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The Rt Hon Lord Boswell
Chairman
Select Committee on the European Union
House of Lords
London
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19 February 2019

Dear Tim,

EM 5846/18, COM(2017) 753 FINAL: PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE QUALITY OF WATER INTENDED FOR HUMAN CONSUMPTION (RECAST) (AND ADD 1-5)

Thank you for your letter dated 14 November 2018.

Since the start of 2019 the negotiations for this directive have been moving swiftly as the Romanian Presidency has prioritised the file. The Presidency, with the backing of the Commission, have put a General Approach on the Directive on the draft agenda for the upcoming Environment Council on 5 March. We expect that this file will be discussed at COREPER on Friday 22 February though we have not yet received confirmation.

I am therefore writing to you with an update, and would be grateful if you could consider granting clearance from scrutiny or provide a waiver. The proposals for the Directive have been changing at pace and the frequent revisions to the text have made it difficult to answer all of the questions you raised fully. I will address the Committee's remaining concerns shortly after the March Environment Council when the final text has been confirmed. Should the agenda change and the General Approach on the file be postponed until the June council I will inform the Committee immediately. My updates below are based on the latest text as of 11 February 2019.

Update on discussions over the parameters that should be set by the Proposal.

You have previously asked for an update on discussions about the Government's preference for maintaining a risk-based approach to monitoring perfluorinated compounds, rather than adopting the levels recommended by the WHO or proposed by the Commission. The latest drafting has amended the text to allow a risk-based approach to determine whether monitoring of per- and polyfluoroalkyl (PFAS) substances is required, while ensuring human

health is protected. This change is helpful. We continue to engage with the Presidency on which substances have been shown to be a concern.

With respect to the chemical parameters to be monitored in drinking water, the Government's position is that parameters should be included if they have been shown through scientific evidence to give health concerns. We have also been pushing for some changes to allow us to exclude parameters from monitoring based on risk assessment that shows they do not pose a threat to our water. The Government is in agreement with the majority of parametric limits being suggested and where we had concerns there have been helpful changes made to the recent drafts of the Presidency text. There are some substances where the limits suggested are below, i.e. more stringent than, current WHO recommendations or where substances have been included on the basis of the precautionary principle which are not recommended by the WHO, for example endocrine disrupters.

The main outstanding concern from the UK is the proposed parametric value for lead, which would require the current limit to be halved within the next 15 years from 10µg/l to 5µg/l. At a working level, my officials are continuing to push for the text to match the WHO recommendations which recommended retaining the standard of 10µg/l for lead but with countries putting in place an action plan to achieve concentrations as low as reasonably practicable. While we acknowledge the health implications of lead in drinking water, the UK would likely need to remove a significant amount of existing lead piping in older properties to meet the more stringent level. This could cost billions of pounds for the water industry and consumers. Therefore we need the flexibility at Member State level to set the most appropriate action plan to meet our national circumstances.

Outline impact assessment of the potential costs of the proposal

Officials have been working to understand the implications of the proposed text. We are still seeking to provide the committee with an assessment of cost impacts at the end of March, once all text has been finalised and the full implications of the wording are known. Currently the text is changing rapidly so that a full impact assessment is not possible.

Provisions on access to water and whether they breach the principle of subsidiarity

We support the principle of improving access to water. However, we share concerns with a number of Member States that the article likely does not respect subsidiarity. The Presidency has made numerous amendments to this Article but these still do not go far enough to address our concerns. Initially we have been pushing to have the contents of this Article in a recital but would accept changes to Article 13 that allowed the UK and other Member States discretion to decide how to improve access to water at a local level. We believe that our ambition set out in the 25 Year Environment Plan to increase access to water refill stations already meets the spirit of the objective.

Standards for materials and substances in contact with drinking water

Another priority for the UK is to ensure that standards for materials and substances in contact with drinking water are maintained or improved through this recast. The UK along with eight other Member States have recently put forward a proposal for achieving a

harmonised approach to standards as opposed to the current situation where there is different national legislation in place, and the Government is working towards this proposal being adopted by the Council.

Providing information to consumers and the public

We have welcomed changes to this article that allow for information to be provided online or in other formats. England and Wales already have a website for water companies to provide relevant information as set out in the directive. It is unlikely that major changes to this will be needed to provide additional information. We are still analysing the impact of small water suppliers. The latest changes to the text have also removed the text which required information on the cost or price of water per litre which has been welcomed by Scotland and Northern Ireland since they have a different approach to charging for drinking water and would have found this difficult. We believe the information provided to consumers should be focussed on drinking water quality, aligning with the key objective of the Drinking Water Directive. We continue to push for the removal of the requirement to provide certain pieces of information, such as energy consumption of very large suppliers.

I am copying this letter to Sir William Cash MP, Chairman of the European Scrutiny Committee. I am also copying this letter to the Clerks of the Commons and Lords Committees, Lynn Gardner and Chris Johnson respectively; Les Saunders, Department for Exiting the European Union; and Tess Hanneman, Defra Scrutiny Co-ordinator.

Yours sincerely,



DR THERESE COFFEY MP