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Sir William Cash MP
Chair
European Scrutiny Committee
14 Tothill Street
House of Commons
London
SW1H 9NB

 December 2018

Scard Bill

7420/18: Proposal for a COUNCIL DIRECTIVE on the common system of a digital services tax on revenues resulting from the provision of certain digital services

I write following my letter of 21 November. In that letter, I requested scrutiny clearance or a waiver relating to the proposal for an EU Digital Services Tax (DST). You asked that the government provide further information in a number of areas.

Discussions on the DST continued at December's ECOFIN, but a formal vote was not held. However, France and Germany did issue a joint declaration, proposing to:

- narrow the scope of the Directive to targeted online advertising only
- apply the Directive from 2021

The Austrian Presidency have since updated the draft Directive to reflect this proposal and the government anticipates that technical negotiations will resume in the new year.

The Franco-German proposal is intended to be constructive. The narrower scope will address some concerns the government had about potential spillovers under the previous Directive, which is welcome. Nonetheless, the government still intends to reflect carefully on whether any further steps can be taken to ensure the scope is appropriately targeted.

The government believes the optimal way to achieve this would be to define scope by reference to specific business models, but it accepts that other Member States want to take a different approach and a reasonable compromise can be reached. The government notes that although the scope of the EU DST has been narrowed, it does not intend to narrow the scope of the proposed UK DST.

As part of the next set of technical discussions the government believes there is still a case to refine other parts of the Directive. For example, the current provisions determining the place of taxation risk being unclear in certain cases, and may need to be reconsidered in light of the newly-proposed narrower scope. The government also believes there is a case to include a 'safe harbour' which would protect low-profit businesses and loss-makers. The government will therefore be continuing to raise these issues.

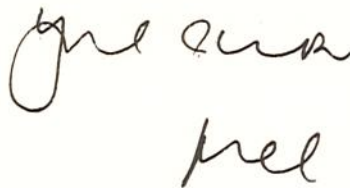
The Committee raise other specific issues, including revenue-pass through and the thresholds. The government does not believe the EU DST should take account of revenue pass-through. The Committee correctly notes that government raised this issue in the past, but after due consideration no longer believes it needs to be reflected within the Directive. Equally, while the thresholds differ from the UK DST, the government believes they are broadly appropriate as currently stated.

The Committee asked about a proposed sunset clause. The government agrees that a DST should be temporary. It is likely the most effective way to achieve this is through a clear political commitment to repeal the DST once an appropriate international solution is in place. The government is however, willing to consider a sunset clause that provides enough legal certainty.

The Committee also asked about the rate of the DST, given the UK has proposed a 2% rate compared to the 3% suggested by the Commission. The level of the rate involves a degree of judgement, and there are arguments for and against a higher rate. Overall the government believes that a 2% rate raises significant tax revenue in a way that is proportionate and seeks to take account of the challenges in applying a tax to a measure of gross business revenue.

I thank you for your continued interest in this topic, and hope I have addressed your questions. I will be happy to respond in further detail to any further questions you have.

I am copying this letter to Lord Boswell of Aynho, Chair of the House of Lords European Union Committee; Foeke Noppert, Clerk to the Commons Committee; Christopher Johnson, Clerk to the Lords Committee; Matthew Manning, Clerk to the Lords Financial Affairs Subcommittee; Les Saunders, Department for Exiting the European Union; and Barbara Armstrong, Nerys Levin, Victor Peluola and Daniel Jones, HM Treasury.

The image shows two handwritten signatures in black ink. The top signature is a cursive signature that appears to read 'Mel Stride'. The bottom signature is a shorter, more stylized cursive signature that also appears to read 'Mel'.

RT HON MEL STRIDE MP