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VEHICLE TECHNOLOGY AND AVIATION BILL

Fifth Sitting

Tuesday 21 March 2017

(Morning)

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Saturday 25 March 2017

The Committee consisted of the following Members:

Chairs: † James Gray, Joan Ryan

† Baker, Mr Steve *(Wycombe)* (Con)
† Brown, Alan *(Kilmarnock and Loudoun)* (SNP)
† Burden, Richard *(Birmingham, Northfield)* (Lab)
† Doyle-Price, Jackie *(Thurrock)* (Con)
† Foxcroft, Vicky *(Lewisham, Deptford)* (Lab)
† Fuller, Richard *(Bedford)* (Con)
† Hayes, Mr John *(Minister of State, Department for Transport)*
Hendry, Drew *(Inverness, Nairn, Badenoch and Strathspey)* (SNP)
† Knight, Sir Greg *(East Yorkshire)* (Con)
† McDonald, Andy *(Middlesbrough)* (Lab)
† Malthouse, Kit *(North West Hampshire)* (Con)
† Marris, Rob *(Wolverhampton South West)* (Lab)
† Matheson, Christian *(City of Chester)* (Lab)
† Prentis, Victoria *(Banbury)* (Con)
† Selous, Andrew *(South West Bedfordshire)* (Con)
† Snell, Gareth *(Stoke-on-Trent Central)* (Lab/Co-op)
† Stewart, Iain *(Milton Keynes South)* (Con)
† Tugendhat, Tom *(Tonbridge and Malling)* (Con)

Ben Williams, Farrah Bhatti, *Committee Clerks*

† attended the Committee

Public Bill Committee

Tuesday 21 March 2017

(Morning)

[James Gray *in the Chair*]

Vehicle Technology and Aviation Bill

9.25 am

The Chair: Welcome back to the Vehicle Technology and Aviation Bill Committee. We resume line-by-line consideration of the Bill, which seems to have made very good progress last week under the chairmanship of the right hon. Member for Enfield North (Joan Ryan).

Clause 12

Smart charge points

Richard Burden (Birmingham, Northfield) (Lab): I beg to move amendment 14, in clause 12, page 7, line 38, after "security" insert "and provide safeguards against hacking".

This amendment clarifies that smart charge points must have measures in place to safeguard against the risk of being hacked.

The Chair: With this it will be convenient to consider new clause 7—*Cyber Security and hacking of automated and electric vehicles*—

"The Secretary of State must, within the next 12 months, consult with such persons as the Secretary of State considers appropriate on what steps will be required for the effective cyber security of automated and electric vehicles to protect those vehicles against hacking."

This new clause would require the Government to consult on the risks of automated and electric vehicles being hacked and to ensure that measures are in place to address this.

Richard Burden: Before speaking to the amendment, may I thank the Minister for his latest letter about the Bill, which, as ever, is very helpful?

Clause 12 is quite broad. It allows the Government to impose requirements and specifications for charge points. We know from the policy scoping notes that the Government circulated last week that they do not yet know quite what regulations they want to introduce, but that the Bill will give them the power to introduce those regulations via the negative procedure. For the reasons we discussed last week, I do not expect Ministers to know, right now, all the regulations that they will need to introduce, but I question whether the negative procedure is appropriate. I will address that point in more detail when we debate further amendments today.

Amendment 14 and new clause 7 address cyber-security and hacking. Any element of data, digital infrastructure or digital function is incredibly valuable and increasingly involves a risk of being hacked, as we know. The data, infrastructure and digital function behind the charging infrastructure and its interface with electric and automated vehicles are no different. We need to address cyber-security and data protection in relation not only to charging, but to the electric and automated vehicles themselves.

Rob Marris (Wolverhampton South West) (Lab): My hon. Friend will be interested to know that I had a great discussion last night with the hon. Member for Stafford (Jeremy Lefroy), who drives a Nissan LEAF. He showed me an app on his phone that not only can tell him the current state of charge of his vehicle, which is parked up in Stafford, but—should he so desire—can turn on the heating in it while he is sitting in the Members' Tea Room. Unfortunately, when we have apps like that, there are great opportunities for hacking.

Richard Burden: My hon. Friend is absolutely right. That example from the hon. Member for Stafford (Jeremy Lefroy) makes the point very clearly: there is huge potential to communicate with vehicles—for people who own or rent them, but equally for people who we would not want to be able to communicate with them.

Amendment 14 relates to charge point cyber-security. Clause 12 contains a range of non-exhaustive specifications that a charge point must comply with, and it appears that that will involve a large amount of data being transmitted from the charge point. Measures are therefore needed to ensure that charge points and the data they process are protected against attempts at hacking. I think that is what the Government are getting at in subsection 2(e), but I ask the Minister to clarify whether that provision also covers cyber-security and the risk of hacking. I also invite him to clarify who the information that clause 12 refers to is to be shared with, and where.

New clause 7 is more broadly focused on the cyber-security of automated and electric vehicles themselves. The Bill does not seem to touch on that, but it will be a significant barrier that will need to be addressed if these vehicles are to be deemed safe, secure and reliable. The example that my hon. Friend the Member for Wolverhampton South West gave illustrates that point absolutely.

Sir Greg Knight (East Yorkshire) (Con): When we talk about hacking, we tend to visualise a spotty youth on a computer in a bedroom, but it can also mean commercial hacking. The company that has provided the charging point may want the data of people who use its facility.

Richard Burden: The right hon. Gentleman is absolutely right. The nature of hacking is that it can come from anywhere if someone knows how to do it. As he says, that can be the individual spotty youth in a bedroom, but hacking can also be done for commercial purposes, which is equally a risk. That is why manufacturers invest millions of pounds putting systems in place to protect future vehicles from being hacked.

That is welcome, but the Government must also play a role, particularly if we are seeking to encourage development and uptake of such vehicles in the UK. Cars will also be particularly vulnerable when serviced. Somebody put it to me the other day that the nature of the information systems in our vehicles are becoming such that taking them to be serviced is a little like taking a laptop to be serviced and handing it over with all its passwords. We need safeguards. It is not beyond the realms of possibility that if those safeguards are not in place, information could be uploaded to or downloaded from an electric or automated vehicle being serviced that would allow hackers to obtain information or, perhaps worse, control safety-critical elements of the vehicle's function.

In the case of an automated vehicle, the obvious risk is when driving. In extreme scenarios, people could find themselves going somewhere they do not want to go, travelling at a speed they do not want to travel at or, in the most dangerous case, not stopping when they need to stop. I would welcome an indication from the Minister whether his Department has discussed the issue, and what the assessed risk was of those vehicles being hacked. Furthermore, in line with new clause 7, I ask him to consult the industry on what steps might need to be taken to address that risk and whether Government action will be necessary as part of that.

Rob Marris: My hon. Friend may be aware that there has already been a case in the United States in which a vehicle with high-level electronics—not a driverless vehicle, but a vehicle for sale on the road; I cannot remember the make—was hacked as part of a process, to show that an existing vehicle could be taken over through its electronics. It is already possible with vehicles that require drivers.

Richard Burden: I was not aware of that precise case, but my hon. Friend makes an important point. Once a vehicle generates that kind of data and information, it is always possible for it to be accessed and used in a whole range of quarters. It could be used for commercial purposes, as the right hon. Member for East Yorkshire said, if a firm wants to know the individual's driving habits and target them for marketing or other purposes. It could be used for malicious purposes, potentially causing harm to the driver or occupants of the vehicle. It could be used accidentally, to return to the example of spotty youths in their bedrooms, for something seen to be a bit of a laugh that could have severe and dangerous consequences. The technology and skills are out there now.

The point I am making in the amendment, and in particular in the new clause, is that once we move to the much more rapid expansion of uptake that we want for electric and automated vehicles, the scale of the risk becomes much greater. That is why it is important.

Rob Marris: It has just come back to me that the vehicle involved in the American experiment was a Jeep, and that it happened in July 2015, so it was quite some while ago. That case involved benign hacking to show that it could be done, but it demonstrates to us all the dangers if we do not have the kind of protection that new clause 7 would provide.

Richard Burden: My hon. Friend is right. It indicates that when we come to a decision later on new clause 7, it will be important for all Committee members to consider it seriously. This is not something that should divide us along party lines; it is something that we should all be concerned about. We have more issues and questions about some aspects of clause 12, but as the amendments relating to most of them have been grouped under clause 15, I will leave it there for now and keep the Minister and other hon. Members in suspense.

Alan Brown (Kilmarnock and Loudoun) (SNP): I want to make a few brief points. Cyber-security is clearly a huge issue in this day and age, so we should consider it as we go forward. We need to think about where the endgame is for us: it is the 2050 target of all vehicles on the road being low-emission. That is partly predicated on the roll-out of the smart charge point grid and the use of electric vehicles. If we are looking towards that 2050 horizon, we need to take as many steps as we can to ensure that there is a practical roll-out and a safe mechanism. This and neighbouring clauses are about certain roles, responsibilities and liabilities, so making the owners and suppliers of charge points responsible for their security, and setting out regulations that define that safety and security, makes sense. For that combination of simple reasons, I support the amendment and the new clause.

The Minister of State, Department for Transport (Mr John Hayes): I am delighted to welcome you back to the Chair, Mr Gray, and to continue our diligent scrutiny of this important legislation.

In a fallen world, it is not the existence or character of malevolence that changes, but its expression. The hon. Gentleman is right that the age in which we live, with its concentration of data, brings new risks through new vulnerabilities. The technology associated with vehicles is a good example of that, although by no means the only one. For those reasons, I am pleased that he has taken the opportunity to debate these important matters.

There will be a great deal of data in vehicles—indeed, a growing amount—as the hon. Gentleman describes. Some of those data will be accessed remotely—a point made by the hon. Member for Wolverhampton South West—some in real time and all potentially of value, and potentially vulnerable. The hon. Member for Kilmarnock and Loudoun is absolutely right that the security we build through the legislation, and beyond it, through the work he has invited us to do with manufacturers and others, will be critical. Its salience will grow as the technology develops and we become more dependent upon it.

I welcome the debate and the interest the Committee has shown in ensuring that vehicles and infrastructure are secure and safe from the kind of malevolence that manifests itself in the form of cyber-attacks. Protecting individuals by protecting the information about them and their vehicles is at the heart of what the Government intend. It is vital not only for its own sake but because it will build confidence if people know what they do is safe and secure. We need to build confidence to give the technology the support it needs if we are to build truly digital integrated transport networks—what a great phrase that is. I could just tell that you were hanging on it for a moment, Mr Gray.

The Chair: I have to admit that I had drifted off.

Mr Hayes: Vehicle connectivity and automation and the decarbonisation of the vehicle fleet are separate issues, but like many commentators we expect to see an eventual convergence between trends in new vehicle technologies. I understand the relationship between those issues, but it might help the Committee if I dealt with them separately.

We strongly believe that connected and automated vehicles must be secure by design, with appropriate safeguards to ensure against cyber-attacks. That will necessitate exactly what the hon. Member for Birmingham, Northfield called for. He invited us to consult the industry on what steps should be taken to guarantee that outcome. Much of this will be done at international

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level as well as locally. We are working with the United Nations to develop requirements for vehicle manufacturers on cyber-security.

I think that it is reasonable to say that the UK is in a strong position—I hesitate to say "leading," but only out of personal and national modesty. I think that we can be an important player internationally in ensuring that those standards are fit for purpose. Officials in my Department are chairing this international work, so perhaps it is fair to say—you are the Chairman of this important gathering, Mr Gray—that we are leading.

The Chair: I am most certainly not its leader.

Mr Hayes: No, but we look up to you; that is the point I am making.

We are also working with UK security agencies. When I was in my previous job as security Minister in the Home Office, I was heavily involved in consideration of cyber-threats and cyber-security. It is important for the Committee to know that this is something that has been discussed across Government, because some of these responsibilities are shared by different Government Departments and different Ministers. We are therefore working with other parts of Government on the new National Cyber Security Centre to engage directly with the industry to raise awareness and promote best practice. Using the Government's approach to cyber-security, applying it to this area of work, engaging with the automated industry and those who are developing this technology is central to our purpose.

The hon. Gentleman invited me to go into some more detail. As part of that, we have set out for the industry the objective of developing a set of principles for cyber-security. As a result, our thinking is developing alongside that of the industry. It is important that we establish at an early stage the principles—many of which the hon. Gentleman touched on—that will underpin the safe and secure development that he and I seek.

Tom Tugendhat (Tonbridge and Malling) (Con): Given that the foreign countries to which people are most likely to take their electric cars are going to be European countries, can the Minister tell the Committee a little about what co-operation he hopes to have with European partners, particularly on charging points? We know that the vulnerability in cyber-security is often at the point of connection. The telephone network—presumably a telephone network is linking them—and the charging points are going to be vulnerable.

Mr Hayes: The promotion of sharing good practice will be national; it will be between Government and industry; and it will be pan-national, pan-European and, beyond that, international. The establishment of an information exchange to share exactly those kinds of principles is part of what we are doing. That certainly includes work across Europe, for the very reason my hon. Friend gave, which is that people will want to travel beyond the boundaries of this country. They will also, of course, buy vehicles that are manufactured in other places—the nature of the automotive industry is that it is pan-national. It is critical that we can rely on digital standards, just as we expect mechanical standards to be reliable.

Christian Matheson (City of Chester) (Lab): The Minister mentions the United Nations and pan-national efforts. Does he understand that he is giving the impression of doing everything other than working with the European Union?

Mr Hayes: I always hesitate to mention the European Union in anything other than pejorative terms, but that is a personal foible rather than a ministerial position. Of course, we will work with the European Union. We remain members of the EU until the point at which we depart. In any case, our work with European nations and neighbours is critical in this regard. Much of the work that I am describing is not driven or governed by the EU itself. Many of the bodies involved are international, such as the United Nations, and the vehicle manufacturers have a footprint that extends beyond nation states. Of course, the hon. Gentleman is right to say that we will work with both the EU and other European countries, despite the foible that I was very honest to admit having.

9.45 am

Richard Burden: Before the previous intervention, the Minister was talking about the consultations that he is already undertaking with the industry, in particular discussions towards setting up a list of principles to govern cyber-security. Will he give a little more detail about who he is consulting? He referred to the industry: does that mean the manufacturers of vehicles or of charge points, or does it mean the broader industry beyond the automotive sector?

Mr Hayes: Actually, it means all of them, but it would be helpful for the Committee if I set that out separately. We could describe in greater detail some of the work that I have set out, including the development of core principles, the establishment of a dialogue and international work. I am more than happy to set that all out in detail and assure hon. Members that it is significant. It is right that the hon. Gentleman should seek greater clarity and I will happily provide it before the Committee ends its consideration of the Bill.

Rob Marris: When the Minister sets that out, will he also set out details relating to intra-national co-operation—I am sure he is doing this, but he has not mentioned it—including discussions with the Government in Northern Ireland, to which the Bill does not apply, and with the Republic of Ireland? If charging points in Northern Ireland are to mirror those in Great Britain, it would be helpful if those Hayes hook-ups could also have common currency with the Republic of Ireland, with which we share a land border.

Mr Hayes: That is an interesting point. I would not yet want to say how much we can establish uniformity of charging points across countries, for I would not want to suggest in Committee or elsewhere that a driver could be absolutely certain that, wherever he travelled in the world, he would find a Hayes hook—I just dropped the "up", by the way.

It would be ideal if we could at least establish a set of principles that extended to the distance that people would be likely to travel. That is the reason for the

United Nations standards and the international work that I have described. We have to get a good, well-established and well-founded connection between Government and industry. We then have to work, as I have said, pan-nationally.

I emphasise again that this is very much aligned with cyber-security, which is a high priority for both the Government and the nation. That is why we established a national security strategy, and the new National Cyber Security Centre is engaged in all of the work that I have set out.

The hon. Member for Birmingham, Northfield made a point about the electric charging infrastructure and so far I have talked largely about vehicles. The clause makes it clear that smart charge points must be secure against hacking, because the cyber-risk is not just to the vehicle or the data, but to the charge points themselves, so they also need to be safe and secure. Paragraph 39 of the explanatory notes explicitly mentions that the charge point will need to be resilient against cyber-attack.

The hon. Gentleman is right to say that the security is vital and, as the amendment suggests, consultation will be necessary. I am very happy to set out for him in writing the work we have already done to engage with various partners. I am also happy to tell him that that consultation will be ongoing; perhaps I can confirm that now, because essentially that is the information sought by the amendment.

The amendment compels us to consult. I am happy to commit to consulting, because it is critical that we consult people. We will continue to work with the security community, industry and other partners. However, I will go further, because I have been cogitating, as one does on one's feet when one is capable of multi-tasking, as I know members of this Committee are capable of doing. I think we should publish and set out clearly the cyber-security principles of the connected and automated vehicle ecosystem that we will develop in collaboration with the security agencies in the coming months. I will make that commitment here. In addition to the commitment to consultation, it is important that we establish those principles very early. They will send a significant signal as to why and how this issue matters.

We will also take the additional powers that we need, as appropriate. The hon. Gentleman has said that that is implicit in the Bill, but I do not think it is right to take them yet. I would rather set out both the process by which we intend to consult and the principles, and then take the powers, as set against the principles at the necessary time. That is largely because charge point technology and vehicle technology are evolving rapidly and I do not want to prejudge their development. There would be a risk of doing so if we accepted amendment 14. Therefore, it would be preferable to set out the security requirements in regulations, and to do so having had the consultation that I have described.

Rob Marris *rose—*

Mr Hayes: Just before I come to my exciting summary, I will give way to the hon. Gentleman.

Rob Marris: I am grateful to the Minister for giving way. Perhaps to save the stand part debate, Mr Gray, I will ask a brief question. The Minister says that security is vital and mentions the anticipated process. Clause 12 uses the word "may" in relation to regulations—it is permissive, not mandatory. Can he confirm that regulations will in fact be made?

Mr Hayes: Yes, absolutely: regulations will be made, as appropriate and at the right time. That was a perfectly fair question.

With that, I invite the Committee to reject the amendment. Better still, I invite the hon. Member for Birmingham, Northfield to withdraw it, so that we are not obliged to reject it. I do so having given commitments that I will follow through on as soon as possible.

Richard Burden: I am grateful to the Minister for his comments. On the issue of process and the powers that Ministers will take, I fully accept his point that they are not yet in a position to know the exact regulations for which they will want those powers. We will discuss that issue of process when we consider the next group of amendments. Nevertheless, I accept what he has said, namely that powers are necessary and that regulations cannot yet be drafted.

I am also grateful to the Minister for the commitments that he has given today, first to the publication of the principles on which cyber-security will be addressed—that is really important—and, secondly, to consultation of the kind envisaged by the amendment and new clause 7, and, thirdly, to making the laying of regulations a mandatory issue, not simply a discretionary issue.

I get the impression that the Minister feels passionately about this issue; I think we transported him back for a moment to his previous job as the Minister with responsibility for cyber-security. I have absolutely no doubt that he takes the matter seriously. On the basis of what he has said, I will not press the amendment to a vote. We will reflect on what he has said and on whether to withdraw the new clause when we come to consider it, but for now, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 12 ordered to stand part of the Bill.

Clause 13 ordered to stand part of the Bill.

Clause 14

EXCEPTIONS

Question proposed, That the clause stand part of the Bill.

Sir Greg Knight: Mr Gray, I know that you are more interested in horses than in brake horses. I always find the Minister intriguing, but I find what he is proposing in this clause particularly intriguing. In subsection (3), he is asking the Committee to agree that regulations may exempt a person or public charging point specified in the Bill. Can he give the Committee an example of the circumstances in which he envisages an exemption being applied?

Mr Hayes: I am always delighted to hear from my right hon. Friend on such matters. It might be helpful for me to set out the purpose of clause 14 and, in doing so, address the specific point that he made.

The purpose of the clause is, first, to provide the power to make exceptions to the obligation set out in the regulations and, secondly, to provide a safeguard

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against situations in which the requirements set out in the regulations flowing from the powers in the Bill have unintended consequences. These include where the regulations risk placing unreasonable requirements on businesses in order to comply, or where technological innovation advances in ways that could not have been anticipated at the time of drafting the regulations. Those are some of the reasons why the clause was drafted in this form.

The effect is to give the Secretary of State the ability to decide that the obligations contained in the regulations made under the Bill do not apply in particular or given circumstances. To ensure transparency, the Secretary of State will be required to publish any determination made using the powers. Being a veteran in all such legislative matters, my right hon. Friend will understand that the purpose of that is to ensure that the clause is used consistently and in a way that is open to scrutiny.

My right hon. Friend asked me about the types of situation in which the power might be used. They include where it would be unreasonable for a person to comply due to their particular circumstances—a good example would be a remote service station with very limited access to grid infrastructure—and where the aims of the regulation may be achieved by means that do not necessarily meet the exact requirements of the regulation—for example, where smart functionality is delivered through an innovation that could not have been anticipated at the point when the regulations were drafted.

Those are two areas where exceptions might be applied of the kind that I have described. Although, I am confident that I have satisfied my right hon. Friend with that assurance; maybe I have not, but that is for him to judge. At least, I hope that he will now understand the purpose of the clause as drafted.

Question put and agreed to.

Clause 14 accordingly ordered to stand part of the Bill.

Clause 15

REGULATIONS

Richard Burden: I beg to move amendment 15, in clause 15, page 9, line 1, leave out from "consult" to end and insert—

"(a) the National Grid,

(b) large fuel retailers and service area operators as defined under section 10, and

(c) any other such persons as the Secretary of State considers appropriate."

This amendment would require the Secretary of State to consult specifically with the National Grid, large fuel retailers and service area operators before introducing regulations.

The Chair: With this it will be convenient to discuss the following:

Amendment 16, in clause 15, page 9, leave out line 14.

This amendment makes the first regulations made under section 12 subject to an affirmative resolution.

New clause 5—*Review of regulations in Part 2*—

"(1) Within 12 months, and once in each 12 month period thereafter, the Secretary of State must lay a report before Parliament on the regulations made using powers granted in Part 2 of this Act.

(2) The report must consider—

(a) the effectiveness of the regulations,

(b) the impact the regulations are having on public charge point operators,

(c) the impact the regulations are having on fuel retailers,

(d) the impact the regulations are having on the National Grid, and

(e) how the regulations are impacting on the uptake of electric vehicles."

This new clause would require the Secretary of State to lay a report before Parliament each year assessing the effectiveness and impact of the regulations in Part 2.

Richard Burden: The theme of the amendments and the new clause is consistent with the themes of so many of the amendments we have moved, in that it requires the Government to consult widely before regulations are implemented. One significant area that our proposals would deal with is the impact that the expansion of charging points may have on the national grid, which the Bill barely addresses, although it is mentioned in the policy scoping notes that were circulated last week. It occupied a good amount of discussion in the evidence sessions last week.

10 am

There is a fear that sudden huge spikes in demand could easily damage the network and, in extremis, even lead to power outages. If this policy is going to work, it requires serious planning and consultation between the Government, the grid and charge point operators. I appreciate that the Government are trying to address some of that with smart charging, but the risk is still there, particularly if rapid charging is used at charge points during peak rush hours. Those concerns need to be carefully considered and the impact must be monitored in the roll-out of infrastructure changes. Will the Minister commit to considering the matter further, to consulting with the necessary bodies to ensure that the potential impact is limited, and to ensuring that measures including smart charging will be in place to prevent overload on the network?

Amendment 16 follows on from the comments I made on clause 12. Given the importance of that clause and the breadth of measures that could be contained within it, I am not sure why this is one of the few parts of the Bill that is subject to negative resolution, rather than affirmative resolution. As the Minister knows, the clause gives the Government broad and open-ended powers to set the standards or requirements for the charging points that will be installed.

As the policy scoping notes circulated last week underlined, the Government will have to consider a great many things that they do not know. They do not yet know what regulations they want to bring in, who they will affect or how they will be affected. It is a little bit like that Donald Rumsfeld quote. The Government may know what they do not know, but we do not yet know what the Government do not know. That underlines why it is important that the Government consult with stakeholders, as amendment 15 asks them to do.

According to the policy scoping notes, the Government accept that they need to consult with stakeholders, but it is also important that the Government consult with Parliament. That is why I return to the point I made on Second Reading and earlier in the Committee's consideration about blank cheques. I am not opposed to the use of secondary legislation, because it will be necessary to future-proof the Bill, but it is important

that the Minister comes back to Parliament with more detail and specific proposals for regulations, particularly for something that as it stands does not include much detail.

That brings me tidily on to new clause 5, which again is about the Government involving this place in the future of the proposed legislation. I am sure that the Minister will agree that regular reviews can help not only in assessing how things are working but in helping guide future action. That is particularly relevant given the Bill's focus on future technology and developments. The new clause would require the Government to lay a report before Parliament each year to consider how the regulations are working and specifically the impact they are having on charge point operators, fuel retailers, the national grid and the overall uptake of electric vehicles.

The Government are intending the Bill to enable and encourage the uptake of electric vehicles, and I think they are right to do that. It would therefore make sense for them to review regularly whether that is actually happening and whether things need to be changed down the line. Involving Parliament in this issue would not only be beneficial for the Government but would enable them to regularly reassess their work. I am sure the Minister would be saying that to us if our seating arrangements were reversed. I look forward to hearing his views on how we can ensure parliamentary scrutiny and proper accountability as things go forward, via the affirmative procedure and under the new clause. We must keep the matter constantly under review and be prepared to revisit it if the circumstances require it.

Rob Marris: I rise to speak to amendment 15, particularly in respect of the National Grid. I remind the Committee of an exchange that I had with Marcus Stewart, National Grid's head of energy insights, in our evidence session on Tuesday 14 March. His role, as he puts it,

"is looking out into the future to determine what the energy future will look like".—[*Official Report, Vehicle Technology and Aviation Public Bill Committee,* 14 March 2017; c. 17, Q30.]

I had an illuminating exchange with him, which appears in column 24 in *Hansard*, about the amount of electricity that would be required—the electricity demand—if there were 1 million electric vehicles on the road. I stand to be corrected, but there are currently about 40 million vehicles on the road, including commercial fleets.

Mr Stewart said that having 1 million electric vehicles on the road and charging them with a 7 kW charger, which is a fairly standard charger, would require 7 GW of electricity demand. Hon. Members may know what that looks like, but, fortunately for me, he explained it:

"Total UK demand today is about 50 or 55 GW."—[*Official Report, Vehicle Technology and Aviation Public Bill Committee,* 14 March 2017; c. 24, Q44.]

The demand of 7 GW that would be created by 1 million vehicles all charging at the same time is about one seventh of that—about 14%. He helpfully said that 7 GW of electricity generating capacity was roughly equivalent to

"two and a bit very large nuclear power stations."—[*Official Report, Vehicle Technology and Aviation Public Bill Committee,* 14 March 2017; c. 24, Q43.]

Let us imagine that in 20 or 25 years' time we get to the situation where half the UK vehicle fleet—20 million vehicles—are electric. If they are on 7 kW chargers and if the technology has not markedly changed—I realise that that is a very big "if"—the electricity drawdown if they all charged at once would be 140 GW. Today we are producing only 55 GW, so that could not happen. These are back-of-an-envelope figures, but if those 20 million vehicles sought to charge evenly throughout the day, that would mean just under 1 million vehicles charging every hour—say 6 GW an hour, which is 11% of current electricity production. In round terms, that is equivalent to two large nuclear reactors—and that assumes charging evenly throughout the day, which is unlikely to happen. Conversely, if we were so foolish as to allow a system to develop that allowed everyone to charge at once, that would require 140 GW, which is equivalent to 45 very large nuclear reactors, which come in at about £20 billion each. Clearly that would be unsustainable.

We need regulation—made in consultation with the National Grid, as amendment 15 says—to spread demand more evenly through the day and in the night when there is likely to be less industrial use, and to deal with the electricity generating capacity that we are likely to need. Working with National Grid, the Government need to forecast the take-up of electric vehicles, so that we know when that additional electricity capacity is likely to be needed. I would like some assurance from the Minister—I am sure he will be able to give it to the Committee with his usual fluency and competence—that the Government are seized of that, which the amendment would enable them to be by mandating in statute that National Grid should be a consultee. To me it is a frightening prospect that either we fry because CO_2 emissions carry on as we continue with carbon-powered vehicles, or we have blackouts because too many people are plugging in their electric cars which they bought as an alternative to frying the planet. Neither is a happy prospect but, to cut that Gordian knot, it would help if we had regulation to even out during day and night the demand for electricity from electric vehicle owners and operators. It would also help if the Government gave some indication of their discussions with National Grid on extra electricity generating capacity.

Christian Matheson: The nightmare scenario that my hon. Friend is talking about is entirely plausible. Does he accept that our baseload electricity requirement at the moment would be hugely increased, in particular at night when I suspect most people would charge? That would have consequences for the way in which we manage the electricity system in this country.

Rob Marris: My hon. Friend is right. I am not an expert but, intuitively, I recognise that solar power generation is likely to be less efficacious at night, although I appreciate that the wind blows at night and that, if we continue with nuclear reactors, they produce electricity all the time. That is why electricity is cheaper at night through Economy 7.

Tom Tugendhat: I think we have spoken in Committee about the fact that some charging capability will also be fed back into the grid. The hon. Gentleman is very much describing a nightmare scenario, in much the same way as in the 1800s some of those Manchester cotton workers described the spinning jennys as a nightmare scenario. The truth is that technology evolves and human practice evolves with it, so I feel that he is being a little bleak for this stage of the Bill.

Rob Marris: The hon. Gentleman is quite right that technology develops. I made a caveat at the beginning of my remarks about how I was projecting a scenario 20 or 25 years down the road, but we have a responsibility as legislators to look at that, including all the uncertainties of course.

I think it was Quentin Willson who talked about people in the States using their Tesla cars as repositories of electricity and feeding it out, but said that electricity had to get into the car in the first place, so we had to be a little careful about some sort of perpetual motion machine approach. It is true that if consumers used solar panels during the day to charge their car and dumped the electricity at night when other people were charging their cars, that would be a helpful process for evening out demand. However, it is precisely the sort of thing, I hope encouraged by amendment 15, that Her Majesty's Government would be working on with National Grid. Trying to forecast human behaviour bedevils all of us as politicians, but it behoves us all to try to do so.

Sir Greg Knight: Does the hon. Gentleman accept that regulation is not the only way to deal with this? It can be dealt with by incentivised pricing. In the 1970s, many households were encouraged to have night storage heaters in their properties because such units took electricity when no one else wanted it and the consumer paid less for operating one.

Rob Marris: I entirely agree. Amendment 15 would give the Government a statutory duty to consult on such matters with National Grid. Assuming that the amendment is accepted, the result of such consultations might indeed be a market-led mechanism. I am not prejudging the outcome, but we need to face up to some facts. I am sure that the Minister will assure us that Her Majesty's Government are not doing this, but for them simply to sit back and say that because of CO_2 emissions and so on we want lots more people to be driving electric cars—with that already public policy, incentivised in purchase prices, with rebates and so on—and to assume that there will be sufficient electricity generation without actually talking to the National Grid about it, would be very foolish.

A regulatory solution may be required, or part of the solution may be regulatory and part not, but simply hoping, as some might do, that the market will sort it out is a triumph of hope over experience, given for example the vast cost of nuclear reactors and the very long lead time in building them. Nuclear reactors are not the only source of new electricity generation, and there will be technological developments as well, but we need to take that factor into account, and to think about it now.

10.15 am

Mr Hayes: What an interesting short debate. Amendments 15 and 16 and new clause 5 deal with consultation on and approval and assessment of new regulations made under the powers. One might say that that theme has underpinned the approach taken by the Opposition in the Committee so far. It is a theme with which I have considerable sympathy—indeed, were I in their place I think I would make the same argument. When Governments take powers that by necessity are unspecified—in this case, for the very reasons that I and the hon. Gentleman have articulated—it is important that they are checked by a commitment to consult and consider properly before, during and after their application. That, essentially, is the argument that the hon. Gentleman has made.

Amendment 15 would require the Secretary of State to consult with National Grid and large fuel retailers before making regulations. G. K. Chesterton said:

"To have a right to do a thing is not at all the same as to be right in doing it."

The powers that are given in the Bill confer on the Government a right to do things, but we need to ensure that we are right in doing them. I entirely agree with the hon. Gentleman that it will be important to consult a wide range of stakeholders in relation to making regulations under the powers, including those we are discussing.

That gives me the opportunity to say a word or two about the contribution of the hon. Member for Wolverhampton South West, which, I have to say, I anticipated. He raised these matters, as he described, in the evidence sessions—I have the *Hansard* report before me. There is an appropriate range of questions to be posed about the impact of charging on the grid, which is why we heard from those we did in those evidence sessions. Without wishing to exhaustively repeat what was said, it might be instructive to draw attention to Mr Marcus Stewart's remarks:

"By applying smart charging, you can accommodate a lot of electrical vehicles without necessarily having to increase that overall total capacity at a total system level. If you have clusters of demand at a local level, you would expect there to be local reinforcement to accommodate that—fast charging, for example, can provide heavy loads at certain points on a system, but you would connect that to a slightly higher voltage tier to ensure sufficient capacity. The system has the capability to deal with it if the type of charging is smart."

Then he said—*[Interruption.]* Mr Gray, I could tell you were beginning to tire of my exhaustive account of the evidence. Mr Stewart then said:

"The provisions put forward in the Bill make total sense to us."—[*Official Report*, Vehicle Technology and Aviation Public Bill Committee, 14 March 2017; c. 24, Q46.]

They make total sense to me too, because it is absolutely essential that we continue to consult for the reasons offered in the evidence sessions and highlighted by my right hon. Friend the Member for East Yorkshire, who drew attention to the fact that a great deal of this will be about the co-operation leading to demand management, which will smooth demand and by so doing change assumptions about supply.

The Committee has to some extent enabled me to recall my time as a Minister in the Home Office and as the Minister for Energy. When I was the Minister for Energy I became convinced that demand management was a vital tool for ensuring that there was adequate capacity to meet changing patterns of demand. I suspect that successive Governments have put too little emphasis on energy demand management. The debate about energy has usually been about different kinds of supply, by volume and kind, but Governments should think more creatively about demand management. The hon. Member for Birmingham, Northfield mentioned the charging mechanisms that allow for that and, as I said in the evidence sessions, there is some history of using charging and tariffs creatively, but we could do a lot more in that

respect. The Bill will catalyse fresh thinking. If we can change the orthodoxy about where and how people charge their vehicles, and rapid and smart charging is central to that change, as Mr Stewart described, we can look forward with confidence to the group responding in the way he suggested it would. It will require that challenge to the orthodoxy and that degree of creativity and imagination about how we can incentivise and encourage certain kinds of behavioural change.

One of the things the House of Lords Select Committee recommended when looking at automated vehicles, which could be applied to this part of the Bill as well, was a greater emphasis on behavioural change and our analysis of what people might do as a result of the new technology's availability. We need to put more emphasis on that and my Department will do so. We are engaged in work with the academic sector and with others to test the behavioural changes that may ensue from these quite radical alterations to what people drive, how they drive and where they drive. The lesson we have learned in recent years is that economists should have spent more time thinking about behaviour and less time thinking about statistics. We will not make that mistake this time around. We will think about behavioural changes, including the way people charge their vehicles and the impact that has on the grid.

As the hon. Member for Birmingham, Northfield said, we have included in the Bill, in clause 15(3), a broad obligation to the relevant parties, which definitely includes the stakeholders he mentions in the amendment. It would therefore not be appropriate to start specifying exactly which organisation should be consulted at this stage. I said earlier that I am committed to consultation, and I will reinforce that in writing to this Committee, as well as saying it now.

Amendment 16 would require regulations made under clause 12 relating to smart charge points to be approved under the affirmative procedure. As I am sure you, Mr Gray, and the members of the Committee are aware, I am a great believer in Parliament having the opportunity to debate secondary legislation when necessary, but there is good reason for having regulations made under clause 12 using the negative procedure. I will explain why.

The electric vehicle charge point market is innovative and fast-growing, which may require the Government to intervene quickly if the market does not develop as we expect. Moreover, these provisions will be largely about the technical functionality of smart charge points, shaped by consultation and engagement with industry experts, with whom we already have strong and broad requirements to consult. In summary, I do not anticipate any further debate on the principles, so it could be regulated for as a matter of technical detail. If there were a fundamental change to the principles associated with the Bill, it would be perfectly reasonable for us to come back to the House, but I do not anticipate that happening.

New clause 5 relates to the post-regulatory review. The argument is made that we should look at these matters periodically. Part 2 of the Bill will give rise to secondary legislation, so let me assure the Committee of the value I place on reviewing the effectiveness and impact of all regulations. The essence of the argument used by the hon. Member for Birmingham, Northfield is correct: we will need to look at these matters and review them regularly, for the reason that I have given. I do not think that one can make an argument that this is a highly dynamic area of work and then claim simultaneously that we are not going to review it or consider it closely. He is right to make the case.

Section 28 of the Small Business, Enterprise and Employment Act 2015 already places a duty on a Minister of the Crown to make provision for a review when making secondary legislation—the hon. Gentleman will know that well, but I have a copy should any Member want to look at that. So yes, we should review, and that is already in law. I do not think it needs to be in the Bill. I hope hon. Members will be reassured that I will fulfil the existing duties in relation to secondary legislation, that I will consult widely and thoroughly before any regulation, and that the approach to its publishing and scrutiny set out in clause 15 is proportionate.

I am back to where I began. It is right that the Government show that the application of the regulations and powers is proportionate, necessary and fit for purpose—that it responds to the dynamism that I have described. That absolute assurance is the reason that I am asking the hon. Gentleman to withdraw his amendment.

Richard Burden: As the Minister identified, the amendments and new clause cover three areas. The first is consultation. Amendment 15 would try to ensure the right level of consultation on the pressure on the grid. Amendment 16 deals with the nature of the parliamentary scrutiny of any regulations that come from that, or from other consultation; that is the second area. The third is the willingness to review and to make sure, in a dynamic situation, that we have got this right as time goes forward—and to be prepared to change where that proves necessary.

We have had a particularly interesting debate on amendment 15, and I am grateful to my hon. Friend the Member for Wolverhampton South West for his contribution. If the expansion of electric vehicles takes place on the scale that we want it to, we are potentially dealing with major pressures on the grid. There is the nightmare scenario that my hon. Friend talked about, but it does not have to be that nightmare. There is also potential for demand management, which the Minister has talked about. There is the potential for using electric vehicles as repositories for power that can be fed back into the grid—a point made by Quentin Willson in our evidence session.

As yet, we do not know what the right mechanism will be to try to ensure that there is not the pressure on the grid that could lead to the nightmare scenario. It could be regulation; it could be market mechanisms; it could—and I suspect it will—be a combination of the two, but we are not yet in a position to know what is right. That is why consultation with all the relevant stakeholders is absolutely necessary. We felt it was important to put that in the Bill. I am grateful to the Minister for his assurance that the Government are seized of that, and his agreement to write to members of the Committee with more details of how he envisages that consultation taking place.

Mr Hayes: I am following the hon. Gentleman's argument closely. There is an additional point: the more places that people can charge for more of the time, the more intrinsic—or implicit, if we like—the smoothing

[Mr John Hayes]

of demand will be. In a sense, if we concentrate charging, we risk the kind of spikes that he described, so as part of the Bill, there is a beneficial effect on demand of the kind that I have set out.

Richard Burden: What the Minister has said is right. To be absolutely clear, I think that the opportunities presented by the expansion of the use of electric vehicles and the move towards a zero-emission, low-carbon future in personal mobility far outweigh the risks, but there are risks, and it is right that we address them in our scrutiny of the Bill.

10.30 am

I am afraid that I am not convinced by the Minister's argument on amendment 16. He said that the negative procedure was appropriate, not because he wants to avoid parliamentary scrutiny—indeed, he acknowledged many of our concerns about the importance of parliamentary scrutiny—but because the changes and regulations that will be introduced under the powers that the Bill will give to Ministers will be technical, and the principles will have been laid down in advance. If there is one thing we have learned in our discussion on the Bill, it is that the boundary between a matter of principle and a technicality is blurred, and that something that appears technical could have implications further down the line. If there is no change to this part of the Bill, the clause will give the Government broad, open-ended powers to set standards and requirements for the charging points that will be installed. We do not know what those powers or regulations will be, for the perfectly proper reason that this is a highly dynamic, changing situation. In that context, it is not unreasonable for us parliamentarians to say that we should be able to have a proper debate when the regulations are introduced, and that that should be done by the affirmative procedure.

The Minister said that the Government may need to react quickly, and that regulations may need to be introduced quickly. He is quite right about that. We do not yet know what the regulations are, or what issues they will address. Ultimately, if Parliament, like the National Grid and others, is to meet the challenges of the future, we have to learn to react quickly and to scrutinise legislation quickly and effectively. The answer is not for scrutiny to suffer as a result.

Rob Marris: I sense that my hon. Friend is considering whether it would be appropriate, in the interests of democracy and accountability, to press amendment 16 to a vote. May I suggest that he might like to consider the position between now and Report, rather than dealing with the issue today?

Richard Burden: My hon. Friend makes a good point. Clearly, there is a great deal for us all to consider between now and Report. The Minister put forward various issues and said he would consider various issues and get back to us. My hon. Friend the Member for Wolverhampton South West may be right that the precise wording of the amendment is not as good as it should be, but the Minister has not convinced me of the merit of the argument that regulations should be introduced by means of the negative procedure. I will not press the amendment to a vote now, but I give the Minister notice that we wish to return to this issue. I hope that, as the Bill continues its progress, he will reflect on that. Perhaps by the time we get to Report, his position will have changed, and we could look at having the affirmative procedure.

New clause 5 is about review, and I am pleased by what the Minister said about it. He was absolutely clear that Ministers have to be prepared to reassess, review and change if necessary. I welcome that assurance. Again, in the same spirit in which we have approached these matters elsewhere, I do not intend to press the new clause to a vote.

I simply say to the Minister that we have shown ourselves to be very reasonable in withdrawing our amendments. He, in turn, has shown himself to be very reasonable in the clarifications and assurances he has given to the Committee, but sometimes it is important to put things in the Bill. Some people do spend hours poring over Committee debates, but the law will be what is in the Bill, and sometimes we need to be clear in the Bill exactly what we are saying. That is why we tabled the new clause. I hope the Minister will reflect, before Report, on whether some kind of review mechanism could be put up in lights in the Bill. I certainly hope that he will consider the point about the affirmative procedure in relation to amendment 16. I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 15 ordered to stand part of the Bill.

Mr Hayes: On a point of order, Mr Gray. I have listened to what has been said and, for clarity and the record, I reinforce that I will write to the Committee on a range of the matters that we have spoken about this morning. I will oblige my civil servants—I know they like me being strict with them—to produce that letter as a matter of urgency, so the Committee can consider it before our next sitting. I hope that it will be, to use the hon. Gentleman's term, expressed in the spirit that has underpinned our scrutiny thus far.

The Chair: The Minister is most courteous and considerate, and he has kept the Committee as informed as he possibly can, but he will understand that that is not, of course, a point of order, grateful though we are to him for it.

Clause 16

Licensed air traffic services: modifying the licence and related appeals

Richard Burden: I beg to move amendment 30, in clause 16, page 11, line 31, at end insert—

"(5) Within five years of this Act receiving Royal Assent, the Secretary of State must conduct a review of the process for appealing against modification of licence conditions."

This amendment requires the Secretary of State to review the modification appeals process within five years.

I apologise for my tardiness, Mr Gray. My head was still in electric vehicle mode. I was sitting in a car when I should have been boarding the aircraft. I have now got myself on to the runway and am in civil aviation mode for part 3 of the Bill. The amendment would require the Secretary of State to review the appeals process for the licence changes within five years of them taking effect.

There is a great deal of support from industry stakeholders, including the Civil Aviation Authority and NATS, for the modification and modernisation of the licence regime that we are talking about today. During the evidence session, we heard that these proposals are similar to measures in place for Heathrow and Gatwick, and that the changes envisaged by this Bill would be welcome and helpful to both the Civil Aviation Authority as the regulator and NATS as the operator. We Labour Members accept that.

The basis of this amendment and the review we are calling for is that in the evidence session, when I asked the Civil Aviation Authority about the frequency of new appeals, the answer we received was that nobody really knows yet what the impacts of these changes will be. Indeed, in its impact assessment, the Department has forecast between 16 and 36 possible modifications of varying significance relating to issues around price controls, financial resilience and service continuity. It concedes that, in the example of service continuity, historically, there have never been any modifications to the licence. The impact assessment recognises that the assumptions on the number of appeals are highly uncertain in one section, but then notes that changes brought about by the new pan-European single European sky air space reform could lead to a number of major changes for NATS in the coming years. Despite the uncertainty of the impact, the Government's impact assessment says that there will be a post-implementation plan in the form of a "light touch"—their words—review of the new arrangements after five years and a full review after 10. That is welcome, but nowhere does the Bill reference that commitment.

I want to make it clear that we do not oppose any of the bases that the Government have put forward for the need to make changes to the licence modification regime, but with such uncertainty about what changes they are going to make, how many modifications may be sought and what their impact should be, we think that a scheduled review after a period of time would make rational sense.

In the Committee's evidence session, the Civil Aviation Authority agreed that it would make sense to review the powers that had been introduced. I would welcome the Government's looking sympathetically at the amendment and reassuring us that the kind of review that we seek, which the impact assessment assumes will take place anyway, will be taken on board by Ministers.

Mr Hayes: We now move to a very different and equally important part of the Bill. The proposal is a relatively small but significant change to the arrangements to which the hon. Gentleman drew our attention. He mentioned the importance of reviewing regulations. Again, we fully agree with that sentiment. It is the practice of the Government to review regulations, and I hope that is reflected in how we develop the regulatory changes that we are making in the Bill. Licence qualifications are not a regular occurrence, and appeals against licence qualifications are rarer still. For example, in the four years since the establishment of a similar review for airport licences, there have been no appeals. It is therefore unlikely that there will be enough appeals in five years to warrant a meaningful review of the process.

I am sympathetic to the idea of a review, but I am not sure that the amendment's five-year timescale is appropriate. I also think that the scope of the review is defined too narrowly to warrant a meaningful evaluation of the changes to the regulatory regime. I am arguing for a review of a more fundamental kind over a longer period. These changes reflect the broad direction of travel as successive Governments have learned lessons on how best to regulate monopoly industries, to ensure a focus on safety, efficiency and efficacy. Any review that we conduct must consider the effectiveness of the licensing framework as a whole, looking at the impact on its customers and the lessons learned in other sectors. I hope to be able to provide assurance that the framework for regulating our air traffic control provider will be reviewed through such a review process, which will encompass all aspects of the regulatory regime, as appropriate at the time, and not just the appeals process, given what I said about appeals being rare in the past and likely to be so in the future.

The hon. Gentleman is right that we will need to look at this when it is changed. We should do so comprehensively over a meaningful time period. The post-implementation review will be carried out with the corporation review of the entire licensing framework, rather than specific aspects of it. With that assurance, I hope that the hon. Gentleman will withdraw his amendment.

Richard Burden: The basis of this part of the Bill and the clause that the amendment relates to is uncontentious. At the moment, if the Civil Aviation Authority wishes to review NATS's licence and there is an objection by NATS, there is a potentially long and complicated process with reference to the Competition and Markets Authority to try to unscramble it. The basis of the clause is right in saying that the Civil Aviation Authority should have much clearer powers to suggest a modification, and NATS should have the right to appeal. It is a simple change and it makes sense. NATS agrees with it and the CAA thinks it is a sensible change. There is not a big difference between the parties in Committee on that.

10.45 am

The issue is that nobody yet knows how many modifications are coming down the line. The Minister said they have been relatively few up until now. There may be relatively few going forward, but the single European sky and other changes ahead of us mean that we simply do not know how many modifications will be necessary. We also do not know what the experience and impact of the appeals process by NATS, and in some circumstances other bodies will be—that prefigures the discussion we will have on the next group of amendments. That is why the impact assessment was clear in saying that there is no clarity, and that we simply do not know how this will work.

The changes appear to be sensible procedurally, but we do not know what the experience of the appeals situation will be. That is why the impact assessment says there should be a light-touch review after five years and a full-scale review after 10. We tabled the amendment to try to get that in the Bill, although the Minister has satisfied me that he is not opposed to a review. There will need to be some discussion about whether the five-year review should be specifically on the appeals or whether it should be broader, and about the difference between a light-touch and a full-scale review. We have put down a marker that something needs to be clear by the time the Bill leaves Parliament and becomes an Act. If there is to be a review, everybody should be clear

about what kind of review it will be and who will be responsible for doing it. That is why we tabled the amendment. However, on the basis of the Minister's assurances, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Clause 16 ordered to stand part of the Bill.

Schedule 1

MODIFICATION OF LICENCE CONDITIONS UNDER SECTION 11 OF THE TRANSPORT ACT 2000: APPEALS

Richard Burden: I beg to move amendment 29, page 22, line 17, schedule 1, at end insert—

"(3A) An owner or manager whose interests are materially affected under subsection (2)(c) may be defined by regulations made by the Secretary of State following consultation on and publication of the criteria used to determine whether such persons are deemed materially affected."

This amendment would require the Government to clarify what other persons or parties they intend to permit to appeal, who are not directly affected by licence modifications but may be considered materially affected.

The amendment is not only about the procedure by which NATS as the operator can appeal against proposed licence modifications by the CAA, but about who else will be in a position to appeal. The Bill refers to the Secretary of State's power to give "prescribed aerodromes" a right of appeal. The amendment would give the Secretary of State power to prescribe proper scrutiny. We recognise that one of the benefits of the changes in the appeals process is the value of bringing in other parties to appeal, including owners or operators of aircraft, such as airlines. The extension to parties financially affected is clear, but what is less transparent is the permissions to parties materially affected by licence changes and the right of the Secretary of State to prescribe which operators can appeal on that basis.

The question we really want to ask the Minister is this: why is it necessary for the Secretary of State to have such power, other than to risk excluding some parties who may have reasonable grounds to lodge an appeal? Surely the Government could leave that to the Competition and Markets Authority.

Otherwise, if the Government are to decide, it is only fair that they should publish the criteria that they intend to use to prescribe who else will have the right to appeal against license modification, and to define who is materially affected by any such modifications, so that we can be assured that the power the Government are taking for themselves will be exercised reasonably.

Mr Hayes: Edmund Burke said that:

"Good order is the foundation of all things."

The hon. Gentleman seeks in his amendment to ensure that the arrangements in the Bill are properly ordered, and that the powers are exercised through the proper channel. The effect of the amendment, as he describes it, would in part be to duplicate the proposed power to define through regulation which airports are considered to be materially affected by a licence condition, and to oblige us to consult on exercising the power. Once again, I assure him that such consultation is already standard practice and will continue to be so.

Like the hon. Gentleman, I think that there is little difference between us; this is a matter of exploring the application of a change introduced by the Bill that we all think is necessary. I am grateful to him, therefore, for the amendment, which provides me with an opportunity to clarify the Government's intent in relation to aerodromes being able to raise appeals against licence modifications.

For absolute clarity, there are five airports at which the licence holder serves as a monopoly provider, in the particularly complex airspace in the south of England. As the purpose of the licence is to provide economic regulation, it is appropriate for those five airports to have access to the appeals mechanism provided in the schedule. Therefore, the Government intend that the regulations introduced under the power will list the five relevant airports, as the licence itself does. I would expect the regulation to remain in line with the licence in that respect.

Our approach has been determined through consultation prior to the Bill—the hon. Gentleman will be familiar with that consultation. As I said, it is certainly standard practice to consult when the Government make regulations of this kind, and I would expect to do so if anything were to change that approach in future. The consultation was clear, as he implied, that the change is a necessary improvement to existing licensing practice. The five airports—for the record, they are Heathrow, Gatwick, London City, Luton and Stansted—are particular for the reasons that I have given. Elsewhere, the service is provided commercially either by NATS or another company, or in-house by the airports themselves. The complexity of the airspace requires no further explanation —it is self-evident.

The hon. Gentleman mentioned the Competition and Markets Authority. In addition to the Government's role, that authority, which is the body that will determine appeals under this regime, must determine on a case-by-case basis whether the materially affected test has been met by a complainant, even if eligible to raise an appeal. The Government should therefore not seek to duplicate that role by further defining "materially affected". We can rely on that body in the way he described. The changes in relation to those five particular places are necessary and, the consultation suggests, desired. With that, I hope that he might withdraw his amendment.

Richard Burden: I am afraid the problem is that, if there is a danger of duplication, it is in the Bill, which gives the Secretary of State power to define a prescribed aerodrome—in other words, the power to define which airports or, indeed, other operators will or will not be able to appeal. Our nervousness is about what criteria will be used.

The Minister may be right that it would over-complicate things to ask Ministers to replicate the decisions that could come from the Competition and Markets Authority, and to define narrowly in advance what being materially affected means in relation to a licence modification. However, I am not sure that it is unreasonable to say that, if the Government are going to take the power that the Bill gives them to prescribe who can and who cannot appeal in particular cases before we get to those cases, they should publish the kinds of criteria that they will use when making those decisions. That is what the amendment tries to get at.

I do not insist that amending the Bill is the only way of achieving that, but I hope the Minister will be able to reassure us by accepting that it is reasonable for us to ask the Government to publish at least the criteria they will use to decide which airports or other operators they prescribe and which they do not prescribe, without at this stage asking them to identify those airports or other operators.

The Chair: I take it that the hon. Gentleman seeks to withdraw the amendment.

Richard Burden: I was anticipating an intervention by the Minister.

Mr Hayes: The hon. Gentleman, being an experienced Member of the House, knows how to provoke an intervention, and he has done just that. The Bill and regulations will define who is eligible. We are clear about that. The CMA will apply the test. As he said, those are separate functions, but I am inclined to agree with him that it is not unreasonable to make clear the criteria that he describes. I will think about how we can do it, but it is not necessary to do it in the Bill. He would not expect us to do that anyway, of course. I will reflect not on how we can establish the criteria, but on how we make them known. That seems perfectly reasonable, and I will go away and think about it.

Richard Burden: I am grateful to the Minister for that entirely spontaneous intervention. As ever, he has been very helpful. He has grasped what I was getting at. On that basis, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Schedule 1 agreed to.

Schedule 2 agreed to.

Clause 17 ordered to stand part of the Bill.

Schedules 3 and 4 agreed to.

Clause 18

Air travel organisers' licences

Richard Burden: I beg to move amendment 22, in clause 18, page 13, line 20, at end insert—

"(4) The Government must publish a review within one year of this Act receiving Royal Assent the impact on UK consumers using EU-based companies affected by changes to consumer protection introduced by this section."

This amendment requires the Government to regularly review the impact of the new regulation to ensure that it is working and not adversely affecting UK consumers using EU-based companies.

We moved from cars to licence modifications for NATS and its relationship with the Civil Aviation Authority, and we now move seamlessly to the air travel organisers' licence. Essentially, the clause will update ATOL to ensure that it is harmonised with the 2015 EU package travel directive. As with other parts of the Bill, many of the changes that this part of the Bill envisages will be covered in regulations, but broadly it will extend ATOL to a wider range of holidays and protect more consumers.

UK travel companies, we are told, will be able to sell more seamlessly across Europe, as they will need to comply with protection based not in the country of sale but the country in which they are established. Those are the objectives that the Government seek to achieve. As with other parts of the Bill, there is no difference of principle between the Government and the Opposition on this matter. Indeed, it is a result of that package travel directive that it has been necessary to put such a provision in the Bill. However, we seek clarification on some issues, which is why I tabled amendment 22.

11 am

The amendment would provide a guarantee that the Government will review the impact of the ATOL revisions to ensure they are not adversely affecting UK consumers using EU-based companies. The objective is precisely the opposite: the whole idea of the clause is to improve the range of protections available. Similar to other measures within part 3, the broad substance of these changes to ATOL are necessary and broadly welcome. As I said, they will harmonise UK law with the latest EU package travel directive, which should have many benefits. A wider range of operators, including more dynamic package providers, are likely to be covered by the changes. That will hopefully bring protection to many more UK holidaymakers who are not covered under existing ATOL provisions.

For UK travel companies, standards have to be in line with the country in which the company is established, rather than the place where the company sells the holiday. That should mean that companies established in the UK can sell far more seamlessly across Europe by simply adhering to the widely respected ATOL flag. However, the changes at EU level bring about an issue that could have adverse effects for some UK consumers who purchase their holiday or travel from EU-based travel companies, not British companies that sell into other European countries. Amendment 22 would address that.

The changes made through the directive will now mean that EU-based companies selling in the UK will have to adhere to ATOL-equivalent insolvency protection laid out in the member state where the business is based. In practice, that could have unintended consequences and, more significantly, costs for UK consumers. Processes and timescales for recompense may be distinctly different from what many travellers would expect under the current ATOL provisions, which are in many ways regarded as the gold standard.

The impact assessment warns:

"If consumers purchase a trip from a business established elsewhere in the EU and the company becomes insolvent there may be some costs to the consumer of processing a claim with a non-UK insolvency protector."

Based on the latest CAA figures, this matter will not just affect a relatively small number of holidaymakers; if it went wrong, it could currently compromise more than 500,000 passengers. It is therefore important that the Government take some steps to anticipate and prepare for any negative impacts that the change could have.

Amendment 22 would achieve that by making it a requirement for the UK Government to monitor the impact for UK consumers using EU-based companies. That would help to inform whether the UK Government should consider further guidance or co-operation with consumers and member states to ensure that protections are adequate.

The changes envisaged by the clause clearly make sense and are in line with what is required under the package travel directive. There is no doubt that where

UK-established companies are selling into other countries, the consumers in those other countries will have the benefit of the gold standard of ATOL protection. We are concerned about the protection given by EU-based companies selling in the UK. Hopefully that will be equivalent to ATOL, but it will be subject to the rules and regulations of that EU country. We are nervous about whether UK holidaymakers could lose out in that process, so we are asking the Government to look at that and to try to monitor the situation.

Alan Brown: I support the hon. Gentleman's principle. The amendment states:

"The Government must publish a review within one year"

of Royal Assent, but the explanatory statement says that the Government must "regularly review the impact". By stating only that there must be a review within one year, that is asking for only one review. As we move into the post-Brexit world, would a review after one year be appropriate? We may need to look at the wider consequences as we go forward.

Richard Burden: The hon. Gentleman is right that the amendment talks about a year, which is because we want to get that ball rolling. As with so many other things, the environment is changing—that is particularly the case in relation to Brexit. ATOL will still be there post-Brexit, although when we discuss the next group of amendments we may explore possible changes.

The package travel directive will no doubt still be there for the states that are still members of the European Union. What is uncertain at this stage is what the interface will be between those two things post-Brexit. The Government must address that. As I said, we ask them to get the ball rolling within a year of the Bill receiving Royal Assent, but the hon. Gentleman is right about the need for regular review, particularly in the light of Brexit.

Mr Hayes: There are many reasons to be proud to be British and to be subjects of the United Kingdom—I think all members of the Committee would agree with that. One of them is that we have done rather well in respect of protecting those who book holidays. The regime we have developed over a long time has afforded considerable protection to people who book holidays and then, through no fault of their own, find themselves in some difficulty. There is nothing worse than a much hoped for and anticipated holiday being spoilt by an eventuality over which one has no control.

However, it is important that we also recognise that the way in which people book holidays is changing. Essentially, the purpose of this part of the Bill, and the consultation that preceded it, is to bring the arrangements up to date, to take account of those different patterns of behaviour and those different business models. The hon. Member for Birmingham, Northfield is right to probe these matters in the way he has, because although we have consulted widely—I will refer to the consultation in my response—we are making changes that will have an important impact; otherwise, we would not be making them. It is essential that we do so with care.

I fully support the purpose of the amendment. Indeed, the relative level of protection offered by European economic area-based companies was one of the concerns about which the Government sought views in the consultation. Our conclusion was similar to that expressed by John de Vial of ABTA in the evidence session. Members of the Committee will remember that he drew attention to the issues that we have begun to consider, namely that the changes proposed through the package travel directive will improve the position for UK consumers. That directive will raise the bar across the board, which he said

"can only be a good thing."—[*Official Report, Vehicle Technology and Aviation Public Bill Committee,* 14 March 2017; c. 64, Q147.]

However, I fully agree with the sentiment of the hon. Gentleman's amendment that we must keep the situation under review.

It is fortunate, therefore, that the current legislative framework already requires the Government to review the impact of any regulation made under the Bill within five years of its being laid. I mentioned earlier in our consideration the Small Business, Enterprise and Employment Act 2015. It is one of the few Acts of Parliament that I did not take through Committee, and is notable for that fact alone. It is also an important protection of the kind sought by the hon. Member for Birmingham, Northfield. That Act requires the Government to conduct and publish reviews of any secondary legislation.

Perhaps the Committee will allow me to say one or two more things about the consultation that we have conducted. Consultation documents are available to the Committee—both the consultation and the Government response; but I shall highlight one or two aspects of it. We held a number of workshops to seek views, and they were attended by a large number of insurers, airlines, online travel agents, credit card and transaction systems operators, accredited trade bodies and consumer groups. I shall not read out the list of consultees as it is very long, but it includes all the relevant people that one might expect, from consumer groups, business organisations, airlines, travel organisations and so on.

One of the key considerations was the protection, Europe-wide and beyond—worldwide—for travellers. Given the consultation, we asked questions of the kind that the hon. Member for Birmingham, Northfield has put, and received the encouraging view from consultees that it was very important to move the scope of ATOL protection from a place of sale to a place of establishment. That is to reflect the change I have described in the way in which holidays are sold and, therefore, the way in which they are bought. It is important to update the regulations, which means continuing to review them in the way the hon. Gentleman set out. It may be that the change is a trend change, and the way people book holidays will continue to alter over time. I personally—rather like you, I suspect, Mr Gray, although I do not know—go along to my Co-op travel agent in Spalding and book my holiday by conventional means. I find that most satisfactory; but there are people who prefer a more modern approach to these things, and, while modernity is not always to be recommended, it is, however sadly I say it, a reality. As a Minister, I have to deal in reality, whereas in my private life I can indulge in all kinds of magic.

Moving quickly from magic to fact, we will continue to review things as the market develops, in precisely the way the hon. Member for Birmingham, Northfield has recommended to the Committee. It is worth noting that these changes will come into effect across Europe only from 1 July 2018, which, 12 months after Royal Assent,

will mean that at most we will have seen only nine months for the changes to take effect. I doubt whether any significant volume of people will have bought holidays from EU-based companies over that time. Most companies will be very likely to stay within local arrangements that their consumers know, at least for the time being—because, of course, the reason I go along to the Co-operative travel agent is that I know and trust it, and most people who are booking holidays want that kind of reassurance.

Those who do, however, want to take advantage of flexibility, will be likely to take time to assess how the new arrangements bed down before they change their own practice. Given those uncertainties about pace and scale, which will of course only be added to by what we do not yet know about the outcome of Brexit negotiations, I suggest a flexible timetable for further review; five years seems appropriate, which is why the Government are legislating accordingly. That is also what we are currently in the process of for the 2012 changes, by the way, because we are now considering a set of changes that were obviously made in 2012.

11.15 am

Eagle-eyed Members will have noticed that part of last year's ATOL consultation was evidence gathering on those 2012 changes. The consultation was both about reflecting on the differences that those earlier changes have made, as well as anticipating the next stage of development of this important marketplace. In the light of the fact that a provision to review the regulations already exists in legislation, and that we are engaged in a process of review, which is illustrated by the consultation on the previous changes and our response to it—there is a precedent of good practice—and the commitment I gave that that will continue at the next stage of this process, I hope that the hon. Member for Birmingham, Northfield will withdraw his amendment.

Rob Marris *rose—*

The Chair: Mr Marris, you may wish to go slightly wider than the precise amendment.

Rob Marris: I am grateful for your indication that you might consider stand part remarks to go along with this, Mr Gray; the Minister, also with your permission, cast his remarks rather more widely. I have sympathy with the Minister when he does his private magic and pops along to the Co-op travel agency and trusts it. When I book my holidays, I book my rail tickets using a credit card; that is a debtor-creditor-supplier agreement of more than £100, so I am protected there. Since I do not fly, and have not flown for a decade, I do not do this ATOL stuff, but I understand, as does the Minister, that people live their lives differently and that many people fly.

He has given us some background, but I hope that the Minister will say a little bit more on the change from place of sale to place of establishment to which he referred. On internet sales more generally, we have a problem, for example, on tax measures, which I realise do not yet fall within the Minister's remit. Companies such as Google book all of their sales in Dublin to avoid paying tax that they otherwise would were they to book their sales here. That may be happening with those offering travel arrangements—flights, accommodation and so on.

If he catches your eye, Mr Gray, I hope that the Minister will address this a little more widely on the Brexit issue. The package travel directive 2015 is due to come into force on 1 July 2018. In the light of recent legislation, it is within the Prime Minister's gift, but on current indications, on 29 March 2019—nine months after that directive comes into force—the United Kingdom will no longer be a member of the European Union. In terms of some carry-over protection, a consumer booking a holiday in April 2019 for that summer or winter, for example, will need to know what their protection is, given that, at the point they take their holiday, we will no longer be in the European Union.

Paragraph 62 on page 12 of the explanatory notes, says:

> "Once the Directive is in force, any business established in the United Kingdom and licensed under ATOL for sales within scope of the Directive, will no longer need to comply with the different insolvency protection rules of other EEA States".

That suggests to me—I hope that the Minister can set my mind at rest on this—depending on what is in the great repeal Bill, that the directive will no longer be in force nine months after having come into force in the United Kingdom. We might, for example, be seeking to reassert our membership of the EEA, but it appears that clause 18 will see us stepping outside of that directive, therefore potentially leaving consumers with less protection than they might otherwise have. I appreciate that that is not the Minister's or the Government's intention, but in relation to clause 18 and the following clauses relating to flight providers, will he tell the Committee a little more about how he envisages continuing protection under ATOL and ATOL-like arrangements unfolding after the United Kingdom leaves the European Union, both in the case that we remain in or reassert our membership of the EEA and the case that we do not? What will the protection regime look like?

Mr Hayes: Mr Gray, I will try to respond in certainly no more than seven minutes, and ideally in less time.

Consumers are clearly a priority for the Government. In December 2016 the Secretary of State for Business, Energy and Industrial Strategy chaired a roundtable of representatives of a range of consumer bodies, charities and academics to discuss, among other issues, the impact of EU exit on consumers. As I said at the outset of this short debate, British consumers enjoy strong protections, and there is an effective consumer regime to help them to get the best deal. Sometimes markets fail and competition is not strong and consumers suffer, and it is important that the Government do not hesitate to step in and strengthen competition and/or protect those affected. In that regard, there is absolute clarity in my mind about the purpose—and, by the way, the efficacy—of the Government. It has now become fashionable—once again, thank goodness—to recognise that Government can do good. That is something I have always known and believed, and it is now back in fashion, as are so many of my long-held views.

So why is the legislation needed? The new travel package directive, which was published in December 2015, was introduced to ensure that consumer protection kept pace with modern travel habits and the modern market. The UK Government will need to transpose it into UK law before 1 January 2018. Primary legislation is needed to amend the powers of the Civil Aviation

[Mr John Hayes]

Act 1982 to update the ATOL scheme and align it with changes to UK and EU regulations, but a perfectly reasonable question, as asked by the hon. Member for Wolverhampton South West, is: how is all that affected by Brexit?

Until the negotiations are complete we, of course, remain a member of the European Union. The new EU package travel directive was agreed, as I said, in 2015. The measures in the Bill will ensure that the ATOL regulations and the revised package travel regulations are properly aligned in the short term, but retain the ability to adapt the scheme when the UK leaves the EU. In any event, the Government believe that the changes brought about by the new directive will have a positive impact on UK businesses and consumers, raising consumer protection standards across the EEA. That view was reflected in the consultation, with the majority of correspondents believing that the proposals will allow greater harmonisation of protection against the European market, which will ultimately benefit the consumer and businesses. To put it bluntly, I think that this is an example of where something has been agreed across the European Union for good reason and with good purpose. Although I cannot anticipate the negotiations, my view is that incorporating the provisions into British law will provide a baseline of support, which we would hesitate in any way to undermine.

I hope that I have satisfied all members of the Committee about the Government's absolute determination to protect the interests of the consumer and to make the regulations fit for purpose in the modern age.

Richard Burden: Although the Committee might be remembered for the term "The Hayes hook-up", it certainly will not be remembered for referring to the Minister as "Skyscanner Hayes".

The Minister has spotted the inadequacy in the amendment, regarding the request for a review after one year. The timeframe is out of kilter because of when the package travel directive comes in and the Bill receives Royal Assent. On that basis, I will not press the amendment to a vote, but there are still issues that the Government need to consider. I am grateful to the Minister for committing to a review of the provisions. I am pleased about that, but the fact is that none of us really knows what the impact of Brexit will be.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No.88).

Adjourned till this day at Two o'clock.