Thank you for your letter of 1 October 2013 in which you sought views from the Infrastructure and Capital Investment (ICI) Committee on your review of the new EU rules introduced in August 2012. The ICI Committee considered your letter at its meeting on 18 December 2013 and its response is set out below.

Rule 10A.2 – Referral to lead committee

1. How often has your committee considered an EU legislative proposal under this rule and what have the outcomes been?


The proposal set out mandatory requirements for the build up and coverage of alternative fuel infrastructure for transport, and common technical standards for their construction and interoperability.

The Committee raised concerns which echoed the concerns of the Scottish and UK Governments in relation to the proposals, such as the setting of rigid interim targets for the uptake of ULEV technology and the targets for the installation of alternative fuels infrastructure. The Committee agreed that the setting of targets within the individual member states was a matter for national policy makers to decide.

Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high speed electronic communications networks (7999/13)

The proposal aimed to reduce the overall cost of deploying new superfast broadband infrastructure, primary through measures intended to reduce the cost of civil engineering works during rollout.

The proposal was referred to the ICI Committee and the Local Government and Regeneration Committee as the issues raised covered a number of areas across both committees’ remits. Both committees agreed with the Scottish Government that the legislative implications for Scotland in relation to this proposal were are complex
and more detailed information was required to fully understand the implications of implementing this Regulation at a local level.

On both occasions the ICI Committee agreed to ask the Presiding Officer to write to the relevant Committees of the House of Commons and the House of Lords with the Committee’s views. The Committee received responses to these letters which can be found at the following link:

http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/30499.aspx

Both responses highlighted the fact that the respective proposals had already been considered by the relevant UK Parliament Committee prior to this Committee’s consideration and subsequent issue of a letter outlining its views.

2. **What the implications of the requirement to consider EU legislative proposals have been for your committee?**

The main implication of the requirement to consider EU legislative proposals under this Rule relates to the timescales constraints inherent in the process for consideration. The process for consideration of such proposals over a total period of 8 weeks from the time it is passed to the member state for consideration invariably causes scheduling difficulties. This is often compounded where the Explanatory Memorandum is received late into the process. Experience has shown that devolved administrations are more often than not only advised of a need to provide input well into the 8 week period for consideration, which can severely limit their capacity to conduct effective scrutiny.

3. **How has your committee influenced outcomes at a UK and EU level as a result of this rule?**

Whilst the Committee has written to both the House of Lords and the House of Commons European committees and received responses, it is not clear the extent to which this Committee’s consideration has been able to influence outcomes at a UK and EU level as the consideration of the proposals at the UK Committee meetings had already taken place.

4. **How practicable is Rule 10A.2.2 (designation of lead committee where the subject matter of an EU legislative proposal falls within the remit of more than one committee) given time constraints?**

This Rule would provide difficulties in terms of further constraining the time for consideration of the Proposal with an additional process to allow consideration of the Proposal by the Parliamentary Bureau.

In 2013, the Proposal for a Regulation of the European Parliament and of the Council on measures to reduce the cost of deploying high speed electronic communications networks (7999/13) was referred to the Infrastructure and Capital Investment Committee and the Local Government and Regeneration Committee but no lead committee was formally designated. As the process already has practical
difficulties associated with the 8 week timescale for consideration and resulting scheduling challenges, scrutiny by both committees was made possible through a joint approach for consideration of the Proposal. In their letters to the UK committees, both committees stated that the limited time available for scrutiny of this Proposal was not helpful to the process.

Rule 10A.3 – Consideration of proposal for European Union legislation

5. Under Rule 10A.3.1 committees are obliged to consider an EU legislative proposal where it has been referred to the Committee in terms of Rule 10A.2. Is this rule sufficiently flexible to allow a committee to decide which proposals it wishes to consider? Specifically, is it necessary for a lead committee to consider all proposals where the UK Government, UK Parliament or Scottish Government has brought to the attention of the Parliament a subsidiarity concern?

This Rule does not allow for any flexibility in terms of assessing whether or not a Proposal merits formal scrutiny by a committee. It would be helpful if the wording in Standing Orders allowed for a degree of discretion in relation to whether a proposal should be considered formally by the committee with the use of the word “may” instead of “shall”.

6. Under Rule 10A.3.2, where the lead committee considers that an EU legislative proposal does not comply with the principle of subsidiarity, the Convener shall by motion propose that the Parliament agrees that the proposal does not comply with the principle of subsidiarity, and the Parliamentary Bureau shall allocate time for debate. How often has your committee applied this rule? Are there any issues around timing, given the constraints of the 8-week period and competing demands on parliamentary time?

The ICI Committee has never applied this Rule due to time constraints outlined in previous responses.

7. Under Rule 10A.3.3 where an EU legislative proposal is referred to a lead committee and the lead committee decides that there is an insufficient period remaining for report and debate, the Presiding Officer shall notify the UK Parliament of any concerns that the lead committee has that the proposal does not comply with the principle of subsidiarity. How often has this rule been invoked in the context of your committee’s consideration of an EU legislative proposal? How effective this process is?

Prior to August 2012, the Convener of the Committee wrote to the Chairs of the UK European Committees. The additional stage of requiring a letter from the Presiding Officer is as a result of the 2012 rule change which requires committees to seek to secure a plenary debate on the proposal where they have subsidiarity concerns. Where there is insufficient time for a plenary debate, parliamentary procedure allows for the views to the committee to be transmitted via a letter from the Presiding Officer.

It is difficult to assess whether a letter from the Presiding Officer as opposed to from the Convener contributes significantly to the effectiveness of the process.
8. *How often Rule 10A.3.4 (making special arrangements for recess periods) has been used?*

This Rule has not been used by the ICI Committee.

**Rule 12.6.2 – EU Reporters**

9. *On how many occasions has your EU Reporter brought to the committee’s attention any EU issue, proposal for EU legislation, or implementation of European Communities or EU legislation, as provided for in this rule?*

The EU Reporter has brought to the attention of the Committee the two EU proposals as outlined in this response. In addition, the EU Reporter has brought to the Committee’s attention details of its EU priorities for the forthcoming year, an annual process as required by the EU Strategy. The Committee’s work often takes account of European issues, such as its work in relation to procurement reform and broadband infrastructure rollout across Scotland, although mainstreamed European issues are not necessarily led by the EU Reporter to the exclusion of other members of the Committee.

**Conclusion**

In conclusion, the Committee would welcome more flexibility in relation to the current EU rules allow committees a degree of discretion when considering whether a proposal merits formal scrutiny. It also suggests that there are issues of process which could be examined by devolved and UK parliamentary institutions – at both procedural and official level - to ensure that the relatively limited time available the scrutiny of proposals is utilised more effectively. It is also of the view that The Scottish Parliament should ensure that an appropriate level of clerking support is available to monitor emerging and developing EU issues.

In addition, it is not clear to the Committee whether the scrutiny of such proposals which it has undertaken have made a significant impact in terms of influence at either UK or EU level. In this regard, it would suggest that a more general assessment should be made to establish whether the scrutiny of EU proposals under the rules by Scottish Parliament committees has had any meaningful impact and whether the objectives behind the introduction of the rules are being satisfactorily met.

**MAUREEN WATT MSP**
**CONVENER**
**INFRASTRUCTURE AND CAPITAL INVESTMENT COMMITTEE**
**SCOTTISH PARLIAMENT**
**8 JANUARY 2014**