



Constitutional and Legislative Affairs Committee

Proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure
COM(2013)0018

Briefing

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1. Introduction

The proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure (**‘the proposed directive’**) was issued by the European Commission on 25 January 2013.¹ The Assembly subsequently received a copy of the Department for Transport’s **Explanatory Memorandum**, which set out the UK **Government’s views** of the proposal, on 15 February 2013.

2. The proposed directive

The proposed directive sets out mandatory requirements for the build-up and coverage of alternative fuels infrastructure for transport, and common technical standards for their construction and interoperability. The proposal has primarily come about as a result of European Commission concerns relating to the slow realisation of alternative fuels infrastructure across the EU and aims to facilitate a quicker transition to cleaner transport.

To this end, four alternative fuels have been identified as having the potential to replace oil as the primary fuel resource for transport and to substantially reduce greenhouse gas emissions (for both road and maritime) and oil consumption. The four fuels that could replace oil as the primary fuel source for transport are:

- Electricity;
- Hydrogen;
- Biofuels; and
- Natural gas.

The proposal in particular would require Member States to adopt and publish national policy frameworks, which the Commission intends to review for coherence at an EU level and report its findings to the European Parliament. The Commission is also seeking the power to set targets on the number of alternative fuels infrastructure sites in each Member State, determine their geographical coverage and define minimum technical standards through a series of delegated acts.

3. Subsidiarity

The eight week deadline for reasoned opinions from national parliaments in relation to the proposed Directive is 28 March 2013. As of 12 March 2013, no reasoned opinions have been expressed on the proposal.²

Subsidiarity concerns have been raised however by the Bavarian State Parliament in relation to the matter.³ Their observation, which sets out their concerns in detail, is only currently available in German.

3.1. *Views within the UK*

The Department **for Transport’s** EM states the following in relation to subsidiarity:

¹ EUROPA News, [Proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure](#), 25 January 2013 [accessed 6 March 2013]

² IPEX, [Document: COM/2013/0018](#), 24 January 2013 [accessed 7 March 2013]

³ REGPEX, [Document: COM/2013/0018](#), 24 January 2013 [accessed 7 March 2013]

The Government accepts that in matters such as common standards for alternative fuels infrastructure, action at an EU level will be required to ensure market harmonisation and acceptance of refuelling equipments by road users across the EU.

However the Government does not agree that the principle of subsidiarity is being respected in all areas of this proposal. We are of the view that the setting of targets within individual Member States is a matter for national policymakers to decide. They know best the market situation within their territory and should be free to implement those measures necessary to deliver the desired outcomes in the most cost-effective manner without the need to set mandatory targets.⁴

These views were echoed by the Secretary of State for Transport, the Rt. Hon Patrick McLoughlin MP, in a written statement to the House of Commons issued ahead of the EU Transport Council on 7 March 2013:

There will be an exchange of views on a Proposal for a Directive of the European Parliament and of the Council on the deployment of alternative fuels infrastructure and on a **Communication from the Commission on ‘Clean power for transport: a European alternative fuels strategy’ (making up the clean power for transport package)**. The UK strongly supports the transition to cleaner transport and has the ambitious vision of almost every car and van reaching zero CO2 emission levels at the tailpipe by 2050.

While I recognise that alternative fuels infrastructure is an area that can benefit from support, I am not convinced that setting rigid, mandatory targets for the deployment of technology specific infrastructure is an effective way of building consumer confidence in new technology.⁵

No reasoned opinion has been issued by either house of the UK Parliament to date. The House of Commons’ European Scrutiny Committee however has considered the proposed directive on 6 March and is awaiting a reply from the Department for Transport in relation to the issues raised.⁶ The proposed directive will be considered by Sub-Committee B on Internal Market, Infrastructure and Employment of the EU Select Committee in the House of Lords on 18 March 2013.

The proposed directive was also considered in private **by the Scottish Parliament’s** Infrastructure and Capital Investments Committee on 6 March 2013. The Committee agreed at the meeting to ask the Presiding Officer of the Scottish Parliament to write to the **Speaker of the House of Commons outlining the Committee’s** concerns.⁷ The letter states that:

On the question of subsidiarity, the EM provided by the UK Government states that subsidiarity is not being respected in all areas of the proposal. The UK Government, the

⁴ Department for Transport, *Explanatory Memorandum: Proposal for a Directive of the European Parliament and of the Council on the Deployment of Alternative Fuels Infrastructure (COM(2013)0018)*, 15 February 2013, Paragraphs 21 and 22

⁵ Gov.uk, [Written Statement to Parliament: EU Transport Council](#), 7 March 2013 [accessed 7 March 2013]

⁶ See House of Commons, [European Scrutiny Committee: Remaining Business Session 2012-13](#), last updated 6 March 2013 [accessed 7 March 2013]

⁷ Scottish Parliament, Infrastructure and Capital Investments Committee, [Minutes: 6th Meeting 2013](#), 6 March [accessed 7 March 2013]



Scottish Government and the ICI Committee agree that the setting of targets within the individual member states is a matter for national policy makers to decide.⁸

Similar concerns to that of the UK Government on the proposal have also been raised in a letter by the Committee on the Office of the First Minister and Deputy First Minister of the Northern Ireland Assembly.

3.2. *The role of the Assembly*

The content of the proposed Directive is of relevance to the Assembly as it relates to **'transport facilities and services'** which are listed under Subject 10 (Highways and Transport) of Schedule 7 to the *Government of Wales Act 2006*.⁹ The EM also states that the **Welsh Government was consulted by the Department for Transport prior to the EM's** publication.

Under the Subsidiarity Protocol, the Committee may therefore raise formal subsidiarity concerns in relation to the proposal on behalf of the Assembly by issuing a written representation to the **Commons' European Scrutiny Committee and the Lords' EU Select Committee**. Those committees may then take account of such views in reaching their own conclusions on the proposal and in considering whether or not to issue a written representation.

Members may wish to note however that the Committee's ability to raise formal concerns in this instance will be severely constrained by the eight week deadline, which expires on 28 March 2013.

4. Next steps

On the basis that no further objections on the grounds of subsidiarity will be made by other member states before 28 March 2013, it is expected that the Irish Presidency will schedule a policy debate on the proposed directive at the Transport Council on 7 June 2013. According to the EM, the timetable for consideration by the European Parliament is currently unknown.

⁸ Scottish Parliament, *Correspondence from the Presiding Officer of the Scottish Parliament, Tricia Marwick MSP, to William Cash MP*, 7 March 2013

⁹ [Government of Wales Act 2006](#) (Chapter 32) [accessed 7 March 2013]