



HOUSE OF LORDS

Common Frameworks Scrutiny Committee

House of Lords

London

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11 February 2022

Lord Callanan
Parliamentary Under Secretary of State
Department for Business, Energy and Industrial Strategy
Seacole Building
2 Marsham St
London
SW1P 4DF

Dear Martin,

I am writing to you with urgency regarding the Subsidy Control Bill currently progressing through Parliament.

The House of Lords Common Frameworks Scrutiny Committee is in the process of scrutinising DEFRA's Agricultural Support Framework which will sit alongside the Subsidy Control Bill's provisions. As the debate on the Subsidy Control Bill has progressed through various stages, we have become increasingly concerned as to how the Bill will impact on the framework, and on other common frameworks which we currently assess are likely to interact with the Bill. These include the Fisheries Management and Support Framework, and the Public Procurement Framework due to its state aid implications.

We acknowledge, of course, that subsidy control is a reserved area. However, equally clear is the fact that powers and requirements within the Bill could have implications for devolved policy areas across the UK, in that these powers severely threaten the operability of relevant common frameworks agreed in devolved areas. For example, within the Bill, we note that there are powers under which the Secretary of State can refer subsidies or subsidy schemes made by the devolved governments to the Competition and Markets Authority (CMA). This could potentially have the effect of overriding the devolved governments when it comes to proposing subsidies (clauses 52 and 60).

We are therefore concerned about how provisions in the Bill can be harmonised with the explicit equality of the Parties provided for within common frameworks. Our concern not only relates to the provisions to which we have referred but also to clause 10(5) (streamlined subsidy schemes), clause 70(5) (standing before competition and markets tribunal) and, in particular, schedule 3 (review by the high court or court of session for compliance with subsidy control principles of primary legislation of the devolved parliaments which makes provision for subsidies or subsidy schemes).

This is an extremely serious matter which bears on the functioning of the Union. We would invite you to explain how you see the relationship between common frameworks and the Bill; and how will you ensure that the Bill will not threaten the operability of frameworks? And, of course, how you propose to reconcile common frameworks, especially the JMC principles¹ which ensure parity and an increase in decision-making powers for the devolved administrations, with the Bill?

We look forward to a swift response on this urgent matter to assist with our scrutiny of the Common Frameworks Programme.

I am also copying this letter to Neil O'Brien MP as Minister for Levelling Up, The Union and Constitution, George Eustice MP as Secretary of State for Environment, Food and Rural Affairs, Mick Antoniw MS as Counsel General and Minister for the Constitution, Angus Robertson MSP as Cabinet Secretary for the Constitution, External Affairs, and Culture, and Edwin Poots MLA, as Minister of Agriculture, Environment and Rural Affairs.

Yours sincerely,

Baroness Andrews
Chair of the Common Frameworks Scrutiny Committee

¹ Pages 4 – 5, [Frameworks Analysis 2021 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)