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The hidden power of Brussels:

How the EU affects everyday life in the UK

The EU and You

How the EU affects everyday life in the UK

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Open Europe
7 Tufton Street
London SW1P 3QN
Tel: +44 (0) 207 197 2333
Fax: +44 (0) 207 197 2307
Research by Lorraine Mullally
www.openeurope.org.uk

Introduction

> *Europe's power is easy to miss. Like an 'invisible hand', it operates through the shell of traditional political structures. The British House of Commons, British law courts, and British civil servants are still here, but they have all become agents of the European Union implementing European law. This is no accident. By creating common standards that are implemented through national institutions, Europe can take over countries without necessarily becoming a target for hostility… Europe's invisibility allows it to spread its influence without provocation*.
>
> – Pro-euro author Mark Leonard[1]

The quotation above might sound like something out of a conspiracy theory. But Mark Leonard – a passionate advocate of deeper integration - makes an astute observation.

The EU now has powerful influence on our everyday lives. But as a result of the way EU legislation operates, it is often not clear to either voters or even journalists when a particular decision or policy originates in the EU.

Domestic legislation often is actually a "shell" for the purpose of implementing European law. Leonard is indeed right to argue that "Europe's power is easy to miss".

And often, even if EU legislation has not wholly determined a particular decision, EU law has had important *influence* on policy-makers and officials.

As a result, by far the most common question asked by journalists the Lisbon Treaty is: "but how will this affect our daily lives?"

Too many journalists passively accept the Government's spin that the EU is a distant foreign policy question which normal people don't care about.

As food for thought, this paper reviews a selection of the everyday effects of EU law. It is by no means an exhaustive list. We do not necessarily seek to pass judgement on the measures in question, but simply to demonstrate the true scale of the influence the EU exerts over people's daily lives.

The Lisbon Treaty reduces Britain's ability to block legislation. It would allow the EU to pass more measures which affect people's everyday lives. The end of the veto over energy would let the EU pass its Oil Stocks Directive, which would cost a household of four £130 per year. It would be harder for the UK to block rules affecting what rights people have at work, or stop the Health Services Directive, which will affect how the NHS Budget is spent. It would mean, as the Government admits, that many more asylum cases will be decided by the European Court of Justice, rather than in Britain.

In other words, it would affect people's daily lives. The Westminster consensus that people don't care about the EU is wrong. The truth is that the EU's critics and the media have failed to explain just how much power the EU really has.

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[1] Leonard, Mark, *Europe's transformative power*, February/March 2005 - CER BULLETIN, ISSUE 40

This report is divided into thematic sections. Below is a summary version of some of the key effects of EU law on everyday life:

Household:	**Home Information Packs (HIPs); Fortnightly bin collections; Higher household electricity bills, more wind turbines; Soaring water bills.**
Consumer affairs:	**Higher food prices; Written and pictorial health warnings on cigarette packets (including what font to be used); Disappearance of the Crown signs on pints; Lists of ingredients and warnings on food products; Phasing out of incandescent bulbs; Expensive electrical goods, and higher council tax; New Royal Mail pricing rules; Bureaucracy at the bank; High price of energy saving products; Banning vitamins and minerals; Fewer and more expensive fish; Extinction of swathes of vegetable varieties; The end of selling in pounds and ounces only.**
Transport and motoring:	**Car booster seats for children; Photocard driving licences; End of many rural bus routes; Creation of Railtrack; Harder and more expensive motorcycle tests; Preventing the return of the Routemaster bus; In future, all new cars will need to keep headlights on during the day.**
Law and order:	**Government's inability to expel EU criminals from the UK.**
Media, sport and entertainment:	**TV airtime quotas; Banning caps on foreign football players, higher wages, higher ticket prices for fans; Abolition of the 192 inquiries service and replacement with 118; Television advertising rules.**
Workplace:	**Banning workers from earning higher wages instead of taking holidays.**
Economy:	**The run on Northern Rock; Northern Rock downsizing; Post office closures.**
Health:	**Fewer training hours for doctors, compromised patient safety; Higher costs for the NHS.**

Household

Home Information Packs (HIPs). The Government introduced Home Information Packs in 2006 in order to implement the EU's Energy Performance of Buildings Directive (2002/91/EC), which requires all homes to have an energy performance certificate. The cost of these to UK households will be around £337 million a year. By 2020, EPCs will have cost the UK £4.7 billion.[2]

Fortnightly bin collections. The EU's Landfill Directive (1999/31/EC) obliges the UK to reduce the amount of landfill waste by 25% from 1995 levels by 2010, a 50% reduction by 2013 and a 65% reduction by 2020. The Directive was implemented by the Landfill (England and Wales) Regulations, which came into force on 15 June 2002.[3] Failure to meet the regulations will result in fines estimated by DEFRA at more than £200 million if targets are not met by 2013.[4] In order to meet the regulations, and avoid EU fines, around 40% of local authorities in England have adopted an 'alternate weekly collection' system whereby waste is collected one week and recyclables the next.[5]

Higher household electricity bills, more wind turbines. At the beginning of 2008 the UK's energy regulator Ofgem said environmental policies were adding £60 a year to the cost of energy bills, attributing more than half of that - £31 – to the EU's Emissions Trading Scheme.[6] It said, "The EU's ETS, which puts a price on pollution emitted by electricity generators and heavy industry, is increasing generation costs which feeds through to customers. The second phase of the scheme, which began in 2008, has increased the price of carbon which in turn increases electricity prices." Research firm Heren Energy estimated that the increase in the price of carbon emissions permits from almost nothing in the first phase of the ETS, to around £17.50 per tonne of carbon dioxide in the second phase, has added almost 17 percent onto the wholesale price of electricity.[7] These costs are completely unnecessary – the ETS has completely failed in its central aim by doing nothing to bring down carbon emissions. Moreover, the scheme has allowed power generators to reap substantial windfall profits. According to Ofgem, over the next five years these profits are projected to be £9bn.

The rest of the price increases were attributed to the so-called Renewables Obligation and the Carbon Emissions Reduction Target. Despite the impact of these on bills, the UK has also now signed up to more ambitious legally binding targets on renewables use and carbon emissions reductions at EU level – cementing these existing, home-grown policies, and amplifying their effect.

As part of the EU's 2020 renewable energy target, the Commission has given the UK a target of achieving 15% of overall energy use from renewables. This is a sevenfold increase on current levels. It would mean between 30 and 40% of electricity production would need to come from renewables. Open Europe has estimated that

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[2] http://www.openeurope.org.uk/research/epcs.pdf
[3] http://www.defra.gov.uk/environment/waste/topics/landfill-dir/pdf/landfilldir.pdf
[4] http://www.publications.parliament.uk/pa/cm200607/cmselect/cmcomloc/536/53604.htm#n6
[5] http://www.publications.parliament.uk/pa/cm200607/cmselect/cmcomloc/536/53602.htm
[6] http://www.ofgem.gov.uk/MEDIA/FACTSHEETS/Documents1/energy%20prices%20jan08.pdf 15 January 2008
[7] *FT* (15.01.08)

meeting the EU renewable target will cost the average family of four £750 per year in higher energy prices. It will also mean having to build at least 10,000 new wind-turbines – equivalent to over two per day between now and 2020. The £15bn Severn Barrage is also set to play an important part in meeting the EU's renewable energy target. There is little doubt that such huge targets for renewables will have a significant physical impact on the UK's landscape.

The EU also has plans to implement an EU energy policy which would force the UK to increase its oil reserves at an estimated cost of £6 billion to the industry. If this proposal goes through – which will be more likely if the revised EU Constitution comes into force – households would face even higher fuel bills. It would cost the average household of four between £120 and £130 pounds.

Soaring water bills. In 2004, the UK's water regulator Ofwat imposed a five-year plan to increase average bills by 18% above inflation between 2005 and 2010. According to the Sunday Times reporting at the time, "Most of the increase is being attributed to EU requirements for companies to invest billions of pounds in cleaning up beaches and drinking water and improving the processing of sewage." It reported that South West Water was expected to levy the greatest increase – 25 percent – on its customers over the period. The company said, "We are locked into European legislation. It is the law of the land."[8]

The Consumer Council for Water told a Parliamentary enquiry in May 2007 "It is not clear that Ofwat has been able to maintain a regime in which price increases are matched by benefits that are clear and understood by consumers. Customers in South West England and Wales, in particular, have seen heavy price increases as a result of EU directives… A significant proportion of the bill increase fell into the category of 'EU compliance' with some critics and even some of the companies themselves claiming that water companies were being used as little more than environmental contractors."[9]

There are several EU directives impacting on UK water bills, concerning everything from chemicals in water to floods to bathing water quality. The most significant of these is the EU Water Framework Directive (2000/60/EC), adopted in 2000, which DEFRA estimates will cost firms, and ultimately consumers through higher bills, between £450m and £630m.[10] The Directive aims to establish the long-term sustainable management of water.

Consumer affairs

Higher food prices. Through a combination of tariffs on food imports from outside the EU, in addition to subsidies given to farmers and companies through the Common Agricultural Policy (CAP), the EU contributes to the high price of many of our basic groceries and clothes.

[8] *Sunday Times* (27.03.05)
[9] http://www.parliament.uk/documents/upload/WESuppCCW.pdf
[10] http://www.defra.gov.uk/environment/water/wfd/faq.htm#110

For example, the EU taxes imports of lamb at 173%, beef at 149% and bananas at 118%. EU trade barriers have a bigger negative impact on Britain than on almost every other EU country, because over 50% of our trade takes place with countries outside the EU. Because of EU rules, Britain is denied the benefits of free trade with its biggest trading partner, the US.

A study by Oxford Economics in 2005 concluded that the average family of four would be £1,500 a year better off if the EU got rid of its tariffs and liberalised trade with its partners.

Because the UK is a big food importer, we also pay more in EU customs duties than any other EU member state: Britain pays twice as much as France, and more than Germany, (even though it has a much larger population than Britain), providing Brussels with 43% of the EU's total tax revenue from food imports. All this affects Britain's poorest people the most, because they spend proportionally more of their income on imported food and clothing than richer social groups. Research by Oxford Economics shows that if the EU were to scrap its trade barriers, the poorest ten percent of people in the country would gain six times more than the richest ten percent.

The EU is currently pursuing EU-wide targets for the use of biofuels. Biofuels (already subject to similar US targets) are already contributing to surging global food prices. The EU targets are equally ambitious to those of the US, and can only exacerbate the trends towards diversion of food supplies for fuel use, and consequent higher prices.

Open Europe calculates that by 2020 the average family of four in the UK can expect, in today's prices, a rise in annual food expenditure of between £200 (€260) and £260 (€340) as a result of worldwide biofuel demand. Of this, the EU would be responsible for £50 – 65 (€65 – 85).[11]

Written and pictorial health warnings on cigarette packets. The written warnings on cigarette packets, such as "Smoking seriously damages your health" were introduced by the Government in 2003 in order to implement the EU Tobacco Products Directive (2001/37/EC). The Directive obliges tobacco packets to have two types of compulsory warning: a general warning, such as "Smoking seriously harms you and others around you", which has to cover no less than 30% of the external area of one side of the packet; and an additional warning, chosen from a list included in the Directive, which must cover no less than 40% of another side of the packet.

The list of messages to choose from includes, "Smoking can damage the sperm and decreases fertility", and "Smokers die younger." These additional warnings must be "rotated in such a way as to guarantee their regular appearance." The Directive even states the font to be used: "The text of warnings and yield indications required under this Article shall be printed in black Helvetica bold type on a white background." The Directive also bans the use of descriptions such as "mild", "light" or "low tar" on tobacco products.

[11] Figures derived from DEFRA, OECD/ FAO, IFPRI, IEA and IMF

The Government now has plans to introduce pictorial warnings on cigarette packets, and EU rules laid down in Decision 2003/641/EC specify what these must be and how they are presented. One image, for example, shows a pair of healthy lungs next to diseased organs, with the warning: "Smoking causes fatal lung cancer." Meanwhile, EU Directive 2003/33/EC bans tobacco advertising in printed publications, in radio broadcasting and in information society services. It also bans the sponsorship of events which have a cross-border effect and seek to promote tobacco products. All forms of television advertising for cigarettes and other tobacco products are banned by the Television Without Frontiers Directive (89/552/EEC).

Disappearance of the Crown signs on pints. The EU's Measuring Instruments Directive (2004/22/EC), which came into force in October 2006, bans the crown symbol on pints and replaces it with a CE sign. The Government has confirmed that the Crown sign is not even allowed to appear alongside the CE sign.[12]

Lists of ingredients and warnings on food products. A series of EU directives, based on Directive 2000/13/EC, lay down rules on the labelling of foodstuffs to be delivered to consumers. EU legislation requires all ingredients in foodstuffs to be listed on the label, and for labels to warn if the product contains allergens, such as nuts or celery. This includes alcoholic drinks.[13]

Obligation to use energy saving lightbulbs, phasing out of incandescent bulbs. Over the next few years the UK is set to introduce a complete ban on incandescent light bulbs, which are to be replaced by low-energy bulbs – compact fluorescent bulbs. Several major retailers including Asda, B&Q, Homebase, IKEA, John Lewis, Marks and Spencer, Morrison's, Sainsbury's, Tesco and Waitrose, agreed to stop restocking traditional 150-watt bulbs from January 2008, with 100-watt bulbs to be phased out in 2009 and 40w bulbs the following year. The Government has said that it is encouraging the shift to 'green' lightbulbs in order to help Britain meet its 2050 target of reducing carbon emissions by 60%.[14] These moves pre-empt EU-wide legislation to ban incandescent lightbulbs, which will shortly be introduced by the EU Commission, following a request in March 2007 from EU leaders meeting at the EU Council.

High price of energy saving products. A combination of VAT and EU tariffs keeps the cost of everyday household energy saving products up to 80% higher than they should be. For example, the EU currently imposes a 66.1% tariff on low-energy light bulbs from China, Vietnam, Pakistan and the Philippines. A single energy efficient light bulb equivalent to 60 watts can cost as much as £4, but without the antidumping duty and the VAT, the price would be 66p – a price drop of more than 80%. The price of bicycles, energy efficient cars, wind turbines, solar panels, supermarket-bought ethanol, insulation, condensing boilers, water management systems and heat exchangers could all be reduced by significant amounts if EU-imposed VAT rates and tariffs were abolished. The EU has set a minimum rate of VAT at 15%, and cutting this for green products in the UK would require agreement at the EU level.

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[12] Jim Fitzpatrick, Written Answer, (26.02.07)
[13] http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/comm_legisl_en.htm
[14] *Guardian* (27.09.07)

Expensive electrical goods, and higher council tax. The EU's Waste Electrical and Electronic Equipment Directive (2002/96/EC), which came into effect in the UK in July 2007, rules that manufacturers that make electrical products must pay for them to be dismantled and recycled at the end of their working life. More than six million electrical items are thrown away in the UK every year, or 1.2 million tonnes.[15] Orgalime, a group representing 100,000 machinery and electronics companies, estimated in 2002 that the changes would cost industry more than €7.5bn (£4.7bn).[16]

According to Josh Claman, UK head of Dell computers, the costs "absolutely will be passed on to the consumer."[17] According to Jane Southworth, a lawyer with legal firm Eversheds: "Obviously manufacturers will have to bear the cost of products that are already out there… I've heard some manufacturers say the WEEE costs would wipe out their profits. You could imagine prices will have to go up to compensate."[18] Technology analysts Gartner predicted in a 2005 research report that the changes could add up to £33 on to the price of a PC.[19]

Because of the costs involved, industry groups tried lobbying the Government to introduce a till-based recycling levy. They warned that without it, headline prices on their products could rise by as much as £600 million a year to foot the cost of recycling. But as the Evening Standard pointed out, "However the recycling costs are met, it seems the changes will deliver a stealth tax windfall to the Government. For consumers will inevitably be paying more for electrical goods from next summer, so driving a rise in VAT income to the Treasury."[20]

Under the terms of the directive, householders are expected to take their old electrical items - from fridges to computers, toasters, kettles and fluorescent lighting tubes - to council tips. The electrical items should then be collected by a manufacturer and recycled. But in July 2007 the Local Government Association warned that an industry U-turn had left about 250 council recycling centres without a partnership with a manufacturer scheme. They estimated the cost to council taxpayers could be £27 million, as a result of Councils footing the bill for facilities to collect and recycle the dumped electrical goods, and for the annual running costs of the civic amenity sites.[21]

New Royal Mail pricing rules. New rules introduced by Royal Mail in August 2006 called "Pricing in Proportion" require post items to be priced by size as well as weight. EU legislation designed to harmonise postal services lie behind the new rules - namely the EU Postal Services Directive (97/67/EC) "on common rules for the development of the internal market in Community postal services". The directive's aim was to liberalise the EU's postal services by opening them up to competition, and Article 12 lays down that "prices must be geared to costs".

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[15] Express, (11.06.07)
[16] Independent, 12 October 2002 http://news.independent.co.uk/europe/article139801.ece
[17] http://hardware.silicon.com/desktops/0,39024645,39155882,00.htm
[18] Observer, (15.07.07)
[19] http://www.itweek.co.uk/best-practice/features/2155987/solving-weee-issue
[20] http://www.thisislondon.co.uk/news/article-23367504-details/Green%20levy%20to%20hit%20consumers%20at%20the%20till/article.do
[21] LGA press release, (01.07.07) http://www.lga.gov.uk/lga/core/page.do?pageId=41727

A 2004 document from postal regulator Postcomm on "Size based pricing" (SBP) made clear that "Royal Mail believes that SBP meets the need for more cost-reflective pricing that is identified within the European directive" and that "Royal Mail believes that its present pricing structure could distort the development of competition."[22] When Royal Mail's Head of Size Based Pricing called for the changes in 2004, he said, "These proposals would bring our prices more in line with our costs."[23]

Bureaucracy at the bank. Opening a bank account in the UK has become more and more difficult, because of EU laws designed to prevent money laundering. Banks are legally obliged to prove the identity and address of customers applying to open a bank account of any kind, under the terms of the EU Money Laundering Directives as implemented by the Money Laundering Regulations 2003 and 2007.

In practice this means producing months-old bills and bank statements, which can be difficult for some people, including those new to the UK or people without permanent addresses or bills in their name, such as tenants, for example, who are not directly responsible for bill paying. The new 2007 Money Laundering Regulations allow banks to keep hold of copies of personal proofs of identity.[24]

In addition to this, EU Directives regulating the financial services sector have led to the customer being bombarded with excess and often unwanted information. The Insurance Mediation Directive (2002/92/EC), for example, establishes a minimum amount of information that insurance intermediaries must give to consumers before concluding an insurance contract. The Distance Marketing Directive (2002/65/EC) also lays down pre-agreement information requirements for those selling consumer credit at a distance. The Association of British Insurers estimates the direct and indirect cost to the consumer of complying with these regulations at £400m a year.[25]

Banning vitamins and minerals. The EU's Food Supplements Directive (2002/46/EC), due to come into force by 2009, lays down a list of which vitamins and minerals may be used in food supplements as well as rules on food labelling. The Directive is likely to mean a ban on around 200 food supplements and place limits on the dosages in which supplements can be sold.[26]

In 2005, the Directive was dubbed "illegal" by an Advocate General at the European Court of Justice after a group of retailers and consumer associations in the UK challenged it in the court. However the Court ruled in favour of the Commission. The European Commission is currently working out the maximum permitted levels for every vitamin and mineral in food supplements and fortified foods, following scientific advice from the European Food Safety Authority (EFSA).

Fewer and more expensive fish. The EU's Common Fisheries Policy sets quotas for which member states are allowed to catch what amounts of each type of fish. In

[22] http://www.psc.gov.uk/postcomm/live/policy-and-consultations/documents-by-date/2004/SBP_Full_Con_doc_April04.pdf; *Telegraph*, (20.08.06)
[23] http://www.news.royalmailgroup.com/news/articlec.asp?id=1304&brand=royal_mail
[24] 2005/60/EC, Article 30; transposed as Money Laundering Regulations, Article 19
[25] ABI: "The Regulation of General Insurance Sales: One year on" (March 2006)
[26] *Marketing*, (21 February 2007)

practice, this forces UK fishermen to throw huge quantities of fish – up to 90% of the catch – back dead into the sea in order to conform to the quotas.

The result is diminishing fish stocks and increasing prices. The policy has been described by the EU's own Fisheries Commissioner – who is responsible for it – as "morally wrong".[27]

According to the Scottish Consumer Council "Over-fishing brings short supply and higher prices to the disadvantage of all consumers… retail fish prices continue to be significantly above world prices, to the disadvantage of consumers. Where the price to the primary producer has been relatively low it is seldom passed onto the consumer."[28]

Extinction of swathes of vegetable varieties. According to Garden Organic, a conservation charity, EU rules on the listing of heritage seed varieties (dating from the 1970s but amended by Directive 98/95/EC) have contributed to the disappearance of 98% of the UK's vegetable varieties, and threaten the many that remain with extinction. The rules state that vegetable varieties can only be sold if they have been registered on an EU or national list. The charity found that because it costs thousands of pounds to get a species approved by Brussels, many big growers no longer bother producing unusual seeds.[29]

The end of selling in pounds and ounces only. Under EU law (Directive 80/181/EEC), all quantities of food for sale must be expressed in metric, in accordance with the "International System of Units". Currently, the UK has an exemption which allows it to also use imperial measurements alongside metric measurements; however, it is illegal to use imperial measures only, and several market traders selling fruit and vegetables using imperial scales have been arrested in the last few years.

Transport and motoring

Car booster seats for children. Because of EU Directive 2003/20/EC, since September 2006 children up to the height of 135 cm, or those under 12 years old (whichever criteria is reached first), must be restrained by a booster seat when travelling in a car. Drivers can be fined up to £500 for being in breach of the regulations.[30]

Photocard driving licences. EU Directive 91/439/EC required all driving licences issued by the UK after July 2001 to be in card format and to contain the licence holder's image and signature and the EU flag. Photocard licences began to replace paper licences in 1998.[31] Because of the introduction of the photo, drivers must renew their photocards every 10 years from 2008.

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[27] Interview with Joe Borg, FT, 20 February 2007
[28] http://www.scotconsumer.org.uk/publications/responses/resp02/rs09fish.pdf
[29] Mail, 7 December 2007
[30] http://www.thinkroadsafety.gov.uk/campaigns/childcarseats/pn060717.htm
[31] http://www.dvla.gov.uk/media/doc/ilg/70ilg_presentation.ppt#256,1,Photocard Driving Licence Ten Year Renewal Project

End of many rural bus routes. In accordance with EU Regulation 561/2006 all buses running on routes more than 31 miles have to be fitted with digital devices known as tachographs, which measure drivers' hours. The purpose is to monitor and ensure compliance with EU working time regulations. The rules also require that drivers and operators keep records of hours worked. But due to the cost of fitting the devices, many bus companies have decided instead to scrap several rural bus routes nationwide. It has meant the end, for example, of a weekly bus servicing villages in the Yorkshire Dales, and Cumbria, as reported by the BBC Politics Show in December 2007. Some bus routes have had to be split in two in order to comply, such as in the case of the Stagecoach route between Guildford and Winchester, which has caused "mayhem" and is likely to strangle business to Winchester, according to the Hampshire Chronicle News (8 January 2008).

Creation of Railtrack. The privatisation of British rail and the creation of Railtrack was the result of the Railways Act 1993. This implemented EU Directive 91/440/EEC, which required EU member states to separate "the management of railway operation and infrastructure from the provision of railway transport services, separation of accounts being compulsory and organisational or institutional separation being optional", the idea being that the track operator would charge the train operator a transparent fee to run its trains over the network, and anyone else could also run trains under the same conditions. On its website, the Department for Transport notes that in accordance with various EU directives, "the railway should be clearly separated from the state, by becoming commercial operations with transparent finances (although there is no requirement for privatisation)".

Asked recently about his view of reports that the British Government was considering repealing its application of EU Directive 1991/440, EU Transport Commissioner Jacques Barrot said, "In its role as the guardian of the Treaties, the Commission will ensure that Member States correctly implement Community legislation. This also applies to railway legislation, such as Directive 91/440/EEC[1] as amended by successive Directives. While this legislation does not intervene in the nature of the ownership of undertakings, be it public or private, it requires, among other things, the independence of essential functions for non-discriminatory access to the rail infrastructure (e.g. track access charging, capacity allocation) for the provision of rail transport services, and management independence, as well as the separation of accounts of railway undertakings and infrastructure managers."[32]

Harder and more expensive motorcycle tests. From October 2008 would-be motorcycle drivers will have to undergo more stringent tests, under the Second European Driving Licence Directive (2000/56/EC). On the test, riders will have to carry out a new manoeuvring test at 'supercentres' across the country. According to an enquiry conducted by the House of Commons Select Committee on Transport, the motorcycle industry is worried that the changes have been introduced too vigorously by the UK Government. Consequently, the Driving Standards Agency (DSA) has been forced to create large and expensive off-road riding areas, reducing the number of available motorcycle test centres from around 250 to approximately 65.

[32] Answer from Jacques Barrot on behalf of the Commission (05.07.07)

The Motorcycle Industry Association (MCI) believes that this will leave candidates travelling far greater distances to their test; that training and the test itself will become more expensive; and that, consequently, there will be a drop-off in the number of people taking the test.[33]

No bringing back the Routemaster bus. The famous London Routemaster bus has been taken out of general use in order to comply with the Public Service Vehicles Accessibility Regulations 2000, enacted under the 1995 Disability Discrimination Act, which require all buses to have access for disabled people by 2017. It will not be possible to bring back the Routemaster under EU Directive 2001/85/EC, which deems the hop-on, hop-off facility too dangerous. Peter Hendy, Managing Director of London Buses said in 2002 that "Routemasters will not meet EU regulations on accessibility."[34] Boris Johnson, who has spoken in favour of bringing back the Routemaster, has had to admit "I don't think that current legislation would permit me to reintroduce the Routemasters as they were".[35]

In practice the end of the Routemaster has meant replacement of the Routemaster with bendy buses. A poll for Policy Exchange showed that 90% of Londoners (including 87% of disabled respondants) would like to see the return of the Routemaster.

In future, all new cars will need to keep headlights on during the day. From early 2011 all new types of passenger car and light van will have to be fitted with dedicated daytime running lamps in accordance with a newly passed EU Directive. By summer 2012 all new vehicle types will have to be so fitted. Britain opposed the directive but was unable to prevent European transport ministers from approving it because of majority voting in transport policy. Stephen Ladyman, who was Transport Minister during earlier EU Council discussions on the measure, said: "This directive will kill a lot of motorcyclists. They use daytime lights to make them easier to see, but if cars are using them as well, motorbikes will just blur into the background."[36] Ian Mutch, President of the Motorcycle Action Group, said "This is EU lunacy at its cynical worst and a red herring that distracts attention from the real causes of accidents between cars and vulnerable targets, such as motorcyclists, cyclists and pedestrians."[37]

The measures are also likely to lead to higher costs and extra C02 emissions. Transport Minister Jim Fitzpatrick has admitted that the rules would lead to annual fuel consumption rising by 5 per cent. According to AA figures, for the average family-sized car, driving the average 8,770 miles a year, this would increase fuel costs by £68 a year at today's prices. That is based on a car doing 31 miles per gallon. But some models do only 13mpg, meaning the increase could be as much as £160 a year. Heavy goods vehicles would see costs shoot up by £260 a year, based on the average 8.1mpg rate.[38]

[33] 21 March 2007 http://www.parliament.the-stationery-office.com/pa/cm200607/cmselect/cmtran/264/26405.htm#n33
[34] http://www.guardian.co.uk/world/2002/sep/14/transport.uk
[35] http://www.telegraph.co.uk/opinion/main.jhtml?xml=/opinion/2007/09/06/do0601.xml

[36] *Mail* (01.03.08)
[37] *Times*, (13.10.06)
[38] *Mail* (01.03.08)

Law and order

Government's inability to expel EU criminals from the UK. Soon after becoming Prime Minister Gordon Brown promised to automatically deport all foreign criminals. He said, "If you commit a crime you will be deported. You play by the rules or you face the consequences. I'm not prepared to tolerate a situation where we have people breaking the rules in our country when we cannot act." He said, "Let me be clear: any newcomer to Britain who is caught selling drugs or using guns will be thrown out. No-one who sells drugs to our children or uses guns has the right to stay in our country."[39]

However, under EU law, it is impossible for the Government to deport EU nationals just because they have committed a crime. The EU's Free Movement Directive, (2004/58/EC) which came into force in the UK in May 2006, explicitly rules this out. It says that member states may only deport EU citizens on grounds of "serious" or "imperative" public security. It states that "Expulsion orders may not be issued by the host Member State as a penalty or legal consequence of a custodial penalty." It states that "An expulsion decision may not be taken against Union citizens... if they have resided in the host Member State for the previous ten years".

The directive also stops criminal convictions being used as grounds to deny entry: It states that "previous criminal convictions shall not in themselves constitute grounds for denying entry to a national from another EEA state unless there are serious fears for public safety."

The Directive also creates a new automatic right of permanent residence after five years - meaning full access to benefits – even if the person concerned has not worked. It also greatly extends the definition of "family" – meaning that someone coming to the UK will be able to bring *any* relative who is a member of their household (no matter how distant) to the UK if they are working, and their relative will be able to claim benefits. The Government has confirmed that under the Directive, EU job-seekers "will be entitled to claim income-based jobseeker's allowance, housing benefit and council tax benefit".[40]

In 2007 the Government tried to deport the killer of headteacher Philip Lawrence, but failed in its appeal. The judge ruled that the EU Free Movement Directive was behind the decision to let Italian born Learco Chindhamo stay in the UK. In response to the ruling, a Home Office spokesman said: "We are extremely disappointed with the High Court's judgment. We appealed to the High Court because we believe that all foreign nationals who commit a serious crime should be deported from the UK."[41]

Indeed when the Directive was being drawn up the UK objected to several of its key points but was overruled. It was unable to block the law because the Government agreed to give up the veto in this area under the Nice Treaty.

[39] *Telegraph*, (26.12.07)
[40] Written answer, 3 May 2006
[41] BBC online, 31 October 2007

Media, sport and entertainment

TV airtime quotas. The EU's Television Without Frontiers Directive 89/552/EEC, requires that, "where practicable", more than half of all programmes broadcast on European television must be European productions. At least 50% of the independent productions must be "recent" – made within the last five years. (In the case of the BBC, these quotas are applied to the BBC's network public services as a whole rather than each network channel.) [42]

The Directive also lays down rules relating to the advertising of alcohol. Article 15 stipulates that alcohol advertising must not be aimed specifically at minors, link alcohol consumption to driving or create the impression that alcohol enhances physical performance or contributes to social or sexual success. Advertising should not encourage excessive consumption or disparage abstinence or moderation, nor should it suggest that high alcohol content is a positive quality of a brand.

Banning caps on foreign football players, higher wages, higher prices for fans. In 1995 the European Court of Justice ruled it illegal for domestic football teams in EU member states, and also UEFA, to impose quotas on foreign players to the extent that they discriminated against nationals of EU states. The so-called Bosman Ruling also allowed professional football players to move freely to another club at the end of their term of contract with their present team, ruling that the existing situation, whereby a football player could only move to another club with the agreement of both clubs, usually involving a "transfer fee", constituted a restriction on the free movement of workers, which is prohibited by Article 39 (1) of the EC Treaty.

Clubs were subsequently forced to pay higher wages to players – which meant higher costs for the average fan. The ruling also meant that clubs started signing their best players to long-term contracts in order to keep hold of them. This left many clubs with huge problems in the face of relegation or failed television deals – Leeds, Sheffield Wednesday, Bradford City and Derby, for instance, were all left paying non-performing players huge weekly salaries.[43]

Abolition of the 192 inquiries service and replacement with 118. In 2003 Oftel opened the directory enquiries market to competition and the numbers 192 and 153 were replaced by a choice of over 200 different 118 numbers, despite research showing 90% of people were happy with the existing system.

Since 2001 plans had been underway in the UK to open the market to competition, but the abolition of 192 was made mandatory by EU Directive 2002/77, whose Article 5 stated that: "Member States shall ensure that all exclusive and/or special rights with regard to the establishment and provision of directory services on their territory, including both the publication of directories and directory enquiry services, are abolished."

Up to then, BT had dominated the market with its 40p-a-minute 192 service, which had been in operation for 47 years, handling about 400 million calls every year - or

[42] 11 June 2007 http://www.bbc.co.uk/commissioning/tv/network/pdf/statement_ops_tv.pdf
[43] BBC, 14 December 2005 http://news.bbc.co.uk/sport1/hi/football/4528732.stm

about a million a day.[44] Following abolition of 192, a National Audit Office enquiry into the changeover in 2005 slammed the new system, finding there had been "an increase in average prices and uncertainty over improved quality".[45]

As for the replacement of 192 with 118, the Commission has defended the move, saying: "The Commission is in favour of a common number, but the UK was not forced to adopt the 118 directory enquiries prefix as a result of EU law… The Commission has not foisted 118 upon anyone." But in a 1996 Green Paper the Commission recommended the adoption of a 118 directory enquiries prefix.

Television advertising rules. A series of EU directives since 1989 (89/552/EEC) govern the amount and timing of advertising allowed on the television. A new 'Television without Frontiers' directive passed in November 2007 will cut the minimum amount of time between each commercial break from 45 minutes currently to 30 minutes for films, children's and information shows. There is a limit of 12 minutes of advertising per hour, but the current limit of 3 hours per day will be scrapped with the new legislation. The directive also regulates product placement in shows.

Workplace

Banning workers from earning higher wages instead of taking holidays. Under the EU's Working Time rules (Directive 93/104/EC) and in accordance with a ruling by the European Court of Justice in 2006, employers in the UK are now banned from offering workers the option of earning higher wages instead of taking paid holidays – known as 'rolled-up' holiday pay. This was a practice previously widely in use in the construction, manufacturing and education sectors, where short-term contract and complex shift patterns are commonplace, and companies using it faced an administrative nightmare when the ECJ ruled it illegal.[46] In practice, it meant that temporary workers could have their hourly wages cut to fund mandatory paid annual holidays.[47] Article 7 of Directive 93/104/EC reads: "The minimum period of paid annual leave may not be replaced by an allowance in lieu, except where the employment relationship is terminated."

Economy

The run on Northern Rock. The Governor of the Bank of England, Mervyn King, has blamed the EU Market Abuse Directive, or MAD (2003/6/EC), which governs rules on financial transparency, for his inability to keep the Northern Rock bail-out secret. This sparked the run on the bank in 2007. King told MPs that he had wanted to put together a secret rescue package for Northern Rock - "in the way we would have done in the 1990s" - but was advised that this was not possible under the 2005 Market Abuses Act. The EU Commission has argued that the Directive contained "adequate flexibility" to avoid the fiasco, but did not deny that the UK's implementation of the Directive was to blame.

[44] *Independent* (11.08.03)
[45] http://www.nao.org.uk/pn/04-05/0405211.htm
[46] *FT* (17.03.06)
[47] *Times*, (22/26.03.06)

However, the Bank of England insisted that the Commission was wrong and that the directive actually redrew the boundaries for disclosure, making it illegal to act covertly in the Northern Rock case: "We are absolutely confident we are right".[48] In any case, it is clear that the Bank of England's *interpretation* of the MAD (whether correct or incorrect) played a key part in the disclosure of the bailout.

Northern Rock downsizing. The European Commission will almost certainly force the Government to downsize Northern Rock as the price for approving what appears to be an injection of state aid implicit in the nationalisation of the bank. Under EU state aid rules, any state subsidy must not distort competition within the internal market. Chancellor Alistair Darling confirmed that "The conditions under which Northern Rock will do business have to be approved under the (EU's) state aid rules, which are deliberately designed to stop there being unfair competition from something that has the state standing behind it." The banking industry is concerned that the newly nationalised bank will have an unfair competitive advantage. As Dresdner Kleinwort analysts summarised: "No private sector bank can match the perception of deposit safety of a government-owned bank".[49]

This indicates that Northern Rock will need to become a far smaller entity if its distortive effect on the banking marker is to be minimised, through job cuts and possibly branch closures. A spokesman for Neelie Kroes, the Competition Commissioner explained recently that state aid law "requires the company to be restored to viability so it can survive in the future without any further injections of public money. There must be compensatory measures to offset the distortion of competition caused by the subsidy and normally that's a reduction of capacity."[50]

Precedent exists for EU state aid law resulting in downsized capacity. In 2004, the Commission cleared a €2.5 billion ($3.7 billion) restructuring of French heavy engineering firm Alstom in 2004, but the company had to find industrial partners to share investment and decision-making on a 50-50 basis in major sectors. It also had to sell €1.6 billion worth of businesses.[51]

Post office closures. In October 2007 Royal Mail announced that 2,500 small post offices are due to close over the next nine months. The official reason for the closures given by the Government was that Royal Mail was losing millions each week.

Liberalisation of postal service markets has played an important part in this. The EU Postal Directive 97/67/EC as amended by Directive 2002/39/EC requires liberalisation and opening up to competition, which has damaged Royal Mail's revenues. As the EU Commission notes:

> *The Postal Directive implicitly endorses the objective of full market opening and also sets a target date of 2009 for the accomplishment of the internal market for postal services.*[52]

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[48] *Times*, (22.09.07)
[49] *Guardian* (19.02.08)
[50] Guardian (19.02.08)
[51] Reuters (19.02.08)
[52] Commission http://ec.europa.eu/internal_market/post/doc/legislation/assessment-summary_en.pdf

Revenue losses at the Post Office are partly attributed to the fact that EU directives aiming for liberalisation of the EU postal services sector have meant Royal Mail has lost its monopoly, and that other, private companies have been allowed to take the most lucrative part of the postal services market (business collections, packages etc), leaving Royal Mail with the most costly end of the market (delivery).

This has happened as a result of the UK's early (arguably premature) compliance with the EU legislation: Britain's postal service market was fully liberalised on 1 January 2006, but very few other countries had taken similar steps to open their markets on a reciprocal basis.

By the end of 2007, the UK, Finland and Sweden remained the only three of the 27 EU Member States to have introduced full competition in their postal services markets.[53] This means that whilst, for instance, a Dutch service provider may be able to operate and compete in the UK market, Royal Mail would not be able to do the same in the Netherlands.

In reference to 2006, Royal Mail state: "This was the year the UK postal industry changed forever. The first, full year of competition in the UK mail market saw major rival companies fighting to take business from Royal Mail… Royal Mail is losing 40% of bulk business mail to rival postal operators."[54]

The Post Office is given Government money (the Social Network Payment) amounting to £150m per annum. However, in the financial year ending April 2007, the Post Office suffered an underlying loss of £174m. Royal Mail say, "Even with this added Government revenue, which Post Office Limited has warmly welcomed, losses at the current level are clearly unsustainable." [55]

But the Government's freedom of action in this area is restricted, as the level of subsidy that can legally be given to the Post Office is capped under EU state aid rules. As the Government has stated:

> *All state support for undertakings, whether privately or publicly owned, are subject to the rules laid down in Article 87(1) of the EC treaty. Funding of the Post Office network is therefore subject to the state aid rules and can only be given in compliance with these rules*.[56]

State aid rules mean that the Government is prohibited from *increasing* the level of subsidy being awarded to the Post Office - any subsidy has to be non-distorting, and *sustainable* – meaning it cannot be increased. But in reality, due to inflation and continuing loss from the unprofitable 'rump' of services Royal Mail is left with, the fixed cap on subsidy means that the level of real subsidy is actually progressively diminishing, and that cutbacks in the least cost-efficient services are the only solution.

[53] http://www.nfsp.org.uk/Latest_news.asp
[54] ftp://ftp.royalmail.com/Downloads/public/ctf/rmg/RandA_2006-07_26-10-07_FINAL_revised.pdf
[55] ftp://ftp.royalmail.com/Downloads/public/ctf/rmg/RandA_2006-07_26-10-07_FINAL_revised.pdf
[56] Written answer Mr. McFadden to Mr. Gordon Prentice (Hansard 7 Feb 2008)

Even where post offices are the only facility in a rural area or small remote village (which, whilst technically loss-making, may often provide added value to that community, particularly more elderly members), EU state aid rules place limits on the level of subsidy that can be given to them.

The Minister for Employment Relations and Postal Affairs, Pat McFadden, stated recently:

> *We recognise the community value of post offices and the public concern to keep as many as we can, but even with £150 million a year we cannot sustain a network of the current size*.[57]

Health

Fewer training hours for doctors; compromised patient safety. The EU's Working Time Directive limits the number of hours trainee doctors can work to 58 hours a week.[58] This will be cut even further to 48 hours a week by August 2009.

However, there is evidence that the limit is already compromising patient care and leaving junior doctors inadequately confident and experienced in common procedures. The President of the Royal College of Surgeons, Bernard Riberio, wrote to Tony Blair in 2005 warning that the EU's Working Time Directive could "compromise patient safety" by cutting trainees' hours.

He said surveys by the college had revealed "very disturbing consequences" of the cut in hours. Three-quarters of specialist registrars - the most senior trainees - said continuity of care had worsened and half said the quality of care had been affected. "Undue emphasis on working hours that disrupt continuity of care could harm, rather than improve, patient care. It can also compromise patient safety," he wrote. "Training for the management of emergencies can only be provided when they arise, often irregularly and out of hours" he added.[59]

Doctors now work 6,000-10,000 hours before qualifying as a consultant, whereas in the past they would have completed between 30,000-40,000 hours. A review of the change published in the British Medical Journal said that many surgeons were taking up consultant posts without basic skills. "To become a competent surgeon in one fifth of the time once needed either requires genius, intensive practice, or lower standards. We are not geniuses," the authors of the review said. [60]

In order to comply with the Directive, junior doctors have had to walk out midway through operations, sometimes forcing operating room nurses to fill in the junior doctor's role.[61]

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[57] Hansard (29.11.07)
[58] http://www.healthcareworkforce.nhs.uk/wtdaboutus.html
[59] *Independent*, (*16.11.05*)
[60] *Independent*, (*16.11.05*)
[61] Telegraph, (12.11.06)

Higher costs for the NHS. According to rulings by the European Court of Justice, on-call time, when doctors are required to be resident at the work place, also must count as working time. Most countries are in breach of the rulings, but the British Government argues that it follows them. Employing extra doctors and nurses to comply with the two European court judgments costs the NHS £250m a year.[62]

[62] FT (11.07.06)