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From: Hutchinson, Peter
Sent: 26 June 2012 17:15
To: 'Miller Andrej (Energy Efficiency and Consumers)'
Subject: RHI - Legislative issues

Andrej,

Grateful for your consideration and advice on a couple of issues.

Firstly, we are finalising our legislation for the NI RHI and for consistency we have used the GB regulations as a basis for our legislation. In the GB regulations in the explanatory note I noticed a reference to the regulations having been notified to the European Commission in accordance with Directive 98/34/EC. The following wording is included.

“A draft of these Regulations was notified to the European Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37) as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).”

I have spoken with colleagues in DETI about why this was done and whether it is required for the NI regulations. We will take legal advice on this point also but wanted DECC's view and maybe an explanation as to why the GB regulations were notified in this manner? From a preliminary read of the directive it seems that the purpose is to prevent Member States using 'technical standards' as a way of protecting their indigenous industries - in effect the EC is preventing Member States from using certain technical standards as a trade barrier. Given the nature of the RHI schemes I don't fully understand why this Directive is applicable to the RHI? If the 'technical standards' relate to the use of MCS equipment and installers for microgeneration under the RHI then similar requirements would exist under the NI Renewables Obligation and the regulations relating to the NIRO are not notified in this way.

If you are able to shed some light or provide some guidance I would be very grateful.

Secondly, I understand that you intend to make "corrective" amendments to your regulations to resolve some issues within the initial drafting. It would be useful if DETI were kept informed of these proposed changes so we can consider the impact on NI regulations, again for the purpose of consistency.