



TLT response to the Subsidy Advice Unit's proposed approach to monitoring under the Subsidy Control Act 2022

Response sent via email to SAUconsultations@cma.gov.uk on 28 March 2024.

3.13 Do you agree with the SAU's proposed scope for monitoring the effectiveness of the operation the Act? If not, what should be changed and why?

TLT response: We support the SAU's proposed scope for monitoring the effectiveness of the operation of the Act. We have a particular interest in relation to the approach on research and information gathering and would welcome the SAU gathering views from a wide range of stakeholders (including law firms).

We would be eager to assist the SAU with this exercise. We advise a number of clients on the Act on a day-to-day basis. We have extensive experience in advising clients on subsidy control principles analysis and advise them on SAU reports. Our practice advises on questions ranging from the routine ("Will our proposed funding amount to a subsidy?") to complex and novel questions of law and fact ("Please advise whether, under the specific facts, the Subsidy Control Act applies extraterritorially"). As such, we could provide the SAU with practical and informed insights on the effectiveness of the operation of the Act "from the coal face."

3.14 Do you agree with the methodology and evidence proposed? If not, what should be done or used?

TLT response: We also support the methodology and evidence proposed. We would be well placed to assist the SAU in gathering relevant, practical and up-to-date research. We note that the information referred to at subparagraph 3.5(d) of the Consultation Paper contains a non-exhaustive list of research sources. While the list refers to what might be referred to as "academic" evidence held by third parties, we are encouraged by the fact that the sources may extend to practical examples, including "lessons learned" exercises that we know have been carried out by various stakeholders.

4.16 Do you think the proposed evidence and sources identified are appropriate to meet the scope of the review? If not, what other evidence and sources should be considered and why?

TLT response: We agree that the proposed evidence and sources identified are appropriate to meet the scope of the review. From experience, we also suggest that the option to obtain opinions from economists would be useful. In several matters in which we acted, engaging and working with economists was vital when carrying out the balancing exercise between the potentially distortive impacts on investment and competition and the benefits of granting the subsidy.

4.17 Are there particular factors that should be considered as part of the proposed case studies?

TLT response: While taking in the broadest range of case studies may deliver a balanced result, the energy and environment sector, (including subsidies pertaining to carbon reduction, net zero and green energy), is an early leader in the space, including on quantity, value and complexity. This sector could, therefore, provide the SAU with multiple case studies providing cutting-edge insights. Lessons learned from these case studies will reveal both sector-specific know-how and general acumen that can be applied and enhanced in dealing with future subsidies programs. TLT's experience in these fields positions us well to advise SAU on the selection of case studies in order to maximise the benefit derived from their analysis.