Stephanie Rickard January 31st, 2025

We need more scrutiny for business subsidies

While the UK was an EU member, it followed strict rules regarding the amount of subsidies businesses could receive from public authorities. Today, the rules are much looser. But despite such subsidies reaching a total of £72 billion a year, only 22 of those business subsidies meet the threshold for mandatory scrutinization by the Competition and Markets Authority. ***Stephanie Rickard*** *argues that mandatory scrutiny for all subsidies over £10 million should remain, helping public authorities make better decisions about which businesses to support.*

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After Brexit, new rules on government subsidies took effect under the UK's Subsidy Control Act of 2022, which came into force on January 4, 2023. Prior to Brexit, subsidies – financial aid from public authorities to businesses— in the UK were governed by EU State Aid rules. The EU required the government to notify the European Commission of (some types of) subsidies and wait for the Commission's decision about the subsidy's compliance with EU's rules before they were disbursed.

Since the Subsidy Control Act came into effect, public authorities in the UK, including, for example, the Department for Transport and Greater London Authority, have spent £72.5 billion on subsidies. To put this in context, the UK government spent £53.9 billion on defence in the 2023/24 financial year.

> *Only the very largest subsidies receive external scrutiny.*

Most of this subsidy spending occurs with minimal oversight. Public authorities are not required to notify their subsidies to the EU. And although they are required to supply information about their subsidies to the Department of Business and Trade's subsidy database, no external body monitors most of these subsidies.

Lack of oversight over subsidies leads to conflict of interest

Only the very largest subsidies receive external scrutiny. Subsidies over £10 million, or over £1 million but cumulating to over £10 million with other related subsidies over the previous 3 financial years, must be referred to the Competition and Markets Authority (CMA).

Infrastructure accounts for half of these high value subsidies. Environmental protection is the second most common purpose. Combined, infrastructure and environmental protection make up 84% of all subsidies worth £10 million or more.

Few subsidies meet the mandatory referral threshold. Since the Act's implementation, just 22 standalone subsidies worth £10 million or more have been awarded.

The CMA may choose to review these high-value subsidies. In such a review, the CMA may examine the extent to which a subsidy complies with the principles laid out in the Subsidy Control Act. These principles seek to ensure that subsidies generate economic growth, solve a market failure or equity issue, and change the beneficiary's economic behaviour among other things, all while avoiding negative effects on competition and investment in the UK. The CMA can then recommend ways in which a subsidy's compliance with these principals may be improved.

Few subsidies meet the mandatory referral threshold. Since the Act's implementation, just 22 standalone subsidies worth £10 million or more have been awarded, according to the subsidy database. Additionally, only 3.5 per cent of subsidies awarded through "schemes" – structured programs or rules set by a public authority – are valued at £10 million or more.

> *In effect, public authorities must mark their own homework.*

This minimal oversight is intentional. Unlike the EU's stricter state aid rules, the UK's post-Brexit regime takes a light-touch approach, giving devolved governments and local authorities greater autonomy to tailor subsidies to local needs with minimal red tape.

As a result, public authorities must self-assess whether their subsidies comply with the principals outlined in the Subsidy Control Regime —including whether they minimize harm to competition and investment in the UK. In effect, public authorities must mark their own homework.

> *The current £10 million threshold means that only 3.4 per cent of subsidies must be referred to the CMA.*

Reviewing the current subsidies threshold in the wrong direction

The Department for Business and Trade is currently investigating whether the £10 million threshold for mandatory review is appropriate.

The current £10 million threshold means that only 3.4 per cent of subsidies must be referred to the CMA. Raising it would slash oversight further. If the threshold was raised to £50 million, for example, only 20 subsidies awarded under the Act would require mandatory review, which accounts for less than 0.2 per cent of all subsidies awarded to date.

This is too few. Although CMA recommendations are not binding on public authorities, mandatory review may help to ensure value for money and minimize distortions caused by subsidies to the UK's market. Public authorities, knowing that their high-value subsidies may be subject to review by the CMA, likely go the extra mile to ensure that the money being spent is limited to what's necessary to achieve its policy objective and doesn't compensate for costs the beneficiary would have paid for without the subsidy – two of the key principles of the Subsidy Control Regime. In short, mandatory referrals may help to ensure that public authorities are making the very best use of subsidies.

Mandatory referrals may entail some administrative costs. However, the potential benefits of mandatory review likely outweigh any burdens imposed on either the CMA or the awarding bodies.

> *Five years after Brexit, the UK's new subsidy regime is up and running, and functioning well.*

Subsidies worth £10 million or more have been awarded by a select group of just 17 public bodies, including the Department for Transport, Greater London Authority, and HMRC. These bodies are well equipped to handle any administrative demands associated with mandatory referral, given their scale, resources, and expertise in managing complex budgets and subsidy schemes.

Five years after Brexit, the UK's new subsidy regime is up and running, and functioning well. The new rules have giving local authorities and devolved governments greater flexibility to design subsidies that target local needs and drive economic growth.

The new rules have also improved transparency. The Department for Business and Trade's (DBT) subsidy database allows taxpayers to see when and where public money is being spent. Transparency is important and valuable for accountability. However, transparency alone is not enough to guarantee full compliance with the regime's principles. Review by the Competition and Markets Authority provides an important additional check, helping to ensure that subsidies are effective and contribute to economic growth.

This post is based on Professor Stephanie Rickard's response to the Department of Business and Trade's Public Consultation on Refining the UK subsidy control regime.

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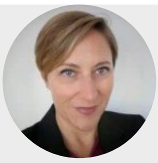

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