



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 June 2016 – 31 July 2016

EU INTERNAL MARKET SUB-COMMITTEE

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A EUROPEAN AGENDA FOR THE COLLABORATIVE ECONOMY (9911/16)

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

Thank you for your Explanatory Memorandum dated 21 June 2016 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 14 July 2016.

As this document is a Communication, and is non-legislative, we have decided to clear it from scrutiny. A response to this letter is not required.

15 July 2016

ACCESS TO GALILEOS PUBLIC REGULATED SERVICE (UNNUMBERED)

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

I am writing to inform you about a Council Decision agreeing two negotiating mandates. These mandates enable the Commission to open negotiations with two non-EU Member States, the US and Norway, regarding their potential access to the Galileo Public Regulated Service (PRS).

Galileo is the EU's satellite navigation system. It is under construction and is due to be fully operational in 2020. It will offer four services. One of these is the PRS; a restricted service for government-authorised users, such as law enforcement. The signal is encrypted, which means it is difficult to fake.

According to Decision 1104/2011/EU, any non-EU Member State that wishes to have access to the PRS is required to conclude an agreement laying down the terms and conditions of the detailed rules for such access. This agreement is to be agreed by the Council.

Following the adoption of the Galileo Common Minimum Standards in November 2014 (BIS EM of 27 October 2014), the Commission sought two Council mandates to open negotiations with third countries with a view to concluding such agreements. These mandates have been agreed at the Transport, Telecommunications and Energy Council on 7 June.

The Government supports the proposed mandates. The matters to be negotiated are restricted to matters falling under Decision 1104/2011/EU, which confines discussions to areas within the competence of the European Union. In particular, the Government is reassured by the safeguards in place that enable Member States close oversight of the negotiations.

On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. It will be for the next Prime Minister to begin negotiations to exit the EU. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

7 July 2016

ACCESSIBILITY OF PUBLIC SECTOR BODIES' WEBSITES (17344/12)

Letter from Matt Hancock MP, Minister for the Cabinet Office and Paymaster General, to the Chairman

I wrote to the Committee on 17 May 2016 regarding this Directive, which remains under scrutiny. Both committees granted a scrutiny waiver on the file to allow the text to reach political agreement and begin the jurist-linguist process during recess and purdah. This letter is to update the Committee with the final English language text.

OBJECTIVE OF THE DIRECTIVE AND BENEFITS TO THE UK

The aim of this directive is to allow citizens with disabilities to equally reap the advantages of public sector digital services. This aim is shared by the UK government and accessibility is enshrined in the design principles of the Government Digital Service, who built and managed the award-winning GOV.UK platform. Indeed, those with disabilities are often more reliant on digital services than those without. The aim will be achieved by agreeing a minimum standard of accessibility across all Member States, a standard to which the UK is already signed up. It is appropriate for the EU to act in this area as it will ensure that citizens mobile across the EU will be able to access essential public services. Furthermore, as government systems become more interoperable, users won't find themselves unable to continue part of their 'online journey' when working across borders due to reduced accessibility in a second Member State's services.

I have been lobbied on the importance of this directive by campaign groups active on behalf of the disabled in the UK and I am convinced that this text is in their interest.

SUCCESSFUL AVOIDANCE OF POLICY RISKS

At the outset of the negotiations of this Directive, my policy officials identified a number of risks:

- That the minimum standard would be unfit for purpose or decided without adequate technical expertise.
- The scope of the Directive reaching beyond the public sector to cover services such as utilities.
- That the scope of the content covered by the Directive would be too wide to be unmanageable or too narrow so as to continue to leave disabled users at an unacceptable disadvantage.
- That the burden on small public bodies would be unmanageable.
- A requirement for the UK to create a new ombudsman to adjudicate disputes brought for a breach of the minimum standard.
- That monitoring and reporting would be overly burdensome.

STANDARD

The technical specifications and minimum standard will be set by the advisory procedure, allowing for maximum involvement of the Member States and adequate inclusion of technical expert opinion. The standard will be updated by an implementing act. I consider this to be an adequate use of implementing acts as the advisory procedure will ensure a strong and sound foundation and the standard should only be updated when there is a clear step-change in the industry-agreed standards.

SCOPE

- As I highlighted in my last letter, it is explicitly stated that the Directive will not apply to any private sector entities.
- Member States are given substantial room to determine their own policies: Member States may exclude schools, kindergartens and nurseries from the scope, except for their essential administrative functions. What essential functions are, for example enrolment, is up to each Member State to decide.
- Public broadcasters are not within the scope of the Directive.
- The UK successfully argued that intranet and extranet files should fall within the scope of the Directive, without which disabled users would be at a distinct disadvantage.

BURDEN OF COMPLIANCE, MONITORING AND REPORTING

- The inclusion of intranets and extranets has been accepted, but only in a way that limits the additional burden on Member States as much as possible: only new intranet/extranets and those that undergo significant updates will be included in the scope. Public sector bodies do not have to make their intra/extranets accessible retroactively.
- There is clear text expressly protecting public sector bodies from disproportionate burden supported by content exclusions. A light on-demand regime will allow for disabled users to request that documents be provided in accessible format where necessary.
- There is also text expressly applying the Proportionality Principle.

OMBUDSMAN

Member States will not have to create or nominate an ombudsman: The UK provides its effective remedy judicially under the Equalities Act 2010.

Overall, it is in the UK's interest to vote in favour of this Directive. The Directive will have a positive impact on a great number of people: online accessibility is vital to those who suffer from mobility impairments and, notwithstanding other disabilities, a third of Europeans will have poor sight or be partially blind in later life. The use of eGovernment tools reduces administrative burden to businesses and makes life simpler for individuals, all whilst reducing costs to the public purse by moving interactions between citizens and the state online. The UK's *Digital by Default* policy puts this into practice. It is paramount, therefore, that these interactions can be used by all: websites and mobile apps should be functional with accessibility software and hardware. This Directive and its subsequent standard will set in place the minimum requirements to ensure that anyone is able to take advantage of eGovernment, regardless of their disability. For the UK, we are ahead of the curve on eGovernment and accessibility and this Directive will help other Member States attain similar levels of accessibility.

23 June 2016

Letter from the Chairman to Ben Gummer MP, Minister for the Cabinet Office, Cabinet Office

Thank you for your letter dated 23 June on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting on 14 July.

Your letter provided a helpful update on the conclusions of negotiations, and as we have no further requests for information on the content of this proposal, we have decided to clear this document from scrutiny.

15 July 2016

ADDRESSING GEO-BLOCKING AND OTHER FORMS OF DISCRIMINATION BASED ON CUSTOMERS' NATIONALITY, PLACE OF RESIDENCE OR PLACE OF ESTABLISHMENT WITHIN THE INTERNAL MARKET (9611/16)

Letter from the Chairman to Baroness Neville Rolfe, Minister of State, Department for Business, Energy and Industrial Strategy

Thank you for your Explanatory Memorandum dated 15 June 2016 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 19 July 2016.

We note that the Government is currently considering the detail of this proposal and that a more detailed assessment will be sent to this Committee in due course. We request that this update provide further information regarding the following policy issues raised by the proposal: (i) the extent to which this proposal will place pressure on traders to remove price differences on similar goods and services based on the characteristics of different markets in different Member States; (ii) whether the proposal would require UK traders to comply with consumer protection laws of all Member States in the EU; and (iii) what is the relationship between Article 5 of this proposal on payment methods with the Payment Services Directive II.

We have decided to retain this proposal under scrutiny.

20 July 2016

BUILDING A COMPETITIVE DATA AND KNOWLEDGE ECONOMY IN EUROPE
(8099/16)

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

Thank you for your Explanatory Memorandum dated 6 May 2016 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 30 June 2016.

While we appreciate that this is a relatively early-stage policy proposal and that further dialogue with stakeholders is envisaged, it is not clear to us from the Explanatory Memorandum precisely how the initiative will be progressed in future, and what the key decision points will be. If you could provide us with further information on this point in due course, that would help us to decide whether it is necessary to retain the proposal under scrutiny.

5 July 2016

DIGITISING EUROPEAN INDUSTRY: REAPING THE FULL BENEFITS OF A DIGITAL SINGLE MARKET (8100/16)

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

Thank you for your Explanatory Memorandum of 5 May 2016 regarding the Communication “Digitising European Industry: Reaping the full benefits of a Digital Single Market”. This was considered by the EU Internal Market Sub-Committee at its meeting of 30 June.

While the Communication identifies a number of tricky policy areas in which further action is anticipated, including questions around data ownership, we are content to lift the scrutiny reserve on this Communication and to scrutinise the legislative initiatives it refers to in due course.

5 July 2016

EGOVERNMENT ACTION PLAN 2016-2020 AND ACCELERATING THE DIGITAL TRANSFORMATION OF GOVERNMENT (8097/16)

Letter from the Chairman to Ben Gummer MP, Minister for the Cabinet Office, Cabinet Office

Thank you for your explanatory memorandum dated 6 May 2016 on the above documents, which was considered by the EU Internal Market Sub-Committee at its meeting on 14 July 2016.

We have decided to clear this document from scrutiny.

A response to this letter is not required.

15 July 2016

EMPLOYMENT AND SOCIAL POLICY, HEALTH AND CONSUMER AFFAIRS (EPSCO),
16TH JUNE 2016, LUXEMBOURG (UNNUMBERED)

Letter from Lord David Freud, Minister of State for Welfare Reform, Department for Work and Pensions, to the Chairman

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

I will be representing the UK at the Employment, Social Policy, Health and Consumer Affairs Council which will take place on 16th June 2016 in Luxembourg.

There will be a policy debate on the annual European Semester. As part of the discussion, the Council will be asked to approve draft Council Recommendations on the National Reform Programmes to Each Member State and draft explanatory note; be asked to endorse the opinions of the Employment Committee (EMCO) and the Social Protection Committee (SPC) for the assessment of the Country-specific Recommendations (CSRs) and implementation of the 2015 CSRs.

The Council will be invited to adopt draft Council Conclusions on: combating poverty and social exclusion; a new start for a strong social dialogue; a response to the Commission's strategic engagement for gender equality; and a response to the Commission's list of actions to advance LGBTI equality.

The Council will receive progress reports on: the proposal for a Directive of the European Parliament and of the Council on the approximation of the laws, regulations and administration provisions of Member States as regards the accessibility requirements for products and services (the Accessibility Act) and the proposal for a Council Directive on implementing the principle of equal treatment between persons irrespective of religion or life, disability, age or sexual orientation. The Council will also receive a progress report and an update from the European Commission on the proposal for a Directive of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services.

Depending on the progress made between now and Council, the Council will either be invited to seek political agreement or receive a progress report on the proposal for a Council Directive implementing the social partner agreement on the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, and will either be invited to seek a general approach or receive a progress report on the revision of the Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work.

There will also be a presentation by the Commission on the proposed Skills package.

Under any other business, there will be information from the Commission on the international dimension of employment and social policy and a follow-up to the Commission on the Status of Women. The Slovakian delegation will provide information on the work programme of their upcoming Presidency.

6 June 2016

ENCOURAGEMENT OF LONG-TERM SHAREHOLDER ENGAGEMENT (8847/14)

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

On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. It will be for the next Prime Minister to begin negotiations to exit the EU, and until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

I would like to follow on from the update letter I sent you in December on the status of the Shareholders Rights Directive (SRD).

The Netherlands Presidency held six meetings of the Working Party on Company Law (two at attaché level) dealing with the proposal and nine technical meetings with the European Parliament.

The European Parliament has, so far, retained the amendments to propose measures on “country by country” reporting (CBCR) on tax, which has made it difficult for the Presidency to make progress given the consensus in Council that public CBCR should not fall within the scope of this proposal.

A number of technical compromises on the text have been agreed, however there is still a number of outstanding areas, which are to be considered of a political nature, where broad consensus could not be achieved in Council.

These relate for example to Article 3g(3), disclosure of information on the investment strategy; to the proposed changes in Article 9a(3) on the content of the remuneration policy and Article 9b(1) on the content of the remuneration report.

Further reflection remains also necessary on data protection issues, particularly relating to Art. 3a (regarding scope and terms of storage by companies and intermediaries of shareholders' information).

While technical agreement with the European Parliament has been achieved on many areas, the file is unlikely to progress significantly until there is movement on CBCR.

The Slovak Presidency intends to continue discussions on this file at a technical level.

I will update you again once any further details will be available.

14 July 2016

EU COMPETITIVENESS COUNCILS - MAY 2016 (UNNUMBERED)

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

The Competitiveness Council took place in Brussels on 26-27th May. I represented the UK during the internal market and industry discussions.

The Presidency presented on the recent Quantum Technology conference in Amsterdam. This was followed by a presentation by Luxembourg on high performance computing. There was no debate.

The next item dealt with the Commission's online content portability proposal. I have previously made you aware of the UK's interest in the speedy implementation of this package. The proposal means citizens will be able to watch films, sport and other subscription services while on holiday or working temporarily in another Member State. Following interventions by a number of Member States, the Council agreed a general approach to the regulation. The proposal will now pass to the European Parliament who will agree its position in the coming months which could mean implementation of the proposal by the end of 2017.

At the regular competitiveness check-up the Commission gave a presentation that highlighted the issue of EU productivity. The UK welcomed the presentation and highlighted the link between services and productivity; I spoke about the significant amount of evidence which shows how important services are to economic growth.

The following item was a policy debate on the better regulation conclusions. I spoke for the UK in support of the conclusions, which build on the Commission's better regulation package released last year. I also welcomed the Commission's commitment to reduce burdens on business through the introduction of targets.

There was a presentation by Slovakia as the incoming Presidency of the Council of the EU. This was followed by a readout of the recent Friends of Industry Conference in Warsaw. The final Any Other Business item was on the principle of Country of Origin Marking.

The final item on the agenda was a discussion on proposed revisions to the Posting of Workers Directive. There was a divergence of views between Member States. The explanatory memorandum for this proposal was submitted on 24 March.

7 June 2016

FINANCIAL TRANSPARENCY OF PORTS - PORT SERVICES REGULATION (PSR) (10154/13, 13764/14)

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

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

As you will recall, the changes we helped secure in the Council's General Approach improved the Commission's proposal significantly; and many of the European Parliament's amendments also improved it, reducing the proposal's administrative burdens while retaining desirable requirements for financial transparency of public funding.

The trilogue process opened on 18 April and the first meeting agreed working methods. Further meetings were planned for 24 May, and 27 June. The second trilogue dealt with issues where there were essentially only technical differences between the General Approach and European Parliament texts, and therefore very little discussion was needed.

The Dutch Presidency originally planned to hold three trilogues and to hand the dossier over to the Slovak Presidency if necessary, and we anticipated that further trilogue meetings during the Slovak Presidency were highly likely.

However, on 25 May the Presidency announced that an additional trilogue had been arranged for 9 June. This meeting discussed market access, good repute, complaints handling, and reporting. At that stage the European Parliament representatives reserved their position on the Competitive Market Exemption and its sister European Parliament amendment 78.

The addition of this extra trilogue enabled the 27 June meeting to discuss the other outstanding issues, including social provisions, and the competitive market exemption. This meeting reached compromises on the remaining articles, although the majority of the recitals remain to be concluded.

There have been further improvements to the text as a result of the trilogue process, and the proposed compromise text, details of which are set out below, protects and in some areas extends important improvements secured by the UK and like-minded Member States in the General Approach.

The improvements encompass:

- scope, (e.g. exclusion of dredging, and now also pilotage, from Chapter 2);
- administrative burden (procurement rules, consultation requirements);

- confidential discounting, and subsidiarity. The proposed Delegated Acts for port environmental charging have been replaced by provisions enabling the Commission to provide non-binding guidance. This leaves ports free to determine the most suitable form of environmental charging;
- a provision stating that a competitive market exemption (CME) from the procurement Directives, once obtained following an application to the European Commission, would extend to articles 6 and 9;
- the wording of article 10 which UK industry groups considered confusing and potentially detrimental to good labour relations, has been clarified. The European Parliament's attempt to extend transfer of undertakings rights at article 10 has also been resisted. Instead, 'Social' provisions compatible with normal responsible practice at UK ports have been agreed;
- similarly, the UK industry's concerns about inappropriate training and micro-management requirements in article 10a have also been resolved. The greatly reduced requirements, in what has now become article 14a, are entirely consistent with existing good practice and labour relations in the UK ports industry;
- the provisions on procurement are substantially better than either the Commission's proposal or the Council's General Approach: article 7 is deleted and the provisions of article 6 are significantly less onerous — for example, the requirement to advertise contracts in the OJEU (where they are not already covered by the utilities or concessions Directive) has been deleted.

The proposed deal marks a major milestone in the evolution of the Regulation, and I do not expect further significant changes to the articles. However, numerous recitals have yet to be confirmed, and the matter has to pass through the European Parliament and the Council of Ministers to reach a First Reading agreement. I expect the remaining processes to be as follows:

- a) The Council and European Parliament will undertake at least one technical meeting to align the recitals with the proposed deal.
- b) The final proposed deal, including both the articles and the recitals, will be submitted to a Ministerial Council, most likely as an 'A' point. This will probably be done at a non-Transport Council, as there will not be a Transport Council until December 2016.
- c) The text will then be translated into all of the languages of the European Union through the jurist/linguists process (usually taking approximately 3 months). These translated texts will again return to a Ministerial Council as an A point, before publication in the Official Journal of the European Union (OJEU).

I therefore expect the final Regulation to come into force at the end of this year at the earliest, with the main provisions coming into effect on ports of the Trans-European Network two years after publication in the OJEU.

The Regulation will be automatically applicable to Member States of the European Economic Area (EEA) including those which are not EU members. Until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. It will be for the Government, under the new Prime Minister, to begin negotiations to exit the EU. The future applicability of the Regulation to UK ports will depend on the duration and outcome of these negotiations. However, to the extent that it may apply, the present draft is far less onerous than the original proposal.

7 July 2016

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

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

On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. It will be for the next Prime Minister to begin negotiations to exit the EU, and until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

With regards to the above proposal, there have been no developments since I last wrote to you in December 2015. The Netherlands Presidency indicated that given the lack of agreement on the file at the EPSCO meeting in December 2015, it would not schedule any working party meetings unless Member States indicated there was a change in position. As such there have been no discussions on the file. We expect the Slovakian Presidency to take the same approach.

I shall update you in due course, in case of any significant changes.

14 July 2016

GOVERNMENT RESPONSE TO EUROPEAN COMMISSION CONSULTATION START-UPS/SCALE-UPS (UNNUMBERED)

Letter from Baroness Neville-Rolfe, Minister of State, Department for Business, Energy and Industrial Strategy, to the Chairman

I wrote to you on 11 February regarding the European Commission's Single Market Strategy, which set out the Commission's Single Market priorities and a road map for further action to deliver its objectives.

The Commission is currently running a public consultation on one of the proposals included in the Strategy: the 'start-up initiative'. The start-up initiative is an important element of the work programme to boost jobs and growth in Europe. Many European start-ups and SMEs face obstacles when attempting to scale up across Europe, in particular complex VAT regimes and barriers to innovation.

On 23 June 2016, the referendum on membership of the European Union took place and the people of the United Kingdom voted to leave the EU. Until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

In order to remain positively involved in ongoing Single Market work we intend to respond to the consultation. Please find attached [not printed] a copy of the Government response, which highlights some of the key initiatives at UK-level for improving the environment for start-ups and scale-ups, and focuses on some of our main priorities from the Single Market Strategy in this area.

29 July 2016

GOVERNMENT RESPONSE TO HOUSE OF LORDS REPORT “ONLINE PLATFORMS AND THE DIGITAL SINGLE MARKET” (UNNUMBERED)

Letter from Baroness Neville-Rolfe, Minister of State, Department for Business, Energy and Industrial Strategy, to the Chairman

The Government would like to thank the Committee for its report on online platforms and for its helpful recommendations. The Government is pleased that the report recognises the huge benefits that platforms can bring.

The Government has noted that the Committee’s report excluded questions on copyright and illegal content in order to avoid over-extending the inquiry. These are very important Intellectual Property issues vital to our creative industries, who are engaged in the government’s work on the Digital Single Market.

Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. In this response we have not sought to anticipate the impact of Brexit which is of course some way off.

IMPORTANCE OF ONLINE PLATFORMS

The Government is pleased the Committee’s report recognises the important role online platforms have in today’s society, as well the huge benefits that they bring to both consumers and business alike.

The Government’s response to the European Commission’s consultation highlighted that consumers benefit from increased convenience, greater choice and quality of services, improved transparency, ‘freemium’ services, increased connectivity and empowerment. And that business benefits from a reduction of geographic barriers, supporting new forms of business through innovative products, more efficient services, access to wider audiences, new funding models and reduced costs.

DEFINING ONLINE PLATFORMS

The Committee’s report states that due to the wide variety of platforms it is difficult to define their boundaries. The Commission’s Communication on platforms, released on 25 May, agrees that it is difficult to properly define platforms, due to the various shapes and sizes and the wide variety of activities they cover. The Communication does highlight some specific characteristics that all platforms share, these include the ability to shape and create new markets, to challenge traditional ones and organise new forms of participation, as well as the ability to operate in multisided markets.

The UK Government supports the Commission’s Communication in its definition of platforms and agrees that a ‘one size fits all’ approach to regulation would not work and would infringe on the benefits outlined above.

MARKET POWER AND ONLINE PLATFORMS

The Committee notes that disruptive innovation is more likely in online platform markets due to the low up-front investment in infrastructure required for market entry. Platform markets tend to have relatively high levels of market entry. Ex ante regulation could raise fixed costs and necessitate a larger minimum scale to be viable, increasing barriers to market entry and potentially decreasing competition.

Regulation that raised the participation costs associated with a platform could raise switching costs and act as a barrier to simultaneous use of multiple platforms. The Government endorses the Committee’s conclusions that ex ante regulation to restrict the activities of platforms on the basis of their market share is unnecessary.

COMPETITION LAW AND ONLINE PLATFORMS

The Government agrees with the Committee that a case by case analysis by competition authorities is necessary where there is evidence of practices contrary to competition law. The Competition and Markets Authority (CMA) is independent of the Government and will make decisions on whether, and on what basis, it takes action in individual cases.

In respect to the specific issues associated with online travel agents, the Government and the CMA encourage businesses and consumers to provide evidence to the CMA of any potentially anti-competitive or misleading conduct by online travel agents or other actors in the sector. The CMA will consider carefully what action is appropriate under its competition law and consumer protection powers on a case by case basis.

The CMA is already undertaking work that relates directly to the online travel agent sector. Certain online travel agents have changed their pricing practices or price parity clauses in their standard contracts with hotels, following investigations across the EU. The CMA is monitoring the effects of these changes on the online hotel booking sector and has sent a questionnaire to hotels in the UK to give them the opportunity to give views on how the market is developing. Equivalent questionnaires have also been sent by other participating authorities to stakeholders operating in their jurisdictions. The CMA expects this work to be complete by the end of 2016. It will consider what further action on pricing practices may be necessary based on the information it receives. The CMA expects to announce the details of further work to analyse price comparison websites and other digital comparison tools across a range of sectors in the autumn.

On unfair trading practices, the CMA uses its market investigation powers to assess features of markets that may cause adverse competition effects. The CMA independently assesses markets on a case by case basis. Decisions on whether to intervene are made on the criteria set out in its prioritisation principles. The CMA will continue to use its range of markets powers to launch new market studies, calls for information or market investigations in areas where there are significant risks to consumers and the effective functioning of markets.

On measures to protect complainants, the Government and the CMA do not want legitimate complaints to be withheld on the basis of a fear of commercial retaliation. The CMA is generally able to keep the identity of complainants confidential during its initial investigations. However, when the CMA reaches a provisional view that a party under investigation has infringed the law and decides to issue a Statement of Objections, it may be necessary to reveal the identity of the complainant to ensure procedural fairness, including the defendant's rights of defence.

DATA PROTECTION LAW AND ONLINE PLATFORMS

The Government notes the Committee's recommendations on data. Following the referendum result the Government will maintain close contact with the Information Commissioner's Office during this transitional period as they have an important role in helping to guide organisations who are already working hard to prepare for the General Data Protection Regulation. The regulation entered into force on 24 May 2016, but will not be applicable in EU Member States until 25 May 2018. The Data Protection Act will continue to be the UK's data protection legal framework and it is important that organisations continue to comply with it. The Government recognises that the EU will require an adequate level of data protection in the handling of EU citizens' data or trading with EU organisations.

CONSUMER PROTECTION AND ONLINE PLATFORMS

The Committee recommends that online platforms should inform consumers about any possible reduction in their protection. The European Commission's recently released guidance on the application of the Unfair Commercial Practice Directive suggests that, in effect, appropriate measures should be taken by the platform to enable its users to understand who their contracting party is, and that they will only benefit from protection under consumer and marketing laws where the contracting party is a trader. The guidance also considers the application of the Unfair Commercial Practices Directive to transparency about online reviews and whether a platform might qualify as a trader. In general, the Government supports a non-regulatory approach through better enforcement and clarification of existing legislation where possible.

HOW TO GROW EUROPEAN PLATFORMS

The Committee is right to highlight the importance of investment in order to allow UK platforms to grow, this is why the Government is helping facilitate and build a market for the provision of equity finance for scale-up in the UK through the British Business Bank's angel and venture capital programmes. These include the Bank's Enterprise Capital Funds, which form a significant part of the UK venture capital industry and which were contributing £219m in equity funding to UK high growth SMEs at the end of December 2015.

The Government has noted the recommendation to review the example provided by the US Jumpstart Our Business Start-ups (JOBS). The Government recognises the value of learning from best practice from other regulatory environments, although it notes that such best practice cannot necessarily be imported wholesale into the UK.

REGULATING ONLINE PLATFORMS

As the UK Government set out in its consultation response the priority is to ensure that both consumers and businesses are able to take advantage by all benefits offered by platforms without being hindered by unnecessary and burdensome regulation.

To allow small and medium sized businesses to grow, the right regulatory framework has to be in place. This framework must adapt to ensure it can cope with the changing times and support the online ecosystem and encourage competition between platforms and traditional businesses.

As the Committee highlights we need to avoid restrictive regulation that risks entrenching existing market structures. New regulation is likely to make it difficult for platforms to innovate in the future, and can also act as a barrier to entry into platforms. Such efforts may have anti-competitive effects and entrench current dominant players, reducing competition and long term consumer welfare.

20 July 2016

ICT STANDARDISATION PRIORITIES FOR THE DIGITAL SINGLE MARKET (8104/16)

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

Thank you for your Explanatory Memorandum (EM) of 4 May 2016, which was considered by the EU Internal Market Sub-Committee at its meeting on 30 June 2016.

We welcome the Commission's Communication and its aim to improve the process of ICT standardisation so that it is more dynamic and responsive to technological developments. In this way, as you suggest, technological developments in the IoT, Big Data and Cybersecurity may benefit from the interoperability and portability that standards could provide. As the Communication is an overarching strategy document and is non-legislative, we have decided to clear it from scrutiny.

Our most recent inquiry, *Online Platforms and the Digital Single Market*, briefly touched on a number of themes relating to ICT standardisation.¹ We look forward to your response to our report,² and would encourage you to take account of the points raised in relation to creating interoperability standards for data portability (see paragraphs 244-250) and cloud computing.³

5 July 2016

¹ EU Select Committee, [Online Platforms and the Digital Single Market](#) (Report 10 of Session 2015-16, HL Paper 129)

² See pages 12-14 above.

³ See [Q173](#), Paul Misener, Evidence Volume, EU Select Committee, [Online Platforms and the Digital Single Market](#) (Report 10 of Session 2015-16, HL Paper 129)

INFORMAL COMPETITIVENESS COUNCIL - POST COUNCIL STATEMENT
(UNNUMBERED)

Letter from Baroness Neville Rolfe, Minister of State, Department for Business, Energy and Industrial Strategy, to the Chairman

The Informal Competitiveness Council took place in Bratislava on 18th – 19th July 2016. I represented the UK on day one (internal market and industry). David Wilson, Deputy Director, International Knowledge and Innovation Directorate, represented the UK on day two (research).

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

20 July 2016

INSURANCE AGAINST CIVIL LIABILITY IN RESPECT OF THE USE OF MOTOR
VEHICLES, AND THE ENFORCEMENT OF THE OBLIGATION TO INSURE AGAINST
SUCH LIABILITY (8868/16)

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

Thank you for your Explanatory Memorandum dated 6 June 2016 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 14 July 2016.

The Government is taking steps to respond to an automatic adjustment in the minimum levels of insurance required for motor vehicles and claims for property damage. As this document does not relate to ongoing negotiations between the UK and other Member States, we have decided to clear this document from scrutiny.

We support your efforts to consult with industry and to mitigate any possible increased costs for the British consumers.

15 July 2016

LAUNCHING A CONSULTATION ON A EUROPEAN PILLAR OF SOCIAL RIGHTS
(7276/16)

Letter from Nick Boles MP, Minister for Employment Affairs, Department for Business, Innovation and Skills, to the Chairman

Thank you for your letter of 5 May 2016 on the above topic and your further consideration of the issues.

You have asked for further consideration of three areas. Allow me to take your first and second points together as they are linked. The Commission's case for consulting on the Pillar of Social Rights and the outcome of a consultation looking at the whole social policy acquis are incredibly wide ranging and complex issues. May I assure you that we take these issues seriously. We will take time to analyse the range of areas that have been included in the consultation before we develop a more detailed overall position.

Please be assured that this and other interested Committees will be kept fully informed of any response to the consultation. We will be working closely with interested parties in the UK, and of course with other Member States, over the coming months to ascertain views and opinions which will inform our overall approach.

On your third point about the Devolved Administrations, you will have seen my letter to Sir William Cash of 10 May. I will reinforce here that we will continue to stay in close contact with the Devolved Administrations and support them if they wish to respond to the Commission's consultation.

As we consider the issues in the consultation we will keep the European Union Committee informed of our approach, including any response we may give to the consultation.

9 June 2016

'ONLINE PLATFORMS AND THE DIGITAL SINGLE MARKET, OPPORTUNITIES AND CHALLENGES FOR EUROPE' (9727/16)

Letter from the Chairman to Ed Vaizey MP, Minister of State for the Digital Economy, Department for Business, Innovation and Skills, and Baroness Neville Rolfe, Parliamentary Under Secretary of State and Minister of State for Intellectual Property, Department for Business, Innovation and Skills

Thank you for your Explanatory Memorandum dated 15 June 2016 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 14 July 2016.

We take a strong interest in the Commission's Communication following our report on online platforms. We look forward to receiving the Government's response to our report shortly and we have decided to retain this document under scrutiny until then.

While there are many similarities between the Commission's approach and our report (which we welcome), we do note the absence of reference to competition law. We hope that the Government's response to our report picks up on our recommendations in this area.

15 July 2016

POSTING OF WORKERS (6987/16)

Letter from the Chairman to Nick Boles MP, Minister for Employment Affairs, Department for Business, Innovation and Skills

Thank you for your letter dated 10 May 2016 concerning the Commission's proposed revision of the Posting of Workers Directive. This letter was considered via correspondence by the House of Lords EU Internal Market Sub-Committee.

We are of the view, as outlined in our report, *The UK's opt-in Protocol: implications of the Government's approach*, that the UK's Justice and Home Affairs Opt-in is only triggered when a proposal has a Title V legal base and not in instances where the Government believes the proposal to have Justice and Home Affairs content. Unless the Government can convince the Commission and other Member States to change the legal base of the proposal, we disagree with your view that the JHA Opt-in is triggered by this proposal.

If the Government decides to opt-out of this proposal, we request that you keep us informed as to how this will be achieved.

We plan to consider your most recent letter, dated 26 May, at our next meeting on 30 June.

7 June 2016

Letter from the Chairman to Nick Boles MP

Thank you for your letter dated 26 May 2016 concerning the Commission's proposed revision of the Posting of Workers Directive. This letter was considered by the House of Lords EU Internal Market Sub-Committee at its meeting on 30 June.

We await information about the Government position on this proposal. In particular, we are interested to know the Government's view about what impact this proposal might have on British workers posted to other Member States.

We request to know how the result of the referendum will impact the Government's position and approach to future negotiations on this proposal. We also request to know whether the Commission has given any indication of how long its review of the proposal will take. A response to these questions is sought in due course.

5 July 2016

PROTECTION OF WORKERS FROM THE RISKS RELATED TO EXPOSURE TO CARCINOGENS OR MUTAGENS AT WORK (8962/16)

Letter from the Chairman to Justin Tomlinson MP, Minister for Disabled People, Department for Work and Pensions

Thank you for your Explanatory Memorandum dated 26 May 2016 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 14 July 2016.

Given the possible impact of the proposal for over 300,000 workers in the UK, we have decided to retain this document under scrutiny. We note that the one area of contention is the Commission's plan to introduce a more stringent limit on exposure to hardwood dust. Your EM explains that industry believes it would be hard to effectively comply with this limit. Could you explain in more detail why they believe this to be the case? Considering the large numbers of UK workers exposed to hardwood dust, what is your assessment of the health benefits for workers if this more stringent limit were to be introduced? We would also like to know when the Government plans to publish its impact assessment on this proposal.

15 July 2016

PROVISION OF AUDIOVISUAL MEDIA SERVICES IN VIEW OF CHANGING MARKET REALITIES (9479/16)

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

Thank you for your Explanatory Memorandum dated 15 June 2016 on the above proposal. This was considered by the EU Internal Market Sub-Committee at its meeting of 14 July 2016.

We note that a more detailed assessment of the initiative is currently under consideration and an update will be submitted to Parliament in due course. We would be grateful if this update could include appraisals of: (i) the proposed derogation from the country of origin principle which would permit Member States to impose levies on video on-demand services; (ii) the derogation from the same principle on grounds of national security, and how you think this would work in practice, with particular reference to recent Latvian concerns about Russian broadcasting; (iii) the quota for European works; and (iv) the proposed co-regulatory approach for video-sharing services such as YouTube.

The Committee has decided to retain this document under scrutiny.

15 July 2016

SIMPLIFYING THE TRANSFER OF MOTOR VEHICLES REGISTERED IN ANOTHER
MEMBER STATE WITHIN THE SINGLE MARKET (8794/12)

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

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

Since my predecessor last wrote to you in March 2015, progress has continued to be slow and this dossier has not reached a position that would make agreement possible in Council.

There continues to be a great deal of debate around Article 3 of the proposal which concerns the conditions under which a Member State may require that a vehicle registration must be transferred. You may recall that a group of Member States felt that, for their countries, the conditions could create a potential tax loophole. They were concerned that shell companies could be created allowing unscrupulous individuals to register their vehicles as part of a foreign-registered fleet in order to avoid paying large amounts of tax. Proposed text to mitigate this issue resulted in a new concern that it would not protect against those who would lend their vehicles across borders to friends/family members.

The states concerned all have a system of vehicle registration based on the “user” of a vehicle. Directive 1999/37/EC (Registration Documents for Vehicles Directive) defines the “Holder of the Registration Certificate” as the person in whose name a vehicle is registered. For the UK, we take that to mean the vehicle keeper, however the above group of Member States interprets the definition to apply to the principal vehicle user.

The UK has worked with successive Presidencies and other Member States to try to find acceptable compromises, and will continue to do so. I believe the proposal will be good for businesses and citizens alike. It will not create new burdens on business or individuals and will have the potential to reduce costs and bureaucracy for holidaymakers renting cars abroad and for those who have second homes abroad. I do not believe it will impact upon tax revenues here in the UK.

The proposal will remove red-tape surrounding cross-border car rentals which should reduce or even eliminate hefty one-way car hire charges and make it easier for the industry to move cars around Europe in response to seasonal consumer demand, saving the industry an estimated £500 million each year across the EU.

The proposal will also provide choice to Member State citizens with holiday homes elsewhere in the EU and the EEA. Current rules state that vehicles need to be registered where the owner/keeper is normally resident (at least 185 days in a calendar year). In the UK this has meant that UK citizens who keep vehicles at a holiday home in the EU are required to repatriate UK-registered vehicles for their annual MoT which can be very expensive. The proposal will change these rules and allow citizens with property in the EU to be able to register those vehicles used permanently in another Member State if they choose, reducing the bureaucracy and costs they face.

The Government will, of course, continue to keep you informed of developments. The proposal is not a priority for the Slovak Presidency and although they may schedule some further working group discussions, the proposal has not been included on the draft agenda for any meeting of the Council of Ministers during their term.

When agreed, the proposal will be automatically applicable to Member States of the EEA, including those which are not members of the EU. Until exit negotiations are concluded, the UK remains a full member of the EU and all the rights and obligations of EU membership remain in force. The future applicability of proposal to UK citizens will depend on the duration and outcome of these negotiations.

12 July 2016

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

Letter from Baroness Neville Rolfe, Minister of State, Department for Business, Energy and Industrial Strategy, to the Chairman

On 23 June, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. It will be for the next Prime Minister to begin negotiations to exit the EU, and until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation.

In my last letter to you at the end of February I agreed to provide you with an update on this proposal.

Since I last wrote to you no substantive decision has been taken. The European Parliament has yet to agree a first reading position. It must do so before Triologues can begin. Should the European Parliament decide to make progress on this file, we would anticipate a redraft of some of the articles.

I shall update the committee when discussions move forward.

14 July 2016

STEEL: PRESERVING SUSTAINABLE JOBS AND GROWTH IN EUROPE; AND THE ADOPTION OF THE RESEARCH PROGRAMME OF THE RESEARCH FUND FOR COAL AND STEEL (6411/16, 7195/16)

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

Thank you for your letter dated 25 May on the two above documents, which was considered by the EU Internal Market Sub-Committee at its meeting on 30 June 2016.

Your responses to our questions were thorough, informative and exemplary. We are grateful that you took the time to explain the Government's position on a number of important policy issues. With regards to steps to address China's over-production of steel, do you think that any significant progress might be made in the next two years?

We appreciate the outcome of the referendum will have a significant impact on the Government's approach to negotiations on the proposal relating to the Research Fund for Coal and Steel. We request to know whether the Government's interventions regarding the negative impact of governance changes on industry have led to any concrete changes in the Commission's proposal. A short response is sought in due course.

5 July 2016

TRANSPORT COUNCIL - 7 JUNE 2016 (UNNUMBERED)

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

I will attend the final Transport Council under the Dutch Presidency (the Presidency), taking place in Luxembourg, on Tuesday 7 June.

The Presidency will provide a progress report on the proposed Regulation on common rules in the field of civil aviation and establishing a **European Union Aviation Safety Agency**, which aims to provide civil aviation safety with a modernised, effective and proportionate regulatory framework for the challenges in the next 10 to 15 years. Although some issues remain to be resolved, at this stage in negotiations Member States appear to be nearing agreement on a number of key issues including: EASA's role in respect of aviation security; the exclusion of small general aviation aerodromes with

instrument approach procedures from the scope of the Regulation; new rules for the operation of unmanned aircraft; and the rewriting of the substantive requirements to allow implementing acts, rather than delegated acts, to be used to adopt the implementing rules.

The Presidency is aiming for a general approach on the proposed Directive on the recognition of **professional qualifications in inland navigation**. The proposal aims to extend reciprocal recognition of Union certificates of qualification, and increase competency standards. It contains exemptions relating to national inland waterways not linked to the navigable network of another Member State, which will allow the UK to continue its established qualification system.

The Presidency has proposed a policy debate on **NOx emissions by diesel cars**. When we published the UK Emissions Testing Programme Report in April we highlighted the need to clarify the EU rules relating to the variation of vehicle emissions control strategies with ambient temperature. We have written to the Commission requesting that they do this. This policy debate is a useful opportunity to begin the discussion with other Member States to secure improvements.

The Council will make a recommendation authorising the Commission to open negotiations on a **comprehensive air transport agreement between the European Union and: the Association of Southeast Asian Nations (ASEAN); Qatar; the United Arab Emirates; and the Republic of Turkey**. Air Transport Agreements are used between countries and/or country blocs to determine traffic rights⁴ for air carriers between two countries and other rules air carriers must comply with. As usual, details of these negotiating mandates will be provided to your Committee once they have been approved.

The Council will exchange views in preparation for the **ICAO Assembly (Montreal, 24 September–4 October 2016)**. This will facilitate discussion and coordination between EU Member States concerning a Global Market Based Measure (GMBM) to limit CO₂ emissions from international aviation.

Under Any Other Business, the Commission will provide an update on the **European GNSS programme (EGNOS/Galileo)**, will give a presentation on the forthcoming **passenger ship safety package** and will report on the **EASA Task Force Conflict Zone** and the **latest developments in aviation security**. The Commission and the Czech delegation will provide an update on **road safety**. The Presidency will report on the outcome of the **informal Transport and Environment Council** held on 14-15 April 2016 and the conclusions from the **European Aviation Summit – ‘An aviation strategy for Europe’**. The Slovak delegation will provide information on the **work programme for their incoming Presidency**.

A copy of this letter will be placed in the library.

6 June 2016

Letter from Patrick McLoughlin MP to the Chairman

I attended the formal Transport Council under the Dutch Presidency in Luxembourg on Tuesday 7 June 2016.

The Council held a policy debate on NOx emissions by diesel cars based on pre-set Presidency questions relating to the use of defeat devices. Germany began the debate by urging a review of measures to make the legislation more precise. Member States broadly agreed that the existing rules should be clarified, and I intervened to make clear that type approval processes should be transparent and consistent.

The Council adopted a General Approach on the proposal relating to the recognition of professional qualifications for inland waterways. A derogation allows the UK to continue its qualification system for those operating on our inland waterways. I recorded an abstention and laid a minute statement setting out our view that reference to international technical standards should be made with an implementing act rather than with a delegated act.

⁴ the volume and types of flights allowed and the cities that carriers can operate between in two countries

The Council approved the Presidency's proposals to grant the Commission negotiating mandates for air transport agreements between the European Union and: the Association of Southeast Asian Nations; Qatar; the United Arab Emirates; and the Republic of Turkey.

The Council held a policy debate on preparation for the International Civil Aviation Organization (ICAO) Assembly (Montreal, 24 September–4 October 2016). The Commission opened the debate by pressing the need to reach agreement on a Global Market Based Mechanism to address international aviation emissions and urged Member States to unite in determining and explaining our common position with third countries. I intervened to say that the Mechanism should reflect environmental ambition and non-discrimination, and that EU Member States were well placed to influence other states through greater coordination of outreach activities and through supporting capacity-building in administering the Mechanism.

The Presidency gave a progress report on the proposed European Aviation Safety Agency (EASA) regulation.

In a range of Any Other Business items on aviation, the Presidency urged Member States to continue to follow up the report of the EASA Task Force on Conflict Zones. On Aviation Safety, the Commission updated Council on recent international commitments to improve aircraft tracking. The Presidency also presented conclusions on the Aviation Summit held in January 2016.

Also under Any Other Business, the Commission presented their recently-published package of passenger ship safety proposals, which aims to clarify existing regulations and update them in line with modern technology.

The Commission highlighted a downward trend in road safety statistics across Europe as a whole and the Czech Republic informed delegations about its recent initiative to host a road safety summit as part of its Presidency of the Visegrad group.

A last-minute Any Other Business request from Poland heard several Member States commenting on recent German and French minimum wage measures.

The Presidency informed Ministers of the outcome of April's joint Transport and Environment Informal Council, particularly highlighting the Amsterdam declaration on Connected and Autonomous Vehicles.

The Commission gave an update on the Galileo programme, highlighting the progress made and announcing the launch of a further four satellites in the autumn.

Finally, Slovakia presented their Work Programme for the Presidency commencing on 1 July 2016.

13 June 2016

VEHICLE TYPE APPROVAL (5712/16)

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

Thank you for your letter dated 13 May 2016 on the above proposal, which was considered by the EU Internal Market Sub-Committee at its meeting on 19 July 2016.

We welcome your answers to our questions. We would welcome a thorough update on the progress of negotiations, especially on aspects of the proposal relating to changes in the organisational governance of type approval authorities and increased powers for the Commission, after the summer. More generally we note that the outcome of the referendum and the UK's withdrawal from the EU will have significant implications for this proposal and for the work of the VCA. We note that the UK has tremendous expertise in this area.

We are pleased that the Government is committing resources to market surveillance testing and that a new unit will be up and running shortly. How big is this unit? What will be the quantity and number of tests they plan to carry out in the first year or so?

We are also pleased that the Government is consulting widely with stakeholders on this proposal and is considering consulting with environmental and consumer organisations.

20 July 2016