



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 November 2012 –8 May 2013

## **INTERNAL MARKET, INFRASTRUCTURE AND EMPLOYMENT**

### **(SUB-COMMITTEE B)**

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

### **Letter from the Chairman to the Rt. Hon Francis Maude MP, Minister for the Cabinet Office and Paymaster General, Cabinet Office**

Thank you for your letter of Explanatory Memorandum (EM) of 30 January 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 March 2013.

One of the key concerns expressed by Member States in relation to this proposal is whether or not it is actually necessary given the Commission's plans for a European Accessibility Act. If such an Act is introduced, and it includes the right to legal redress if non-accessibility prevents citizens or businesses from interacting with Government, this may prove to be more effective at ensuring compliance than monitoring and reporting. However, we were unable to get a clear understanding from your EM about the relationship between the European Accessibility Act and the proposed Directive. We would be grateful if you could write to us with an explanation about the relationship between the two.

The EM states that the proposal does not impose any additional burdens if websites remain compliant with previous guidance. We consider that it is not possible to assess with certainty what obligations there will be on website owners until the methodology for reporting the outcomes of monitoring is decided, and a relevant body is designated to carry out this work in the UK. Do you have any ideas at this stage as to which body this could be?

The EU ratified the UN Convention on the Rights of Persons with Disabilities in December 2010, and all Member States have done so, with the exception of the Netherlands, Finland and Ireland who have signed, but not yet ratified the Convention. We would be grateful for your opinion on whether this proposal constitutes an unnecessary duplication of legislation.

Your explanation for the delay in submitting the EM will simply not suffice. We consider this to be a serious breach of the duties of this Parliament to scrutinise and respond to European Union proposals. We would be grateful to receive an explanation for the delay.

*12 March 2013*

### **Letter from the Rt. Hon Francis Maude MP to the Chairman**

Thank you for your letter dated 12 March, in which you asked about a number of concerns raised by EU Sub-Committee B on the Internal Market, Infrastructure, and Employments about this proposed Directive.

I note your concerns about the relationship between the European Accessibility Act (EAA) and the proposed Directive. The EU last updated the Roadmap for the proposed EAA in June 2011, when the expected date of adoption was given as September 2012. However, negotiations are continuing within the European Commission on the EAA and I understand that these negotiations are likely to continue until late summer or early autumn.

We know, from the roadmap and the public consultation (including the guidance note that accompanied the public consultation), the intentions behind the EAA. However, we do not know how the negotiations will impact on the development of the EAA. Since it is not possible to say what the EAA will actually cover, nor when it will be implemented, it is not possible to comment on the relationship between the EAA and the proposed Directive.

You also raised concerns about the additional burdens of compliance with proposed Directive and the methodology for reporting outcomes of monitoring. The requirements and methodology are still the

subject of negotiations. Whilst these negotiations are ongoing, it is not possible to say what the outcomes will be. However, in its impact statement, the EU Commission believed it would not be burdensome; with the benefits of doing so being greater than the costs. The UK, along with other Member States, favours a light touch regime and will use the negotiations to ensure the outcomes are not over burdensome.

Within the UK, the Government Digital Service (GDS) leads on digital delivery. GDS would work with their Departmental Digital Leaders network to ensure Government websites are compliant. The Devolved Administrations are members of the Departmental Digital Leaders network.

GDS would also negotiate with the Society of Information Technology Managers (SOCITM), the body that supports the relevant professionals in local authorities and other public sector organisations. SOCITM already undertake regular reviews of local authority and other relevant websites, through their Better Connected reports. It should be possible to align the reporting and monitoring requirements with the work done in preparation of the Better Connected surveys, thereby ensuring compliance.

Sub-Committee B noted that the EU has ratified the UN Convention on the Rights of Persons with Disabilities in December 2010 and expressed a concern that the proposed Directive constitutes an unnecessary duplication of legislation. In proposing this Directive, the EU is seeking to address the lack of progress by some Member States in meeting their obligations under the UN Convention. Furthermore, the EU argues, having a European Standard will help to promote the single market across the EU by ensuring accessibility for certain key services in every Member State. Therefore, this is seen as complementary legislation rather than unnecessary duplication. Within the UK, 'accessibility' can be addressed through the ratification of the UN Convention, but the Single Market requires action across the EU and complementary legislation may prove to be necessary.

Finally, I note your comments about the late submission of the Explanatory Memorandum (EM).

Following the deposit of the EU proposal in Parliament on 10 December, an EM was commissioned for submission by 21 December. However, given this date fell at the time of the Christmas Parliamentary break, my officials contacted the Committee's Clerk to agree a new date of 9 January to submit the EM.

I approved the Explanatory Memorandum on 9 January but unfortunately it was issued without my signature on it. This oversight was brought to the attention of my officials on 14 January, however, the importance of my signing the Explanatory Memorandum or the urgency of doing so was not fully understood by my officials. Following further contact by the Committee staff and officials in the European & Global Issues Secretariat, it was proposed that given the delay that had already elapsed, that an updated version of the Explanatory Memorandum be prepared to take account of Brussels discussions on the proposed Directive. The EM was resubmitted for my approval and I signed the EM on 29 January, with a short letter of apology dated 5 February. This was sent to the Committee on 6 February.

My officials – in the Government Digital Service, European & Global Issues Secretariat, and in my Private Office – have investigated the delays. They assure me that there was no single issue or delay in the preparation of the Explanatory Memorandum but a series of handling delays due to the need to refer this issue between numerous stakeholders.

You will have seen from Nick Hurd's letter of 14 February, when he submitted an EM on document 17039/12 (the MEETS Directive) that we have taken steps to improve handling and communication arrangements within the policy teams that support Cabinet Office Ministers and I hope that these arrangements will help to improve Cabinet Office scrutiny handling in the future.

28 March 2013

## APPLICATION OF ARTICLE 93 (17450/12)

### **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 explanatory memorandum of 20 December on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 21 January and the Committee decided to hold it under scrutiny.

We note that you appear broadly happy with the proposal, but we also wish to emphasise that the Commission must respect the principle of proportionality in exercising its powers in this area. We

note that you are still consulting interested stakeholders, and as this regulation is part of a package of measures to do with this issue, we retain this document under scrutiny, and would be grateful to be updated on it as negotiations progress.

*24 January 2013*

## BALANCE OF COMPETENCES: CALL FOR EVIDENCE

### **Letter from the Rt. Hon Vince Cable MP, Secretary of State for Business, Innovation and Skills, Department for Business, Innovation and Skills, to the Chairman**

I am writing to you regarding the Review of the Balance of Competences launched by the Foreign Secretary in July 2012. As part of the commitment in the Government's Coalition Agreement to examine the balance of competences between the United Kingdom and the European Union, the Department for Business, Innovation and Skills (BIS) is leading a review of the application and effect of the EU Internal Market (Internal Market Synoptic Review).

The Department is launching a Call for Evidence on 15 November as part of the Internal Market Synoptic Review. Interested parties are invited to provide evidence with regard to political, economic, social and technological factors relating to the Internal Market. I am writing to extend this invitation to your Committee to present your submissions to the Call for Evidence. Please find attached the Call for Evidence document which sets out the scope of the report and includes a series of broad questions on which we ask contributors to focus. The deadline for submissions will be 28 February 2013.

The Internal Market report will be completed by June 2013 and will cover the overall application and effect of the EU Internal Market, often also known as the Single Market. The result of the report will be a comprehensive, thorough and detailed analysis of the wider functioning of the Internal Market. It will determine how the so-called "Four Freedoms" operate together to create an efficient and operating Internal Market and ultimately what this means for the UK. It will aid our understanding of the nature of our EU membership; and it will provide a constructive and serious contribution to the wider European debate about modernising, reforming and improving the EU. We will subsequently be reviewing each of the "Four Freedoms" in turn in the following semesters.

My officials would be happy to arrange a meeting should you wish to discuss this matter further.

*14 November 2012*

## BETTER AIRPORTS PACKAGE (18007/11, 18008/11, 18009/11, 18010/11)

### **Letter from the Rt. Hon Patrick McLoughlin MP, Secretary of State, Department for Transport, to the Chairman**

Thank you for your letter of 23 October 2012.

I am writing to provide you with an update on progress in relation to the recast the EU Slot Regulation following the Transport Council meeting on Monday 29 October.

At the meeting of the Transport Council of the Cypriot Presidency in Luxembourg, a General Approach was reached on the proposal for a Regulation of the European Parliament and of the Council on common rules for the allocation of slots, repealing Council Directive 95/93/EC, by qualified majority voting.

I am pleased to advise the Committee that the UK, with support from a number of other Member States, successfully preserved key elements of the text which safeguard the current secondary trading of slots in the UK and narrow down the scope for other Member States to restrict slot trading within their territory in certain circumstances.

However, although the majority of the text was acceptable, the UK withheld its support for the General Approach on the day, because of uncertainty as to how a number of detailed points would be resolved. In particular, we were disappointed that scope for airports to introduce local rules to increase the minimum slot series length was not included in the General Approach text and that the provisions concerning slot reservation fees remain unclear. We hope that these points can be resolved as we go forward to a formal first reading in Council and will of course keep you informed of further developments.

Finally, in your letter you asked for further information about the negative impacts should the secondary trading of slots be compromised. The secondary trading of slots at congested airports can bring considerable consumer benefits in terms of greater competition between air carriers and the alleviation of inefficiencies in the original administrative allocation of slots. Secondary trading allows for slots to be put to the most effective use from the consumer perspective and reduces barriers to competition, as both new entrant and established airlines wishing to expand can acquire slots where they can use them more profitably than existing users. If secondary trading was to be impaired, these consumer benefits could be lost.

9 November 2012

### **Letter from the Rt. Hon. Simon Burns MP, Minister of State, to the Chairman**

I am writing to update you on progress regarding the European Commission's 'Better Airports Package', including the outcome of the European Parliament's first reading Plenary.

As you may recall the Commission published its "Better Airports Package" on 30th November 2011, proposing three new Regulations (ground-handling, noise management and slots) intended to help boost capacity, reduce delays and promote quality at Europe's airports.

The Council agreed general approach texts on groundhandling in March 2012 and noise in June 2012. In both cases these texts were substantially different from the Commission's original proposal. A general approach on the slots proposal was adopted at the October Transport Council, although the Commission formally objected to the text.

The European Parliament considered the three proposed Regulations in parallel. At the Committee stage of the Parliament's consideration the TRAN committee agreed a position for the noise and slots regulations but recommended outright rejection of the groundhandling proposal.

The EP discussed and voted on its official position regarding the Airports Package as a whole during its Plenary session in Strasbourg on 10th – 13th December 2012. The EP adopted positions for the noise and slots proposals at this First Reading, but referred the groundhandling dossier back to the TRAN Committee for further deliberation. Commissioner Kallas was not willing to withdraw the legislative proposal, so the groundhandling regulation will be considered again by the TRAN Committee.

#### **SLOTS**

The October Transport Council adopted a General Approach on the recast EU Slot Regulation, following a number of last minute amendments during the meeting. The key issue for debate was secondary trading, which the UK fully supports, and the text of the Council general approach in relation to secondary trading (i.e. Article 13) is now acceptable to the UK.

The European Parliament's first reading outcome includes a number of amendments which are of concern to the UK. In particular, the UK remains concerned that amendments proposed to protect regional air services could seriously impair and distort the slot allocation system and the secondary trading market to the detriment of consumers. More positively, the European Parliament included amendments that would allow airports to introduce local rules to increase the minimum slot series length.

#### **NOISE**

To date it is apparent that the noise proposal has been the least controversial element of the package. The Danish Presidency secured a general approach on the noise proposal at the June Transport Council. The agreed text reflected the changes which the UK argued for or supported in working groups negotiation, such as making the role of the independent competent authority less burdensome and ensuring that the new requirements for a more detailed assessment only apply where noise has been identified as a problem and where new noise related operating restrictions are being considered.

We also managed to ensure that the new process aligns more closely with the existing procedure to produce noise action plans every five years and limited the Commission's power to amend the Regulation in the future to updates of a technical nature only.

The European Parliament's first reading outcome is broadly consistent with the Council's position and as such we are supportive of it.

## GROUNDHANDLING

The Danish Presidency secured a general approach for the proposed groundhandling regulation at the Transport Council in March 2012. This largely addressed our worries about putting unnecessary administrative burdens on industry and regulators.

In particular, the UK welcomed the removal from the general approach text of proposed compulsory licensing and of the powers for the Commission to tell a Member State to close its markets to third country operators that refused to open theirs. Another important point secured during pre-Council negotiations was that minimum quality standards should be established by individual airports rather than centrally (reflecting local needs and circumstances). The Presidency's compromise text recognises that enforcement should be through contractual relationships between airports, airlines and groundhandlers - not through intervention by the state

The proposed Regulation as amended by the general approach text should help to deliver a wider range of potential groundhandling solutions for airlines throughout the EU, compared to the status quo. This should exert a downward pressure on costs (with knock-on benefits for consumers).

We would expect further market opening to not only drive-down costs, but also exert a positive influence on service standards (if airlines have multiple alternative groundhandling options, they can hold poor-performing handlers to account), similarly, as we have seen in the UK for a number of years, in a genuinely open market there is no need to heavily regulate groundhandlers – instead market forces and contractual relationships can deliver choice, value for money and quality.

At the Committee stage of the European Parliament's consideration, the Employment and Social Affairs Committee (EMPL) agreed a position on groundhandling, but the TRAN Committee recommended outright rejection of the legislative proposal. We suspect this was due to heavy lobbying from the European Transport Workers Federation, which fears that market liberalisation will lead to lower wages and poorer working conditions.

At its Plenary session the EP supported the TRAN Committee's recommendation and in accordance with Rule 56 of the Parliament's Rules of Procedure, the Commission was then asked to withdraw the proposal. The Commission declined to do so, so the EP referred the dossier back to the TRAN committee for further consideration.

## NEXT STEPS

The Irish Presidency are awaiting clarification of the EP's position on groundhandling before taking forward work on the Airports Package. For the noise and slots proposals, therefore, informal trilogues between the EP, the Council and the Commission are unlikely to take place before the second quarter of 2013 (and, of course, might be further delayed – perhaps into the Lithuanian Presidency – depending on progress with groundhandling in the TRAN committee). It seems unlikely, therefore, that any new Regulations would be adopted before late 2013.

*18 January 2013*

### **Letter from the Chairman to the Rt. Hon. Simon Burns MP**

Thank you for your letter of 18 January on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 11 February 2013 and the Committee decided to clear it from scrutiny.

As you are aware, the Committee had previously cleared the Regulations on ground handling and noise-related operating restrictions, on the basis that we were satisfied with the respective texts which were eventually agreed at the March and June 2012 Councils.

However, the Committee would appreciate updates on progress with the ground handling Regulations, given the change in direction resulting from the European Parliament TRAN Committee's recommendation that the proposal should be rejected outright. We also seek clarification on whether you are consulting with the UK members of the TRAN Committee.

The Committee notes your concern about the potential for European Parliament amendments to regional air services to seriously impair or distort the slot allocation system and secondary trading market. We have previously highlighted the importance of maintaining the secondary trading provisions, and would urge the Government to resist these amendments, which could have a negative impact on consumers.

While the Committee remain content with the text on noise related operating restrictions, we ask whether you foresee the proposals having a positive impact in relation to noise pollution from aeroplanes 'stacking'? We ask for clarity on the extent to which this issue has been considered in discussions on the text.

I look forward to an update in due course.

13 February 2013

### **Letter from the Rt. Hon. Simon Burns MP to the Chairman**

Further to my letter of 18th January, I am writing to update you on progress regarding the European Commission's 'Better Airports Package', including the outcome of the European Parliament's first reading Plenary consideration of the groundhandling proposal on 16th April 2013.

As you may recall, the EP discussed and voted on its official position regarding the Airports Package as a whole during its Plenary session in Strasbourg on 10th – 13th December 2012. The EP adopted positions for the noise and slots proposals at this First Reading, but referred the groundhandling dossier back to the TRAN Committee for further deliberation. TRAN agreed on a revised set of proposed amendments which the EP voted to accept in Plenary on 16th April 2013.

#### **GROUNDHANDLING**

In contrast to the general approach reached by the Transport Council in March 2012, the EP has adopted a position that would deliver only limited market liberalisation, and at face value could impose unnecessary administrative burdens and employment protection measures that would in effect constrain market access. The EP's proposed amendments would, for example, appear to require the UK to licence groundhandlers, and impose penalties on those operators not meeting agreed minimum quality standards. Both of these requirements would require the UK to establish new regulatory mechanisms.

With the EP and Council adopting widely different opinions, the groundhandling proposal (and the Better Airports Package as a whole) will have to be subject to trilogue discussion. This might occur under the forthcoming Lithuanian presidency, but it could well be delayed into next year, or beyond. My officials and I were, of course, in active dialogue with UK Members of the TRAN committee during the EP's consideration of the package.

#### **GIBRALTAR**

Under the 2006 Cordoba agreement between the UK, Spain and HM Government of Gibraltar, Spain committed to stop seeking the suspension of Gibraltar's Airport from EU aviation measures. The agreement stated that "Gibraltar Airport would be bound by, comply with and benefit from all applicable EC Regulations and Directives." The de-facto approach since 2006 has therefore been to extend application of EU aviation measures to Gibraltar's Airport. However, on 11th February 2013, Baroness Warsi informed Parliament of Spain's intention to withdraw from this aspect of the Cordoba agreement and seek the suspension of Gibraltar's Airport from EU measures currently under negotiation and all future measures.

The UK continues to recognise commitments made under the Cordoba Agreement and cannot support any measure that would suspend Gibraltar's Airport. This would set an unacceptable precedent for important upcoming EU aviation measures including the Single European Skies II+ initiative. Until the Spanish Government agrees to support Gibraltar Airport's inclusion in EU aviation measures, there is unlikely to be any further progress on the Better Airports Package, or indeed other aviation-related dossiers.

#### **NOISE**

Your letter of 13 February 2013 asked whether we foresee the noise proposals having a positive impact in relation to noise pollution from aeroplanes stacking. The proposed Regulation concerns the rules on the process to be followed for the introduction of noise-related operating restrictions at airports. Stacking, however, is a matter relating to airspace management, rather than an operating restriction. It is a requirement under the proposed Regulation that authorities consider other measures to reduce noise, including noise abatement operational procedures (such as use of airspace), before resorting to operating restrictions. However, because of the distance of stacks from airports and the altitude of aircraft when stacking (typically around 7,000 feet), it is unlikely that changing stacking procedures would have a large impact on noise reduction.

## NEXT STEPS

During further negotiations we shall robustly resist any move away from the Council's general approach texts. Similarly, with the proposed Regulation on slot allocation, we shall resist firmly any changes that would impair or distort the slot allocation system and the secondary trading market. We will reiterate the requirement for application to be extended to Gibraltar's Airport and resist any attempts to progress a text that would not ensure this. We will, of course, continue to keep the Scrutiny Committees apprised of developments.

*7 May 2013*

## BLUE GROWTH (13908/12)

### **Letter from the Chairman to the Rt. Hon David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum of 30 October on the above paper. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 19 November 2012.

We have decided to clear this document from scrutiny. However, we were surprised to note in the Explanatory Memorandum that the Department for Transport is not listed as having any responsibility, partial or otherwise, for marine, coastal and cruise tourism. We feel that marine, coastal and cruise tourism is of particular relevance to the shipping and shipbuilding industries in the UK.

We look forward to receiving further information on the more specific proposals that the Commission has timetabled for 2013 and 2014. In the meantime, we urge you to ensure that the Commission keeps the promise of carrying out full impact assessments analysing costs and benefits to stakeholders in relation to these proposals.

A response to this letter is not required.

*21 November 2012*

## CAPE TOWN AGREEMENT 2013 (6040/13)

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

Thank you for your explanatory memorandum of 21 February 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 22 April 2013.

We agree with the thrust of the Commission's proposal in that the adoption and entry into force of global safety rules for fishing vessels is to be encouraged in a sector plagued by a particularly high number of accidents resulting in over 24,000 fatalities every year. Unfortunately, this is a fact that is not sufficiently widely known. However, we share the concerns expressed in your explanatory memorandum about the Commission's intentions to extend its competence on the governing articles of the protocol.

We note that you are still considering the proposal and seeking further evidence on its implications. We have therefore decided to retain this document under scrutiny, and look forward to receiving updates on your position in due course.

*8 May 2013*

## CARS 2020 (15962/12)

### **Letter from Chairman to the Rt Hon Vince Cable MP, Secretary of State for Business, Innovation & Skills, Department for Business Innovation and Skills**

Thank you for your explanatory memorandum of 28 November 2012 on the above Communication. The House of Lords EU Sub-Committee B on the Internal Market, Infrastructure and Employment

considered it at its meeting of 10 December 2012. The Committee decided to retain the document under scrutiny.

We broadly welcome the Commission's engagement in this area, and in particular its plans to do an assessment of the regulatory burden, and a study on the impacts of trade liberalisation with non-EU countries on the industry.

However, we are concerned that the proposed European Automotive Skills Council may duplicate national efforts and funding, without providing any additional value. We would be grateful to know your views on this.

We are aware that the Communication was due to be discussed at the EU Competitiveness Council on 10 December, and would be grateful to know the results of any discussion on this Communication at that meeting.

*11 December 2012*

### **Letter from the Rt. Hon Vince Cable MP to the Chairman**

I thank you and the Lords European Union Committee for your interest in the European Commission's Communication on the CARS 2020 Action Plan.

Lord Green, Minister for Trade, attended the Competitiveness Council on 10 December and provided the European Select Committees with the Post-Council Written Ministerial Statement on 18th December, which covered the item. I understand that under the agenda item on CARS 2020 the Council's discussion focussed on the current issues affecting the European automotive sector around manufacturing overcapacity rather than discussing the contents of the Action Plan, including a degree of consensus around the need for smart regulation and consideration of the cumulative impact of regulation on the sector. The concerns around these issues were touched on in the Explanatory Memorandum. There was wording on the CARS 2020 Action Plan in the Competitiveness Council Conclusions which I have copied the text below:

— UNDERLINES the importance of the EU automotive industry as a major contributor to growth and employment in the EU; RECOGNISES a deterioration in the situation of EU automotive markets, leading to high pressure on certain production capacities; CONSIDERS FAVORABLY the appropriate implementation of the Action Plan, including short-term actions, articulated around the four pillars of : investing in advanced technologies and financing innovation, improving market conditions, enhancing competitiveness on global markets (including through the conclusions of balanced trade agreements) and anticipating adaptation.

Also STRESSES the importance of the Commission's initiative to set up a High Level Roundtable to consider the challenges facing the steel industry and to develop an agreed action plan;

I share your reservations about the proposed European Skills Council. I agree that any European level activity must add value and not cut across or duplicate existing initiatives and activities in Member States. BIS Ministers and officials will be engaged in its development once the Commission's proposal is brought forward as we will on the various aspects of the CARS 2020 Action Plan.

*6 February 2013*

## **CIVIL AVIATION (18118/12)**

### **Letter from the Chairman to the Rt. Hon. Simon Burns MP, Minister of State**

Thank you for your explanatory memorandum of 14 January on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 February 2013 and the Committee decided to hold it under scrutiny.

The Committee considered that move from a Directive to a Regulation seems to address the key issue of inconsistency in occurrence reporting. The Committee was also pleased to note that the Regulation deals effectively with the issue of 'just culture' by stipulating that the details on occurrences should only be used for the purpose for which they have been collected. We also

welcome the protection of sensitive safety information within the Regulation, which we hope will enable more detailed factual information to be disseminated.

However, like you, we are concerned that the impact assessment does not address the possibility of additional burdens on regulators and the industry, which may arise from the establishment of an internal occurrence reporting system and the requirement for an ECCAIRS compatible occurrence database in every organisation. Do you intend to conduct an impact assessment on this? Alternatively, what representations have you made to the Commission, to encourage a revision of its Impact Assessment which takes this into account? We also wish to clarify whether you have consulted industry stakeholders who this is likely to affect, as well as the CAA.

We note that formal incident reporting systems are required by the Chicago Convention on International Civil Aviation, and we seek to understand how the European Central Repository integrates with reporting systems at an international level.

I look forward to a response in 10 working days.

*13 February 2013*

#### **Letter from the Rt. Hon. Simon Burns MP to the Chairman**

Thank you for letter of 13 February in respect of this proposed Regulation.

In my Explanatory Memorandum I advised that the Irish Presidency hoped to reach a general approach on the proposal at the March Transport Council. However, this is no longer the case as working group negotiations on the text have only just commenced.

Your Committee expressed concern about the possibility of additional burdens on regulators and the industry. Our early discussions with the Commission have been very positive. In fact the Commission is using the UK model for occurrence reporting as the basis for their Regulation and therefore there is minimal impact for both the UK CAA and our industry beyond what they will be expected to provide under proposed legislation, already adopted. We have been reassured by the Commission that the intention is to capture those organisations required to collect occurrence data and create a database as part of other European legislation requiring the establishment of Safety Management Systems (SMS). The only exception to this is the extension to ground handling organisations, which the UK sees as a positive impact on safety and to the overall coverage of the data collected.

At this time, and having consulted the CAA, we are satisfied that if the negotiations continue to follow UK best practice, there will be no need to consult further with UK industry. Whilst, there is a requirement for organisations to make their database compatible with ECCAIRS, the software is freely available from the Commission at no cost to industry. We have encouraged the Commission to provide additional information on the likely administrative burdens to industry in respect of this. However, if the intention is not to broaden the scope of the Regulation, as originally feared, but to limit the impact to those organisations that will be required to keep a database as part of the requirements under SMS, then the impact for the UK is negligible. In the circumstances, we are not envisaging at this stage a need to conduct a separate impact assessment in the UK.

Finally, information collected through the European Central Repository is intended for use and benefit of the European region. There are no current plans to share this information wider. The UK and other Member States have a separate obligation to provide the same information to the International Civil Aviation Organisation (ICAO).

*26 February 2013*

#### **CLEAN POWER FOR TRANSPORT: A EUROPEAN ALTERNATIVE FUELS STRATEGY (5736/13) AND DEPLOYMENT OF ALTERNATIVE FUELS INFRASTRUCTURE (5899/13)**

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

Thank you for your explanatory memorandum of 15 February 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 March 2013.

We share your concerns about the Commission's proposal to use a series of delegated acts to set targets on the number and location of alternative fuels infrastructure sites in each Member State. The

Scottish Parliament Infrastructure and Capital Investment Committee and the Office of the First Minister and deputy First Minister in the Northern Ireland Assembly wrote to our Committee expressing similar concerns. We agree that national governments are best placed to make these types of decisions, and that agreement at the EU level should be reached through the ordinary legislative procedure.

We are concerned that the setting of prescriptive targets involves the premature picking of “winning” technology and could result in the creation of an infrastructure that will be obsolete by the time it is created.

We are not reassured by the Commission’s assertion that Member States will be able to encourage private sector development and uptake of new infrastructure by granting of exclusivity rights to first-mover investors, awarding concessions, giving direct public financial support, issuing public guarantees, etc. We consider that such measures could breach EU competition and internal market legislation, and that their use is unlikely to be as straightforward as the Commission suggests.

We support your plan to carry out an impact assessment of the proposals on the UK, and would be grateful to see the results.

We have decided to retain this document under scrutiny, and would be grateful if you could share with us in advance of the next EU meeting the points you will make to the Commission and other Member States on this package of measures.

*13 March 2013*

## CLOUD COMPUTING IN EUROPE (14411/12)

### **Letter from Chairman to the Rt Hon David Willetts MP, Minister for Universities and Science, Department for Business Innovation and Skills**

Thank you for your explanatory memorandum of 22 October 2012. This was first considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 November 2012. At its meeting on 3 December, the Committee also considered a copy of your letter to William Cash MP of 12 November in response to the House of Commons European Scrutiny Committee’s concerns about the proposal.

We shared many of the concerns expressed by the House of Commons European Scrutiny Committee about this proposal, namely that the Commission’s timetable for delivering key actions in 2013 was unrealistic; that the Commission estimates of return from investment in cloud computing were unrealistic; and that the process for tackling the ‘jungle of standards’ was unclear. We were pleased to see that your letter addressed many of these concerns.

As cloud computing is a growth area and is likely to encourage further proposals and ideas from the European Commission, we have decided to retain this document under scrutiny.

We look forward to receiving updates from you on activities related to this Communication.

*5 December 2012*

## DEVELOPMENT OF THE TRANS-EUROPEAN TRANSPORT NETWORK (15629/11)

### **Letter from the Rt. Hon. Simon Burns MP, Minister of State, to the Chairman**

Thank you for your letter of 1 May 2012. I am writing to update you on progress on TEN-T.

You will recall when my predecessor last wrote on 23 April 2012 it was to update you on progress following the Transport Council. In this we explained that as a result of various amendments and compromises made to the draft Regulation we were able to support the General Approach (GA) proposed under the Danish Presidency.

There was little to report further on this dossier while we awaited consideration of it by the European Parliament (EP). However, the EP’s Transport and Tourism (TRAN) Committee has now considered the Commission’s original draft Regulation and proposed amendments to it. TRAN supported the Commission’s original proposals and wanted to make the Regulation even more ambitious, proposing around 1,000 amendments which include support for the Commission’s binding

deadlines and rejection of all the proposed flexibilities obtained in the Council's GA text such as taking Member States' domestic budgets into account.

The Irish Presidency would like to reach agreement on both TEN-T and its accompanying finance Regulation the "Connecting Europe Facility (CEF)" under their term. Given the differences between the Council's position in the General Approach and the amendments proposed by the TRAN Committee it is not clear whether this objective will be achievable. The Presidency has held Working Group meetings to consider the TRAN amendments and have opened Triologue discussions with the European Commission (EC) and representatives of the EP.

Our overarching objectives in these discussions are for:

- Binding deadlines for technical standards or infrastructure development on the Comprehensive and Core Networks to be replaced with indicative targets and refer to the development of the TEN-T Core and Comprehensive Networks instead of their completion;
- Decisions on which transport projects should be developed and invested in on national networks to remain with the Member States concerned;
- No additional financial or administrative burdens to be placed on Member States; and
- Core Corridors and Corridor Coordinators to be optional rather than mandatory, focused on contentious cross-border areas/projects, and their governance and management proposals simplified.

I am pleased to say that the line that the Presidency is taking in Triologue discussions is similar to our overarching objectives. However, there is pressure to show flexibility in other areas, some of which are contentious issues for Member States. We are continuing to use our overarching objectives to push back and water down unwelcome compromises.

At the moment the negotiations on the TEN-T dossier are progressing quickly, and I understand the Presidency has booked Trialogues till the end of May. Other than that, the timetable is not clear. It is possible the Presidency may be able to reach a draft compromise agreement in the Trialogues, which would then be put to the EP and the Council for agreement. We understand that the EP has scheduled its first reading Plenary for July, however it is possible that a proposed deal could be put to the EP and the Council in advance of this date.

I will of course keep you informed of developments ahead of this, but given the possibility that a draft compromise will be put to the Council at relatively short notice I thought that your Committee would find it useful to be informed of the current situation ahead of a more substantive update when the outcome of the Trialogues is known.

22 March 2013

## DIGITAL AGENDA FOR EUROPE – DRIVING EUROPEAN GROWTH DIGITALLY (17963/12)

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

Thank you for your explanatory memorandum of 16 January 2013 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 25 February 2013.

We have already examined some aspects of this Communication in detail, for example, cloud computing, and we are aware that other Sub-Committees of the House of Lords EU Select Committee are examining other parts. We therefore welcome this Communication as a helpful overview of where we stand in terms of implementing the Digital Agenda for Europe (DAE).

We note that you intend to deal with your concerns about the Communication by consulting with the Commission and responding to concrete legislative proposals once they are published. We have therefore decided to clear the document from scrutiny.

Following the European Council conclusions on 7-8 February on the Multiannual Financial Framework 2014-2020 (MFF), we would be grateful for any updates on the Commission's plans for implementing the DAE in future.

26 February 2013

## EEA AGREEMENT: AMENDMENT TO PROTOCOL 31 (10505/12)

### **Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman**

Thank you for your letter of 17 July to Chris Grayling clearing the above proposal from scrutiny. I would like to update you on developments on this proposal over the summer and respond to the question you raised.

As you mention, the unusual step of defining this area of co-operation by reference to budget lines has created a complex set of issues for the Government to address. The Commission's reasoning behind amending the budget lines rather than the substantive legislation remains unclear. Their view appears to be that the proposal referred to participation in the EU budget as opposed to the incorporation of amendments into the EEA Agreement; and that the budget itself lay outside the four freedoms.

Despite our objections to the legal base, the proposal was adopted at the ECOFIN Council on 10 July. In line with our actions in previous cases, the Government did not vote on the proposal, and lodged a Minute Statement setting out our serious concerns about the legal base. The Decision was subsequently adopted at the EEA Joint Committee on 14 July before the Government could take a decision on opting in.

Since then, the Government has considered the options available to it with regards to both taking a decision on opting in post-adoption and the necessity of taking legal action to protect the opt-in.

On the former, the Council and Commission would have to accept the UK's request to opt in post-adoption. The outcome is by no means certain where the Commission does not accept that the opt-in applies. On the latter, it is clear that the legal base principle is covered by the EEA and Switzerland cases currently going through the Court of Justice of the EU and does not require a further challenge. Conversely, not bringing a challenge in this case does not preclude the UK bringing a challenge in another case to defend the UK's policy on the application of the opt-in to ancillary JHA matters.

The Government therefore decided, most reluctantly, on 19 September neither to attempt to opt into the measure post-adoption, nor challenge the legal base via the CJEU.

6 November 2012

## ENTREPRENEURSHIP 2020 ACTION PLAN – REIGNITING THE ENTREPRENEURIAL SPIRIT IN EUROPE (5292/13)

### **Letter from the Chairman to the Rt. Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum (EM) of 26 January 2013 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 11 February 2013, and the Committee decided to hold it under scrutiny.

We note that you welcome the majority of the proposals in the Communication. We also note the Commission's proposals, described in paragraph 5 of your EM, that entrepreneurship should become an embedded curriculum subject and that students should receive an offer of at least one practical entrepreneurship experience while in compulsory education. In view of this, we are concerned that the Secretary of State for Education is not listed in paragraph 12 as a Minister with responsibilities in the area affected. We would like to hear his views on this Communication before we clear it from scrutiny and are copying this letter to him accordingly.

13 February 2013

### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

Thank you for your letter of 13 February 2013 on the above Communication. I apologise for the oversight and confirm that the Department for Education had full input to my Explanatory

Memorandum, and that the Secretary of State for Education should also have been listed as responsible Minister.

As I have set out, our own evidence shows that raising levels of enterprise ambition in the UK requires early intervention to provide young people with hands-on enterprise experience. That gives them the knowledge and awareness required to pursue the full range of career opportunities, including starting and growing their own business. But the emphasis in the Communication on obligatory inclusion of enterprise education in the curriculum is not in step with the UK Government's position, where the emphasis is on local choice and need. Many schools choose to include enterprise in their provision to great effect, though this is not always in the formal curriculum.

Since January 2011, the Secretary of State for Education has been conducting a review of the National Curriculum for schools in England for pupils aged 5 to 16. The intention is to slim down the curriculum so that it focuses on the essential knowledge that should be taught to pupils within each statutory subject, and give schools greater freedom over the wider school curriculum. On 7 February, the Government issued a consultation on the new National Curriculum framework and this is due to end on 16 April 2013.

Although there are no plans to make entrepreneurial education statutory in the new National Curriculum, the framework issued for consultation also states that all schools should make provision for personal, social, health and economic education (PSHE). This subject can include the study of enterprise and equipping pupils with the knowledge, skills and attributes for the world of work, the diversity and function of business, and its contribution to national prosperity.

Once the consultation is complete, the Government will issue a response and the final National Curriculum will be issued to schools in the autumn for first teaching from September 2014.

I do hope this helps to clear up any confusion.

28 February 2013

## EU REGULATORY FITNESS (17784/12)

### **Letter from the Chairman to the Rt. Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum of 8 January 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 21 January 2013 and the Committee decided to clear it from scrutiny.

The Committee was pleased to observe that the Commission appeared to have consulted widely with Member States and stakeholders before issuing this communication, and noted that you had also 'engaged extensively' with the Commission.

The issue of Regulatory fitness is of particular interest to this Committee, given our report on the subject *Impact Assessments in the EU: Room for Improvement?*, published in March 2010. In the report, we suggested that EU groups and institutions (the European Parliament, working groups and the Council) should be more consistent in taking IAs into account, especially when considering proposed legislation. In the Communication, the Commission notes that limited progress has been made on this front. The extent to which IAs are consulted is an issue which is frequently discussed in House of Lords debates and one that we consider to be of great importance. We are concerned that the Commission rejected stakeholder advice on this and the three other points listed in paragraph 8 of your explanatory memorandum. We suggest that you test the validity of their reasons for doing so, and ask what representations you are making to the Commission on these issues?

We look forward to hearing from you within the normal 10 working days and would appreciate further updates on this agenda as and when they arise.

24 January 2013

### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

Thank you for your letter of 24 January clearing this Commission Communication from scrutiny. I share your concerns about the Commission's rejection of some of our most ambitious better regulation proposals, which were also suggested by other stakeholders during the consultation period

of this Communication. You ask what representations I am making to the Commission on these issues.

Following the publication of the Communication on 12 December, I have raised the concerns outlined in my Explanatory Memorandum with the Commission, both in writing and in a meeting with senior Commission officials in London. Whilst I welcomed the Commission's continued commitment to eliminating unnecessary EU regulatory burdens, in particular, through the new REFIT programme, I stressed that we need to be more ambitious in the current economic climate. I expressed disappointment that the Commission had not made further efforts to increase independence of its Impact Assessment Board, and asked it to give further consideration to the publication of an annual net cost to business of their proposals. I also asked the Commission to reflect further on the merits of publishing provisional impact assessments at the consultation stage.

We continue to work with our like-minded allies to increase pressure on the Commission to do more. In November, ministers from 12 other Member States joined us in signing up to a '10 Point Plan for EU Smart Regulation', which calls on the Commission to take ambitious action to reduce unnecessary EU regulatory burdens. We will continue to press these messages in coming months, notably in the run up to the publication of the Commission's forthcoming Communication, expected in March, which will outline progress against the Commission's commitments to find ways of lightening the regulatory burden on SMEs.

I would be happy to update you on the progress of this agenda, and will of course provide a further Explanatory Memorandum on the Commission's SME Communication when it emerges.

6 February 2013

### EU SPACE INDUSTRIAL POLICY (6950/13)

#### **Letter from the Rt. Hon David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills to the Chairman**

Explanatory Memorandum 6950/13 relating to the Commission's Communication on the EU Space Industrial Policy has been sifted to sub-Committee B for consideration. I am now writing to set out the position in relation to the negotiation of the Council Conclusions. I hope that this information will allow the Committee to clear the Communication or provide a waiver to allow the Government to support the draft Conclusions to be tabled for agreement at the 30 May Competitiveness Council.

The UK has played an active role during the negotiation of the draft Council Conclusions and I am pleased to report that the text that will be presented to the May Competitiveness Council will reflect UK priorities. There is nothing in the Conclusions that pre-empts any of the caveats that are set in our EM.

Whilst noting that the Communication objectives reflect significant aspects of the European space sector, the draft Conclusions highlight the need for additional assessment in some areas. This reflects the Government's view that although the Communication views space as a driver for growth and innovation more work is needed on developing a coherent EU space industrial policy. The draft Conclusions make clear that this work should be done in collaboration with ESA and Member States. The Commission is also encouraged to develop performance indicators against which progress can be assessed.

I am pleased to report that Government's concern that no evidence had been presented to justify potential legislation on the production and dissemination of private satellite data has been addressed. The draft Conclusions now ask the Commission to assess the need for development in this area. The Government also expressed disappointment that the Commission Communication only talked of a study into the possibility of a regulatory approach to space flights. The Conclusions note that this assessment should be finalised without delay.

Officials will continue to engage with the Commission and other Member States as detailed proposals are brought forward to ensure that they continue to reflect UK priorities. These proposals will be subject to scrutiny in their own right.

I am happy to provide further information and I will report further after the Council if you would find that helpful.

8 May 2013

## EU TRANSPORT POLICIES

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

At the closed session of Sub-Committee B (internal market, infrastructure and employment) of the Select Committee on the European Union on Monday 17 December 2012, members requested further information on two points.

Lord Brooke of Alverthorpe asked whether the Department for Transport (DfT) was working with local authorities to develop a geographical-wide app for parking. I appreciate his concern but responsibility for parking policies rests squarely with local authorities. Their local expertise means they are better placed to decide on appropriate policies (such as the introduction of parking apps) that balance the needs of visitors or those who live or work in the local area. Local Authorities have traffic management powers to address local parking problems. DfT does not have the remit to intervene in such matters. It is the policy of the Coalition Government to promote and extend the autonomy of local authorities and to reduce the role of inspection by central Government.

Lord Clinton-Davis of Hackney asked about the European Commission's consultation on "Blue Growth", which informed the resultant Commission Communication, "Blue Growth, opportunities for marine and maritime sustainable growth". An Explanatory Memorandum on that Communication was submitted by the Minister for Universities and Science and considered by your Committee on 17 December 2012. The content of the Communication aligns with policy responsibilities of several Government Departments and the Devolved Administrations. The maritime elements pertain primarily to tourism. DfT has no direct responsibility for promoting growth in the tourism sector. However, we support the sector indirectly through enforcement of high safety and environmental standards for cruise and leisure vessels. The Maritime and Coastguard Agency is also developing codes and policies to empower vessel operators to take advantage of the tourists that arrive in their ports.

More generally, in keeping with the Government-wide Better Regulation agenda, we work to ensure that we minimise burdens on industry and thus encourage growth, particularly in respect of Small and Medium-sized Enterprises which are an important part of the tourism industry.

I hope that this gives the Sub-Committee the information they were seeking.

*14 February 2013*

## EUROPEAN FRAMEWORK FOR ONLINE GAMBLING (15737/12)

### **Letter from the Chairman to Hugh Robertson MP, Minister for Sport & Tourism, Department for Culture**

Thank you for your explanatory memorandum of 13 November on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 3 December 2012 and the Committee decided to hold it under scrutiny.

We are satisfied that the European Commission's proposed approach to online gambling is flexible and reflects existing practice in the UK and does not have any adverse implications at this stage. We also appreciate the Commission's concern about consumer protection.

However, we note that you indicate in your explanatory memorandum that the Government will continue to assess the subsidiarity of this proposal through your engagement with the expert working group, and continued dialogue with the Commission as matters progress. We believe this approach to be a reasonable one, and as such, we retain this document under scrutiny.

We would be grateful to know the outcomes of the expert group meeting on 5 December before the House rises on 19 December, and to be kept informed of future developments with this proposal.

*6 December 2012*

### **Letter from Hugh Robertson MP to the Chairman**

Thank you for your letter of 6th December regarding the above Communication, and in particular the expert working group on online gambling which met for the first time on 5th December.

The United Kingdom was represented at the meeting by the Gambling Commission. During the meeting, the UK registered its support for the Commission's proposals to ensure greater cooperation between member states and to encourage the exchange of best practice. The UK also welcomed the Commission's commitment to accelerate completion of its assessment of national provisions in the pending infringements cases in order to bring greater clarity around the legal status of some of the more restrictive regulatory regimes adopted by some member states. More detailed discussion of the proposals will take place during future meetings of the expert group.

I can confirm that the Government has no concerns about the principle of subsidiarity in relation to the Communication. The Government welcomes the Commission's proposals to address the challenges posed by the co-existence of national regulatory frameworks within Europe, and we recognise that it is appropriate that action is taken at the European level in order to achieve this. Through our continued engagement with the expert working group we will continue to promote the British regulatory regime as a model for effective regulation and ensure that developments at the European level do not in any way undermine this.

I will, of course, ensure you are kept informed of future developments in this regard.

*19 December 2012*

### **Letter from Chairman to Hugh Robertson MP**

Thank you for your letter of 19 December 2012 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 January 2013.

We note that the Government no longer have concerns about the issue of subsidiarity in the Commission's Communication. We therefore clear the document from scrutiny.

We would be grateful if you could keep us informed of future developments with this Communication.

*16 January 2013*

EUROPEAN SOCIAL FUND (13730/12, 15243/11, 15247/11, 15249/11, 15250/11, 15251/11, 15253/11)

### **Letter from the Rt. Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

I am writing further to my letter of 8 October to update you on the outcome of the recent General Affairs Council.

At the General Affairs Council on 16 October 2012 the Presidency concluded that there was a partial general approach covering seven blocks: Information and communication; European territorial cooperation; territorial development; financial issues (not covered in the MFF negotiations); country-specific recommendations; management and control; and indicators. The agreement reached at the Council reflected the position as outlined in my letter to your Committee sent on 8 October.

I am attaching the texts of the partial general approach [not printed].

I will write separately to update both Houses on the Commission's amended proposal for the Common Provisions Regulation (EM 13701/12).

*13 November 2012*

### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

Your Committee has kept EM 13730/12 on the Common Strategic Framework under scrutiny. The other EMs, mentioned above, have been cleared by your Committee. The purpose of this letter is to

inform you that the Cyprus Presidency has indicated that it intends to seek a partial general approach on the Common Strategic Framework and on the financial management bloc at the November General Affairs Council on 19-20 November 2012. I apologise that this letter is sent relatively late, we still do not know for definite what issues will be presented to the General Affairs Council (GAC).

I would have requested a waiver but understand that your Committee will not be meeting before the General Affairs Council on 19-20 November. I therefore may need to exercise an override of scrutiny on the Common Strategic Framework. During negotiations the Common Strategic Framework has been amended and is now satisfactory to the UK. In case we will need to exercise an override, I will ensure that the Minister present, likely to be the Minister for Europe, will state our concern that insufficient time was given to Parliamentary scrutiny of these matters. We will only accept the partial general approach on the basis that 'nothing is agreed until everything is agreed', including cross-cutting issues with other regulations, such as the overarching Multiannual Financial Framework.

This letter outlines what we do know ahead of the GAC. I hope you will accept that it has not been possible to provide the Committee with any earlier update.

#### Common Strategic Framework

We consider it important that the Common Strategic Framework is a strategic document which does not add additional requirements on Member States or weaken the existing requirements of the Common Provisions Regulation (CPR). We have ensured that the document is more strategic with a greater focus on growth.

We were concerned that the Commission's draft text included additional requirements which went beyond the CPR, for example the requirement on Member States to track biodiversity related expenditure (Article 3.2), a demand for the gender balance of monitoring committees (Article 3.3), and an obligation to use CSF funds to develop tailor-made strategies to tackle demographic problems and to create growth linked to an ageing society (Article 3.5). We have been able to remove the requirements to track biodiversity related expenditure and the demand for the gender balance of monitoring committees. The wording on an obligation to use CSF funds to develop tailor-made strategies to tackle demographic problems and to create growth linked to an ageing society has been amended to only require CSF funds to be used in line with relevant national or regional strategies, where such strategies are in place.

#### Financial Management

The financial management bloc covers both the Common Provisions Regulations covering all four Common Strategic Framework Funds and two articles of the European Territorial Cooperation proposal. The only Article within the ETC proposal to be changed concerns the expenditure incurred in a currency other than the euro (Article 26). The new wording aligns it with the current system, which we consider has operated well. The other non-euro Member States are also content with this change.

The financial management bloc was kept back until the outcome of the discussions on the Financial Regulation was known and therefore could only be considered now.

There was a discussion on the financial management text at working group level yesterday. The Presidency decided that the text on the Common Strategic Framework did not require further discussion in the working group. Both these files have now been sent to COREPER for discussion on Wednesday 14 November with the Presidency's intention to place them on the November General Affairs Council's agenda. The Presidency's desire to conclude a partial general approach at this stage is to allow this to inform the discussions on the partnership agreements.

As noted in my previous letter, we have and will continue to raise your concern about the accelerated timetable for the adoption of the Common Strategic Framework and emphasise the importance of allowing sufficient time for parliamentary scrutiny of proposals.

I will write again to update you post Council.

*13 November 2012*

#### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

I am writing further to my letter of 13 November to update you on the outcome of the recent General Affairs Council.

At the General Affairs Council on 20 November the Presidency concluded that there was a partial general approach covering two blocks: Financial Management and the Common Strategic Framework.

The agreement reached at the Council reflected the position as outlined in my letter to your Committee sent on 13 November.

I regret that it was necessary to override parliamentary scrutiny on the Common Strategic Framework (EM 13730/12) on this occasion. David Lidington MP, who attended the Council on behalf of the UK, raised our concern that sufficient time should be given for parliamentary scrutiny of the Common Strategic Framework block. We reiterated the UK position that we only accepted the partial general approach on the basis that 'nothing is agreed until everything is agreed', including cross-cutting issues with other regulations, such as the overarching Multiannual Financial Framework.

As mentioned in my previous letter we considered it important that the Common Strategic Framework was a strategic document which did not add additional requirements on Member States or weaken the existing requirements of the Common Provisions Regulation (CPR). We were able to ensure that the document was more strategic with a greater focus on growth. We were also successful in removing those elements of the Common Strategic Framework which included additional requirements which went beyond those requirements set out in the Common Provisions Regulation.

The overall rationale for agreeing to the proposal was that it is important to agree a broad consensus within the Council in order to start informal discussions with the European Parliament on these texts. As my predecessor noted in his letter of 18 June 2012, the funds are due to become operational from 1st January 2014, although of course this depends on the settlement of the Multiannual Financial Framework. We want to see effective and efficient spend of the significant sums devoted to cohesion policy across the EU. That means proper preparation and planning, with robust economic assessment of needs. That takes time and that works needs to start as soon as possible if the money is to be spent wisely. Agreeing elements through partial general approaches gives Member States some confidence of the shape of the final regulations to enable them to start planning.

He also noted the benefits of reaching partial general approaches in thematic blocks as this allows Ministers to focus on particular problems and issues within the blocks rather than being overwhelmed by having to consider everything at the same time. It means we can pocket gains without having to become involved in a large-scale trade of different objectives across different pieces of legislation.

All the Regulations this time round will be co-decided with the European Parliament. The European Parliament has adopted its negotiation mandate in the respective committees on most of the provisions and is due to vote on the final elements on 27 November. Agreeing partial general approaches gives the Presidency of the Council of Ministers scope to enter into discussions with the European Parliament. Timely implementation of the regulations is going to require the Parliament and the Council to work closely together. The partial general approaches will facilitate this.

The European Parliament voted to update its negotiation mandate on these files on 27 November 2012. I will write to you separately on the vote with an assessment of the European Parliament's position.

I am attaching the texts of the partial general approach.

*29 November 2012*

#### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

As I indicated in previous correspondence, the European Parliament has voted in its Regional Development and Employment and Social Affairs Committees on the amendments it wishes to see to the above Regulations. It has not yet proceeded to a Plenary Vote and therefore has not established a formal First Reading position. Instead it intends to use the Committee votes as the basis to enter into informal discussions with the Irish Presidency and the European Commission, with a view to being able to moving quickly to a first reading deal if there is sufficient agreement between the positions of the three institutions, once a deal on the Multiannual Financial Framework has been reached by the European Council and subsequently agreed by the European Parliament. I promised to give the UK Government's assessment of the main changes the European Parliament is seeking. I have attached for information the complete set of amendments proposed by the European Parliament for each Regulation.

On the Common Provisions Regulation, the focus of the European Parliament has been on strengthening the requirements on partnership. It has proposed that in addition to a Partnership Contract between the Commission and the Member State, there should also be a formal Partnership Agreement between the Member State and local authorities on how the funds should be delivered. In the UK Government's opinion, this fails to take sufficient account of the different institutional

framework of the Member States and, in the case of England, the role we would like to give to Local Enterprise Partnerships as the founding blocks of our next programme.

The European Parliament also wants to keep the code of conduct on partnership as proposed by the European Commission, which would be introduced by means of a delegated act, and has proposed stringent requirements on what it should contain. The UK Government is not opposed to the principle of partnership enshrined in the code, but has been concerned that the code could not be introduced until after the Regulation was adopted, hence delaying the programming process and introducing new requirements after much preparatory work on the new programmes had already been done. Further, the UK Government would want assurance that the code did not cut across the principles of subsidiarity and proportionality, did not impose a one-size fits all model and was sufficiently flexible to take account of the different institutional and legal frameworks of the Member States.

The European Parliament's strong focus on partnership is reflected in other provisions. For example, on community-led local development (Articles 31-34), the European Parliament wants the funding of local strategies to be agreed by the "partners" as well as the Managing Authority or Authorities. The European Parliament also wants a strong, clear role for partners in the monitoring committees (Article 42). In both cases, the UK Government does not object with the principle of partnership but the Managing Authority must retain the final say on some matters as it often will bear the financial risk for non-compliance with the Regulations in cases where it is not possible to recover costs from the recipient of the EU investment.

The European Parliament has proposed amendments to some provisions in the Regulations that the Member States are considering as part of the MFF deal. The European Parliament is strongly opposed to the 5% performance reserve in Article 19 and macroeconomic conditionality in Article 21. The UK Government's position on these was set out in its initial memorandum to the Committee. In terms of amendments on financial issues, the European Parliament has not taken a position on the level of funds (although it has made its views known on other occasions), beyond proposing that 7% of the global total should be allocated to European Territorial Development. It has proposed higher levels of initial pre-financing than proposed by the European Commission (Article 124), removed the lower levels of co-financing for less developed regions (Article 110) and altered the N plus 2 rule to an N plus 3 rule (article 127). The UK Government's position is that the European Parliament's changes weaken budgetary and financial disciplines.

The European Parliament has agreed with the UK Government and other Member States that the Common Strategic Framework should not be introduced by the European Commission by means of a delegated act but rather should be an annex to the Common Provisions Regulation which means that both Council and the Parliament would have greater say over its content. It has proposed detailed text as to what should be contained in the Common Strategic Framework. The UK Government welcomes the attempt by the European Parliament to set out the strategic framework, in particular its focus on how the structural and cohesion funds might be aligned with other EU funds, but is concerned that it is too prescriptive in areas, and the UK Government would want to see more recognition of the need to take account of the differences between Member States and regions in the EU.

Finally, the European Parliament has proposed three new activities. First, it wants the Commission to prepare a detailed practical guide on how to effectively access and use the Funds covered by the CPR, and how to exploit complementarities with other instruments of relevant Union policies. The difficulty here is the Funds are subject to shared management and it is not clear how the guide could cover what happens at regional level. Furthermore, annex V of the Commission's proposal already contained an extensive list of information and communication measures. Second, the European Parliament wants Member States to nominate a one-stop agency for applications. If this can be done through a web-portal whilst recognising the diversity of activities supported by the funds which may require different procurement processes, this may not be problematic. Third, the European Parliament would like the Commission to produce a communication by the end of 2016 setting out the outcome of the negotiations on the Partnership Contract with each Member State. This again should not be problematic as the Contract will have been agreed by both the Commission and the Member State.

On the European Regional Development Fund, the European Parliament has proposed a weakening of the principle of thematic concentration by suggesting that, in addition to the three thematic objectives to which the Commission had suggested a minimum level of ERDF needed to be allocated (80% in the case of more developed and transition regions; 50% in the case of less developed regions), Member States should be free to select a fourth of their own choosing. The UK Government had welcomed the Commission's original proposal as an attempt to create critical mass to focus the Funds on

important drivers of growth and to avoid fragmentation. It believes that the European Parliament's proposal would make concentration much less effective. The UK Government could accept a specified fourth objective, such as ICT. The European Parliament also wants at least 22% of ERDF to be spent on low carbon objective in more developed and transition regions; at least 12% in less developed, compared to 20% and 10% respectively that the Council has in its partial general approach.

On the European Social Fund, the European Parliament has again proposed a weakening of thematic concentration. Instead of at least 80% of ESF in each programme in more developed regions being spent on four investment priorities (70% in transition regions; 60% in less developed), the European Parliament has proposed the same minimum levels should be allocated to five priorities. In all cases, in response to specific needs, there could be up to six provided that investment priorities are identified after consulting the partners. Again, this seems to dilute thematic concentration too much and reduce the potential impact of the Fund.

The European Parliament also wants to bring a stronger social dimension to the European Social Fund that might conflict with its Treaty Base (Article 162 Treaty on the Functioning of the European Union) which requires a focus on employment opportunities and the labour market. The European Parliament has proposed increasing the number of available investment priorities from 18 to 23, introducing new ones under the social inclusion objective such as combating poverty, promoting children's rights and well-being and promoting active ageing without poverty with particular regard to women. The Government will be making clear that, while Articles 8, 9 and 10 of Treaty on the Functioning of the European Union mean some general provisions such as equality and non-discrimination have to be taken into account in all EU activity, the focus of the European Social Fund should remain on improving employment opportunities.

On European Territorial Cooperation, the European Parliament wants to increase the number of objectives that programmes can focus on from four to five.

I hope this information is helpful to your consideration of these proposals.

*31 January 2013*

#### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

I am writing to update you on progress of negotiations on the above Regulations. The Irish Presidency would like to agree a partial general approach on outstanding negotiating blocks in March. Our understanding is this will be taken as an "A" point at a forthcoming Council meeting.

There are three elements to this partial general approach. The first covers the final provisions of each Regulation. The second covers some items which have been held back from previous partial general approaches because agreement between Member States was not possible at that time. The third covers the recitals to each Regulation. I have attached a list of the relevant articles.

The final provisions block covers the arrangements for the introduction of delegated and implementing acts, the committee procedure, transitional arrangements and review and repeal clauses. The main change proposed is to delete the power for the European Commission to bring forward a delegated act to amend annex VI of the Common Provisions Regulation (annex V of the original Commission proposal) that deals with information and communication requirements. The concern of member states, which the UK shared, was that the Commission would use this power to introduce new burdens. Deletion removes this risk. The other changes are technical and mainly standardise the wording across the different Regulations. Article 14 of the European Regional Development Fund Regulation has been deleted as there are no longer any delegated acts within the Regulation.

The provisions still pending from previous discussions included the definitions in Article 2 of the Common Provisions Regulation, Articles 1, 2 and 15 of the European Social Fund Regulation and articles covering the participation of the third countries in European Territorial Cooperation programmes and links with the European Neighbourhood Initiative (ENI) and the Instrument for Pre-accession (IPA).

Article 2 of the European Social Fund sets out its mission. The UK Government has successfully argued for language that brings out more clearly the need for the Fund to be used only for measures linked directly or indirectly to the labour market. Article 15 of the European Social Fund Regulation had proposed the creation of policy-based guarantees whereby Member States and regions could use the European Social Fund to guarantee funding from debt markets to support the delivery of social and labour market policies. The UK and other Member States were not satisfied that there were

sufficient safeguards to the EU, or national or regional budgets, and have successfully argued for deletion of this provision.

The changes to the European Territorial Cooperation have primarily dealt with specific concerns of those Member States who border third countries and take part in cooperation programmes under the ENI or IPA.

New definitions have been added over the course of the negotiation (for example on ex ante conditionality) and these have now been included in Article 2 of the Common Provisions Regulation. There are also now definitions of irregularity that reflects existing position under the 1995 Directive on protection of the Union's financial interests and on beneficiary to take account of the fact that natural persons can be beneficiaries under the European Agricultural Fund for Rural Development, to which part II of the Common Provisions Regulation applies.

The recitals have been amended to reflect changes made in the substantive articles. The UK Government has particularly pushed for those on financial instruments to reflect the position in the Partial General Approach agreed in June 2012, which would enable JEREMIE and JESSICA to continue to operate on the same basis as in the current period, with strong private involvement. Each regulation has a recital on subsidiarity and proportionality, required following the Lisbon Treaty. These recitals are time-bound by the duration that the regulations will be in force - that is up to the end of 2020. The UK Government will make a declaration stating that this does not prejudice decisions on whether regulations governing the use of structural funds in future financial periods would meet tests of subsidiarity.

*27 February 2013*

#### EUROPEAN SPACE AGENCY (16374/12)

##### **Letter from the Chairman to the Rt. Hon David Willetts MP, Minister of State for Universities & Science, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum of 6 December 2012 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 January 2013 and the Committee decided to clear it from scrutiny.

It is clear that the Lisbon Treaty will bring about closer cooperation between the European Union (EU) and the European Space Agency (ESA). However, as Dr David Williams, Chief Executive of the UK Space Agency; and Ms Ann Sta, Director, Growth, Applications and EU Programmes, UK Space Agency, told this Committee in an evidence session in May 2011, the ESA has been a successful institution in its own right since its creation, and it should be an equal partner in discussions on the future of space policy in Europe.

We feel that the approach outlined by the Commission in its Communication appears to allow sufficient time for consultation between the ESA member countries and the EU on the next steps.

As the Communication is not a legislative document, and does not have any immediate financial impact, we are clearing it from scrutiny. We would, however, be grateful to be kept informed of any future developments in this area, particularly if there are any changes to the governance arrangements of the Galileo project.

*16 January 2013*

#### GENDER BALANCE-DIRECTIVE (16428/13, 16433/12)

##### **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 24 January 2013 on the above documents. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 March 2013 and the Committee decided to hold the documents under scrutiny.

We would like to take this opportunity to thank you for your response of 20 December, to our 'Women on Boards' report, noting that you share our view that action on this front is best taken by Government and the EU working together with business on a voluntary basis.

Your letter of 24 January indicates that like us, you are still not supportive of the strict sanctions, procedures and reporting that the Commission suggests in the Directive. We observe that, like us, you have reservations about the Commission's argument that divergent regulations at national level are liable to create problems for the internal market.

We note that you have resolved to discuss the above issues with the Commission. Since the Committee remains concerned about this dossier (in which we have a particular interest) we would be grateful for further updates on the status of discussions and negotiations with the Commission.

*7 January 2013*

#### **Letter from Jo Swinson MP to the Chairman**

Thank you for your letter of 7 January, following consideration by the EU Sub-Committee B to my explanatory memorandum, I apologise for the slight delay in responding. I am pleased the committee shares the concerns highlighted in my memorandum. I have also noted your previous views expressed on the proposal contained within the 'Women on Boards' report, and the House of Lords' reasoned opinion debate on 10 January.

Your letter refers to the Commission's argument that divergent regulations at national level are liable to create problems for the internal market. We will discuss this issue further with the Commission. However, I do not on the face of it support this argument. Indeed, as mentioned in my memorandum, we firmly believe that national level solutions are most effective and that EU level action is unnecessary. National level solutions allow Member States to work with companies within their own specific cultural contexts to bring about the necessary culture change at the heart of business. This ensures that talented women are recognised more fully, and that the solution is sustainable and long-term.

Whilst I am pleased that the Commission has moved away from rigid quotas, we do not believe that an EU wide regime of strict procedures, sanctions and reporting will help progress gender equality in the UK. It would merely impose burdens on business without commensurate gains.

Member States are still reaching their formal positions on the draft Directive. We will endeavour to work with the Commission and other Member States to ensure that our objective of seeing more women reach the boards of UK plc moves forward in a manner that supports both business and equality in the UK.

*24 January 2013*

#### **Letter from the Chairman to Jo Swinson MP**

Thank you for your letter of 24 January 2013 on the above documents. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 March 2013 and the Committee decided to hold the documents under scrutiny.

We would like to take this opportunity to thank you for your response of 20 December, to our 'Women on Boards' report, noting that you share our view that action on this front is best taken by Government and the EU working together with business on a voluntary basis.

Your letter of 24 January indicates that like us, you are still not supportive of the strict sanctions, procedures and reporting that the Commission suggests in the Directive. We observe that, like us, you have reservations about the Commission's argument that divergent regulations at national level are liable to create problems for the internal market.

We note that you have resolved to discuss the above issues with the Commission. Since the Committee remains concerned about this dossier (in which we have a particular interest) we would be grateful for further updates on the status of discussions and negotiations with the Commission.

*12 March 2013*

## GROWTH OF E-COMMERCE IN THE EU (17285/12)

### **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 explanatory memorandum of 9 January 2013 on the above Green Paper. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 January 2013 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. We also share your concerns that introducing additional regulation at an EU level into such a diverse and competitive sector is unlikely to be welcomed by market players and may have an adverse impact on market operations.

We therefore ask that the Government make strong representations to the Commission in its response to the Green Paper that legislation should be used sparingly in regulating the parcel delivery sector, and only when free market forces cannot achieve the same aims.

*29 January 2013*

## GROWTH AND ECONOMIC RECOVERY (15168/12)

### **Letter from Chairman to the Rt. Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum of 2 November on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 3 December 2012 and the Committee decided to clear it from scrutiny.

As you are aware, we previously undertook an inquiry into the Single Market, in which we encouraged the research into tax harmonisation measures which the Commission is currently undertaking, but warned that the case for tax harmonisation measures had not been made. In line with this, we would support a cautious approach in relation to tax harmonisation and urge the Government to be vigilant to any threat to the United Kingdom's sovereignty, while approaching the Commission's upcoming study with an open mind.

We were pleased to observe that the focus areas in the proposal cross over with the key areas which the UK Government has chosen to focus on as part of its industrial strategy. However, we wish to reinforce the equal importance of each of the 60 strands of the Commission's proposal, stressing that it is important for them to all come together in a joined up way. We also emphasise the importance of the collaboration of all Member States to ensure the success of this proposal, and ask if you are satisfied that all Member States will be forthright in implementing the proposal.

We seek clarification on the undertaking in paragraph 10, in which you purport that the Commission will "...monitor the impact of the Communication by pursuing the following aspiration goals". We would appreciate greater detail on the mechanism by which the Commission intends to monitor the impact of the Communication, and confirmation on whether the 'goals' you reference in paragraph 10 are targets by which the Commission intends to measure progress.

We acknowledge that the first pillar in the Communication encompasses many proposals which fall within the remit of Horizon 2020, and understand that the current status of Horizon 2020 negotiations is that 'nothing is agreed until everything is agreed'. Therefore, we would appreciate continued updates on the progress of Horizon 2020.

I look forward to a response in due course.

*19 December 2012*

## HEALTH AND SAFETY: EXPOSURE OF WORKERS TO RISKS ARISING FROM PHYSICAL AGENTS (11951/11)

### **Letter from the Chairman to the Rt. Hon Mark Hoban MP, Minister for Employment, Department for Work and Pensions**

Thank you for your letter of 18 October on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 5 November 2012 and the Committee decided to clear it from scrutiny.

The Committee found your letter particularly comprehensive in terms of providing information on the current status of negotiations, and recapping past progress. We were pleased to note that the Government has achieved some key changes, not least the extension to the transposition period. In the light of this, it is acknowledged that it is important for the proposal to be cleared from scrutiny in order to enable productivity in forthcoming European Parliament and Commission Discussions.

Whilst the Committee notes that you have reviewed the costs to industry, and you do not foresee that they can be reduced, the Committee remains concerned about the high costs involved and would ask you to consider this in future negotiations.

The Committee does regret however, that there have been no updates on negotiations since November 2011, and would urge you to provide more frequent updates as negotiations continue.

I look forward to a response in due course.

*8 November 2012*

### **Letter from Mark Hoban MP to the Chairman**

Since I last updated you on progress with negotiations to develop a new Electromagnetic Field (EMF) Directive in November this year, the file has moved closer to agreement. I am now in a position to be able to update you on the likely position of the European Parliament (EP) to the forthcoming trilogue discussions, and where the UK will focus its efforts to ensure that the final text is sensible and proportionate.

On December 6th, the EP's Committee on Employment and Social Affairs (EMPL) adopted its draft report on this file. In general, the Committee voted to introduce compromise amendments, which would align the proposal with the text developed by the Council, which we support. I am particularly pleased to inform you that the vital derogation provisions, protecting important activities such as Medical Resonance Imaging (MRI) and resistance welding, remain intact. This is a sensible and pragmatic position, which reflects the strong engagement of the Government with the EP, and which I believe makes a first reading agreement on this file during the Irish Presidency of the Council in the first half of 2013 a very strong possibility.

Although the EMPL Committee's position is largely sensible, some areas would cause concern if incorporated into the final agreed text. These primarily relate to the transposition period for the Directive, reporting requirements placed on Member States, health surveillance and future research into possible long-term health effects. I also retain outstanding concerns on the restrictive approach that Council took on measurement options.

Looking forward, I anticipate that trilogue negotiations between the Council, the EP and the Commission on this file will begin in early 2013. On 18th December, a meeting of the Council's Social Questions Working Party will discuss and set out the Council position to inform these negotiations.

My officials attending this meeting will press for the UK concerns outlined above to be addressed, and will continue to engage with a wide range of stakeholders, including and particularly the manufacturing sector and car industry - who would likely be most affected if negotiations took an unexpected negative turn, and to use the information to further strengthen the UK position.

I will continue to keep you updated on developments as the negotiations progress further.

*12 December 2012*

### **Letter from Mark Hoban MP to the Chairman**

Since I last updated you on progress with negotiations to develop a new Electromagnetic Fields (EMF) Directive in December last year, the file has moved closer to agreement. I am now in a position to

update you on the outcome of trilogue negotiations between Council, the European Parliament and the European Commission, which concluded on 26 March 2013.

I am pleased to inform you that through its leadership during negotiations, the UK has secured a number of successful outcomes, including a three year transposition period and the vital derogation provisions required for medical Magnetic Resonance Imaging (MRI) activities and the welding activities common to the automotive sector.

Concerns we had around health surveillance, referencing suggested long-term health effects and measurement options have either been satisfactorily addressed during the negotiations or have been subject to further detailed analysis to ensure that they can be resolved during transposition of the Directive. Whilst our approach to transposition will be to copy-out, wherever possible, where opportunities present themselves to reduce burdens on business still further, these will be explored.

Whilst I remain of the view that a non-legislative solution would have been preferable, I believe that the agreed text delivers the UK's negotiating objectives and represents a considerable improvement on the original 2004 Directive. On this basis I plan to support formal adoption of the proposed Directive.

*15 April 2013*

## HORIZON 2020 (17933/11, 17935/11)

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

In recent weeks, Sub-Committee B has examined Communications and Proposals which are expected to be funded out of the Horizon 2020 budget. These have included ideas for research and development in the Construction industry, EU 'Smart Cities' projects, 'Connecting Europe', and completing the European research area.

We are aware that the Horizon 2020 budget is yet to be agreed, and that the level of spend on each of the proposed projects will be negotiated at a later stage. However, the Committee is concerned that the ability to scrutinise effectively such Communications and Proposals is restricted by a lack of knowledge about the Government's spending priorities in this area, and the fact that the proposals often contain little information on funding. We ask for further clarification on this, to enable us to perform our scrutiny role.

We note that you have previously indicated a dissatisfaction with the proposed high level of spend under Horizon 2020, in light of the necessary budgetary restraint in a time of austerity. We are also aware that you remain concerned about the degree of duplication at EU and Member State level in certain areas of the Horizon 2020 proposal; and this was a concern that the Committee raised in relation to the proposal in 'Smart Cities'. The Committee asks what representations you are making to the Commission in relation to these issues?

We urge you to take a strong position on the development of proposals which duplicate and do not add value to existing national projects, or which you consider inappropriate in an age of austerity.

The Committee looks forward to a response to the points outlined above, and would appreciate continued updates on the Horizon 2020 proposal.

*21 November 2012*

### **Letter from the Rt. Hon David Willetts MP, Minister for Universities & Science, Department for Business, Innovation and Skills, to the Chairman**

I am writing to update you on progress in negotiating the above draft legislative text [17935/11] which will be discussed at a Competitiveness Council on Tuesday 11 December. In particular, I am writing to request the Committee consider providing a waiver on scrutiny for the above EM so that we may agree to a partial general approach at the Council, which I will be attending. Any partial general approach, that is to say a freeze to negotiations where the Presidency considers textual changes to the regulations are mature enough to warrant this, would be explicitly on the basis that 'nothing is agreed until everything is agreed', including cross-cutting issues with other regulations (such as the overarching Multiannual Financial Framework). This means we have the opportunity to reopen discussion should the need arise.

The Cypriot Presidency regard obtaining agreement for a partial general approach on this item, as a key priority and technical discussions on the content of the proposals (excluding budgetary issues) have been ongoing since October in the Council Research Working Group. These are progressing in a satisfactory manner with active UK participation and the likelihood is that agreement on the text of both instruments will be reached at COREPER before the Competitiveness Council

The Horizon 2020 Specific Programme text sets out in greater technical detail the scope of the Programme and how it is going to be implemented (including the scientific topics which will be funded under it and the actions which will be supported to this end).

Our major objective has been to ensure that the text is properly aligned with the amended text of the “core” Horizon 2020 Regulation which was agreed at the May Competitiveness Council and which represented a satisfactory outcome from a UK perspective. In particular we have ensured that the Programme remains focussed on excellence. We have continued to work closely with UK stakeholders to identify the areas within Horizon 2020 which represent most potential benefit and ensure that the Specific Programme takes full account of them; for instance we have sought to ensure that Social Sciences, Arts and Humanities research are embedded across the Programme and that the wording of the “Smart, green and integrated transport” societal challenge will enable the UK aeronautics sector to participate fully.

The one significant area which remains subject to negotiation concerns the way in which the Member State Committees which oversee the implementation of the Programme are structured. The Commission have proposed a substantial reduction in the number of committees which would assist it in the execution of Horizon 2020 than pertains in the current FP7 programme. In common with the overwhelming majority of Member States, we are pressing for a structure which will allow adequate Member State scrutiny of actions undertaken to implement the Programme, both in terms of establishing annual Work Programmes and approving major funding decisions. I hope that it will be possible to reach agreement on a satisfactory structure before the Competitiveness Council

In view of the importance of EU level research and innovation programmes to the UK (both to academia and industry) it is in the UK's national interest that the negotiations on Horizon 2020 are concluded in due time, such that the new programme can start on time in January 2014. I should also underline that the budgetary aspects do not form part of the partial general approach; these will continue to be dealt with in the context of the Multiannual Financial Framework

I hope therefore that the Committee will grant a scrutiny waiver to enable the UK to agree to a partial general approach on this proposal at the Competitiveness Council on 11 December. I will write to the Committee again following the Competitiveness Council.

*27 November 2012*

#### **Letter from the Chairman to the Rt. Hon David Willetts MP**

Thank you for your letter of 27 November on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 3 December 2012 and the Committee decided to waive to scrutiny reserve to enable the adoption of a partial general approach at the 11 December Competitiveness Council.

We agree that it is of the utmost important that you are able to participate in the forthcoming discussions, to ensure that an agreed Specific Programme text reflects the ‘core’ Horizon 2020 Regulation text, which has already been agreed at the May Competitiveness Council.

We welcome your stated approach to the Commission's proposed reduction of the number of committees involved in the execution of Horizon 2020. In previous correspondence, the Committee has suggested that you should apply selectiveness in supporting Horizon 2020 projects, asserting preference for projects which ‘add value’ rather than duplicating initiatives already ongoing at a national level. The Commission's proposal risks removing this scope for Member States to monitor funding and framework decisions, and we therefore would urge you to adopt a robust negotiating strategy in response to this proposal.

We look forward to an update following the Competitiveness Council.

*5 December 2012*

#### **Letter from the Rt. Hon David Willetts MP to the Chairman**

I am writing further to my letter of 27 November concerning the legislative text above, which was discussed at the Competitiveness Council on 11 December.

I should first say how grateful I am that your Committee agreed to waive scrutiny on this item in advance of the Council. The texts submitted to the Council were the result of lengthy negotiations and in my view represented a positive outcome for the UK.

Discussions of the Horizon 2020 Specific Programme text at the Council focused on four areas. As foreshadowed in my letter of 27 November, the first of these concerned the arrangements for the oversight of the implementation of the Programme by Member States. The text finally proposed by the Presidency considerably strengthened this oversight. Though the final number of supervisory Member State committees (“programme committees”) remains to be decided, in broad terms each major programme implementing Horizon 2020 will be overseen by a dedicated committee, whose remit will include adopting work programmes and final approval of major project funding decisions. There will continue to be special arrangements for the European Research Council to ensure its scientific independence.

The second issue was raised by Germany and concerned Societal Challenge 7 (“Secure Societies”). They wished to make more explicit the civil research and innovation nature of this programme and a minor amendment to the Presidency text was accordingly made.

The third issue, and the one which occasioned the lengthiest debate, was raised by a number of the newer Member States (“EU12”), which pressed for a number of changes in the text designed to increase participation in the Programme by researchers and institutions from their countries. I, supported by Germany, France, Belgium, the Netherlands, Denmark and Sweden (and by the Commission), strongly opposed these moves, pointing out that the Presidency text already included compromises designed to widen participation and that further changes would risk compromising the Programme’s focus on excellence. In the end the Presidency text was agreed with one minor drafting amendment.

Finally there was some further discussion of the sensitive issue of human embryonic stem cell research. The Presidency text, which in essence continues the existing compromise allowing the possibility of EU funding for such research in those Member States where it is allowed under domestic law, was finally maintained.

After these discussions the Council agreed a Partial General Approach based on the amended Presidency text, with Malta abstaining.

The Council represented a positive outcome for the UK in ensuring further progress on the Horizon 2020 package. The next key stage, which will take place under the Irish Presidency in the first half of 2013, will involve negotiations with the European Parliament under the ordinary legislative procedure (“co-decision”). I will of course keep your Committee fully informed on further progress.

Turning to your letter of 21 November, I share your Committee’s concern at the Commission’s tendency to scatter references to Horizon 2020 funding across Communications on a wide range of subjects in advance of the final decision on the size of the Horizon 2020 budget. This might be seen as potentially prejudging decisions on the distribution of the budget which will have to be taken as part of the final negotiation process of Horizon 2020.

I also fully share your concerns to ensure that European funding adds value to national research activities. As far as the Government’s priorities in this area are concerned, the basic structure of Horizon 2020 and the priorities identified within the three constituent “pillars” (as amended by the Council’s Partial General Approach of 31 May) correspond to UK priority areas. The actual budget allocations to the component parts of Horizon 2020 will of course depend on the overall budget agreed for Horizon 2020 in the context of the Multiannual Financial Framework and negotiations with the European Parliament. However, the proposed distribution of funding between and within the pillars broadly corresponds to UK priorities, while the more detailed exposition of the scientific content of each heading to be found in the Specific Programme aligns well to the priorities of UK stakeholders.

Finally, the Government considers that proper Member State oversight of programme implementation through Programme Committees (“comitology”) is important. Programme Committees composed of Member State experts are well placed to ensure that the annual work programmes adopted for each programme within the overall Horizon 2020 structure do not include items which duplicate national programmes or fail to create European added value. In negotiating Council Conclusions based on the recent Communication on Completing the European Research Area (which seeks to set a wider framework for European research cooperation) we also stressed the primary role of Member States in setting their own research priorities while collaborating on a voluntary basis in those areas where there was clear added value in so doing; this view was reflected in the Conclusions adopted at the 11 December Competitiveness Council

19 December 2012

HORIZONTAL STATE AID ON PUBLIC PASSENGER TRANSPORT SERVICES BY RAIL  
AND BY ROAD (17555/12)

**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 explanatory memorandum of 10 January 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 28 January 2013 and the Committee decided to clear it from scrutiny.

The Committee welcomes the proposed amendments to the 'enabling regulation' noting that it falls in line with the view that the Commission should aim to reduce the regulatory burden on businesses and Member States, which we have previously expressed. The proposal to modernise the way that thresholds are set also seems sensible, in that it acknowledges that Member States may support companies through modern financial instruments or risk capital, rather than through traditional state aid.

We note that you are still considering your position with regard to the revocation of Regulation 1370/2007, and would appreciate an update of your position on this, and the results of your consultation with stakeholders.

The Committee agrees with your suggestion that support for infrastructure could be exempted, given its importance in maintaining a strong economy. We ask what representation you are making to the Commission on this point?

We look forward to a response in due course.

13 February 2013

INTERNAL MARKET SCOREBOARD NO 25- SEPTEMBER 2012 (14842/12)

**Letter from the Chairman to both Stephen Hammond MP, Parliamentary Under  
Secretary of State, Department for Transport and Lord Green of Hurstpierpoint,  
Minister of State for Trade and Investment, Department for Business, Innovation & Skills**

Thank you for your explanatory memorandum of 30 October on the above paper. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 19 November 2012.

As a Committee with a specific mandate for the Internal Market, we took note of the document because we believe it to be a very useful indicator of Member States' implementation of Single Market legislation and of their commitment to the ethos behind it. We were therefore concerned to see that the UK falls behind many of its comparator Member States in most of the indicators.

As a country that is often at the forefront in supporting the Single Market, we urge you to do all in your power to improve to UK's ranking before the next edition of the scoreboard appears. In particular, we would like to see the UK maintaining its 0% score for Directives no more than two years late transposition. We ask for comfort from the Department for Transport that it will meet the transposition deadline for the two outstanding Directives under its remit, and what steps it will take to do so.

I look forward to a response within the usual 10 day period.

21 November 2012

**Letter from the Rt. Hon. Simon Burns MP, Minister of State, to the Chairman**

Thank you for your letter of 21 November on the Explanatory Memorandum ("EM") submitted by the Department for Business, Innovation and Skills on 30 October regarding the Internal Market Scoreboard. I note that you have also written in similar terms to the Minister of State for Trade and Investment, who is responding separately.

The EM highlighted that there are two directives (2008/57/EC and 2009/149/EC) for which the Department for Transport retains policy lead and for which transposition is more than two years late.

There is a further directive, 2008/110/EC, which is part of the same package of amendments to the railway interoperability and safety regimes and also remains outstanding.

I can reassure the Committee that we are doing everything to complete transposition as quickly as possible.

Transposition for all three directives was completed for mainland Great Britain and Northern Ireland in 2011 and the outstanding elements relate solely to implementation in relation to the Channel Tunnel ("the Tunnel"). These delays have been engendered by the cross-border nature of the Tunnel and its governance arrangements which necessitate additional negotiation and agreement with France under the terms of the Treaty of Canterbury (through which the Tunnel was constructed and operates).

Those negotiations have now been brought to a successful conclusion and we are currently holding a four-week consultation, available from <https://www.gov.uk/government/consultations/channel-tunnel-transposition-of-railway-safety-and-interoperability-directives>, on a draft order which will make the necessary amendments to a bi-national regulation of the Intergovernmental Commission and complete transposition of all three directives for the UK.

However, the provisions will only come into force once transposition has been completed in both the UK and France and we are working closely with our French colleagues in order to meet our objective of full implementation by March 2013.

*3 December 2012*

### **Letter from the Lord Green of Hurstpierpoint to the Chairman**

Thank you for your letter of 21 November.

I am pleased the Committee acknowledges the EM on the Internal Market Scoreboard as a useful indicator of Member States' implementation of Single Market legislation.

I share your concerns that the UK falls behind many of its comparator Member States in most of the indicators. Whilst the UK has in the past failed to meet the 1% deficit target, our transposition score since Scoreboard No. 23 in May 2011 has steadily improved with the number of outstanding Directives reducing, and in the most recent Scoreboard (No. 26), the UK met the 1% deficit target.

The Government is committed to correct and timely transpositions and agrees that it is important that we not only meet transposition targets set, but also lead by example in implementing and applying EU legislation as per the indicators in the recent report.

Officials within my Department will continue to monitor UK's transposition of Single Market legislation and to work towards improving the UK's ranking in future Scoreboards. Whilst the UK had failed to meet the 1% transposition deficit target in the past, early and continuous monitoring processes have assisted in the reduction of the number of Directives outstanding for each Scoreboard since May 2011.

The Minister at the Department for Transport will respond to your letter separately.

*12 December 2012*

### **Letter from the Chairman to the Lord Green of Hurstpierpoint**

Thank you for your letter of 12 December on the above paper. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 17 December 2012.

We have heard from the Department for Transport that, due to the outstanding transposition of three directives, the UK will be in breach of the zero tolerance target in the next edition of the scoreboard. It should, however, meet the target in the subsequent edition.

We agree with you that the UK should be leading by example in implementing and applying EU legislation as per the indicators in the Internal Market Scoreboard. We therefore urge you to do all in your power to improve to UK's ranking in the next editions of the scoreboard.

We have decided to clear this document from scrutiny.

*18 December 2012*

**Letter from the Chairman to the Rt. Hon. Simon Burns MP**

Thank you for your letter dated 3 December on the above paper. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 17 December 2012.

We are grateful for your clarification on the causes of the UK's delay in transposing three transport-related directives. We urge you to complete the transposition of the directives by March 2013 as stated in your letter.

We have decided to clear the document from scrutiny.

*18 December 2012*

**Letter from the Rt. Hon. Simon Burns MP to the Chairman**

This letter is to update you, further to your letter of 18 December 2012 and following the interest expressed by the Sub-Committee on Internal Market, Infrastructure and Employment on the completion of the Department for Transport's transposition of European Directives 2008/57/EC, 2008/110/EC and 2009/149/EC on railway safety and interoperability to the Channel Tunnel ("the Tunnel").

Following public consultation, I have today signed the Channel Tunnel (Safety) (Amendment) Order 2013 ("the Order") which will amend the Channel Tunnel (Safety) Order 2007 to complete transposition of these Directives which are already in force in the rest of the United Kingdom.

In summary, the key amendments the Order will introduce to the Tunnel are:

- revisions to definitions and recognising new terms such as Entity in Charge of Maintenance ("ECM");
- providing that all rail vehicles operated in the Tunnel must have an ECM assigned to them and be maintained in safe order;
- recognising the revised methodology for calculation of Common Safety Indicators;
- increasing transparency of the rail vehicle authorisation process and prescribing deadlines for decision making; and
- limiting the scope of checks for additional authorisations to only those standards which are applicable to infrastructure compatibility.

Since the Order implements a bi-national regulation of the Intergovernmental Commission, it will only come into force once the necessary internal processes have been completed in both the UK and France. We are working closely with our French colleagues to ensure that this occurs as soon as possible and expect this to happen by the end of March at the latest. On the UK side, the Order will be laid before Parliament for 21 days as a negative resolution instrument before we notify France that our processes are complete.

*4 March 2013*

**INTERNATIONAL LABOUR ORGANISATION CONVENTION 170 (16760/12)**

**Letter from the Chairman to the Rt. Hon Mark Hoban MP, Minister for Employment,  
Department for Work and Pensions**

Thank you for your explanatory memorandum of 11 December 2012 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 January 2013 and the Committee decided to clear it from scrutiny.

The Committee considered that the proposal was fairly non-controversial in substance, given its declaratory rather than legislative nature. However, we shared your concerns about the meaning and implication of the Commission 'authorising' member states to ratify the Convention. We noted the strong wording in paragraph 5 of the Commission proposal, which provided that "...Member States and the Union institutions *must* cooperate in regard to the ratification of the Convention". We request that you seek further clarity from the Commission on whether the effect of the authorisation would be to compel Member States to implement the Convention, given Member States' duty to cooperate with the EU.

We also ask for further details about the UK decision not to ratify the Convention. In Paragraph 15 of the EM, you state that when the Convention was originally drawn up in 1990 the UK decided not to ratify it. We note from the same paragraph that one of the barriers to ratification was the full implementation of other EU Directives. Therefore, we wish to confirm that the relevant Directives have now been implemented, and ask whether there are any remaining barriers to implementing the Convention in the UK. We would also be interested to learn on what other grounds the UK Government decided not to ratify the convention in 1990.

We look forward to a response in due course.

*16 January 2013*

## INTERNATIONAL ROAD TRANSPORT (15015/12)

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

Thank you for your explanatory memorandum of 2 November on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 12 November 2012 and the Committee decided to hold it under scrutiny.

We are unable to clear the proposal until we receive the letter you have promised in the explanatory memorandum. This seems to us to make it unlikely that the proposal will be cleared in time for formal agreement by the 3 December (unless of course you can provide a very swift response). In the light of this, we suggest that you write to the Commission to request that they reconsider their timetable.

The Committee notes your view that the proposals are of limited interest to the UK haulage industry, given that most journeys are undertaken within the EU and are therefore covered by existing EU legislation. However we would urge that you consider consulting the UK haulage industry, since any amendments to the AETR would still have a minor impact on UK haulage industry, which may increase in the future.

We observe that the main three elements of the proposal has been put forward by small configurations of AETR signatories, and we ask for further clarity on the position of non-EU AETR members who have not been active in recommending the proposed changes.

The Committee continues to appreciate the engagement of your department with regards to this issue, and looks forward a response within 10 working days, or sooner if you would like the Committee to reassess the proposal in line with the current timetable.

I look forward to a response within the timescale detailed above.

*13 November 2012*

### **Letter from Stephen Hammond MP to the Chairman**

Thank you for your letter of 13 November on the European Commission's proposal to apply to the Council for a mandate for the EU to become a contracting party to the AETR Agreement. This letter provides a further update on the UK position on this proposal.

The Committee will want to be aware that the timetable for consideration of this proposal has now been revised. The next AETR meeting in Geneva, planned for 3 December, has been rescheduled for 25 February 2013. This is due, in part, to the UK and other Member States expressing concern to the European Commission that there was insufficient time for the Council to vote on their proposals and

– if a mandate was secured – get it translated and circulated in time for consideration by the non-EU AETR Contracting Bodies.

As stated previously, the AETR Agreement is important to international trade as it facilitates the free movement of goods by road between the 49 countries and ensures proper road safety and fair competition between EU Member States and the wider AETR members. The Commission proposals for EU Accession would, if adopted, mean that at AETR meetings the Commission would exercise a block vote on behalf of the EU27 on changes to the tachograph specification. Member States would, as now, co-ordinate a single position for the EU, and the Commission would vote on behalf of the EU27. In my Explanatory Memorandum I promised to outline the Government's position on this to the Scrutiny Committees in a separate letter.

As you know, the Government supports effective external action by the EU, in accordance with the treaties, but is determined to ensure that this does not affect the balance of competences between the EU and Member States; and that Member States remain free to act where they have the right to do so. We therefore wanted to give this proposal careful consideration, in consultation with other Departments, given the wider context of the Commission's approach to EU external representation.

As noted in my Explanatory Memorandum, the AETR Agreement is an area of EU exclusive competence and case law of the European Court of Justice (Case C22/70) confirms that when Member States signed the AETR agreement they did so on behalf of the EU. We concluded that there is therefore no competence creep in this case, and as the Commission proposes to seek a mandate from the Council on EU Accession, there is no representation creep either. The Commission are going through the proper channels to obtain clearance from Member States before tabling any proposals in Geneva.

Following this consideration and consultation, we have concluded that the Government should not oppose EU accession in this instance, but instead vote in favour of the Commission proposal in Council.

Your letter of 13 November also requested further information on two other issues: consultation of the UK haulage industry; and clarity on the position of non-EU AETR members.

Since submission of the Explanatory Memorandum, we have sought industry views on the Commission proposal. Their view is that they have little direct interest in the AETR agreement and that the issues raised by the proposal are for the UK Government to determine. Only a small proportion of UK haulage operations are covered by the AETR Agreement, and the Commission's proposal is unlikely to have any adverse affect on the UK road haulage Industry.

Finally, this proposal has only been seen and discussed by the EU27. It has not yet been considered by the non-EU Contracting Bodies, because the Commission believes it needs a mandate from the Council before tabling a final proposal for consideration by all the AETR Contracting Parties.

*19 December 2012*

#### **Letter from the Chairman to Stephen Hammond MP**

Thank you for your letter dated 19 December 2012 on the above Communication. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 14 January 2013 and the Committee decided to clear it from scrutiny.

We are pleased to note that you have revised the timetable, and that consultation of the UK haulage industry has occurred.

We look forward to further updates as negotiations progress.

*16 January 2013*

## IRISH PRESIDENCY PRIORITIES

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

I'm writing with regards to the priorities for the next 6 months under the Irish Presidency of the Council of the European Union, that the Department for Culture, Media and Sport will be leading on.

#### STATE AID FOR BROADBAND

Our top priority is to make progress on measures relating to broadband. The Commission work programme identifies work on barriers to broadband investment, and the state aid guidelines for broadband are also under revision. We aim to ensure these measures are concluded in a way that is supportive of UK broadband programmes and projects. The work on barriers to the development of broadband is at an early stage, with the Commission having consulted, but yet to make a proposal. We seek to ensure that any Commission package does not prevent the UK from implementing its own recently announced measures aimed at reducing the cost of broadband roll-out.

The State Aid Guidelines for Broadband are at a more advanced stage of consideration, with a revised draft issued by the Commission on which the UK has commented. Our position is broadly concordant with that of Irish colleagues, with whom we are maintaining a dialogue so as to develop a coalition of like-minded Member States. A key consideration for the UK is achieving acceleration of the speed of decision-making on broadband state aid cases.

#### WOMEN ON BOARDS

The Commission has now published its proposed Directive on women on boards: with, inter alia, a target for 40% female representation by 2020. The dossier is subject to co-decision, and BIS will lead for the UK in Council Working Groups to focus on reducing the (considerable) ambiguity in the current text, in particular in relation to quotas: and the applicability or otherwise of sanctions against companies considered to have a suitable appointment process which nevertheless fails to reach the 40% target. We seek to develop a coalition of like-minded Member States in support of action at Member State level, and opposed to the imposition of quotas at EU level. Our position is broadly concordant with that of Irish colleagues.

#### CREATIVE EUROPE

The European Parliament is expected to complete its First Reading in early 2013 and the Council will then consider its response to the amended proposal. Our tactics are to support the principle of EU funding programmes for the Cultural and Creative Industries (CCI) sector, but to oppose the proposed 36% budget increase in relation to the existing programmes. We also oppose that part of the package which would provide a loan guarantee scheme for SMEs in the CCI sector, unless it is offset by a comparable reduction in the grant elements.

There may be scope to influence once an overall agreement on the MFF negotiations is reached, when the size of the Creative Europe budget can be considered within the context of the Commission's overall funding envelope for 2014-20: as can the balance between the grant and loan components of the package.

#### EUROPE FOR CITIZENS

Partial general agreement was reached at the May 2012 Ministerial Culture Council: and the proposal has now been considered by the Parliament, which is unhappy with the Article 352 legal base. They consequently are hoping to have informal trilogues with the Council and Commission.

#### EUROPEAN CAPITALS OF CULTURE

The Commission is proposing a new European Capitals of Culture programme for 2020-2033 to follow on from the current programme which comes to an end in 2019. The proposed new programme would continue the arrangement established in the current programme, whereby cities are awarded the title of European Capital of Culture for one year on the basis of their proposed cultural programme for that year and according to a pre-determined order of Member States. The Presidency will shortly propose a compromise text, which we anticipate will take account of UK

comments and suggestions. It seems likely that the Presidency will seek to achieve a first reading agreement with the European Parliament. We will want to ensure that our concerns are reflected in the proposed text so that we can support such an agreement.

#### MEDIA / TELECOMS

The priorities for the Irish Presidency in the electronic communications policy space will be: broadband rollout; the creation of the digital single market; and the EU cyber-security strategy and Regulation (although they are reliant on proposals being put forward by the Commission in the latter's case). A review of the Digital Agenda for Europe is due to be published in late December and we anticipate that this will shape much of the future policy work in this area as the Commission seek to prioritise the multitudinous proposals contained in the Digital Agenda. The directive on guidelines for Trans-European Telecommunications Networks contains funding elements that are reliant on an agreement on the Multi-Annual Financial Framework being reached.

#### SPORT

As far as sport is concerned, we are expecting the Irish Presidency to focus on three areas: dual careers (for which Council Conclusions will be produced), anti-doping (with regard to EU co-ordination for the next World Anti-Doping meeting as well as the on-going review of the World Anti-Doping Code) and the sustainable financing in sport. At Expert Group level, the work on dual careers and sustainable financing is being chaired by UK experts so we are in the ideal position to influence the outcomes.

In addition, the EU is seeking a Council Decision authorising the European Commission to participate, on behalf of the EU, in the negotiations for an international convention of the Council of Europe to combat the manipulation of sport results. This Council Decision is due to be discussed at Council Working Party level and adopted during the Irish Presidency. It is expected that the convention will contain criminal law provisions and so it is likely that the UK will exercise its right to opt-in. Presidency conclusions on establishing a strategy to combat the manipulation of sport results were adopted during the Cyprus Presidency. However, the incoming Irish Presidency has stated that it will work bilaterally to see if consensus can be reached to enable these conclusions to be adopted as Council conclusions.

*20 December 2012*

### **Letter from the Rt. Hon Vince Cable MP, Secretary of State for Business, Innovation & Skills, Department for Business Innovation and Skills to the Chairman**

I am writing to summarise briefly the areas that we expect to be most active during the Irish Presidency.

#### SUMMARY

The Irish Presidency will be given shape by four European Councils: on 7-8 February, 14 March, 30 May and 28 June, covering trade, Multi-Annual Financial Framework (MFF), economic reform and growth and the Banking Union. However the exact agendas for the Councils have not yet been issued.

BIS's main interests will be in the Competitiveness, Employment and Social Affairs (EPSCO), and FAC-Trade Councils, though we also have substantial interests in proposals going to the Environment and Energy Councils and Education Councils. The Competitiveness Council meets on 18/19 February and 22-23 May, with an Informal in Dublin on 1-3 March. EPSCO meets on 28 February and 20 June with an Informal on 7-8 February. The FAC Trade has an informal on 17-18 April and a formal meeting on 18 June, coinciding with the G8 Summit on 17-18 June in Lough Erne.

#### MULTI-ANNUAL FINANCIAL FRAMEWORK (MFF)

The Irish will aim to bring negotiations on the Multi-Annual Financial Framework to conclusion. Under the Cypriots progress was made on the negotiating box (a document similar to council conclusions containing overall numbers on budget size), although key UK objectives on the size and financing of the budget are not yet satisfied. Progress on all the associated legal instruments will be dependant on the Irish Presidency resolving the financial dimension of the negotiation. The main legal instruments, on which BIS has the policy lead, are covered below separately specifically: Structural and Cohesion

Funds, Horizon 2020, Euratom and International Thermonuclear Experimental Reactor (ITER), COSME, Galileo and Erasmus for All.

The Irish Presidency will aim to ensure that COSME is delivered to achieve greater alignment between Horizon 2020 and Cohesion Policy instruments while retaining the important distinction between the two programmes. Final agreement will only then be reached when figures are slotted in following resolution of overarching Multi-Annual Financial Framework discussions

The Commission has proposed that ITER is funded outside the MFF. HMG strongly opposes this, and the UK, (along with FR and DE), are unwilling to negotiate the ITER proposal while ITER remains off budget. The expectation is that ITER will come back on budget as part of the eventual MFF agreement.

Depending on whether there is an agreement on the multiannual financial framework, Ireland aims by the end of its Presidency to have reached agreement with the European Parliament of the cohesion package of legislation, including the Commons Provisions Regulation, so that programmes might start early in 2014.

#### INTERNAL MARKET

The growth agenda will dominate. The Cypriots, as anticipated, have made limited progress, consequently there are many priorities from Single Market Act I (SMA) identified by the European Council still outstanding. Notwithstanding this, the Commission published the SMA II in October which contained further plans for enhancing the single market in other areas, particularly in energy and infrastructure.

The task for the Irish presidency will be to ensure that the commitments given in two communications on the Services Directive and Single Market Governance published last July are fully carried out. These communications were a great success for UK early engagement and may go a long way to delivering UK priorities for full implementation and enforcement of the existing Directives.

Progress on the proposed amendment to the rules on Recognition of Professional Qualifications has been slow but the Irish Presidency is keen to work towards a first reading deal which may mean agreement by the end of February. We have made good progress from the original text in a number of our key areas but have outstanding concerns over the use of delegated acts and the minimum training requirement for medical professionals. We will continue work to seek a resolution acceptable to the UK on these issues.

Since the general approach on the Accounting Directive last year, there has been no formal discussion of the chapters dealing with the preparation of financial statements. Chapter 9 of the Directive, which focuses on the reporting of payments to governments by extractives companies, has been the focus of all trilogue meetings to date. We expect discussions on Chapter 9 to draw to a conclusion shortly and formal discussion of the remaining chapters to begin. On these chapters, the UK was able to secure a number of important changes to the Commission's original proposals during negotiation of the Council's position. The Irish Presidency is expected to produce a full compromise text shortly and will be seeking a First Reading agreement in early/mid 2013.

On the Commission's proposals on audit, the Irish Presidency has made clear its intention to develop a General Approach from the Council in the next 6 months. Concerns that the proposals are disproportionate have made progress difficult thus far but the presidency is devoting time and resources aimed at developing a consensus.

The Irish Presidency will also take forward various aspects of the EU better regulation agenda. There will be Competitiveness Council Conclusions in May on the Commission's recent Regulatory Fitness and forthcoming SME Scoreboard Communications, and also ongoing work to improve the use of Impact Assessments in Council.

The Presidency has said that they will take Women on Boards as far as possible. The Commission Directive, adopted on the 14 November, is currently being considered by Member States and discussions on the proposal are due to start in working groups in February.

One of the key priorities for the Irish Presidency is advancing the Digital Single Market by making progress on the draft Regulation for e-identification and other trust services (e-IDAS), cyber security

and EU data protection. E-IDAS were a priority under the Cyprus Presidency and the Irish have confirmed that it will remain a priority for them. It is a very technical and potentially contentious proposal, including issues around the references to Member State liability and the proposed use of delegated and implementing acts. Progress on this dossier has been slow and the timetable for taking it forward is ambitious.

The Irish Presidency will be seeking to reach urgent agreement with the European Parliament on the European Network and Information Security Agency (ENISA) dossier, as the Agency's current mandate expires in September.

Closely linked to this will be the new work in this field on cyber, where we expect the Commission to bring forward a Communication on an EU Cyber Security Strategy, as well as a Directive on Network and Information Security at the end of January.

We are concerned that the Presidency will try and rush discussions on data protection at the Commission's behest to the detriment of the final instrument. The current draft Regulation has a considerable number of flaws in terms of the prescriptive nature and practicality of approach. MoJ, who lead on the document, are pressing for a directive instead. There is a serious risk that the document will lead to significant burdens on business whilst stifling research and innovation.

The Irish hope to get an agreement in May on State Aid rules. State Aid is a Commission competence.

#### INTELLECTUAL PROPERTY

Agreement on the Unitary Patent Regulation and associated language regulation was reached at the end of the Cypriot Presidency. The Irish Presidency hopes to host a signing ceremony for the inter-governmental agreement on the Unified Patent Court in the margins of the February Competitiveness Council. Following this, focus will turn to implementation of the system.

Negotiations on the proposed Directive on Collective Rights Management, which is intended to facilitate cross-border licensing of online music and improve the governance of collecting societies, have progressed during the Cypriot Presidency. The Irish Presidency has indicated in their Presidency plan that this dossier is a priority, so activity on it should increase. They are planning a political debate at the May Competitiveness Council.

#### CONSUMER POLICY

The proposals relating to alternative and online dispute resolution (ADR and ODR) are expected to be adopted in the spring, from which Member States will have two years to implement the legislation.

It is also likely that the Package Travel Directive will be formally adopted by the Commission during this Presidency, although it is not an Irish Presidency priority.

#### INDUSTRY AND GOODS SINGLE MARKET

A new Product Safety and Market Surveillance Package is expected to be adopted in mid-February with negotiations starting shortly after. This will include an EU Regulation to revise the General Product Safety Directive and an accompanying new Market Surveillance Regulation. The package will be completed by a non-legislative Communication from the Commission on a multi annual plan for market surveillance.

The Presidency aims to finalise the alignment package, the proposal to align nine existing product safety or performance Directives with the common framework on the marketing and market surveillance of products under the New Legislative Framework.

On the Batteries Directive, the Presidency is likely to try for a first reading agreement on a proposal that ends a current exemption allowing the use of cadmium in cordless power tool batteries (cadmium is already prohibited in other consumer batteries).

#### RESEARCH AND SPACE

The Irish intend to build on the progress made by previous Presidencies in obtaining Partial General Approaches (political agreement) on the texts of the main instruments in the Horizon 2020 package, including the European Institute of Innovation and Technology. In addition to obtaining political agreement on the EURATOM aspects of the programme, they will be undertaking negotiations with

the EP starting early in the year. The aim is to reach agreement on a compromise text which will allow Horizon 2020 to be launched on time in the autumn, although final agreement will obviously be conditional on the outcome of negotiations on the EU budget as a whole.

Council conclusions on the Communication on the European Research Area (ERA) were adopted at the Competitiveness Council in December 2012. These endorsed the Commission's non-legislative approach to completing the ERA by 2014 and included further information on how progress would be monitored. Work will proceed with the Commission, through the ERA Committee (ERAC), to agree the detail of the monitoring process.

The work related to the EU's global satellite navigation systems Galileo and European Geostationary Navigation Overlay Service (EGNOS) will continue to be taken under the Transport Council. A new regulation on the protection of EU satellites (Galileo, EGNOS and others) from debris and other spacecraft is expected to be adopted.

Work will be undertaken on the relationship between the European Space Agency and the European Union during 2013 now that the Union has competence for space under the Lisbon Treaty. The Council is expected to adopt Conclusions in February agreeing to a debate about the future relationship.

The Commission is expected to adopt their Communication on a Space Industrial Strategy. This looks likely to set out the case for EU-level action in a number of space-related areas, including sharing of private Earth observation data. It may also put forward the case for a far more aggressive interventionist approach to building and supporting space-related industry.

Depending on the outcome of negotiations on the EU Budget, a proposal for the Regulation governing the Copernicus system (previously known as GMES - Global Monitoring for the Environment and Security) may begin under the Irish Presidency.

#### EMPLOYMENT

The Irish Presidency will focus on tackling youth joblessness through a Youth Employment Package. Following its Employment Package the European Commission has presented a similar range of initiatives and documents aimed at tackling youth unemployment. It comprises a proposal for a Council Recommendation on Establishing a European Youth Guarantee; a Communication launching a second stage consultation of European social partners on a possible Quality Framework for Traineeships; and an "umbrella" Communication on Moving Youth into Employment.

The Youth Guarantee recommends that all Member States make an offer of employment or education and training after four months' unemployment or where young people have been out of education for that length of time. The Government has cautiously welcomed the initiative in recognition of the need to do something about youth unemployment, but will be seeking flexibility over the headline period of four months.

The scope used by the Commission for the proposed framework for quality traineeships is very broad and it compares a wide range of offers for young people, each of which it terms 'traineeships'. The UK Government does not agree that a single European Framework for traineeships is necessary or desirable for all types of 'traineeship'.

A European Alliance for Apprenticeships would add no value to the apprenticeship system in England as this already largely fulfils the Commission's description of the good quality apprenticeships the Alliance would be intended to promote.

Negotiations on the Posting of Workers Enforcement Directive are ongoing, and the Presidency has allocated a number of working groups in order to progress Council discussion and work towards a general approach. The European Parliament is currently expected to hold its first reading plenary vote in May.

The Social Partners had until 31<sup>st</sup> December 2012 to conclude their negotiations on the Working Time Directive. The outcome of the discussions has not yet been announced, but the negotiating parties released statements in December outlining that little progress had been made and that agreement looked unlikely. If negotiations do fall through, the responsibility for amending the Directive will revert back to the Commission.

## EDUCATION AND SKILLS

The Irish Presidency will focus on the skills agenda and qualifications linked to it, teacher training, and the social dimension of Higher Education.

**Rethinking Education:** The recent Communication sets out the Commission's ideas for future activity in a wide range of education policy areas: compulsory education (primary and secondary), vocational education and training (VET), and higher education. These suggestions for future activity are, broadly speaking, in line with domestic policy, however, there are some wide generalisations which need to be more tightly defined in future Commission policy documents. The Commission's language occasionally implies a too-prescriptive attitude to Member States' national policies. The UK has strong reservations about this approach: all follow-up documents will therefore be subject to close scrutiny and we will be asking for cost/benefit analyses of proposed actions.

**Erasmus for All:** The UK supported the partial general approach on the Erasmus for All proposal for the next generation of Education, Youth and Sport programmes (2014-2020), agreed at the May 2012 Education Council. Under the Irish Presidency trilogues will be held to resolve the differences between the European Parliament position and that of the Education Council. The UK would like to achieve an outcome as close as possible to the partial general approach. We would particularly like to retain the name 'Erasmus for All' for the programme in preference to the European Parliament suggestion of 'Youth, Education and Sport (YES) Europe', and to retain the streamlining and efficiency gains for the education and youth programmes set out in the Commission's original proposal. The proposed Masters Loan Guarantee Scheme, which was not included in the partial general approach, will be discussed under the Irish Presidency. We have been giving this proposal careful consideration and hope shortly to have an agreed UK position on it.

## TRADE

The main deliverable during the Irish Presidency for the EU's ambitious programme of FTA negotiations is expected to be the potential launch of negotiations with the USA. Assuming a positive report from the EU-US High Level Working Group on Jobs and Growth and the necessary political support from both sides of the Atlantic, negotiations could launch by the summer. The Prime Minister will use our G8 Presidency to maintain momentum on this. In addition, the Irish Presidency will be working towards: concluding negotiations with Canada, concluding technical work on the EU-Singapore FTA following political agreement in December, and the launch of negotiations with Japan and Morocco.

The Irish Presidency has inherited a busy portfolio of proposed trade regulations. Progress will be expected on Trade Omnibus I and II and on a new proposal for a legislative framework for taking measures to safeguard EU rights under multinational and bilateral trade agreements. We expect the Irish to give some time for negotiations on the proposed regulation on the access of third-country goods and services to the Union's internal market in public procurement but with a strong blocking majority we do not expect it to progress. We also expect new proposals from the Commission for modernising the EU's trade defence instruments by April. The proposals could very easily be divisive between Member States and the tone the Irish set for the discussion will be important.

Finally, negotiations on the European Commission's proposal for a regulation establishing financial responsibility in investor-state disputes are in their early stages. The Government supports the main principle underpinning the proposal, that whoever is responsible for the act leading to a claim by an investor under an EU bilateral investment treaty with a third country should bear financial responsibility if the claim succeeds. However, we are seeking certain adjustments to make it more effective and to address concerns about the division of competence in this area.

I hope you find the above information useful. The Department, of course, will keep you updated on progress of all of the key issues for the UK through the Presidency.

I am writing to advise your Committee of the transport issues that are likely to be taken forward during the Irish Presidency.

Two Transport Councils are planned, the first in Brussels on 11 March and the second in Luxembourg on 10 June. The Presidency have noted that the first half of their term will be mainly focussed on negotiations with the European Parliament on major dossiers such as Tachographs, Roadworthiness, the Maritime Labour Convention, TEN-T, CEF, and Galileo. Because of this, the agenda for the March Council will be light.

## TRANSPORT COUNCIL BUSINESS

The Presidency's top priorities are: the current proposals on Trans-European Networks (TEN-T) and Connecting European Facility (CEF), and the forthcoming 4th Railway Package.

### INTERMODAL

As noted above the Presidency will give priority to concluding the files on TEN-T and CEF. The Council reached a general approach on the proposed Regulation on Union guidelines for the development of the TEN-T (EM 15629/11) in March 2012, but have not yet agreed a full general approach on CEF. The European Parliament has completed its Committee level consideration of TEN-T, but at the moment no date has been scheduled for the completion of its first reading at plenary.

The Commission is hoping to publish its Clean Power for Transport Package in January or February. This is intended to accelerate the EU market uptake of alternative transport, including necessary standards for equipment and storage systems. Should time allow, the Irish have indicated they would present a progress report on this file at the June Council, but given other priorities it seems unlikely that they will be able to allocate sufficient working group time to make any substantive progress.

There will be a new proposal on the enhanced role of the EU's Global Navigation Satellite System (GNSS) Agency in March (the Agency will manage the Galileo satellite navigation programme). The Irish Presidency will seek to make some progress on this if possible. The Presidency have also indicated that they wish to conclude outstanding negotiations with the European Parliament as quickly as possible on the Galileo Regulation for the period 2014-2020.

### AVIATION

The Presidency are hoping to reach a general approach at the March Council on the recently issued proposal to revise the 2003 Directive on occurrence reporting (EM 18118/12).

The Council has reached general approaches on all three of the proposals in the Airports package (EM 18007/11, 18008/11, 18009/11 and 8010/11), on airport slots, groundhandling and noise management. The European Parliament has also completed its first reading consideration of the slots and noise proposals.

However the European Parliament rejected the groundhandling proposal at its first reading plenary and asked the Commission to withdraw it. The proposal has now been referred back to the Committee stage in the EP, and the Presidency will await clarification on the Parliament's position on this dossier before taking discussions forward on the package.

The Commission is expected to release its long-awaited proposal to amend rules on air passenger rights. This is likely to include a proposal to amend the period after which compensation can be claimed by passengers, to achieve a position that is fair to airlines and consumers alike – an amendment which the UK supports. The Presidency indicated that if it is released on schedule they will try to make progress on it during the second half of their term. It is currently included on the draft March Council agenda for an orientation debate.

In February/March, the Commission is also expected to bring forward a package of proposals to accelerate the implementation of the Single European Sky (SES).

The Commission believe that the Single Sky initiative is not delivering fast enough, and estimates that the fragmentation of European airspace costs airlines around €5 billion per year. The Government is a strong supporter of the SES initiative, and believes that it has the potential to deliver real benefits in terms of tackling delays and reducing fuel consumption and emissions – which would contribute directly to the UK's aviation objectives. SES has already delivered some significant progress, such as greater interoperability of service provision, the establishment of a performance scheme on 1 January 2012, and the establishment of Functional Airspace Blocks (FAB) on 4 December 2012.

However, we appreciate that more needs to be done to realise the longer term ambitions to deliver a real step change in improvements in efficiency and performance across Europe. Therefore, we believe a further package of measures is necessary to tackle the fragmentation of European airspace.

It is likely that there will also be some working group discussion on aviation external relations, and possible requests for mandates following the Communication and Council conclusions that were agreed in 2012.

The Commission's 2009 proposal for an aviation security charges Directive (EM 9864/09) continues to remain dormant.

We are not expecting the Irish Presidency to take forward any work on this dossier but as the proposal remains subject to parliamentary scrutiny we will of course let you know if this position changes.

#### LAND

The 4th Railway Package is the other main transport priority for Ireland. This has been delayed, and is not now due to be adopted until the end of January at the earliest. The package will include five legislative initiatives, covering safety, interoperability, amendments to the first rail package and amendments to the PSO Regulation. The most controversial part for many Member States will be proposals to open domestic rail markets.

The Irish have indicated that they will focus on the recast of the interoperability Directive 2008/57 – which they see as the core technical measure, and the foundation for the rest of the package. They have indicated that they may be looking for a general approach at the June Council, though it is only on the draft agenda for a progress report.

The Presidency will focus on negotiations with the European Parliament on the tachograph file (EM 13195/11). They believe that a second reading deal could be reached. On 15 January there will be a working group discussion on the proposal for the EU becoming a signatory to the AETR agreement (EM 15015/12), and it is likely this will move quickly to a Council vote ahead of the next AETR meeting in Geneva on 23 February.

Depending on how tachograph negotiations progress, the Irish may be able to give some working group time to the Roadworthiness Package (EM 12786/12, 12809/12, and 12803/12) in order to take forward the proposed roadside inspections Regulation. If this is opened up for discussion, the Presidency hope to achieve a general approach at the June Council, although they recognise that this would be an ambitious target. They have also indicated a desire to reach a general approach on the vehicle registration proposal at the June Council.

The Presidency have not indicated any plans for consideration of the new Internal Road Market Package of proposals which is expected over the next few months, namely on cabotage, masses and dimensions and road charging.

Depending on the details, the new Internal Road Market Package may offer useful opportunities to reduce the regulatory constraints on the road haulage industry, for example in relation to longer semi-trailers and cabotage. However the package may raise subsidiarity concerns, for example in relation to lorry road user charging. The package may also involve a radical move to a single European land transport area, with major implications for the operator licensing system, related road safety enforcement, and the penalty regime. The implementation of radical changes in the context of highly variable labour rates, national sovereignty about taxation and divergent national road traffic penalty, enforcement and regulatory regimes, would be challenging, risk major downsides and may also compromise subsidiarity.

The initiative on road charging is likely to include mandatory distance-based road pricing for HGVs and the possibility of further regulation to support interoperability of tolling systems. Taxation and spending are matters for national governments and any compulsion with respect to road charging would seriously breach subsidiarity and proportionality. The UK Government has consistently said that it would oppose any attempts to introduce mandatory road pricing across Member States and that careful consideration needs to be given to the need to minimise regulatory burden on Member States, industry and road users. Any proposals for additional regulation would need to be consistent with the principles of subsidiarity and proportionality, and supported by rigorous cost-benefit analysis.

#### MARITIME

The Presidency will first concentrate on negotiating with the European Parliament on the two proposed amending Directives, covering port State (EM 8239/12) and flag State (EM 8241/12) responsibilities, which would bring EU law into line with the Maritime Labour Convention.

The Irish are hoping to reach first reading agreements on both directives. They will simultaneously begin negotiations on the recent proposal for a marine equipment Directive (EM 17992/12), which was presented to the working group on 11 January, and have pencilled this in for a general approach in June. While the UK is likely to be generally supportive of this proposal the current text includes a number of areas of potential concern, as outlined in our Explanatory Memorandum.

Other maritime proposals that are expected to be brought forward by the Commission during the course of the Irish Presidency (but as yet without firm dates) include: a proposal for a Regulation to provide a future budget for EMSA (European Maritime Safety Agency), a proposal revising EU legislation on passenger ship safety, and an initiative on port waste reception facilities.

The Irish will give a high priority to work on integrated maritime policy (EM 14631/07). Much of the substance falls to other Departments, including a proposed Directive (still being finalised within the Commission) on maritime spatial planning, which the Irish will seek to take forward and on which Defra leads for the UK.

#### ENVIRONMENT COUNCIL BUSINESS

The Presidency will be making every effort to ensure that the Commission's proposal to delay the enforcement provisions of aviation ETS (EM 16723/12) goes through the legislative process as fast as possible. It is possible that the dossier will reach a first reading agreement by the mid-April European Parliament plenary. Running alongside these discussions will be the processes to coordinate the European position for the High Level Group Discussions in ICAO. The draft agendas for the March and June Environment Councils both have possible AOB items on this subject offering an update from the Commission.

Work is continuing on preparation of the Commission's impact assessment on the proposal to set default values for crude sources under the fuel quality Directive (unnumbered EM), which is now expected to be published in the summer. The Commission's previous proposal assigned separate default values for oil derived from 'conventional' and 'unconventional' crudes (such as those derived from oil sands and oil shale), and questions remain on how best to measure and implement any such distinctions.

The Presidency will be taking forward the proposals on indirect land use change (ILUC) of biofuels (EM 15189/12). This is a priority file that they are determined to move as far as possible. Debate is likely to focus on the extent to which the Commission's proposed 5% limit on crop-based biofuels is sufficient to protect existing investment and to what extent the current framework is consistent across the directives.

Both the Energy and Environment Councils will consider this proposal, with orientation debates scheduled for the 22 February Energy Council and the 21 March Environment Council, and progress reports at the 7 June Energy Council and 18 June Environment Council.

The Presidency plans to take forward the Commission's proposals to define the modalities for reaching the 2020 target for reducing CO<sub>2</sub> emissions from new passenger cars and new vans (EMs 12733/12 and 12747/12). The proposals are also under consideration in the European Parliament and it is likely that there will be scope for possible first reading deals.

The Commission has indicated that it intends to publish a proposal for a Regulation on monitoring, reporting and verification of greenhouse gas emissions from ships and also a strategy document (which will include some information about possible future EU legislative proposals of a more substantive nature, such as market-based measures). These proposals are expected in the first quarter of the year. Discussions are unlikely to begin until the second half of the Irish Presidency, with an orientation debate at the June Environment Council.

#### VEHICLES

Working group discussions on the sound level of motor vehicles (EM 18633/11) will continue. My Department is preparing letters to your Committee on the current situation with respect to this proposal. It is not yet clear whether the Presidency will be able to achieve an agreement with the European Parliament on this dossier during its term.

The Irish Presidency have announced two Working Group meetings on Vehicle Re-Registration (EM 8794/12) in February and March. This proposed Regulation aims to simplify the vehicle transfer rules for people moving from one country to another.

The Commission plans to move forwards with a proposed regulation on ITS systems (noticeably e-call). We expect that the Commission will issue a proposal during 2013 to amend type approval requirements for new cars on the in-vehicle elements of pan-European eCall. This is an automatic system which will alert the emergency services if a car is involved in a collision of sufficient severity to deploy the airbags. After considering the results of independent research we are concerned that the benefits of making eCall mandatory in all new cars would not justify the cost of implementing it in the UK.

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.

*14 January 2013*

## MARINE EQUIPMENT (17992/12)

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

Please find enclosed an Explanatory Memorandum of Understanding on European Legislation proposal for a Directive of the European Parliament on Marine Equipment.

I apologise for not submitting the Checklist for analysis of EU proposals. Given the significance of this proposal and the current lack of evidence in the Commission's Impact Assessment, I cannot be certain that it will not be significantly detrimental to our interests and so I have asked that officials carry out further analysis into the potential impacts it may have on UK Industry.

I would also like to draw your attention to my specific concerns with the actual proposal; these are outlined in paragraphs 16 and 17 of the Explanatory Memorandum.

We are at the very early stages of the process. Once I have further evidence of the impact of the proposal I will update the Committee. I will also be seeking an agreed position with the European Affairs Committee in the near future.

If you would like to discuss this matter in the meantime I will gladly facilitate a meeting with my officials.

*28 January 2013*

### **Letter from the Chairman to Stephen Hammond MP**

Thank you for your explanatory memorandum of 28 January 2013 on the above documents. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 March 2013 and the Committee decided to hold the documents under scrutiny.

The Committee agree with the European Scrutiny Committee that it is unfortunate that the proposal was not submitted in time to for us to submit a reasoned opinion, should we have wished to and are deeply concerned about the implications of such delays, and the problems this causes for in terms of allowing Parliament to fulfil its scrutiny function. We note however, that the scrutiny coordinators within your Department provided regular updates on the delay in submitting the explanatory memorandum.

Like you, we are concerned about the extension of power to the Commission in the area of setting testing standards. We would encourage you urge the Commission to consider the potential impact of stricter standards on industry within the EU, in terms of EU competitiveness. We suggest that stricter standards at EU level may not improve the safety of marine equipment internationally, since they risk merely incentivising ships to register a 'flag of convenience' outside the EU. We ask whether similar concerns are held by other Member States.

We note your preference for 'policy option 2' outlined in the Commission Impact Assessment, and understand that the policy option chosen by the Commission has significant drawbacks, as outlined above. However we wish to ask if you have considered that if this option were adopted, Member States would still need to transpose the rules into their national legislation, meaning that the burden on industry and on Member States would remain. We wonder if you have considered the possible benefits of some power to the Commission in this area, via implementing and delegated acts.

The inclusion of the Ballast Water Management Convention to the scope of the Directive is of concern to us, given the small number of states who have ratified it. However, we acknowledge that regulation in this area is necessary in order to protect living organisms in the sea. It appears to be the case that the UK has not ratified the Convention, and we seek clarification on the reason for this.

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

*12 March 2013*

### **Letter from Stephen Hammond MP to the Chairman**

Thank you for your letter of 12 March on the above proposal. By agreement between my officials and Committee Office staff I am sending this response a little later than you originally requested, in order to be able to reflect the UK position following consultation with other Departments.

In your letter the Committee asked whether other Member States are concerned about the impact of stricter standards on industry within the EU, in terms of competitiveness, and that stricter standards at EU level may not improve safety standards internationally and may risk incentivising ships to register outside the EU. I fully share your concerns and I intend to oppose the draft articles which empower the Commission alone, on its own initiative, to set "testing standards" in instances where the Commission deem that the IMO has "failed" to act. I consider that such standards need to be agreed on an international basis to ensure Member States are not disadvantaged by having to meet EU rules which are potentially stricter than those applied internationally.

As this proposal is at an early stage of negotiation, it is not yet clear to what extent Member States will be involved in the process of development of the delegated and implementing acts. It would be these delegated and implementing acts which allow the Commission, on its own initiative, to set testing standards which may be above or in conflict with those set internationally. The Government considers that the setting of testing standards is intrinsic to the Directive and as such should not be the subject of delegated acts.

I intend to argue in favour of the current process, whereby under the current MED Member States take an active part in the annual amendment process to align the MED testing standard with any revision of the testing standards agreed at IMO. The Committee on Safe Seas and the Prevention of Pollution from Ships established by Regulation (EC) 2099/2002 provides the mechanism for Member States to provide their formal opinion before the final draft testing standard are approved by the Council.

At this time I am not in a position to say what the position of other Member States will be on this issue, although current indications suggest several share our views.

You also asked whether I have considered the possible benefits of empowering the Commission to transpose IMO approval standards via delegated and implementing acts. I acknowledge the need to speed up the transposition of IMO testing standards into UK legislation. However, as noted in my Explanatory Memorandum, it is normal for IMO standards to include an element of discretion in the application by individual Member States. When such discretion is in place I do not consider that it is appropriate for transposition and interpretation of an international requirement to be left exclusively to the Commission. As such I intend to oppose the replacement of existing technical annexes of the Directive with Commission delegated and implementing acts. Whilst I recognise the possible benefit of releasing the burden on Member States to transpose, I believe there is a need to retain responsibility for transposition into national legislation by Member States in order to avoid the potential for a shift in the balance of competence claimed by the Commission.

You also requested clarification on whether the UK has or has not ratified the Ballast Water Management Convention. The UK is fully committed to implementation of the Convention and will commence work on implementation once the IMO has finalised the associated guidance. The guidance notes are key to ensuring that the Convention delivers a level playing field for industry, and to assist States in effectively fulfilling their treaty commitments, particularly in relation to enforcement and sampling. We expect the guidance to be completed by late 2013, and UK work on implementation will follow.

I will of course keep your Committee informed of developments in negotiations, in particular ahead of the 10 June Transport Council.

19 April 2013

## MISLEADING MARKET PRACTICES (17324/12)

### **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 explanatory memorandum of 19 December 2012 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 21 January 2013 and the Committee decided to clear it from scrutiny.

The Committee considered that overall, the suggested amendments to the Directive seem reasonable and are based largely on the findings of the consultation. However, we share your concern with regards to the introduction of an additional body to govern a new cross-border enforcement regime.

The Committee recognises your concern to shield UK businesses from centrally set and possibly inequitable penalties; however we consider that where penalties enforced in other jurisdictions are, or become insufficient to constrain malpractices that affect UK businesses there could be an advantage in establishing a common tariff of penalties as proposed by the Commission.

We note that in the Communication, the Commission indicated a willingness to assess the suitability of extending the remit of the Consumer Protection Cooperation to this end, and we hope that you will keep us updated on the Commission's progress on this issue.

I look forward to a response in due course.

29 January 2013

## MODALITIES FOR PASSENGER VEHICLES (12733/12, 12747/12)

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

Thank you for your letter of 11 October 2012 on the Commission's proposals to define the modalities for reaching the 2020 target for reducing CO2 emissions from new passenger cars and new vans.

I enclose the Checklists for analysis on EU proposals for both proposals at Annex A, which have been completed following consideration of the Commission's impact assessments and completion of our information gathering with stakeholders. A summary of the responses received are presented at Annex B.

In your letter you note that the Commission propose to continue using vehicle mass as the utility parameter despite observers reporting of its potential to provide a perverse incentive to the industry to produce heavier vehicles (in order to reduce their CO2 targets). In practice, we have not seen manufacturers attempt to manipulate the regulation in this way, not least since lighter vehicles lead to more fuel efficient vehicles and this is a highly and increasingly competitive vehicle attribute in the current market. It has also been reported that by using footprint in place of mass as the utility parameter may reduce costs for the industry, this would be immediately outweighed by the costs associated with having to meet new targets (based on footprint not mass). For some manufacturers, their targets would change significantly from a move to footprint and would make it extremely expensive for them to meet their new target in the short term. As the change would affect 'how' manufacturers meet the overall EU target, not the target itself, there would be no benefit in terms of CO2 emissions for this extra cost.

You also sought clarity on whether the Commission has considered the impact of diesel fuel particulate emissions beyond CO2 in the review, due to the Commission's emphasis on the positive aspects of diesel fuel in terms of CO2 reductions. Other exhaust emission Regulations exist in the

context of strict standards which will reduce emissions of particulate matter from future diesel vehicles to the same levels as those from petrol cars. These standards are set for public health reasons, but will effectively deal with the climate change impact of black carbon from diesel exhaust at the same time.

To date, these proposals have been discussed in four Council Working Group meetings though progress has been slow as the Cypriot Presidency does not consider this a priority. Both the car and van proposals are on the agenda for the 17 December Environment Council meeting as an AOB point to allow the presidency to give a progress report.

For the first reading of the cars regulation in the European Parliament, a vote is scheduled in committee for the 24th April 2013, and an indicative plenary sitting date has been scheduled for the 11th June 2013. For the first reading of the vans regulation in the European Parliament, a vote is scheduled in committee for the 7th May 2013 and an indicative plenary sitting date has been scheduled for the 2nd July 2013.

*11 December 2012*

## MOTOR VEHICLE REGISTRATION (8794/12)

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

I am writing in response to your letter of 29 May to my predecessor Mike Penning regarding your request for further information on the proposed Motor Vehicle Registration Regulation (8794/12).

Your letter raised three main issues

- The place of normal residence. Vehicles already have to be registered in the place where the owner is “normally resident”. Under the draft Regulation owners moving from one Member State to another would not need to register in their new state of residence for up to 6 months and during these six months the new Member State may not restrict use of this vehicle. In practice, the onus would be on the individual moving permanently to the UK to apply to the DVLA to re-register their vehicle within the UK. There is no straightforward way of identifying such vehicles if the owner fails to do this. We would prefer to reduce the period of time that owners have to re-register avoiding the need and cost of administering a separate register. This would reduce the administrative burden to DVLA and decrease the amount of VED “lost” by people choosing to purchase vehicle tax discs later rather than sooner.
- The electronic data sharing and use of EUCARIS as the technical platform. It might be difficult to envisage an electronic system of re-registration working if not all Member States were signed up to the EUCARIS system. It could mean having to cater for separate arrangements which would be ineffective, costly and could give rise to a lack of interoperability of systems between Member States. It is a point that the European Data Protection Supervisor has picked up on and we are waiting for further information from the Commission on how they would address this point. DVLA estimate that their cost to provide a platform for exchange of all relevant data to other Member States would be between £5 million and £12 million for a fully electronic solution.
- The likelihood and impact of MOT tourism. MOT tourism is more likely to occur in land locked states and while there is the possibility of it occurring in the UK we would expect incidence to be low. We have no objections to the principle of mutual recognition of MOT certificates for the purposes of re-registration provided that it respects our domestic frequency of testing. Currently, there is a separate roadworthiness directive where this issue is raised and we are seeking to negotiate agreement on this point.

As anticipated in our Explanatory Memorandum, the timetable for negotiations on this proposal has been slow. The first working group discussion was held on 17 December and the second meeting

was on 1 February 2013. Two further meetings are scheduled for 16 March and some time in early May. The Irish Presidency has indicated that they hope to reach a general approach at the 7 June Transport Council. The indicative date for the European Parliament first reading plenary is November 2013.

In the meantime we are considering our position on the proposal and have further analysed the cost versus the benefits. A high level assessment of the impact is provided in the attached "Checklist".

I will of course, keep you informed of further developments.

*12 February 2013*

## MOVING YOUTH INTO EMPLOYMENT (17575/12), EUROPEAN YOUTH GUARANTEE (17585/12), TOWARDS A QUALITY FRAMEWORK ON TRAINEESHIPS (17578/12)

### **Letter from the Chairman to Mark Hoban MP, Minister for Employment, Department for Work and Pensions**

Thank you for your explanatory memorandum of 18 January 2013 on the above documents. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 11 February 2013 and the Committee decided to hold the documents under scrutiny.

Like you, we welcome the proposal for a youth guarantee, and feel that the Recommendation is drafted in a reasonable way. However, we understand your cautious approach to the proposal given the importance of the duty of 'sincere cooperation' placed on Member States. The Committee would appreciate further information on why you consider four months to be an unsuitable timescale for the guarantee, and what alternative you intend to push forward in negotiations.

We also share your reservation about applying the same criteria to all traineeships. The alternative of a quality label for traineeships might overcome these concerns, but to award it on the very broad basis suggested in paragraph five of the EM could risk endorsing numerous sub-standard schemes. We would therefore welcome further information on this aspect of the proposal.

We note that the UK system of apprenticeships already meets the criteria which would be required by the proposed European Alliance of Apprenticeships. However, we wonder whether this standard has been reached by other European countries, and whether you think such a system for countries which are failing in this regard would be beneficial, given that systems in other countries potentially impact on UK citizens who complete training programmes abroad.

We observe that key elements of the proposal require the participation and engagement of the private sector. To this end, we ask whether businesses are accepting of such a scheme being pioneered at an EU rather than national level? Given the economic climate in which businesses find themselves, we would urge you to focus on responding to the employment needs of businesses, rather than encouraging companies to create vacancies which do not correlate with their business needs.

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

*26 February 2013*

### **Letter from Mark Hoban MP to the Chairman**

Thank you for your letter of 26 February requesting further information about aspects of the European Commission's youth employment package.

The proposal for a youth guarantee was agreed by the Council on 28 February. As I said then, the Government could support a clear message to the Member States about the need for fast and concrete action to tackle youth unemployment. However, the situations that governments face vary and we all need the flexibility to be able to make the most effective interventions possible with the best use of resources. As it is, in the United Kingdom over 80 per cent of young people already move off benefit within six months, so pursuit of a rigid four month trigger period for helping young people could see us misdirecting help to many who will themselves find work, training or education anyway. In the event there was insufficient support for our view and, with the matter still under Parliamentary scrutiny, I withheld my support for the recommendation at the Council.

You share the Government's reservations about the broad application of a Quality Framework for Traineeships that is proposed, and ask for more information. The main concern here is the

Commission's "one-size-fits-all" approach. Its definition of traineeships would include such diverse initiatives as placements for transnational programmes, graduate internships, undergraduate work placements and work experience as part of vocational learning, with target groups ranging from top graduates aiming for professions, to school-leavers with few qualifications if any. The Commission fails to show there are common issues of design that require a single solution. We also worry about the prospect of unnecessary bureaucracy putting off employers offering opportunities to young people. Indeed, in the first stage consultation business organisations themselves feared "traineeship schemes becoming overburdened with too many legal or administrative procedures that could discourage companies from taking on trainees thus depriving young people of valuable work experience" (see 17578/12, page 4).

You asked whether apprenticeship programmes in other Member States measure up to the characteristics of good apprenticeships identified by the Commission (as those in England do), and whether those found not to do so would benefit from the support of the proposed European Alliance for Apprenticeships. Apprenticeship systems are at differing stages of development in those Member States that have initiated them and although information from where they are well established, such as in Germany, is readily available, there is less on progress and standards in others. Moreover, when we consider international evidence we tend to focus on those better-developed systems from which we could learn to improve our own (as we did in last year's Richard Review of Apprenticeships, for example). So officials are not aware of any specific assessment of all systems against the Commission criteria, and until the Commission presents more detailed proposals for the Alliance it would be difficult to say what the benefits would be to Member States with less well-developed systems.

*12 March 2013*

#### **Letter from the Chairman to Mark Hoban MP**

Thank you for your letter of the 12 March on the above Communications. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 15 April 2013 and the Committee decided to clear the documents from scrutiny.

Your officials have confirmed that the package was on the agenda for the Council meeting of 22 April, and while we are largely content with the general direction of the package, we hope that you took a robust stance on our shared concerns, as acknowledged in your letter.

We are grateful that you have shared with us the rationale behind your concern on the strict four month target prescribed by the 'youth guarantee'. The Committee agrees that this raises cause for concern given your statement that in the UK most young people move into work, training or education within or shortly after the four month period. We believe that such policies in the area of youth unemployment should have quality jobs and suitable opportunities as a focus, rather than time sensitive targets, which may fail to target the problem of youth unemployment in a sustainable way.

We note from your letter that other Member States did not share your concerns with the four month 'trigger period' in the 'youth guarantee'. We ask whether these Member States see the four month period as realistic, and seek information on whether they have made representations on how they intend to meet the four month target.

We observe that the 'youth guarantee' takes the form of a recommendation, and ask for clarity on whether you believe this is a strong enough tool to engender action in this area.

We note that the other elements of the package are at a relatively early stage of negotiations, setting out the Commission's thinking in this area, and will be followed by more detailed proposals. We would therefore appreciate further updates on negotiations and more concrete proposals from the Commission. We would also be most interested in the outcome of the 22 April meeting.

I look forward to a response within 10 working days.

*1 May 2013*

#### **NEW EUROPEAN APPROACH TO BUSINESS FAILURE AND INSOLVENCY (17876/12)**

##### **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 Explanatory Memorandum, dated 11 January 2013, on EM 17876/12 on a new European approach to business failure and insolvency. The House of Lords European Union Sub-

Committee on the Internal Market, Infrastructure and Employment considered this document at its meeting on 11 February 2013, and decided to clear it from scrutiny.

We are sympathetic to your position that you would not support changes to existing UK domestic insolvency law where it is not in the best interests of UK businesses and consumers. However, we would like to highlight the study commissioned by the European Parliament that stated there would be clear benefits to harmonisation of insolvency law. We ask whether you have considered the findings of this report. We also seek clarification on whether you have conducted a cost-benefit analysis from a UK perspective on harmonising insolvency laws across the EU. The Committee would encourage you to consider the extent to which harmonising legislation would affect court proceedings relating to bankruptcy.

We also wish to clarify whether the Commission has fully outlined how it has defined 'honest bankrupts' and whether you consider this to be a clear definition.

We note from your EM that there are a few areas of the UK's domestic insolvency law that differ from the Commission's vision for harmonised insolvency laws. For example, the Commission expressed an aim to encourage fast-track proceedings for 'honest' bankrupts whilst in the UK there are currently no 'fast-track' or special procedures for honest bankruptcies. Where there are differences between the Commission's proposal and the UK's current laws, can you provide a justification as to why moves towards harmonisation would not be in the best interest of UK businesses and consumers?

We would be grateful for a response to these queries within 10 working days. In the meantime we are content to clear this document from scrutiny.

*13 February 2013*

#### **Letter from Jo Swinson MP to the Chairman**

Thank you for your letter of 13th February on the above document. I am pleased to note that this has been cleared from scrutiny by the Committee. I will now deal with each of your points in turn.

European Parliament recommendations for harmonising specific aspects of insolvency law

Regarding the study commissioned by the European Parliament on harmonisation of insolvency across the EU, I have considered the findings of this report and my department provided briefing for MEPs during the project.

The report makes some interesting points, though I approach the general notion of harmonisation with some caution. The UK has a highly regarded insolvency regime, ranked in the top 10 globally by the World Bank - ahead of France and Germany. The quality of procedures available under our laws, such as administration and schemes of arrangement, together with a solid infrastructure of insolvency professionals and the flexibility of our legal system makes the UK an attractive environment for insolvency work and the jurisdiction of choice for many of the largest EU company rescue cases. This helps support rescue and also brings significant work into the UK for insolvency professionals at a time when many firms are shedding jobs. It is important to maintain this position in the global market and I would not support EU harmonising legislation where this affected our ability to continue to develop our insolvency regime. I am not averse, however, to harmonisation through natural convergence of domestic laws towards a best practice for the EU, where there is clear benefit to the UK and the single market from doing so. The Commission has undertaken some projects along these lines and there has been domestic reform in Member States resulting. I think this is the best way forwards for future EU insolvency reform.

I have not prepared an impact assessment on the costs and benefits of harmonising insolvency across the EU, though my officials did speak with stakeholders about the report. Two main concerns were expressed on the proposals for:

- mandatory filing by insolvent debtors, and
- fixed time limits for creditors to file claims.

These two recommendations are quite different to the approach currently taken in the UK.

Mandatory filing, found particularly in the German regime, requires debtors, often the directors of a company, to file for formal insolvency within a set time limit of a business becoming insolvent or they face prosecution. In Germany the limit is 21 days. Whilst there is some logic in not wanting insolvent businesses to continue to incur debts which cannot be paid, this approach could be counter-productive where the business is in short-term distress but is ultimately viable if new finance can be

found or agreement reached with creditors. 50% or more of distressed businesses in the UK are rescued without the need for formal insolvency proceedings. Formal insolvency proceedings add cost and may result in the unnecessary liquidation of a business with an associated loss of jobs and loss of economic value - a criticism historically made of many insolvency systems in the EU. In the UK our approach is different. If directors of an insolvent company continue to trade and cause harm to creditors, the insolvency regime provides for their personal liability under the 'wrongful trading' laws. So there is encouragement to do the right thing, which is often to seek advice, but there is flexibility and time to consider all options, not just formal insolvency. I think this is a better approach than to force viable businesses into unnecessary and potentially value destroying insolvency proceedings.

The second recommendation which UK stakeholders were concerned about was in regard to filing deadlines for creditors. Whilst it might appear logical and helpful for creditors to know when claims must be filed in every case, in practice such a rule would cause added costs to insolvency proceedings. It is a fact that in many formal insolvency cases, unsecured creditors will often get nothing from a distribution of the assets. In such a scenario, unsecured creditors are often advised by the office holder that making a formal claim is not necessary (although the situation may change and creditors would be informed accordingly). This decision may not arrive until some months into the administration of the insolvency when all of the assets are identified and valued and the claims of the secured creditors established. Every case is different. If all creditors had to file their claims within, say, 3 months of the opening of insolvency proceedings, both the creditors and the office holder would be incurring unnecessary costs of handling claims that may never be paid against. In a case with 100s or 1000s of creditors, such costs could be significant. Under our system, unnecessary costs are avoided. Office holders must communicate with creditors on the prospects for dividends, and creditors will be told if and when they need to prepare and file claims.

Regarding the impact harmonisation might have on court proceedings for bankruptcy, it is important to note that in civil law countries the court has a more involved role throughout the bankruptcy process than in our system. In England and Wales the court opens proceedings, but after that much of the work will be undertaken by the trustee in bankruptcy with no further recourse to the court. The Enterprise and Regulatory Reform Bill currently going through Parliament includes provisions for the removal of the court from the order making process in debtor petition bankruptcy cases and for the introduction of an adjudicator. Harmonised EU rules would be challenging to frame as they would need to cater for many diverse systems. We are continually developing and refining our insolvency laws to meet the needs of UK stakeholders and take account of developing case law. Harmonised EU laws might not be the best fit for the UK and could inhibit future development and improvement of the UK system.

#### HONEST BANKRUPTS

In its Communication, the Commission considers it beneficial for honest entrepreneurs, who fail, to have a second chance and be treated differently to dishonest or fraudulent bankrupts. It describes honest bankrupts as those cases where failure was through no obvious fault of the owner or manager as opposed to bankruptcies where the failure resulted from fraudulent or irresponsible behaviour. It calls for a differentiation between the two, with honest bankrupts receiving support and 'fast track' proceedings.

Our bankruptcy procedures could be considered 'fast track' for all debtors. Discharge from debts occurs automatically after 12 months, very much at the low end of the scale compared to the rest of the EU, although payments for the benefit of creditors can continue for a further period where the debtor is able to pay. Rather than specific procedures for honest and dishonest bankrupts, all bankrupts go down the same route, but where dishonesty or irresponsible behaviour is found, and it is in the public interest to take action, additional civil enforcement proceedings can be commenced and a Bankruptcy Restriction Order obtained. I think this is a better approach, particularly where the alternative could result in officials certifying a clean 'bill of health' for a bankrupt, only to later uncover evidence of dishonesty or culpability.

The UK is very much at the forefront of policies in this area and we worked closely with the Commission on its 2011 project to promote second chance and fresh start policies for failed entrepreneurs. Our existing regime is not too different from the Commission's vision, but I believe a better approach is to properly sanction those whose behaviour has fallen below what is reasonable and honest, and to ensure that there is an awareness of such actions to protect the public in the future and deter others from similar behaviour.

## THE COMMISSION'S VISION FOR HARMONISATION

As I mentioned above, I am not averse to a harmonised approach where harmonisation would deliver clear benefits to the UK and the single market. However I think this is best achieved through projects to share best practice rather than seeking to legislate at an EU level. Insolvency systems across the EU are quite different, underpinned by different legal systems, and harmonisation to any significant degree would be difficult to achieve. Harmonised laws might be a risk to the UK's position as the jurisdiction of choice for many international restructurings. Harmonised rules which are a best fit for the EU could be a step backwards for our UK system and once laws are introduced at an EU level, we would lose the ability to improve and develop important aspects of our domestic laws to meet UK needs.

The Commission's communication talks generally about areas where laws could be approximated, and it is difficult to establish whether we would have to adapt our existing laws to meet its vision of a more harmonised EU insolvency landscape. On the question of discharge periods, the Commission very much favours the UK approach of a proportionate period rather than a punitive one. The suggested harmonised rules on who can open proceedings would seem to fit with our existing regime. The proposed harmonised rules on filing claims, at least for foreign creditors, are included in the current Commission proposals to reform the Insolvency Regulation. Whether this should be harmonised by the Regulation will be considered and no doubt be subject to further negotiation.

In summary, while I am not in favour of harmonisation through legislation at EU level, I am committed to working closely with the EU institutions to modernise the insolvency landscape to support growth and preserve jobs in the single market. I hope this is useful to the Committee and I would be happy to provide further information if needed.

1 March 2013

## PROCUREMENT PACKAGE (18960/11, 18964/11, 18966/11)

### **Letter from the Rt. Hon Francis Maude MP, Minister for the Cabinet Office and Paymaster General, Cabinet Office, to the Chairman**

Thank you for your letter of 11 October in response to mine of 24 July. I am very grateful that your Committee retains its interest in this dossier. This response is based on the most recent published compromise text from the Council Presidency; of course this will be subject to further changes as the negotiations in Council progress, and when amendments proposed by the European Parliament are discussed.

For convenience I provide subheadings for the different points you raise, in the same order.

#### HOW TO BUY/WHAT TO BUY, AND INNOVATION

You enquire about the promotion of innovation, given the directive concentrates on "how to buy", not "what to buy". The directive aims to regulate public authorities' procurement processes when they buy from the market, to ensure transparent and consistent procurement practice and aid the single market.

As in the existing directive, the current proposal provides general rules on the technical specifications required by authorities, to ensure that these are non-discriminatory, and where applicable, comply with formal European and international standards.

However, the directive recognises the desirability of encouraging innovation in public procurement, and introduces a new procedure, the so-called innovation partnership. To quote Recital 17 "*This specific procedure should allow contracting authorities to establish a long term innovation partnership for the development and subsequent purchase of a new, innovative product, service or works provided that such innovative product or service or innovative works can be delivered to agreed performance levels and costs, without the need for a separate procurement procedure for the purchase.*"

This will allow authorities to enter into a staged process with suppliers, to develop new solutions, and allow authorities and suppliers to go beyond market offerings available at the time of the procurement.

## E-PROCUREMENT

We will continue to press for a gradual introduction of any compulsory use of e-communication / e-procurement, over a realistic timescale, to aid successful adoption and minimise problems.

## LIGHT TOUCH REGIME FOR SOME SERVICES

I am pleased to note that the latest draft extends the proposed light touch regime to a number of other services, including “community services”, hotels and restaurants, legal services not already excluded from scope, and prison, public security and rescue services (where not provided in-house but procured on the market). As you note, our preferred approach of maintaining the Part A/Part B distinction is unlikely to prevail, but we will continue to push for further extensions to the light touch regime.

## EUROPEAN PROCUREMENT PASSPORT

I agree with you that the rules should make procuring from other Member States a simpler experience, and it should also be as simple as possible for suppliers (including SMEs) to seek public contracts in other Member States. The revised text includes a number of helpful provisions. As mentioned in my previous letter, only the winning bidder will normally be expected to provide documentary evidence of good standing, financial status and professional capability. Up to that point in the process, self-declarations of compliance will be the norm. Where official documents or certificates about a supplier can be freely obtained directly from a relevant authority or body, suppliers should not have to forward these documents themselves. Member States will also be expected to maintain a publicly available list of the type of relevant documents issued by their own authorities, and of the documentary evidence which public procurers in each Member State may require from suppliers.

These provisions should provide most of the benefits of the Procurement Passport, but without the cost and bureaucracy.

## DIRECT PAYMENT OF SUBCONTRACTORS BY CONTRACTING AUTHORITIES

You ask for further clarification on how the provisions for direct payment of subcontractors might work. In fact, this has been removed from the latest draft. This does not prevent individual Member States from including provision in their own national law, outside the scope of the directive. The UK Government has already introduced a “Project Bank Account” (PBA) initiative with a similar purpose, to enable prompt payment through the supply chain, in the construction sector, and is looking to extend this to the facilities management and defence sectors. We have also introduced a range of other measures which reduce and remove barriers to SME participation in Government contracts; more details may be found at:

<http://www.cabinetoffice.gov.uk/news/better-deal-smaller-businesses>

## DISPROPORTIONATE TURNOVER REQUIREMENTS

You ask how minimum turnover requirements have been reflected in the directive text. Any minimum turnover requirement on the supplier should be proportionate to the contract in question and not preclude smaller suppliers unnecessarily. The current draft states at Article 56. 3 “*The minimum yearly turnover that economic operators are required to have shall not exceed at the most three times the estimated contract value, except in duly justified circumstances relating to the special risks..*” [of the contract].

I understand the intention behind the Commission’s proposal, but a ratio set in stone in the directive risks become an unthinking default, even where a lesser turnover (or no turnover requirement at all) is appropriate. The current UK Government policy remains: we wish to encourage all capable suppliers, and any supplier turnover requirements must be kept to an absolute minimum, and only used if and where they are really necessary on a case-by-case basis.

## USE OF LOTS

You ask whether the current provision on lots amounts to “comply or explain”. In effect the current provisions do so. Article 44.1 states “where [an authority] decides to award the contract [over €500,000, or €5m for works] without a separation into lots, the procurement documents or the individual report referred to in Article 85 shall include an indication of the main reasons for the contracting authority's decision”.

This seems a reasonable compromise between encouraging lots, whilst leaving the decision to the authority based on its needs and requirements in each case. It is also helpful that the new directive will allow authorities to limit the number of lots which a single supplier can win; this will enable authorities to ensure a diverse supply base and helps encourage SMEs.

#### OVERSIGHT BODIES

Thank you for your support of our stance in strongly and successfully opposing the “national oversight body”. We will maintain our line.

#### MUTUALS

You enquire about the government’s case for a time limited exemption for “mutuals”. As you know the Government has a programme to enable providers of public services to “spin-out” from the public sector, where the staff retain a stake in the venture, sometimes married to incoming private sector commercial skills and capital. This will encourage innovative approaches to service delivery, and allow the former public sector staff to seek new markets for their expertise. Recent examples of successful mutual enterprises can be found at the attached link;

<http://mutuals.cabinetoffice.gov.uk/public-service-mutuals-action>

However, experience has shown that when consideration is given to the establishment of mutuals, or new mutuals wish to expand their business, the potential application of the EU public procurement rules is seen as a potential barrier. We are therefore seeking a time-limited exemption (perhaps three years from start—up) in which mutuals could be awarded public contracts without competition.

I agree that this is not simple to promulgate; the “mutuals” concept has not yet been adopted elsewhere in the EU, so we lack a natural constituency of support in other Member States or the Commission. Nevertheless my officials and I continue strongly to make the arguments and I have written to my Ministerial colleagues in other Member States to encourage their support, and some MEPs have proposed helpful amendments.

#### UTILITIES

You enquire about progress on the “utilities” directive. The Danish and now the Cyprus Presidency have sensibly concentrated on making progress on the public sector Directive, which will allow the outcomes from these negotiations where relevant to be “cut and pasted” into the comparable utilities provisions. This will reduce the chance of unhelpful divergence between the directives. Otherwise, discussion of utilities has so far concentrated on issues which are largely specific to the utilities, such as the provisions on “special or exclusive rights” and the mechanism to exempt sectors from the utilities rules once they become firmly subject to commercial competition. These discussions have been positive so far. Our aim is to make sure that the utilities directive remains relatively light touch and we have already achieved progress in the right direction. For example, the proposed rules governing frameworks awarded by utilities have been made simpler and more usable.

*6 November 2012*

### PROGRAMME FOR THE MODERNISATION OF EUROPEAN ENTERPRISE AND TRADE STATISTICS (MEETS) (17039/12)

#### **Letter from Nick Hurd MP, Minister for Civil Society, Cabinet Office to the Chairman**

I am writing to apologise for the delay in sending the enclosed EM.

I am also aware that this department provided another late EM recently (on document 17344/12; website accessibility) which I understand you have passed to Sub-Committee B for further examination.

These incidents have highlighted a need to look at how we operate within the Cabinet Office to ensure that we have robust systems in place to monitor the processing of EMs, and how we follow up reports from the Committees.

I have now taken on Ministerial responsibility for this process on behalf of Francis Maude, Minister for the Cabinet Office. My Private Office team are working with colleagues in the European & Global Issues Secretariat (EGIS) to address this. The changes being introduced include:

- All EMs commissioned by EGIS from Cabinet Office Policy teams will be copied to the Private Offices of Cabinet Office Ministers so our teams are sighted on requests at the outset.
- Similarly all reports and follow up correspondence to Cabinet Office Ministers will be circulated to Private Offices as they issue so that they are aware at the earliest point, of concerns you raise.
- Guidance on process is being refreshed and circulated around Cabinet Office Policy teams and Ministers' offices.
- A recognition of the need for policy teams to work more closely with Committee staff to ensure that e.g. where delays may occur in the production of an EM or letter to the Committees, that your teams are notified as early as possible so that adjustments can be agreed to the timetable for providing the information to you.

I hope these steps will help to ensure that there is a better understanding of scrutiny across Cabinet Office teams and a good service to the Committee.

*14 February 2013*

## RADIOACTIVE MATERIALS (13684/11, 14398/12)

### **Letter from Baroness Verma of Leicester, Parliamentary Under Secretary of State, Department of Energy & Climate Change, to the Chairman**

I wrote to you on 11 October outlining the position with the above Commission proposal and said that we would prepare an impact assessment for the committees consideration; that impact assessment is now attached.

I would also like to clarify that the commission original proposal covered by 13684/11 has been withdrawn and replaced by 14398/12. Only 14398/12 will be taken forward.

*14 January 2013*

### **Letter from the Chairman to Baroness Verma of Leicester**

Thank you for your letter of 14 January 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 11 February 2013.

The Committee considers that the impact assessment included with your letter on 14 January supports your assertion that the Commission's proposal would have a negative impact on carriers of radioactive waste in the UK.

As this is a proposal with important implications for UK businesses, we retain this document under scrutiny, and would be grateful for further updates on negotiations on the proposal as they occur.

I look forward to a response in due course.

*26 February 2013*

## RADIO EQUIPMENT (15339/12)

### **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 of 6 November on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 19 November 2012 and the Committee decided to hold it under scrutiny.

While we welcomed the redefined scope of the proposed directive as providing much needed clarity to the industry, we shared your concerns regarding the powers it would delegate to the Commission. We would urge you to seek a clarification of the extent of these powers, given their nexus to the

central elements of the Directive. We are concerned that the use of such powers to introduce overly restrictive requirements could negate the positive effects of the Directive on innovation, by creating a barrier to market entry.

In paragraph 2 of the explanatory memorandum you acknowledge that “proposals include increased spectrum flexibility and the easing of administrative procedures for spectrum use”. Although the main thrust of the proposal relates to radio equipment we remain concerned about this aspect of the proposal. Radio spectrum is a valuable and finite resource, vital for the proper functioning of emergency services and markets. What are the means by which it is proposed to resolve conflicts arising from its allocation? We repeat our concern to define limits to the power delegated to the Commission in this area, and seek reassurance that radio spectrum allocation will continue to be dealt with at a national level, and by negotiation where conflicts arise across international borders.

We agree with your intention to seek assurances on the degree of costs to industry resulting from the interoperability requirement for radio equipment, however we would encourage you to weigh any additional financial burden for industry against the potentially great benefits to the consumer.

We are aware that discussions on the proposal are unlikely to commence prior to early 2013, and would therefore be content to receive a response outside the usual 10 day deadline.

27 November 2012

### **Letter from Michael Fallon MP to the Chairman**

Thank you for your letter dated 27th November 2012. I sincerely apologise for the delay in replying to you. I note that the Committee welcomes the redefined scope of the Proposal and the additional clarity that this will provide to industry.

#### INTEROPERABILITY REQUIREMENT AND SPECTRUM

I can confirm my intention to seek assurances on the degree of costs to industry resulting from the interoperability requirement for radio equipment and that should this identify any additional financial burdens for industry that these additional costs will be weighed against any resulting benefits to the consumer.

The Committee raises specific concern at the language within the proposal relating to spectrum flexibility and the easing of administrative procedures for spectrum use. It is my understanding that this language relates to the removal of administrative procedures for notification requirements, greater efficiency in the use of the radio spectrum by radio equipment, and measures aimed at facilitating market access for innovative radio technologies. These measures are all directed at the radio equipment itself rather than the allocation of the radio spectrum which would continue to be dealt with at a national level and which would remain subject to both national and EU legislation on how that spectrum can and shall be made available.

More specifically the language relates to:

- The proposed deletion of Article 6 (4) within the current Directive removes the requirement for prior notification of the placing on the market of radio equipment using frequency bands whose use is not harmonised throughout the community and removes the associated marking requirement on the hardware of the equipment (alert sign).
- The Directive places requirements on the use of radio equipment to avoid harmful interference (e.g. power, width of frequency band used, spurious emissions) to be complied with by radio equipment placed on the EU market. Ensuring that only equipment complying with the Directive is placed on the market is important for efficient use of the radio spectrum.
- Better interaction of the Directive with other EU/national regulations on the use of radio spectrum e.g. the Radio Spectrum Decision should help to facilitate improved market access and reduce regulatory associated delays in respect of technical innovation for radio equipment.

#### THE PROPOSED USE OF DELEGATED ACTS AND IMPLEMENTING POWERS

I note the comments in your letter regarding the need to clarify the use and limits of the delegated powers in the Proposal and I confirm that I will seek clarification from the Commission as to the

scope and extent of the powers that the Proposal would delegate to the Commission as a matter of priority. I will write to you and keep you updated of developments.

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

*24 April 2013*

## RE-USE OF PUBLIC SECTOR INFORMATION (18555/11)

### **Letter from Helen Grant MP, Parliamentary Under-Secretary of State for Justice, Ministry of Justice, to the Chairman**

Thank you for your letter of 24 July 2012, which asked for an impact assessment to be sent to the Committee in due course. This assessment is attached as an annex [not printed].

The appraisal stage impact assessment considers the costs and benefits of the proposed amendments set out in the Commission's proposal from December 2011. It sets out potential costs of the proposal to government by sector, including: central and local government, the health and cultural sectors and major information traders (including Trading Funds). Evidence on costs is drawn from stakeholder engagement, surveys and official documents. In order to estimate the benefits of the proposal, evidence contained in existing studies is analysed.

The assessment does not incorporate any of the progress and compromises achieved during negotiations, such as those reflected in Lord McNally's letter of 8 July following the progress update and exchange of views at the Telecommunications, Transport and Energy Council in June 2012. The impact assessment will therefore be reviewed and revised following adoption of the final text of the amending Directive.

I will update you on the progress on negotiations closer to the final stages.

*27 November 2012*

### **Letter from the Chairman to Helen Grant MP**

Thank you for your letter of 27 November 2012 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 21 January 2013.

We were grateful to receive the impact assessment on the Commission's proposal. We note its broad conclusion is that the available evidence suggests that the benefits of marginal cost pricing and its mandatory licensing would exceed the direct costs imposed by the policies. However, as the impact assessment does not take into account the most recent discussions and policy changes to the proposal which Lord McNally wrote to us about in September 2012, the committee requests that it be sent an updated version of the impact assessment be sent once it is ready.

In the meantime, we retain this document under scrutiny.

*24 January 2013*

### **Letter from Helen Grant MP to the Chairman**

Thank you for your letter of 24 January 2013 regarding the impact assessment of the Commission's proposal.

With regard to the policy discussions mentioned in Lord McNally's letter of September 2012, the impact assessment does not reflect the most recent changes to the proposal as the negotiations are ongoing and therefore still subject to change. The National Archives will produce a revised impact assessment following adoption and publication of the final text of the amending Directive.

The revised assessment will form part of the transposition and implementation process stages of the amended Directive in the UK. This will reflect the changes and compromises agreed during negotiations, including on key clauses related to pricing. These changes are likely to reduce the financial risks identified through the appraisal stage impact assessment considerably. As requested, I will send you an updated version when it is ready.

The proposal has reached the final negotiation stages between the Council, Commission and the European Parliament. The emerging regulatory approach and charging provisions in the text are in line with the objective of UK policy on re-use. A final text likely in Council is expected towards the end of March or April 2013. The plenary vote in the European Parliament is scheduled for 11 June 2013. I therefore expect to write to the Committees for their clearance of the final text from scrutiny in March 2013 or April 2013, as and when this file goes to Council for agreement.

26 February 2013

### **Letter from Helen Grant MP to the Chairman**

I am writing to update you on the extent of the agreed text between European Parliament and the European Council in the negotiations so far. This is to signal the outcomes achieved by the UK on this dossier, how UK policy concerns have been addressed and highlight the main outstanding issues in the final stages of the negotiation.

The proposal forms part of the EU 2020 strategy to promote growth in Europe's economies. The proposed Directive seeks to unlock the economic potential of public sector information through amending Directive 2003/98/EC on the re-use of public sector information, which established a minimum set of rules governing the re-use of PSI at European level. The Commission pointed to a lack of awareness and inconsistency of approach across Member States of the 2003 Directive that has hampered the creation of cross-border information products and services.

The key features of the proposal to amend the Directive are as follows:

- to bring museums, libraries and archives (including university libraries) within scope of the Directive;
- to establish the general principle that generally accessible information should be made available for re-use;
- to provide that charges for re-use should in general be limited to marginal costs, with some notable exceptions (such as museums, libraries and archives); and
- to provide a redress mechanism for non-compliance through an independent authority with binding decisions.

The Commission's proposal was generally welcomed by the Government and is broadly in keeping with the UK Government's policy and innovation in the areas of re-use, open data and transparency. Many of the principles outlined in the proposal are already embedded within the open data and public sector information landscape in the UK.

The key issues that the UK wished to address (as highlighted in the Explanatory Memorandum at Annex A) during the course of the negotiations involved: principles for making public sector information available for re-use; charging by public sector bodies within the scope of the Directive; the expansion of the scope to museums, libraries and archives (including university libraries); the role of the independent authority with regulatory powers; and the revised definition of public task. The European Union Committee expressed particular interest in the issues of the charging and redress mechanisms in the emerging text during negotiations.

#### NEGOTIATIONS

The trilogue negotiations involving the European Parliament began in December 2012, with the third trilogue scheduled for the end of March. During the first trilogue, the issues fell into three broad categories: first those where the European Parliament and Council's preliminary positions are identical and required no further discussion; second those where the Parliament and Council agreed in principle but needed to find common language and terminology; and third those cases where the Parliament and Council have diverging views. The first two categories of issues have been discussed and resolved. This included the resolution for the principles for making public sector information available for re-use and the revised definition on public task, and I provide updates on these issues below.

For the third category the outstanding issues relate to the role of an impartial review body (the 'independent authority in the original proposal), rules on charging and the rules on exclusive agreements. I have provided further details on these issues below, and will update you on their conclusion once a final text of the proposal is available.

## PRINCIPLES FOR MAKING PUBLIC SECTOR INFORMATION AVAILABLE FOR RE-USE

The move towards making accessible information available for re-use is consistent with UK emerging policies on open data and transparency. The Government is satisfied that the latest text makes it clear that only accessible information falls within scope. The Directive therefore excludes information that is exempt under access legislation, and also information in which the intellectual property is owned by a third party. The latter is a key issue for archives, libraries and museums as these bodies hold significant quantities of content subject to third party rights.

## REVISED DEFINITION OF PUBLIC TASK

The term 'public task' is significant in the context of the PSI Directive because it defines whether certain information falls within the scope of the Directive. In negotiations, the UK argued against the definition being limited to what is established in law or other binding rules only, and for moves to remove common administrative practice from the definition. This is because the roles and responsibilities of many UK public sector bodies are not defined legally in this way. The UK has been successful in reinstating common administrative practice to the definition, with the possibility of review from an independent body other than the public sector body in question.

## CHARGING BY PUBLIC SECTOR BODIES WITHIN THE SCOPE OF THE DIRECTIVE

The question of charging has proved to be the most contentious and challenging aspect of the negotiations. While the Government could accept that marginal cost pricing should be the default charging mechanism it was essential that we retain sufficient flexibility to ensure that charges can be made for re-use where appropriate. This is particularly the case for public sector bodies, such as government trading funds, which derive a substantial amount of their income from making their information and data available for re-use. The same applies to archives, libraries and museums. The Council, Parliament and Commission recognise and agree that such bodies should be able to charge above marginal costs and the text reflects this.

The UK has also argued strongly in favour of other public sector bodies being able to charge above marginal cost for specific activities or projects giving rise to public sector information where it is appropriate and necessary to do so. This applies in cases where the public sector body does not generate a substantial part of their overall revenue from public sector information but still needs to charge above marginal cost in order to make the information available for re-use. There may be further challenge on this particular exemption from marginal cost. This is the subject of discussions in the third trilogue. I will update you on the outcome following these discussions.

## EXPANSION OF THE SCOPE TO MUSEUMS, LIBRARIES AND ARCHIVES (INCLUDING UNIVERSITY LIBRARIES)

The views of cultural sector bodies and representational groups have informed the UK negotiating position. The main issues have focussed on charging and the granting of exclusive rights, especially where the digitisation of cultural resources has been involved. The current text as agreed in Council meets the UK concerns satisfactorily around charging for museums, libraries and archives. Details regarding the duration of exclusive rights, particularly for digitisation of cultural resources, will be discussed at the third trilogue. Several parties have called for a longer duration than the 7 years in the text, including the UK. I will update you on the outcome following these discussions.

## ROLE OF THE INDEPENDENT AUTHORITY WITH REGULATORY POWERS

The proposed amended Directive makes provision for Member States to establish an impartial review body that can consider complaints and forms of redress with binding decisions. The original proposal described this body as the 'independent authority' but many Member States wished to avoid the unnecessary burden of establishing a separate body. Some member states envisaged these activities being handled via a judicial process. The current text is open to the adoption of a proportionate regulatory model such as the one already in operation in the UK.

## DEVOLVED ISSUES

PSI is a reserved issue but negotiations have taken into account consultation and discussion with officials in Scotland, Wales and Northern Ireland.

## TIMING

Subject to discussions in the final stages of negotiation it is anticipated that the Directive will go forward for the European Parliament plenary vote on 11 June. When the Government receives the final text of the proposal, I will write to you again to update you and seek clearance.

28 March 2013

### **Letter from Helen Grant MP to the Chairman**

Following my letter of 28 March 2013, I am writing to update you on the agreed draft text between the European Parliament and the European Council, to highlight how the text meets the Government's aims for the negotiations and to seek clearance of this dossier from scrutiny. Subject to obtaining clearance, my aim would be for the Government to signal the UK's agreement to adoption of this text.

18555/11 was considered in the European Union Committee's 26th Progress of Scrutiny report, dated 12 March 2012. Lord McNally and I, as Justice Ministers responsible for the re-use of public sector information, have written to the Committee with updates on 16 February 2012, 10 July 2012, 4 September 2012, 27 November 2012, 26 February 2013 and 28 March 2013.

Please find attached at Annex A [not printed], for your information, the proposed final text of the Directive. The UK negotiating position has delivered a successful outcome on this dossier. You highlighted previously that you supported the proposal in principle and acknowledged its aims to foster innovation and increase the value of data as a resource. You also underlined that the practical implications for public sector bodies, in particular for museums, libraries and archives, is important. The UK position during negotiations has ensured a balance in maintaining the momentum in opening up data and information for re-use with the requirement that we maintain a degree of flexibility in the provisions for a number of areas, including the charging and redress mechanisms. I outline the final outcomes reached on our key issues below.

My latest letter, dated 28 March 2013, highlighted the progress made during the negotiations and how several key UK policy concerns had been met. These concerns included the principles for making public sector information available for re-use and the revised definition on public task.

I now wish to update the Committee on the outcome of negotiations on the outstanding issues discussed at the final trilogue at the end of March. These relate to the role of the impartial review body, the rules on charging and the rules on exclusive agreements for museums, libraries (including university libraries) and archives.

#### CHARGING BY PUBLIC SECTOR BODIES WITHIN THE SCOPE OF THE DIRECTIVE (ARTICLE 6)

The compromise text retains the UK's flexible approach to charging and keeps within the spirit of the open data and transparency agenda. This is a crucial balance. The Directive establishes a principle of marginal cost as the general default for allowing re-use of public sector information. However, there are appropriate safeguards for trading funds and other public sector bodies that are required to generate a substantial part of their costs for the information. The Directive also recognises the need for a flexible approach on charging for archives, libraries and museums.

Significantly, the text also enables other public sector bodies (for example, those that are not trading funds or cultural bodies) to be able to charge above marginal cost for the collection, production, reproduction and dissemination of public sector information, where appropriate, within a proportionate check and balance system. This system will reflect that operated at present for central government under Crown copyright management and the UK Government Licensing Framework.

#### PROHIBITION OF EXCLUSIVE ARRANGEMENTS AND THE EXPANSION OF SCOPE TO MUSEUMS, LIBRARIES (INCLUDING UNIVERSITY LIBRARIES) AND ARCHIVES (ARTICLE 11)

This is a key issue for museums, libraries (including university libraries) and archives, particularly in the context of digitisation projects. The UK has been successful in negotiating and achieving the general ten year period for exclusive arrangements where necessary. Therefore organisations are permitted to enter into exclusive arrangements, for example, on costly digitisation projects, provided that the term of exclusivity does not exceed ten years.

## ROLE OF THE INDEPENDENT AUTHORITY WITH REGULATORY POWERS

The Directive makes provisions for Member States to establish an 'impartial review body' which can consider complaints and can make binding decisions. This change in wording from 'independent authority' is significant in that it avoids the unnecessary burden of establishing a separate body or moving away from the proportionate regulatory model already in operation in the UK.

The reference to the impartial review body's decisions being binding reflects the strong push from the Commission and other Member States to provide an enforcement mechanism. This will strengthen the right of re-users to seek to enforce a favourable decision of the review body. The outcome is a positive one for the UK in that we can adapt the existing regulatory framework without having to establish a new national competition authority or national judicial authority, to investigate complaints.

## TIMING

The Presidency asked the Committee of Permanent Representatives (Coreper) to signal their agreement to the final compromise text on 10 April 2013. The Directive is scheduled for a plenary vote in the European Parliament on 11 June 2013. As the Transport, Telecommunications and Energy Council meets 6-7 and 10 June 2013, the Directive is likely to go to another Council for adoption after the European Parliament plenary vote. It is as yet unclear which Council meeting this may be.

## IMPACT ASSESSMENT

You requested to be sent an updated impact assessment based on the final text of the Directive in your letter, dated 24 January 2013. An implementation stage impact assessment will be produced as part of the transposition process and I will send you a copy as soon as this work is complete, which is expected to be Autumn this year.

*30 April 2013*

## ROADWORTHINESS TESTS AND THE ROADSIDE INSPECTION OF COMMERCIAL VEHICLES (12786/12, 12809/12, 12803/13)

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

In your letter to Mike Penning of 17th October 2012 you raised a number of issues which I am now able to address as a result of progress in working group negotiations. I would also like to provide you with a general overview of the changes to the proposal agreed by the Working Group dealing with the proposed Periodic Testing Regulation. (The other proposed Regulation and Directive have not yet been discussed).

The pace of the discussions at working group dealing with the Periodic Testing proposal has been extremely fast. The Presidency's ambition to reach a General Approach at the 20th December Transport Council has been the driver for the rapid consideration at working group meetings.

The issue of high costs of the package has been a major concern for the UK and many other Member States. At the early working group meetings it became clear that the Impact Assessment presented in support of the Commission package was not sufficient to justify the Regulation as it is not possible to tie the benefits of a particular intervention to the costs incurred.

This criticism was reinforced by a number of Ministers when the package was the subject of an Orientation Debate that I participated in at Transport Council on 29th October. In addition to heavy criticism of the Impact Assessment and its cost/benefit analysis, there was widespread view from Ministers that Regulation was not appropriate and that Directives should be the legal instrument deployed.

Since the October Transport Council there have been extensive changes made by the working group to the Periodic Testing proposal. The working group changed the legal base from a Regulation to a Directive. (As at today, two Member States and the Commission have a reservation on this change - all other States support that change). Many other changes have also been agreed, I will deal with those later in this letter.

A key point is that the revised text, now a Directive, leaves Member States with far greater discretion than the original Regulation. This may allay some concerns that existed in respect of subsidiarity.

In your letter of the 17th October you asked about the quantification of the benefits from extended trailer testing. The time available to us has not been sufficient yet for our own detailed benefit analysis and it has not been possible to identify what benefits have been ascribed to this proposed change in the Commission's Impact Assessment. I will be investigating further what information the Irish republic has about the effects of its introduction earlier this year of periodic roadworthiness testing for caravans. Even if the experience in Ireland has been positive, it is debateable whether it is directly translatable to all other Member States, which would argue for national decisions rather than the imposition of a European Union wide requirement.

Cars and vans towing caravans constituted only 160 of the 276,155 vehicles (less than 0.1%) reported as being involved in road traffic incidents resulting in death or injury last year in Great Britain. Even allowing for some inadvertent under-reporting, this is not indicative of a particular and significant problem.

We have also been able to identify some specific implementation costs in two key areas. Firstly, there is the cost of testing trailers (a wider category than caravans) itself which was assessed as costing consumers about £168m over a 5 year period (excluding the time costs to businesses and consumers to take the trailers to test). Secondly, the original Commission proposal included a requirement to "de-register" vehicles deemed to be dangerous at test. As trailers are not subject to registration in GB this would have required the introduction of a trailer registration scheme. Just such a thing was considered in 2009 and was assessed as costing £237m to set up.

The current draft of the proposals, following consideration by a working group of Member States' officials, excludes the proposals related to the testing of trailers (including caravans) and vehicle deregistration. The European Parliament will consider the proposals next year, starting with the original Commission's text which includes these items.

You asked about testing at the lower frequency of 4:2:1. After widespread consultation in 2011 the Government decided not to reduce the frequency of the MoT test in Great Britain. Evidence from a TRL report commissioned by the Department ("Effects of vehicle defects in road accidents", published in March 2011) stated that a change from 3:1:1 to 4:2:2 "indicated an increase in accidents and casualties". The existing system is widely supported and the Government has no plans to conduct another review at this time.

You also asked for our view on the appropriateness of the Commission target to halve road deaths by 2020 in respect of roadworthiness. The UK Government has not set a national casualty reduction target. Rather the Government's Strategic Framework for Road Safety focuses on effective ways of reducing casualties through empowering local decision-makers, improving driver training and a more targeted approach to enforcement.

Britain has one of the lowest rates of road deaths per head of population (similar to those in the Netherlands, Norway and Sweden; about two thirds of the rates in Germany and Spain and about half the rates in Austria, France and Italy). The UK Government has a vision for far lower rates of road deaths and we have forecasted reductions in numbers of road deaths in Great Britain of around 40% by 2020 from the levels in the latter part of the last decade.

In respect of roadworthiness more specifically, vehicle defects were reported as a contributory factor in about 3% of fatal incidents in 2011. Some vehicle defects (such as overloading) cannot be covered in periodic testing, with testing already covering the most frequently reported problem areas (such as defective tyres). We consider periodic testing in Britain is proportionate and does not need upgrading.

I would like to now move on the considerable changes arising from the working group meetings held since September. I am pleased to be able to report that the UK, working with like-minded Member States, has been able to address many concerns we had regarding the high cost of implementation. I will deal here with the changes to the Periodic Testing proposal that impact most significantly on the UK. The key changes are:

- Change in legal base from Regulation to Directive,
- Redefinition of a roadworthiness test as a safety and environmental test rather than a type approval compliance test (please note that, as now, safety critical component still have compliance obligations),
- O1 trailers (below 750kgs) and O2 trailers (between 750kgs and 3,500kgs) are removed from scope of periodic testing,

- The requirement to de-register dangerous vehicles is replaced with an alternative,
- Changes to the definition of "Historic Vehicles",
- Most T5 tractors (used in forestry and agriculture) can be exempted by Member states from periodic testing,
- Some testing equipment is no longer mandatory (alternatives are permitted),
- There is a more flexible approach to ongoing training of testers,
- For the purpose of re-registering a vehicle in another Member State there is an obligation to recognise a valid periodic test from the original state of registration,
- There is more flexibility in being able to use electronic devices to conduct tests (this may reduce the cost of testing slightly, but has not been assessed),
- Member States will be allowed to exempt vehicles from testing if they are used exclusively on small remote islands (this was a concern for the Scottish Government as we currently have such an exemption for some small islands in Scotland).

I have included an annex [not printed] outlining the financial impact of these changes to periodic testing, comparing the original Commission proposal with the revised working group text.

To be clear, there has been no dilution in the standards of periodic roadworthiness testing in the UK as result of the changes made at the working group meetings. Detailed changes that will allow wider deployment of scan tool equipment for a wider range of tests is likely to provide a modest improvement in standards and has the potential to reduce costs.

Considerable progress has been made on the Periodic Testing proposal and the text is now greatly improved. Many concessions have been gained, and if a General Approach is possible at the Transport Council it would be sensible for the UK to protect these by indicating our support. However, negotiations are ongoing on some issues including consideration of implementing acts or an alternative to mandate a 5 yearly review to ensure technical changes are regularly reviewed. We are continuing to work closely with other Member States on these remaining issues, but it is possible that some may not be resolved until the Council itself.

Although I expect that the proposed General Approach will be in a form that I would be content to support, I appreciate that the Committee may not be ready to lift its scrutiny reserve on the proposal while the outcome of these further negotiations is unknown. I would therefore be grateful if the Committee could indicate that they are content for the Government to support a General Approach, pending completion of scrutiny at a later date, provided that an acceptable deal can be achieved at the Transport Council.

The European Parliament is also considering this proposal. It is currently at an early point in the Committee stage of consideration, with a first reading plenary scheduled for July 2013.

I will, of course, continue to keep the Committee informed of further developments in negotiations on all parts of this package.

*12 December 2012*

#### **Letter from the Chairman to Stephen Hammond MP**

Thank you for your letter of 12 December 2012, which was considered by the Sub-Committee on the Internal Market, Infrastructure and Employment at its meeting on 17 December 2012. The Committee decided to grant a waiver under the Scrutiny Reserve Resolution.

We note that significant progress has been made in areas in which the Committee have previously expressed a concern. We are pleased to see that the revised text is now a Directive rather than a Regulation, and we also welcome the substantial reductions in implementation costs, and hope that the current estimated figures are sustainable. We would appreciate any further updates on assessment of the implementation costs.

We are aware that negotiations are still at a relatively early stage, and as such, we wish to keep the proposal under scrutiny, pending further developments. You will recall that on behalf of the Northern Ireland Assembly, we queried whether Member State authorities will be enabled to exempt certain

vehicles from periodic testing. While this issue appears to have been largely addressed by changes to the text, we understand that the Northern Ireland Assembly Environment Committee are yet to consider your update, and we therefore cannot anticipate their view in advance of this.

In your letter, you confirm that the Government has not yet been able to carry out a detailed benefit analysis on the benefits of extended trailer testing. As suggested in our letter of 17 October, this is an area of strong feeling for the Northern Ireland Assembly, and therefore the Committee would like to have sight of an impact assessment when this is undertaken.

*19 December 2012*

## SHARED USE OF RADIO SPECTRUM RESOURCES IN THE INTERNAL MARKET (13377/12)

### **Letter from Ed Vaizey MP, Minister of State for Culture, Communications and the Creative Industries, Department for Culture Media and Sport, to the Chairman**

Thank you for your letter of 17 October regarding our explanatory note of 20 September. I'm pleased that your sub-committee felt able to clear the documents referred to through scrutiny.

I note your request for additional clarity on the issue of liability around "acceptable interference level" and your wish to confirm the role of Ofcom in assessing the regulatory impact of the proposals.

We have confirmed with Ofcom that any request for spectrum sharing in licensed bands will need to be assessed by Ofcom on a case by case basis. Generally the presumption is that the new entrant will need to fit within the parameters of existing use and avoid harmful interference to the existing user.

However, there may be exceptions, for example if the existing user is known to be using inefficient equipment which may for example be overly susceptible to out-of-band interference. In such instances a decision will have to be taken on the merits of the particular situation. Similarly any claims for compensation will have to be addressed on a case by case basis.

I hope that this explanation addresses the points raised.

*12 November 2012*

## SINGLE MARKET ACT II (14536/12)

### **Letter from the Chairman to Lord Green of Hurstpierpoint, Minister of State for Trade and Investment, Department for Business, Innovation & Skills**

Thank you for your Explanatory Memorandum of 25 October on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 19 November 2012 and the Committee decided to clear it from scrutiny.

We observe that in its current form, the Communication from the Commission is general in nature, and does not provide details as to specific proposals. However the Committee would appreciate notification of any further developments in this area. The Committee shares the Government's concern regarding the interaction between the proposal and current national initiatives, and urges the Government to seek further clarity on how the two frameworks would interact. The Committee also reiterates the importance of full information on how individual proposals would be funded within a restricted EU budget, and would encourage you to seek clarity on this issue.

The Committee notes the important role that the European institutions and Member States have to play in terms of engagement with the proposals and implementation. We observe that to date, the European Parliament and the Council have not yet agreed eleven of the twelve action proposals in the first Single Market Act. The Committee would urge you to ask the Commission for assurance of a commitment from both the other European institutions and Member States. On that point, we query the extent to which there will be an emphasis on the compliance of Member States in relation to the first Single Market Act, in advance of further development of this proposal. Without this focus, there is a risk of overlooking the efforts of individual states, as suggested in paragraph 29 of the EM, where you outline the current UK initiatives in the area of access to basic payment accounts.

I look forward to a response in due course.

22 November 2012

## SMART CITIES AND COMMUNITIES (14657/12)

### **Letter from the Chairman to the Rt. Hon Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Thank you for your explanatory memorandum of 25 October 2012 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 5 November 2012 and the Committee decided to hold it under scrutiny.

The Committee acknowledged that the proposal was at an early stage, and that concrete decisions about funding are yet to be made. However we are unable to effectively scrutinise the proposal without further information on how the proposal would fit into existing commitments within the Horizon 2020 budget. We therefore welcome your intention to request a review of existing European Innovation Partnerships before any more are launched, and wish to be updated with further information on the expected cost and financial feasibility of the proposal.

We also note that similar initiatives are being pioneered at national level, and seek clarity on how the 'Smart Cities' proposal would fit into this framework. We wonder whether the government has consulted with the stakeholders of such projects and indeed, whether there is a need for these projects to be mirrored at EU level? Given the existence of the projects at national level, we ask whether you consider this proposal a priority, as compared to other EU proposals encompassed by the Horizon 2020 scheme?

The Committee raised concerns about the appropriateness of progress being monitored at national level under the SCC initiative. While we acknowledge that progress indicators would be set locally, we suggest that monitoring may be more effective at a national level.

Lastly, we seek reassurance that the proposal will be 'rolled out' to UK cities as well as those in other Member States, in light of the likely costs involved.

I look forward to a response in due course.

21 November 2012

### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

Thank you for your reply of 21 November in response to my EM of 25 October.

The Commission's Communication has been discussed further in the Council to explore further what the Commission have in mind. In essence, we agree with the emerging Council consensus that this is an important area, which will benefit from the input of an expert High Level Group to develop a Strategic Implementation Plan by the end of this year. We are working with business to identify a suitable UK representative on the Group, to bring that expertise to bear on the Strategy. We also share the Council's thinking that we need to adopt common principles towards the governance of all European Innovation Partnerships, based on transparency and the participation of member states.

Thus, it is the Strategic Implementation Plan which will provide us with the information on expected cost and feasibility, on relevant funding from a variety of sources (including potentially Horizon 2020) and how it will be managed. We would also expect to have the benefit of the review of existing Partnerships and lessons learned about this policy instrument. I think it is at that point, when we have this information before us, including how member states are going to benefit from this strategy, that we both need to look again at what is being proposed.

You rightly observe that there is a lot of activity now underway in the UK around this concept. For example, the Technology Strategy Board has only recently announced the outcome of its competition for a Future Cities Demonstrator and the development of a Future Cities Catapult. Furthermore, we are developing a smart cities strand to the Information Economy theme of the Industrial Strategy, in order to secure our position as a global hub of expertise in this area. We will want to see that the Strategic Implementation Plan adds value to our own efforts. However, we believe there is a growing opportunity across the EU, where UK business could capitalise on EU initiatives to raise awareness of the advantages of this concept, and on any activity to open up the market for integrated approaches to tackling societal challenges.

In the meantime, it would be very helpful if you could expedite scrutiny of this Communication phase of the Smart Cities and Communities EIP to enable the UK to agree to conclusions, which will provide us with the information to determine next steps.

*3 March 2013*

#### **Letter from the Chairman to the Rt. Hon Michael Fallon MP**

Thank you for your letter dated 3 March on the above document, asking the committee to expedite scrutiny of the document. The Committee considered it at the meeting of 4 March 2013, and decided to grant a scrutiny waiver, to enable next steps, ahead of the General Affairs Council, which we understand took place on 11 March.

The Committee did not feel able to clear the document from scrutiny because of the lack of time provided to consider the document. We received the document on the morning of 4 March, to be considered at our meeting on the afternoon of the 4 March, ahead of the General Affairs Council. This was disappointing, given that we wrote to you over three months ago detailing our concerns.

While we agree that this is an important area, and one from which UK business could benefit, we remain concerned about the funding of the programme. We note that uncertainties in this area are likely to be resolved through the Strategic Implementation Plan, but feel we are unable to clear this from scrutiny without some further guidance on the costs versus the benefits of this proposal. We seek clarification on whether there has been an initial assessment on the costs and benefits of the proposal. If not, are you satisfied with proceeding without such an analysis?

We welcome the Council's thinking on adopting common principles of transparency in relation to the governance of all European Innovation Partnerships (EIPs), and hope that this review of EIPs will serve to avoid duplication.

We look forward to a response in 10 working days.

*12 March 2013*

#### **Letter from the Rt. Hon Michael Fallon MP to the Chairman**

Thank you for your letter of 12 March and, indeed, for your scrutiny waiver for the General Affairs Council, which took place on 11 March. You asked for clarification on whether there has been an initial assessment of the costs and benefits of this proposal and whether we are satisfied with proceeding in the absence of such an analysis.

As you are aware, the concept of smart cities is fairly new and we ourselves are in the process of developing our own strategy in this field. Like us, the European Commission recognises the importance of the concept and also the challenges it presents in terms of policy and programme co-ordination. However, our own work in this field reveals that one of the barriers to the wider take-up of this concept is a lack of hard evidence on the costs and benefits. This is why the Technology Strategy Board has recently announced a large scale demonstrator in Glasgow and the establishment of a Future Cities Catapult in London. We expect the former to provide all stakeholders - town halls, business and central Government - with a better understanding of the costs and benefits of new smarter approaches to public service delivery and the wider concept of smart cities. The Catapult will help to validate technologies, prior to application in an urban environment, and disseminate the findings of relevant demonstrators.

In the same way, we can see advantages to the UK in the Commission promoting the concept across the EU. However, in a world of considerable uncertainty, our negotiating strategy is more akin to the world of bidding for oil exploration licences or biotechnology research, where firms adopt a real options approach to investment decisions, rather than a cost-benefit analysis. By this I mean we are taking a step by step approach - keeping our options open in this early stage, which costs us nothing, while working constructively with allies in the Council to ensure that we establish the right conditions/principles for the Commission to prepare and present its proposals.

Of course, there comes a point in all investment decisions when one has to take hard decisions on whether to take out the option, a reduced version of it, or close the book. That time is when we have a clearer view of the costs and potential benefits, namely when we see the Strategic Implementation Plan.

I think, in the circumstances, this is the right measured approach and, as I said in my previous letter, we shall both wish to scrutinise it carefully.

## SOCIAL CHANGE AND INNOVATION PROGRAMME (15451/11)

### **Letter from Mark Hoban MP, Minister for Employment, Department for Work and Pensions, to the Chairman**

As requested in your letter of 12 June to my predecessor Chris Grayling, I am writing to update you on negotiations with the European Parliament.

As anticipated, MEPs have proposed extensive amendments, many of which do not align with UK Government objectives or the text we supported at Council. Of these, the most significant issues are: increasing the programme budget; adding a new youth axis, duplicating other programmes and unhelpfully segmenting PSCI actions; moving cross-border partnership provision from the European Social Fund to the PSCI; restoring a contingency fund and overly prescriptive percentage allocations of programme funds within each axis; and amending governance arrangements to increase stakeholder and Commission influence while diluting that of Member States. Initial reactions from Member States and the Commission have been encouraging, with broad consensus on the need to resist costly or prescriptive measures, while seeking compromise where possible.

In particular, the European Parliament has stated its intention to seek a significantly enhanced programme budget, including additional funding for a new youth axis (see below), beyond the Commission's proposed budget of 958 million euro. However, MEPs have yet to propose a specific figure, pending agreement on the 2014-2020 Multiannual Financial Framework (MFF), which Member States aim to agree at November's European Council. Member States also remain content to defer formal negotiation of the programme budget figure, although most have resisted MEP proposals which imply significant new costs, and the UK and other budget disciplinarians continue to stress the need for national budget discipline to be matched at EU-level.

On the programme structure, MEPs are seeking a distinct youth axis, for those under 25, focussed on preventing early school leaving and developing skills. They propose that this new axis should include EU-level actions, and help develop national policy, to combat youth unemployment, particularly for the most disadvantaged groups. At Council working group discussions, the UK, many other Member States, and the European Commission, sympathised with the intention to support youth employment, but rejected the proposed mechanism of a distinct youth axis. This is on the grounds that: we need to avoid duplication with other EU instruments which support youth employment (the European Social Fund (ESF), Youth Opportunities and ERASMUS programme to support student mobility); additional action, such as supporting mutual learning and policy innovation under the Open Method, can best be accommodated within the existing PSCI budget and structure; and this is best achieved as part of an integrated approach to labour market issues, just as the PSCI will integrate the existing Programme for Employment and Social Solidarity (PROGRESS), Network of Public Employment Services (EURES) and European Microfinance Facility. The Cyprus Presidency therefore has a clear mandate to resist the new axis. Instead, we believe that there may be scope to take action on youth employment, and make the share of existing resources more prominent and visible within a properly joined-up PSCI.

The European Parliament is also keen to transfer cross-border partnership actions, currently provided for under ESF, to the PSCI. They claim that this would make them easier to set up. Here again, the UK, most other Member States and the Commission agree that such mobility is already covered adequately by ESF. We believe that using ESF also avoids duplication and best recognises the respective Member State and EU competences, leaving Member States free to decide whether to participate in such actions. These actions are not a priority for ESF programmes in the UK.

MEPs have also made unhelpful proposals to restore the Commission's preferred contingency fund, and overly prescriptive percentage allocations of funds within the PROGRESS and EURES axes of the new programme. The agreed Council text reflects the need for budget discipline, through budgeting realistically at the outset, allocating the full funding between programme axes, but allowing some flexibility within each axis.

The European Parliament also proposes amendments to governance arrangements, including: a strategic advisory board of stakeholders rather than the current management committee of Member State representatives; a partnership principle, giving a significant new role to stakeholders in the determination of national policy, beyond the various current consultation arrangements in Member States; and much greater use of delegated acts by the Commission. The UK, other Member States and, largely, the Commission have rejected this on the grounds that it would: increase stakeholder and Commission influence while diluting that of Member States; not respect national competence and

accountability for national policies; add costs rather than value; and undermine budget discipline. We believe that there are better and less costly ways to improve stakeholder engagement in the programme, including through better information, consultation and management.

There are a number of other detailed proposals from MEPs which appear overly prescriptive or costly, either for the programme or for Member States, for example, in public employment services' support to cross-border job-seekers. Here again, the UK and other Member States have given the Presidency a clear mandate to reject the most unhelpful elements and we expect this to be reflected in any final agreement.

In terms of next steps, the Cyprus Presidency is now holding regular triologue meetings with the European Parliament on possible compromise text, taken axis by axis, and respecting the above steers from Council. The Presidency will then report on progress at the 6 December Council, rather than seek a partial general approach as shown in the draft Council agenda. We anticipate that negotiations will proceed quickly under the Irish Presidency, although this is yet to be confirmed.

I hope that you find this update useful. My officials have sent the latest working text to yours, and although the detail is changing rapidly, I will write again as proposals firm up.

*9 November 2012*

#### **Letter from the Chairman to Mark Hoban MP**

Thank you for your letter of 9 November, which EU Sub-Committee B considered with interest at its meeting of 3 December.

We are grateful for this update and share your concerns regarding the high costs and administrative complexity of the amendments proposed by the European Parliament. In line with the views expressed in your letter, the Committee would reiterate that budgetary constraint is a necessity in an era of austerity, and would urge the Government to keep this front of mind during further negotiations.

We look forward to further updates as the working text develops.

*5 December 2012*

### **SOUND LEVEL OF MOTOR VEHICLES (18633/11)**

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

I am writing to provide an update on the above proposals, and to provide the information requested by the Sub-Committee on the Internal Market, Energy, and Transport at its meeting on 27 February 2012.

Council Working Group discussions began on 18 September under the Cyprus Presidency, much later than envisaged in my Explanatory Memorandum on the proposal, and these are now continuing under the current Irish Presidency. The European Parliament Plenary voted on the amendments made by the lead committee, ENVI (Environment, Public Health and Food Safety), on 6 February 2013.

Broadly, the position the Government is taking is that we support the Commission's limit values for all vehicles, support the Commission's timescale for light duty vehicles, but seek a longer timescale for heavy duty vehicles to bring it more in line with the longer product development and life-cycles of those vehicles.

In my Explanatory Memorandum (EM) I noted that the Commission proposed slightly different vehicle operating conditions from those contained in the proposed future test method (Method B) that was trialled against the current method (Method A). In the negotiations we are seeking to reverse the changes in order to maintain the link between the proposed limit values and the data on which the Commission based their decision. The European Parliament Plenary also voted for such a change with respect to some of those conditions.

The Commission's proposal would allow vehicle manufacturers to install noise generating devices ("acoustic vehicle alerting systems") on electric and hybrid electric vehicles provided that these met internationally agreed standards. During the early discussions in the Council Working Group we supported the Commission's proposal of non-mandatory fitment. Some Member States suggest that

fitting noise generating devices should be mandatory, although some others are opposed to this approach. The European Parliament Plenary supported mandatory fitting, and I am currently considering whether to revise our negotiating approach in the light of these, and other international developments.

My Department has consulted informally with the motor industry and its trade body, the Society of Motor Manufacturers and Traders (SMMT). Generally, industry wanted noise limits which were higher, and introduction timescales which were longer than those proposed by the Commission, and which are more in line with the amendments supported by the European Parliament Plenary. Industry also wanted slightly different boundaries between the categories of vehicles in terms of, for example, power to mass ratio for light duty vehicles, engine power output for commercial vehicles, and the removal of categories of vehicles that will effectively no longer exist such as light duty commercial vehicles with low engine power. The Government supports industry on the question of vehicle categories.

We will be seeking dispensations for low volume vehicle manufacturers, including vehicles produced under "small series", and for specialist super sports cars for which the Council Working Group and the European Parliament have established a separate category. We are also seeking dispensations for vehicles converted to make them wheelchair-accessible, for armoured vehicle conversions, hearses, ambulances and motor homes. These types of vehicles form a very small percentage of the market and their overall effect on environmental noise is negligible. We will also be seeking concessions for multi-stage build, where a chassis manufacturer passes the vehicle on to a body-builder for completion, and for specialist vehicles.

Your Committee asked whether the impact of road surfaces on overall vehicle noise should be subject to corollary action at an EU level. The European Parliament Plenary voted in favour of including such a requirement in the Regulation. I do not believe, however, that the imposition upon Member States of requirements relating to the provision of noise-reducing road surfaces is appropriate in a Regulation dealing with the type-approval of vehicles, if it is appropriate at all. This is a matter better left to the competence and judgment of individual Member States. Noise-reducing road surfaces have to be replaced more frequently, and sourcing the aggregate required to do this sustainably on a large scale is difficult. Furthermore, imposition of this at a European level would require agreement of common assessment methods for such surfaces, and agreement on the types of roads within a Member State to be included.

I expressed reservations in the EM about the extent of the powers the Commission wishes to confer on itself. This has been discussed in Council Working Group and, generally, Member States support limited focused power to adopt delegated acts relating to "non-essential elements" of the regulation. This may include changes due to technical progress, but not changes to noise limit values. The Government views noise limit values as an "essential element" of the regulation, and is aligned with those Member States that do not want the Commission to be given delegated power to amend them.

In discussions with officials, bus manufacturers have highlighted the issue of the UK's double-deck buses that are custom-built for city use being fitted with lower powered engines and having higher passenger capacity than city buses used in the rest of Europe. These design features lead to our buses producing higher noise emissions relative to the power output of the engine than do buses elsewhere in Europe. Because noise limits are set against engine power output UK bus manufacturers might be forced to compromise their designs by having to fit higher-powered engines simply to move the vehicle into a category with an achievable noise limit. Fitting an unnecessarily high-powered engine would increase emissions of air quality pollutants and of CO<sub>2</sub>, and, because of the physically larger engine, might reduce passenger carrying capacity. We are seeking to ensure that the limit values for the types of city buses used in the UK do not result in undesirable and unintended consequences.

I am also aware of anomalies associated with certain classes of vehicle using the same basic chassis and drive train where one is commercial and the other is for carrying passengers. We will seek to address these anomalies when the limit values are discussed in Council Working Group.

I attach our Impact Assessment on this proposal [not printed]. This compares the effect on environmental noise, and on cost and benefit of three scenarios. These scenarios are the Commission's proposed limits and introduction timescale of 7 years, an alternative scenario that retains the Commission's limit values but extends the introduction timescale to 11 years for both light and heavy duty vehicles, and industry's scenario with higher limit values and introduction over 8 years.

Negotiations are continuing, and we do not yet know when the proposal is likely to be put to the Council of Ministers. The Irish Presidency intends to continue Working Group negotiations throughout their Presidency, but have given no indication yet of when a general approach or political

agreement will be sought. I will of course keep your Committee informed as this proposal continues to develop during further negotiations.

*29 April 2013*

## SUSTAINABLE COMPETITIVENESS OF THE CONSTRUCTION SECTOR (13186/12)

### **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 of 26 October. I am pleased that the Committee acknowledges the vital role the construction sector plays in our economy, as well as the complex challenges it presently faces.

With regard to your query concerning the Commission's proposal to establish an EU Sector Skills Council, I can confirm that the Construction Sector Skills Council and Industry Training Board (CITB Construction Skills) have been consulted by the Commission and my officials on this proposal. Its Chief Executive, Mark Farrar, has replied to the Commission stating that they are broadly supportive of the feasibility study. However, CITB Construction Skills will assess the value of participating in the group once further detail of its proposed activities and responsibilities are made available.

The Government does not therefore expect this proposal to impact on the status, role and responsibilities of the UK's current licensed sector skills councils, but will require further explanation from the Commission on its reference to joint management of funds.

*13 November 2012*

## WORKING TIME DIRECTIVE

### **Letter from Jo Swinson MP, Parliamentary Under Secretary for Employment Relations, Consumer Affairs, Department for Business, Innovation and Skills, to the Chairman**

At the end of last year, the European Social Partners began discussions on renegotiating the Working Time Directive. This is a process that is set out under the Lisbon Treaty and allows European employer and employee representative groups to negotiate social policy issues. The process is autonomous and independent of Government influence.

Although the deadline for these negotiations is the end of this year, the negotiating parties all issued press notices on Friday 14th December setting out that little progress is being made, and that it is unlikely that these negotiations will lead to an agreed proposal to revise the Working Time Directive.

I was disappointed to hear about this lack of progress, but it does reflect the inherent difficulty in reaching agreement on working time issues. Once the Commission has been formally notified that the negotiations have failed, the responsibility reverts back to the European Commission, who will have until June 2013 to produce a proposed solution (this is a notional deadline for new legislation under this Commission set by the European Parliament).

The Government's position remains the same; our absolute priority is the retention of the individual's right to opt-out of the maximum 48 hour working week. We would also like to see more flexibility on the areas of on-call time and compensatory rest, which cause problems across the public services. The EU's priority must be long-term and sustainable growth and to ensure this we need to have measures that support labour market flexibility and do not impose significant costs on Member States or burdens on business.

*17 December 2012*