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By email

10 December 2024

Thank you for your continued constructive engagement with the Product Regulation and Metrology Bill. I hope this letter finds you well and clarifies to your satisfaction the important point you raised regarding the publishing of a code of practice for enforcement.

As I expressed during the debate, although we do not envisage a Code of Practice for this Bill, other codes and policies guide the use of powers and relevant to our enforcement work the following codes and policies are in place that will guide the use of the powers including the Regulators' Code¹, the annually published OPSS Enforcement Policy², and the Chartered Trading Standards Institute's Code of Professional Conduct³. Regulations will contain detailed information on what powers may be used for and we will work with the Ministry of Justice ahead of making regulations. We have tried to set out the Government's philosophy towards the use of the Bill in the Government response to the Product Safety Review (PSR)⁴.

The PSR Consultation 2023 laid out in more detail our policy positions and the corresponding Government Response highlighted in greater detail the policy intentions that will be delivered under Bill. Where feasible, we expect to publish associated policy proposals, calls for evidence or alternative options in order to generate stakeholder input to ensure we develop the full policy proposals taking a wider range of factors into account.

The PSR response noted the Government has a number of immediate priorities which require the powers in the Product Regulation and Metrology Bill to deliver. This includes addressing the sale of unsafe goods through online marketplaces and ensuring that new cross-cutting hazards, such as the growing number of fires associated with lithium-ion

¹ <https://www.gov.uk/government/publications/regulators-code>

² <https://www.gov.uk/government/publications/safety-and-standards-enforcement-enforcement-policy/opss-enforcement-policy>

³ <https://www.tradingstandards.uk/media/3180002/ctsi-code-of-professional-conduct-agreed-egm-7112023.pdf>

⁴ <https://www.gov.uk/government/consultations/smarter-regulation-uk-product-safety-review/outcome/government-response-to-the-product-safety-review-and-next-steps>

batteries, are appropriately addressed. We have also undertaken two calls for evidence on changes to EU regulations in the fields of outdoor noise and radio equipment with a view to potentially using the powers in this Bill to implement changes across the whole of the UK next year. As always, we will continue to consult with businesses, consumer groups and enforcement bodies to develop effective solutions that will support growth and protect consumers.

Looking further ahead we will be undertaking a programme of product sector reviews. These will explore how to best update the current body of regulations in a proportionate way. This process will allow us to consider how, for example, digital technology can be better utilised as part of the regulatory framework – in line with feedback we received in response to the PSR consultation.

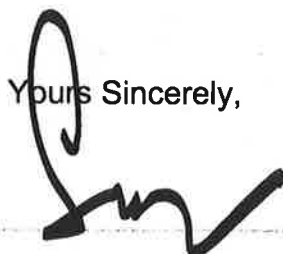
In terms of enforcement, we aim to use powers provided through the Bill to consolidate and simplify existing enforcement legislation where possible. For instance, given the way EU product safety legislation was transposed, the legal framework currently includes a number of overlapping notices and offences which could be streamlined to deliver a proportionate and tailored regime whilst ensuring clarity for businesses and enforcement bodies alike.

We will also consider expanding the use of undertakings, so that businesses can collaborate constructively with enforcement authorities, building on what works well in other regimes. For instance, we could consider a similar approach to the Health and Safety Executive's Improvement Notice, which would serve the function of compelling persons to comply with regulatory duties. We also intend to draw on existing precedent in improving the existing penalty framework with an expanded use of civil monetary penalties.

We recognise your concern that Clause 2(3)(h) is broad. However, this breadth is necessary to ensure that regulations can capture all relevant actors that currently play a role on product safety and, importantly, those that may emerge in the future. Online marketplaces will not be the last novel business models. The powers in this Bill will enable regulations to be introduced that place clear duties on specific supply chain actors which will empower enforcement authorities to protect consumers.

I am copying this letter to all Noble Lords who spoke in the debate. I am also depositing a copy of this letter in the Library of the House.

Yours Sincerely,

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

Lord Leong CBE
Lord in Waiting (Government Whip)