My Interventions on the Digital Markets, Competition and Consumers Bill

Do Ministers as a matter of course invite in leading regulators for at least annual reviews of corporate plans, budgets and performance?
Paul Scully, Minister of State for Science, Innovation and Technology:
Many of the regulators will be under the remit of the Under-Secretary of State for Business and Trade, my hon. Friend the Member for Thirsk and Malton (Kevin Hollinrake). Indeed, that is something that I did—

My speech on the Digital Markets, Competition and Consumers Bill

John Redwood (Wokingham) (Con):

Competition is by far and away the best regulator, and I pay tribute to all those in the House, including my hon. Friend the Member for Weston-super-Mare (John Penrose), who have pointed that out; I am delighted there is cross-party agreement. The point he made needs stressing: we are dealing with a limited number of regulators here today, but there are many other regulators and much of their task could be better done by following competition as the prime means of enforcing choice.

The regulators would be well advised to heed that advice and, instead of intervening in detail and trying to make very difficult distinctions and definitions that affect a complex marketplace, with the interplay of so many different consumers and suppliers, just stress that if there is effective choice and challenge in the market, normally there can be no harm.

Labour has said that it could be that an online supplier of goods and services was not offering a good deal, but I am less worried about that if there are shops in my local high street, because I do not have to use the offer by the online provider. The online provider themselves will anyway be subject to the challenge of other online providers. One advantage that the online retailer has is that the cost of entry is so much less than that required by those who wish to set up a formal shop with a property. If an online retailer, however large they might become, starts to offer very poor deals or offers, there will be plenty of challenge to that emerging in the marketplace.

In a fast-changing world where the market is extremely good at challenging, developing and changing offers overnight, we need to be careful about becoming too prescriptive. We may come up with a perfect solution to perceived problems of some suppliers at the moment only to find that, tomorrow, there are very different problems from different suppliers and that much of it can be taken care of by that pursuit of competition.

My main concern about all of this for our country is that competition only works, in the benign way that we know it can, if we have sufficient capacity. There is a danger, encouraged by the Opposition and pursued by the Government, that today we are so keen to regulate, to intervene and to tax anybody who makes a good profit; to provide a subsidy to anybody who has a failing business; and to decide that the Government know best about what consumers ought to buy and ought to want, that we end up with too little capacity in a number of crucial areas. That means that, instead of helping the consumer, we hinder them. Instead of having moderate prices with few rises, we have even higher price rises because there is insufficient capacity to meet the market demand. Instead of providing that perfect background for entrepreneurial businesses, which Labour and Conservatives are united in wanting, we send a hostile message to businesses. Those businesses then find other places with greater freedoms and lower taxes as the ideal place in which to experiment, to set up and to seek to export from, rather than from the United Kingdom.

Bim Afolami (Hitchin and Harpenden) (Con):
I thank my right hon. Friend for giving way. In relation to his very good point about capacity, what is his view about the need to ensure that we remain open for business internationally and remain an attractive place? Moreover, what is his view about the role of the regulators in that context, particularly the CMA, because of course capacity can come from other countries into our own market?

Indeed. I do not wish to go into the details of a recent case, because I have not studied all the documents, which would be necessary to do justice to both sides of the argument. Thinking back to when I was competition Minister—a good while ago now—when I was acting for the then Secretary of State, there was a difficult issue that arose over media challenge to the then existing limited number of media players where two of the new services wanted to merge together. I recommended, and we decided, that the two should be allowed to merge because they made a more effective competitor to what was already there, rather than taking the narrow pro-competition view that we needed to have two new challengers. The danger was that they would both fight each other to the death and leave the main media institutions—ITV and the BBC—unchallenged by alternative services.

The regulator has to understand that competition is not always furthered by blocking something; sometimes it can actually be furthered by encouraging the new. The main issue in competition law is often the definition of what is the market. I have already mentioned retail. If the market is online retail, we might want to stop a successful online retailer growing by acquisition, but if the market is retail, we might want a strong online competitor in order to challenge the previously dominant shop retailers. However, it is now coming to the point where it may be the other way around—where we need to be worried about the adequacy of the conventional retailer response.

Let me illustrate the importance of the central issue of capacity to the debate. One thing that has been extremely scarce—this has been blamed by many for the worst part of the inflation we have been experiencing—is energy. If the United Kingdom persists in saying that we do not want to get our own gas out of the North sea, we will not automatically transfer to green electricity; we will import gas from somewhere else. By doing so, not only will we damage our economy, as we forgo the jobs in the North sea and the cheaper gas, because the imported gas will be dearer; it will also be much worse for the environment, because by delaying or blocking the gas that we could get out, we will automatically import more liquefied natural gas. LNG generates at least twice as much CO_2 as burning our own gas down a pipe because of all the energy entailed in compressing a gas, liquefying it, transporting it and then converting it back to the gas that we need to use. It is therefore a doubly foolish policy.

We need to expand our capacity in energy where it is available and we need to understand that there are huge economic gains to producing our own. We also need to be worried about national resilience. If we wish to say that we can defend our country and its allies, it is terribly important that we produce enough for ourselves. Having energy self-sufficiency is always critical to having a country with resilience and strong defences.

The electrical revolution seems to be popular in most parts of the House of Commons, with people urging the Government to achieve a faster electrical revolution, switching more and more people from being predominantly users of fossil fuel—most of us predominantly use fossil fuel with a petrol or diesel car and a gas boiler—to using electrical means for our main energy uses. If we are to pursue that electrical revolution, there needs to be a massive expansion in grid capacity and in cable capacity into everybody's homes, offices and shops. It is simply not possible at the moment to generate the competition that we want for electricity against fossil fuels, and within electricity for renewables against more traditional ways of producing electricity, because the new renewable ways are so grid intensive and need so much more grid and cable capacity—we have to time shift them because they are often not available—that we are not going to get very far.

Already, I have helped with a major investment in my constituency, which was very welcome. One possible stumbling block was that the electricity companies could not offer enough power for the particular business development. There had to be an agreement over how much power the development could have available, because there was not limitless power for it to buy. The issue I was worried about had to do with grid capacity. We will find that that becomes more and more common if we do not get on with dealing with this particular issue.

A very topical issue today is capacity in motor vehicles. If we are to have a full range of choice and enough domestic production, it is not a good idea to ban the sale and therefore the manufacture of petrol and diesel cars as early as 2030, when no other major country in the world is doing so and when there will still be quite a lot of buyers who want petrol and diesel cars. I urge the Government to understand what competition and choice means. It means that people will buy electric cars when they want to buy them. They will buy electric cars when they are cheaper and better, and when they believe that the range is right and that the necessary back-up facilities are in place. I have no doubt that electric vehicle sales will grow, but it would be quite wrong to have an artificial injection of policy to ban other cars and prevent capacity and choice.

If the UK does not have battery production capacity, all we will do by banning petrol and diesel cars is destroy the successful industry that we have, which makes extremely good petrol and diesel cars, without having the replacement industry in place. It is not a simple matter of switching the production line from a diesel car one day to an electric car the next; it is a totally different product, built in a totally different way. An electric car needs a battery, which may be 40% of its value, and currently we cannot produce those batteries in any numbers to replace the capacity that we wish to cancel. I urge the Government to think again about consumer choice, competition and investment flows, because there is no way that people will want to invest serious money in the UK motor industry if its regulatory environment is more hostile than those elsewhere.

I was pleased to see my right hon. Friend the Prime Minister take a great personal interest in food production. I believe he held a very successful seminar yesterday and asked the Secretary of State for Environment, Food and Rural Affairs to go away and work up a series of measures. I do not doubt the enthusiasm of my right hon. Friend the Secretary of State, which I fully share and have often promoted, for us to grow much more of our own food in this country and to offer that much more choice to people in our supermarkets. However, when I look at the package of measures the Department has brought forward, there is hardly anything in it that would carry that ambition through.

The Department still intends to spend most of its subsidy money, most of its exhortation and a great deal of its regulation on encouraging farmers not to produce food, to wild their land and to achieve great things on managing the landscape for us all. That is all very nice, but it is possible to have perfectly attractive fields growing food, and that is clearly what we need rather more of.

We need to back the new robotics, artificial intelligence and electromechanical technologies that could transform the production of fruit and vegetables and other market garden products, as they used to be called, where we have allowed our market share to fall dramatically in the last 30 or 40 years. We are now reliant on imports, which limits choice, drives up prices and puts our national food resilience more in doubt because, were there to be problems with the supply from our normal suppliers abroad, I am sure we would be towards the back of the queue when it came to getting to what we needed.

I am conscious that others wish to speak in the debate, so I will not go into every sector, but the Government need to review sector by sector what they are doing that could help to increase capacity. Can they not reposition their subsidies, grants and direct investments, which they are making around the place on a pretty colossal scale, in a way that promotes that capacity and thus eases the position for competition? There is a particularly worrying trend at the moment—one that is bad for public spending and bad for business—that we make so many confused interventions that we need another intervention to deal with the previous intervention.

I will finish on the issue of high energy usage industries—steel, ceramics and other similar industries—which are gravely at risk. We have lost colossal capacity and market share under Governments of all parties since I have been around watching such things. The danger is that that loss will accelerate from here because we decide to impose the highest carbon taxes of any advanced-world country, as far as I can see—another major problem for the cost base of industries that are struggling to compete—and we then draw back in horror when we see that there could be closures and job losses, so the Government put some subsidies back in and we have a subsidy trying to countervail the tax. However, the subsidy is usually not as much as all the taxes combined, because when we add the 31% higher corporation tax—should there be any profits, and unfortunately there often are not—on top of the windfall taxes on the energy companies and on top of the carbon taxes on the steel and ceramics businesses, the tax burden is colossal and would be punitive were businesses to succeed and start making money. The demand for subsidy then becomes greater.

To have a competitive market would be extremely welcome. We have a market that is not nearly competitive enough. I ask the Government to look at what they are doing, because I think they are in danger of doing counterproductive and contradictory things: taxing too much, subsidising not quite enough and then inventing rules that stop people doing business.

[Conservative Home – Nationalisation does not work]

The Conservative government is adopting too many Labour policies when it comes to business and the economy. They will undermine growth, make combatting inflation more difficult and are driving Labour more to the left. Labour cannot believe their luck that Conservatives make them look more moderate and allow them to be even more socialist as they enjoy pushing the government further.

The government thinks the answer to the problem of the railways is more state control and nationalisation. It thinks the energy industries need to be placed under strategic control and guidance by the state, with a complex mesh of price controls, windfall taxes, requirements to do things that are not economic, with subsidies to stop bankruptcies. It thinks the digital and communications sectors need more regulation and a Ministry of Science and technology to direct and subsidise our way through the next five year state plan. It thinks energy using industries from ceramics to steel and from petrochemicals to fertilisers should be taxed to speed closure so we can import instead and claim a win on our carbon dioxide accounts. It wants literally to ban all our current motor car production industry from 2030 whilst hoping that miraculously an electric car industry will appear to replace it. No wonder investment is drying up and going abroad where you will still be allowed to make petrol and diesel vehicles.

Conservatives should know better and can do better. The years of privatisation revealed three great truths. Introducing competition and therefore giving consumers more choice gave a great boost to output and value for money. Opening up nationalised areas for private capital greatly expanded the total investment we could afford to put in. Allowing many decision makers instead of imposing an answer led to much greater innovation. The electricity generating industry freed of central control and state budgets put in a large increase in combined cycle gas generating capacity to supplement and then to replace expensive and dirty coal. Why hadn't the nationalised industry understood how much more fuel efficient and cleaner gas was? Power prices went down, we generated all we needed at home and had spare capacity just in case. The state telephone monopoly had backed a switching technology that no other country wished to buy and was well behind the breakthroughs with electronic switching made in the USA. The privatised industry dumped Strowger switching and leapt into the electronic age pulling the UK supply industry with it. Where rail competition was allowed in a less satisfactory privatisation it produced better and cheaper services, but was stifled in most places by continuing with top down controls.

Today we have to rediscover the old truths about nationalisation. The businesses will regard the government as the main customer, not the people who use the trains or need the energy and communications links. Managers will court and bully Ministers for more subsidy to cover over bad management. The Unions will enjoy striking against the government, knowing that the taxpayer can end up paying their wages where customers do not. Major mistakes will be made about investment priorities, about technologies, about levels and type of service to be provided, as they will decided centrally following political rows and will often not be customer responsive. I have no idea why some of my MP colleagues think a nationalised railway will work better. There is no sign of Unions readily accepting pay deals from the nationalised parts of the railway, and certainly no signs of them wanting to collaborate more with Minister led parts of the industry over improved work practices.

It is customers that keep businesses honest. It is the need to serve customers better and to provide better value and enhanced service that drives innovation, productivity growth and the higher wages that can result. The railway Unions are striking against themselves. They have helped dissuade people from returning to the offices five days a week, undermining their most reliable source of revenue of the pre covid railway. Now they are also out to wreck the alternative strand, people taking trains for leisure and pleasure. If you target strikes on days covering the Liverpool music contest and the cup final you will undermine your best chance of a growth business. The truth is none of us have to use the railways. We can drive. We can take a commercial flight. We can stay at home and use an on line link for a virtual meeting or entertainment download. If the rail Unions do not co-operate in adopting new technology, improving service reliability and quality, and ensuring affordable tickets then their industry will continue to decline. One day taxpayers will say no more and demand an end to excessive subsidies to pay for trains few are using and none can rely on.

The energy situation is more alarming. Ministers encouraged by officials seem to want to make us ever more reliant on imports though pipes and cables to European coasts, despite the shortages of energy on the continent and the clear dangers of relying on the goodwill of neighbours. Some want to introduce electricity rationing by price and to get people to only use power at certain times and days through sending price signals. Business will be rationed anyway through actual cut offs when there is not enough power. Aware of this danger many people in the UK refuse to accept a smart meter even though it is supplied to each free of charge, paid for out of general taxation. Many want us to keep our oil and gas under the sea, only to import far more liquified natural gas which not only adds to our colossal import bill but adds to world CO2 at the same time!

The money go round is now absurd. Generators of power facing high carbon taxes and price controls can then attract subsidies. Renewable energy suppliers now face windfall taxes though they are still preferred. Labour clearly signal they love this system and would increase the taxes further, removing the remaining incentives to invest and making us even more dependent on imports.

Basic industry is suffering from the arrival of dear energy. Industries like steel and ceramics have to pay large carbon taxes on the gas they need to use to fire their furnaces. As the Uk imposes higher carbon taxes and charges than any other advanced country the government has to give some of the tax back as a subsidy. Why on earth do they do this? Why not cut the tax and be done with it if they want some of our industry to survive?

So here is an easy way to win back lost votes and assist growth. Cut the high taxes, and allow competition and private capital to do the rest in these crucial industries.

Letter to the Prime Minister from the European Scrutiny Committee Chair, Bill Cash

Please find below Bill Cash’s letter to the Prime Minister:

European Scrutiny Committee
House of Commons London SW1A 0AA
Tel (020) 7219 3292 Email escom@parliament.uk Website www.parliament.uk/escom

From: Sir William Cash MP

15 May 2023

Rt Hon. Rishi Sunak MP

Prime Minister
10 Downing Street
London SW1A 2AA

Change in Government policy on Retained EU Law and the Retained EU Law (Revocation and Reform) Bill

Dear Prime Minister

On 21 July last year, after a five month inquiry, my Committee reported on the future of Retained EU Law (REUL). During our inquiry, we heard in evidence from 13 expert witnesses and the (then) Secretary of State for Business, Energy and Industrial Strategy, Rt Hon. Jacob Rees-Mogg MP.1 Shortly after we reported, the Government published the Retained EU Law (Revocation and Reform) Bill (REUL(R&R) Bill). The Government engaged with our work and we were pleased to see a number of our recommendations given effect in the REUL(R&R) Bill.

Recent Government engagement and the Secretary of State for Business and Trade's non-attendance before the Committee

This experience stands in stark contrast to our more recent engagement with the Government on the Bill. On 24 February, we invited the Secretary of State for Business and Trade, Rt Hon. Kemi Badenoch MP, to give evidence to us on the Government's progress on the REUL(R&R) Bill and its 'Brexit opportunities' work.2 We have written twice since, requesting her attendance before the Committee. On Thursday 11 May, I asked her on the floor of the House if she would appear before us, as did Rt Hon. David Jones M.

The Secretary of State is yet to commit to appear before the Committee. This state of affairs is unacceptable: Select Committees are vital to effective scrutiny and good law- and policy-making. A Select Committee should not be put in the position where it has asked a Secretary of State to appear five times to give evidence, over three months, without a clear commitment being forthcoming. The Secretary of State's failure to appear has frustrated our work on REUL and Brexit opportunities, and is not an issue I would ever have expected to be raising with a Prime Minister.

This situation has taken on a more concerning hue in recent days. As you are aware, on Wednesday the Government tabled amendments in the Lords to the REUL(R&R) Bill. These amendments signal a significant change in the Government's policy on REUL. The House was informed of this change in a Written Ministerial Statement on Wednesday afternoon and adequate explanatory materials, such as a White Paper, have not yet been forthcoming. This series of events was deemed so serious by Mr Speaker that he granted my Urgent Question (UQ) on the matter on Thursday morning. Save for my UQ, Members would not have had an opportunity to question the Secretary of State on the Government's plans ahead of Lords Report Stage, which starts today. This approach to scrutiny is deeply concerning and a worrying parallel can be drawn with how the Government handled the Windsor Framework: a major policy announcement accompanied by artificially set deadlines with no meaningful opportunity for input by Members. We hope this is not a trend that will continue. Parliament and the scrutiny function entrusted to us by the electorate are too important to ride over roughshod.

On the content of the Government's amendments to the REUL(R&R) Bill, we have serious concerns about: (i) the removal of the 'sunset Clause'; (ii) the Schedule of REUL to be revoked; and (iii) the Government's policy on REUL and its Brexit opportunities work. i. The removal of the 'sunset Clause' Clause 1 of the REUL(R&R) Bill, as introduced, would 'sunset' EU-derived domestic subordinate legislation and retained direct EU legislation on 31 December 2023. It would ensure that the majority of REUL would cease to exist on the domestic statute book as of the end of the year (unless specifically retained). The December 2023 sunset was justified by the Government as necessary to "accelerate reform and planning for future regulatory changes, benefitting both UK businesses and consumers sooner". The Government also said upon the Bill's publication: HCWS764 [on Regulatory Reform Update], 10 May 2023 6 Explanatory Notes to the Retained EU Law (Revocation and Reform) Bill [Bill 156 (2022-23)—EN], para 17.

The sunset will increase business certainty by setting the date by which a new domestic statute book, tailored to the UK's needs and regulatory regime will come into effect. Clause 2 of the Bill would allow the sunset to be extended beyond 31 December 2023 "ensuring the efficiency of the REUL revocation process should a lack of parliamentary time, or external factors, hinder progress towards reform of retained EU law prior to the 2023 sunset date". The Government amendment tabled in the Lords on Wednesday would remove the default sunset clause and, by virtue of this change, also remove the ability for it to be extended. Instead, only legislation listed in the Schedule would be revoked.

In a letter to the Committee on 10 May, the Secretary of State stated that the removal of the Bill's sunset would "provide certainty for business by making it clear which regulations will be removed from our statue book". This argument and that justifying the sunset clause on the introduction of the Bill are mutually contradictory.

The Secretary of State has referred to the Bill as pursuing a policy of 'preservation' of REUL. This is wrong. The Bill, as drafted, would revoke all EU-derived subordinate legislation and retained direct EU legislation on 31 December, apart from that explicitly singled out to be saved. The Government's amendments on Report in the Lords would preserve all 4,000 plus instances of REUL identified, minus those covered in the proposed new Schedule (600) and those instances to be dealt with elsewhere (e.g. the under the Financial Services and Markets Bill). A well-resourced REUL identification programme, which was promised by the Government in January last year, coupled with effective Ministerial oversight, would deliver the certainty business rightly demand and the effective and nimble post-Brexit statute book they have been promised. Clause 2 of the Bill was a sensible inclusion that could be exercised should progress towards the reform of REUL not be as quick as anticipated. It is unclear why this safety net is now deemed insufficient.

Letter from Rt Hon. Kemi Badenoch MP to Sir William Cash MP, 10 May 2023

ii. The Schedule of REUL to be revoked
The Government amendment tabled in the Lords would replace the clause 1 sunset mechanism with a Schedule of around 600 pieces of REUL to be revoked at the end of December this year. It is important to remember the reasons why the Bill was introduced. In its 'Benefits of Brexit' policy paper, the Government said "[we] will now prioritise areas where reform of retained EU law can deliver the greatest economic gain".10 In her letter of 10 May, the Secretary of State says "the Government are committed to lightening the regulatory burden for businesses and helping to spur economic growth". It is clear that the vast majority of instances of REUL to be revoked under the Schedule would do no such thing.

Our initial assessment shows that, almost without exception, the REUL detailed in the Schedule relates to matters that are trivial, obsolete and are not legally and/or politically important. Revocation of this REUL cannot be construed as lightening the regulatory burden for businesses or spurring economic growth. This is a worrying mischaracterisation and begs the question as to what the real purpose of the Schedule is. Examples of REUL that would be revoked under the Schedule include:

- temporary exemptions to repealed EU rules on limits to working hours for drivers during the 2001 foot-and-mouth outbreak;
- authorisation for EU Member States to ratify the 2006 Maritime Labour Convention;
- quota rules for the import of 8,000 tonnes of wheat bran originating in the ACP States into the French overseas territory of Réunion;
- rules on the allocation of fishing opportunities for the Democratic Republic of São Tomé and Príncipe; and
- the setting of fishing opportunities for anchovy in the Bay of Biscay for the 2011/2012 fishing season (it is worth noting that in excess of 150 instances of REUL included in the Schedule relate to fishing).

iii. The Government's policy on REUL and Brexit opportunities
The Government's Benefits of Brexit paper was also clear that REUL would be reviewed to meet the UK's priorities, with a view to "unlocking growth" and making sure it is "tailor-made for the UK market".

The policy paper was published in January 2022—almost a year and a half ago—and states "the Government will now prioritise areas where reform of retained EU law can deliver the greatest economic gain."13 This task was deemed sufficiently important by the Government that a dedicated 'Brexit opportunities unit' was setup working out of the Department of Business, Energy and Industrial Strategy and charged with coordinating and setting the methodology for the identification of REUL across Whitehall. The REUL(R&R) Bill is the mechanism through which the Government's Brexit opportunities work was to be delivered. We have been concerned since the start of the year that the Government's Brexit opportunities work, including that identifying REUL, has not been progressing as promised. I restate our suggestion, which I made to the Secretary of State on 24 February, that the Government should appoint a REUL 'Tsar', tasked with ensuring the Government delivers on its commitments.

The Government must restate its plans for the substantive reform of REUL.

This is necessary in light of the aforementioned uncertainty, the broad powers the Bill provides Ministers to amend REUL and the Government's desire to provide clarity and certainty to businesses moving forward. We request a full update on the status of the Government's Brexit opportunities work, the areas it is prioritising for reform through the Bill, and when these changes are now scheduled to take place. We also ask you to ensure the appearance of the Secretary of State before the Committee in good time.

I request a response to this letter as a matter of urgency, owing to the Government scheduling Report Stage of the REUL(R&R) Bill in the Lords for today and Wednesday.

I am copying this letter to the Secretary of State for Business and Trade, Rt Hon. Kemi Badenoch MP.

Regards

Chair

Written Answer from the Department for Energy Security and Net Zero – smart meters

Department for Energy Security and Net Zero provided the following answer to your written parliamentary question (184254):

Question:

To ask the Secretary of State for Energy Security and Net Zero, what steps he plans to take to use smart meters to reduce peak time electricity demands. (184254)
Tabled on: 10 May 2023

Answer:
Amanda Solloway:

Smart meters are making our energy system more efficient and flexible, helping us manage electricity demand at peak times. The half-hourly energy consumption information from smart meters is enabling innovative products and services for consumers such as 'time of use' tariffs, which offer cheaper rates when demand is low or when there is excess clean electricity available.

Smart meters have enabled National Grid ESO's Demand Flexibility Service. This had positive results through savings to households in the form of reduced energy bills, and reduced energy usage during peak times which helped to balance the electricity network last winter. The ESO is currently undertaking a review to inform the future evolution of the Demand Flexibility Service.

The answer was submitted on 16 May 2023 at 15:46.