



Lord Callanan  
Minister of State for Exiting the European Union  
9 Downing Street  
London  
SW1A 2AG

3 July 2018

Dear Lord Callanan,

## **House of Lords EU Internal Market Sub-Committee – Brexit: trade in non-financial services**

1. Thank you for your response to our report *Brexit: trade in non-financial services*, received on 27 April 2018.
2. The Government has undertaken to respond in writing to the reports of select committees within two months of publication and only in exceptional circumstances should a response be deferred for more than six months. It is therefore regrettable that this response has been received more than a year after the report's publication on 22 March 2017.
3. Between November 2017 and February 2018, while awaiting the response, the EU Internal Market Sub-Committee held follow-up oral evidence sessions with the sectors under inquiry – professional business services, digital, creative, aviation and tourism and health-related travel.<sup>1</sup> This letter summarises the evidence and views put to us and our conclusions (in bold text). We would be grateful for a response to our findings by **24 July 2018**.

### **Cross-cutting matters**

#### *Engagement with the Government*

4. Witnesses to our follow-up evidence sessions were generally positive about their level of engagement with the Government. Sally Jones, Director of International Trade Policy, Deloitte LLP and secretariat to the Professional and Business Services Council, said she could not praise highly enough the work of departmental officials on the technical aspects of preparations. However, Ms Jones told us that these discussions lacked overall direction: “We are no further forward as regards what the future trade deal is going to look like ...”.

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<sup>1</sup> Witnesses to the follow-up evidence sessions are listed in the appendix to this letter.

5. Alan Leaman, Chief Executive, Management Consultancies Association, also praised the dedication of officials but said that churn had hampered continuity. Ian Harris, Director, Z/Yen Group Limited, reiterated this point and noted a feeling that in DExEU specifically, and at the junior ministerial level generally, the rapid movement of people meant that knowledge was not retained: “You talk to someone and they seem to be listening to you, but the next time ... you have to explain it all again to a new person”.
6. We note that in December 2017, DExEU reported an average staff turnover of 9% per quarter compared to the recent average turnover rate across the civil service as a whole of around 9% per year.<sup>2</sup>
7. Russ Shaw, Founder, Tech London Advocates, told us that engagement with individual departments was constructive but the “interdepartmental and cross-departmental piece [seemed] to be lacking”.

#### SMEs

8. Simon Hansford, Chief Executive Officer, UKCloud, reported that his business occupied an “uncomfortable middle ground as an SME”. He described a “void” in Government engagement with “£50-£100 million businesses”, which were not being represented directly on advisory boards and councils.
9. Ms Jones pointed out that Brexit might present distinct challenges for smaller firms. She told us that in the professional businesses services (PBS) sector, big firms “have largely managed to trade in and with the EU despite existing restrictions, by finding workarounds” — most of which would still exist after the UK leaves the EU. However, these options may not be available to medium-sized PBS firms, which would find post-Brexit market access “materially harder”.
10. Creative services are characterised by “lots of SMEs, not single big employers such as biotech, automotive or defence” emphasised John McVay, Chief Executive, Pact. He held a concern that the sector might therefore be at greater risk of becoming “a sweetener in a negotiation”.

#### Access to talent

11. Witnesses from all sectors reflected on access to talent as a pressing concern in both the short and long term. Mr Harris told us that research showed that “top of the list of priorities for managing partners [was] maintaining the freedom of movement of talent”.

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<sup>2</sup> National Audit Office, Implementing the UK’s exit from the European Union, people and skills: the role of the centre of government: <https://www.nao.org.uk/wp-content/uploads/2017/12/Implementing-the-UKs-exit-from-the-European-Union-people-and-skills.pdf>

12. Tom Jenkins, Executive Director, European Tourism Association, pointed to a decline in the number of EU nationals applying to both casual and long-term jobs in the tourism industry. He suggested that the UK's status as the destination of choice for "ambitious graduates throughout Europe to come and work" may be at risk. Steve Lowy, Board Member, British Educational Travel Association, agreed and highlighted that SMEs in particular lacked the resources and infrastructure to be more proactive in sourcing and training staff if access to EU labour was restricted.

**We welcome reports of high levels of engagement with services sector stakeholders and encourage the Government to continue these efforts.**

**Witnesses to our follow-up evidence sessions were particularly positive about their interactions with departmental officials. However, we are concerned by reports that high staff turnover, particularly in DExEU, has hampered continuity. What action is the Government taking to ensure stability and continuity in engagement structures?**

**We have taken further oral evidence on the opportunities and challenges arising from Brexit for SMEs, including start-ups and scale-ups and will write to the Government shortly. Nonetheless, we would welcome information on how DExEU is ensuring the voices of SMEs are heard and that their distinct priorities are taken into account in the Government's plans for a comprehensive trade agreement.**

**We accept that concerns about access to talent are not restricted to the services sectors. Indeed, this has been a common theme throughout many of the reports published by the EU Select Committee since the June 2016 referendum.**

**Witnesses were clear that a lack of clarity over the rights of EU citizens has restricted businesses' ability to recruit and retain talent. We welcome the progress brought by the recently announced draft rules on the post-Brexit EU citizen settlement scheme and encourage the Government to set out further details promptly.**

**We recognise that the Government's longer-term immigration policy remains to be clarified but we reiterate calls from our witnesses for a system that supports the UK's world-leading services sectors.**

## **Sector-specific matters**

### *Professional business services*

13. Sally Jones told us that mutual recognition of qualifications and the free flow of data remained priorities for a UK-EU FTA for the PBS sector. She highlighted that it was not uncommon for certain professional business services to be excluded entirely from

FTAs. Ms Jones also described the high number of ‘reservations’ in EU FTAs, whereby individual countries may reserve the right not to comply with particular terms. She called for an UK-EU FTA that minimised reservations and covered all four modes of supply.

14. Country-specific reservations for legal services were highlighted by Mickaël Laurans, Head of International, Law Society. He added that the CETA “would be the equivalent of no deal” for legal services whereas the terms of the EU FTA with South Korea would be more beneficial. He called on the Government to prioritise continued access to the EU’s arrangement with South Korea.

### *Digital*

15. Antony Walker, deputy CEO, techUK, emphasised the importance of future data flows between the UK and the EU and told us that the fastest precedent for an adequacy decision was 18 months. He also suggested that the EU would seek to assert its standards around anti-data localisation measures in future trade agreements.
16. Contrary to suggestions that data might be an area with a positive case for divergence, Mr Walker stressed that the majority of the digital sector was clear about its wish to remain closely aligned with the EU. Mr Shaw noted that a significant proportion of EU data companies were based in the UK and described a "productivity loss" if the UK did not "move in lock-step with the EU".

### *Aviation*

17. Dr Barry Humphreys, Director, BKH Aviation, told us that there is widespread support among airlines, airports, tourism bodies and consumer groups for the continuation of a liberal approach to aviation but warned about support for more protectionist approaches voiced by Lufthansa and Air France. He noted that it remained to be seen how influential these airlines would be on their national governments.
18. The substantial drop in air ticket prices in recent decades was highlighted by Tim Alderslade, Chief Executive, Airlines UK: “Nobody wants to turn the clock back to a scenario where only the rich could afford to fly”. Mr Alderslade called for “a fully-fledged bilateral agreement with the EU that maintains market access and is as close as possible to what we have now”. He said that the sector would like to see aviation separated from the rest of the trade deal as it is an “economic enabler” and because there is no WTO fall-back. Karen Dee, Chief Executive, Airport Operators Association, agreed: “Traditionally, aviation is negotiated in its own right anyway”.
19. Dr Humphreys said there was “unanimity” in the industry for the UK to “continue to participate as fully as possible in EASA”. Ms Dee suggested that the UK could still influence EASA even without voting rights.
20. Mr Alderslade noted the long-term opportunity for the UK to improve the terms of ‘grandfathered’ EU aviation agreements with third countries but stressed that the immediate priority would be to secure replications of those agreements.

## *Creative*

21. For the fashion industry, Caroline Rush, Chief Executive, British Fashion Council, reiterated the key priorities of access to skills for business, design and manufacturing roles, intellectual property protection through unregistered Community design rights and access to funding to replace current EU programmes. John McVay, Chief Executive, Pact, noted that, while the Government had given assurances that money the UK had paid into EU funding programmes would be available in domestic funding programmes post-Brexit, there was no surety that it would be reinvested in the same parts of the economy that previously benefited from it.
22. Adam Minns, Executive Director, Commercial Broadcasters Association, told us that there was “no clarity” over whether international broadcasters based in the UK would be required to get a licence from an EU27 country post-Brexit and what proportion of these businesses (editorial staff, channel controllers, schedulers) would need to be moved to the EU in order to qualify. Mr Minns pointed out that larger channels would be able to relocate but smaller channels “run on very low margins, perhaps with no profits at all, [and] may have to close or move online.”
23. Mr McVay told us his main concern would be continued mutual recognition of UK programming as ‘European works’. He explained that UK programming is currently covered under the Council of Europe’s European Convention of Transfrontier Television but felt it would be desirable to include this as part of a UK-EU agreement.

## *Travel*

24. An urgent concern for the university sector was the impact of ongoing uncertainty on recruitment of EU students. Vivienne Stern, Director, Universities UK suggested the Government had “space to act” in this area despite ongoing negotiations with the EU. Ms Stern noted that the Scottish Government had committed to continuing current arrangements for EU students starting their studies in Scotland from September 2019, whereas universities in other parts of the UK were not able to say how students would be treated. She concluded:

“If we enter a transition phase of the type that has been described, it is inconceivable to me that the guarantee that European students will still have access to UK fee and loan arrangements in 2019 will not be extended. The delay in making that clear is nonsensical.”

25. Looking forward, Mr Lowy called for the expansion of the Tier 5 youth mobility visa, and its extension to the EU post-Brexit, to enable more young people to come to the UK for 1-2 years “to build their career, become a brand ambassador and potentially set up a business”. He also called for a more positive attitude towards youth mobility as an important part of a sustainable tourism industry, potentially underpinned by bilateral agreements with the US, Canada and Australia.

**Witnesses told us that maintaining the free flow of data between the UK and EU was a priority issue for the digital and PBS sectors. The Government clarifies in a recent technical note that it will seek a data protection agreement rather than**

**an adequacy decision. We highlight that the Government's position as set out in the technical note is not consistent with the Commission's published models for data transfers with third countries.**

**Your response states that the UK and EU would be able to manage a transition to WTO rules if necessary. Aviation is an example of a sector where this option does not exist. Does the Government share the view of our witnesses that an aviation agreement should be concluded separately to a wider trade deal? Would the established legal mechanism for third country participation in EASA be a satisfactory arrangement for the UK?**

**Your response reiterates the Prime Minister's statement that the UK cannot maintain the current arrangements it has with the EU for broadcasting. However, details on the Government's proposed model have not been forthcoming. We conclude that this ongoing lack of clarity is a severe risk to the UK's position as a leading centre for international broadcasting.**

**What reassurances can you provide that the level of UK contributions to EU creative programmes will be maintained and awarded to the UK creative sector post-Brexit? Does the Government consider it necessary to seek specific agreement that UK programming will continue to qualify as 'European works'?**

**EU students are a source of great economic and academic value to the UK. We are disappointed that your response does not recognise the urgent need to confirm the fee and loan status for EU students starting courses next year. You explain that applications for these courses will not open until September 2018 but do not acknowledge that universities are already long into the recruitment cycle. We support the clear and urgent call from UK universities for the Government to clarify the financial status of EU students starting courses in 2019/20.**

**In addition to these specific matters, we would be grateful for an update on how ongoing developments in the Government's position on trade and customs arrangements might impact its position on trade in non-financial services.**

A handwritten signature in black ink, appearing to read 'Lord Whitty', is written over a faint, light-colored circular stamp or watermark.

Lord Whitty, Chairman of the EU Internal Market Sub-Committee

## **Appendix: Witnesses to the Brexit: trade in non-financial services follow-up oral evidence sessions**

Air Services: 30 November 2017

Tim Alderslade, Airlines UK

Karen Dee, Airport Operators Association

Dr Barry Humphreys, BKH Aviation

Professional businesses services: 1 February 2018

Ian Harris, Z/Yen Group

Sally Jones, Deloitte LLP

Mickaël Laurans, Law Society

Alan Leaman, Management Consultancies Association

Digital services: 8 February 2018

Simon Hansford, UKCloud

Russ Shaw, Tech London Advocates

Antony Walker, techUK

Tourism and health-related travel services: 8 February 2018

Tom Jenkins, European Tourism Association

Kurt Janson, Tourism Alliance

Steve Lowy, British Educational Travel Association

Vivienne Stern, Universities UK

Creative services: 22 February 2018

Samuel Young, Creative Industries Federation

Tom Kiehl, UK Music

John McVay, PACT

Adam Minns, COBA

Caroline Rush, British Fashion Council