

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

20 January 2021

Rebecca Pow MP
Parliamentary Under Secretary of State
Department for Environment, Food and Rural Affairs
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13944/20, COM(20) 798: Proposal for a Regulation concerning batteries and waste batteries, repealing Directive 2006/66/EC and amending Regulation (EU) No 2019/1020 (41721)

We considered your Explanatory Memorandum on the above draft EU Regulation at our meeting of 20 January 2021.

You describe the draft Regulation — which will apply directly in Northern Ireland — as “wide-ranging”. You also identify the need, as part of the UK’s review of batteries regulation, to understand and avoid any legislative divergence between Great Britain and Northern Ireland which could have negative impacts on the UK internal market. That being the case, we were surprised that you did not set out any further analysis of the proposal or, at least, the steps that you intend to take.

We remind you that your EM concerns an EU act which will be directly applicable in part of Northern Ireland and may in practice have regulatory implications for the rest of the UK. As such, we expect the UK Government to be analysing the text closely — working with the devolved administrations and stakeholders — and engaging with EU decision-makers as necessary. We also expect the Government to share this information with us, as it would have done for similar instruments affecting the UK when the UK was a Member State. We therefore ask that you send the following information to us:

- any initial analysis that you may have undertaken, including identification of areas that are likely to be of greatest interest to the UK;

- how you will assess the implications of the proposal for Northern Ireland;
- how you will address any identified concerns to the EU institutions;
- whether you had already identified any concerns and drawn them to the attention of the EU institutions given that the Commission had previously signalled its intention to propose this legislation;
- how you will approach an assessment of the impact on the UK internal market, and when; and
- how the Government defines “negative impacts” on the UK internal market, noting that it is not a concept that is incorporated into the UK Internal Market Act 2020.

Under the terms of Article 15(3)(b) of the Protocol, the EU is required to inform the United Kingdom about planned Union acts within the scope of the Protocol, including Union acts that amend or replace the Union acts listed in the Annexes. The obligation should be fulfilled within the Joint Consultative Working Group, which — to the best of our knowledge — is yet to meet. Has the EU informed the UK at all about this planned act, and has the EU invited any comment on it from the UK?

Your EM did not reference the EU-UK Trade and Cooperation Agreement (TCA), but it is of some relevance. The TCA phases-in rules of origin requirements for electric vehicles, including the contents of battery packs. From 2027, a maximum of 45 percent of the components in finished electric vehicles can come from outside the EU or the UK in order to qualify for tariff-free trade between the UK and EU. Given the significance of batteries as a proportion of the value of EVs, this means in practice that EV batteries will need to be sourced from either the UK or the EU by 2027 in order to secure tariff-free trade, thus requiring the swift development of domestic markets. To what extent is there a risk that the EU’s establishment of a full life-cycle regulatory framework may encourage investment there rather than in the UK? Will the publication of the EU’s proposal accelerate the UK’s domestic regulatory considerations, particularly given the potential linkages between the two frameworks?

We look forward to a response to our queries within ten working days.

We are copying this letter to Huw Merriman MP, Chair of the Transport Committee and Marek Kubala, Clerk of the Committee; Philip Dunne MP, Chair of the Environmental Audit Committee and Martyn Atkins, Clerk of the

Committee; Simon Hoare MP, Chair of the Northern Ireland Affairs Committee and Nicholas Beech, Clerk of the Committee; Darren Jones MP, Chair of the Business, Energy and Industrial Strategy Committee and Rebecca Davies, Clerk of the Committee; the Earl of Kinnoull, Chair of the EU Select Committee in the House of Lords and Christopher Johnson, Clerk of the Committee; your Departmental EU Scrutiny team; and Les Saunders and Donald Harris in the Cabinet Office.

CHAIR