

European Scrutiny Committee

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From: Sir William Cash MP

4 June 2020

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Continuity of trade agreements: South Korea (Council document 6587/20) (41122)

Thank you for your [letter of 18 May 2020](#) in which you address the questions the European Scrutiny Committee raised in its [Sixth Report of the 2019-21 Session](#) and in my [letter of 30 April 2020](#) concerning the Protocol on Cultural Cooperation (the Protocol) which forms part of the EU's Free Trade Agreement with South Korea and the way in which the Government has replicated it in the UK's bilateral Free Trade Agreement with South Korea.¹

The Committee is grateful for your explanation of the reasons for including a reference to “European works”, as defined in the EU Audiovisual Media Services Directive, in the UK/South Korea Protocol on Cultural Cooperation.² We note your view that this reference is no more than a simple acknowledgment of the linkage between the concept of “European works” set out in the EU Directive and the meaning given to “European audio-visual works” in the Council of Europe Convention on Transfrontier Television. As we understand it, this linkage is intended to demonstrate that UK audio-visual works will continue to qualify as European works for the purpose of access to the EU market after the post-exit transition period has ended, provided the UK continues to comply with the requirement for non-discriminatory treatment of audio-visual works originating in EU Member States. You suggest that this does not amount to regulatory alignment

¹ See [Volume Two, Part Three of the UK/South Korea Free Trade Agreement](#). Article 5 of the Protocol on Cultural Cooperation, on audiovisual co-productions, is on p.526 of the Agreement.

² Article 1(1)(n) and (2) of [Directive 2010/13/EU](#).

with EU law after transition, since the non-discrimination requirement is “a market access condition, rather than a regulatory rule”.

The way in which the non-discrimination requirement is characterised does not alter the fact that the degree of market access envisaged for audio-visual co-productions under the UK/South Korea Free Trade Agreement is premised on continued UK compliance with a form of conditionality established in EU law. We recognise that compliance would be voluntary on the UK’s part, not based on an obligation to maintain some degree of dynamic regulatory alignment with EU law. We nonetheless consider it important to highlight the UK’s commitment, in its agreement with South Korea, to implement the requirement for non-discriminatory treatment in the EU Audiovisual Media Services Directive, as part of an offer intended to ensure better market access for UK/South Korea co-productions.

We have no further questions to raise on the proposed Council Decision and do not require a response.

We are copying this letter to Angus MacNeil MP and Joanna Welham, the Chair and Clerk of the International Trade Committee; Julian Knight MP and Chloe Challenger, the Chair and Clerk of the Digital, Culture, Media and Sport Committee; the Earl of Kinnoull and Christopher Johnson, Chair and Clerk of the EU Select Committee in the House of Lords; Ellie Martin and Gosia Staniazek, your Departmental Scrutiny Coordinators; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR