

Title: Subsidy Control: Designing a new approach for the UK Consultation Impact Assessment IA No: BEIS006(C)-21-MF RPC Reference No: N/A Lead department or agency: Department for Business, Energy and Industrial Strategy Other departments or agencies: N/A	Impact Assessment (IA)			
	Date: 11/02/2021			
	Stage: Development/Options			
	Source of intervention: Domestic			
	Type of measure: Primary legislation			
Contact for enquiries: subsidycontrolconsultation@beis.gov.uk				
Summary: Intervention and Options			RPC Opinion: N/A	

Cost of Preferred (or more likely) Option: Preferred option to be confirmed following consultation

Total Net Present Social Value	Business Net Present Values	Net cost to business per year	Business Impact Target Status
£-0.4m (for transparency costs only – the majority of costs are non-monetised)	None monetised	None monetised	Qualifying provision

What is the problem under consideration? Why is government action or intervention necessary?

Now that we have left the European Union, the UK has the freedom to design a domestic subsidy control regime that reflects our strategic interests and particular national circumstances. Subsidy control policy is used to refer to any policy or regime that is related to the award of subsidies, including minimisation of the potential harm arising from them. The rationale for subsidy control mechanisms can be thought of as a balance between facilitating public authorities to award subsidies, as strategic interventions where there is a rationale to do so, whilst limiting the harmful, unintended consequences of poorly designed subsidies.

What are the policy objectives of the action or intervention and the intended effects?

The Government is seeking views on how to develop a bespoke domestic subsidy control system for the UK. The UK needs a modern system for supporting businesses to grow and thrive in a way that suits our interests and is consistent with a dynamic and competitive economy. The Government's objectives for the future subsidy control regime are:

- Facilitating interventions to deliver on the UK's strategic interests
- Maintaining a competitive and dynamic market economy
- Protecting the UK internal market
- Acting as a responsible trade partner

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

The counterfactual or 'do minimum option' is determined by the UK's international commitments that have applied as of 1 January 2021. The main consultation sets out a model for the UK's future domestic regime that is consistent with the UK's international agreements. It has the following features or 'building blocks': definition and scope of subsidies; principles; prohibitions and conditions; presumed compliance for 'low risk subsidies'; transparency; and oversight and enforcement. Each of these 'building blocks' has sub-options described in this Impact Assessment and the main consultation document.

Will the policy be reviewed? We will consider need for review

Is this measure likely to impact on international trade and investment?	Yes			
Are any of these organisations in scope?	Micro Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded: N/A		Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible MINISTER:  Date: 11.02.2021

Evidence Base

Problem under consideration and rationale for intervention

Background

1. As is set out in 'Subsidy Control - Designing a new approach for the UK', published 3 February 2021, now that we have left the European Union (EU), the UK has the freedom to design a domestic subsidy control regime that reflects our strategic interests and particular national circumstances. The Government is consulting on the design of the new UK subsidy control system.
2. The aim of this consultation stage Impact Assessment, which sits as an analytical annex to the main consultation document, is to provide the Government's initial assessment of the economic rationale for intervention, and the impacts of options that are being considered for the design of the new UK subsidy control system. It provides a more in-depth discussion of some of the evidence relating to the consultation document, including economic rationale and a consideration of the relevant costs and benefits. Through consultation we aim to improve Government understanding of the policy options and impacts of the options being considered.
3. Due to the range of high-level policy options being put forward at this consultation stage, the dependencies that different options have on each other and the quantity of options presented, a quantitative assessment of defined options has not been deemed appropriate at this consultation stage. Instead, a qualitative description of the main impacts associated with each 'building block' of the new UK subsidy control system is presented, further highlighting the key pieces of evidence that is needed to inform decisions on each sub-option. Further details of this approach are explained later in this Impact Assessment (see paragraphs 22 to 28). As policy develops – and there is more certainty over options for the new regime – the appropriate level of impact analysis will be undertaken, in line with the guidance set out in the Government's Green Book.¹
4. The remainder of this section provides background information on what is meant by 'subsidies' and 'subsidy control', as well as the policy context and problem under consideration.

What is a subsidy?

5. In general terms, a subsidy is a financial contribution using public resources which confers a benefit on the recipient. This could include, for example, a cash payment, a loan with interest below the market rate, or a guarantee. Subsidies are administered by all levels of government in the UK.
6. The World Trade Organisation (WTO) subsidy rules are set out in the 1995 Agreement on Subsidies and Countervailing Measures (ASCM), which contains an internationally recognised definition of a subsidy. Many Free Trade Agreements (FTAs) use the WTO ASCM definition of a subsidy as the basis of what is in scope of their subsidy chapter, but some agreements build upon that definition to extend the scope to the supply of services, as well as goods, and they can include additional prohibitions. The Government is consulting on the definition of a subsidy for the purposes of the UK's future domestic regime. This is discussed in more detail below (see paragraphs 32 to 34).

¹ HM Treasury, The Green Book (2020)

What is subsidy control?

7. Subsidy control policy is used to refer to any policy or regime that is related to the award of subsidies, including minimisation of the potential harm arising from them. In general, such policies or regimes, guide or control public authorities in their award of subsidies to shape the way in which subsidies are used. There are a wide variety of potential models, and examples from other countries, for managing the award and administration of subsidies by public bodies. These are discussed in the main consultation document.
8. Importantly, the consultation (and this Impact Assessment) relates to the overarching subsidy control system in the UK rather than the awarding of specific subsidies. However, as these are clearly interrelated issues, both are discussed in this Impact Assessment.

What is the policy context?

9. Previously, when the UK was a member of the EU, it followed EU State aid rules. These rules are designed for the particular circumstances of the EU and seek to avoid subsidies (or 'State aid' in EU terminology) distorting competition between member states within the single market. This approach to subsidy control is unique to the EU and is not replicated by other advanced economies.
10. Since 1 January 2021, the UK has followed the commitments on subsidy control set out in its FTAs with other countries, notably the provisions of the UK-EU Trade and Cooperation Agreement (TCA), and the WTO rules on subsidies, as well as the relevant provisions within the Northern Ireland Protocol. A summary of these commitments is set out in the main consultation.
11. How to implement our international commitments in UK law is a domestic decision. The Government is therefore seeking views on how to develop a bespoke domestic subsidy control system for the UK. The UK needs a modern system for supporting businesses to grow and thrive in a way that suits our interests and is consistent with a dynamic and competitive economy.

What is the economic rationale for subsidy control?

12. In brief, the rationale for subsidy control mechanisms can be thought of as a balance between facilitating public authorities to award subsidies as strategic interventions, where there is a rationale to do so, whilst limiting the harmful, sometimes unintended consequences of poorly designed subsidies. The overall rationale for any approach is, therefore, both informed by the rationale for the award of subsidies and the economic theory behind the harmful consequences.
13. Subsidies, if designed well, can be used to correct a wide variety of market failures and to meet government and societal objectives. This means that different subsidies will have different rationales according to their aims and the market failure they seek to address. For example, a few of the classic subsidies and their rationales are as follows:
 - **Externalities** – subsidies can be used to encourage a range of behaviours where there are defined benefits to wider society². For example, subsidy schemes can be used to support the renewable energy transition necessary for meeting the UK's net

² Haucap, J., & Schwalbe, U. (2011). Economic principles of state aid control (No. 17). DICE Discussion Paper.

zero greenhouse gases target by 2050 – and therefore the benefit falls on society as a whole – but ordinarily the risk of upfront investment falls on the business investing in the technology³. Subsidies, if designed correctly, can be used to incentivise business investment in these technologies where there is a net benefit to society.

- **Information failures** – subsidies can be used to encourage beneficial behaviours that would not ordinarily take place due to uncertain or asymmetric information⁴. For example, the fixed cost associated with undertaking credit assessments for small businesses can mean that small business may fail to access credit even when they are viable, and their growth would benefit wider society⁵. Some types of subsidies for small businesses can be used to allow viable small businesses to access credit easier.
- **Coordination failures (when combined with externalities or information failures)** – can strengthen the rationale for subsidy provision to provide a more complex reason for intervention⁶. For instance, businesses may underinvest in certain activities, such as research and development, that bring wider benefits to society.⁷ Firms will tend to underspend on research and development where they do not capture all the benefits stemming from their investment⁸. Other businesses may be able to learn from or copy the resulting inventions or innovations without providing compensation to the firm that carried out the research. Often this innovation can only be achieved if multiple businesses invest in related technology at similar times⁹. Well-designed subsidies to fund high-risk, high-payoff emerging areas of research can therefore coordinate expectations and help foster a greater level of innovation which are beneficial to society as a whole.
- **Social equity rationales** – subsidies can also be used to help level up all parts of the United Kingdom¹⁰. For instance, a key priority of this Government is to help those regions that have been left behind and level up prosperity across the UK. Subsidies, alongside other forms of intervention, will be important tools in helping address regional imbalances.

14. Whilst the above provides the rationale for a system that allows for strategic, well-designed, rationale-aligned subsidies there are a number of unintended harms that a subsidy control could be designed to minimise. Specifically, some examples of the benefits of a subsidy control system are:

- **Competition impacts** – subsidy control mechanisms can seek to limit subsidies that distort the efficient operation of the market. Poorly designed subsidies can give firms an unfair advantage or allow the misuse of public resources. Subsidies are usually awarded to incumbent firms, and due to government information failures often benefit less productive firms¹¹. This distortion can be transmitted through a number of

³ Rubini, L. (2015). Rethinking International Subsidies Disciplines: Rationale and Possible Avenues for Reform. Overview Paper. E15 Initiative.

⁴ Rodrik, D. (2004). Industrial policy for the twenty-first century.

⁵ Hainz, C., & Hakenes, H. (2012). The politician and his banker—How to efficiently grant state aid. *Journal of Public Economics*, 96(1-2), 218-225

⁶ Rodrik, D. (2004). Industrial policy for the twenty-first century

⁷ <https://www.gov.uk/government/publications/the-green-book-appraisal-and-evaluation-in-central-government>

⁸ Rodrik, D. (2004). Industrial policy for the twenty-first century.

⁹ Mazzucato, M. (2013). The Entrepreneurial State: Debunking Public vs. Private Sector Myths, 1

¹⁰ Criscuolo, C., Martin, R., Overman, H., & Van Reenen, J. (2012). The causal effects of an industrial policy (No. w17842). National Bureau of Economic Research

¹¹ Baldwin, R. E., & Robert-Nicoud, F. (2007). Entry and asymmetric lobbying: why governments pick losers. *Journal of the European Economic Association*, 5(5), 1064-1093

channels, including encouraging poor use of inputs, suboptimal product choice and, supporting unprofitable businesses^{12,13}.

- **‘Subsidy races’ and other inefficient uses of public resources** – subsidy control mechanisms seek to limit poorly designed subsidies that can lead to wasted public resources because of ‘bidding wars’ (or ‘subsidy races’) between public agencies competing to attract businesses¹⁴ or other sources of government failure such as supporting unproductive industries where there is no market failure or social equity rationale¹⁵.
- **International trade impacts** – subsidy control mechanisms can be used to demonstrate a commitment to existing and potential future international commitments and Free Trade Agreements¹⁶. This can encourage investment by giving businesses certainty, while mitigating trade impacts for UK businesses and consumers by minimising the risk of trade disputes and retaliatory measures^{17,18}.
- **Impacts on expectations** – subsidy control mechanisms can help to maintain more efficient expectations amongst businesses about the prospect of future subsidies¹⁹. This can limit rent seeking behaviour, the negative effects of lobbying, and continued investment in inefficient activity²⁰. Expectations of a subsidy can also lead to a ‘soft budget constraint’ whereby business take overly risky investments when they anticipate the potential of a subsidy if the investment does not deliver. This has negative productivity impacts for the UK economy as a whole²¹.

15. The overall rationale for a subsidy control regime is to allow effective subsidies that meet economic and wider objectives whilst aligning incentives to avoid harms. Some features of a subsidy control regime will potentially achieve both of these objectives but, in other circumstances, there may be a trade-off.

Policy objectives

16. As is set out in more detail in Chapter 2 of the consultation, the Government wants a subsidy control system that strikes the right balance between allowing the benefits that can be derived from subsidies while managing the risks associated with the potential harmful impacts. The Government’s objectives for the future subsidy control regime are:

- Facilitating interventions to deliver on the UK’s strategic interests
- Maintaining a competitive and dynamic market economy
- Protecting the UK internal market
- Acting as a responsible trade partner

17. The Government is consulting on a proposed approach that seeks to maintain the right balance between these objectives.

¹² Oxera. (2017). Ex post assessment of the impact of state aid on competition. Publications Office of the European Union, Luxembourg

¹³ Chindooroy, R., Muller, P., & Notaro, G. (2007). Company survival following rescue and restructuring State aid. *European Journal of Law and Economics*, 24(2), 165-186.

¹⁴ <https://www.instituteforgovernment.org.uk/publications/state-aid>

¹⁵ Trefler, D. (1993). Trade liberalization and the theory of endogenous protection: an econometric study of US import policy. *Journal of political Economy*, 101(1), 138-160.

¹⁶ Shaffer, G., Wolfe, R., & Le, V. (2015). Can informal law discipline subsidies? *Journal of International Economic Law*, 18(4), 711-741

¹⁷ Brander, J. A., & Spencer, B. J. (1985). Export subsidies and international market share rivalry. *Journal of international Economics*, 18(1-2), 83-100.

¹⁸ Friederiszick, H. W., Röller, L. H., & Verouden, V. (2006). European state aid control: an economic framework. *Handbook of antitrust economics*, 625-669.

¹⁹ Ibid.

²⁰ Mazzucato, M. (2013). The Entrepreneurial State: Debunking Public vs. Private Sector Myths, 1

²¹ <http://www.oecd.org/regreform/sectors/48070736.pdf>

18. As part of the consultation and wider evidence gathering process, we intend to consider what set of specific outputs and outcomes will provide the best measure of how successful any interventions have been in achieving these policy objectives.

Policy proposal

19. The design of the UK’s new domestic subsidy control regime needs to be compliant with our international obligations, including the UK-EU TCA. There are elements of the TCA that we must implement domestically, but it is for the UK to determine how we do so in the design of our subsidy control regime in our domestic law. The main consultation sets out proposals for how these elements might be implemented. Equally, there are areas where the UK has discretion, and the Government is openly consulting on a broad range of possible policy options.

20. The main consultation sets out a model for the UK’s future domestic regime that is consistent with the UK’s international agreements and has the following features or ‘building blocks.’ For each of these a fuller description is presented in the main consultation document:

- **Definition and scope** – The first step in setting out a bespoke domestic subsidy control regime for the UK is to define what is meant by a subsidy, and which financial contributions to companies or enterprises by public authorities would fall within this regime. The Government is proposing to set out a definition of a ‘subsidy’ in legislation that is based on four key characteristics.
- **Subsidy control principles** –The Government proposes a legislative regime to be built around a set of subsidy control principles. Compliance with the principles will involve a judgement by the decision-maker, can provide flexibility and discretion for public authorities. The UK and EU have agreed a set of principles in the TCA that must be implemented through the design of the domestic subsidy regime, but which can be supplemented with a bespoke principle that protects the UK Internal Market. The proposed subsidy control principles are set out in Table 1 below.

Table 1: Subsidy Control Principles

Principle	Explanation
<i>1. Subsidies are provided to meet a specific public policy objective to remedy an identified market failure or to address an equity concern.</i>	Public authorities will need to consider, explain and assess the policy objective behind the subsidy to ensure there is a benefit to wider society in providing the subsidy. Social equity objectives could include providing transport for residents of remote areas.
<i>2. Subsidies are proportionate and should be the minimum size necessary to achieve the stated public policy objective.</i>	Subsidies should be the minimum necessary to achieve the desired aim. In choosing a subsidy the body granting the subsidy (“the public authority”) must adopt those causing the least possible disruption in pursuit of the public policy objective.

<p><i>3. Subsidies are designed to bring about a change in the practices of the subsidy beneficiary that would not be achieved in the absence of a subsidy and that will assist with achieving the stated public policy objective.</i></p>	<p>Subsidies must incentivise and lead to a change in the behaviour of the beneficiary. They must help to address the public policy objective being pursued.</p>
<p><i>4. Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.</i></p>	<p>Subsidies should be targeted to bring about an effect that is additional to any that would occur in the absence of the subsidy. They should not normally cover everyday business expenses.</p>
<p><i>5. Subsidies are an appropriate policy instrument to achieve the stated public policy objective and that objective cannot be achieved through other less distortive means.</i></p>	<p>Alternative policy levers that are likely to cause less distortion to competition should be considered before turning to subsidies.</p>
<p><i>6. Public authorities should seek to minimise any harmful or distortive effects on competition within the UK internal market that might arise from a subsidy.</i></p>	<p>Public authorities should assess the material competition effects which are likely to arise from providing the subsidy. This is a domestic test to ensure that a subsidy does not unduly favour one firm to the detriment of a competitor or new entrants to the UK market, or unduly reduce competition within the UK market.</p>
<p><i>7. Subsidies' positive contributions to achieving the objective outweigh any negative effects, in particular the negative effects on domestic competition and international trade or investment.</i></p>	<p>Public authorities will need to assess the material effects on competition and international trade or investment and judge whether the benefits of the subsidy are greater than the harmful impacts of providing the subsidy.</p>

- **Exemptions** – The Government is proposing to introduce exemptions for specific categories of subsidies (such as those below a certain value threshold) from certain provisions or requirements.
- **Prohibitions and conditions** – The Government intends to prohibit outright a limited category of subsidies. The Government also intends to attach further / more strict conditions on the award of an additional limited set of subsidies.²²
- **Additional rules to protect the UK internal market** – The Government is seeking views on whether protecting the UK Internal Market should be addressed in additional ways over and above the inclusion of principle 6.
- **Presumed compliance for lower risk subsidies** – The Government proposes that lower risk subsidies can proceed with maximum legal certainty and minimum bureaucracy, by consulting on options for a framework, legislative ruleset, or guidance to enable this.
- **Sector- and category- specific provisions** – The Government is considering whether to produce additional provisions, possibly in the form of bespoke guidance or legislative rules, for specific sectors or categories of subsidy.

²²Subsidies granted to an air carrier for the operation of routes, subsidies granted in the context of large cross border or international cooperation projects [and subsidies for energy and environmental projects.

- **Transparency** – The Government proposes placing a legal obligation on public authorities to submit information on any subsidies awarded above set values in a central database set up by the Department for Business, Energy and Industrial Strategy (BEIS).
- **Oversight and enforcement** – The UK is committed to establishing an independent body or authority with an appropriate role in our subsidy control system. The Government is consulting on its functions, its responsibilities in facilitating and managing a subsidy control regime, as well as its potential enforcement functions. In addition, the consultation describes options for judicial enforcement and remedies in instances where subsidies have been deemed unlawful.

21. It has not been feasible to define and analyse a meaningful set of policy options for the regime as a whole at this consultation stage. The reasons for this are set out in the following section on the ‘Analytical approach’. The Government’s policy proposals for each of the ‘building blocks’ are set out below under ‘Analysis of building blocks’ (paragraph 32 onwards) and in more detail in the main consultation.

Analytical approach

22. At this consultation stage, it is not proportionate to undertake a full quantitative or monetised options analysis. Instead, this Impact Assessment focuses on qualitatively setting out the potential costs and benefits of the various policy decisions being consulted on under each of the ‘building blocks’ of the regime. The intention is that this high-level assessment will help guide consultation responses and evidence gathering, to further inform policy development.

23. As the regime becomes clearer, through consultation and further policy development, the appropriate level of impact analysis will be undertaken. We intend to provide a more detailed qualitative and, where possible, quantitative assessment of impacts in the final Impact Assessment.

24. There are several reasons why it is not possible or appropriate to undertake a standard options analysis at this stage of the policy development process:

- Whilst the consultation document presents a model for the UK’s new domestic subsidy control regime, the Government is still considering policy options and evidence in a number of key areas. Critically these areas interact, meaning that the impacts of any individual design feature cannot be assessed without considering the regime as a whole. As a result, it is not possible to define a meaningful set of alternative options without considering all combinations of a multitude of features, which it is not proportionate to do at this consultation stage.
- Whilst the impacts of alternative options under each ‘building block’ are considered and presented qualitatively for individual design choices, it is not possible to analyse these independently, due to the interdependencies between different features.
- Further evidence gathering and stakeholder engagement is needed to enable more in-depth analysis of the policy options. We intend to use the consultation and further information gathering to understand what additional evidence sources may be available to help inform further policy development and the final Impact Assessment.

25. As discussed above, this consultation and Impact Assessment relate to the overarching subsidy control system in the UK, rather than the awarding of subsidies themselves. In general, the largest impacts from a subsidy control regime relate to the costs and benefits to society of the subsidies that are actually awarded. However, there are significant challenges associated with quantifying these impacts:

- Subsidy control regimes tend not to be prescriptive enough over the specific subsidies allowed or not allowed for a direct link to be drawn. Moreover, it is hard to predict future government policy over any appropriate evaluation period and harder still to predict

how this may change with respect to any subsidy control regime features. This means that the largest impacts are highly uncertain and indirect, and it has not been possible to quantify these. We do not envisage that it will be possible to quantify these impacts in the final Impact Assessment.

- Even if the link between subsidy control regime features and subsidies awarded could be established, it is hard to evaluate the impacts of regimes as a whole because in many cases it is difficult to establish causation and predict the impact of an alternative scenario. Rodrik (2004)²³ explains that this is because the objectives of an individual subsidy are usually to do with broad economic factors – such as availability of skilled labour or productivity – and it is not possible to evaluate regimes whilst also controlling for these.

26. The use of only qualitative descriptions for the broad, societal, and macroeconomic changes stemming from overarching rules and regulations is standard in government analysis. This is because the level of uncertainty and lack of causal data over these impacts means that quantitative assessments can be misleading. This Impact Assessment follows the precedent of the Impact Assessment to create the Competition and Market Authority²⁴, which used qualitative descriptions to describe the impact on changes in regulation or oversight for similar impacts.

27. As is standard for Impact Assessments, policy options have been compared against the relevant counterfactual. In this instance, the counterfactual is determined by the UK's international commitments that apply as of 1 January 2021. Importantly, the counterfactual includes the subsidy control commitments that are set out in the TCA but does not include further details on their implementation, that are being consulted on as part of the main consultation. For this reason, when analysing options for implementing the UK's international commitments, including the TCA, we have taken the 'do minimum' option to be the relevant counterfactual.

28. We have taken the 'do minimum' to mean the minimum level of Government action that is needed to meet the UK's international subsidy control commitments. For example, having no exemptions is the 'do minimum' because introducing exemptions is not required under our international commitments and would require government action.

Cost and benefits

29. Following the methodology in the previous section, this section describes the qualitative and, where possible, quantitative impacts associated with each of the 'building blocks.' Whilst the overall impacts of any building block will depend on the nature of the other building blocks, this section aims to describe the most relevant impacts as well as the major dependencies between building blocks.

30. For each 'building block', indirect impacts stemming from the award of subsidies themselves as well as the direct costs to businesses and public sector of maintaining a system are described. As the UK spends approximately £4 billion per year on subsidies²⁵, it is likely that **the indirect impacts that the subsidy control system has on the number, size and**

²³ Rodrik, D. (2004). Industrial Policy for the Twenty-First Century. Discussion Paper No. 4767. Centre for Economic Policy Research.

²⁴ <https://www.legislation.gov.uk/ukpga/2013/24/impacts/2013/1066>

²⁵ European Commission. Transparency Award Module. <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>. [Accessed on 16 December 2020]. This figure is based on the average annual total value of subsidies reported to the EC database from July 2016 to December 2020. Values are adjusted for inflation and expressed in 2019 prices. Values for tax measures have been estimated as the value of these are reported as ranges (for example, £50,000 - £100,000), rather than exact figures. This figure is likely to underrepresent the total value of subsidies, as awards below €500,000 are not required to be reported under EU State Aid rules.

nature of subsidies may outweigh the direct impacts of administering the system itself.

31. Table 2, below, provides a summary of the costs and benefits associated with each building block. The analysis of each of these is presented in more detail in the following section.

Table 2: Summary of key impacts

Building block	Costs (£m)	Benefits (£m)	Included in NPV?
Definition	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage
Scope	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage
Subsidy control principles	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage
Exemptions	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage
Prohibitions and conditions	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage
Additional rules to protect the UK internal market	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage
Presumed compliance for lower risk subsidies	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage
Transparency	Administrative costs for subsidy awardees to supply information is monetised. Other costs are non-monetised	Non-monetised	Costs are included in the NPV
Oversight and enforcement	Non-monetised	Non-monetised	Impacts are not included, as they cannot be monetised at this consultation stage

Grey boxes denote where the impact is not included in the NPV.

Analysis of building blocks

Definition

32. **Do minimum:** The four-part definition set out as the preferred option in the consultation document (page 20) is consistent with the UK's international obligations. Given these obligations, it is likely that a similar definition with similar qualitative economic impacts represents the 'do minimum' option.
33. **Options subject to consultation:** The consultation document proposes the preferred option that is consistent with the 'do minimum' counterfactual. Given the baseline created through the UK's international obligations, any feasible alternative options would broaden the definition to bring more measures into the regime's definition of a subsidy compared to the counterfactual.

34. Options Analysis:

Option	Benefits	Costs
Broadening the definition (to consider more measures within the regime's definition)	Increase in the scale of the benefits described in the other building blocks (as more measures considered within regime's definition).	Increase in the scale of the costs described in the other building blocks (as more measures considered within regime's definition).

Scope

35. **Do minimum:** International obligations require the regime to cover subsidies for most purposes and sectors. The TCA allows subsidies for audiovisual, agricultural and fisheries, defence and monetary policy to be exempted from the regime. However, if the UK does not explicitly choose to exempt these from the regime's definition of a subsidy then they would be covered by the regime as whole. Therefore the 'do minimum' is for the regime's definition of a subsidy to cover all subsidies including for these purposes and sectors
36. **Options subject to consultation:** Beyond the 'do minimum' the government could also exempt any of the subsidies mentioned in paragraph 35 from the definition.
37. The preferred option is to exempt subsidies required for the purpose of defence or safeguarding national security but the consultation is left open for the other potential exemption categories.

38. Options Analysis:

Option	Benefits	Costs
Exempting further categories of subsidies from the scope (so fewer subsidies are within scope of the definition)	Decrease in the scale of the benefits described in the other building blocks (as fewer subsidies in scope of definition).	Decrease in the scale of the costs described in the other building blocks (as fewer subsidies in scope of definition).

Subsidy Control Principles

39. **Do minimum:** The six principles (principles 1 to 5 and 7) as set out in the main consultation document (page 23) are consistent with the UK's international obligations. Given these

obligations, it is likely that a similar set of principles with similar qualitative economic impacts represents the ‘do minimum’ option.

40. **Options subject to consultation:** The consultation document proposes a preferred option building upon 6 principles consistent with the ‘do minimum’ baseline and adding a further principle – principle 6. The consultation document calls for responses on the addition of principle 6 and to provide opinions on further principles and what guidance would be helpful.

41. **Options analysis:**

Option	Benefits	Costs
(a) Including the principle 6: <i>‘Public authorities should seek to minimise any harmful or distortive effects on competition within the UK internal market that might arise from a subsidy.’</i>	<p>Positive competition impacts – Indirect from subsidies awarded.</p> <p>Greater value for money – As the key costs of poorly designed subsidies²⁶ are considered – indirect from subsidies awarded.</p>	<p>For subsidy awarding bodies – Increased administrative costs from complying with principle. There may also be an increased cost for using professional / legal services.</p> <p>Unintended indirect cost of limiting some subsidies that could be net-beneficial – in instances where the principal may encourage over-caution.</p> <p>Greater judicial and oversight costs from considering subsidy award decisions against further principles.</p>
(b) Including further principles	Will depend on principles proposed.	<p>For subsidy awarding bodies – Increased administrative costs from complying with principle. There may also be an increased cost for using professional / legal services.</p> <p>Unintended indirect cost of limiting some subsidies that could be net-beneficial.</p> <p>Greater judicial and oversight costs from considering subsidy award decisions against further principles.</p>
(c) Producing additional guidance on compliance with principles	<p>Reduced judicial cost due to greater clarity on what is needed to comply with principles.</p> <p>Greater value for money from a consistent – and potentially fairer – application of the principles.</p>	<p>Less use of flexibility as subsidy awarders would be more inclined to follow guidance if it is available.</p> <p>For public sector direct cost of producing guidance.</p>

²⁶ Haucap, J., & Schwalbe, U. (2011). Economic principles of state aid control (No. 17). DICE Discussion Paper.

		For subsidy awarders greater familiarisation costs.
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42. It should be noted that individual subsidies will still have to be considered in their own right, according to the wider public spending rules and procedures that apply to the public sector authority that awards the subsidy.

Exemptions

43. **Do minimum:** Exemptions or limited exemptions from obligations are set out in the TCA. However, the UK has the option not to introduce these exemptions into its domestic regime. The ‘do minimum’ counterfactual is, therefore, not to introduce any exemptions.

Small amounts of financial assistance

44. **Options subject to consultation:** The Government proposes to exempt smaller subsidies from the legal duty to respect the subsidy control principles. The Government is also proposing to implement an exemption for subsidies below this threshold. These subsidies would have to comply with prohibitions derived from the WTO ASCM but would be exempt from the other prohibitions and conditions discussed in the following sections. The Government is consulting on these proposals and the level at which the value threshold is set²⁷. The Government is also consulting on whether the value threshold should be fixed at an amount of pound sterling (GBP) instead of Special Drawing Rights (SDR)²⁸.

45. Options analysis:

Option	Benefits	Costs
(a) Exempt subsidies below the 325,000 ²⁹ SDR threshold from the legal duty to follow the subsidy control principles	<p>For subsidy awarders – Reduced administrative burden³⁰ and legal risk³¹ associated with awarding exempt subsidies.</p> <p>For subsidy recipients – May be indirect benefits in terms of, for example, the speed at which subsidies can be awarded.</p> <p>For wider Government – Depending on the role of the independent oversight body and the courts, there could be an indirect benefit in terms of reduced administrative and judicial enforcement costs.</p>	<p>Unintended indirect cost – Some increased risk of poorly designed subsidy awards, as exempt subsidies would not be subject to the same level of scrutiny.</p> <p>However, evidence from case studies of subsidies granted within the EU indicates that the value of subsidies, relative to market size, is a key factor in determining the size and likelihood of competition distortions³². Lower value subsidies are generally found to be less distortive, potentially</p>

²⁷ The UK could maintain the threshold of 325,000 SDR that is set out in the TCA, or it could introduce a lower threshold.

²⁸ Special drawing rights (SDR) are supplementary international reserve assets defined and maintained by the International Monetary Fund (IMF). They can be calculated into national currencies such as GBP.

²⁹ Under the terms of the TCA any subsidies awarded to a single recipient below the value of 325,000 Special Drawing Rights (SDR) over a three-year period are exempt from all of the obligations contained within the subsidy control chapter.

³⁰ Depending on the design of the other ‘building blocks’, there could be additional costs associated with following the subsidy control principles (which would increase the scale of the benefits to subsidy awarders from having an exemption). This could include, for example, professional fees for expert economic or legal advice. We intend to explore this further in the final Impact Assessment.

³¹ We envisage that there would be some reduction in legal risk, as exempt subsidies could not be challenged on whether they had followed the subsidy control principles. The scale of this risk would depend on the design of other building blocks of the subsidy control regime.

³² Oxera. (2017). Ex post assessment of the impact of state aid on competition. Publications Office of the European Union, Luxembourg.

		reducing the benefit from ensuring full compliance with subsidy control principles.
(b) In addition, implement a partial exemption for subsidies below this threshold from the prohibitions and conditions.	Benefits would be the same as above, but the scale of these would be increased. The scale of this increase would depend on the design of other building blocks, in particular, the design of any prohibitions and conditions.	Same costs as above, but the scale of this risk would likely be increased. The scale of the additional risk would depend on the nature and remit of the conditions and prohibitions.
(c) Introduce a lower value threshold	Benefits would be the same as under the above options, but the scale of these would be reduced as fewer subsidies would be covered by the exemption.	Same costs as above, but the scale of this risk would be reduced as fewer subsidies would be in scope of the exemption.
(d) Fixing the value threshold at an amount of pound sterling (GBP)	For subsidy awarders – More certainty and predictability as to which subsidies would be covered by the exemption. For subsidy awarders – Potential familiarisation and administrative cost savings.	For subsidy awarders – Some of the flexibility of using SDR would be lost as the fixed GBP amount would have to be set slightly below the equivalent SDR amount to account for currency fluctuations.

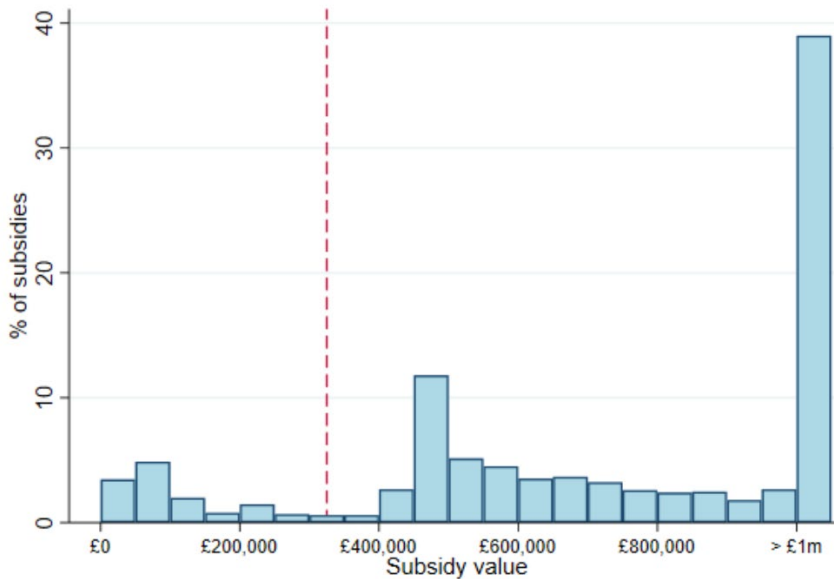
46. The total scale of impacts from introducing an exemption for low value subsidies would be proportionate to the number of subsidy awards that were in scope of the exemption. Ideally, historical data on UK subsidies could be used to provide an illustrative estimate of the total number of subsidy awards that would fall below a value threshold in a given year. However, this is made difficult by data limitations.

- a. Data on historical UK subsidy awards is available from the European Commission’s Transparency Award Module database.³³ However, State aid awards below €500,000 are not required to be reported under EU State aid rules. Although some granting authorities voluntarily report awards below this threshold, data on awards below €500,000 is likely to be incomplete. Data available from the database is therefore likely to significantly underreport the total number and value of lower value subsidies awarded.
- b. The following graph (Figure 1) illustrates the distribution of subsidies reported by the UK from July 2016 to December 2020. Covid-19 related subsidies and tax measures have been excluded³⁴. For simplicity, values have been analysed in GBPs rather than SDRs. The red line marks a value threshold of £325,000.

³³ European Commission. Transparency Award Module. <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>. [Accessed on 16 December 2020]

³⁴ Tax measures have been excluded as the value of these are reported as ranges (for example, £50,000 - £100,000), rather than exact figures. Covid-19 related subsidies have been excluded as they were awarded in unusual circumstances and are unlikely to be representative of subsidy awards over a more typical period. Reported Covid-19 related subsidies were mostly less than £325,000 in value and, if included, would account for around 30% of the total number of reported subsidies over this relevant period (but less than 1% of the total inflation-adjusted value).

Figure 1: Value distribution of reported UK subsidy awards (July 2016 to December 2020, excluding tax measures and Covid-19 related subsidies)



Source: BEIS analysis of EC Transparency Award Module data. Values in this graph are not inflation-adjusted. Tax measures and Covid-19 related subsidies have been excluded. This data is likely to underrepresent subsidies under the European Commission’s reporting threshold of €500,000 for the reasons explained above.

- c. Figure 1 shows that, excluding tax measures and Covid-19 related subsidies, 14% of the total number of reported subsidies for this period were below £325,000 in value at the time of reporting. However, these subsidies only account for around 1% of the total inflation-adjusted value of reported subsidies over this period³⁵.
 - d. To compensate for the likely underreporting of lower value subsidies, we have analysed data on all reported subsidies (including tax measures) below £1 million in value at the time of reporting. Subsidies less than £1 million in value account for around 60% of the total number of reported subsidies, but only 13% of the total inflation-adjusted value of reported subsidies – lower value subsidies represent the majority of reported subsidies, but only a minor share of the total *value* of subsidy awards.
47. To inform policy development and the final Impact Assessment, we intend to explore further whether any more complete data sources on the value distribution of subsidies granted exist. If alternative data sources are not available, we could use the EC Transparency Aid Module database to form assumptions on the number subsidies that would fall within a given value threshold each year. **We welcome suggestions from consultation respondents on alternative data sources that could inform our analysis.**

Exemptions for subsidies in exceptional circumstances

- 48. **Options subject to consultation:** The Government is also proposing exemptions for several other categories of subsidies, listed in the table below.
- 49. **Options analysis:** For each of these exemptions, impacts would be scaled by the number of subsidies in scope of the exemption, as well as which provisions relevant subsidies would be exempted from. The scale of impacts would also depend on the design of other building blocks.

Option	Benefits	Costs
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³⁵ Figures comparing the total value of subsidies over the reported period are adjusted for inflation and expressed in 2019 prices.

<p>(a) Introduce exemption for compensation in exceptional occurrences</p>	<p>For subsidy awarders – Reduced administrative burden³⁶ and reduced legal risk associated with awarding such subsidies.</p> <p>Indirect benefits for subsidy recipients and the wider economy – Reduced administrative burden and legal risk would enable public authorities to respond rapidly and quickly distribute subsidies to where support is needed.</p> <p>Indirect benefits for wider Government – Depending on the role of the independent oversight body and the courts, there could be an indirect benefit in terms of reduced administrative and judicial costs.</p>	<p>Unintended indirect cost – Some increased risk of poorly designed subsidies being awarded, as exempt subsidies would not be subject to the same level of scrutiny.</p> <p>For subsidy awarders – Familiarisation costs.</p>
<p>(b) Introduce exemption for subsidies granted temporarily to address a national or global economic emergency</p>	<p>Same as above. For each category of exemption, the scale of these benefits would depend on the design of other building blocks, as well as the nature and scope of the exemption.</p> <p>In general, a reduction in the risk of recovery would be likely to increase business confidence for recipients and the wider economy, increasing the effectiveness of subsidies³⁷.</p>	<p>Same as above. For all of these categories of exemption, the scale of risk would depend on the design of other building blocks, as well as the nature and scope of the exemption.</p>

Services of Public Economic Interest (SPEI)

50. Options subject to consultation: The Government is proposing to replicate the relevant exemption thresholds for SPEI subsidies that are set out in the TCA³⁸. The Government is also consulting on whether the value threshold should be fixed at an amount of pound sterling (GBP) instead of SDR.

51. Options analysis:

Option	Benefits	Costs
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³⁶ Depending on the design of the other 'building blocks', there could be additional costs associated with awarding subsidies (which would increase the scale of the benefits to subsidy awarders from having an exemption). This could include, for example, professional fees for expert economic or legal advice. We intend to explore this further in the final Impact Assessment.

³⁷ European Commission. (2011). The effects of temporary State aid rules adopted in the context of the financial and economic crisis. Commission staff working paper.

³⁸ The TCA sets out specific exemption thresholds for subsidies aimed at SPEIs. The threshold at which the subsidy chapter does not apply to SPEIs is set at 750,000 SDR over a three-year period (as opposed to 325,000 SDR for all other subsidies as outlined in the section on 'small amounts of financial assistance'). There is an additional, specific exemption for SPEIs related to transparency. The TCA sets out that the transparency obligations in the chapter do not apply to SPEI subsidies below 15 million SDR per task.

<p>(a) Introduce exemption for SPEI subsidies, below the SDR value thresholds set out in the TCA</p>	<p>For subsidy awarders – Reduced administrative burden³⁹ and reduced risk associated with awarding such subsidies.</p> <p>For subsidy recipients – Indirect benefits in terms of, for example, the speed at which subsidies can be awarded.</p> <p>For wider Government – Depending on the role of the independent oversight body and the courts, there could be an indirect benefit in terms of reduced administrative and judicial costs.</p>	<p>Unintended indirect cost – Some increased risk of poorly designed subsidies being awarded, as exempt subsidies would not be subject to the same level of scrutiny.</p> <p>For subsidy awarders – Familiarisation costs.</p> <p>Reduced transparency on SPEI subsidies below 15 million SDR per task⁴⁰ – This will have implications for monitoring and evaluation of the regime (for further analysis of transparency requirements, see paragraphs 79 to 85 below).</p>
<p>(b) Introduce lower value thresholds than those set out in the TCA</p>	<p>Benefits would be the same as under Option (a) above, but the scale of these would be reduced as fewer subsidies would be covered by the exemption.</p>	<p>Same costs as above, but the scale of this risk would be reduced as fewer subsidies would be covered by the exemption.</p>
<p>(c) Fixing the value threshold at an amount of pound sterling (GBP)</p>	<p>For subsidy awarders and recipients – More certainty as to which subsidies would be covered by the exemption.</p> <p>For subsidy awarders – Potential familiarisation and administrative cost savings.</p>	<p>For subsidy awarders – Some of the flexibility of using SDR would be lost as the fixed GBP amount would have to be set slightly below the equivalent SDR amount to account for currency fluctuations.</p>

Prohibitions and conditions

52. In addition to the principles, rules and exemptions described above, the Government is also considering a number of options to limit more damaging subsidies. These range in terms of stringency from prohibiting certain subsidies; to providing further conditions or specific rules.

Prohibited subsidies

53. The Government intends to prohibit outright a limited category of subsidies. This would mean that any subsidies that fall into this category would be deemed unlawful.

54. **Do minimum:** As set out in the published guidance⁴¹, a number of the UK's international commitments and Free Trade Agreements prohibit certain categories of subsidies. These include unlimited guarantee subsidies, export-targeting subsidies, domestic-input subsidies and 'rescue' without 'restructure' subsidies. As these prohibitions are derived from a number of commitments, they apply differently to goods and services and, where appropriate, may

³⁹ Depending on the design of the other 'building blocks', there could be additional costs associated with awarding subsidies (which would increase the scale of the benefits to subsidy awarders from having an exemption). This could include, for example, professional fees for expert economic or legal advice. We intend to explore this further in the final Impact Assessment.

⁴⁰ The TCA sets out that the transparency obligations in the chapter do not apply to SPEI subsidies below 15 million SDR per task.

⁴¹ Department for Business, Energy and Industrial Strategy. (31 December 2020). *Complying with the UK's international obligations on subsidy control: guidance for public authorities*. <https://www.gov.uk/government/publications/complying-with-the-uks-international-obligations-on-subsidy-control-guidance-for-public-authorities>

only apply to trade that affects the country or group of countries that have a specific clause for these types of subsidies in the Free Trade Agreement.

55. **Options subject to consultation:** Beyond complying with these obligations the set of prohibitions can be extended in the following ways:
- (a) The ‘do minimum’ prohibitions can be defined more broadly so that they would cover all subsidies that fall into these categories rather than just goods or those that affect trade with a specific partner.
 - (b) Further subsidies can be prohibited.
56. The ‘preferred option’ set out in the consultation goes beyond the prohibitions covered under the ‘do minimum’ scenario in that it proposes for the categories of subsidies that are prohibited will apply to all relevant subsidies – regardless of trading partner or whether they apply to goods or services. It does not, however, propose any further, separate subsidy categories to be prohibited.

57. Options analysis:

Option	Benefits	Costs
(a) Defining the ‘do minimum’ prohibitions more broadly	<p>Limits the risk of potentially ‘harmful subsidies’ – Existing evidence suggests that the ‘do minimum’ prohibited subsidies tend to be categories of subsidies that have been historically ineffective or worse damaging. Historic evidence suggests that ‘rescue-only’ subsidies have not improved the viability of beneficiaries⁴² and that they can distort competition by delaying the exit of uncompetitive firms⁴³. Academic evidence also argues that export-targeting and domestic-input subsidies can increase the risk of distortions to international trade and may cause increased risk of retaliatory measures⁴⁴.</p> <p>Positive trade impacts – Demonstrates commitment against potentially trade-distorting subsidies.</p> <p>For subsidy awarders – Decreased administrative costs for considering principles for these subsidies.</p>	<p>Unintended indirect cost – If some net-beneficial subsidies fall under the prohibition.</p>

⁴² Glowicka, E. (2006). Effectiveness of Bailouts in the EU. *WZB-Markets and Politics Working Paper No. SP II, 5*.

⁴³ Koski, H., & Pajarinen, M. (2013). *Subsidies, shadow of death and productivity* (No. 16). ETLA Working papers.

⁴⁴ Friederiszick, H. W., Röller, L. H., & Verouden, V. (2006). European state aid control: an economic framework. *Handbook of antitrust economics*, 625-669

	<p>For public sector more broadly – Reduced judicial and oversight costs as prohibited subsidies may not have to be considered in line with the wider regime.</p>	
(b) Further subsidies can be prohibited	<p>Limits the risk of potentially ‘harmful subsidies’ – The exact impact will depend on which further subsidies are proposed to be prohibited</p> <p>For subsidy awarders – Decreased administrative costs for considering principles for these subsidies.</p> <p>For public sector more broadly – Reduced judicial and oversight costs as prohibited subsidies may not have to be considered in line with the wider regime.</p>	<p>Unintended indirect cost – If some net-beneficial subsidies fall under the prohibition</p>

Conditions

58. The Government also intends to attach strict conditions on the award of a limited set of subsidies. These subsidies are not outright prohibited but are only allowed if certain conditions are met.

59. **Do minimum:** The TCA sets out three categories of subsidies where specific conditions apply. There are several conditions on subsidies to banks, credit institutions and insurance companies, including the need for a credible restructuring plan that restores long-term viability. Subsidies granted to an air carrier for the operation of routes must meet specific conditions, including, for example the satisfaction of a public interest test. There are specific conditions – relating mainly for the need to demonstrate societal benefit in another country – for projects that involve large cross-border or international cooperation.

60. **Options subject to consultation:** The Government’s preferred options as set out on page 29 of the consultation document is to adopt the ‘do minimum’ set of conditions. It is not possible given the level of policy uncertainty to analyse the full list of alternative options, however they can be broadly summarised:

- (a) The Government can extend this list of conditions. Either by adding more conditions for the same category of subsidy or to add further conditions on further categories of subsidies.
- (b) The Government can outright prohibit some or all of these subsidies – thereby negating the need to have conditions for these categories.

61. Options analysis:

Option	Benefits	Costs
(a) Extending the list of subsidies under conditions	<p>Limits the risk of potentially ‘harmful subsidies’ – The exact impact will depend on which further subsidies are subject to conditions and what these may be.</p>	<p>Unintended indirect cost – If some net-beneficial subsidies fall under the conditions and are prevented.</p>

		<p>For subsidy awarders – Increased administrative and familiarisation costs for considering further conditions.</p> <p>For public sector – Increased enforcement and oversight costs from extra conditions</p>
(b) Outright prohibition of subsidies that have conditions in the ‘do minimum’	<p>Limits the risk of potentially ‘harmful subsidies’.</p> <p>For subsidy awarders – Decreased administrative and familiarisation costs for considering further conditions.</p> <p>For public sector – Decreased enforcement and oversight costs from prohibiting subsidies that would otherwise have a cost from extra conditions.</p>	<p>Unintended indirect cost – If some net-beneficial subsidies fall under the prohibition and are prevented.</p>

Additional Rules to protect the UK internal market

62. The consultation document also proposes several specific rules that subsidy awarders would have to follow – where appropriate – in addition to the principles set out above.

Competition Impact Review (‘Protecting the UK Internal Market’)

63. **Do minimum:** Principle 6 (if included) and principle 7 require some consideration of the impact of the subsidy on domestic and international competition. This covers all subsidies, that do not otherwise fall in scope of an exemption.

64. **Options subject to consultation:** Legislation could specify how to carry out a more detailed review of the effects on competition in the UK Internal Market:

- (a) This could be limited to the effects on competition in the UK Internal Market.
- (b) This could be extended to also include the effects on trade and investment with other countries.
- (c) There are several options over what subsidies this more stringent assessment could apply to. For instance, this could factor in the value of the proposed award, the sector(s) in which it is being given, or if the recipient commands a significant share of the affected market.
- (d) Whether there is a legal requirement to publish the assessment.
- (e) At what point in the decision making that an assessment is required to be made.
- (f) What role the independent body would play in this review.
- (g) Whether public authorities should be permitted to ‘override’ the requirement to conduct this more detailed review in certain circumstances.

65. The consultation document sets out a preferred option with details of a more stringent competition assessment for some subsidies. It describes a proposal for how this would be undertaken based on existing Green Book supplementary guidance.

66. Options analysis:

Option	Benefits	Costs
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(a) Including a more detailed review that is limited to the effects on competition in the UK Internal Market.	Positive competition impacts from greater consideration of competition impacts in subsidy design and award decision-making. Past evidence suggests that there is a potential for negative competition impacts with some subsidies ^{45, 46} .	For subsidy awarders – Familiarisation and administrative costs. Reduced judicial costs from greater clarity in complying with relevant principles.
(b) Extending this to also include the effects on trade and investment with other countries.	Positive trade impacts – Demonstrates commitment against potentially trade-distorting subsidies. Decreases the risk of distortions to international trade and may cause a decreased risk of retaliatory measures.	For subsidy awarders – Familiarisation and administrative costs.
(c) What subsidies the more stringent assessment applies to (impacts described for options that broaden the range of subsidies where the assessment applies).	Positive competition impacts	For subsidy awarders – Familiarisation and administrative costs.
(d) Including a legal requirement to publish the assessment	Increased scrutiny on subsidies awarded and the indirect impact this has on, providing a means to challenge inefficient subsidies and preemptively reducing the risk of 'harmful subsidies'. Reduced rent seeking – increased scrutiny, may discourage subsidies that encourage rent seeking	For subsidy awarders – Familiarisation and administrative costs. Judicial costs – Increased transparency may lead to greater risk of judicial enforcement – NB this might be offset by the lower judicial costs caused by a reduced risk of 'harmful subsidies'.
(e) At what point in the decision-making process competition impact reviews are to be carried out	Depending on the design and functions of the independent body there are a variety of options as to how the competition assessment interacts with the wider business case, oversight and enforcement process. It is not possible to describe the qualitative impacts of these options as it depends so heavily on the design of the independent body. Analysis of options relating to the design of the independent body is set out below.	
(f) What role the independent	Depending on the design and functions of the independent body there is a variety of options as to how the competition assessment interacts with the wider business case, oversight and enforcement process. It	

⁴⁵ Oxera. (2017). Ex post assessment of the impact of state aid on competition. Publications Office of the European Union, Luxembourg.

⁴⁶ Buts, C. and Jegers, M. (2013). The Effect of 'State Aid' on Market Shares: An Empirical Investigation in an EU Member State. *Journal of Industry, Competition and Trade*. 13(1): 89–100.

body would play in this review	is not possible to describe the qualitative impacts of these options as it depends so heavily on the design of the independent body. Analysis of options relating to the design of the independent body is set out below.	
(g) Whether public authorities should be permitted to 'override' competition impact reviews	<p>More timely interventions which could lead to more efficient outcomes in a limited set of circumstances (e.g. in the case of natural disasters).</p> <p>For subsidy awarders – Administrative cost savings.</p>	Potential negative competition and trade impacts

Relocation of Economic Activity

67. **Do minimum:** There is no international obligation requiring any specific rule on subsidies aimed at encouraging relocation of economic activity within the UK. The 'do minimum' is therefore to have no additional rules for these types of subsidy.

68. **Options subject to consultation:** In addition to the 'do minimum' option the consultation sets out an option to explicitly limit these subsidies. This could draw upon a similar system that limits relocation subsidies between provinces in Canada.

69. **Options analysis:**

Option	Benefits	Costs
Including a rule that explicitly limits the use of subsidies for the relocation of economic activity	<p>Greater value for money – Aligns incentives on relocating economic activity. Existing evidence suggests that subsidies to relocate economic activity are often poor value for money at the national level⁴⁷ and that competing incentives increases the risk of ineffective, poor value for money subsidies⁴⁸. A specific rule may also reduce the risk of inefficient subsidy races.</p> <p>Greater productivity – subsidies granted purely to relocate economic activity may lead to resources being used inefficiently; affecting UK-wide productivity.</p>	<p>For subsidy awarders – Administrative cost to comply with additional rule.</p> <p>Potential unintended consequence – May limit some relocation subsidies that meet wider policy objectives.</p> <p>For public sector – Possible increase in oversight and enforcement costs depending on the nature and complexity of the rule.</p>

Presumed compliance for lower risk subsidies

70. **Do minimum:** This is not a requirement set out in any of the UK's international agreements, so the relevant counterfactual would be to 'do nothing', and not introduce any additional provisions for lower risk subsidies.

⁴⁷ Wilson, D. J. (2009). Beggar thy neighbor? The in-state, out-of-state, and aggregate effects of R&D tax credits. *The Review of Economics and Statistics*, 91(2), 431-436.

⁴⁸ Ferreira, S. G., Varsano, R., & Afonso, J. R. (2005). Inter-jurisdictional fiscal competition: a review of the literature and policy recommendations. *Brazilian Journal of Political Economy*, 25(3), 295-313.

71. **Options subject to consultation:** The Government is consulting on whether additional provisions should be introduced for lower risk subsidies. Options set out in the consultation are for Government to:

- (a) develop a framework for public authorities' use when designing subsidy schemes;
- (b) issue guidance;
- (c) set out additional rules.

72. The idea is to set out criteria for certain subsidies that, if followed, meant that they could be assumed to be compliant with the principles. This would be a route to minimise administrative burdens rather than a legal exemption – subsidies would still need to be compliant with all the other obligations (including international obligations) and their compliance with the principles could still be challenged.

73. **Options analysis:** For each of the options listed above, we envisage that there would be the following costs and benefits. The precise nature and scale of these impacts would depend on the design and scope of any additional provisions, as well as the design of the wider subsidy control regime.

Option	Benefits	Costs
Introduce additional provisions for lower risk subsidies	For subsidy awarding public bodies – Reduced administrative burdens.	For subsidy awarding public bodies – There may an additional one-off familiarisation cost. For Government – One-off cost to Government associated with developing and communicating the additional provision(s). There may also be ongoing costs in terms of responding to queries on the additional provision(s).

Sector- and category-specific provisions

74. **Do minimum:**

- (a) Under the TCA, the UK has specific obligations for energy and environmental subsidies. As a minimum, the UK will be required to comply with these obligations where such subsidies may materially affect UK-EU trade.
- (b) In respect of other sector or category specific provisions, including those categories set out in the joint declaration, the UK is not required to do anything as the declaration is non-binding, and the minimum is to 'do nothing.'

75. **Options subject to consultation:** The Government is consulting on:

- (a) whether rules for energy and environmental subsidies should apply to the domestic regime in general, rather than only insofar as they apply under trade agreements; and
- (b) whether other specific sectors and categories of subsidies, including the areas in the non-binding TCA declaration, would benefit from tailored provisions.

76. **Options analysis:**

Option	Benefits	Costs
(a) Set out rules for subsidies to energy and environmental projects in domestic legislation to apply to projects that	For subsidy awarders – potentially greater clarity. Positive competition and environmental impacts –	For Government – One-off administrative cost associated with setting out the rules in domestic legislation. Ongoing costs associated with responding to queries on the rules.

would distort the internal market in general, rather than trade with the EU (or with other trading partners, depending on the terms of the relevant FTA) in particular.	indirect from subsidies awarded.	For subsidy awarders and subsidy recipients – Subsidies that are <i>not</i> expected to materially affect EU-UK trade would have to comply with the rules set out in the TCA. This would place some limitations on the subsidies that could be awarded. There could be additional administrative burdens associated with demonstrating compliance with the rules.
(b) Introduce tailored provisions for other sectors and categories of subsidies.	Given the uncertainty at this consultation stage as to which sectors and categories are being considered for tailored provisions, and the nature and extent of these provisions, it is not proportionate to analyse the range of possible policy options. We intend to use the consultation and further evidence gathering to develop Government understanding of the case for introducing additional provisions, and to provide more analysis of this in the final Impact Assessment.	

77. We have analysed data from the European Commission’s Transparency Award Module database, to look at the volume and value of UK subsidies awarded to energy and environmental projects, as well as the categories of subsidies set out in the non-binding declaration (see Table 3 and Table 4).⁴⁹ This indicates that, for example, between July 2016 and December 2020:

- Environmental category subsidies made up nearly half (48%) of the total inflation-adjusted value of all reported subsidies.
- Research and development (R&D) subsidies represented around a fifth (19%) of the total inflation-adjusted value of reported subsidies.
- There is significant overlap between reported energy sector and environmental category subsidies, with 89% of reported energy sector subsidies granted for environmental objectives, and 33% of reported environmental subsidies granted to the energy sector.

78. To inform policy development and the final Impact Assessment we intend to conduct further analysis of subsidies by sector and by category.

Table 3: Proportion of reported subsidies in relevant sectors (July 2016 to December 2020)

Sector	Proportion of the total <u>number</u> of reported subsidies	Proportion of the total <u>value</u> of reported subsidies
Energy	8%	41%
Transport	4%	1%

Source: BEIS analysis of the European Commission’s Transparency Award Module database⁵⁰. Values have been adjusted for inflation and expressed in 2019 prices. The values of tax measure subsidies are reported to the database in ranges and are therefore estimated in this analysis. This data is likely to underrepresent subsidies under the European Commission’s reporting threshold of €500,000 for the reasons explained above.

⁴⁹ Sectors and objectives (categories) are defined and grouped under EC definitions in the TAM database, so may not fully align with TCA definitions and should be interpreted as rough estimates.

⁵⁰ European Commission. Transparency Award Module (TAM).

<https://webgate.ec.europa.eu/competition/transparency/public?lang=en>. [Accessed on 16 December 2020]

Table 4: Proportion of reported subsidies in relevant categories (July 2016 to December 2020)

Category	Proportion of the total <u>number</u> of reported subsidies	Proportion of the total <u>value</u> of reported subsidies
Environmental	21%	48%
R&D	23%	19%
Regional development	3%	3%

Source: see Table 3 above

Transparency

79. **Do minimum** Both the UK's international obligations under the WTO and certain FTAs require transparency on subsidies. Both the WTO agreement and certain free trade agreements specify a small number of fields covering basic information on subsidies that has to be published after a subsidy is provided. The TCA requires that information is uploaded within 6 months after award and applies to most subsidies with certain exemptions.
80. **Options subject to consultation:** There are several options for expanding the transparency requirements:
- (a) The fields can be expanded – so that public authorities are required to report more information than is required under international obligations.
 - (b) Public authorities can be obligated to report earlier than 6 months.
 - (c) The exemption threshold for reporting can be lowered below that agreed in the TCA.
81. The preferred option goes beyond the do minimum with respect to (a) but not (b) and (c). There is an additional field beyond international obligations to the transparency database for the recipient's company registration number or equivalent. This is included to aid future monitoring and evaluation of the regime as a whole.

82. Options analysis:

Option	Benefits	Costs
(a) Including additional fields	<p>Increased scrutiny on subsidies awarded and the indirect impact this has on, providing a means to challenge inefficient subsidies and pre-emptively reducing the risk of 'harmful subsidies'.</p> <p>Reduced rent seeking – increased scrutiny, may discourage subsidies that encourage rent seeking.</p> <p>Enhanced monitoring and evaluation at the regime / national level. Academic opinion also suggests that transparency requirements reduce the broader burden of monitoring and</p>	<p>For subsidy awarders – Increased administrative cost of providing data – this is costed quantitatively below. With a central estimate of £0.4m, and £0.0m and £2m for sensitivities in present value terms.</p> <p>Judicial costs – Increased transparency may lead to greater risk of judicial enforcement – NB this might be offset by the lower judicial costs caused by a reduced risk of 'harmful subsidies'.</p>

	managing a subsidy control regime ⁵¹ .	
(b) Requiring reporting to be earlier than 6 months after the award of a subsidy	<p>Increased scrutiny on subsidies awarded and the indirect impact this has on, providing a means to challenge inefficient subsidies and pre-emptively reducing the risk of 'harmful subsidies'.</p> <p>Reduced rent seeking – increased scrutiny, may discourage subsidies that encourage rent seeking scrutiny</p>	<p>For subsidy awarders – Increased administrative cost of providing data sooner.</p> <p>Judicial costs – Increased transparency may lead to greater risk of judicial enforcement – NB this might be offset by the lower judicial costs caused by a reduced risk of 'harmful subsidies'.</p>
(c) Lowering the exemption for reporting	<p>Increased scrutiny on subsidies awarded and the indirect impact this has on, providing a means to challenge inefficient subsidies and pre-emptively reducing the risk of 'harmful subsidies'.</p> <p>Reduced rent seeking – increased scrutiny, may discourage subsidies that encourage rent seeking scrutiny</p> <p>Enhanced monitoring and evaluation at the regime / national level.</p>	<p>For subsidy awarders – Increased administrative cost of providing data. May also increase familiarisation costs if a new, different exemption is introduced compared to the regime as a whole.</p>

83. **Administrative cost to subsidy awarders of supplying additional fields:** More expansive or timely information is likely to be associated with an administrative cost to public authorities. The department has already set up the database itself, so the cost to set up and maintain this database is sunk. However, in addition to the counterfactual, public authorities providing subsidies may have to supply information on a small number of fields – yet to be confirmed – beyond the international requirements. Administrative costs are quantified using precedent from previous assessments that include public authority data and transparency requirements.

84. Specifically, time and grade assumptions are taken from the new burdens assessment for Aluminium Composite Material panels (ACM) data collection⁵² and the Local Government Transparency Code I with an uplift of 30% for 'on costs' as per the Standard Cost Model. These are updated using Annual Survey of Hours and Earnings 2019⁵⁴, to provide a central estimate of £31 per hour, with £18 and £49 taken as low and high bounds reflecting different pay grade assumptions.

85. The same sources provide a range of 5 minutes to 2 hours per item so 1 hour is taken as a rounded average for the central estimate. As the consultation document proposes a small number of extra fields, it is similar in requirements to the ACM data collection and therefore the time burden is likely to be at the lower end of the range for the preferred option. Adding additional fields beyond this is likely to push the administrative cost closer to the higher end

⁵¹ Haucap, J., & Schwalbe, U. (2011). *Economic principles of state aid control* (No. 17). DICE Discussion Paper.

⁵² <https://www.gov.uk/government/publications/data-collection-tracking-acm-remediation-progress-new-burdens-assessment>

⁵³ <https://www.gov.uk/government/publications/local-government-transparency-code-2014-impact-assessment>

⁵⁴ <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2020>

estimate. The volumes of items are taken from a smoothed average of previous State aid⁵⁵ cases in the UK from mid-2016 to 2020. There is uncertainty over how the volume of cases will be affected by the new domestic regime so 0.5x and 1.5x these volumes are taken as low and high scenarios. Together this leads to a central estimate of £0.4m with £0.0m and £2m for sensitivities in present value terms.

Oversight and enforcement

Independent Body

86. **Do minimum:** The Government is committed, under the terms of the TCA, to the establishment of an independent body that will have an ‘appropriate role’ within the subsidy control regime established by the UK. The ‘do minimum’ would, therefore, be that the body is set up to have functions that support the chosen subsidy control regime; and that it is independent in exercising these functions and acts impartially. At this stage it is not possible to specify what an ‘appropriate role’ is, as this will be informed by what the regime is.

87. **Options subject to consultation:** As is set out in more detail in the main consultation, there are five broad categories of tasks (listed in the table below) which we envisage could fall within the remit of the independent body. Within each of these categories, there are a wide range of options for the specific design and scope of any functions.

88. Not all combinations of design choices will be compatible, and there will be interdependencies between different functions, as well as with the other building blocks. For these reasons, it is not appropriate to analyse the full range of possible functions at this consultation stage. Instead, we have used the table below to qualitatively describe the likely impacts of giving the independent body greater or lesser responsibilities or powers under each of these categories of functions. This analysis is illustrative only, and the Government is seeking views on what the functions of the independent body should be.

89. Options analysis:

Function	Benefits	Costs
1. Information and enquiries	<p>Reduced risk of potentially ‘harmful subsidies’ and judicial costs, greater value for money – In sharing its expertise, the body could help public authorities to design better subsidies, with improved outcomes and reduced risk of legal challenge (and any associated cost to the courts and public and private bodies).</p> <p>Increased confidence in the domestic subsidy regime – Through stakeholder engagement and public information campaigns, the body could provide subsidy awarders and the public with confidence and increase the credibility of the domestic subsidy regime.</p>	<p>For Government – The more extensive the remit of the independent body, the higher the staff and any other resource costs (accommodation, IT, etc) required to fulfil it.</p> <p>For subsidy awarders and recipients – Increasing the remit of the independent body could lead to increased costs for subsidy awarders if, for example, it resulted in additional guidance they were required to familiarise themselves with or increased the engagement they were required to have with the independent body during subsidy-design.</p>

⁵⁵ <https://webgate.ec.europa.eu/competition/transparency/public?lang=en>

	<p>For subsidy awarders – The provision of any advice and guidance could reduce administrative burdens and legal risk.</p>	
2. Review and evaluations	<p>For Government, with indirect benefits for awarders and the wider economy – Evaluation of the regime would provide government with independent, expert insight on subsidy control design, informing policy on how to improve the UK regime and its ability to meet the government’s subsidy control objectives.</p>	<p>For Government – The more extensive remit of the independent body, the greater the staff and other resources costs that would be required to fulfil it.</p> <p>For subsidy awarders and recipients – Regime-level evaluation could incur some interaction costs for public and private bodies, whose opinions may be sought as part of any review. However, we do not envisage that this cost would need to be large, as key data on subsidies will also be collected under the transparency requirements.</p>
3. Subsidy development advice	<p>For Government and subsidy awarders – Through providing pre-award advice for subsidies (or certain categories of subsidies, such as those deemed to be ‘higher risk’) before they are awarded, the independent body could improve the quality of decision-making by public authorities and their compliance with the regime.</p> <p>Reduced risk of potentially ‘harmful subsidies’ and judicial costs, greater value for money – This could reduce the risk of poorly designed or harmful subsidies being awarded. This could also reduce the risk (and associated costs) of enforcement action, through helping ensure that the principles are being followed and any other relevant rules are being met.</p>	<p>For Government – The more extensive remit of the independent body, the greater the staff and other resources costs that would be required to fulfil it. There would be ongoing resource costs (staffing and other associated cost) associated with the independent body providing subsidy development advice.</p> <p>For subsidy awarders – There could be additional administrative costs, if they were required to engage with and provide relevant information or documentation to the independent body.</p> <p>Unintended indirect cost – There could be an indirect cost, if any requirement for pre-award scrutiny and associated administrative costs, deterred public authorities from pursuing some net-beneficial subsidies. If this delayed the speed at which subsidies were awarded, this would have an indirect impact on subsidy recipients and wider society.</p>

<p>4. Post-award review</p>	<p>Reduced risk of potentially ‘harmful subsidies’ and judicial costs, greater value for money – A pre-judicial route to investigate inappropriate subsidy awards could reduce the risk of inappropriate subsidies which may have detrimental impacts to wider society. It could also reduce the potential for legal challenge via judicial review.</p> <p>In auditing public authorities and providing recommendations on how to develop their subsidy’s approach, the body could build the capacity of subsidy awarders, allowing them to better comply with the regime and design subsidies. Where embraced, this could help deliver improved outcomes and reduce the risk (and associated cost to the courts, as well as public and private bodies) of legal challenge.</p>	<p>For Government – The more extensive remit of the independent body, the greater the staff and other resources costs that would be required to fulfil it.</p> <p>For subsidy awarding public authorities (and potentially subsidy recipients) – There could be additional administrative costs if they were required to engage with and provide relevant information or documentation to the independent body. There could also be a cost to third parties, such as those companies raising complaints.</p>
<p>5. Enforcement powers</p>	<p>Judicial costs – Providing the independent body with enforcement powers could reduce the number of subsidy cases going for judicial review (or to an alternative judicial forum), and the costs associated. This would depend on the role of the independent body and its interaction with the courts.</p> <p>Given the specialist knowledge needed to investigate subsidies, an independent body with enforcement powers could, depending on its role, reduce the need to upskill the judiciary to manage appeals to the award decisions of public authorities.</p> <p>For subsidy awarders and the wider economy – There could be reduced time savings, compared to judicial enforcement. This could have wider public policy and economic benefits, if it meant that beneficial subsidies could be delivered more quickly. This would depend on the role of</p>	<p>For Government – The more extensive remit of the independent body, the greater the staff and other resources costs that would be required to fulfil it.</p> <p>For subsidy awarders (and potentially subsidy recipients) – There could be additional administrative costs if they were required to engage with and provide relevant information or documentation to the independent body. There could also be a cost to third parties, such as companies raising complaints.</p> <p>Unintended indirect cost – There is a risk that any remedies could also have unintended indirect consequences for subsidy awarding public authorities, recipients, and the wider economy.</p>

	<p>the independent body and its interaction with the courts.</p> <p>Positive competition impacts – Effective enforcement could incentivise public authorities against breaching compliance or unlawfully awarding subsidies, which may reduce the number of distortive subsidies awarded.</p>	
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90. There would also be a one-off cost to Government associated with establishing the independent body. Costs of establishing an independent body would include, for example, estates, staffing, HR, IT costs⁵⁶. The scale of this one-off cost would depend on the functions of the independent body, as well as its form and governance structures. As such, it has not been appropriate to analyse these costs at this consultation stage. However, we note that:

- The more responsibilities the independent body has and the larger it is, the higher the cost that would be associated (for example, because it will need more staff and a larger estate).
- There would be additional costs associated with establishing a completely new authority. For example, if the independent body was incorporated into an existing body, we envisage that there would be potential for cost savings as a result of economies of scale or scope (for example, in staff, accommodation and supply contracts), and the leveraging of knowledge and expertise. There would, however, likely be some transitional costs for the existing body.

Judicial enforcement

91. **Do minimum:** The UK is committed to maintaining a court and tribunal enforcement system which is compatible with its commitments in the TCA. This includes ensuring that UK courts have recovery powers in limited circumstances. Time limits on recovery are set out in the TCA and these form part of the ‘do minimum’ in respect of recovery⁵⁷.

92. **Options subject to consultation:** The Government is consulting on whether:

- further mitigations on the recovery remedy should be considered; and
- an alternative, more specialist, judicial forum should be utilised.

93. Options analysis:

Option	Benefits	Costs
(a) Implementing further mitigations on the recovery remedy, such as a standstill period	Indirect for subsidy awarders and recipients – Reduced risk of the recovery mechanism being used ⁵⁸ . This could help improve certainty for businesses and limit the potential chilling effects	Indirect for subsidy awarders and recipients – A standstill period would delay the speed at which ‘high risk’ subsidy awards could be given to recipients. Depending on the rationale for a particular ‘high risk’ subsidy, and the length of any

⁵⁶ EU (Withdrawal Agreement) Bill Impact Assessment (as published on 21 October 2019) includes analysis of the costs associated with establishing an independent body https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/841245/EU_Withdrawal_Agreement_Bill_Impact_Assessment.pdf

⁵⁷ Article 3.11

⁵⁸ In instances where recovery powers are used there may be a small direct administrative cost to subsidy recipients. However, the main impact will be the withdrawal or cessation of funding to the recipient, which is constitutes a transfer or indirect cost from the subsidy recipient.

<p>for highest-risk subsidies</p>	<p>associated with the threat of recovery.</p> <p>Indirect for Government and subsidy awarding public authorities – Further mitigations could reduce the number of cases going to the courts or tribunal (and the associated costs).</p>	<p>standstill period, such a delay could have wider impacts on subsidy effectiveness and the attractiveness of subsidies to potential recipients.</p> <p>For competitor businesses and competition impacts – There would be a cost on competitor businesses who are not able to challenge and reverse a subsidy which puts them at an economic disadvantage, as a result of any further mitigations. Giving competitors the right to challenge anti-competitive subsidies is economically beneficial.</p> <p>Unintended indirect cost – If implementing further mitigations made recovery less effective as an enforcement mechanism, this could weaken its effectiveness in incentivising public authorities' compliance with the regime. There could also be an indirect impact on the market, and the UK's attractiveness to foreign investment,⁵⁹ if competitors realised that they had less protection from harmful subsidies.</p>
<p>(b) Alternative judicial forum</p>	<p>For Government, subsidy awarders, subsidy recipients and the wider economy – An alternative judicial forum, with a specific focus, could have more specialist economic and legal knowledge to review disputed subsidies. This could have several potential benefits, for example:</p> <ul style="list-style-type: none"> • Judges could be more experienced in hearing similar cases. • There may be greater consistency of approach over time, which would provide greater certainty to subsidy awarders and (subsidy recipients in cases where recovery is a possible enforcement 	<p>For Government and the judicial system – Any judicial forum would be impacted by the arrival of a new type of case. That impact would be proportional to the number of new cases, their complexity, the type of review, and what, if any, additional resourcing the courts or tribunal are given as a result. These factors will be dependent on the design of wider subsidy control regime.</p> <p>To analyse the scale of <i>additional</i> impacts, the costs and benefits of utilising an alternative judicial forum would need to be compared against the counterfactual. We intend to explore this further in the final Impact Assessment.</p>

⁵⁹ Robust independent oversight and enforcement mechanisms are a 'commitment device' that that Government will not subsidise a domestic competitor at the expense of international rivals.

	mechanism). Robust decisions in subsidy control appeals would have important consequences for the wider economy.	
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Wider impacts

94. In the following sections we set out our consideration of the wider impacts.

Equalities Impacts

95. Subsidies can cover a range of purposes from encouraging research and development to promoting local growth or supporting small businesses. Therefore, there are a broad range of equality considerations for the subsidies themselves. This equality consideration, however, will continue to be undertaken by public authorities at the point that subsidies are administered.

96. Whilst this means that equality impacts are considered where relevant under any subsidy control regime, it is important not to ‘bake in’ negative equality impacts into the regime itself. It is not possible to undertake a full equalities assessment at this stage, due to interdependencies between the building blocks and policy uncertainty over how these will be implemented in practice post-consultation.

97. It is likely that the impacts on people with protected characteristics will depend on levels of detail that go beyond those that are currently being consulted on. For example, the principles are broad enough that placing a duty on public authorities to comply with them *per se* may not have an impact on the type and nature of subsidies that affect protected groups. However, details – that are yet undecided – on the specific ways in which public authorities would be expected to comply with these principles may have an impact on subsidies that impact specific groups. Policy uncertainty means that it is not appropriate to assess these currently, but equalities impacts will continue to be considered as the policy develops in the standard and proportionate manner.

Regional impacts

98. Both subsidies specifically designed for regional development and subsidies with broader objectives can have large regional impacts. Whilst these may be considered at the point that individual subsidies are designed and awarded, the overall regime will also have an indirect impact for regions through any effect that it has on the size and nature of these subsidies.

99. The overall approach presented in the consultation is designed to allow flexibility to meet public sector objectives including ‘levelling up’. Moreover, aspects such as the ‘additionality principle’ should act to discourage displacement of activity that might negatively impact neighbouring regions to those where the subsidy is awarded. However, there are subsidy control mechanisms that – depending on details that are yet to be decided – might have a regional impact in either direction.

100. Due to this policy uncertainty, it is not possible to undertake full regional impact analysis at this stage, but they will continue to be considered as the policy develops in the standard and proportionate manner.

Environmental Impacts

101. Both subsidies specifically designed to target environmental objectives and subsidies with broader remits can have large environmental impacts. Whilst these may be considered at the point that individual subsidies are designed and awarded, the overall regime will also have an indirect environmental impact through any effect that it has on the size and nature of these subsidies.
102. The overall approach presented in the consultation is designed to allow flexibility to meet public sector objectives including those relating to the environment and climate change. However, there are subsidy control mechanisms that – depending on details that are yet to be decided – might have an environmental impact in either direction.
103. Due to this policy uncertainty, it is not possible to undertake full environmental impact analysis at this stage, but they will continue to be considered as the policy develops in the standard and proportionate manner.

Competition Impacts

104. As discussed in the main consultation document and the policy rationale section, a key factor for designing subsidy control policy are competition considerations. Compared to the counterfactual – where competition impacts are only considered through standard public spending criteria and wide international commitments, such as the TCA – principles relating to competition impacts are likely to lead to positive competition impacts as far as they deter the most distortive subsidies. Policy details that allow for more discretion on minimising negative competition impacts may however lead to less large positive competition impacts compared to more stringent options.
105. It is not possible or appropriate to produce a full competition assessment on such a broad policy change – potentially affecting a large number of subsidies and therefore markets. However, the details set out in the main consultation document on competition impact reviews draws from standard UK Government competition assessments.

Trade Impacts

106. As discussed in the main consultation document and the policy rationale section, a key factor for designing subsidy control policy are trade considerations. Compared to the counterfactual – where trade impacts are only considered through standard public spending criteria – principles relating to trade impacts are likely to lead to positive trade impacts as far as they deter subsidies that impact current and future Free Trade Agreements. Policy details that allow for more discretion on trade impacts may however lead to less large positive trade impacts compared to more stringent options. Furthermore, policy details that increase clarity with respect to complying with international obligations are likely to reduce the risk of awarding subsidies that may be at risk of leading to countervailing, remedial or other rebalancing measures levelled against the UK.
107. It is not possible or appropriate to produce a full trade assessment on such a broad policy change – potentially affecting a large number of subsidies and therefore markets.

Summary and preferred option with description of implementation plan

108. As outlined above, we intend to use consultation to explore whether the options that have been analysed are appropriate, and to gather more evidence to inform policy development and the final Impact Assessment. This will then be used to develop an implementation plan

and be used to inform policy making and decision making on what the 'preferred option' should be in the final Impact Assessment.

Monitoring and Evaluation

109. The Department for Business, Energy and Industrial Strategy is committed to the monitoring and evaluation of major policy and legislative changes, in the standard manner. Policy uncertainty means that it would not be appropriate to design a complete monitoring and evaluation plan at this stage of policy development – details that are being consulted on will determine the most appropriate monitoring and evaluation strategy. At this stage, the Department has developed a new transparency database that will allow for early monitoring and eventual evaluation.
110. The first phase of the database was launched on 29 January 2021⁶⁰, with the second phase scheduled for mid-February. This is being set up both to meet our international obligations on transparency and to give UK competitors and taxpayers a clearer picture of how subsidy is being granted. When complete, this will include details of the subsidy instrument, amount, date granted, granting authority, and the purpose of the subsidy. It will also include details on the size, region, and sectors of subsidy recipients. Subsidy awarding public authorities have an obligation to upload information to the database within a set number of months following the award, or commitment to award, of a subsidy. The transparency database has been designed specifically to allow for future evaluation, as standard company identifiers have been included to allow for linking with wider data sets. This will allow for a richer ability to evaluate both individual subsidies and the regime as a whole.
111. As the policy develops, monitoring and evaluation will continue to be considered in the full, proportionate and standard way in accordance with Magenta Book principles⁶¹. Importantly, individual subsidy awards will also continue to be monitored and evaluated as per the relevant principles that apply to the public authority awarding the subsidy.

⁶⁰ This can be found at <https://searchforuksubsidies.beis.gov.uk/>

⁶¹ HM Treasury (2020) The Magenta Book