



# HOUSE OF LORDS

European Union Committee

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Rt Hon Tricia Marwick MSP  
The Presiding Officer  
Infrastructure and Capital Investment Committee  
The Scottish Parliament  
Edinburgh EH99 1SP

13 March 2013

*Dear Ms. Marwick.*

## **Explanatory Memorandum in respect of EU Proposal 5899/13**

Thank you for your letter of 7 March 2013 on the above proposal. As you know the proposal was considered by the House of Lords EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 March 2013.

You may be aware that the Office of the First Minister and deputy First Minister in the Northern Ireland Assembly also wrote to me expressing similar concerns to yours. I am pleased to inform you that the House of Lords Committee delayed sending its letter to the Minister at the Department for Transport until 13 March so these concerns could be incorporated.

Please find attached a copy of the Committee's letter for your information. I am sure that Committee office staff will keep you informed of future developments with this proposal.

*Yours sincerely*  
*Lord Boswell*

Lord Boswell  
Chairman of the European Union Committee





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Norman Baker MP  
Parliamentary Under-Secretary of State for Transport  
Department for Transport  
Great Minster House, 33 Horseferry Road  
London SW1P 4DR

13 March 2013

*Dear Norman,*

**5736/13: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Clean Power for Transport: a European Alternative Fuels Strategy**

**5899/13: Proposal for a Directive of the European Parliament and of the Council on the Deployment of Alternative Fuels Infrastructure**

Thank you for your explanatory memorandum of 15 February 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting of 4 March 2013.

We share your concerns about the Commission's proposal to use a series of delegated acts to set targets on the number and location of alternative fuels infrastructure sites in each Member State. The Scottish Parliament Infrastructure and Capital Investment Committee and the Office of the First Minister and deputy First Minister in the Northern Ireland Assembly wrote to our Committee expressing similar concerns. We agree that national governments are best placed to make these types of decisions, and that agreement at the EU level should be reached through the ordinary legislative procedure.

We are concerned that the setting of prescriptive targets involves the premature picking of "winning" technology and could result in the creation of an infrastructure that will be obsolete by the time it is created.

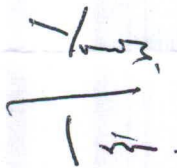
We are not reassured by the Commission's assertion that Member States will be able to encourage private sector development and uptake of new infrastructure by granting of exclusivity rights to first-mover investors, awarding concessions, giving direct public financial support, issuing public guarantees, etc. We consider that such measures could breach EU competition and internal market legislation, and that their use is unlikely to be as straightforward as the Commission suggests.



We support your plan to carry out an impact assessment of the proposals on the UK, and would be grateful to see the results.

We have decided to retain this document under scrutiny, and would be grateful if you could share with us in advance of the next EU meeting the points you will make to the Commission and other Member States on this package of measures.

I am copying this letter to Mr William Cash MP, Chair of the Commons European Scrutiny Committee; Sarah Davies, Clerk to the Commons Committee; Les Saunders, Cabinet Office; and Margaret Brown, Departmental Scrutiny Co-ordinator.

A handwritten signature in black ink, appearing to be 'Lord Boswell', written over a horizontal line.

Lord Boswell  
Chairman of the European Union Committee