



Department for
Business, Energy
& Industrial Strategy

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Chair, Select Committee on Scottish Affairs
House of Commons
London
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Dear Pete,

THE SUBSIDY CONTROL BILL: A NEW APPROACH FOR THE UK

I am writing to update you on the Government's proposals for a UK-wide subsidy control regime. The Government is today publishing the Government response to the 2021 consultation - *Subsidy Control: Designing a new approach for the UK* - and the Subsidy Control Bill will be introduced in the House of Commons later this afternoon.

This Government is determined to seize the opportunities arising from EU Exit. Now that we have left the EU, and are no longer bound by the EU's bureaucratic and prescriptive State aid regime, we have the freedom to develop a new, bespoke regime for subsidy control within the UK that delivers on our national priorities.

The regime proposed in the Subsidy Control Bill has been designed to reflect our strategic interests, strengthen our Union and level up the country by driving economic growth and prosperity across the whole of the UK.

Under the proposed UK system, local authorities, public bodies and the Devolved Administrations in Edinburgh, Cardiff and Belfast will for the first time be empowered to decide if they can issue taxpayer subsidies by following a set of UK-wide principles. These principles will ensure subsidies are designed in such a way that they deliver strong benefits and good value for money for the UK taxpayer, while being awarded in a timely and effective way to give certainty and confidence to businesses.

The new system has been designed to be more flexible and agile than the EU regime, whilst protecting against wasteful spending. The system will also better enable the government to deliver on key priorities such as levelling up economic

growth in the regions, tackling climate change, as well as supporting our economic recovery as we build back better from the COVID-19 pandemic.

The system will ensure the UK honours its international obligations under World Trade Organisation (WTO) rules, the UK-EU Trade and Cooperation Agreement other free trade agreements, and the Northern Ireland Protocol and will not be a return to the 1970s approach of government trying to run the economy or bailing out unsustainable companies.

The Government has designed a flexible, agile system where public authorities are empowered to utilise subsidies to effect change. This approach will enable the award of subsidies by the devolved administrations, that support our wider strategic goals. The regime will empower the Scottish Government and Scottish public authorities to drive growth and innovation throughout Scotland.

A flexible, agile, principles-based system

The foundation of this new domestic subsidy control regime is a clear, proportionate, and transparent set of principles, underpinned by guidance. This will ensure public authorities fully understand their legal obligations and embed strong value for money and competition principles, without the need for bureaucratic, detailed controls and pre-approvals checks.

This Government will create streamlined routes to demonstrate compliance for categories of subsidies at low risk of causing market distortions, that promote our strategic policy objectives and which the Government judges to be compliant with the principles of the regime. This will ensure that these authorities are able to deliver these subsidies with minimum bureaucracy and maximum certainty.

In order to protect UK competition and investment and demonstrate where it is proportionate for public authorities to give greater scrutiny to their subsidies, we will create two specific categories of small number of subsidies that may undertake more extensive analysis to assess their compliance with the principles: Subsidies of Interest and Subsidies of Particular Interest. Criteria for these subsidies will be set out in secondary legislation in due course. We anticipate there will be a very small number of subsidies in each of these categories.

The Bill also establishes an independent body which will be a UK Subsidy Advice Unit in the Competition and Markets Authority (CMA). The Subsidy Advice Unit will have a role in monitoring and overseeing how the regime is working as a whole, as well as conducting a mandatory, non-binding review on public authorities' assessments for Subsidies of Interest and Subsidies of Particular Interest. Enforcement will be through the Competition Appeal Tribunal who will hear judicial reviews against subsidy decisions.

Strengthening our Union and protecting the internal market

A UK-wide subsidy control regime is necessary to ensure that subsidies do not unduly distort competition within the UK's internal market. Now more than ever, we need the strength and stability of the UK's economic union as we build back better

from the pandemic together. The new approach to subsidy control will provide a single, coherent framework to protect the internal market, whilst empowering the Devolved Administrations and other public authorities to design subsidies that are tailored and bespoke for local needs, without facing excessive bureaucracy or lengthy pre-approval processes.

To ensure that this system works for all parts of the UK, the Government has worked closely with the devolved administrations throughout this process, including meeting the statutory duty to share the consultation response document ahead of publication and consider devolved administrations' representations. We will continue to work closely with Ministerial counterparts as the Bill progresses through Parliament.

Taking a coherent, UK-wide approach to subsidy rules is important, as having different rules in different parts of the UK could undermine fair and open competition, discourage investment and bring uncertainty and additional costs to supply chains and consumers. The devolved administrations are and will remain responsible for spending decisions on devolved subsidies within any subsidy control system. The UK Internal Market Act 2020 reserved subsidy control, however we recognise the proposed legislation affects the executive competence of Scottish Ministers, and will therefore be seeking Legislative Consent Motions. The Government will continue to work closely with the devolved administrations to understand and respond to any concerns.

I strongly believe our proposed regime capitalises on our newfound freedoms as an independent trading nation, and will support business growth and job creation in every region and nation of the UK. The Bill will ensure that the UK maintains a competitive, free market economy – which is fundamental to our national prosperity as we recover from the pandemic – while protecting the interests of the British taxpayer.

I welcome your interest in the Bill and look forward to debates as the Bill progresses through the House.

Should you or your committee members have any questions regarding the Bill, please do not hesitate to contact me, Minister Scully, or my officials who can be contacted on the following email address: subsidycontrolbill@beis.gov.uk

Yours sincerely,



RT HON KWASI KWARTENG MP

Secretary of State for Business, Energy and Industrial Strategy