HOUSE OF LORDS

European Union Committee

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Rt Hon. John Whittingdale OBE MP
Minister of State for Media and Data
Department for Culture, Media and Sport
100 Parliament Street
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15 May 2020

Dear John,

C(2020)2296 : COMMISSION RECOMMENDATION on a common Union toolbox for the use of technology and data to combat and exit from the COVID-19 crisis, in particular concerning mobile applications and the use of anonymised mobility data

C(2020)2523 : COMMUNICATION FROM THE COMMISSION: Guidance on apps supporting the fight against COVID 19 pandemic in relation to data protection

Thank you for your Explanatory Memorandum (EM) on the above file. The EU Services Sub-Committee considered the EM at its meeting on 14 May 2020 and decided to retain the file under examination.

We note the Government's position that "at this stage in the development of the UK app it is too early in the project to review the app functionality against all the suggestions contained in the EU guidance". Recognising that this is a fast-moving situation, does the Government intend to monitor the progress of the app against the Commission's Recommendation? If so, when will this assessment take place? We note that EU Member States are urged to report to the Commission on the actions taken on the Toolbox by 31 May 2020.

There are a number of areas where the UK's approach has so far differed from that recommended in the Commission's Toolbox and Guidance. In particular, the UK is amongst a minority of countries whose preferred approach is to operate a 'centralised' model for the app. The Toolbox highlights that centralised approaches "could also create risks of data breaches and cyberattacks". What steps is the Government taking to mitigate these risks? What conclusions has the Government drawn about the effectiveness of a 'centralised' approach in comparison to a 'decentralised' model?

The Commission's Toolbox recommends the rapid testing of suspected patients and their contacts. We note reports that the UK app will rely on user-reported symptoms rather than tests. Does the Government anticipate that this could be an impediment to the effectiveness of the track and trace approach? What are the Government's ambitions for testing those who self-report symptoms through the app?

The Commission's Toolbox sets out how interoperability between countries will require apps to meet technical requirements and will depend on improved communication and cooperation between national health authorities. Given that the track and trace system will need to operate effectively when people travel between jurisdictions, what steps is the Government taking to ensure that the UK app is set up for interoperability?

More specifically, we note that the Toolbox recommends that contact data is deleted 14–16 days after the contact is made, which is determined to be the "epidemiologically sufficient" time period. The UK proposal is for the data to be deleted 28 days after contact, unless a user volunteers to share this data with the NHS where it will be held for a longer period. What is the epidemiological basis for the 28-day retention period? What will the data retention period and deletion policy be for those who opt-in to share additional data with the NHS?

The EU's approach to the COVID-19 apps will be developed further and implemented through the e-Health network, which will be holding regular meetings to share best practice. Is the UK currently attending these meetings, either as a participant or as an observer? Does the UK intend to seek access to this network after the end of the transition period?

Finally, the Commission's Toolbox emphasises the need for public trust in the effectiveness of the app and the protection of users' personal data. What is the Government doing to reassure the public that the app will work effectively to address the spread of COVID-19? What steps is the Government taking to ensure that data collected is not used for other purposes? How will the Government seek to gain public trust in the app's data protection and retention framework?

We look forward to your response within 10 working days.

I am copying this letter to Lord Bethell of Romford, Parliamentary Under Secretary of State for Innovation at the Department for Health and Social Care; Baroness Harding, Chair of NHS Improvement; Sir William Cash MP, Chair of the Commons European Scrutiny Committee; Jessica Mulley, Clerk to the Commons Committee; Les Saunders, Cabinet Office, and Ellie Martin, Scrutiny Coordinator, Department for Culture, Media and Sport.

Yours sincerely,

Lord Kinnoull
Chair of the European Union Committee