

European Scrutiny Committee

House of Commons London SW1A 0AA

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From: Sir William Cash MP

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The EU's Artificial Intelligence Act: possible implications for the UK

Thank you for your helpful and detailed Explanatory Memorandum of 21 May on the recent European Commission proposal for an EU Artificial Intelligence Act (AIA).

The Committee has taken note of the various ways the proposal, once it becomes EU law in due course, could have implications for the UK. Your Memorandum cites in particular the fact that UK businesses seeking to export AI applications to the EU market would have to comply with applicable product design requirements, as well as the EU's efforts to mould any international standards in this field after its own regulatory approach.

Given the complexity of the proposal and the likelihood that it will substantively change as the EU's Council of Ministers and European Parliament consider its provisions in detail, we appreciate that the Government's assessment of the potential ramifications for the UK are, necessarily, a work in progress.

However, we do wish to raise with you at this stage our concerns about whether the elements of the proposal related to the use of AI as safety components in goods could potentially engage the UK's obligations under the Northern Ireland Protocol in the Withdrawal Agreement. This is important not only for legal clarity and to frame engagement by both the Government and other interested parties in the legislative process in Brussels, but also because of the potential implications for the integrity of any future UK regulatory approach to AI systems (given that goods on the market in Northern Ireland that are compliant with EU standards, broadly speaking, "unfettered access"

to the entire UK market under the Internal Market Act 2020, even if EU and UK standards diverge in the future).

In your Memorandum, you state that the AIA constitutes a ‘new act’ for the purposes of the Protocol and as such – “should the EU argue that this Regulation should apply in Northern Ireland under the Protocol” – the procedure foreseen in its Article 13(4) would apply. That means the Government would have to consent to the inclusion of a new EU legal act in the Protocol by means of a Decision of the Joint Committee. However, you also note your observation that the Government is still “considering how the proposals interact with the existing EU product safety legislation that is included in [the] Protocol”.

We note however that the Commission proposal, in draft Articles 75 to 82, does in fact make certain explicit amendments to various pieces of EU product safety legislation included in the Protocol. These, broadly speaking, serve to empower the Commission to incorporate the safety standards for high-risk AI systems into future technical standards for the relevant types of goods, by means of Delegated and Implementing Acts under the applicable sectoral legislation. It seems to us that those amendments would apply automatically under the Protocol, and by extension any EU tertiary legislation – integrating the requirements for AI safety components for such goods as derived from the AIA – would also be applicable in Northern Ireland.

In light of this, we would welcome an update from you at the earliest opportunity on the Government’s assessment of the potential implications of the proposal under the Protocol.

More generally, given that according to your Memorandum the EU proposal is likely to impact on UK industry and on international standards in this field, we would be grateful if you could revert to the Committee when there are significant developments in the legislative process in Brussels shaping the final content of the EU’s Artificial Intelligence Act. We would be particularly interested to hear more about the Government’s approach to pursuing its regulatory diplomacy with the EU to ensure that the AIA, to the extent possible, does not disadvantage UK exporters of AI technology and supports the UK’s objectives for international standards relevant to this sector.

We look forward to receiving your reply before the summer recess.

I am copying this letter to the Rt Hon Greg Clark MP, Chair of the Science and Technology Committee, and Danielle Nash, Clerk of that Committee; Lord Kinnoull, Chair of the House of Lords EU Select Committee, and to Chris Johnson, that Committee’s Clerk; to Megan Wilson in your Department; and to Les Saunders in the Cabinet Office.

CHAIR