



Department for
Digital, Culture,
Media & Sport

Rt Hon Oliver Dowden CBE MP
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Baroness Donaghy
Chair of the EU Services Sub-Committee
House of Lords
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27 October 2020

Dear Baroness Donaghy,

Thank you for your letter of 25 September.

The contribution of the creative industries to the UK's economy, society, and soft power are highly valued and recognised by myself and my Department. As I noted in my previous letter, I cannot comment on the specific detail of individual topics of discussion with the EU, including the creative industries, whilst negotiations are still ongoing. I am therefore limited in the additional information I am able to provide, although will of course endeavour to answer your questions as far as is possible. Please also be reassured that officials in DCMS and BEIS regularly engage with representatives across the creative industries, and will continue to do so.

European Convention on Transfrontier Television

The Audiovisual Media Services Directive (AVMSD) defines European Works as productions originating from Member States or countries party to the European Convention on Transfrontier Television (ECTT). The UK is a member of ECTT and will continue to be after the end of the transition period. As such, productions originating in the UK will continue to be classified as European Works after the end of the transition period. The UK is implementing the revised AVMSD, which extends European Works quotas to on-demand programme services, underlining our commitment to the regime and we have no reason to believe that any changes to the definition in the AVMSD are under consideration.

EU Portability Regulation

As a result of Statutory Instruments implemented under the Withdrawal Act, the UK's copyright legislation will continue to function properly and will maintain the high levels of copyright protection for most businesses and creators.

The Statutory Instruments also addressed the UK's implementation of EU cross-border mechanisms and either amended them so that they would function purely on a domestic basis or removed them where they would either be inoperable or provide an unfair advantage to EU businesses.

With respect to cross border portability, it is not possible for the UK to unilaterally grant the same territorial coverage created under the regulations which apply to EU member states. As you note, online service providers that operate in the UK are currently compelled under EU and corresponding UK law to provide their content to UK consumers travelling to the EU. In return, EU law provides that doing so does not infringe copyright or other relevant laws in the countries to which these services are provided. This obligation, and the corresponding legal protections, will cease at the end of the transition period.

Providers are still able to continue to provide these services to their customers when travelling within the EU if they so wish, but, as they will no longer be able to do so under the EU law on cross-border portability, they will need to ensure they have appropriate licences in place. Ultimately, it is up to businesses to decide whether they wish to continue offering portability for travelling UK consumers, whether to the EU or elsewhere.

With respect to discussions with the EU, as negotiations are still underway, it is not possible to go into any detail. However, the Prime Minister has been clear that the most important objective in all policy areas is for the UK to have genuine economic and political independence, and this includes leaving the single market. We are not asking for a special, bespoke, or unique deal. We are looking for a deal like those the EU has previously struck with other friendly countries like Canada. We agree and accept that this comes with consequences for market access for both sides.

I trust this will assist your scrutiny of this matter, and as noted above I can provide further information as negotiations progress.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Oliver Dowden', followed by a long horizontal flourish.

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