

# European Scrutiny Committee

House of Commons London SW1A 0AA

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From: Sir William Cash MP

16 December 2020

Rt Hon. John Whittingdale OBE MP  
Minister of State for Media and Data  
4th Floor  
100 Parliament Street  
London SW1A 2BQ

**Proposed Regulation concerning the respect for private life and the protection of personal data in electronic communications and repealing Directive 2002/58/EC (ePrivacy Regulation): 5358/17**

Thank you for your [letter](#) of 9 December.

We note the continued lack of progress on the proposed ePrivacy Regulation and that it is unlikely to be adopted and apply to the UK before the end of the transition period.

However, your update did not address the continued relevance to the UK of a Regulation adopted after transition. In particular, we refer to the need for the UK to provide equivalent data protection of EU citizens data for the purposes of obtaining and maintaining a data adequacy decision. This is also relevant for the use of alternative international data transfer mechanisms such as standard contractual clauses under the General Data Protection Regulation (GDPR), as recently highlighted by the [Schrems II](#) ruling.

You will be aware of the factors that the Commission has to consider for adequacy assessments set out in Article 45 of the GDPR. In our view that would extend to the issues addressed by the current ePrivacy Directive and in time to a new Regulation replacing it. A new Regulation is likely also to

extend with extraterritorial effects to UK businesses wanting to provide offer electronic communications services to EU end users.

Another consideration listed by Article 45 GDPR is “relevant legislation, both general and sectoral, concerning... national security”. With this in mind, when we last wrote to the Secretary of State in March, we requested that any update take into account the final ruling of the Court of Justice in the [Privacy International](#) case, including any implications for the UK. We consider that this is a significant omission from this current update which we intend to pursue as part of our future scrutiny in 2021.

Please note that I am copying this letter to the Chairs of the following other Committees of the House: Digital, Culture, Media and Sport Committee, the Science and Technology Committee, the Home Affairs Committee, the Justice Committee, the Joint Committee on Human Rights and the Committee on the Future Relationship with the EU.

I am also copying the letter to the Earl of Kinnoull and Christopher Johnson in the Lords; to Les Saunders at the Department for Exiting the EU; and Rachel Marnick in your Department.

**CHAIR**