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Sir William Cash MP  
Chair of the European Scrutiny Committee  
House of Commons  
LONDON SW1A 0AA

CMS 298921/asg  
16 February 2017

Dear Bill

**AUDIO VISUAL MEDIA SERVICES DIRECTIVE 9479/16 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2010/13/EU on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services in view of changing market realities**

I am writing to address the points raised in the Committee's report in response to my earlier correspondence in relation to the proposed amendments to the Audiovisual Media Services Directive ('AVMSD') in June and October 2016. Given the process that the UK is preparing to undertake to leave the European Union, our negotiating position on this Directive will remain flexible.

We note that a number of your questions relate to the position in relation to Brexit and the potential interplay between the AVMSD and any future relationship with the EU. As noted at paragraph 8.35 of the Government's recent white paper on the United Kingdom's exit from and new partnership with the European Union:

"Content that is carried over electronic communication networks is regulated in the EU by the Audiovisual Media Services Directive. This underpins the operation of the internal market for broadcasting by ensuring the freedom to provide broadcasting services throughout the EU. The UK is currently the EU's biggest broadcasting hub, hosting a large number of international broadcasting companies. In the course of the negotiations, we will focus on ensuring the ability to trade as freely as possible with the EU and supporting the continued growth of the UK's broadcasting sector."



Bearing that in mind, I am able to provide the following in response to the points you have raised:

1. The Council of Europe Convention on Transfrontier Television (CTT) was first established in 1993 to allow for free transmission across borders within the Council of Europe and in that respect is intended to cover the audiovisual sector. There are, however, a number of limitations in relying on the CTT: the CTT is dated, having been agreed for the market as was in 1993, so services that are distributed in ways other than satellite, such as online, are not within its scope; a number of countries have not signed the Convention so its application does not extend to all Member States; and it does not contain any specific enforcement mechanisms to ensure its effective operation.
2. While updating the CTT to align it with AVMSD might address some of these limitations, this may prove problematic in a practical sense. The EU Commission has asserted that it has exclusive competence in relation to the CTT and therefore any update would need to be agreed with the Commission rather than the individual Member States. The Commission has stated that it does intend to become a party to the Convention in future.<sup>[1]</sup> As a result, Council of Europe level work on transfrontier television has been discontinued and there is no longer a CTT Standing Committee in place. Having said that, we will continue to consider whether and how the CTT might fit with the future audiovisual landscape as part of the Brexit negotiations and more generally.
3. The Council of Europe Convention on Cinematographic co-production is not designed to deal with market access, rather to encourage co-production and it is fit for purpose in this regard.
4. You have asked a number of questions in relation to free trade agreements, and bilateral agreements. It is correct that audio visual media services are generally excluded from EU free-trade agreements. However, while we will examine precedents from other agreements, we will not seek to replicate an existing model and will pursue the right deal for the UK.
5. You have asked if divergence from domestic and EU laws on the provision of audiovisual media services could operate as a barrier to trade. The Great Repeal Bill will end the authority of EU law and allow us to take back control of our own laws. The same rules and laws will apply on the day after Brexit as they did before. It will be for Parliament to decide what laws to keep, amend or repeal. Any decision to diverge will be taken after that point and an assessment of the likely impacts will be made at that time.
6. You have asked about the nature of the consultation undertaken by the Government regarding how best to accommodate the audio-visual sector outside of the EU. Since the referendum result the Secretary of State held roundtables with both Broadcasters and Creative Industries and further roundtables are planned. Meetings with individual companies that might be affected have been held with ministers, special advisors and policy officials and the department is in continued dialogue with the broadcasting and creative industries to ensure that

their interests are captured and taken into consideration in formulating our post brexit policy.

7. You have asked for information about the outcome of consultation with the Devolved Administrations and the views which they had expressed. I refer to my letter of 27 October 2016, which noted that issues around audiovisual matters are not a devolved matter.

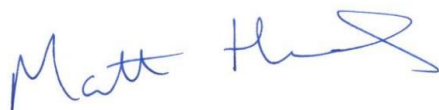
8. More generally, I thought the committee would also welcome an update on the negotiations. As I have made clear previously, whilst the UK is a Member of the EU it will play full and active part in the negotiations for the Audiovisual media services Directive.

9. I provided an update on the position of the UK government on the key issues outlined in my letter of 27 October 2016. Our position on these matters remain unchanged. The negotiations are currently ongoing, there are 11 council working groups between January and April, and I would expect to be able to update you on the progress and potential timeframes in late March. It is worth noting that in the first of these Council Working meetings in January it was made explicit that the meetings for this Council working group are not public and considered confidential, and this will therefore limit the information which can be circulated prior to a general approach being agreed. The working group is aiming to achieve a general approach by the Education Youth Culture and Sport council meeting on 22 May.

I trust that this gives you greater clarity of the UK position during the negotiations of the AVMSD.

I am copying this letter to Lord Boswell, Chair of the European Union Committee, Christopher Johnson in the Lords' Committee, Eve Samson in the Commons' Committee, Les Saunders in DExEU, and Pooja Lakhani in DCMS.

Yours ever

A handwritten signature in blue ink, appearing to read 'Matt Hancock', written in a cursive style.

**Rt Hon Matthew Hancock MP**  
**Minister of State for Digital and Culture**

<sup>[1]</sup> Details can be found on the Council of Europe website  
<http://www.coe.int/en/web/freedom-expression/standing-committee-on-transfrontier-television-t-tt>

