatory environment to maximise growth and strengthen the competitiveness of the sector. We therefore fully endorsed the Declaration’s emphasis on avoiding unnecessary regulatory and administrative burdens.

The UK also fully supported the call for effective State aid guidelines for ports. We want to see a fair and consistent application of State aid principles to the ports sector and we would therefore urge the Commission to move towards a much firmer line on port State aid, to the benefit of the European taxpayer, of fairer competition across Europe, and of the efficient allocation of resources.

The text of the Declaration will form the basis for Council Conclusions at the 5 June Transport Council in Luxembourg, inviting the Commission to present a formal mid-term review of the EU’s Maritime Transport Policy. An Explanatory Memorandum will be submitted on the review when it is published.

INFORMAL MINISTERIAL COUNCIL ON ROAD SAFETY

Prior to the Informal Council meeting, the Greek Presidency issued a discussion paper on EU road safety standards to inform the debate. In particular, the paper sought views on developing an integrated framework for improving and controlling driver behaviour in Europe; the actions necessary to promote the effective adoption of intelligent transport systems; and the case for developing different funding mechanisms to support achievement of the EU road safety target.

The UK’s intervention welcomed the debate and echoed the views of a number of other Member States where road safety standards are equally advanced, in calling for more joined up working between government and the industry – particularly on research and design, which is led to a considerable extent by the automotive sector. In this context we commented on the role of the EU and of the UK government in fostering economic growth and supporting industry, by ensuring that regulation did not create barriers to innovation. We noted that the case for having any regulation at all must be supported by rigorous cost-benefit analysis and sound business cases.

We were able to support the call for activity to tackle poor driver behaviour –in particular through sharing best practice on informing and influencing driver behaviour, developing clear and proportionate sanctions, and promoting engineering solutions that make it easier for responsible drivers to comply.

We supported the call from all present for greater transparency and release of data as a key enabler of the functioning of intelligent transport technology, but again stressed that this must avoid imposing unnecessary burdens and respect existing infrastructure and network characteristics. This is why we support the Commission’s work programme to develop a common platform for co-operative vehicles and build consensus amongst European stakeholders.
On the issue of funding, the UK supported other Member States in advocating the brigading of funding from different budgets – including match-funding and public-private ventures. We highlighted the importance of targeting available funding to best effect, and to that end proposed more informal working arrangements between Member States to share best practice – for example in the development of effective contract specifications.

20 May 2014

MARKET OF RADIO EQUIPMENT (15339/12)

Letter from Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman

Thank you for your letter dated 20th May 2013 which confirmed that the Committee decided to clear the document from scrutiny. I note that the Committee requested an update on further developments regarding this dossier.

WORKING PARTY DISCUSSIONS UPDATE

A UK consultation on the proposal was undertaken in June 2013 and the responses published in September 2013. In parallel between July 2013 and December 2013, discussions within Council Working Party took place under the Lithuanian Presidency. During this time progress on the key issues was laboured and at times confusing with no resolution on the basic uncertainties surrounding the proposal, including the scope, definitions, registration, and the use of delegated and implementing acts.

It has not yet been possible to produce an impact assessment due to the ongoing lack of certainty of major factors relating to risk not being defined and which were only stabilized in the negotiations at the Coreper of January 17th 2014 when the basic uncertainties surrounding the Proposal were resolved. An impact assessment is now in the process of being prepared. I would note that officials have worked closely with business on the key issues throughout the negotiation process to ensure that industry views have been represented.

Despite these unresolved issues in November 2013 the Presidency sought a mandate for trilogue discussions and was successful in obtaining a partial mandate for trilogue discussions with the European Parliament and the European Commission. This partial mandate did not provide for negotiations on Article 2 (Scope) or Article 5 (Registration).

Discussions moved quickly ahead of the Coreper meeting on the 20th December 2013 and have been ongoing in both Coreper and the Council Working Party. In January 2014 the Greek Presidency elevated the Proposal to Coreper for voting on the 17th January 2014 to address the remaining uncertainties surrounding the proposal, as follows.

THE SCOPE OF THE DIRECTIVE

The UK did not support a general broadening of the scope to include radio equipment that does not communicate, except in relation to specific products where this can be justified.

During the negotiations a proposal was developed by a number of Member States to remove the limiting term ‘for communication’ from the scope of the Radio Equipment Directive (RED). This would have resulted in an expansion of the scope to include a wide range of equipment and products that are out of scope of the current Directive and which, experience has shown, do not cause problems. This increase in scope would have resulted in additional costs and burdens on industry. The UK strongly resisted any broadening of the scope to include products that do not communicate. The UK, with others, developed a counter-proposal that was successful in blocking an expansion of scope.

THE REQUIREMENT TO REGISTER PRODUCTS IN A CENTRAL DATABASE

The UK supports the desire to reduce levels of non-compliance but did not support product registration as a system to achieve this.

Ref BIS/13/658 www.gov.uk/government/consultations/radio-equipment-directive-proposal
As advised in my previous correspondence to the Committee, the draft contained a proposal for the possibility to introduce a registration system for product types where there is a low level of compliance. We believe this would place a significant administrative burden on manufacturers. We recognise that non-compliance is an issue for particular products, but in our view this should be dealt with through increased market surveillance to address the non-compliant products, rather than an increase in burden on those that are more likely to be in conformity.

This issue divided Member States in their written comments, but there was a general reluctance from the Lithuanian Presidency to discuss the topic at the Council Working Party, preferring to take the issue directly to Coreper for voting. There were no discussions in the Council Working Group on this subject and it remained unresolved until the Coreper meeting on 17th January 2014.

The UK strongly opposed any form of registration, and was part of a blocking minority. At the same time my officials worked with other Member States to explore possible compromise positions that could achieve the desired outcome of targeting high levels of non-compliance without increasing costs for compliant economic operators. However this was to no avail and the blocking majority subsequently collapsed. Coreper instructed the Council Working Party of the 9th January 2014 to discuss the issue, at which time the UK tabled further amendments in an attempt to produce less onerous burdens for business in respect of the information requirements. This proved successful and amendments to reflect this are included in the final text.

ELECTRONIC LABELLING OF RADIO EQUIPMENT

A provision for the electronic marking and labelling of radio equipment had not been included within the revision Proposal. This is a complex area with divergent opinions amongst stakeholders. Business would in general welcome its inclusion however an overwhelming majority of Member States’ Market Surveillance Authorities were opposed to considering such a provision. The Commission indicated that it may at some stage in the future be willing to consider the inclusion of such a provision and, as part of a compromise solution with the European Parliament, a new Recital has been included within the text of the Proposal to explore the future possibility to facilitate Electronic Labelling.

THE PROPOSED USE OF DELEGATED ACTS AND IMPLEMENTING POWERS

The Select Committee letter of the 20th May 2013 noted our request to the Commission for clarification on the scope and extent of the powers delegated to them via the Directive and urged us to ensure that these are not overly broad.

The Proposal contained four delegated acts in Article 2(3), 3(3), 4(2) and 5(2).

UNCERTAINTY IN RELATION TO THE EXTENT OF THE DELEGATED ACTS IN ARTICLES 4(2) AND 5(2)

There were particular concerns about the uncertainty of the extent of these delegated acts.

For example, the delegated act in Article 4(2) empowered the Commission to determine which categories of radio equipment would be required to comply with the requirement in Article 4(1) (the requirement for manufacturers of radio equipment and of software for radio equipment to provide information to the Commission on the compliance of intended combinations of radio equipment and software), the required information and the operational rules for making the information on compliance available.

The power was thus very broad. It was also unclear which criteria the Commission would use to specify categories of radio equipment and what type or amount of information the Commission might require and, therefore, what the administrative and financial burdens on businesses might be.

The final text, however, limits the delegated power to the specification of categories of radio equipment. It includes provision for Member States to decide on the operational rules for making the information on compliance available via an implementing power using the examination procedure. The required information is now set out in Article 4(1) and comprises the information that precisely identifies the radio equipment and/or software, depending on the specific combination. The UK suggested the drafting for this requirement, which was accepted. The UK is satisfied that the requirement does not place an undue burden on businesses and will allow competition by those who wish to provide third party manufactured software for radio equipment.

The delegated act in Article 5(2) raised similar concerns because it empowered the Commission to determine which categories of radio equipment are concerned by the requirement in Article 5(1) (the requirement for manufacturers to register radio equipment affected by a low level of compliance with
the essential requirements), the information to be registered and the operation rules for registration and for affixing the registration number.

Again, the delegated power has been limited. As currently drafted, it applies in relation to the specification of categories of radio equipment and the information to be registered only. The UK succeeded in securing drafting that ensures that the Commission must justify a request for all of the technical documentation that can potentially be requested. The revised text also contains an implementing power in relation to operational rules.

ATTEMPT TO AMEND ESSENTIAL ELEMENTS OF THE DIRECTIVE USING DELEGATED ACTS IN ARTICLES 2(3) AND 3(3)

Article 290 TFEU allows the EU legislature to delegate to the Commission the power to supplement or amend non-essential elements of a legislative act only. However, there is no definition as to what a non-essential element of a basic act is. The ECJ has held that provisions of an act that have an essential character are those that are intended to “give concrete shape to the fundamental principles of a Community policy”. The most commonly cited example of an essential element is the material scope of the basic act.

The delegated act set out in Article 2(3) of the Proposal empowered the Commission to amend Annex II of the Proposal which sets out products that fall within the definition of radio equipment in Article 2(1).

The UK successfully argued in the Council Working Group that this delegated act empowered the Commission to determine the scope of the Directive because it allowed the Commission to bring within the scope of the Directive, products that would otherwise not be in scope, and vice versa. As a result, the revised text deletes this delegated act. It is replaced with an implementing act with examination procedure empowering the Commission to determine whether certain categories of electronic products meet the definition of radio equipment.

The delegated act in Article 3(3) empowers the Commission to specify the categories of radio equipment that are concerned by the essential requirements in Article 3(3).

The argument that this delegated act pertains to an essential element is less strong and the UK was not able to persuade the Commission and the Council that it in fact empowered the Commission to amend the scope of the Directive and thus an essential element of the Directive. This delegated act therefore remains.

CURRENT POSITION ON THE DOSSIER

Due to the burdens to business associated with the requirement for registration of products, the UK, together with one other Member State, took the decision to abstain from voting at Coreper, and the text was agreed by a qualified majority.

My officials have advised me that UKRep representation at Coreper considered that the UK had achieved all it could on this dossier and that the registration system was a key ask for other influential Member States and the European Commission.

I attach [not printed] a draft text of the Proposal. This document is being provided to the Committee under the Government’s authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limit marking. It cannot be published, nor can it be reported on in any way which would bring detail contained in the document into the public domain.

I trust that this letter provides all of the information that you require. If you have any further questions, please do not hesitate to contact me.

3 February 2014

Letter from the Chairman to Michael Fallon MP

Thank you for your letter of the 3 February 2014 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 February 2014.

We are grateful for your very detailed and comprehensive update on negotiations with respect to this dossier. We note that, while you were not able to limit or remove all the delegated acts from the draft text, you made significant progress on this issue.
We note that negotiations on this dossier are moving to a close, and anticipate that the draft text is likely to be agreed in its current form.

We are therefore content to close correspondence on this dossier, but would be grateful for an update if there are any significant changes to the current form of the draft text, with regards to the delegated acts that it provides for.

25 February 2014

MEMBER STATES COMPETITIVENESS PERFORMANCE AND IMPLEMENTATION OF EU INDUSTRIAL POLICY (13964/13), (13966/13)

Letter from the Chairman to Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum (EM) of 7 February on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014. We decided to clear the document from scrutiny.

We note that you do not believe in a firm 20 per cent target for re-industrialisation. We are aware that the Office of National Statistics plans to revise how it calculates UK Gross Domestic Product (GDP) in September this year. Given that the target is pegged to GDP, we would be interested in your analysis on what impact you expect this change to have on the target, at least from a UK perspective.

We recognise that this proposal deals primarily with manufacturing as a means of boosting GDP, and we wish to reiterate the importance of completing the single market in order to promote the growth of the EU economy.

In light of the recess period, I look forward to a response by 4 June 2014.

15 May 2014

NATIONAL AND INTERNATIONAL TRAFFIC AND THE MAXIMUM WEIGHTS IN INTERNATIONAL TRAFFIC (8953/13)

Letter from Stephen Hammond MP, Parliamentary Under Secretary of State, Department for Transport, to the Chairman

I am writing to provide you with an update on recent developments and progress in negotiations on this draft Directive.

The Lithuanian Presidency decided not to open discussions on this proposal, and negotiations therefore did not start until mid-January. The Greek Presidency are now devoting significant working group time to the dossier, and hope to achieve a political agreement at the Transport Council on 5th June.

You may recall that our main concerns regarding the proposal are:

— The lack of alignment with current type approval processes in proposed new vehicle design regarding aerodynamics and safety;
— Lack of detail regarding proposed new cab design;
— That the proposed new front and rear aerodynamics may be implemented by the Commission by means of delegated acts;
— The proposed onerous and prescriptive means of tackling enforcement and setting the levels of enforcement and penalties for Member States;
— The empowerment of the Commission to adopt delegated acts in setting the technical specifications of the proposed on-board weighing equipment.

These concerns are shared by the majority of Member States and are being addressed in working group negotiations. Discussions are still in progress, but it looks likely that these will remove our major concerns, regarding more alignment with type approval processes, significantly scaling down (or removing altogether) the enforcement proposals, which would otherwise impose unjustifiable,
additional, significant costs and workload on the Driver & Vehicle Standards Agency (DVSA) and the freight and logistics sector.

There is also general support for removing the provision that would allow the Commission to adopt delegated acts regarding the proposed new front and rear aerodynamics and instead cross-referring these to existing type approval legislative processes. Since the proposal would only set the maximum weights and dimensions of vehicles and does not include vehicle design, this would ensure that it is done through the correct process and existing channels. Several Member States have requested more detailed analysis from the Commission in relation to the proposed new, more aerodynamic cabs, given that there is still a lack of detail regarding this other than conceptual drawings of the new cabs in the Commission’s impact assessment.

In my Explanatory Memorandum (EM) I welcomed the proposal to allow for an increase in the length of vehicles involved in intermodal transport by 15cm to allow them to carry 45ft containers. I am pleased to say that during negotiations Member States have supported this point, and as reported below it has also been accepted by the European Parliament’s TRAN Committee.

You may recall that the EM identified the two main areas that would impose the greatest cost burden to the UK: the proposed more onerous enforcement regimes; and the proposed on-board weighing equipment.

During negotiations, it has become evident that Member States have differing views as regards whether they would prefer to use on-board weighing equipment or weighing in motion technology. However, there is broad consensus to adopt a technologically neutral approach whilst ensuring that those Member States using on-board weighing equipment do not impose this equipment on foreign hauliers.

Regarding the proposal to delegate power to the Commission in relation to the proposed on-board weighing equipment, Member States have requested that this be undertaken by way of implementing acts under the examination procedure. This would ensure that Member States have more input into the process through a committee of experts. Furthermore, during negotiations, Member States have not supported the proposed codification of minimum sanctions because they share our belief that it is for Member States to decide on their national enforcement regimes.

Opinions vary amongst Member States on the issue of cross border movement of longer and heavier vehicles, and this will be discussed in more detail towards the end of the negotiations.

The European Parliament (EP) is also considering the proposal, and the lead TRAN Committee has recently adopted its report on it. Amendments in the TRAN report include proposals to: mandate safer lorry cabs and improved aerodynamics; support an increase in weight for heavier powertrains of less polluting, alternatively fuelled vehicles; and allow the 15cm increase in length for lorries that transport 45 foot containers, to enable these to be transported legally. The report also requests that the Commission undertake a review of Annex I of the Directive and, if deemed appropriate, make a legislative proposal with an impact assessment and report back to the EP and Council by 2016. The TRAN Committee’s report will be considered at the EP Plenary session in April.

I am pleased that the EP is largely aligned with Member States as regards opening up the scope of alternatively fuelled vehicles that may benefit from an extra tonne in weight for their heavier powertrains. However, we have concerns about the EP’s amendment on mandating of safer lorry cabs, which is outside the scope of this Directive.

We also have serious concerns about the EP’s proposal for a review of Annex I since this could impact on the Government’s options following the outcome of our current Longer Semi-trailer Trial; a 10-year trial which began in January 2012 and which covers semi-trailers exceeding the dimensions laid out in Annex I of the Directive. A review would also risk unnecessary closer scrutiny of cross border operation of vehicles higher than 4m between the UK and Ireland. The current height limit for cross border movement is currently 4m, however, the Commission have approved the cross border movement of vehicles with derogations on dimensions in Annex I between two neighbouring Member States whose national practices are similar.

Additionally, we consider that the proposed review of Annex I is unnecessarily bureaucratic given that it should be for Member States to decide what analysis to undertake in relation to their own national practices.

You may be aware of recent media interest in the proposal which reported that the Mayor of London and Transport for London (TfL) were lobbying for amendments which would require all new goods vehicles to adopt a new, safer design. During the consideration of the dossier in the EP, TfL
successantly urged MEPs to support some of these amendments. The Government, however, did not support these amendments for the following reasons:

— The General Circulation Directive 96/53 sets the maximum weights and dimensions that are permitted for vehicles in circulation within the EU. It does not specify the design of vehicles.

— We fully support the changes to the General Circulation Directive proposed by the Commission, which would allow additional maximum length for more aerodynamic and safer vehicles. This is an essential step towards the outcome that we and the Mayor wish to see of improved goods vehicle design. We will be supporting amendments to strengthen references to the key safety objectives of these proposals.

— However, this Directive is only part of the wider legislative framework. It sets rules on maximum weights and dimensions for the circulation of vehicles, but it is EU and UNECE type approval legislation that specifies the standards for vehicle design. This type approval legislation would need to be amended in order to specify any changes to the design of HGV cabs. This is outside the scope of the General Circulation Directive and the current proposal.

You asked for information on the level of sanctions regarding enforcement in other Member States. Given that this information is not published, we are only able to confirm anecdotally that this varies from Member State to Member State. Some have systems that are akin to our own, highly targeted enforcement regimes, whilst others are not as highly targeted in their approach.

My officials are preparing an EU Checklist which will set out further cost and benefits analysis of the proposal which we will send you in due course, and I will, of course, keep your Committee informed of further developments.

16 April 2014

Letter from Stephen Hammond MP to the Chairman

Further to my previous letter of 16 April, I am writing to bring your Committee up to date with progress on this dossier and to request a scrutiny waiver in advance of the expected political agreement at the 5 June Transport Council.

I am pleased to be able to confirm that following the latest Council working group meeting on 29 April, we have now successfully removed our areas of major concern for the above proposal.

We have removed the provision that would allow the Commission to adopt delegated acts regarding the proposed new vehicle design in relation to front and rear aerodynamics and safety and have ensured that these are cross-referenced to existing type approval legislative processes instead.

Since the proposal only sets the maximum weights and dimensions of vehicles and does not include vehicle design, this would ensure that such changes are made through the correct process and existing channels.

We have significantly scaled down the enforcement proposals, which would otherwise impose unjustifiable, additional, significant costs and workload on the Driver & Vehicle Standards Agency (DVSA) and the freight and logistics sector. These are now qualitative and proportionate as opposed to the Commission’s original proposal which were quantitative and which we considered to be overly onerous on Member States’ enforcement authorities.

I am also pleased to confirm that we have removed the Commission’s proposed power to mandate on-board weighing equipment, given that currently this technology is still far from reliable, and we have succeeded in obtaining a technology neutral approach which gives Member States the choice of the infrastructure weighing systems or on-board weighing systems. This will ensure that those Member States using on-board weighing equipment do not impose this equipment on hauliers from other Member States, including the UK.

Furthermore, regarding the proposal to delegate power to the Commission in relation to the proposed on-board weighing equipment, we have ensured that this will be undertaken by way of implementing acts under the examination procedure. This will ensure that Member States have more input into the process through a committee of experts.
My officials have finalised an EU Checklist (attached at Annex A [not printed]) which sets out further cost and benefits analysis of the proposal. This reinforces our position regarding our main cost concern in relation to overly onerous and costly enforcement provisions in the Commission’s original text, since it shows that the yearly operational costs for the DVSA could be an additional £27m to £108m. Currently, the DVSA undertakes one vehicle weighing approximately every 3 million km, whilst the Commission’s proposal would necessitate one weighing per 2,000 km. The figures for DVSA are derived from taking the total number of HGV weighings the DVSA undertake per annum, divided by the total number of vehicle km travelled by all HGVs travelling on UK roads. It is important to note that these costs relate to the original Commission proposal and while nothing can be sure at this stage subject to Trilogue, it is unlikely to go ahead in this form since these costs would be the absolute upper limit.

There are still some areas that have not yet been agreed which will be discussed in more detail at the final Council Working group on 16 May. These include the issue of cross border movement of longer and heavier vehicles, where opinions vary significantly between Member States and whether or not there should be a lead in time for any additional length allowed for aerodynamic and safety features - the latest Presidency text sets this at 7 years from transposition.

However, we expect that the Presidency will be able to achieve its objective of a political agreement at the June Transport Council, and expect that this will be in a form that we would wish to support. I appreciate that your Committee may want to hold this dossier under scrutiny pending the outcome of further negotiations, and will not have any further opportunity to consider the matter ahead of the Council due to the Parliamentary timetable. I would be grateful if you could therefore consider granting a scrutiny waiver ahead of the Council.

Our remaining concerns regarding the European Parliament (EP) TRAN report, such as to mandate a new but as yet unspecified design for all new Heavy Goods Vehicles, irrespective of length, which is outside the scope of this Directive, will be negotiated separately during the course of Trilogue discussions with representatives of the European Parliament following the elections.

I will, of course, keep your Committee informed of further developments.

12 May 2014

Letter from the Chairman to Stephen Hammond MP

Thank you for your letter of 16 April 2014 and 12 May, which was considered by the EU Sub-Committee on the Internal Market, Infrastructure and Employment on 12 May 2014.

We note from your letters and from conversations with your officials, that you have made significant headway in negotiations. In the light of this. We have therefore decided to clear the document from scrutiny.

We are aware that you are preparing a cost-benefit analysis on the proposal, and would be grateful to have sight of it when it becomes available. We would also like to be updated on negotiations with the European Parliament, given that its position differs markedly from that likely to be adopted in the Council.

I look forward to a response in due course, as trilogue negotiations with the European Parliament progress.

14 May 2014

PAYMENT SERVICES DIRECTIVE (12990/13, 12991/13, 13425/13)

Letter from Sajid Javid MP, Financial Secretary, HM Treasury, to the Chairman

In my letter of 13 November 2013 I agreed to provide you with further detail on my proposed position on the regulation of interchange fees, once all the relevant analysis has been made available and assessed. The Government has completed an assessment of the analysis available and engaged with a wide range of interested stakeholders.

The Government continues to support an EU-wide cap as the best way to address the issue of excessive interchange fees. A cap will mean significant benefits for businesses by providing the legal clarity needed for effective business planning, and by delivering significant savings that could be passed onto consumers. An EU-wide cap also makes it easier for SMEs planning a move into another member
state as they will have a clear understanding of the rules around interchange fees. The proposal has received strong support from the British retail Consortium and the Prime Minister’s EU Business Taskforce, which estimated savings to UK businesses of £1 billion.

However, the Government remains watchful of unintended impacts of the proposals that might have negative impacts on small businesses and consumers. You highlighted the concerns expressed by Professor Gustavo Matias Clavero in relation to the Spanish experience of lowering interchange fees. The Government is fully aware of, and shares, these concerns, and is pushing the European Commission to provide enough evidence to show that the proposed cap levels provide the right balance between benefits for businesses and consumers in the form of lower prices, while ensuring consumers do not face increased banking fees.

With a cap at the right level, the UK could stand to gain more than other Member States, due to its large card market. This is why I will continue to work with industry stakeholders, other Member States and the Commission on the right rate for a cap in order to achieve the best possible outcome for the UK.

19 January 2014

**Letter from the Chairman to Sajid Javid MP**

Thank you for your letter of 19 January 2014 on the proposal on interchange fees. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 February 2014.

We are grateful for your clarification of the Government’s continued support for the Commission’s proposal, and we note your consultation of relevant stakeholders in the UK and the emphasis you put on the benefits for consumers.

We look forward to receiving further updates from you on the progress of negotiations. In the meantime, we retain these documents under scrutiny.

25 February 2014

**Letter from Andrea Leadsom MP, Economic Secretary to the Treasury, HM Treasury, to the Chairman**

Thank you for your response of 25 February 2014 to the Explanatory Memorandum on the Payment Services proposals. In the response, you asked to be kept updated on the progress of negotiations.

Negotiations in the European Council on PSDII and the Regulation are still at a relatively early stage. On PSDII, the Government is seeking the following precise improvements:

- Ensuring that charitable donations are not negatively impacted;
- Reinstating the independent ATM exemption;
- Ensuring that payment service providers are given fair and proportionate access to a payment account; and
- Ensuring that consumers are adequately protected when using a third party provider to make an online payment.

On the Regulation, the Government is seeking the following precise improvements:

- Ensure that interchange fee caps for both domestic and cross-border transactions come into force simultaneously to ensure small merchants and small national acquirers are not disadvantaged;
- Prevent card schemes (Visa and Mastercard) from being forced to legally separate their business into two parts – the scheme function and the processing function. The benefit of this separation is unclear, and costs of separation are likely to be passed on to small merchants; and
- Bring the Commission’s review of the Regulation forward to within two years of adoption rather than four to test whether the Regulation is having the intended impact, and whether there are any unintended consequences that require correction.
I hope this update is helpful.

30 April 2014

POSTING OF WORKERS ENFORCEMENT DIRECTIVE (8040/12)

Letter from the Chairman to Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

Thank you for your letter of 23 November 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 2 December 2013.

We note the Government’s belief that the Employment and Social Policy, Health and Consumer Affairs Council (EPSCO) is likely to agree to a general approach on the proposal which is broadly in line with UK priorities at its meeting on 9 December.

Further to your explanation of how the issues around articles 9 and 12 of the proposal might be resolved, we have decided to grant a scrutiny waiver ahead of the Council meeting.

We look forward to receiving an update on the outcome of the Council meeting within the usual 10 working days of it taking place.

6 December 2014

Letter from Jo Swinson MP to the Chairman

I am writing to update you on negotiations for the Posting of Workers Enforcement Directive. I last wrote to you on 23 November 2013 regarding the discussions on this file, explaining that a general approach might be agreed at the December Employment and Social Policy, Health and Consumer Affairs Council (EPSCO). You kindly granted a scrutiny waiver in expectation of an agreement on a general approach in line with UK priorities.

Unfortunately, the Council position reached was not in line with UK priorities. The UK, and a number of other Member States, voted against it.

Whilst the UK was not able to secure a closed list of national control in article 9, the agreed approach does contain several safeguards which mean this is not an open list. All control measures imposed to ensure compliance must be justified and proportionate. Additionally the Commission will have to report regularly to the Council on measures notified by Member States and, where appropriate, on the state of play of its assessments/analysis.

Read as a whole, this article goes a long way to meeting the UK’s aim of avoiding unnecessary administrative burdens and increasing transparency and certainty for businesses. For example, there is a requirement that control measures must be notified to the Commission, and made clearly available to service providers on a single national website.

However, on Article 12, the Council position means the UK will have to have appropriate enforcement measures or sanctions to tackle fraud and abuse in situations where subcontracted posted workers have difficulty obtaining their rights (essentially in relation to receiving their wages). Whilst this is not ideal, it does not require Member States to implement joint and several liability. We think the UK’s input throughout the day secured significant concessions and there is some flexibility as to how the liability requirements could be introduced.

Now that there is a Council position, the Council will enter into discussions with the European Parliament in order to agree a final text. Trilogues are expected to begin very early in the New Year. I will keep you updated on the Trilogue process.

17 December 2013

Letter from the Chairman to Jenny Willott MP, Parliamentary Under-Secretary for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

We are grateful for the letter from Ms Swinson dated 17 December 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 January 2014.
We note that you have not been able to achieve your intended outcome on Articles 9 and 12 of this proposal during the Council negotiations.

Given the highly contentious nature of this proposal, and the fact that it still has to be agreed in trilogue negotiations with the European Parliament, we have decided to retain it under scrutiny. We look forward to receiving further updates as trilogue negotiations progress.

14 January 2014

**Letter from Jenny Willott MP to the Chairman**

I am writing to update you on negotiations for the Posting of Workers Enforcement Directive. Jo Swinson wrote to you on 17 December 2013 explaining that, whilst we had hoped a general approach might be agreed at the December Employment and Social Policy, Health and Consumer Affairs Council (EPSCO), the Council position reached was not in line with UK priorities. The UK and a number of other Member States voted against it. You wrote on 14 January acknowledging this position and, therefore, retained the proposal under scrutiny. You asking to be kept updated on progress.

We had expected the Trilogue discussions to conclude on 30 January. After fours sessions, however, the Committee have not yet substantively discussed the more controversial aspects of the proposals and are no nearer agreement. We have not yet received amended text and are not, therefore, able to provide an update at this stage. A further, fifth, Trilogue session has been arranged. Whilst the Greek Presidency remain optimistic and continue to assure us that agreement will be reached this month, the timetable is coming under considerable pressure.

5 February 2014

**Letter from the Chairman to Jenny Willott MP**

We are grateful for your letter dated 5 February 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 February 2014.

We are grateful for your update on the progress of negotiations, and we look forward to considering further updates from you in due course. In the meantime, we have decided to retain this document under scrutiny.

25 February 2014

**Letter from Jenny Willott MP to the Chairman**

I am writing to update you on the outcome of negotiations on the Posting of Workers Enforcement Directive. I wrote to you on 5 February explaining that we had expected the Trilogue discussions to conclude on 30 January. You replied on 25 February setting out the need to retain the proposal under scrutiny and asked to be kept updated on progress.

In total twelve Trilogues took place. At the last Trilogue on 27 February, the representatives of the three institutions reached a provisional agreement on the proposal, which was agreed by the Committee of the Committee of the Permanent Representatives (Coreper) on 5 March. Negotiations were challenging as both the Parliament and Council dug in and the feedback available to Member States was limited, with compromise proposals only becoming available in recent days.

The UK Government worked with other Member States to press for adoption of the General Approach, which had itself been difficult to reach and resulted in all Member States making concessions. For the UK, this meant agreeing that the Parliament could explicitly lay out their concerns about bogus self-employment and illegal work, although this is not covered in the operative part of the text. The Presidency was, therefore, able to secure agreement on a final compromise text which continues to keep in place the broad structure which the UK has been able to support, subject to your consent to lift the Committee’s Scrutiny reserve.

The specific areas where we have preserved the UK’s position are:

— Article 3 – which allows for Member States to implement a justified and proportionate risk-based assessment of whether a posting is genuine, reducing the burden of proof on employers.
— Article 9 – the broad structure is maintained, ensuring that there are limits on the administrative requirements (control measures) a Member State can ask a business to provide before sending a worker to another EU country. The Presidency’s text sticks closely to the Council’s General Approach, requiring Member States to be transparent about any existing or new control measures they intend to apply to service providers.

— Article 12 – remains unchanged from the General Approach, providing flexibility for Member States to determine how to implement the subcontracting liability provisions whilst providing sufficient protection for workers.

In reaching this position, we have also sought to mitigate the risk of the enforcement directive being abandoned in favour of reopening the 1996 Directive. Such a move could have led to some Member States pushing for the Directive to be renegotiated from scratch after the European Parliament elections, with a new proposal. We are that could be further removed from the UK’s preferred position, meaning that the scope of the Directive, including self-employment and agency workers could have been revisited. This would have been much harder for the UK to negotiate in relation to our aspirations around the single market. On balance, the deal now provides greater transparency and protection for workers and limits unnecessary burdens than a new Directive in the future.

We have discussed the position with stakeholders throughout the process. Like us, the CBI and EEF (the Manufacturers’ Organisation) and TUC are clear that whilst this is not the outcome we hoped for at the beginning of the negotiations, we have taken a balanced and pragmatic approach. The TUC are naturally disappointed that specific protections for employees have not been made explicit on the face of the Directive, but are content that this can be addressed through domestic policy, which the agreed text gives us the flexibility to implement.

We have also met, as far as possible, the aims of the recommendation of the EU Business Taskforce, which recommended that no mandatory and complex rules are introduced in relation to subcontracting. They also recommended strict limits on the paperwork a Member State can ask a business to provide before sending a worker to another Member State.

The file will now go forward to a vote at the European Parliament’s Employment (EMPL) Committee on 18 March and during the European Parliamentary Plenary in April. I intend to support the agreement and am now seeking scrutiny clearance.

9 March 2014

Letter from the Chairman to Jenny Willott MP

We are grateful for your letter dated 9 March 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 31 March 2014. We are also grateful to officials in your Department who gave us a private briefing on the proposal on 31 March 2014 to assist us in our scrutiny. We have decided to clear this document from scrutiny ahead of an expected agreement of the text in the European Parliament.

We remain disappointed that the negotiations have not protected the UK’s interests. We believe that the introduction of joint and several liability will add to the regulatory and financial burdens currently being carried by businesses in the UK and in the rest of Europe. We are concerned that, with our common law legal system, litigation under joint and several liability may create unhelpful legal precedents in the UK. We therefore strongly recommend that joint and several liability should only be implemented in the construction sector to the extent that the proposal requires.

We would be grateful to be kept informed of any further developments with this proposal in the European context, and of new impact assessments that you may conduct to assess the financial and administrative consequences of implementing the proposal in this country, and on the outcomes of any consultations that you plan to hold with relevant employers and trade unions.

9 April 2014
Letter from the Chairman to Jenny Willott MP, Parliamentary Under-Secretary for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum (EM) of 30 April 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 May 2014. The Committee decided to retain the document under scrutiny.

We agree with the Commission’s view that undeclared work is a significant issue for the variety of reasons outlined in its EM. In addition to these reasons, we note that undeclared work can cause competition issues - for example, by giving businesses using undeclared workers a tax or financial advantage over other businesses.

We found the question of competence difficult to judge. At issue is whether the legal base (Article 153(2)(a) TFEU) gives the EU power to establish a platform of which membership is compulsory rather than voluntary. In our view, the answer is debatable. The argument in favour is that a platform of which membership is compulsory can still be intended to encourage cooperation between Member States, rather than enforce it, so long as it excludes any harmonisation measures. A review of the tasks listed in Article 4 of the proposed text show that they are intended to encourage coordination; as a consequence mandatory language which binds the Member States is absent. The counter-argument is that the legal base of Article 153(2)(a) empowers the EU only to “encourage” cooperation: to require compulsory membership of the platform is to enforce cooperation. The scope of the EU’s coordinating competence in this area is still relatively uncharted and we would therefore be grateful for your detailed views on the arguments above.

We would also appreciate a more detailed analysis on the proportionality of compulsory membership of the platform. We note the Commission’s argument that the challenges associated with tackling undeclared work are common to Member States, and that undeclared work is often cross-border in dimension. In our view, this argument seems feasible, and corresponds with the findings of a recent report by the International Labour Organisation (ILO) which provides numerous examples of the importance of cross-border cooperation in this area.

The Commission says that the proposal complies with proportionality, since it is a measure designed to encourage cooperation between Member States without any harmonisation of their laws and Regulations. Its rationale for requiring mandatory membership is that despite the cross-border nature of undeclared work, not all Member States have taken part in previous voluntary exchanges, meaning that EU level cooperation in this area is “patchy” in terms of the Member States involved and the issues covered.

We acknowledge the view that in requiring Member States such as the UK, which have minimal problems with undeclared work to be involved in the platform, the proposal goes beyond what is necessary – and is therefore disproportionate. We would like to know whether you have considered negotiating for a more nuanced requirement for participation, where the Commission could require Member States with a ‘shadow economy’ above a certain threshold to participate in the platform, with the participation of other Member States on a voluntary basis. Although there are a number of Member States like the UK, for whom the ‘shadow economy’ is not as serious, a pan-EU platform (voluntary, mandatory or two-tier) could be helpful in tackling the issue across the EU. It could serve to allow those with lower levels of undeclared work to share ‘best practice’ with other Member States. With this in mind, we would encourage you to consider participating in any platform on a voluntary basis.

We are pleased to learn that this initiative will be funded from the money already earmarked in the Multiannual Financial Framework to deal with employment and social issues. You say in your EM that you do not yet know whether there would be any further costs at national level, if the proposal were to go ahead. We would be grateful if you could confirm when you will do an impact assessment on this and that we can have sight of it when it is available.

We are continuing to scrutinise this dossier to ensure that the principle of subsidiarity is satisfied. We observe that at this stage the proposal does not impose any requirements on Member States in the area of tax regulations, and we wish to make clear our view that any future proposals to that effect would be in clear breach of the subsidiarity principle.

In light of the recess period, I look forward to a response by 30 May.

RAIL RESEARCH AND INNOVATION - ESTABLISHING THE SHIFT2RAIL JOINT UNDERTAKING (17967/13)

Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

Thank you for your explanatory memorandum of 14 January 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 27 January 2014.

We note the Government’s broad support for this proposal, and the involvement of Network Rail as a founding member of the initiative. The Commission appears to have consulted widely on the development of this proposal, and has carefully linked it to other aspects of its work on transport, such as the 4th Railway Package and TEN-T.

We scrutinised a Communication from the Commission on the results of the Marco Polo programme in our meeting of 8 July 2013. The Communication concluded that the programme, which aimed to move transport off roads and onto other forms of transport, did not achieve the targets it had set itself, and recommended that it be discontinued in its current form. The explanatory memorandum we received from your department on this Communication noted that intermodal transport systems are more complex and difficult to implement than road transport solutions, and companies may be less willing to pursue them in times of economic crisis.

We therefore ask if you are aware of whether the Commission has taken into account the failings of its previous transport-related programmes when devising this proposal. Have you made any representations to the Commission on this issue?

We have decided to hold this document under scrutiny, and look forward to receiving your response to our questions within the usual 10 working days.

28 January 2014

Letter from the Baroness Kramer to the Chairman

Thank you for your letter of 11 February 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 February 2014.

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We are grateful for your answers to our questions, and we are now content to clear this document from scrutiny.

A response to this letter is not required.

25 February 2014

REDUCTION OF POLLUTANT EMISSIONS FROM ROAD VEHICLES (6202/14)

Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

Thank you for your explanatory memorandum (EM) of 28 February 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 7 April 2014.

The aim of this proposal both to rationalise and simplify the existing Regulations appears to be sensible. It is also a clearly desirable objective to improve air quality in the EU, and in this country in particular, and we think this proposal could play an important role.

We note the Government’s concerns about the Commission’s proposed use of delegated acts in a wide number of areas, including deciding what the primary limit for NO₂ might be. As this proposal is technical in nature, the vehicle manufacturing industry should be consulted and we would be interested to hear their views.

We have therefore decided to hold this document under scrutiny, and we would be grateful to receive updates on the progress of negotiations at EU level, and on your consultations with interested stakeholders.

We look forward to a response in due course.

9 April 2014

RESULT OF THE UK’S PERFORMANCE IN THE INTERNAL MARKET SCOREBOARD NO.28 (UNNUMBERED)

Lord Livingstone of Parkhead, Minister of State for Trade and Investment, UK Trade and Investment, to the Chairman

I refer to Lord Green’s correspondence dated 10 September 2013, advising that the European Commission had decided to no longer publish a formal Council document on the Scoreboard for the Council of Ministers. However, given the importance of the Scoreboard in monitoring the UK’s performance in implementing Single Market legislation, he agreed that the Department would continue to update you on the UK’s future Scoreboard performance.

The European Commission recently published the online report for the latest Scoreboard (No. 28), which can be viewed at: http://ec.europa.eu/internal_market/scoreboard/index_en.htm

As with report on the previous Scoreboard (No. 27) report, I enclose at Annex A [not printed], a brief summary of the 12 page synopsis on ‘Transposition for all Member States’. I also attach [not printed] for your information, a copy of the 5-page document on the UK performance that is also contained in the Scoreboard.

28 March 2014
Letter from the Chairman to Jenny Willott MP, Parliamentary Under-Secretary for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills

Thank you for your explanatory memorandum of 27 January 2014 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 February 2014 and we decided to clear the document from scrutiny.

We agree with the view expressed in your explanatory memorandum that the high level of competition in the parcels delivery market in the UK keeps pricing and levels of service at a satisfactory level for the consumer. At the same time, however, it should be noted that the problems highlighted by the Commission in the parcel delivery market in the EU in general also affect UK consumers and businesses.

We therefore welcome the Government’s intention to engage with the process outlined by the Commission, whilst also urging you to remain cautious against the introduction of additional regulation at an EU level into such a diverse and competitive sector. We believe that further regulation is unlikely to be welcomed by market players and may have an adverse impact on market operations.

As there are no legislative or financial consequences arising from this document, we have decided to clear it from scrutiny.

25 February 2014

Letter from Ed Vaizey MP, Minister for Culture, Communications and Creative Industries, to the Chairman


Thank you for your response of 29th July 2013 which supported, in principle, the Government’s position on the proposals for this Decision.

This proposed Decision is, relatively speaking, much more straightforward than the type approval Regulation – there are only two main Articles in the Decision - and the Commission are keen “for the [Decision] file to progress quickly”, not least because the Commission are making a political link between the Decision and the Regulation (looking for the Public Service Answering Point (PSAP) infrastructure to be a driver for the type approval standards) even if there isn’t a strictly dependent technical link between the dates of implementation of the two.

Member States agreed Presidency compromise proposals last Friday, 28th February 2014, which delay the date of implementation for the Decision and recognise private sector and third party involvement – both of which which the UK welcomes. The Presidency will also begin trilogues with the European Parliament to finalise the Decision text, beginning this week and concluding ahead of the Transport Council meeting on 14th March 2014 which Robert Goodwill, PUSS at DfT will attend. The Presidency will look for agreement on a “partial general approach” at Council if trilogues are unsuccessful (particularly, for example in relation to the implementation date for the Decision proposals).

For ease of reference may I reiterate that the Department for Transport’s (DfT) EM (also of 13th July 2013), on a Proposal for a Regulation of the European Parliament and of the Council concerning type-approval requirements for the deployment of the eCall in-vehicle system and amending Directive 2007/46/EC (11124/13) on 13th July 2013, clarifies that “the Government is therefore opposed to the proposed Regulation [not the Decision] and the mandatory introduction of eCall”. Separately that EM makes the point, “the Government recognises the road safety benefits of eCall. UK emergency services are already equipped to handle calls from such third party systems”.

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The proposed, separate eCall Decision requires that a Public Service Answering Point (PSAP - almost certainly BT's emergency call handling facilities in the UK) is identified and is in place by the revised date of 31st December 2016 with the necessary infrastructure in place to handle eCalls as effectively and speedily as any other emergency call wherever they originate from, including (and as the UK would prefer) via more sophisticated private sector and third party options offering eCall products on a voluntary, value-added basis.

That infrastructure, as required in the Decision, would be needed to handle voice and non-voice eCalls, either triggered automatically or manually, identify caller location information (CLI) and provide an ability to liaise directly and simultaneously with front line emergency services. As such we support the Decision, not least because it facilitates private organisations becoming involved in eCall and we have recently welcomed Presidency compromise text amendments that allow that “emergency calls may be first received under the responsibility of a public authority or a private organisation recognised by the Member State”

Given the differing speeds at which these two files are progressing – the Regulation remains in negotiation and will not reach Council until at least the Competitiveness Council on 26th May 2014, at the earliest. – and our need for scrutiny clearance for this much more straightforward file I am taking the opportunity to update you separately on the Decision and hope you and your colleagues can clear our support for the Decision from scrutiny in time for the Transport Council on 14th March.

As far as the proposed Regulation (EM 11124/13) is concerned, this is being negotiated separately in Technical Harmonisation working groups, and little progress has been made so far. The Department for Transport will, of course, provide your Committee with an update on the negotiations when progress has been made on the concerns identified in their Explanatory Memorandum.

6 March 2014

Letter from the Chairman to Ed Vaizey MP

Thank you for your letter of 6 March 2014 on the above proposal for a Decision. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 10 March 2014. We have agreed to clear document 11159/13 from scrutiny.

We note, and agree with, your support for the Commission’s proposal for a Decision, and the recent amendments to it that provide for greater private sector involvement.

However, we wish to register our strong disappointment that this is the first update on the above dossier that we have received since considering the explanatory memoranda in July last year. While the proposal is in itself relatively non-contentious, such short term requests for scrutiny clearance inhibit us from carrying out effective parliamentary scrutiny of EU proposals.

In our letter to Stephen Hammond MP on 29 July 2013 on the proposed Regulation, we said it would be important for the Ministry of Justice and the Department for Culture, Media and Sport to attain clarity on the possible implications of the proposal for data protection and privacy before any decision is made on the suitability of delegated acts as an implementing tool. We would be grateful for an update on this.

I am copying this letter to Mr Stephen Hammond MP, Parliamentary Under-Secretary of State, Department for Transport, to request a response to the question above, and that he and his Department provide more regular and timely updates to the Committee on the related proposal for a Regulation on eCalls (Document No 11124/13). In the meantime, we have decided to retain that document under scrutiny.

11 March 2014

SEAFARERS (16472/13)

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

Thank you for your explanatory memorandum of 12 December 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 13 January 2014.

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We note that the international regulatory regime in place for all areas of the maritime sector and the coming into force of the International Labour Organization’s Maritime Labour Convention on 20 August 2013 address a wide raft of employment rights and protection for seafarers. We also note that UK equality and employment law already provides a high level of protection for seafarers in comparison to other Member States and third countries. Nevertheless, we agree with you that EU-level action is necessary to ensure a level playing field of employment rights for seafarers within the EU, and we therefore support the proposal.

We have decided to clear this proposal from scrutiny. A response to this letter is not required.

14 January 2014

STRENGTHENING THE FOUNDATIONS OF SMART REGULATION – IMPROVING EVALUATION (13921/13), (11124/13)

Letter from Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman

Thank you for your letter of 12 November 2013 requesting a copy of the Government’s response to the European Commission’s consultation on its evaluation procedures. I am pleased to enclose [not printed] a copy of our submission.

We believe that the Commission’s updated evaluation guidelines are a real improvement on the existing ones. Specifically, they require Commission services to: plan their evaluation activities much further in advance; follow a clearly defined process; and improve transparency by publishing evaluation mandates, Terms of Reference for external contractors, final reports and Commission analyses of final reports.

But we believe the revised guidelines could go further to ensure that Commission evaluations more effectively identify opportunities to minimise regulatory burdens and increase benefits for society as a whole. Based on a wide consultation of Government Departments and the major business organisations, our submission proposes that:

— Evaluation activity should be prioritised for those policy areas with the highest potential for burden reduction;
— The “think small first” principle should be embedded in the evaluation process through the addition of an extra criterion headed “impact on SMEs and micro-businesses” to the proposed key evaluation criteria;
— Evaluations should go beyond administrative burdens alone and include an assessment of compliance costs;
— Information should be accessible to stakeholders via a single online portal;
— Commission services should not be deterred from using a wider variety of evaluation techniques than the ex-post model being proposed in the guidelines.

I would like to highlight the specific reference that our response makes to your Committee’s recommendation (made in the report “The Effectiveness of EU Research and Innovation Proposals”) that evaluations should be carried out by experts in the relevant sector.

We anticipate that the Commission will aim to finalise their updated evaluation guidance before June. Our top priority on the wider better regulation agenda remains the implementation of the thirty dossier-specific recommendations and the COMPETE principles set out in the report produced by the Prime Minister’s Business Taskforce. The details of this report were set out in a Written Ministerial Statement on 15 October 2013.

We have already achieved good progress on seven of the dossier-specific recommendations, and will continue to press this agenda in Brussels, with other Member State Governments and with businesses and business organisations across the EU.

3 December 2014
Letter from Michael Fallon MP to the Chairman

Thank you for your letter of 12 November 2013 requesting a copy of the Government’s response to the European Commission’s consultation on its evaluation procedures. I am pleased to enclose [not printed] a copy of our submission.

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— Evaluation activity should be prioritised for those policy areas with the highest potential for burden reduction;
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I would like to highlight the specific reference that our response makes to your Committee’s recommendation (made in the report “The Effectiveness of EU Research and Innovation Proposals”) that evaluations should be carried out by experts in the relevant sector.

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We have already achieved good progress on seven of the dossier-specific recommendations, and will continue to press this agenda in Brussels, with other Member State Governments and with businesses and business organisations across the EU.

6 March 2014

TRANS-EUROPEAN TELECOMMUNICATIONS NETWORKS (10201/13)

Letter from Ed Vaizey MP, Minister for Culture, Communications and Creative Industries, to the Chairman

I am sorry that you did not receive my letter of 28 October last, in response to yours of 3 July. It may be helpful to bring you completely up to date on this dossier.

Within the overall budget of €1Billion available for telecoms services, we have negotiated agreement with the Council that €150 Million should be made available for financial instruments enabling broadband infrastructure development. At least one third of the projects supported will aim at speeds of 100 Mb per second or above. I am pleased to say that the European Commission and the Parliament have also agreed.

Although this sum is small, we consider it important to the extent that it can leverage private sector investment by e.g. working with the European Investment Bank. The funding available would be used for projects which would have difficulty in attracting sufficient investment by themselves. This would include those in areas of low population density.
The balance of €850 Million will be spent on core service platforms for a range of digital services. These will include e-Identification, e-Signatures, e-Delivery, e-Invoicing, and Open Data.

These 'building block' services will enable cross-border public services: including cross border cooperation on cyber security, as well as better provision of online child safety programmes. They can thus make a significant contribution to the development of the Digital Single Market.

Overall, I am confident that this allocation of priorities across a range of key digital service infrastructures, including provision for broadband infrastructure development, represents an effective use of the budget.

It furthermore closely reflects the UK's negotiating priorities for this dossier over the past twelve months.

In view of these considerations, and given that the Government will shortly be called to confirm its position at Council on 11 March, I would hope that you feel able to clear this dossier from scrutiny.

4 March 2014

Letter from the Chairman to Ed Vaizey MP

Thank you for your letter of 4 March 2014, which was considered by the EU Sub-Committee on the Internal Market, Infrastructure and Employment on 10 March 2014. The Committee decided to clear the document from scrutiny.

We see the agreement as having reached a satisfactory outcome whereby EU funds will be used to leverage private sector funding for otherwise unattractive but necessary projects, and to focus on cross-border infrastructure.

A response to this letter is not required.

11 March 2014

TRANS-EUROPEAN TRANSPORT NETWORK (5162/14), (5166/14), (5528/14)

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

Thank you for your Explanatory Memorandum (EM) of 30 January 2014 on the above documents. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 January 2014.

Since the draft delegated Regulations above serve mainly to supplement and clarify existing legislation agreed by Member States, the EU institutions and third countries, we are content to clear the documents from scrutiny.

We realise the EM deals only with technical aspects of the Trans-European Transport Networks and Connecting Europe Facility (CEF) dossiers. As you know, the Committee cleared the main CEF Regulation from scrutiny at its meeting of 28 October 2013 noting that we shared your concerns with regards to the extension of the Rail Freight corridors. We understand from your letter of 6 February 2014 on the main CEF proposal (dealt with by the Treasury) that agreement has now been reached on the main CEF dossier, but that you abstained from the agreement, and have written to the Council Secretariat, outlining your concerns. Do you expect any outcome from your letter to the Council Secretariat?

We trust that you will let us know of any outcome shortly, after you have heard back from the Council Secretariat.

25 February 2014

Letter from Robert Goodwill MP to the Chairman

Thank you for your letter of 25 February and for clearing documents 5162/14, 5166/14 and 5528/14 from scrutiny.

You asked whether we had received a response from the Council Secretariat to the written statement we provided on the CEF Regulation (CEF) at Council on 5 December 2013. There has not been a response to this but we had not expected one as the statement was provided by us to explain
why we were abstaining from the vote on CEF and to have this formally recorded. There are, however, some developments in respect of CEF which I would like to make the Committee aware of.

As you know we had concerns about the annex in the CEF Regulation proposing changes and extensions to the Annex to Regulation (EU) 913/2010 listing the “initial” Rail Freight Corridors (Simon Burns’ letter of 9 July 2013 and your letter of 31 July 2013).

We have also had concerns, on a number of grounds, regarding the manner in which this proposal was put forward by the European Commission:

— We consider that the Commission circumvented requirements under existing EU legislation and in doing so, has taken action that represents possible unlawful competence creep.

— The RFC extensions have not been agreed by the UK and are not supported by market and socio-economic benefit analysis, as required under the original RFC Regulation.

— We consider that the RFC extensions in the UK are subject to Article 172 of the Treaty on the Functioning of the EU (TFEU), paragraph 2 of which requires Member State approval for certain measures relating to their territory.

The situation as agreed at Council leaves the UK exposed to some potentially significant risks:

— The EU (and other Member States) will now have more influence on decisions of infrastructure use and transport planning which fall within Member State competence.

— Fundamentally, Network Rail could lose some capacity management flexibility or even have to set aside more capacity for international freight at the expense of well-used passenger services. This could be a particular issue on the heavily used West Coast Main Line (WCML) especially during construction of HS2 (because the construction works will themselves reduce capacity at times in certain places).

There are likely to be some financial costs and physical impacts to the UK’s rail network, however these are difficult to quantify with certainty at present.

The original RFC Regulation has a mechanism for RFCs to be extended. It requires the agreement of the Member States concerned and a positive market and socio-economic analysis. We believe that by proposing the amendments to the RFC Regulation in the CEF Regulation, the Commission was seeking to bypass these approval procedures. We consider that the RFC extensions in the UK are subject to Article 172 of the Treaty on the Functioning of the EU (TFEU) paragraph 2 of which requires Member State approval for certain measures relating to their territory. By abstaining from the vote on CEF the UK has not given its agreement.

More background on the CEF and RFC Regulations is at Annex A [not printed].

As a result of the above, and having consulted other Departments, we have decided to submit a legal challenge under article 263 TFEU to the Court of Justice of the European Union in relation to the CEF Regulation. This will be limited solely to the RFC extensions set out in Annex II of CEF, specifically the extensions in the UK past London. We are seeking their annulment which we consider to be severable from the rest of the CEF Regulation – so, importantly, this would not impact on the wider funding provisions in the CEF Regulation.

We remain committed to the importance of both national and international rail freight. If, in the future, there is a market case for extending the RFC, for international freight entering through the Tunnel, beyond London, we would have no objection in principle to this being proposed under the mechanisms in the existing RFC Regulation.

We believe engagement with other Member States, and stakeholders in general is an important part of this challenge to make it clear to other what action we are taking and why. We will be writing to them to set this out to try to address any potential concerns they might have.

13 March 2014
Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport

Thank you for your letters of 15 and 27 November 2013 on the above proposal, and for a copy of the checklist for analysis carried out by your department. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 2 December 2013.

We note the developments that have taken place in negotiations so far, and in particular the changes the Commission has made in terms of the binding nature of targets for deployment of infrastructure, and broadening the scope of alternative fuels that are included in the proposal.

We have therefore decided to grant a scrutiny waiver ahead of the Transport Council meeting on 5 December. We would be grateful to receive an update on the outcome of the meeting within 10 working days of it taking place.

4 December 2014

Letter from the Baroness Kramer to the Chairman

Thank you for your letter of 4th December. I am writing as requested to update you on the outcome of the Transport Council discussion of this proposal to mandate the build-up and coverage of alternative fuels infrastructure for transport, and common technical standards for their construction and interoperability.

You will recall that Member States remained divided in terms of the levels of regulation they would like to see with regards to infrastructure deployment, and the Lithuanian Presidency had put forward a compromise position with the aim of agreeing a General Approach to take forward into trilogue discussions.

At the EU Transport Council on the 5th December, a General Approach was agreed and adopted. This was on the basis of the compromise position put forward by the Presidency which would remove EU level binding targets – although some Member States hoped for more ambitious binding targets for electric vehicle infrastructure – and supports harmonised technical EU standards for infrastructure design, interoperability and use.

At the Council, the UK supported the adoption of this text as it safeguards the UK’s priority issues within these negotiations; those priorities being the removal of EU-binding targets for infrastructure deployment and to allow for a multi-standard approach for electric vehicle plug types, which ensures Member States can continue to support existing standards in the market. Despite interventions from some Member States, I am pleased to report there were no significant changes to the compromise text as described in my letter of 27th November.

The first informal trilogue with representatives of the European Parliament is scheduled to take place on 17th December; however, the Presidency have confirmed that this will be an initial exchange of views only, where they will present the rationale for the General Approach and attempt to clarify a number of the proposed amendments put forward by Members of the European Parliament at the Committee stage of their consideration of the proposal.

I will, of course, update your Committee further on progress as trilogue discussions develop under the forthcoming Greek Presidency.

16 December 2013

Letter from the Baroness Kramer to the Chairman

Thank you for your letter of 14th January 2014. I am writing as requested to update you on the progress of trilogue negotiations on this proposal to mandate the build-up and coverage of alternative fuels infrastructure for transport, and common technical standards for their construction and interoperability.

You will recall that December’s general approach rejected EU binding targets to set the scale and pace of roll out of alternative fuels infrastructure deployment across each Member State. However, the European Parliament remained resolute in their desire to see binding targets included in the final Directive, in order to send a ‘quantifiable’ message to industry and investors.
Whilst we do agree that targets can provide political momentum, a long-term vision for investment and a benchmark for progress, we retain our original position that in this circumstance EU level targets are not coherent, cost-effective or easily able to take account of advances in technology or economic viability. In trilogue, the European Parliament maintained their position during the informal sessions on 17th December and 29th January. However, at the most recent meetings held 05th and 20th March, a compromise was reached that would allow Member States to retain the flexibility to set their own targets and objectives appropriate to their national circumstances and consistent with market demand. This is a significant compromise and has led the way to a proposed first reading deal between the Council and the European Parliament.

The proposed first reading deal aligns exceptionally well with December’s general approach agreement and UK objectives. Rather than setting binding targets, the key requirement of the proposed Directive now is that Member States will be required to prepare and publish National Policy Frameworks setting out the development of alternative fuels infrastructure in their territory and setting their own targets and objectives where appropriate. Any targets established will remain revisable on the basis of national, regional or union-wide demand for each of the alternative fuels covered (electricity, hydrogen, natural gas). The National Policy Frameworks are required within two years of entry into force of the Directive, after which the European Commission will consider them individually and collectively and make a report to Council and EP. The binding, centrally set, targets have been removed.

On the use of delegated acts, their use is restricted to situations where there are updates to existing standards that are already referenced in the text or where there is a single, harmonised approach recommended to the European Commission from European Standards Organisations. On each of these occasions the European Commission will be required to consult with Member States.

Against our key priorities, the proposed first reading deal is a good one: Member State flexibility has been increased, we have ensured that alternative fuels infrastructure provision within the United Kingdom is based on market need and secured a multi-standard approach to technical standards so as not to disadvantage early movers in the market, such as UK built Nissan Leaf.

We expect the new proposed deal to be acceptable to the majority of Member States. We see our market already gearing up to supply alternative fuels and are satisfied that there is sufficient flexibility within the agreed text for us not to need to make unviable investments and to be able to adapt and respond to the growing market.

I therefore fully support the agreement, and would be most grateful if this proposal could be cleared from scrutiny before the proposed first reading deal is formally agreed shortly by the European Parliament and the Council, which we expect to take place shortly.

27 March 2014

Letter from the Chairman to the Baroness Kramer

Thank you for your letter of 27 March 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 7 April 2014.

We are grateful for the update you provided in your letter, and we welcome the agreement reached between the European Council and the European Parliament. We have expressed our reservations in previous correspondence about the possible breach of subsidiarity posed by this proposal given the initial extent of delegated and implementing acts included in the text. We therefore welcome the reduced scope for the Commission to use delegated legislation in enforcing the Directive.

We are now content to clear this document from scrutiny. We would be grateful to receive a final notification once the proposal has been agreed to.

9 April 2014

TRANSPORT EXPECTATIONS FOR THE GREEK PRESIDENCY (UNNUMBERED)

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

I am writing to advise your Committee of the transport issues that are likely to be taken forward during the Greek Presidency of the EU.
Two formal Transport Councils are planned, the first in Brussels on 14 March and the second in Luxembourg on 5 June. The Presidency will also hold an informal Transport Council in Athens/Piraeus on 7-8 May, focussing on maritime issues on 7 May and road safety on 8 May.

AVIATION

The Greek Presidency is clear on the importance of closing negotiations on Aviation ETS (EM 15051/13 submitted by DECC) during the current European Parliament. The UK has proposed, jointly with two other Member States, that the ETS should only apply to intra-European flights until at least 2016 when we will know how negotiations at the international level have progressed. This proposal has received positive support and is now under discussion in Council. The challenge remains agreeing the proposal with the European Parliament in the very short time which remains before the final plenary session in April 2014.

The Presidency’s other aviation priorities are the introduction of noise-related operating restrictions at Union airports (EM 18008/11) and Air Passenger Rights (EM 7615/13). On noise, the Presidency is keen to reach an early agreement and it is anticipated that this will be reached by March given the broad level of agreement between the Council and the European Parliament on this dossier.

On Air Passenger Rights, the Presidency has begun a welcome thematic approach to addressing remaining issues. Although the Presidency has suggested that discussions in working group may continue until June, it is possible that the Presidency will bring it forward to the March Transport Council.

Subject to progress on the above aviation issues, the Presidency may consider other aviation matters such as relations with third countries, the remaining aspects of the airports package and SES II+ (Single European Sky, EM11501/13), but will not try to conclude them.

MARITIME

As a traditional maritime nation, maritime transport is a key element of the Greek Presidency. The Presidency intends to promote a range of initiatives to improve the competitiveness of European shipping and to facilitate maritime within the EU internal market. In this context the Presidency is aiming to adopt Council Conclusions in June on the forthcoming mid-term review of the implementation of the European Maritime Transport Strategy until 2018. They will also be aiming for first reading deals with the European Parliament on the Marine Equipment Directive (EM17992/12) and the European Maritime Safety Agency Funding Regulation (EM 8219/13).

On the Ports Services Regulation (EM 10154/13) the Presidency has indicated that discussions will start in working group following the outcome of the vote of the European Parliament’s TRAN Committee in mid-February. This outcome is currently unpredictable. The Council position remains unclear as this dossier made little progress during the Lithuanian Presidency, however there are strong reservations on many provisions in the proposal from several Member States; this of course includes the UK as you will recall from the Explanatory Memorandum and Stephen Hammond’s subsequent letter to your Committee.

IMO coordination will also be a key priority for the Greek Presidency with common submissions on monitoring, reporting and verification of CO2 emissions from shipping, Galileo and passenger ship safety.

The proposal for the Monitoring Reporting and Verification of CO2 Emissions from Shipping (EM 11851/13) made only slow progress under the previous Presidency, and despite the prioritisation of maritime policy by the Greek Presidency, this dossier is one that it is unlikely to push strongly. The UK remains well placed to achieve its objectives of minimising burden on industry while ensuring that the EU policy supports international discussions on the issue.

LAND

As regards land transport, the Presidency has indicated that it will start discussions with a view to seeking a general approach on the proposed directive on maximum authorised dimensions and weights (EM 8953/13) and on eCall (EM 11124/13). The date for this to be considered at the Council of Ministers is currently unclear.

On rail, the Presidency has indicated that it is keen to reach general approach by March on the proposed Regulations on the European Union Agency for Railways (EM 6012/13) and Shift2Rail (EM...
Negotiations on the remaining aspects of the Fourth Railway Package are proposed to start in March with the Presidency aiming to prepare a progress report in June for subsequent handover of the dossier to the Italian Presidency. At the moment, the Greeks are not planning to split the package, meaning that the technical elements will remain open while the more controversial market opening proposals are negotiated.

**Transport and Environment**

We are hopeful that the Greek Presidency will take forward work on the proposed Directive relating to the Indirect Land Use Change (ILUC) impacts of biofuels (EM 15189/12). The agenda for the 4 March Energy Council meeting includes another opportunity for reaching political agreement on the proposal. Unfortunately Ministers were unable to reach agreement at the December Energy Council as Member States who believed the proposal lacked ambition and Member States who considered the proposal too ambitious combined to block the proposal.

The proposal to amend Article 7a of the Fuel Quality Directive (Unnumbered EM) remains stalled in the Commission, following intense lobbying from industry, third countries and Member States. The Greeks do not expect to need to deal with it under their Presidency.

**Intermodal**

On the intermodal agenda, the proposal on the deployment of Alternative Fuels Infrastructure (EM 5899/13) is a priority for the Greek Presidency and it is seeking a first reading agreement by early March. There are several challenges ahead in trilogues, where the Parliament’s representatives hope to maintain the Commission’s more ambitious obligations for Member States in terms of infrastructure deployment.

I hope that this general summary of our expectations is useful. Further information will, of course, be provided to you in the future on each of these dossiers, in line with the usual procedures for Parliamentary scrutiny.

22 January 2014

**Vehicle Type Approval: Sound Levels of Motor Vehicles (18633/11)**

**Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport**

Thank you for your letter of 22 November 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 2 December 2013.

We are grateful for your clear description of where your priorities have been met in negotiations, and where you have made concessions.

We are now content to clear this document from scrutiny, and would be grateful to receive an update on the outcome of final negotiations to agree the proposal.

4 December 2014

**Workers’ Access to Mobility Services and the Further Integration of Labour Markets (5567/14)**

**Letter from the Chairman to Esther McVey MP, Minister of State for Employment, Department for Work and Pensions**

Thank you for your Explanatory Memorandum (EM) of 6 February 2014 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 24 March 2014. We decided to retain this document under scrutiny.

We would be grateful for clarification of some the points in your EM. In paragraph 21, you said that the UK has “successfully mainstreamed EURES”. We have received evidence to the contrary from young people’s representatives and other civil society organisations during the course of our current inquiry into EU measures to tackle youth unemployment. They suggested that the majority of young
people were not aware of the EURES portal. We would therefore be grateful for further information on how you have “successfully mainstreamed EURES”, how you are preventing fraudulent UK job adverts from being posted on EURES and whether the Government’s recent decision to terminate the Universal Jobmatch website will affect this process.

Further to paragraph 9 of your EM, do you think the Commission’s aim to “achieve on the EURES portal a nearly complete supply of job vacancies” is realistic? Paragraph 22 of your EM says that the “current preponderance of UK vacancies (over 60 per cent) on the EURES portal suggests that previous EURES decisions (including 2012/733/EU) have proved to be an inadequate vehicle to foster the achievement of a labour market balance across the European Union”. Does this mean that you believe EURES is not working because other Member States are not posting vacancies on the site; because the UK vacancies on the EURES website are unfilled; or is a different meaning intended?

As you will be aware, we are in the final stages of our inquiry into youth unemployment in the EU, and expect to produce our report in April this year. We hope that you will be able to consider fully in due course, conclusions and recommendations that are relevant to this topic.

We look forward to receiving an answer to our questions within the usual 10 working days.

25 March 2014

Letter from Esther McVey MP to the Chairman

Thank you for your letter of 23rd March 2014 sent in response to my Explanatory Memorandum (EM) forwarded on the above proposal on 6th February 2014.

In regard to the Committee’s querying the mainstreaming of EURES I can advise that the DWP has taken specific measures to ensure that the service is accessible to UK jobseekers.

All vacancies held on the EURES IT Portal are available to jobseekers via www.gov.uk. This enables them to search for overseas and UK jobs in the same site without needing to be redirected.

The GB EURES team works with jobcentres to raise local awareness of the service and provides training courses for staff. They also deliver events where, in addition to access to vacancies, jobseekers are offered advice on looking for work abroad. GB EURES has also participated in graduate jobs fairs organised by external partners.

The EURES team provides information and guidance to DWP colleagues enabling them to answer first line enquires from customers seeking information about working elsewhere in Europe. All staff also have access to information about EURES on the DWP intranet. Employers have the option to promote any vacancies within the EURES portal which means that they are prioritised in job searches.

You also asked how DWP “is preventing fraudulent UK jobs adverts from being posted on EURES and whether the Government’s recent decision to terminate the Universal Jobmatch (UJ) website will affect this process?”

A small number of inappropriate adverts have been posted on UJ, however all jobsites face similar challenges; this issue is not specific to the UK system. Sanctions are applied to the people seeking to post fraudulent jobs; these can lead to criminal prosecutions.

The security of user’s data is of the utmost importance and we have a number of checks in place to help ensure that authentic job vacancies are being placed. There are also warnings to service users advising them to query why an employer is seeking personal information prior to making an employment offer. A “Contact Us” facility is provided so that users can highlight any employers they have concerns about, these are investigated.

As a result of our counter-fraud measures since November 2012, when UJ was launched, nearly 3,000 potential bogus vacancies created by over 300 accounts have been removed, a number of these have led to criminal prosecutions. We have also closed over 300 employer accounts as a direct result of user complaints.

The current UJ contract comes to an end in 2016 as such we are unable to speculate on what will happen after this.

The Committee’s asked why we “believe that EURES is not working”, because other Member States (MS) are not posting vacancies, because the UK vacancies on the EURES website are unfilled or for another reason? We attribute the current preponderance of UK vacancies to different interpretations of the requirement to share vacancies as described in the current (non-justiciable) EURES Charter and differing levels of administrative capacity between Public Employment Services.
The Charter takes its authority from Council Regulation 492/2011 on the Freedom of Movement of Workers. In the course of negotiating the current regulation we are seeking to ensure a common agreed legal base for future vacancy sharing between PES, with an increase in the share of vacancies posted by other MS and reduction in the proportion of those from the UK.

8 April 2014