



Department
for Transport

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Baroness Bowles of Berkhamsted
House of Lords
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19 February 2024

Dear Sharon,

Automated Vehicles Bill Report Stage – Follow Up Letter

Following our discussion on the Automated Vehicles Bill held on 26 January, as well as the Report Stage of the Bill on 6 February, and your subsequent discussion with my officials, I thought it might be helpful to address several points you made on Clause 95 'Disclosure of Information'.

We have given further consideration to whether Clause 95 should be amended to include a reference to the intellectual property legislation. We remain of the view that it is not necessary and would be of uncertain legal effect.

In relation to copyright, the existing framework in the Copyright Designs and Patent Act 1988 allows certain acts relating to copyright works where it is in the public interest to do so. That flexibility must be preserved. Where there is a permitted use there is no infringement, so the proposed insertion in Clause 95(2)(c) to clarify that provisions made by or under the Bill do not infringe intellectual property rights, would have no effect with regard to any acts permitted by statute.

The difference between copyright legislation and the data protection legislation is that under the copyright legislation, statutory provisions that permit the use of a copyright work constitute exemptions from copyright holders' rights. Rights that are disapplied cannot be contravened. By contrast, when legislation sets out new purposes for which personal data can be processed, the data protection legislation continues to apply to that processing and it is right for Clause 95 to clarify that nothing in the Bill changes that.

In relation to patent holders' rights, in so far as the information sharing clauses enable regulations that affect patent rights, the regulations must be lawful.

Finally, the term 'the data protection legislation', which is widely used across the statute book, refers to the definition in section 3 of the Data Protection Act 2018. The effect of updating section 3 is to update all the legislation that incorporates the definition by reference. There is no equivalent definition of the intellectual property legislation. We are concerned that an attempt to define intellectual property rights by reference to the statute book would be incomplete since some IP rights arise at common law. This Bill is not an appropriate vehicle to create a definition of intellectual property rights and, for the reasons set out in the earlier paragraphs, it is not necessary.

I hope that this information helps to address the issues that you have raised. Once again, I am grateful for your interest and engagement on these matters.

I will place a copy of this letter in the Library of the House.

A handwritten signature in black ink, appearing to read 'Davies', written in a cursive style.

LORD DAVIES OF GOWER