

Digital, Culture, Media and Sport Committee

Oral evidence: The Work of the Department for Digital, Culture, Media and Sport, HC 44

Thursday 13 May 2021

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Members present: Julian Knight (Chair); Kevin Brennan; Steve Brine; Alex Davies-Jones; Clive Efford; Julie Elliott; Damian Hinds; John Nicolson; Giles Watling; Mrs Heather Wheeler.

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Witness

I: Rt Hon Oliver Dowden CBE MP, Secretary of State, Department for Digital, Culture, Media and Sport.



Examination of Witness

Witness: Rt Hon Oliver Dowden CBE MP.

Q1 **Chair:** This is the Digital, Culture, Media and Sport Select Committee. Today we are joined by the Secretary of State, Oliver Dowden MP, who is here to answer questions relating to the work of the Department. Thank you for joining us in person.

It has been 133 days, by my calculation, since we left the EU. Unfortunately, people in the creative sectors and Britons working abroad in the EU have suffered a “no-deal Brexit,” despite the fact that we have a huge competitive advantage in these industries and it is in our interest to ensure as free and frictionless movement of people as possible.

Given that 133 days have elapsed, could you please outline for the Committee what your Department has done during that time?

Oliver Dowden: Since then, wholly legitimate concerns have been raised by touring artists about the restrictions they will face now that we have left the single market. First, we set up a working group, which has brought together people from across the industry, not just music artists but fashion and all the other sectors in the creative industries that are impacted.

We have dealt with some of the things that we can provide reassurances on for touring to assist them; for example, clarifying that portable musical instruments do not require a carnet when moving from the UK to the EU. That was one concern. There was a concern about the double charging of social security contributions when touring from the EU to the UK. Again, we have managed to deal with that.

Secondly, we have undertaken an extensive programme of engagement with EU member states. We have engaged with every EU member state. Off the back of that, we have a much clearer picture about the extent of restrictions. It varies enormously between countries. Our current analysis is that, in at least 17 of the 27 member states, some paid touring activities are possible without needing visas or work permits. That is a much more positive picture than initially appeared to be the case. We are making sure that we effectively communicate that so there is a better understanding of how people can tour anyway in those countries without need for further change.

Next—and Minister Dinenage and I have already started doing this—in relation to those member states where there are greater restrictions, for example, Portugal, we are having engagements with relevant Ministers. This is building on the engagement that has been done with posts. Overall, there is a constructive mood so far from member states. They appreciate that it is in both of our interests to enable that free flow of artists. It enriches both countries culturally, intellectually and indeed financially. Portugal—and I am speaking to my opposite number on Monday—relies on British artists to furnish its festivals. Some great



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Portuguese culture is happening in the UK this year. There is a real mood that we can work together to make progress. This process is continuing.

Of course, this is done against the backdrop that, with the possible exception of Portugal, it is not possible to tour in those countries.

Q2 Chair: You mentioned extensive engagement with member states. Could you outline what qualifies as extensive engagement?

Oliver Dowden: As you would expect, in any international engagement, what we call “sherpaing” happens first. That is undertaken by civil servants and undertaken by missions. Off the back of that, for example, in a range of countries—France, Germany, the Netherlands, Denmark, Hungary, Finland, Lithuania—through that engagement, we have been able to determine that they have quite generous touring arrangements, which will mean that musicians and others will be able to tour in those countries.

The next stage of that has started. In relation to ministerial engagement, Minister Dinenage met her Austrian counterpart this week. I will be shortly speaking to my Spanish opposite number. I intend to visit both France and Germany. We are taking it now to the ministerial level.

In relation to what I count as RAG-rated member states—red, amber and green—the green member states have relatively easy touring requirements and there is not such a pressing need as with others.

Q3 Chair: Why was some of this not done before 31 December?

Oliver Dowden: Before 31 December, the European Union required us to engage only at Commission level as we sought to negotiate a bilateral trade agreement. There was zero appetite for individual member states to—

Q4 Chair: Yes, I understand that, Secretary of State. Sorry to cut across you, but surely you could have established that 17 of the 27 did not require any sort of special documentation to tour prior to this? This stuff does not need any form of negotiation. This is just fact finding. You could probably get this from a pretty extensive Google search.

Oliver Dowden: I dispute that. This is one of the nubs of it. It is not apparent from Google searches. If it were, there would not have been such concern. A lot of this information is difficult to find. It is not transparent. It is a very important step to get that transparency out there. The overall approach from all member states, as you will remember from the trade negotiations, was to agree a strategy, which was that the UK would engage with the Commission as a third country, full stop. There was just not that appetite to be able to engage at a member state level.

Q5 Chair: You mentioned cabotage. What can you tell the Select Committee about the progress that has been made, precisely?

Oliver Dowden: I mentioned carnets. Cabotage is being led by the



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Department for Transport because it is a transport issue. I have to be frank with you. Cabotage is a more challenging area. It is also worth noting that, Europe-wide, the cabotage requirements are tightening anyway. I believe that within country now, only three cabotage movements can be made as an EU member state. A country like Italy could have only three cabotage movements within France.

We are continuing to see what we can do to help facilitate that movement, but it is more challenging.

Q6 Chair: Is that done on a bilateral basis or through the Commission?

Oliver Dowden: You would have to get fuller information from the Department for Transport because it is leading on that area.

Q7 Chair: That is quite an interesting response. One of the areas we found quite difficult as a Select Committee, to be frank, was that there did not seem to be a degree of taking ownership about this issue right from the start during those 133 days. The impression is that there has been a lot of buck passing. At the Liaison Committee, the Prime Minister said to me that he would “get this sorted”—his precise words—and he pointed the finger at Lord Frost. Lord Frost then pointed the finger at you and your Department. Now you say, “Actually, this is to do with Transport.”

How will you marry up Government, effectively? Beyond the sherpaing role that you have just laid out and what you have actually done, who will be carrying out the bilateral negotiations? Who will be directing that from the top, so to speak?

Oliver Dowden: First, I take issue with the point you made about buck passing. In what I have said, I have taken full responsibility and have outlined the steps that pertain to my Department. It is a simple fact that transport pertains to the Department for Transport.

My Department will co-ordinate and lead ongoing bilateral engagement in the sense that it is the Department responsible for most of the sectors affected. Clearly, though, if it relates to changes to visa and immigration rules, it will have to be done consistent with the Home Office and we would have to work with the Home Office on that. Our overall approach to engagement across all EU member states and the EU as a whole is governed by XO, which is the strategic committee chaired by the Prime Minister. That committee has to sign off the overall strategic approach, but that committee has given consent for the engagement that has happened so far.

Q8 Chair: Who will be sitting down—either virtually or physically—with the Spanish and the Greeks and their representatives or their decision makers? Who will be our decision maker? Who will be our negotiator when we need to sort out this particular issue?

Oliver Dowden: As with all these negotiations, it would follow the usual process. For example, the G7 protocol negotiations that my Department successfully undertook in relation to digital over the past few months, culminating a few weeks ago, began with official-level engagement.



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Ministers gave directions. They saw what could be resolved at official level. Ministers then bilaterally discussed outstanding areas. That is the usual process. I expect that we would continue that pattern.

Q9 Chair: Will there be bilateral negotiations at ministerial level between your Ministers in the DCMS, the Home Office and Transport in the main? Let's say we live in a world where we do not have to stay 2 metres apart, will they go to these countries to sit down with their opposite numbers and do the deal?

Oliver Dowden: You are jumping a little bit ahead of where we are now. I have indulged quite a lot of speculation about the next stage—

Chair: With respect, it is 133 days.

Oliver Dowden: But I have set out the position up to now. We have been at the point of understanding the full extent of those rules and understanding the appetite in each country. Now we are seeking to work through where that appetite lies. Formal negotiations will have to be signed off by the XO committee, which has strategic responsibility for it. We are getting very encouraging signs from member states at ministerial level now that they are interested in further discussions to progress greater scope for agreement between countries.

Q10 Chair: How long will that take?

Oliver Dowden: I do not want to give a trite answer but, to a certain extent, it will take as long as it takes. That is the nature of a negotiation. We cannot do these things unilaterally. We have to engage member states.

It is important to note how far we have come. We are in a much better position in relation to those 17 member states, which constitute, with the exception of Spain, most of the major member states of the European Union where touring takes place. Clearly, I will seek to prioritise and have further conversations in those areas with the greatest need beyond that.

Q11 Chair: I can appreciate the fact that the problem is not quite as bad as perhaps was perceived right at the start of this process, but the truth of the matter is that a lot of people need these working rights to be able to travel across several countries in Europe. Some of those countries will not have the access you mentioned.

We are finding many instances where people are being told that, unless they have an Irish passport or an EU passport, they might as well not bother applying for these jobs. That could have a huge impact.

We are slightly lucky, in a way. The tragedy of Covid means that we do not have the touring, but there does not appear to be a great deal of urgency to use this opportunity to "get this sorted," as the Prime Minister said to me at the Liaison Committee.

Oliver Dowden: First, I do not take the Covid crisis as luck. As you said, it is a tragedy—



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Chair: No. With respect, sorry, Secretary of State, I said that the tragedy of Covid means that people have not been able to travel. Frankly, there has not been the shouting and screaming that there would have been if it had not taken place.

Oliver Dowden: We have been using the time wisely in the way that I have described. It is significant progress that we have been able to give that greater reassurance in relation to those member states. That will be of comfort to people who are seeking to tour. This is against the backdrop of tours that cannot take place right now, nor do we have a date when those tours can take place.

For the rest of this period, I will continue to progress that. I will essentially be working down this list and seeing what further progress can be made in respect of those areas where there are greater challenges. Even in those areas that I broadly characterise as the most challenging—for example, Portugal—a visa is required but it is cost free. There are other barriers like Criminal Records Bureau checks and so on. It is a nuanced scale across the board. The single most important thing we can do right now is to share that information with the people who are interested in touring so they can start to scope out in their minds the extent of the challenges.

Also, at the same time, there are opportunities elsewhere. I have had a lot of engagement with my Japanese opposite number as part of the G7 process. I was discussing this with the Japanese ambassador this week. Japan is interested in seeing how we can develop greater cultural exchange opportunities now that we have left the European Union. In a lot of those rapidly growing far east markets, I am keen to create good opportunities for UK artists to tour as well.

Q12 **Chair:** There is a reason, though, that we trade more with Denmark than with China: it is closer.

We have had the publication of the draft online harms Bill. Could you outline for the Committee, please, any changes and reasons for such changes that have taken place in the last few months? How has your focus changed?

Oliver Dowden: In a number of areas. First, I had a concern about whether the legislation properly entrenched and protected free expression, free speech and the freedom of the press, so we have clarified the extent of the carve outs from this legislation to make sure it does not apply to news publishers. That includes, for example, comments on news publishers' sites and, indeed, the sharing of news publishers' content on other sites.

Secondly, I have sought to entrench freedom of speech, freedom of expression and freedom of democratic expression by making it clear that I will be asking Ofcom to assess whether the terms and conditions of the top-tier social media companies—the big ones like Facebook and so on—have proper protection for freedom of speech, free democratic expression and freedom of debate. We will make sure those terms and conditions



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say that if material is removed, they have to take that into account when doing so. That is an important entrenchment.

Also, I have listened carefully to representations in relation to online fraud. There was an exclusion from this legislation for online fraud. I have removed that exclusion. To be clear, the removal of that exclusion does not deal with the whole online fraud issue. That is why we continue to work with the Home Office, which will be the lead on this, and other Departments in making sure that they continue to take forward work in that area. Indeed, we continue to take forward work on online advertising. That is in addition to the other changes I have made since becoming Secretary of State, principally around making sure that we do not overburden small and medium-sized businesses and increasing the penalty for social media companies that do not comply to 10% of global revenue.

Q13 Chair: You have promised pre-legislative scrutiny. In the press release, you stated that it would be taken by a Committee of MPs. I understand that that is not the case. It is not just a Committee of MPs and will have members of the House of Lords. Could you please outline for the Committee precisely what pre-legislative scrutiny will involve?

Oliver Dowden: This will be determined through the usual process, which will involve the Leader of the House writing to the Liaison Committee. Then the composition of that Committee will be determined through the usual channels. It will be decided that way. A final decision has not been made, but I expect it will probably be a Joint Committee. No decisions have been made about the membership of that Committee.

Q14 Chair: Traditionally, Joint Committees are chaired by members of the House of Lords. Is that the case now?

Oliver Dowden: No decision has been made on that. No, I would not assume that at all. Indeed, I know the considerable expertise that there is on this Committee and certainly, to the extent that I am consulted on this, I will be making the case for ensuring that this Committee is properly represented.

Q15 Chair: This legislation has been described by you as “Christmas tree” legislation because everyone wants to hang something from it. You have expanded the scope of the legislation in the area of online fraud, for instance. Are you open to a greater degree of colleagues tabling amendments on other areas of concern in terms of online harms?

Oliver Dowden: You allude to the difficult balance we face with this Bill. I cannot vouch for my exact words, but I think I said that I fear it could be a Christmas tree Bill.

Q16 Chair: You were not inviting a Christmas tree Bill?

Oliver Dowden: No, I certainly am not encouraging the whole family to come and hang their baubles on it, as it were.



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There is a risk because these are some serious harms we are seeking to address here, whether that is protecting children, stopping vile racist abuse or stopping illegal child abuse and terrorist content being online. I am worried that if we expand the scope too much, we will lose that focus and we will delay the Bill.

Everything happens online now. This cannot be the regulate the internet Bill. This has to be broadly framed around the principle that this is for user-generated shared-content platforms. The bar will be very high for extending it beyond that. We have made tweaks here and there, and I will continue to consider it, but I want to set a very high bar for that because I do want this legislation. It will go through the normal 12-week pre-legislative scrutiny process. I want to get this Bill before the House this year and for us to continue to progress it.

Q17 Chair: Is this about creating an architecture rather than regulating the internet? Do you see the legislation as an end in itself or merely a staging post? Within the draft Bill are myriad opportunities to bring forward secondary legislation.

Oliver Dowden: We deliberately designed it so we have flexibility for secondary legislation. For example, in the definition of harms, we are reserving specific harms to be defined in secondary legislation to give us the flexibility to change them over time as they emerge without having to come back with primary legislation.

Q18 Damian Hinds: Good afternoon, Secretary of State. This is not the pre-legislative scrutiny today, but I want to take the opportunity to ask you a couple of questions about the principle and the intent of the Bill.

The White Paper was called "Online Harms," and traditionally this subject has been called online harms, but gradually over the months the term "online safety" has been used and the Bill has been introduced as the Online Safety Bill.

No one can object to the pursuit of safety, but what development led to that change of name and why? What should we read into it?

Oliver Dowden: Do not read a great deal into it. As a former Secretary of State, you will appreciate that one thing to debate is what to call the Bill. You want the Bill to do what it says on the tin. We are trying to make the internet safer, particularly for children. We felt that the Online Safety Bill was more accurate than online harms. It is not intended to signal that there has been a fundamental shift in the scope of the Bill. Indeed, you will see that the Bill is broadly similar to what we outlined in the full Government response just before Christmas.

Q19 Damian Hinds: There is a lot of material to go through. The explanatory notes run to over 100 pages and we have only just seen it. You will, but none of the rest of us yet grasps all the detail.

One section defines an affected person as "a member of a class or group of people with a certain characteristic targeted by the content." Does the definition of safety mean that there must be a specific individual and a



specific occasion of harm?

Oliver Dowden: It is worth stepping back. The two harms we have identified are physical and psychological. That has to be to an individual, not to society at large. We have made that distinction with the Bill to try to give it some sort of scope and shape. When we set out in the secondary legislation those specific harms, they will be shaped around that.

To take one example, misinformation and disinformation can cause wider societal harms. It is quite difficult to define the scope of that. If misinformation or disinformation relates to anti-vaccination, it will cause significant harm to an individual. Therefore, we should wait until we have made the final decision on specific harms, but I imagine it will be in scope by virtue of that.

Q20 Damian Hinds: That is the specific example I was going to put to you. Would the propagation of misinformation that cannot be said to bring a health harm to an individual but is designed either to erode people's trust in institutions or to make them dislike each other more, and to sow the seeds of dissent and confusion, be within the scope of the Bill as intended?

Oliver Dowden: It would have to fit into one of the two categories I outlined, the physical harm or the psychological harm. If it did not, I would not expect it to be in scope. We have made decisions about that. It preoccupied quite a lot of my time and, indeed, the time of previous Ministers.

There are three balances that I have sought to get through this Bill. First, how do we protect individuals? I was particularly moved and affected by cases like Molly Russell, having spoken to her father Ian Russell. How can we protect against that? At the same time, how can we have a proportionate impact on businesses? We have a highly successful tech sector in the UK and I do not want to put unnecessary burdens on it. Also, crucially, how do we ensure free speech, free expression, free debate and all the things that are fundamentals of our liberty and make this country such an attractive place to live? The risk is that, if we allow it to become too nebulous, we bring all sorts of wider debate into the scope.

Q21 Damian Hinds: We talked on a previous occasion in this Committee about the distinction between insisting that platforms should uphold their own terms and conditions and having a view about what those terms and conditions should be in the first place. When we talked about this before, you were clear that the second part of that matters, too. But the legislation anticipates that, in secondary legislation, individual harms will be specified but not necessarily what should be done about them.

Let me give you two examples to see how this would work in practice. The first is self-harm. Clearly, it will be required that platforms say how they will protect children from harmful content in that regard but, as you know, platforms have different policies on self-harm and categorise



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images in different ways. “Recovery photography”, for example, is in a completely separate category from “glorification.” It is possible that society might take a different view. A body of research evidence might say that the sheer prevalence of self-harm discussion and imagery on the internet is causing some worsening of that problem. In that scenario, does Ofcom has a role to intervene and insist that a different approach is taken?

The second example is journalistic content. It is quite right that there should be a carve out for journalistic content. Freedom of expression is a real democratic interest. But different platforms could interpret that in different ways. Does Ofcom have a role in saying where you draw the line or how you draw the circle around what counts as journalistic content?

Oliver Dowden: Yes. That is the short answer to both of those. There are three tiers of intervention. There are the overall principles set out in primary legislation. Then there are the specific harms and codes that are set out through secondary legislation. Then Ofcom will, in turn, produce its own codes, which will be subject to ministerial oversight.

If you take the self-harm issue, we have deliberately built in flexibility. Each platform knows its platform better than anyone else and the best way of dealing it. It would not be appropriate or proportionate for legislation to prescribe exactly which way—

Damian Hinds: I was not suggesting in the legislation.

Oliver Dowden: —either in legislation or secondary legislation. Ofcom would look at it and ask whether it is sufficient to address this harm. If it did not feel it is sufficient, Ofcom would challenge. If the platform failed to comply, they would not be in compliance with the law and would ultimately face sanctions. It is a similar thing for journalistic content.

Q22 **Damian Hinds:** Something that perhaps goes to the heart of this distinction between harms and safety is the way that news is presented. Quality news costs. Therefore, fair remuneration for quality news, including foreign coverage and in-depth coverage, is important. Prominence is also important for reputable news sources. On the internet there is a tendency towards brand flattening. Everything ends up being treated the same, and those that generate the most clicks will tend to get preference.

Following the Australia case, I understand that this is a matter for the Digital Markets Unit, but the DMU requires legislation to be instituted. Originally, the plan was that there would be consultation in the first half of this year. When will this happen, and what do you envisage will be the scope of the DMU’s powers in this area?

Oliver Dowden: The Digital Markets Unit has been set up already within the CMA—

Damian Hinds: But it needs a statutory footing to do some of these things.



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Oliver Dowden: Yes. It was set up at the beginning of the financial year, at the beginning of April. The next step is to consult and then legislate for those powers. We expect the legislation for those powers to be a third session Bill and we will consult in advance of that. There will be a joint BEIS and DCMS consultation.

In terms of the approach we have taken, I had extensive conversations with my Australian opposite number around this. We have taken a slightly different approach. The issue of fair remuneration for news content is symptomatic of market concentration and potentially market abuse by operators in this sector. Indeed, work done by the CMA and others has evidenced that.

We need to take a holistic approach—and the Government’s policy is to take a holistic approach—to looking at whether there is a lack of competition and an abuse of that dominant market position in each sector. The two areas I have initially asked the DMU to look at are news and advertising. The Australians went straight for legislation in relation to that individual issue.

Q23 Damian Hinds: We know who the DMU has in its sights because of this phrase “strategic market status.” Clearly, with the way people consume news these days, there is a clear and short list of intermediary channels to look at. It is the same with advertising, where there is cross-ownership vertically and horizontally integrated.

When might we expect this system actually to be in place? Assuming the DMU’s role would be as a backstop to impose a remuneration formula if none could be agreed between the parties, when could we expect that to be in operation?

Oliver Dowden: First, I take issue with the assumption you have made there. There are a range of powers available to a competition body, and I certainly would not prejudge which ones it would take. We need to make sure it has that full panoply of powers.

We are moving at pace and doing these things in parallel. First, we were in a position where the DMU did not exist and we had not even announced it. Then the Chancellor formally announced it in the Budget last year and it was up and running this year. It is working now, but it does not have the powers at the end of the process for enforcement. We will be consulting through this year and into next, and we will then have the primary legislation to put those powers on a statutory footing. Once the powers are enacted, the DMU will be able to use them. We will not be waiting to set up the DMU—

Q24 Damian Hinds: Forgive my pushing, but what does all that add up to? When can we expect it to be live?

Oliver Dowden: Once the legislation has completed, and it is a third session Bill. I cannot tell you exactly right now when a third session Bill will complete its passage through the House, but that is the ballpark of where we are going with it.



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Q25 Damian Hinds: Media literacy links these two subjects. Media literacy is not the solution to all our woes, which is sometimes assumed, but it is an important complement to a lot of this work. What progress is there on the media literacy strategy, and when can we expect to see it?

Oliver Dowden: You will get the media literacy strategy this year.

Q26 Julie Elliott: Good afternoon, Secretary of State. Why have you opted for the current online safety proposals to be limited to user-generated content only? The decision means you are excluding some commercial pornography services as things stand now. There is an obvious and predictable risk that even more companies will exploit this loophole to avoid regulation. Why have you opted for that model?

Oliver Dowden: The model for the Online Safety Bill—or the online harms Bill, whichever; let us use the modern terminology—was always to deal with the challenges that arise on social media. Social media is defined, essentially, as media that has user-generated content.

On the issue of commercial pornography, the biggest risk is kids stumbling across it but there is a greater risk from social media and user-generated content.

Q27 Julie Elliott: What evidence do you have to back that up?

Oliver Dowden: It is the advice I have received. I do not have to hand the exact citation, but I am happy to provide you with some evidence for that.

Julie Elliott: If you could provide it, that would be good.

Oliver Dowden: Secondly, I believe that the preponderance of commercial pornography sites have user-generated content on them, so most of them will be in scope.

By the way, we are taking this Bill forward for pre-legislative scrutiny. I do not have a closed mind on this. If we could find a commensurate way of providing wider protection for children within it—and I do not say this to belittle it—that is one bauble that I might be open to hanging on the Christmas tree. There is a strong case for doing that. That is essentially where we are.

Q28 Julie Elliott: I am pleased to hear that you are open minded on this. When the age verification things were pulled while we waited for this Bill, which was quite some time ago, I asked a question in the Chamber about why something was not happening now that could protect children and young people.

I am asking the same question. Between now and whenever what is eventually in this becomes law, what will you and the Government do to protect children and young people from pornography and, also, to protect women? There is a clear link between some forms of domestic violence and some forms of pornography. What will the Government do in this interim period?



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Oliver Dowden: First, with successive iterations, we are setting out a clear direction about where we are going with legislation, whether it was the consultation, the interim response, the full response and now the draft legislation. What we are seeking to achieve is clear to social media companies, and we expect them to start making moves now to make themselves broadly compliant with the direction they know we are going in, in anticipation of these full powers coming in.

Secondly, we are already doing other things. For example, the Age Appropriate Design Code has come in. We are talking about media literacy. This is not standalone.

Q29 **Julie Elliott:** By making political content untouchable, the Bill validates political disinformation and gives a green light to the domestic and foreign actors who promote that kind of thing. Why are the Government taking that line?

Oliver Dowden: We have not said that. We have not given those sorts of things the green light.

We have said, though, that in mature democracies like our own, it is important that we have scope for robust and free debate and discussion. I expect social media companies—and, indeed, they will be required by Ofcom—to properly take into the account the need for that and provide latitude for it in their terms and conditions. It is important that we protect one of the cornerstones of our liberties that people have literally fought and died for.

Q30 **Julie Elliott:** You mentioned Ofcom's terms and conditions. Will the process of personal accountability for continual breaches of platforms' terms and conditions go wider than simply fines, such as to include clear forms of criminal sanction?

Oliver Dowden: Yes, I see this in a hierarchy of three steps. The first step I have outlined already, which is that I hope there will be a degree of compliance from social media companies in anticipation of the legislation.

Secondly, when the legislation comes in, I hope they will comply with it. If they fail to comply with it, they will face fines of up to 10% of global revenue. I took the decision as Secretary of State to substantially increase the potential level of fines.

The final step, which I am willing to take—we will legislate for this power, but we will not enforce it immediately—is criminal sanctions. I would rather we did not impose new criminal law. We should have a very high bar for the imposition of new criminal law. But if fines do not work, we stand ready to impose those criminal sanctions.

Q31 **Julie Elliott:** Do you have an open mind that, if fines do not work, there will be more action taken?

Oliver Dowden: Yes, we will have that as a fallback position.



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Q32 Julie Elliott: That is good to hear. Will the right of individuals to take action against platforms be extended to groups to which offence has clearly occurred; for example, repeated racism directed against certain communities or footballers of specific ethnicities on social media and that type of thing? Do you have any intention to widen the scope of that with Ofcom?

Oliver Dowden: The principal right of recourse for somebody who has been adversely affected is to go to the social media platform itself, in accordance with the terms and conditions. Ofcom will make sure that those terms and conditions are appropriately robust, that they have the opportunity to raise those concerns at appeals and so on. If they fail to do so, they will face the sanctions I described. That is the principal mechanism of redress.

Q33 Julie Elliott: You are not extending it to groups of people who are affected?

Oliver Dowden: We are having this pre-legislative scrutiny, but it is not the intention at the moment to create rights for groups.

Q34 Julie Elliott: Finally, can you confirm that Ofcom's primary duty will be to the citizen, as set out in the Communications Act?

Oliver Dowden: Yes, I believe so.

Q35 Chair: Was No. 10 spooked by the no-platforming of Donald Trump during the election? Is that why the rhetoric around online harms changed and is now much more focused on freedom of speech and freedom of political speech?

Oliver Dowden: No, No. 10 wasn't spooked. I have been concerned to ensure that while we address legitimate harms, particularly to protect children, we do not do so in a way that undermines fundamental freedoms such as freedom of expression. I have been looking at the legislation to make sure there are appropriate protections in place.

Q36 Chair: You were not told to toughen up that area to make sure there wasn't any accidental drawing in of political discourse?

Oliver Dowden: No is the short answer. You cited Donald Trump. There have been examples like Julia Hartley-Brewer on talkRADIO and others. I was asked as Secretary of State and my Department was asked for our views on these things. I thought that we need to provide some clarity and some greater protections. This is our opportunity to do so.

Q37 Chair: What, in your view, does a social media company have to do to potentially trigger your move to secondary legislation to impose criminal sanction, the sword of Damocles, if you like, that you have hoisted over them? What areas would you consider to be potentially so harmful that it would lead to that sanction?

Oliver Dowden: First, there is a two-year review period. Once the legislation is in, after two years we will review it. That is the timeframe in which we would do it.



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I don't think this will be the case given the scale of the fines—most companies are motivated much more by financial consequences than by the criminal liability of individual people—but if the laws were not working properly, we would seek to enact those powers.

Q38 Chair: I understand the reluctance, and some members of this Committee also understand the reluctance, to bring in criminal sanction. If you are reluctant to do so, why have it at all? Future Secretaries of State would have a great deal of discretion and may not be as minded in the way you are to introduce sanctions. Why bother with it at all?

Oliver Dowden: All Members of this House will appreciate the pressure there is on primary legislative slots. The business managers have given us a slot for a piece of social media legislation in this session—

Chair: With respect, that is not answering the question.

Oliver Dowden: It is an important point. If you will allow me to finish, it is appropriate that we make sure we have that fallback power and do not have to come back to the House with a fresh piece of primary legislation and all the delays involved in that. Even the fastest piece of legislation takes a considerable period of time.

Q39 Chair: You are being thoughtful about the parliamentary calendar rather than, frankly, the sword of Damocles over the social media companies? It is not part of the negotiation?

Oliver Dowden: I took seriously the lobbying and representation I received from many different groups about the need for criminal sanctions. I did not believe that they had sufficiently made the case to introduce it immediately in primary legislation, but I thought they had made a strong enough case that we should reserve that power.

Q40 Chair: You may have been following in the news the story coming out of the United States about the hacker attack on the pipeline, which is currently causing fuel shortages on the east coast and a doubling in petrol prices overnight. Would any part of the online harms legislation protect our country from such an invidious attack?

Oliver Dowden: I am afraid I don't know the full details of that case, but as a general principle our approach is led by the National Cyber Security Centre, which is co-ordinated between DCMS, the Home Office and the Cabinet Office. I would expect our response to be led from there.

Q41 Chair: So the answer is no?

Oliver Dowden: I have to look into the full details of it but, generally, it would be a matter for the National Cyber Security Centre.

Q42 Mrs Heather Wheeler: Secretary of State, thank you very much for coming along today.

With my insurance background before becoming an MP, I am interested in the way the events industry has pleaded with our Government to set up an insurance default scheme so that they can plan to have these



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events going on from the summer. We have heard from the Culture Minister that the insurance issue is still on the table at the Treasury. Have you been able to talk to the Chancellor? Where is this going? The festivals industry is massive for our country. Can you give us an update, please?

Oliver Dowden: My first priority as Secretary of State—and I have a laser-like focus on this—is to make sure we get the events industry back up and running. That requires us to reach stage four of the road map on 21 June, which will mean the removal of all remaining restrictions, as far as possible, consistent with public health. We are well on track for that, but there are challenges. You just have to look at the so-called Indian variant and what is going on around the world.

Once we get to that point, if events still cannot go ahead because of a lack of insurance and a failure of the commercial insurance market, we stand ready to look at using Government intervention in the same way we did with the film industry. The first priority was to get the film industry back up and running. At the point at which it was back up and running and productions still could not go ahead because of a lack of commercial insurance, we brought forward proposals.

That is not to say that we have been sitting on our laurels in between. I have had extensive discussions with the Prime Minister and the Chancellor. We have lots of options, analysis and so on. We have to know first whether something can go ahead. If the final barrier to that happening is a lack of commercial insurance, we would contemplate acting.

Q43 **Mrs Heather Wheeler:** Thank you, you have given us some clarity that you have been involved in ongoing conversations. The problem is, to be quite honest, this is all too late. This would have been a very cheap deal to do because the Government are confident that 21 June is D-Day and that it will be great, in which case you did not need to spend any money on insurance, but it is too late for the planning. For so many of these summer festivals, it is just too late. Perhaps you can link it with more Government-backed pilots or something. We have probably lost another summer because they cannot get insurance.

Oliver Dowden: First, sorry for the double negative, it is not the case that the Government have done nothing. We have acted. Through the Culture Recovery Fund, particularly round two, we have provided support to enable events to go ahead. For example, the Hepworth Wakefield gallery has received funding to help it reopen. The Stephen Joseph Theatre in Scarborough, Paradiddles in Worcester and the Motorpoint Arena in Nottingham have received resources to help them with the process of reopening. Indeed, the big focus of the third round of the Culture Recovery Fund—the further extension of £400 million that the Chancellor announced in the Budget—will be on helping those events reopen.

There are challenges, though, around at this stage bringing forward indemnity and insurance. With every passing week I get more confident,



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but we still do not know that we can fully go ahead with events from 21 June. It is not reasonable to expect the taxpayer to provide a full indemnity for all of those events if it is not possible for them to happen. It is a different proposition to say that they can happen and the commercial market not insuring them, because it is risk averse post-Covid, is the only thing holding them back.

There are also questions in relation to the scope of it. At this stage, for example, one restaurant in my own constituency has various provisions like screens to enable them to keep groups separate indoors. They could say, "We will take those away and take the risk of having to reinvest only if you can assure us that you will reimburse that cost. We are sinking costs in anticipation of something that might or might not happen." It is better to get clarity on exactly where the gap lies once things are open, and then determine the extent of Government intervention required to fill that final mile.

We did that very successfully with the film industry. We removed all the hurdles. Once we removed all the hurdles, we found there was still this issue that unless they got the insurance—for example, for individual actors getting Covid—they would not be able to start production. The commercial market would not provide it, so we stepped in in that instance. I would look to follow that model in this instance.

Mrs Heather Wheeler: That is really helpful. I will get the event organisers in my constituency to contact your staff to see about the final mile so that we can get these events back on. Thank you.

Q44 **Steve Brine:** Sticking with events, Secretary of State, you have covered insurance with my colleague Heather Wheeler. Wimbledon, at the end of June and the start of July, is after what the Secretary of State for Health said in the House of Commons is "Freedom Day", freedom from the regulations, 21 June. I have two examples in my constituency that could be read across to any other. The Boomtown Fair is a big festival in August. August, last time I checked, is after 21 June.

The Alresford Show is a massive agricultural show on the cusp of my constituency and the Meon Valley constituency in the middle of Hampshire in September. Cancelled. The people who run the Alresford Show said, "Whilst the Government remains positive about opening up the UK there is still significant uncertainty surrounding what our possible show parameters might be." Why would there be uncertainty for an event in September?

The organisers of these events, who cite the lack of a state-backed insurance scheme as an issue, have all said, "We hear that it requires you to meet stage four of the road map," but they do not seem to trust that stage four of the road map means freedom from the regulations. Why is that?

Oliver Dowden: I cannot speak for them, but I can understand the concerns and distrust that those organisations feel. Indeed, I saw it with the theatre sector when we had opening and closing happening in rapid



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succession with the Kent variant spiking at the end of last year and the beginning of this year. We hoped they would be able to open, but they had to close again. That caused tremendous disruption for them.

That is why this time around and in response to that we have taken a very cautious approach to the road map with the aim of making it irreversible as we get to each stage. Look at what is happening around the world now. Look at what is happening in India. I am not suggesting that this takes us off the road map, but of course we have to examine very carefully some of the outbreaks of the so-called Indian variant in parts of the UK.

There is still uncertainty and, hopefully, we will be able to give guidance to those sectors as to the exact requirements we will impose on them in stage four; for example, the Covid certification review and the decisions we might make about the extent to which high-risk events will require Covid certification.

It is prudent for events to follow where we are on the road map and see that we are making progress. The likelihood of getting full reopening at stage four from 21 June is much higher now than when we first proposed it, because we have continued to make progress all the way along the route. But this is not certain. We have seen throughout this—

Q45 Steve Brine: Nobody knows what a full reopening means. If there is to be a Covid status certification that goes along with it, people still have absolutely no idea what in practice that means.

Let's cut to the chase. With a quarter of UK festivals already cancelled this year and many more on the cusp, should events like the ones I have mentioned just face the reality that 2021 is pretty much the same as 2020 and should somehow cling on and apply to the Culture Recovery Fund with the hope that 2022 will bring brighter days?

Oliver Dowden: No. First, we are much further ahead right now, starting on 17 May, than we were on 17 May last year.

Secondly, we are completely on track at the moment with the road map. The vaccination is rolling out as planned. There are no current variants of concern sufficient to take us off that road map. I have a single-minded determination to get full reopening from 21 June. With every passing day, I get more confident that we can achieve that.

There will have to be—again, the final decision has not been made—some mitigations required in the highest-risk areas. I know that for those events to operate properly and profitably, for theatres to operate properly and profitably, for sports venues to operate properly and profitably, they have to open with full capacity and with as minimal restrictions as possible. We are making good progress on that, but I cannot give full assurance until we get to the stage of announcing stage four of the road map. They should look at a backdrop that is much more benign than it was this time last year.



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Q46 **Steve Brine:** I get it. When Ministers say that we need to be mindful and watch what is happening in India, of course, what we are seeing there is heart breaking. The key difference is that they do not have a vaccination programme at the stage that we do.

Do we believe in vaccines, or will we always live in fear of something that has not yet happened in case it does happen and, if it does happen, it hurts us and escapes our vaccine? Do we believe in our vaccine?

Oliver Dowden: Yes, we believe in our vaccine. The vaccine is working. There are only two reasons why we can have this sort of reopening on 17 May. First, we have the disease under control thanks to social distancing. Secondly, and crucially going forward, because of the efficacy of the vaccine, we have confidence that we will not see a spike in hospitalisations that could force us into another lockdown.

I am confident that, as I speak right now, we remain on course for 21 June as described, but we have always said that the fourth test for reopening is about variants of concern. We have to be alert to those variants of concern. There are not currently variants of concern that will preclude us from moving to stage four, but we have to be alert to that because there is always the risk of a variant of concern.

Again, with all of this, the reason we are taking this cautious approach is because I do not want to be in the position of saying on 21 June, "Fine, open up" and on 21 August, "Hang on, no, things have taken off again. Close back down." The idea is for this to be permanent and enduring.

Q47 **Steve Brine:** The issue I have with that is that, yes, on 21 June you will do an irreversible unlock, but the rest of the world will not be vaccinated by 21 June. At some point, you will have to press the button to say, yes, on 21 June stage four goes ahead, but by 21 August there may be a variant of concern from somewhere else. By that logic, we would never reach stage four, bearing in mind that your own chief scientific adviser says this is an endemic disease that will be with us forever.

Oliver Dowden: We have not said that the risk of a variant of concern would preclude us from reaching stage four. We have said that evidence of a variant of concern that is vaccine resistant would present a significant challenge.

It is the reverse of what you are saying. With each passing day, things get easier in two respects. First, more people get vaccinated. Every extra person who gets vaccinated reduces the community spread risk. Secondly, as we move through summer and people open their doors and windows, the risks associated with this respiratory disease reduce.

That is the backdrop against which we set out the road map. We did not set it out speculatively. We set it out in the expectation that we would meet each stage of it. We have met each stage of it, and I expect us to meet the final stage of that road map, which is stage four.

The outstanding issue at this stage, frankly, is the extent to which there will be Covid certification in very high-risk venues. We are currently



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working through exactly the threshold for that. I have always been clear on two principles: we will have it in as few venues and for as short a period of time as possible, consistent with public health.

Q48 Steve Brine: Finally, to take the pitching wedge out of the bag, at the moment the British Masters is taking place at the Belfry, which is set in 500 acres of beautiful Warwickshire countryside. There were 4,000 people in the O₂ the other night at the Brit Awards. There were people at the snooker. There will be people at the FA Cup final on the weekend. There were a lot of people at one of the FA Cup semi-finals a few weeks ago.

Why are there no spectators at an outdoor golf event set in 500 acres? There were thousands of people at the US Masters. Why are there no spectators at the British Masters, an outside event?

Oliver Dowden: There will be spectators from Monday 17 May, in accordance with the road map. Up to 4,000 people can mingle outside or, if it is seated with sufficient social distancing, up to the higher cap.

Again, we are taking this cautious approach. You mentioned the pilot events. They were not part of the road map. They were to test how we could reach stage four of the road map. They have been hugely successful in terms of our understanding where the risks lie, whether there are logistical challenges around testing, where ventilation risks lie, where pinch points lie and the relative risks of indoor versus outdoor, free-flowing versus not free-flowing, masks versus no masks. All that evidence will inform the extent to which mitigations are imposed at stage four, the final stage of reopening.

Q49 Kevin Brennan: Welcome, Secretary of State. An online summit on 20 May has been organised by the Carry on Touring campaign. Its promotional material says, "The UK Government failed to secure an exemption to permit freedom of movement for those on tour when we left the EU. This is catastrophic for the UK and the EU touring artists and professionals, who contribute £11 billion to the UK economy. Help us carry on touring. Support real people, real lives, real jobs."

What is your message as Culture Secretary to the hardworking British businesses and freelancers, some of whom still have had no support from the Government, who have organised the summit?

Oliver Dowden: First, I know how difficult it has been for you. I know how worried you are about this. The Government are working very hard in the way I described to the Chair to address those concerns. It is absolutely at the top of my in-tray. I have meetings every single week about our progress and how we are addressing it. We have made some important steps forward.

Q50 Kevin Brennan: It is interesting that you say it is at the top of your in-tray, because in February your official, Alastair Jones, confirmed to Damian Green on this Committee that the Government were yet to start any bilateral negotiations with single countries on work permits. When pressed, he said that talks could start within a month. The Prime Minister



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said that the Government are working flat out, another version of “top of the in-tray,”, I suppose. Yet you told the Chair at the beginning of this meeting that you do not even have sign-off yet from the relevant Government committee to start negotiations on this issue. Is that correct?

Oliver Dowden: We have taken a staged approach to this. The first stage through the touring group was to remove the barriers we could remove. That is why, for example, we have clarified that portable musical instruments do not require carnets and that touring artists and support staff in the UK will not be double charged for social security contributions.

The second stage was to engage bilaterally with all member states, which we have done, about the extent to which their rules permit touring. We have had a very positive outcome from that in two respects. First, we have found that, in 17 out of 27 member states, some paid touring activities are possible without needing visas or work permits. That will enable us to communicate that to the sectors affected. Also, in doing so, we have tested the appetite for further engagement with a view to easing restrictions. I have had very positive conversations with my opposite number in Portugal, and further forthcoming—

Q51 **Kevin Brennan:** Without repeating ourselves, Secretary of State, I agree. You have put those points on the record already. You have said there is some touring possible in 17 states, although it would be interesting to know the detail of that.

Can you confirm that what I said is correct and you do not yet have sign-off from the relevant Government committee to start any negotiations? You are having various discussions and you are scoping, but you have not had clearance to start any negotiations on this matter. Is that correct? If so, when do you anticipate the XO committee will give permission for negotiations to start?

Oliver Dowden: Forgive me if I repeated myself. This is not meant in any way disrespectfully. I thought you asked a relatively similar question, so I was seeking to address that point.

It is perfectly normal to go through a process like this to solve a problem such as touring. It is perfectly normal for international engagement to work like this. First, we understand the scope of the problem and we understand the appetite for engagement. In the process of doing that, we have made considerable progress.

The final stage is to have formal negotiations. There is a slight semantic issue about formal negotiations. When you discuss issues with your fellow Ministers, you are understanding the parameters of the agreement you could reach with them. We are at that stage.

Q52 **Kevin Brennan:** Are you telling us that that is just a formality and it will be agreed at some point for formal negotiations to begin? There is no doubt about that and it is just a question of when that will be cleared by XO?



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Oliver Dowden: I cannot pre-empt that decision. I should clarify that XO is the relevant Cabinet committee tasked with oversight of our pre- and post-European negotiations. I will not pre-empt the outcome of that. It will be subject to a decision by my colleagues. What I can tell you from all the conversations I have had with my Cabinet colleagues, from the Prime Minister down—and you have heard from the Prime Minister down—is that we are committed to seeking to resolve this.

I can also tell you that, from all the conversations we have had with other member states, there is a genuine understanding that it is in our mutual interest to have greater flexibility and to allow that touring to happen. It is a win-win situation. They have entered with a generous spirit into setting out their rules to facilitate that touring.

You asked for a sense of what that meant. In Germany, it means there is no visa or permit requirement for up to 90 days in 12 months for tours. Similarly in France, there is no visa or work permit requirement for up to 90 days in 12 months. In the Netherlands, there is no visa or work permit for a maximum duration of six consecutive weeks within a period of 13 weeks. I could go on. I am happy to write to the Committee and more formally set that out.

Q53 **Kevin Brennan:** It would be better, yes, to set that out in writing, although it is fair to say that there were warnings about this for a long time before the negotiations on Brexit were completed.

Have you seen the report in today's *Independent* about the Incorporated Society of Musicians, which commissioned a QC to look at the Government's arguments about this? It dismissed five claims Government Ministers had been making about this issue as untrue. What is your reaction to that report?

Oliver Dowden: I have not read that specific report in *The Independent*, but I am happy to respond to any of the allegations if you wish to put them to me.

Q54 **Kevin Brennan:** The five points dismissed in the report commissioned by the ISM were that an agreement would require the Brexit trade deal to be renegotiated, when a short supplementing agreement could be added; that a visa waiver agreement would be incompatible with taking back control of our borders, when it would exempt a limited number of professionals only; that it would not bind EU member states to waive visas, when it would be legally binding once ratified, requiring approval by the EU Council; that it would cover only ad hoc performances, when that is the legal term used by the EU to refer to artists carrying out full tours; and that it would not cover work permits, which while correct obscures that member states would then agree work permit rules off the back of any such agreement. Those five points are made.

What is your initial response? I understand that you have not seen the report.

Oliver Dowden: Clearly, I am happy to write to the Committee in detail in respect of each of those points, but I have a few observations.



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First of all, the Government have never said that we require to fully reopen the treaty, but we have said that we have just concluded a substantial bilateral treaty with the EU and it is not likely that, having just concluded it, we could start a new treaty. A supplementary treaty is still a new treaty.

Secondly, on binding requirements, it was certainly the case that one of the challenges in the negotiations with the EU was that, in any agreement, they wanted to make sure that it applied to the whole bloc going into the future. For example, any agreement would bind us for any member state that joined the European Union in future, whatever the migration controls were in that country. It was also the case that they were looking to have something that would cover a far wider range of sectors than just touring, so the short-term visa waiver would apply, for example, to other areas of the economy, whether that is construction or elsewhere. Those are challenges that remain that we would still have to overcome.

Q55 Kevin Brennan: If you would like to write to the Committee with a detailed response to those points, that would be welcome.

The Chair had to show the instruments of torture to Lord Frost in order to get him reluctantly to agree, finally, to appear before us to discuss this issue in June, a long time after we had first gently invited him. Is he likely to tell us anything useful on this, or are we wasting our time?

Oliver Dowden: I think you know what I am going to say in response to that. Yes, I have every confidence that Lord Frost will tell you something useful in response. I have had very constructive discussions with Lord Frost. Contrary to some caricatures, Lord Frost does take a personal interest in this. He is just as keen as I am to find ways of ensuring that we can make further progress on this.

He, like me, has a degree of realism about the fact that we have just concluded a treaty with the EU as a whole. He is not just responsible for issues pertaining to DCMS; he is responsible for a wide range of issues arising out of the treaty, whether that is the Northern Ireland protocol, whether that is shellfish, whether that is the rights of UK nationals residing in third countries. He has to take the totality of those issues and make sure we have an ordered approach to it.

Kevin Brennan: If he is so keen on it, I do not quite understand why he is so reluctant to talk to us, but I am glad we finally—

Oliver Dowden: I believe he is coming to see you now, so I do not want to dwell too much on the Chairman's instruments of torture.

Q56 Kevin Brennan: With great enthusiasm now, I expect.

On another matter, back on 14 October I asked you about some research on musicians' and creators' earnings, which had been commissioned by the Government, supported by the IPO. The question I asked you was whether you would welcome the participation. I said, "Would you be happy to say publicly here at the Committee today that everybody should



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fully co-operate with that report that is being prepared with the support of the Intellectual Property Office, including the record companies, and be fully transparent in supplying information so that it can produce a worthwhile report?" You answered, "Yes, of course, people should fully co-operate with that report." That was a very welcome answer. Is that still your view?

Oliver Dowden: I would expect, yes, people to fully co-operate with any report.

Q57 **Kevin Brennan:** Perhaps I can read to you from a letter that your colleague Amanda Solloway wrote to us following her appearance at our Committee when I asked the chief executive of the IPO about this issue. She wrote to the Committee subsequently, and that forms supplementary evidence to our inquiry. I wanted to see if the record labels and others were co-operating as you indicated that they should.

In her letter it says, "The research team approached with a view to gathering more data: Most of the main streaming platforms, including Spotify, Apple, YouTube, Deezer, and SoundCloud. Of these companies, only YouTube Music...and SoundCloud agreed to be interviewed. None provided relevant data that was not already in the public domain." It went on to say in the letter, "Unfortunately, all the major record companies declined the researchers' requests for further discussions." What are the strongest words that you might be able to muster for the Committee in response to that lack of co-operation by the record companies with this Government-sponsored research, despite your specific statement to the Committee previously, as Secretary of State, that they should do so?

Oliver Dowden: I have not seen the correspondence to which you are referring, but I am very happy to pick up with the record companies concerned and gain a greater understanding of their position. I stand by what I said in my previous answer.

Q58 **Kevin Brennan:** I would be grateful if you would do that, because what we are seeking here is transparency. The complaint we have received a lot as a Committee is that there is superficial co-operation, but when it comes down to it in practice there is a great deal of reluctance to reveal, even in confidence, the true picture behind the scenes for creators' rewards and so on. It would be very welcome, Secretary of State, if you could do that.

On reopening, what are you doing to make sure that people who are protected under the Equality Act and so on are not discriminated against when reopening takes place? Is this not a particular problem where venues also receive public subsidy, but even broader than that in equality terms? For example, pregnant women were excluded from taking part in the pilots. What are you doing to make sure that people are not discriminated against when reopening occurs?

Oliver Dowden: Of course we are very mindful of that. As Ministers, in all the advice that we receive, we make sure that we receive advice about the equality impacts, and certainly it has featured, rightly and



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prominently, in discussions around Covid certification. Pilots were scientific studies, they were not a reopening. I would say they were sui generis. The decisions that we took had to be cleared with Public Health England. I received advice, as did the Secretary of State for Health, from senior public health officials and we abided by that advice. It required joint sign-off from us. As Ministers we had to sign off any exclusion from the regulations. We did so on the basis of public health advice. Clearly there are higher risks associated with, for example, pregnant women. I would not expect that to pertain when we have the actual reopening. This did not apply to the population in general; it applied in those specific pilots.

Q59 Kevin Brennan: Again on reopening, you talked earlier about theatres and sports venues and so on when you were talking to my colleague Steve Brine. You did not mention anything about live music venues, grassroots music venues like the 100 Club in Oxford Street and venues we have in our constituencies around the country. Do you think that, when reopening occurs, those kinds of venues will be able to reopen and have events?

Oliver Dowden: Yes, I very much hope that will happen and we are working to ensure it happens. If we proceed with the road map as planned, I would expect those to reopen, albeit depending on the exact circumstances. There may be necessary mitigations that have to be put in place, but I see those as essential to our cultural life as the Covent Garden Opera or the Birmingham Ballet. That is why, for example, through the Culture Recovery Fund, for the first time ever, those sorts of venues have received public funding to sustain them through this crisis and I want to ensure that they reopen fully at stage four on 21 June.

Q60 Kevin Brennan: I should declare an interest. I am hoping to do a gig on 15 July. What are the chances of it going ahead, do you think?

Oliver Dowden: I am very hopeful. We are currently in line with the road map, so provided we do not have anything that deviates from one of the four tests and you comply with the rules that we set out on 21 June, you may well be able to enjoy that.

Q61 Kevin Brennan: Finally, everyone agrees on the urgency of modernising the legislation that underpins the public service broadcasting—public service media, as some people are calling it now—environment in the UK. You will have read our Select Committee report on the future of public service broadcasting. Will there be a White Paper on that this year, and will there be a Bill next year, at the latest, to update the legislation?

Oliver Dowden: Yes, I would expect further steps in relation to public service broadcasting. We set up the public service broadcasting review, and I can tell you that I will be asking them to look into the future of Channel 4 next week. I think there is a case for considering the best future operating model for Channel 4. That will be one of the things that we consider in legislation next session, and we would also look, for example, at video on demand and whether there are further reforms that need to be taking place there. There is a wide range of areas that are



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open to reform. I said at the beginning of the process that we would look at all areas, and it is appropriate that as part of that we look at Channel 4 as well.

Q62 **Chair:** Could you give us more details, please, on exactly how you are going to look at Channel 4?

Oliver Dowden: The first stage is for the Committee to look at the best model for Channel 4. There are a number of questions that we have to ask in relation to Channel 4. First of all, what is the best way that it can be sustained going into the future, and does that necessarily mean that it continues to be publicly owned or do we look to transfer it to—

Q63 **Chair:** So you are looking at the privatisation of Channel 4?

Oliver Dowden: That is one of the options that is under consideration, yes.

Q64 **Chair:** Obviously this has been discussed quite a lot by Government in recent years. What do you think is the rationale behind privatising Channel 4?

Oliver Dowden: I want to be clear that I am not announcing to the Committee now that that is going to happen. What I am saying is that, as part of the review of the future of public service broadcasting, it is right that we look at that. I have asked the Committee that we have set up to look at it. It will be one of the things that guides Ministers' consideration.

You have to look, for example, at the rapidly changing broadcasting landscape. When you and I were kids, you would go home and look at whatever was on the box. Depending on quite how old you are, there were either one, two, three or four channels. I think most of us can remember a time before there were five channels, let alone the other plethora. That then changed to services on demand, which is what we have now. That is increasingly user generated. Increasingly it is against a backdrop of rapid consolidation of big players. Even someone like the BBC looks relatively small against that backdrop.

It is right that we consider how we build on the huge contribution that something like Channel 4 has made, for example, to the creative industries and what is the appropriate model for it going forward.

Q65 **Chair:** Is it fair to say, therefore, that Channel 4 could be privatised within this Parliament?

Oliver Dowden: We have not ruled that out, no.

Q66 **Chair:** You mentioned the BBC. Obviously there is negotiation going on in terms of the next licence fee settlement. Are we looking at flat cash?

Oliver Dowden: The stage we are at is that I issued a call for evidence, and I received that. I have analysed it and met the BBC to ask further questions about it. Indeed, I met the chair and the director-general last week. We are at the stage of understanding precisely what their modelling implies, what the challenges are around that and trying to



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home in on what the appropriate settlement will be for them for the period 2022 to 2027.

In doing that we have to weigh up a number of considerations. We have to weigh up the needs of the BBC as a broadcaster. That is against a backdrop where there is lots of inflationary pressure on broadcasting. Equally it is against a backdrop of very tight public spending and tight household budgets. As you would expect, we need to make an appropriate decision on that.

Q67 **Chair:** Would you draw a parallel with the position, for example, when the coalition Government came to power?

Oliver Dowden: I need to be careful, because we need to go through a proper process and I do not think it is helpful to speculate further.

Chair: More's the pity.

Q68 **Alex Davies-Jones:** To follow up on Channel 4, it was only last month that the Government vetoed the reappointment of two women to Channel 4's board of directors, including one of only two women of colour. This is a clear sign that Ministers are continuing to assert their authority over senior media appointments and is contrary to the advice of both Channel 4 and Ofcom. Could you provide an update on how this decision was made and who by?

Oliver Dowden: First of all, I would reject the implication of the question, which is that there should be any expectation of reappointment or a right to reappointment. The expectation is that people should not be reappointed. Indeed, most candidates—

Alex Davies-Jones: Sorry, if I could just interrupt you there. They were both recommended to be reappointed for another three-year term.

Oliver Dowden: It is Ministers who make those decisions as to whether to reappoint, and we have made a very high bar for reappointment. On the issue about appointments for minorities, 28% of all new appointments to DCMS are from an ethnic minority background. That is double the Cabinet Office target and a rise of 16% compared with the last year. We are homing in and very close to getting full parity in relation to women appointments as well, quite rightly, so when you look at it in the round it is not having an impact in terms of those balances.

Q69 **Alex Davies-Jones:** Representation does matter, Secretary of State. Could you outline for the Committee exactly what the new criteria are for recommending members to the board and for new appointments, given that these women, Uzma Hasan and Fru Hazlitt, were both recommended to serve another three-year term on the board?

Oliver Dowden: People should not expect to be reappointed. We take each one as a fresh approach. In fact, they should assume that they are not going to be reappointed, and that was the case in this instance.

Q70 **John Nicolson:** Can I stick with Channel 4 for a second? You announced just now that Channel 4 could be privatised. Your predecessor as



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Secretary of State, Karen Bradley, decided against that. I think her assessment was that the costs would outweigh the benefits. Specifically a programme like *Unreported World*, for instance, would be unlikely to be made by a privatised Channel 4. It just does not get the viewing figures to attract the advertising. What has changed in your assessment?

Oliver Dowden: Those are precisely the sorts of things that we will need to weigh up in determining whether it is the appropriate way ahead. We did say at the very beginning when we set up this public service broadcasting panel that nothing would be off the table, so I would not expect the Committee to be too surprised by the fact that we are looking at the future of Channel 4. The scale and pace of the evolution of the broadcasting market continues apace and it is important, when we look across the broadcasting landscape, that we consider the appropriate ownership model for Channel 4.

Q71 **John Nicolson:** I well know that broadcasting is changing, but I do not see specifically what it is about broadcasting that has changed so dramatically over the last five years that your predecessor could rule it out five years ago and you now think it is appropriate to reconsider it. Could you give one specific example of how the landscape has changed that would now make privatising Channel 4 attractive in a way that it was not for Karen Bradley?

Oliver Dowden: I will answer your point directly, but we did say, as part of this review, that we would look at all options. I would hope people would include in that looking at the future ownership of Channel 4, and that deserves proper consideration.

You asked what has changed in the past five years. The extent to which viewing habits are now dominated by video on demand, particularly post-pandemic. Netflix was not really a major player in the UK market five years ago. Now it is a hugely important player, for example, in commissioning and so on.

If you look at the kinds of players that are rapidly entering the market, Disney is making huge inroads into the market. If you look at the consumption patterns of Channel 4 itself, the extent to which its consumption is on digital media rather than normal linear, I think certainly by the end of this decade, if not sooner, the amount of Channel 4 that is consumed on demand via the digital platform will exceed what is consumed via the linear platform. It is perfectly responsible for the Government to look at the best way of sustaining the strengths of an organisation like Channel 4 and see the best way for it to be modelled, for example its ability to access capital markets and so on.

Q72 **John Nicolson:** Doubtless we will return to this. Can I go back to the issue of artists and musicians and their difficulties travelling, raised by both Mr Brennan and the Chair? As you know, artists and musicians have been crippled by the new post-Brexit visas. We should perhaps put some figures on this. As a Member of Parliament, I have been deluged with communications from folk in the industry who are so worried about their



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future post-Covid and are now having to deal with Brexit. I am told it costs €600 per person, per night to perform in Spain. It costs €500 I am told—that was the latest figure—in Italy. I had a meeting recently with the National Theatre and others, and the National Theatre has cancelled all its plans to tour, specifically because of this visa issue. Did you anticipate this fallout from Brexit?

Oliver Dowden: There are a number of issues that you have raised. First, it is very difficult to analyse the full impact of the change because, as has been said already, touring is not possible right now, so it is very hard to have a before and after scenario. It will take a while for that picture to emerge fully.

John Nicolson: But they are trying to plan.

Oliver Dowden: Secondly, there is a moving picture in terms of the requirements in each country. You highlighted some of the most challenging countries, and that is why they are priorities. It is the case, even with Italy, there is still a lack of clarity around this. There is no visa or permit requirement for up to 90 days, but we are working with them to ensure that is properly understood and communicated.

In terms of anticipating this, yes, it was always the case that when people in the United Kingdom voted to leave the European Union, it would entail leaving the single market. If there was any doubt about that, it was the manifesto proposition of the Conservative party on which it was elected in both 2017 and 2019. That would always entail a change in the relationship we have, since we are no longer members of the single market. The single market, as you know, includes free movement.

Q73 **John Nicolson:** I remember Michael Gove saying the opposite. He said that it would be frictionless. A lot of musicians and artists listening to this will think it is a lot of friction that folk were never warned about.

You said to Mr Brennan that the remaining negotiations, “Will take as long as it takes,” and that it is all perfectly normal for this to happen when negotiating with other countries. Again, a lot of people will look at this and think it is not normal at all. This is completely new, and they will wonder where the urgency is. One of our greatest exports is our culture, and it is people’s livelihoods that are at risk.

Oliver Dowden: I agree with you that one of our greatest exports is our culture. From all the conversations that I have had, there is a mutual understanding that the United Kingdom and each individual member state can be enriched by a greater ease of cultural exchange.

The reason why I said what I said about it taking as long as it takes is that it cannot be determined unilaterally by the United Kingdom. Negotiation, by definition, involves both parties. We cannot require another country to conclude an agreement faster than it chooses to do so. What I can say, though, is that we have moved at pace and with urgency and have provided much greater clarity about the current position.



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On the point about people never being warned, nobody who voted Conservative in the 2019 election could have been in any doubt that the deal we were putting before the British people would mean that we would leave the single market. There was complete clarity on that point.

Q74 **John Nicolson:** When do you anticipate that artists and musicians will have the ease of access to the European Union that they enjoyed before Brexit?

Oliver Dowden: It depends on the individual member state. If you take a country like Germany, France, the Netherlands, Denmark, Luxembourg, Hungary or Finland—

John Nicolson: And Lithuania. You have mentioned those countries, but I want to know about the whole of the EU.

Oliver Dowden: But, Mr Nicolson, the reason why I make that point is that in relation to all of those I would suspect that most touring will be able to proceed as happened previously. Those are significant markets, particularly somewhere like France or Germany.

In relation to the other countries, there will be more friction than there was previously but we are working with those countries first to signpost a way of minimising that friction and then to see what further steps we can take to ease it. I must say that, across all our engagement, there is a real appetite for a constructive relationship. It is not the case that there is some sort of confrontation; this is just about how we can make it work well.

Q75 **John Nicolson:** I am glad of that, but I note that you are unable to tell us when people can plan for the same level of free access post-Brexit as they had pre-Brexit. You will understand, of course, why that is not reassuring for the National Theatre and others who are looking ahead.

Oliver Dowden: The first stumbling block that has to be overcome is that they cannot tour at all because of public health risks.

John Nicolson: We know that. It is about planning.

Oliver Dowden: At the moment this is an abstract question. Once the public health situation improves, that is the first step. The second step is understanding the existing rules that will allow people—I will not repeat the list again. You completed it for me, so thank you for listening. Thirdly, we will then work through the remainder of them.

Q76 **John Nicolson:** I am listening keenly. I do not think it is abstract at all, because it is my understanding that these tours are planned at least a year in advance, so of course they are planning. Unlike Brexit, they do not wait until it actually happens in order to plan.

Let's move on.

Oliver Dowden: I would like to pick up on that point. They are not planning in a vacuum. Through the working group, we are sharing this information with them so that they can make appropriate plans. The



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point I make about abstraction is that they cannot make this a reality until the Covid restrictions have been lifted.

Q77 **John Nicolson:** The chair of Ofcom has to be regarded as a fit and proper person, does she not, and has to command confidence? Can I ask you about somebody who has presided over front pages describing judges as enemies of the people, shouting “Crush the saboteurs” at judges, and describing your two Conservative colleagues, Ken Clarke and Nicky Morgan, as traitors? Would such a person be fit and proper to head up Ofcom?

Oliver Dowden: I hope you will appreciate that the recruitment process for Ofcom is ongoing, so it would not be appropriate for me as Secretary of State to comment on the merits or otherwise of any applicants or potential applicants.

Q78 **John Nicolson:** When will the announcement be made of the new Ofcom chair?

Oliver Dowden: Once we have completed the process.

Q79 **John Nicolson:** When will that be?

Oliver Dowden: As rapidly as we can.

Q80 **John Nicolson:** Will it be in the next week or the next month?

Oliver Dowden: I would certainly hope that we will be able to provide an update within the next few weeks.

Q81 **John Nicolson:** So we will know within the next month?

Oliver Dowden: I am not going to get drawn any further.

Q82 **John Nicolson:** You published the Online Safety Bill, as everybody still calls it, yesterday. Obviously Ofcom is going to play a big role in the digital sector. Would it be fair to say that the person who is chair of Ofcom should be a computer user?

Oliver Dowden: You are trying to draw me into speculation on the candidate for Ofcom, which I cannot do because the process is ongoing.

John Nicolson: Just as a matter of principle.

Oliver Dowden: What I can say to you is that the criteria have been very clearly set out for what we expect of the person who is the chair of Ofcom. Of course that includes an understanding of the markets that they are responsible for regulating or will be in future.

Q83 **John Nicolson:** Clearly somebody, even if they hold 19th-century views, should be able to use 21st-century technology. I raise it because Michael White revealed that Paul Dacre, who is one of the two finalists for the post, apparently does not use a computer, which seems rather unworldly.

Oliver Dowden: All I can say is that the person who is chair of Ofcom will have to meet the criteria to be chair of Ofcom, and those are set out



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in the public domain. Of course they relate to their ability to regulate the appropriate markets.

Q84 John Nicolson: Maybe he will get somebody to switch it on for him.

You have been talking a great deal about freedom of speech and expression and, as parliamentarians, I think we all agree on how important that is. Can you turn your attention if you would, please, to the Museums Association, which has voiced concerns about Government interference, UK Government interference, in how museums present Britain's imperial past? It said this, "It is not for Ministers to dictate what constitutes a legitimate subject for investigation or analysis." Would you agree with that?

Oliver Dowden: I agree strongly with the need for the independence of our cultural institutions, but that independence cuts both ways. They should not be subject to the whims of Ministers, nor should they be subject to aggressive campaigning by very loud activist groups who purport to represent a wider community, which they do not do in practice.

Q85 John Nicolson: That is a rather pejorative way of expressing it. We had the director of the Museum of the Home, which used to be called the Geffrye Museum, before us a couple of sessions ago. It carried out a public consultation to ask whether Mr Geffrye, who was a slave owner, should continue to have his statue at the front of the museum. They are 17th-century buildings, but the statue was put up in the early years of the 20th century, so it was not of historical significance. The vast majority of people who were consulted, visitors to the museum, said they wished the statue to be taken down, to be put inside and to be contextualised, describing his role as a slaver. She revealed to us that you had written to her, and she felt that she was threatened with having her funding withdrawn. That seems to me to be an intrusion into the legitimate independent work of a museum.

Oliver Dowden: First, and I hope it goes without saying, but there was a slight implication to your questions that I need to correct. I bow to no one in my abhorrence at the evils of slavery. I am clear, though, that public institutions have a duty—if you think about the people who pay for those institutions, whether it is a grandmother in Oldham or whether it is somebody in their 30s in Middlesbrough. Why are we funding those institutions? We are funding them, and the people who run them, as temporary custodians in order to protect that heritage.

It is Government policy that institutions should retain heritage in place. They should not seek to destroy it, but they should seek to explain. You talk about the instance of the Museum of the Home. I met not just the director but also the chair, Samir Shah, and Samir Shah raised concerns with me about the extent to which there had been a politicised campaign and that they were subject to undue pressure in relation to this. He wanted clarification of the Government's position, and I believe he welcomed the fact that the Government clarified that we have a policy of retaining our heritage but using it to explain it.



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Strong nations do not airbrush their history, hide it away, remove things; they confront their history and then they use heritage to explain that history. I commend many organisations that use their heritage to explain the story of our nation. It is a complex story. You know as well as I do the role that Scottish people played in the enlightenment, but also the role that they played in slavery, the role that they played in empire but also the role that they played in shaping the norms of the modern world that still prevail today. It is a fascinating, complex story, and I think we should be using our heritage to better explain it.

Q86 **John Nicolson:** You are absolutely right, it is. It is worth noting that the Culture Secretary in Scotland, your opposite number, does not interfere in decisions like this and believes they are entirely the prerogative of museums to determine, and would never dream of writing and suggesting that funding could be withdrawn if a museum director chooses to take a decision on artistic or historical merit or analysis. You are doing something very different from what the Scottish Culture Secretary would do.

Oliver Dowden: I believe that the chairman of that institution welcomed the constructive discussions that I had with him and the director.

Q87 **John Nicolson:** The director said she felt extremely compromised by what you had done. I think it sounds rather threatening to do that. There was no suggestion that the sculpture was going to be destroyed. You mentioned destruction. It was to be taken inside so that people could look at it more closely and read a bit more about Mr Geffrye, whose legacy was both to leave money for a fascinating building to provide sanctuary for those who had fallen on hard times, but at the same time he operated as a slave owner. Speaking personally, I think that should be up to the museum, but clearly you disagree.

Oliver Dowden: I do disagree, and I make no apology for standing up for the interests of taxpayers up and down the country and for defending a policy that has been agreed with heritage bodies, such as Historic England, who believe the correct approach is to retain heritage and use it as a tool for explaining. I believe that strong and confident nations take that approach. I worry that institutions are subject to campaigns that purport to reflect a wider community but do not actually do so.

Take, for example, a recent piece of research that showed that 84% of black Britons support the policy of retaining heritage. I believe I am speaking for the interests of the wider public. I do not personally pay for these institutions, they are paid for by taxpayers up and down the country, and I am determined that their voices are heard in this debate.

John Nicolson: Some might call that cancel culture. I am very glad that the Welsh and Scottish Governments give their museum directors more artistic freedom.

Q88 **Chair:** As a follow-up, do you think any local authority or museum should ever take down, entirely remove, a piece of contested history?



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Oliver Dowden: I think there is an exceptionally high bar for doing that because the value of heritage is in explaining. I don't, by the way, diminish the controversy of this in the sense that I understand completely people's abhorrence and repulsion at the sins of slavery. I was reading a review of a book on this recently in the Scottish context. The stories are just grotesque, and it is undoubtedly the case that wealth was built on the back of the slave trade, but it is also undoubtedly the case that those same slave owners determined enlightenment values, for example. Those extraordinary paradoxes are better explained and explored through contextualising history. I do not want us to go back to a sort of Edwardian view of the world, but equally I do not want the temporary views of a small minority to lead to a wholesale changing of our historic environment.

You just have to look at how this has happened in the past. The greatest destruction to our historic environment in this country did not take place thanks to the Luftwaffe bombers in the second world war; it took place as a result of the misguided decisions of socialist planners after the second world war who unleashed travesties on the historic environment of beautiful historic English towns and cities up and down the country.

Q89 **Giles Watling:** Thank you for joining us, Secretary of State, it is good to see you. Before I get into the main source of what I am going to talk about, I want to talk about your Department. Correct me if I am wrong—and I am sure you will straightaway—but I understand there are 5.2 million people employed in the culture, media and sport sector. I understand that represents 12% of UK jobs, and you have a massive, massive brief. You cover so much, yet you are one of the smaller Departments. Touching on what Mr Nicolson was talking about, about negotiations with individual countries, all these things that Karen Bradley, your predecessor, did not have to touch upon. Also you have been distributing grants, which is something you have traditionally done, and now you are managing loans.

Fundamentally, DCMS could well be, as the fastest growing sector, leading us out of this terrible pandemic, and it could be one of our most powerful economic drivers. I have asked you this before in another place, but do you think your Department is fit for purpose? If you had a magic wand, what would you do to improve and make it better?

Oliver Dowden: I believe that the Department is fit for purpose, but I don't underestimate the scale of the expansion that the Department has seen. It is not just the things that you referred to. For example, we have taken responsibility for the digital economy, we have taken responsibility for civil society. Taking responsibility for the digital economy, we are responsible for one of the fastest growing parts of the economy. That has undoubtedly placed strains on staffing and finances within the Department.

What we have done in the short run through successive spending reviews is have temporary funding to meet those needs. I am confident that we have been able to meet all those needs, and I pay tribute to the very



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hardworking officials in the Department who have worked to serve us through these crises. As we approach the next spending review, I will be looking to rationalise that to make sure we permanently catch up on staffing to meet the needs of the Department.

Q90 Giles Watling: Are you satisfied that that growth is in line with the massive job you have to undertake? As Mr Nicolson said, one of our greatest exports is our cultural export. We are the home of the English language and we export it around the world.

Oliver Dowden: Yes, I am confident, but, as I say, it would be good as we move through the next spending review process to move from some of the ad hoc additional funding on a project basis to a long-term sustainable basis.

It is also worth saying that we do not act in isolation on these things. For example, in relation to diplomatic engagement, we have the full co-operation of the Foreign Office, the diplomatic network and the heads of mission. In our responsibility for the distribution of grants, we have the full co-operation and support of arm's-length bodies, people like Sport England in relation to sports grants, and Arts Council England in relation to arts grants. I pay tribute to the work they have done during this crisis to enable those funds to be distributed.

We have developed very strong and close working relationships with them. For example, it would have been unimaginable to me, at the beginning of this Covid crisis, that within the space of one financial year we could bid for, design and distribute a £1.5 billion Culture Recovery Fund. This crisis, as in so many other aspects of our life, has forced us to work at pace and do things we did not think were possible previously.

Q91 Giles Watling: I was grateful for that £1.57 billion Culture Recovery Fund.

Oliver Dowden: Now £2 billion.

Giles Watling: Now £2 billion and climbing, yes.

I would like to move on to something we were once part of, the Creative Europe programme, which was there to support the cultural, creative, audiovisual sector. Over a period of four or five years up to 2019 we received €100 million, which went directly to UK organisations in that sector. Now we have come out of it. Does DCMS still intend to introduce a domestic alternative, a UK alternative, to the Creative Europe culture subprogramme?

Oliver Dowden: We have introduced elements of it. Creative Europe MEDIA we have, to a certain extent, replaced with the UK Global Screen Fund on a pilot basis to move from having European funding to promote the film industry within Europe. We are using it to promote the whole of the UK's film industry, and there are huge strengths of the film industry in Scotland, Northern Ireland and Wales, and making sure we promote that not just to European markets but to fast-growing east Asian markets.



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I hope you will appreciate that during this crisis things have not operated as normal. The principal focus this year has been about saving artistic life in this country. Were it not for the intervention of the Culture Recovery Fund, I am absolutely sure that hundreds of galleries, theatres and other cultural organisations up and down the country would not be here today, so that has been the focus.

As we move out of that and move into the spending review for the next period—where I hope, for all the reasons I set out previously, we will move to more normal times—we will engage with the Treasury on how we have more permanent alternatives to Creative Europe.

Q92 Giles Watling: But it must be borne in mind that, in the creative sector particularly, there are those who have fallen through the cracks, the self-employed, and we must look to support them. What are you going to do for them?

Oliver Dowden: The single biggest thing I can do for them is to get the sectors back up and running. For example, with the film industry, thanks to the interventions we made to ensure that the film industry could return—we have the proper protocols in place, we helped with the insurance—the film industry, in the last quarter, had its second strongest quarter ever. I have been to various studios—I was at Leavesden and Pinewood a few weeks earlier—and they are absolutely bursting at the seams such is demand. That is creating jobs for tens of thousands of people through the supply chains, including freelancers. I want to be able to achieve the same for the theatre and the live music performing industries. That is the best single way we can address this.

Q93 Giles Watling: We must not forget that theatre is one of our greatest soft-power exports.

I would like to move on. Do you think you are hoist by your own petard because November's spending review bid for the creative UK scheme was unsuccessful because of the Culture Recovery Fund, which was so successful?

Oliver Dowden: The correct focus for us over this financial year has remained saving our cultural institutions. There was an additional £400 million announced for this financial year in the Budget. That is helping to save them and helping them to reopen. This is not a normal year, for all the reasons we have described—the lack of touring, the fact that they have been closed for a large chunk of this financial year already.

We have made some progress in the film industry, which is much more back to normal in the way that I described. That is why we decided to have the pilot for the Creative Europe replacement for that sector.

Q94 Giles Watling: You were not giving with one hand and taking with another?

Oliver Dowden: Far from it. The £2 billion Culture Recovery Fund—I will not test my maths live, but it was many multiples of the Creative Europe fund.



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Chair: At the outset of the session I normally ask members to declare interests. Unfortunately, in the excitement of having your actual physical presence in the room, Secretary of State, I failed to do so. I am briefly going to go to Kevin Brennan before I go to Steve Brine.

Kevin Brennan: I would like to declare my membership of the Musicians' Union, who I received election support from, as I asked questions in that area, and also my membership of the Ivors Academy and PRS for Music.

Chair: Thank you. Giles Watling as well, because you asked questions on theatre. You are head of an APPG, I believe.

Giles Watling: Yes, I am the chair of the APPG on Theatre.

Chair: I know more about all your interests than I do my own.

Q95 **Steve Brine:** Could I take you back to the episode around what is known as the European Super League, Secretary of State? It is a curious situation that the Super League appeared to be caught out and surprised by its own announcement. It is a curious situation that the Government responded as robustly and as quickly as they did, and many members of the public would support you in that. You said that you were ready to make use of, "Mechanisms that allow football to take place. We will put everything on the table to prevent this from happening. We will review everything that the Government do to support these clubs to play. We will do whatever it takes to protect our national game."

Clearly the European Super League fell apart before it even started. What did you mean? What would you have done if it had persisted? It may come back, and we will come on to that. What would you have done? What does "whatever it takes" mean?

Oliver Dowden: I am tempted to say that whatever it takes means whatever it takes.

Q96 **Steve Brine:** In Parliament we deal with legal and legislative measures. What would you have done?

Oliver Dowden: First, and this is the important context, I was determined that we stood behind the fans and that we were clear that we were serious about this. I thought it was far better to move hard and fast to stop this in support of them.

The sorts of things that were under contemplation were, for example, competition law to make sure that competition law could not be exploited by the European Super League to preclude action from being taken by the Premier League and the FA. I was also looking at the things the Government do to facilitate those matches taking place, bluntly to make it very difficult for them to take place. This was a hostile act and we were willing to resist it. We spent 24 or 48 hours, however long it was, working up those options in detail, and it may be that some of them in relation to competition law, for example, we continue to keep under review should this situation arise again.

Q97 **Steve Brine:** Do you expect the European Super League proposal to come back around again in one way, shape or form?



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Oliver Dowden: I need to be careful about making predictions, but if I were the European Super League and had seen the unanimity in this country, from everyone from His Royal Highness the Duke of Cambridge, through to fans, through to the Prime Minister and the rest of the Government, it was pretty clear how the nation felt about this. I think they would be very unwise to bring it back, but it is for them to answer that.

Q98 **Steve Brine:** Do you think there is anything that the domestic game needs to address? Let's be honest, six of their biggest clients, six of their biggest clubs, were unhappy enough to explore this. Boy, have they paid a price for it with their fans. They have taken a real PR hit. Is there anything that you think the domestic game, the Premier League, you and your fan-led review need to do to address that?

Oliver Dowden: Yes, that is precisely why we set up the fan-led review. There are three areas that the review will be looking at, and we have published the terms of reference. Broadly, it is looking at the money. Certainly my whole experience of this crisis was that there are major problems with the money. Look at the challenges that this Committee is familiar with around the relationship between the Premier League and the EFL in terms of sustaining them through this crisis, just to take one example, or indeed to take the ESL proposal as another example. Secondly, the governance and, thirdly, the whole fan experience and whether there is a need for greater fan representation as part of it.

Q99 **Steve Brine:** We look forward to exploring that in more detail. Is there an argument to be had that when the Champions League was created, indeed when the Premier League was created, people said it would ruin football, it was an elite and it would not put the fans first? Subsequently, the Premier League has now built this incredible product but it is now untouchable. Is there a slight irony that people got very excited last month when this blew up, when we crossed a Rubicon when we created an English super league? Is there, for instance, scope in there being a British super league?

Oliver Dowden: There are some big challenges around that. You talked about when the Premier League was founded. Of course there was controversy at the time, but it was nothing like the unanimity that greeted the ESL. The thing that drove fans mad about the ESL was that it imported—and I do not mean this pejoratively to America, it simply has a different model—the model that we see with American football clubs, for example, whereby it is essentially just a brand.

The difference with English football, and indeed Scottish, Welsh and Northern Irish football, is they have deep roots in the community. I was at Charlton at the beginning of this week. How that club is rooted in south-east London and Kent, all the initiatives that it has. Charlton would not be Charlton if you transposed it to the north-east, for example. Equally, Newcastle would not be Newcastle if you transported it to south-east London. That is a fairly obvious statement, but it is the case that those American clubs can go from Dallas to New York.



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Q100 Steve Brine: There was so much talk at the time last month when this blew up that this is big money threatening to ruin football. Big money has been in football for a long time. Pep Guardiola gets a lot of plaudits for winning the league again, but he has spent £1 billion. If you put me in charge of a team with £1 billion, I suspect I could make a fist of it. Big money is in football and the idea that football clubs are of the street and the cloth-capped man watches the football and turns the rattle on a Saturday afternoon is an outdated view, isn't it?

Oliver Dowden: That is not my view. I am glad you have that confidence. I don't think if somebody gave me £1 billion I would necessarily be able to lead a football club to win the Premier League. None the less, I do think the foreign money that has come into English football, and indeed into the other leagues in the United Kingdom, has generally been a very good thing. It has led to huge investment, it has led to an increase in the quality of players in that we get global stars playing, particularly, in the Premier League. It has propelled the Premier League to be, I think most people agree, the best league in the world.

I want that investment to continue, but that investment needs to be grounded in the sense of place, roots and community. Of course that is not the flat caps and so on of the 1950s, but it is still the grassroots initiatives. It is the education programmes, it is the sense of community that is built around them. That is why the game is both an international product but a deeply important part of our heritage as well.

Q101 Steve Brine: I think you could do well with £1 billion in any club. You would not be able to do it with Spurs, but nor would any man alive.

Finally on football, UEFA, of course, is an organisation that has the fans at its very heart. It is an organisation that lives and breathes for its fans. Why is it not holding the Champions League final in England, bearing in mind there are two English clubs and we have an international pandemic still going on? Portugal may be on the green list, but we have two English clubs in the final and it is being held in Portugal.

Oliver Dowden: We have had very constructive engagement with UEFA. In the end it is UEFA's decision. I had very constructive engagement with the president of UEFA. Ultimately, the Government and I were unable to give an assurance to UEFA that we would be willing to vary our quarantine rules in the way it wished to happen. I completely respect why it wanted to do that, and it has respected the fact that the Government could not, on the basis of this event, change our quarantine regulations. People have made huge sacrifices, and it has ensured that we are able to take the sort of steps that we are seeing with the road map.

Q102 Steve Brine: You are saying UEFA wanted to bring quite an entourage to the match if it was to be moved here, and that was the stumbling block?

Oliver Dowden: Yes, it wanted to bring a large number of people to the match. That is fine, it is the issue about quarantine. We expect people entering the United Kingdom, except in very, very exceptional



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circumstances, to observe quarantine, and we were not able to move on that front.

Q103 **Steve Brine:** That is perfectly reasonable, but in a pandemic when so many people have sacrificed so much in the last year, might UEFA not have decided to cut back on the guest list, to put the fans first, because that is what it does?

Oliver Dowden: It is for UEFA to answer those questions. We had a very constructive discussion with UEFA, and it was a genuine difference that could not be overcome. I respect the decision that UEFA made, and it respects the fact that the Government were unable to move on that decision.

Q104 **Chair:** How many people was it that UEFA wanted to bring over without going through quarantine?

Oliver Dowden: It was 2,000.

Q105 **Chair:** Two thousand, and that is not just officials. Is that people basically on a junket?

Oliver Dowden: I don't think it is fair to say it is a junket.

Q106 **Chair:** Are they corporate sponsors?

Oliver Dowden: It was a wide variety of people. You have to address these questions to UEFA.

Q107 **Chair:** Yes, but it is very interesting that they think that is even an acceptable question to put to the British Government in the middle of a pandemic, that they wish to bring over 2,000 people, unvaccinated, to the UK and presumably not have to do any form of quarantine.

Oliver Dowden: I think I have been very frank to the Committee about the discussions we had. If I go any further than that, I am in danger of prejudicing what were always intended to be private conversations between us.

Q108 **Clive Efford:** Welcome, Secretary of State. I will start by asking you about the statement from your Department today regarding the Premier League TV deal. The statement says that it requires an exclusion under schedule 3 to the Competition Act, and then it goes on to say, "If such an exclusion order is made", and says, "The Secretary of State for BEIS is inclined to conclude that there is a compelling reason for this exclusion." Should we be worried about that? Are there no bumps in the road that are likely to prevent that exclusion being given?

Oliver Dowden: It is the normal next stage in this process to issue a "minded to" decision, and that is what that written ministerial statement reflects. The reason for having a "minded to" decision is to enable interested parties to be able to express their views, so there is a short window for them to do that. From all the conversations that I have had and the advice that I have received, I would not expect it to be a bump in



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the road, but I cannot prejudge that process. We have to allow that process to happen.

Q109 Clive Efford: Am I right in my reading of it that the only extra money as a result of rolling over the existing deal is £100 million to be spent over the next four years?

Oliver Dowden: It depends on what you take as your baseline. Yes, that is the case in the narrow sense compared with the previous period, but it is quite an assumption to assume that you would necessarily get in the current context the same amount of revenue for the next period. It is that innate uncertainty. The Business Secretary has set out his reasons, and I do not want to furnish another layer on that. You can read it, and you can read the statement made by the Sports Minister.

Q110 Clive Efford: In your deliberations, did you consider whether there is an enormous saving to both the Premier League and the broadcasters because they do not have to go through this long, protracted and very complicated tendering process?

Oliver Dowden: Yes, but you could equally look at, for example, the recent Italian process, where a much lower number was achieved.

Q111 Clive Efford: Yes, that is my point, because they could have faced a significant reduction in revenue. The Government stepped in—quite rightly, in my opinion; a very good move by the Government—to give this exclusion order so that the amount of money going to the Premier League is higher. I just wondered if that put the Government in a very strong position to negotiate more money for the wider football pyramid and to bring about some fundamental changes in the way that football is financed that we need. For instance, ending the parachute payments.

Oliver Dowden: There are questions about the parachute payments, and some will be properly considered as part of the fan-led review. This was a narrow competition question about whether there were exceptional circumstances, given the pandemic, for setting aside some of those competition requirements. I think it is correct, and that is why we have said that we are minded, given what is happening in the pandemic, to set it aside.

It was a very high bar for doing that, and it is only justified in this unprecedented situation. We have not seen anything like this with the sporting community since the second world war. It is in those exceptional circumstances that we have issued this “minded to” decision.

Q112 Clive Efford: There is no money in this deal for the English Football League. I do not know if you consulted them on the rollover of this deal. I know the Premier League says there are big, wealthy owners—billionaire owners—in the Championship, and they are not prepared to subsidise rich owners like that. That is not true of every club. If a rich owner were to walk away from a Championship club and leave it in serious debt, what would happen to it? Is there some sort of clause in this where the Premier League would assist them?



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Oliver Dowden: There are two separate questions here. One is parachute payments and the future of the game, and that is in the fan-led review. This is a much narrower question: are Ministers justified—and this is a decision by the Secretary of State for BEIS, as he is the responsible Secretary of State in relation to competition law policy—in setting aside that competition law policy? Given the very exceptional circumstances in which we find ourselves now, Ministers believe that they are, and that is why they have issued the “minded to” decision, but it really is important to set aside this competition question versus wider issues about the future of the game.

Q113 **Clive Efford:** Can we move on to the fan-led review of football? Is anything off the table for them to consider in terms of fans’ right to invest in their club and have shares to prevent owners like Stan Kroenke, who forced the supporters’ club to sell him their shares? Would that be stopped? If they go for a golden share or the 50-plus-one rule, will the Government legislate, if necessary, to bring in whatever the fan-led review recommends?

Oliver Dowden: The Prime Minister and I have deliberately designed the terms of reference for this to be as broad as possible to look at questions of finance and governance. Tracey Crouch has a very free hand in terms of the recommendations that she will come up with, though clearly they are recommendations and the Government will have to decide whether to proceed with them. We have been clear that if we support those recommendations—which I very much hope we will do—and we believe that they require legislation, we will find legislative time to be able to do that.

The previous discussion that I had with Steve Brine illustrated the parameters we have to work in, and that is to say there is tremendous value from foreign investment in the game, and I want to make sure that we are able to continue that, while at the same time making sure that fans have a proper role and stake in the governance of their game. If I am to go any further than that, I start making the sorts of decisions that Tracey Crouch needs to make as part of her fan-led review.

Q114 **Clive Efford:** I am certainly not asking you to do that, but let us take one area. The right for fans, bona fide fans groups, to be able to invest in their clubs, buy shares, and buy them not just when they are on offer, but to have the right to buy up to 10% of the shares, let’s say. That is quite a radical move. If that came out of this fan-led review, are the Government saying, “We welcome that and we would make sure it happens”?

Oliver Dowden: The Government are saying, and I am saying on behalf of the Government, that the fan-led review will investigate those issues, it will present those conclusions, and we will determine whether we wish to proceed with them and undertake the necessary legislation if that is the case. From my conversations with Tracey—and I am sure this Committee will be engaging with Tracey—she will be weighing up the interests of the fans, the interests of the finance of the game and so on. I



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very much want us to be in a position whereby we accept the recommendations that Tracey makes and move to implement them. I do not think it is going to aid Tracey's and the wider panel's deliberations if I start engaging in hypotheticals about what they may or may not say.

Q115 Clive Efford: The purpose of the hypothetical is just to determine whether the Government are going to second-guess, if you like, or water down anything that comes out of the fan-led review.

Oliver Dowden: We are not going to second-guess, and that is precisely what I am trying to avoid doing right now. If I say anything further, I do start to second-guess it.

Q116 Clive Efford: If I can push you a bit more, Secretary of State, what I am saying is that the fan-led review can come up with recommendations that the Government do not like, and it is possible that the Government will not implement them. That is what you are saying to us.

Oliver Dowden: The fan-led review can come up with whatever recommendations it chooses. It may be that it does come up with recommendations the Government do not like. I do not expect that to happen. I hope it will not happen. I hope and expect that we will receive Tracey's report and we will act on it accordingly.

Q117 Clive Efford: Can I ask about fan representation going forward? If they come up with recommendations about fans on boards, fans on the board of the Premier League, fans on the board of the Football League and the FA, for instance, putting a lot more fans on the FA Council than are currently there, would the Government give their backing to changes in governance that give fans a greater voice? Do you expect that out of this review?

Oliver Dowden: I expect that Tracey would properly examine exactly those sorts of questions. As you know, there are many nuances, wrinkles and issues in relation to that. Tracey needs to look at all these issues and come up with recommendations. I very much hope and expect that, in turn, we would seek to implement those recommendations, but I cannot start commenting on each proposal because, in doing so, I am effectively second-guessing any decision that she may come up with.

Q118 Clive Efford: I understand. Can I just move on to legislative time? If some of the recommendations that have been mooted from the fans' perspective in this debate require changes to company law and competition law, are the Government prepared to set aside legislative time to do that if necessary?

Oliver Dowden: Yes. The Prime Minister and I have been clear that we will seek to find legislative time if necessary.

Q119 Clive Efford: Can I move on to the World Cup? You have made £2.8 million available towards a potential bid for the 2030 World Cup—let me put it that way—and it is potentially a combined bid between the FA and the Football Association of Ireland. Were the other home nations consulted about this? For instance Scotland and Wales, which have



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excellent venues that could be part of a UK-wide bid. Was that considered, do you know?

Oliver Dowden: Yes, it was considered, and we hope and expect, subject to discussions between the FA and the relevant governing bodies, that this will be a five-nations bid—England, Wales, Northern Ireland, the Republic of Ireland and Scotland—but each of those associations are independent, and they would have to work together. My hope is it would be a five-nations bid.

Q120 **Clive Efford:** Are you confident that the bid is going to go ahead, regardless of whether all five nations participate?

Oliver Dowden: We very much want to do it. These are very early stages, but we are putting the work in now. In fact, I can say that I am already having discussions with my officials about how we can get this process going. We are very serious about doing it. I think everyone knows the experience of previous World Cup bids, so we have to be sure that we are going to make appropriate progress with it, but we very much want to do this. The Prime Minister and I are personally very committed to it.

Q121 **Alex Davies-Jones:** Thank you, Secretary of State, for being very generous with your time. I do appreciate it. I should probably declare that I am also a proud member of the Musicians' Union.

On the Online Safety Bill, you mentioned at the start that the Government are proposing to exclude newspaper comment boards from the regulatory ambit, but surely the failure to self-regulate is part of the rationale for this Bill in the first place. Might the Government agree to work with IMPRESS and IPSO to give them some form of regulatory oversight of newspaper comment sections, given that these are hardly immune from the type of abuse and harmful content that we see on social media on a daily basis?

Oliver Dowden: I am confident that newspaper websites have appropriate moderation policies in place. The difference between newspaper website comments and more general social media is there is much greater scope for amplification of wider social media comments than there are for comments on news stories. Also, it is a fundamental part of our free press, which is a precious liberty in this country, and I want to preserve it by making sure that news publications are outside the scope of this regulation.

Q122 **Alex Davies-Jones:** Would you be open to seeking the Independent Press Standards Organisation to look at this?

Oliver Dowden: I would be deeply sceptical about that. Almost certainly no.

Q123 **Alex Davies-Jones:** A report that was released this week demonstrated that Google's SafeSearch function is not working when it comes to anti-Semitic imagery. What role do you see Ofcom playing in ensuring that, for any start-up, such learning is part of a safety-by-design process so



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that we do not keep finding the same problems occurring time and time again?

Oliver Dowden: This is an important point about safety by design. Minister Warman has done a lot of work to ensure that we roll out safety by design on anti-Semitism and the online harms legislation. I do not want to completely pre-empt what specific harms we would identify, but I would very much expect anti-Semitism to be one of the harms that would be specifically identified in secondary legislation.

Q124 **Alex Davies-Jones:** To move on to the music industry, in recent months there have been a number of very concerning allegations made by former *X Factor* contestants about abuse within the music industry. I know that you have met Rebecca Ferguson, who has been very vocal in raising concerns about the music industry for a number of years now. Why is it only now, after severe pressure on social media, that the Department has chosen to look into this?

Oliver Dowden: The Department has been engaging with this, and I believe that this Committee has also taken an interest in it. I am very clear that racism, discrimination and harassment of any kind has no place in our society, and ensuring the welfare of artists and creatives is absolutely crucial. We basically want people to feel safe in this industry. Rebecca Ferguson essentially directly messaged me via social media to raise this issue. I was very pleased to meet her. I took very seriously the points that Rebecca raised, and Minister Dinenage is continuing to engage with her.

A number of things strike me. The first is that a duty of care is owed by these record labels, particularly to younger or more vulnerable people. It is, though, the case that there do appear to be codes of practice and so on that are in place, and the industry is working on that. I am seeking from the industry further information, understanding and assurance about the extent to which people know about that. Artists have said, "It may be the case that I can have an independent contract advisory service, but nobody told me that as they handed me the pen to sign the contract." There are legitimate questions there that require further exploration.

Q125 **Alex Davies-Jones:** What is your response to the calls for the establishment of a music industry ombudsman?

Oliver Dowden: There is a very high bar for fresh regulation. At this stage I am thinking much more about working with the music industry to understand what steps it can take to make sure that artists and others are better protected, and also to understand better the protections that they already have but do not necessarily know about.

Q126 **Alex Davies-Jones:** This throws into question a wider issue, though, and it may be something for the Committee to explore at a future time, in terms of reality TV and TV talent competitions. Will you be looking into the allegations specifically around music labels and talent shows, such as Syco and *X Factor*?



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Oliver Dowden: I am not in a position as Secretary of State to undertake an inquiry into specific allegations. What I am in a position to do is to look at whether there are appropriate regulations, codes of conduct and self-governance in place to address that. I think Rebecca raised some important questions, which I took very seriously, and with which Minister Dinenage and I are engaging.

The first step is to understand better the perspective of the record labels, to understand better what can be done to make sure that particularly vulnerable or younger artists to whom those record labels and others, in the way that you describe—the talent shows and so on—discharge those duties of care. This is not an isolated example; there are plenty of others. That is where my focus is right now.

Q127 **Alex Davies-Jones:** Finally, I know my colleague Giles Watling raised this with you earlier, but your colleague Caroline Dinenage has appeared before us on a number of occasions, and I have pushed her on many occasions to confirm exactly what support your Department has planned for the 400,000-plus freelancers who have been completely excluded from the Government support packages. I appreciate you have talked a lot today about the Culture Recovery Fund and the support for venues and bricks and mortar, but these are people and people's livelihoods. I welcome the creation of various working groups, but we are 14 months down the line and these people have not received a penny of support. Exactly what conversations have you had with the Chancellor to address these gaps?

Oliver Dowden: The Chancellor and I regularly discuss that, and you could see the movement that happened at the Budget, where there was an inclusion of earnings in financial year 2019-20 in the self-employed support scheme assessment as just one example.

Chair: That concludes our session. Thank you once again, Secretary of State, for what turned out to be a marathon session and for your courtesy and attendance today.