

European Scrutiny Committee

House of Commons London SW1A 0AA

Tel (020) 7219 3292 Email escom@parliament.uk Website www.parliament.uk/escom

From: Sir William Cash MP

7 May 2020

Paul Scully MP

Parliamentary Under Secretary of State

Department for Business, Energy & Industrial Strategy

1 Victoria Street

London SW1H 0ET

The Temporary Framework for EU State aid rules

Thank you for your helpful Explanatory Memorandum of 23 April 2020 on the significant relaxation of EU State aid laws in the context of the COVID-19 crisis by means of the European Commission's "Temporary Framework" of 19 March, and its subsequent amendment of 3 April. We have noted that the Government did not provide any comments to the Commission when the Framework was sent to you in draft on 17 March, implying the UK supported it fully.

To date, the Commission has approved four coronavirus-related "State aid" schemes under the Temporary Framework, three of which you referred to in your Memorandum.¹ We are aware that the EU is finalising a further change to the Temporary Framework as regards direct recapitalisation of struggling businesses as a last resort measure, which we will consider in detail when it is published.

In your Memorandum, you did not raise any concerns about the limitations European State aid rules have placed on the Government in establishing its various support schemes for businesses hit by the pandemic and the

¹ European Commission State aid cases [SA.56792](#) (United Kingdom, UK COVID 19 measure CBILS Guarantee); [SA.56841](#) (United Kingdom, COVID-19 Temporary Framework for UK authorities); and [SA.56794](#) (United Kingdom, Coronavirus Business Interruption Loan Scheme (CBILS) Grant - COVID-19).

subsequent lockdown measures. In particular, you did not refer to a claim reported in the press that the decision to cap the loan guarantee under the Coronavirus Business Interruption Loan Scheme (CBILS) to 80 per cent of the loan value was made to ensure compliance with EU law.

The Committee also discussed the potential implications of the Temporary Framework under Article 10 of the Protocol on Ireland/Northern Ireland in the Withdrawal Agreement, if the Framework were still to be in effect when the post-Brexit transitional period ends.

Based on a more extensive assessment of the EU's approach to State aid rules in the current crisis, as set out in our Report of 7 May 2020,² we are seeking some further clarifications from you with respect to the Government's engagement with the Commission on the substance of the Framework, and as regards the latter's implications for the UK's COVID-related support measures for companies (including the Coronavirus Business Interruption Loan Scheme (CBILS)).

In particular, we ask you to write to us by 20 May to:

- Clarify if the Government has submitted any comments to the European Commission on the Temporary Framework after it was originally consulted on 17 March, for example in relation to the first and second draft amendments to the Framework, and if so what comments consisted of;
- Clarify whether any further UK requests for approval of business support schemes (beyond the first four) have been made to the European Commission or are currently planned, and if so, what they entail;
- Confirm if any Government support schemes related to COVID-19, or elements thereof, were planned but abandoned because of doubts around their compliance with EU State aid rules;
- Clarify in particular whether the 80 per cent cap on loan guarantees under the CBILS was a Government choice (and confirm if European Commission approval was sought for a potential higher limit), or whether this cap was introduced to ensure compliance with EU State aid rules; and
- Explain, if the Temporary Framework for COVID-related State aid were to be extended beyond its current end date of 31 December 2020, it would need to be added to Annex 5 of the Protocol on

² Due for publication on 12 May 2020.

Ireland/Northern Ireland by the UK-EU Joint Committee in order for Northern Ireland to benefit from the flexibilities it offers when the Protocol takes effect.

As part of the regular scrutiny process, we will expect further Explanatory Memoranda from you on any future amendments to the EU's Temporary State Aid Framework.

I am copying this letter to Simon Hoare MP, Chair of the Northern Ireland Affairs Committee and Margaret McKinnon, Clerk of that Committee; Rachel Reeves MP, Chair of the Business, Energy & Industrial Strategy Committee and Rebecca Davies, Clerk of that Committee; the Rt Hon Mel Stride MP, Chair of the Treasury Committee, and Gosia McBride, Clerk of that Committee; to Lord Kinnoull and Christopher Johnson in the Lords; to Les Saunders at the Cabinet Office; and to Wendy Merrick and Richard Dowling at your Department.

CHAIR