

Consultation launched on the future of subsidy control law

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04 February 2021

The Department for Business, Energy & Industrial Strategy has just launched its consultation on the future of subsidy control law (previously known as state aid) in the UK. The government hopes that a new regime will give sufficient certainty to enable confident funding and investment decisions while avoiding undue bureaucracy and responses to the consultation will inform that balancing act.

The current subsidy control system in the UK is suboptimal to say the least – it consists of a combination of the old EU state rules incorporated through the Northern Ireland Protocol and new subsidy control rules drawn directly from the UK's Trade and Cooperation Agreement (TCA) with the EU. The new subsidy control rules draw heavily on the old state aid rules so in the absence of a more detailed regime most public authorities are still aligning with the old state aid regime as the only source of authority for how to comply with the principles within the new subsidy control regime.

Clearly this is not the government's intention for the future of subsidy control so a new regime is to be welcomed. The consultation is wide ranging and surprisingly seeks opinions on implementing rules that in some cases go beyond what is required by the UK-EU TCA. This suggests the government recognises the advantages of a comprehensive regime even as it endeavours to reduce bureaucracy.

We will certainly be responding to the new consultation and we strongly recommend engaging with the process as it provides a rare opportunity to shape the future of subsidy control law in the UK.

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