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April 11, 2024

Mr. Jeff James
The King's Printer
The National Archives
Kew, Richmond
TW9 4DU
United Kingdom

Dear Mr. James:

I am writing to you today in reference to the mandates for the King's Printer under the European Union (Withdrawal) Act 2018 (2018 c. 16), in particular the requirements listed in Schedule 5 in sections 1(a) and 2(a) that your office publish all regulations of the European Union that were published before the "IP Completion Date" which was subsequently specified to be December 31, 2020 (2020 c. 1).

In 2019, I approached the National Archives and suggested that the mandate to make a copy of all regulations included all Harmonised Technical Standards, which are public safety standards notified in the Official Journal of the European Union and are required to be transposed into national law, with no changes, by each member country (Regulation No 1025/2012).

At the time, the National Archives felt there was ambiguity in whether or not Harmonised Technical Standards were part of EU Law and thus fell under the mandate issued by Parliament to the King's Printer. On February 2, 2019, I and six co-signatories wrote to the Rt. Hon. David Lidington, Minister for the Cabinet Office, seeking clarity on the issue (Petition to the Cabinet Office). Due to the understandable press of business of Brexit, no response was received to that inquiry.

A definitive resolution to the question of whether Harmonised Technical Standards form part of EU law was provided on March 5, 2024 by the Court of Justice of the European Union in the matter of Public.Resource.Org and Right to Know CLG v European Commission and 15 Others (C-588/21 P). The Judgment of the Court (Grand Chamber) ruled clearly that "that the requested harmonised standards form part of EU law" (Judgment ¶ 80). As the Court stated in its press release, "the Court finds that there is an overriding public interest in disclosure of the harmonised standards in question" (CJEU Press Release 41/24).

An extensive analysis of the issue was provided in the **Opinion of the Advocate General** issued on June 22, 2023. Advocate General Medina stated:

"The notion of free access to the law is also recognised by way of the principle of transparency. It is axiomatic that EU law can only be effective if it can be enforced. As noted above it is the publication of the law that ensures its enforceability. It follows that if HTS are not published they cannot be fully enforced." (Opinion ¶ 54)

I believe in light of the forgoing, publication of all Harmonised Technical Standards in force as of December 31, 2020 by the King's Printer is mandatory under the requirements Parliament has made in the European Union (Withdrawal) 2018 and would respectfully request your reconsideration of this matter.

Public Resource has previously purchased quite a few Harmonised Technical Standards and would be pleased to donate the standards in our possession to The National Archives.

With best regards,

DocuSigned by:
Carl Malamud
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Carl Malamud, President
Public.Resource.Org, Inc.



cc: Mr. John Sheridan, Digital Director, The National Archives
Mr. Gavin Sheridan, Director, Right to Know CLG