Subsidy Advice Unit Report on the Energy Bills Discount Scheme for Energy and Trade Intensive Industries

Referred by the Department for Energy Security and Net Zero

13 April 2023

Subsidy Advice Unit

Part of the Competition and Markets Authority

Contents

Introduction

1.1 This report includes an evaluation prepared by the Subsidy Advice Unit (SAU), part of the Competition and Markets Authority, under section 59 of the Subsidy Control Act 2022 (the Act). The report evaluates the assessment made by the Department for Energy Security and Net Zero (DESNZ) of the compliance of the Energy Bills Discount Scheme for Energy and Trade Intensive Industries (the EBDS-ETII scheme), with the requirements of Chapters 1 and 2 of Part 2 of the Act (the Assessment).[1] The evaluation takes into account any effect of the proposed EBDS-ETII scheme on competition or investment within the United Kingdom.

1.2 This report is based on the information provided to the SAU by DESNZ in its Assessment, the evidence submitted relevant to that Assessment and further clarifications provided by DESNZ.

1.3 Consistent with the Act, this report is provided as non-binding advice to DESNZ. The purpose of the SAU's report is not to make a recommendation on whether the scheme should be made, or assess whether it complies with the subsidy control requirements. DESNZ is ultimately responsible for making the scheme, based on its own assessment, having the benefit of the SAU's evaluation.

1.4 A summary of our observations is set out at section 2 of this report.

The referred scheme/subsidy

1.5 The EBDS-ETII scheme[2] will build upon the existing Energy Bill Relief Scheme (EBRS) which came to an end on 31 March 2023.[3] It will run in parallel with the Energy Bills Discount Scheme[4] (EBDS), which provides a lower level of support to all non-domestic users covering the period from 1 April 2023 for 12 months.[5] The cost of the EBDS-ETII scheme is included in the £5.5billion envelope for the EBDS. The scheme is expected to provide support to thousands of eligible firms across multiple sectors. DESNZ anticipate that some of these firms may receive subsidies greater than £10 million.

[1] Chapter 1 of Part 2 of the Act requires a public authority to consider the subsidy control principles and energy and environment principles before deciding to give a subsidy. The public authority must not award the subsidy unless it is of the view that it is consistent with those principles. Chapter 2 of Part 2 of the Act requires a public authority to ensure that a prohibited subsidy is not awarded, and that the requirements in relation to the giving of certain other subsidies are satisfied.

[2] The scheme that DESNZ referred to us will cover Great Britain. A comparable scheme that covers Northern Ireland has been notified to the European Commission pursuant to Article 10 of the Northern Ireland Protocol.

[3] The EBRS scheme provided a discount on wholesale gas and electricity prices for non-domestic customers in Great Britain (GB) and Northern Ireland (NI) between 1 October 2022 and 31 March 2023.

[4] Energy Bills Discount Scheme - GOV.UK (www.gov.uk)

[5] EBDS-ETII will be established in regulations made under the Energy Prices Act 2022. The regulations have not come into force as of the date of publication of this report. However, the discount will apply to bills from 1 April 2023.

1.6 The EBDS-ETII scheme will provide beneficiaries with a per-unit discount to their energy bills above a specified threshold, subject to a maximum discount[6] and will apply to 70% of energy volumes used.

1.7 The discount will be calculated as the difference between the wholesale prices associated with an energy contract and the price threshold. The discount is phased in when the contract's wholesale price exceeds the threshold price, until the total discount per MWh reaches the maximum discount for that energy. The UK Government will compensate suppliers for the reduction in wholesale gas and electricity unit prices that are passed on to customers.

1.8 DESNZ identified the ETII sectors as those meeting certain thresholds for energy and trade intensity, in addition to sectors currently included in existing Energy Compensation and Exemption schemes.[7]

1.9 Energy intensity was based on electricity and gas consumption as a percentage of a sector's Gross Value Added using Office for National Statistics (ONS) data. Trade intensity was based on goods trade data sourced from the ONS and turnover data.[8] To qualify as an ETII sector, the sector had to be above the 80th percentile for energy intensity and the 60th percentile for trade intensity, meaning that the sector is less able to pass on increasing costs to their customers due to international competition.

1.10 Organisations will be eligible for support if 50% of the organisation's value of sales or services for the financial year 2021/2022 can be attributed to products or services falling within an eligible sector. Businesses can prove eligibility in various ways, including by having an eligible Standard Industrial Classification (SIC) code listed with Companies House. There will be an alternative verification process for organisations who are not required to register with Companies House or who believe they have incorrect SIC codes listed.

SAU referral process

1.11 On 23 February 2023, DESNZ referred the EBDS-ETII scheme to the SAU under section 52(1)(a) of the Act. The SAU notified DESNZ on 28 February that the SAU would prepare and publish a report within 30 working days, on or before 13 April 2023.[9] The SAU published details of the referral on 1 March 2023.[10]

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[6] The maximum discount and price threshold for ETIIs are: Electricity is £89 per MWh with a price threshold of £185 per MWh; Gas is £40 per MWh with a price threshold of £99 per MWh.

[7] Energy Intensive Industries (EIIS): Guidance for applicants seeking a certificate for an exemption from the indirect costs of funding Contracts for Difference (CFD), the Renewables Obligation (RO) and the small-scale Feed in Tariff (FIT) (publishing.service.gov.uk)

[8] Energy Bills Discount Scheme energy and trade intense industries assessment methodology - GOV.UK (www.gov.uk)

[9] Sections 53(1) and 53(2) of the Act

[10] Referral of Energy Bills Discount Scheme by the Department for Energy Security and Net Zero

1.12 The SAU sought clarification on certain aspects of the Assessment during the reporting period.

1.13 Under Section 52(2) of the Act, DESNZ is required to explain how the proposed scheme meets the criteria to qualify as a scheme of particular interest. The Subsidy Control (Subsidies and Schemes of Interest or Particular Interest) Regulations 2022 set out the conditions under which a subsidy or scheme is considered to be of particular interest.[11]

1.14 DESNZ submitted that the EBDS-ETII scheme is a scheme of particular interest under regulation 3(6) because it allows for the provision of one or more subsidies of particular interest under regulation 3(2). Under regulation 3(2), a subsidy will be a subsidy of particular interest where the amount of the subsidy exceeds £1m and the total amount of the subsidy and any other related subsidy given to the same enterprise within the applicable period exceeds £10m. While the nature of the EBDS-ETII scheme means that DESNZ is unable to confirm precise amounts of subsidies to be granted under the scheme, it has used reasonable estimates of the maximum foreseeable award that will be given under the scheme, in accordance with relevant regulations,[12] to establish that awards to some ETII beneficiaries would likely exceed the £10 million threshold set out in regulation 3(2).

[11] The Subsidy Control (Subsidies and Schemes of Interest or Particular Interest) Regulations 2022

[12] Regulation 4(6) of the Subsidy Control (Gross Cash Amount and Gross Cash Equivalent) Regulations 2022

General observations and summary of the SAU's evaluation

2.1 The Assessment sets out that the EBDS-ETII scheme has been designed to mitigate the economic challenges facing ETIIs arising from an international energy price shock, whilst balancing the interests of consumers, businesses and tax payers. The evidence provided indicates that the scheme had to be developed at pace, in a complex and dynamic economic and policy environment.

2.2 Overall, we have found that the Assessment included high-level reasoning on the need for financial support to ETIIs in line with each step of the four-step framework[13] put forward in the *Statutory Guidance for the United Kingdom Subsidy Control Regime*, November 2022 (the Statutory Guidance) and reflected in the SAU's *Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit,* SAU1, November 2022 (the SAU Guidance).

2.3 The Statutory Guidance states that the depth of analysis conducted under the assessment needs to be commensurate to the size and potential distortive impact of the subsidy or scheme in question.[14] While recognising that the EBDS-ETII scheme was developed at pace and in a complex and dynamic environment, in our view, considering the wide-ranging nature of the EBDS-ETII scheme and the significant level of subsidy that could be granted under it, the Assessment would benefit from being more detailed. In particular, the reasoning behind conclusions reached is not always clear and the Assessment does not systematically refer to available evidence.

2.4 In order to maintain consistency between the EBDS-ETII scheme covering Great Britain and the scheme covering Northern Ireland, as well as wider international competitive considerations, DESNZ designed the scheme to be within the general constraints of the EU Temporary Crisis and Transition Framework.[15] To the extent that these constraints influenced the parameters of the scheme, the Assessment would be strengthened by stating explicitly that these considerations were relevant factors at the relevant steps.

[13] Step 1 involves identifying the policy objective, ensuring it addresses a market failure or equity concern, and determining whether a subsidy is the right tool to use. Principles included in this step are Principle A (common interest) and Principle E (least distortive means). Step 2 involves ensuring that the subsidy is designed to create the right incentives for the beneficiary and bring about a change. Principles included in this step are Principle C (design to change economic behaviour of beneficiary) and Principle D (costs that would be funded anyway). Step 3 involves considering the distortive impacts that the subsidy may have and keeping them as low as possible. Principles included in this step are Principle B (proportionate and necessary) and Principle F (competition and investment within the UK). Step 4 involves carrying out a final assessment against the subsidy control principles and making any changes necessary to achieve compliance with these. Principle G (beneficial effects to outweigh negative effects) is included in this step.

[14] Statutory Guidance, paragraph 3.11

[15] Communication from the Commission Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia 2023/C 101/03

2.5 The EBDS-ETII scheme will be implemented in parallel with a wider intervention, the EBDS, which applies to all UK non-domestic users but provides a lower level of support than the EBDS-ETII scheme. The draft business case provided covered both these interventions, and it is not clear that all the evidence submitted and relied on in the Assessment is relevant specifically to the EBDS-ETII scheme, rather than EBDS.

2.6 We have explored these general observations in more detail in the evaluation of the Assessment against each step in Section 3 below and highlighted instances where the Assessment could be strengthened. In some areas, DESNZ might have made better use of aspects of the SAU and Statutory Guidance to satisfy itself that the scheme complies with the subsidy control principles.

2.7 We found that the Assessment would be stronger if it:

a) made clearer the reasoning behind conclusions and more systematically referred to available evidence;

b) in relation to Principle A (Step 1), clearly focussed on a specific policy objective, rather than ‘high level’, ‘strategic’ ones, and linked it to an identified market failure. This would have allowed for greater consistency throughout the Assessment;

c) in relation to Principle E (Step 1), provided a more detailed review of alternative policy tools;

d) in relation to Principle C (Step 2), considered in more detail the assumptions on which the counterfactual is based, ensuring that they are supported by adequate evidence, keeping in mind that, given the wide ranging nature of the scheme, attempting a comprehensive quantification exercise would not have been feasible;

e) in relation to Principle D (Step 2), considered in more detail how the eligibility criteria help ensure that the scheme would not subsidise costs that would have been funded anyway;

f) in relation to Principle B (Step 3), setting out more clearly how the design features of the scheme help ensure that it is limited to the minimum necessary;

g) in relation to Principle F (Step 3), provided a more detailed review of the impact of the scheme on competition and investment, keeping in mind that, given the wide-ranging nature of the scheme, a comprehensive market and competition analysis would not have been feasible;

h) in relation to Principle G (Step 4), systematically identified and evaluated (quantitatively or qualitatively) the benefits and negative effects of the scheme and explained in sufficient detail how the intended benefits of the scheme outweigh the negative effects on competition and investment within the UK;

i) in relation to the Energy & Environment Principles, explained more clearly how the scheme aims and incentivises beneficiaries, to deliver a secure, affordable and sustainable energy system and a well-functioning energy market.

2.8 Our report is advisory only and does not directly assess whether the EBDS-ETII scheme complies with the subsidy control requirements, nor is its purpose to make a recommendation on whether the scheme should be implemented. We have not considered it necessary to provide advice on how the proposed scheme may be modified to ensure compliance with the subsidy control requirements.[16]

[16] Section 59(3)(b) of the Act

The SAU's Evaluation

3.1 This section sets out our evaluation of the Assessment of compliance with the subsidy control principles and the Energy and Environment principles.

3.2 DESNZ structured its Assessment according to the four-step framework put forward in the Statutory Guidance and reflected in the SAU Guidance. Our evaluation follows that structure.

3.3 During its evaluation, the SAU sought clarification on certain material within the Assessment, particularly in relation to the methodology employed and evidence base used by DESNZ.

Step 1: Identifying the policy objective, ensuring it addresses a market failure or equity concern, and determining whether a subsidy is the right tool to use

3.4 The first step involves an evaluation of the Assessment against the subsidy control principles A and E. To assess compliance with Principle A, the public authority should clearly set out and evidence the policy objective(s) pursued, and identify and evidence the market failure that is being remedied or equity rationale that is being addressed. In relation to Principle E, the Assessment should show how the need for a subsidy has been identified and evidenced. It should also contain an explanation of why this form of subsidy is the most appropriate tool to achieve the policy objective(s), and an explanation of any means other than a subsidy which have been considered.[17]

Policy objectives

3.5 The Statutory Guidance sets out that public authorities may only give subsidies to pursue a specific policy objective. The objective must be one which remedies a market failure or addresses an equity concern.[18] There may be multiple policy objectives to be achieved by a single subsidy or scheme, provided that they all address a market failure, equity concern, or both.[19]

3.6 The Assessment lists the following desired outcomes or high-level objectives:

a) support economic growth relative to the counterfactual of likely economic downturn;

b) prevent unnecessary insolvencies, providing enhanced support to ETIIs;

[17] SAU Guidance, paragraph 4.7-4.10
[18] Statutory Guidance, paragraph 3.18
[19] Statutory Guidance, paragraph 3.19

c) protect jobs and limit the competitive and trade disadvantage for UK firms competing with producers from countries where governments are providing compensation for higher energy prices, particularly in Europe, by providing enhanced support to ETIIs;

d) preserving a viable competitive market structure for non-domestic energy contracting in the UK by providing enhanced support to ETIIs;

e) mitigate the effects of inflation by providing enhanced support to ETIIs.

3.7 Identifying a specific policy objective that addresses a market failure or equity concern is a crucial first step, as it lays the basic framework for the assessment of compliance against the other principles.

3.8 These objectives are qualified in the Assessment as 'desired outcomes, 'high-level objectives', or 'strategic objectives'. They are not clearly identified as 'specific policy objectives' for the purpose of Principle A and their qualification as 'high-level' could indicate that they lack the required level of specificity. The Assessment also does not explain how each of these objectives addresses the market failures identified.

3.9 While the Step 1 Assessment does not clearly set out the specific policy objective(s) for the EBDS-ETII scheme, the remainder of the Assessment implies the existence of an underlying policy objective, which appears to be to protect otherwise efficient firms who (1) are more vulnerable to energy price rises given their nature (as ETIIs), and (2) are unable sufficiently to pass price increases on to their customers due to high levels of international trade where competitors may be receiving international subsidies. The high-level objectives identified in the Assessment appear to stem from this implied specific policy objective. The Assessment would be improved by considering whether to focus its Step 1 Assessment on a more specific policy objective such as this.

Market failure

3.10 The Statutory Guidance sets out that a market failure occurs where market forces alone do not produce an efficient outcome. The most common cases of market failure relevant to subsidy control occur when at least one of the following features is present: the existence of externalities; the involvement of public goods; or imperfect or asymmetric information.[20]

3.11 The Assessment begins with a general statement that the EBDS exists to address an 'energy market failure' caused by an unprecedented rise in energy prices.

[20] Statutory Guidance, paragraph 3.21

3.12 The Assessment further states that ETIIs are particularly exposed to these pressures because energy makes up a large proportion of their business costs, and high and volatile prices will significantly impact these businesses' investment and employment decisions.

3.13 The Assessment explains that businesses on variable tariffs or those that are renewing or taking out new energy contracts are seeing their energy bills go up significantly, with corresponding increases in requirements for deposits to ensure a contract. The Assessment states that, with wholesale energy costs dictated by international energy markets making up most of the total bill that customers pay, and wholesale market liquidity challenges making suppliers hesitant to take on any new customers, the current pressures are creating a market failure.

3.14 The Assessment provides evidence in support of these market effects including, for example, credible qualitative evidence where energy market effects such as the imposition of greater deposit requirements on customers by energy suppliers and other effects were discussed. This evidence supports an assessment that much of these effects are being driven by a combination of liquidity constraints amongst energy suppliers purchasing in the wholesale market, increases in industry specific costs and generalised credit tightening across the economy.

3.15 Whilst the Assessment refers to a market failure and includes evidence of the existence of market effects, the scale and scope of these effects is not explored in detail, nor are these impacts disaggregated and quantified. The Assessment also does not clearly identify how this potential market failure might relate to the identified high-level objectives, or how it informed the scheme design.

3.16 More generally, the Assessment does not clearly establish why and how these various effects constitute a market failure. It would be improved by articulating this more clearly.

3.17 We however understand that the broader reasoning and evidence presented within the Assessment implies reasoning of an underlying market failure, which could be summarised as follows:

a) ETIIs are particularly vulnerable to an energy price shock due to their energy intensity;

b) ETIIs are less able to pass through higher energy costs to their customers due to international competition/trade exposure;

c) some international competitors benefit from subsidies and would therefore face less upward price pressure than UK ETIIs absent an equivalent level of subsidy.

3.18 These effects, taken together, could constitute a short-term negative externality[21] which could lead otherwise efficient UK firms in ETIIs to fail.

Consideration of alternative policy options and why the EBDS-ETII scheme is the most appropriate and least distortive instrument

3.19 The Statutory Guidance[22] sets out that, once the policy objective has been identified, public authorities should determine whether a subsidy is the best means of achieving it. As part of this, ways of addressing the market failure or equity issue other than a subsidy should be considered, to the extent that they might be more appropriate and/or less distortive.

3.20 The Assessment sets out that, as part of a review of the EBRS, the following alternatives were considered:

a) improving energy efficiency, which was rejected as no combination of demand reduction measures could feasibly deliver a reduction in costs at sufficient scale or pace to support the policy objectives, and not all sectors have an equal ability to reduce energy usage by improving their energy efficiency;

b) direct cash grants, which were rejected because, compared to the EBDS-ETII scheme, they were not proportionate to energy consumption, would present a higher risk of over-compensation and fraud, and would be harder to administer for companies;

c) loans, which were rejected following an assessment by DESNZ that they were unlikely to be effective as businesses were already heavily indebted due to COVID-related loans and may hesitate to seek further government support that they would have to pay back, reducing the effectiveness of the intervention; and

d) alternative designs for the EBDS, including:

   i. providing all sectors with ETII level of support, which was rejected due to the significantly higher expected policy costs mainly benefitting firms that had a higher likelihood of being able to absorb energy costs;

   ii. all sectors receiving the baseline support, which was rejected as putting many ETII businesses at a competitive disadvantage to international counterparts given the implementation of support schemes in some of the largest international markets; or

[21] A 'spillover' effect arising in this case from the ability of competing non-UK firms to reflect energy subsidies received in their prices.

[22] Statutory Guidance, paragraph 3.40

iii. support at ETII level for certain sectors,[23] which was rejected as representing less value for money, risking delayed implementation and resulting in greater likelihood of distorting competition.

3.21 The alternatives considered are presented at a high level, with little detail on what they would involve in practice, including whether they would entail other forms of subsidies rather than an alternative to a subsidy. For instance, the Assessment does not discuss what type of energy efficiency measures or loans were considered, or what direct cash grants would cover. While DESNZ's conclusions might be correct, the reasoning employed and evidence base used to reach them is not clearly set out.

3.22 The Assessment would be strengthened by considering each alternative in more detail, and ensuring that reasons for rejections are supported by adequate evidence.

Step 2: Ensuring that the subsidy is designed to create the right incentives for the beneficiary and bring about a change

3.23 The second step involves an evaluation of the assessment against subsidy control principles C and D.[24,25] To assess compliance with Principle C, the public authority should set out the change of behaviour that the subsidy will bring about, explain how that change of behaviour will occur, and explain how it helps achieve the policy objective. The public authority should demonstrate why the subsidy is necessary to bring about the change in behaviour, what would happen in the absence of the subsidy (the counterfactual) and set out any relevant evidence and assumptions that have been used. In relation to Principle D, the public authority should explain the additional costs that the subsidy will cover, and why those costs would not be funded by the beneficiary in the absence of the subsidy.[26]

Counterfactual assessment

3.24 The Statutory Guidance explains that, in assessing the counterfactual, public authorities should consider what would happen in the absence of the subsidy, the 'do nothing' scenario. This is the baseline against which public authorities would assess change. The baseline for this comparison would not necessarily be the

[23] Public interest sectors (education, health, charities, other public services), hospitality, leisure, other consumer services (hairdressing, drycleaners etc) and retail.

[24] Designed to change economic behaviour of beneficiary: (1) Subsidies should be designed to bring about a change of economic behaviour of the beneficiary. (2) That change, in relation to a subsidy, should be— (a) conducive to achieving its specific policy objective, and (b) something that would not happen without the subsidy.

[25] Costs that would be funded anyway: Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.

[26] SAU Guidance, paragraphs 4.12-4.14

current ‘as is’ situation (the ‘status quo’) but what would likely happen in the future – over both the long and short term – if no subsidy were awarded. [27]

3.25 The Assessment sets out that, if the EBDS-ETII scheme was not implemented, energy suppliers would pass through high wholesale prices onto ETIIs at prices substantially above historic trends. As ETII businesses are exposed to price pressures through trade, they are less able to pass on higher energy costs to their customers. This is particularly prevalent as many EU and surrounding countries have intervened to support ETIIs with energy costs. DESNZ therefore considers the EBDS-ETII scheme to be necessary to maintain a level playing field and a relative competitive position. Without a level playing field, ETII businesses could have incentives to relocate overseas as a result of a difference in policy approach.

3.26 The Assessment states that, in a ‘do nothing scenario’, trade intensive sectors are not likely to be able to pass on higher costs, resulting in potential firm closures or relocation, increased unemployment, and/or a reduction in longer-term capital investments. The Assessment also notes that a number of eligible ETII businesses also supply goods which are essential for the UK’s Critical National Infrastructure and therefore closure of these companies will have an impact on UK resilience. Small businesses may be particularly affected.

3.27 DESNZ further clarified that the counterfactual assumes that there is no intervention at all, meaning that even the universal portion of the EBDS is not implemented.

3.28 The counterfactual is presented at a high level, with little detail of what it would entail and, in particular, the likelihood and potential scale of the impacts on the economy and society. While DESNZ’s conclusions might be correct, the reasoning employed or evidence used is not clearly set out.

3.29 The business case indicates that DESNZ has not attempted to quantify the counterfactual scenario, as to do so robustly would mean understanding in detail the status and financial ability of several million businesses and other non-domestic customers, as well as how much impact energy has for their overall costs, and predicting how they would respond should no further price support be available. While this statement seems to relate to the EBDS rather than to the EBDS-ETII scheme specifically, we note that engaging in such a comprehensive exercise would not have been feasible given the wide-ranging nature of the scheme and the limited time available.

3.30 However, the Assessment would be strengthened by considering in more detail each assumption on which the counterfactual is based, and ensuring that it is supported by adequate evidence.

[27] Statutory Guidance, paragraphs 3.46-3.47

3.31 The counterfactual assumes that ETIIs are highly exposed to price pressure through international trade and are therefore less able to pass on higher energy costs. DESNZ clarified that this assumption was based on the economic theory that global markets approach perfect competition, where firms are price-takers and cannot pass on increased costs by raising prices. Higher energy costs result in higher costs of production for UK firms, and, all things being equal, profits will be reduced and firms could become loss making. We note that, in reality, many markets in which there is some international trade are not perfectly competitive. The Assessment would benefit from recognising that, although there will often be some constraints on the ability of firms competing in international markets to pass through costs, the extent of this will vary by market. It could explain why the approach chosen to identify firms unlikely to be able to pass on costs is the most suitable, in the context of data limitations and available alternative approaches.

3.32 The Assessment would be improved by providing additional evidence behind this reasoning, particularly in relation to the following underlying assumptions:

a) that there is uniformly intense international competition on price across the various markets covered by the scheme, and trade intensity is an appropriate measure of the competitive constraint;

b) that international players benefit from subsidies that they pass on to their customers in the form of lower prices in order to gain a competitive advantage.

3.33 The latter assumption is based on the assertion that many EU and surrounding countries have intervened to support ETIIs with energy costs. The Assessment refers to variable levels of support being given to businesses in other European countries, including Germany, France, Italy, Spain and Portugal. There may be an opportunity to use these examples as case studies to assess the hypothesis that trade-intensive sectors are not able to pass on higher costs.

3.34 The Assessment concludes that a 'do-nothing' scenario would result in the relocation and/or closure of ETII businesses. DESNZ clarified that this was based on anecdotal evidence and analysis of income statements from a variety of businesses. The Assessment would be strengthened by including a more detailed assessment of the underlying evidence and assumptions, including for instance, an analysis of the impact of higher energy prices on a sample of different sectors in recent months or an analysis of a sample of ETII businesses' capital reserves.

3.35 The Assessment also includes consideration of the impact of the 'do nothing scenario' on UK resilience and small businesses. The Assessment would be strengthened by assessing in more detail the underlying evidence, in particular how critical National Infrastructure would be affected by the challenges faced by ETII businesses or the proportion of small businesses active in ETIIs.

Changes in economic behaviour of the beneficiary

3.36 The Guidance sets out that subsidies must bring about something that would not have occurred without the subsidy.[28] In demonstrating this, public authorities should consider the likely change or additional net benefit. An example of this could be an increase in the scale or scope of a project or activity.

3.37 The Assessment does not expressly set out the likely change or additional benefit that the EBDS-ETII scheme is designed to bring. It seems, however, that this could be characterised as avoiding businesses' relocation and/or closure. As explained further in paragraph 3.29, DESNZ indicated in the business case that attempting a quantification exercise for the counterfactual scenario would not be feasible in the time available. However, the Assessment would benefit from at least a qualitative analysis of the additional benefits that the scheme would bring, potentially using data from a smaller representative sample of potential beneficiaries.

Additionality assessment

3.38 According to the Statutory Guidance, 'additionality' means that subsidies should not be used to finance a project or activity that the beneficiary would have undertaken in a similar form, manner, and timeframe without the subsidy.[29] Subsidies should not normally compensate for 'business as usual' costs – in other words, those costs that the beneficiary would have incurred and had to fund itself in the absence of any subsidy'.[30] When looking at schemes, the Statutory Guidance also sets out that public authorities should, where possible and reasonable, 'design out' non-additionality (ie find means within the design of the scheme to identify in advance and exclude any groups of beneficiaries where it can be reasonably determined they would be likely to go ahead without subsidy).[31]

3.39 The Assessment sets out that the EBDS-ETII scheme will not compensate suppliers for costs funded in its absence. This is because, although energy costs are an unavoidable expense for businesses, the unprecedented and sharp rise in energy costs has not given businesses time to adapt. According to the Assessment, without the support, energy costs would make up a disproportionate amount of business costs.

3.40 Several design features of the EBDS-ETII scheme aim at ensuring that it brings about additional benefits from beneficiaries and does not compensate for costs that may have been borne anyway. Points identified in the Assessment include the following:

[28] Statutory Guidance, paragraph 3.50
[29] Statutory Guidance, paragraphs 3.49-3.53
[30] Statutory Guidance, paragraph 3.52
[31] Statutory Guidance, paragraph 3.55

a) the implementation of a price threshold ensures that the scheme only provides support to those which are subject to excessively high energy bills;

b) the EBDS-ETII scheme is limited to 70% of energy consumption, thereby ensuring businesses continue to act responsibly with regards to energy consumption and consideration of energy efficiency measures;

c) beneficiaries will be excluded where there is unlikely to be additional benefit that would not have happened in the absence of the subsidy through a robust eligibility criterion and verification process.

3.41 The Assessment does not refer to evidence that these features ensure that the EBDS-ETII scheme would not subsidise costs that beneficiaries may have otherwise borne and that benefits accrued under the scheme are additional. While the price threshold and limitation to 70% of energy consumption seem to help achieve these objectives, the Assessment would benefit from a more detailed assessment of the eligibility criteria.

3.42 In that regard, we understand that the eligibility criteria were designed to ensure that the scheme only supports businesses which are incurring high energy costs that they cannot fully pass on to customers. However, the Assessment does not include evidence or analysis of whether the strict application of general eligibility criteria could risk including groups of beneficiaries for which there is unlikely to be additionality. In response to a request for clarification on this point, DESNZ indicated that, in order to ensure fairness and maintain the integrity of the methodology it was important not to carve out sectors. It therefore appears that DESNZ recognises the risk of non-additionality occurring. The Assessment would benefit from further analysis of the extent of that risk and of potential mitigation. Further considerations relating to the EBDS-ETII scheme eligibility criteria are included in our evaluation of the Step 3 Assessment.

Step 3: Considering the distortive impacts that the subsidy may have and keeping them as low as possible

3.43 The third step involves an evaluation of the assessment against subsidy control principles B and F.[32,33] To assess compliance with Principle B, the public authority should demonstrate in its assessment that the subsidy is proportionate to the specific policy objective and limited to the minimum needed to induce the relevant investment or activity. [34] In relation to Principle F, the public authority's assessment

[32] Proportionate and necessary: Subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it.

[33] Competition and investment within the United Kingdom: Subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom.

[34] Statutory Guidance, paragraph 3.60

should address how the design of the subsidy minimises any negative effects on competition or investment within the UK.[35]

3.44 The Statutory Guidance sets out certain aspects of the subsidy or scheme to consider for this assessment, including the nature of the instrument, the breadth of beneficiaries and the selection process, the size of the subsidy, the timespan over which a subsidy is given, the nature of the costs being covered, performance criteria, ringfencing, monitoring and evaluation and subsidy races.[36] Annex 2 of the guidance explains that, given the potential distortive impact of subsidies or schemes of interest/subsidies or schemes of particular interest, public authorities should consider providing a more in-depth assessment of the characteristics of the subsidy, and of the market characteristics, including identifying the markets, market concentration, barriers to entry, expansion and exit and market growth.[37]

Proportionality

3.45 The high-level nature of the identified objective(s) in the Assessment makes the proportionality of the scheme more difficult to assess. As explained in paragraph 3.9, we have identified the following underlying policy objective: to protect efficient firms who, as ETIIs, are more vulnerable to energy price rises and unable to pass price increases onto consumers due to high levels of international trade where competitors may be receiving international subsidies.

3.46 The Assessment is based on the assumption that energy intensive users are disproportionately impacted by an energy price shock and would need a higher level of support to protect efficient firms and achieve the policy objective. We find this to be a reasonable assumption given the higher proportion of the total cost that energy costs represent for energy intensive users, compared to other businesses.

3.47 DESNZ has used trade intensity as a measure of international competition and therefore as an indication of businesses' inability to pass on cost increases. We view this as a commensurate approach given the available data and timescales. As discussed in paragraph 3.31, however, we note that, in reality, many markets in which there is some international trade are not perfectly competitive, therefore firms are not uniformly constrained in passing on costs. The extent to which firms can pass on costs is likely to vary by market (and potentially also within markets).

3.48 Furthermore, the methodology used presents a risk whereby some firms in trade intensive sectors may not actually compete closely with international competitors receiving a similar energy subsidy in terms of proportion or volume of trade. The Assessment would benefit from further analysis, even if limited to case studies,

[35] SAU Guidance, paragraphs 4.15-4.17

[36] Statutory Guidance, paragraphs 3.58-3.94

[37] Statutory Guidance, Annex 2

looking at trade volumes of some ETIIs with EU countries where firms have been granted a similar subsidy, to better understand the likely pass-through ability.

3.49 DESNZ's chosen methodology to select beneficiaries relies on a measure of energy intensity and a measure for trade intensity.[38] This produces a list of energy intensive and trade intensive sectors at a 4 digit SIC code level. We find that this methodology is a reasonable starting point given the available data.

3.50 DESNZ have set out that the methodology presents some deficiencies. SIC codes are used as a proxy for markets, although we consider that markets are generally narrower. Where data is not available at a 4 digit SIC code level, the higher level (3 or 2 digit level) has been used instead. This risks the subsidy being less targeted and indeed has produced some potential anomalies – for example the inclusion of zoos, libraries, archives, museums, historical sites or botanical gardens.[39] We note that any methodology would have some shortcomings leading to it potentially being over/under inclusive to some extent. The Assessment would benefit from explaining why the chosen methodology was the best approach given the circumstances. Sectors currently eligible for the existing Energy Compensation and Exemption schemes are also eligible to the EBDS-ETII scheme, even if they would not qualify under the methodology, but the Assessment does not include any reasoning or evidence on why this is necessary.

3.51 We recognise that, in order to maintain consistency across the UK, as well as wider international competitive considerations, DESNZ used the Temporary Crisis and Transition Framework[40] as a material factor, influencing aspects of the scheme design, such as relevant thresholds and eligibility criteria. To the extent that this is the case, the Assessment would be strengthened by expressly taking it into consideration.

Minimum necessary

3.52 The Assessment provides details on the design features of the scheme. Many of these features are designed to limit the intervention to only what is necessary. However, this is not always clearly set out in the Assessment:

a) The scheme is limited to ETIIs. This reduces the number of beneficiaries (compared to a universal scheme) to those who are most vulnerable to rising energy prices and cannot pass on costs to consumers due to international competition. However, the selection methodology is somewhat crude, and could mean there are some inefficiencies such as the inclusion of sectors above the minimum necessary to achieve the policy objectives.

[38] Energy Bills Discount Scheme energy and trade intense industries assessment methodology - GOV.UK (www.gov.uk)

[39] These are all included as part of the 2 digit SIC code 91 (where data was not available at the 4 digit SIC code levels).

[40] Communication from the Commission Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia 2023/C 101/03.

b) Support is only given on 70% of a firm's eligible energy consumption. This reduces the total amount of support given (compared to 100% of energy consumption), and DESNZ suggests it also incentivises beneficiaries to keep efficiency measures in place.

c) Support is proportionate to usage. DESNZ explains that there is some deadweight loss in a standard grant, where firms who do not need support would receive it, which this should reduce. However, as the subsidy is an operational subsidy, it could cover costs which would have been funded in its absence.

d) Support is only given once a threshold is met[41] meaning that those on reasonable rate contracts will not receive support. DESNZ has used quantitative evidence to set these threshold levels. They are based on the expected long run average wholesale prices, therefore only subsidising firms incurring costs above this level. DESNZ explain this is based on the assumption that if firms cannot survive when support brings the price to the expected long run average price level, they would not survive in the long run anyway.

e) DESNZ clarified that maximum discounts were introduced into order to cap the fiscal cost of the scheme and to ensure consistency across the United Kingdom. We consider that this approach is proportionate, but the Assessment would be strengthened by further explaining why it is the minimum necessary for the intervention.

3.53 DESNZ has provided reasonable explanations and evidence as to why some of the design features have been chosen – mainly how and why the thresholds and maximum discounts have been chosen, which seem proportionate but could go further to explain why these constitute the minimum necessary intervention. To improve the assessment, DESNZ could have explained further how design elements of the scheme are limiting the intervention to the minimum necessary to achieve the policy objective.

Minimising the negative effect on competition and investment in the UK

3.54 The Guidance states that certain features and characteristics can make a subsidy more likely to have distortive impacts on competition or investment within the UK, or on international trade or investment. It is important to identify where these features are present and consider whether it would be possible to alter or offset them to reduce the levels of distortion they might cause.[42]

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[41] The maximum discount and price threshold for ETIIs are: Electricity is £89 per MWh with a price threshold of £185 per MWh; Gas is £40 per MWh with a price threshold of £99 per MWh.

[42] Statutory Guidance, paragraph 3.62

3.55 The Assessment lists a number of scheme characteristics relevant to minimising the scale of potential negative effects on competition or investment:

a) the support provided by the EBDS-ETII scheme is only available for a defined set of non-domestic energy users that are particularly vulnerable to high energy prices, due to their energy intensity and trade exposure;

b) the scheme provides for a maximum support which is applicable to 70% of the beneficiary's energy consumption;

c) the amount of support that each firm will receive depends on their consumption, future wholesale energy costs, and contract terms;

d) support at its maximum is around a third of the increase in historical prices that firms are facing, with the expectation that they manage the remainder of additional costs through business decisions;

e) the discount is applied automatically through suppliers to ensure that the subsidy can only be used on energy costs;

f) the EBDS-ETII scheme will run for 12 months;

g) the scheme will have performance criteria aligned with the policy objectives of the scheme;

h) DESNZ is planning monitoring and evaluation of the scheme.

3.56 The Assessment addresses most of the subsidy characteristics identified in Chapter 3 of the Statutory Guidance as potentially relevant to the likelihood of distortive impacts on competition or investment. However, there is little explanation as to how various of these elements help to minimise distortions.

3.57 For a sector to qualify as an eligible sector under the ETII scheme, it must be above the 80th percentile for energy intensity and 60th percentile for trade intensity. DESNZ explained that thresholds were chosen having run sensitivities around the different percentiles in the context of fiscal cost, coverage and deliverability. However, the Assessment would be strengthened by explaining further (1) how it arrived at the conclusion that businesses falling above these thresholds require support and those below do not, and (2) the extent to which the choice of threshold might distort competition.

3.58 The Assessment does not explore which sectors fall just above or below the thresholds, or how the distribution of sectors' energy intensity varies (ie how energy intensive is a sector in the 81st percentile compared to a sector in the 79th percentile). The Assessment identifies the estimated number of eligible firms under a variety of different scenarios. However, the methodology could create a scenario where firms receiving a subsidy are competing with those that do not, which could lead to a distortion in competition. The Assessment does not explore in which sectors these businesses fall, how likely the businesses are to compete with firms not receiving a subsidy (whether because SIC codes are a poor approximation for economic markets or because firms have activities in multiple sectors), or how many businesses not eligible for support this could impact.

3.59 While the eligibly criteria are clear, the Assessment does not explain why the threshold of 50% of the organisation's value of sales or services falling in an eligible SIC code was chosen. A higher threshold would reduce the likelihood of businesses eligible for the subsidy being in direct competition with those which do not (due to those active in more than one market also receiving relief on the portion of their activities which are not in an affected sector and where they are in competition with firms that may not have received support). As firms eligible for support competing with those which were not was identified in the Assessment as an area where businesses may face competitive advantage or disadvantage, the Assessment would benefit from further explanation of the reasons justifying the threshold of 50% and exploring how different thresholds may have impacted competition distortion.

Assessment of effects on competition or investment

3.60 The Assessment indicates that there is some potential for distortion of competition where firms not eligible for the EBDS-ETII scheme may face a competitive disadvantage compared to those who are. Given the relative size of the discount given under EBDS-ETII in comparison to both the EBDS and the baseline of no support, this is a significant risk. Although DESNZ has recognised that there is a potential for distortion, the Assessment does not contain detailed explanations around how the characteristics of the subsidy, or its design, may have the potential to distort competition and the steps taken to mitigate this.

3.61 Overall, the competition assessment is high-level, referring only to where distortion to competition may occur and stating that the impact is likely to be small. As the Assessment provides no further explanation or evidence on the markets that may face competition distortion, the likelihood of occurrence or the extent of the distortion, we are unable to evaluate the size or likelihood of competition distortion.

3.62 DESNZ's methodology produces a list of eligible sectors based on 4 digit SIC codes. The Assessment indicates that eligibility for support is judged on a sector basis, to limit anti-competitive effects within sectors (as a proxy for markets). Although this assumption may hold true for some sectors, it fails to consider potential competition impacts across SIC codes. DESNZ recognises that there may be some distortion between firms that are in eligible sectors competing with firms who are not in eligible sectors, and vice versa.

3.63 We note that markets may typically be narrower than SIC codes, and therefore sectors are likely too broad a categorisation to effectively capture markets. This also risks the subsidy being poorly targeted, as the thresholds are based on average levels of trade and energy intensity across multiple markets and may therefore exclude some markets which would, if assessed independently, meet the threshold, or vice versa. However, we note that the use of a clearly-defined and easily understood categorisation increases the ease of practically delivering the scheme.

3.64 The Assessment could benefit from explaining if other methodologies were considered as a proxy for economic markets, and what potential analysis was considered to define economic markets, making use of Statutory Guidance.[43] This could have included scoping a more in-depth market definition analysis or case studies. By explaining why alternative approaches were less suitable or proportionate, this would help to support the use of SIC codes being a commensurate approach as a proxy for markets.

Assessment of impact on international trade and investment

3.65 The Assessment states that the EBDS-ETII scheme could impact competition or trade with the EU, compared to the 'do nothing' scenario, because it reduces the competitive disadvantage faced by UK firms compared to competitors who are receiving subsidies in EU countries.

3.66 DESNZ provided some explanation, explored earlier in this report, as to why UK firms may face a competitive disadvantage compared to EU firms receiving a subsidy. It also provided some high-level details of similar schemes in the EU, including in Germany, which it identified to be the largest competitor in the European market for almost all energy intensive goods traded. The Assessment however does not make clear how the foreign schemes used for comparison were chosen.

3.67 The Assessment does not attempt to quantify the significance of the competitive disadvantage faced by UK firms, or the effects of the subsidy on international competition, mainly due to the lack of reliable estimates of international energy prices. Following a similar approach to the Temporary Crisis and Transition Framework should limit competition distortion between UK and EU firms due to broadly consistent treatment.

3.68 The Assessment could benefit from explaining if potential methods of quantification were considered such as focusing on particular sectors (eg high value ETII sectors) or countries (eg Germany, given that Germany was identified as a key

[43] Statutory Guidance, Annex 2, paragraphs 16.31-16.40.

competitor where firms had received a subsidy) to gain some insight into the likely size of the possible impact.

Step 4: Carrying out the balancing exercise

3.69 This fourth step involves an evaluation of the assessment against subsidy control Principle G.[44] The public authority should explain how it has evaluated and measured both the expected beneficial effects of the subsidy (which must be linked to achieving the specific policy objectives), and the potential negative effects of the subsidy on competition or investment within the UK and/or international trade or investment. The public authority should explain how the geographical and distributional impacts of the subsidy within the UK have been assessed. Finally, the public authority should demonstrate how it has approached the exercise of balancing the beneficial effects of the subsidy against any negative effects.[45]

3.70 The Statutory Guidance explains that the final step of the framework consists of a balancing exercise, where the public authority must establish that the benefits (in relation to the specific policy objective) of the subsidy outweigh the negative effects. This balancing exercise should involve the public authority listing the subsidy's expected benefits and negative effects, considering their expected size and their likelihood of occurring. The balancing exercise may need to include both quantitative and qualitative elements.[46]

3.71 The Assessment sets out the Strategic Objectives of the scheme, which are similarly articulated under Principle A, including (1) supporting economic growth; (2) protecting jobs, providing enhanced support to ETIIs, (3) preventing unnecessary insolvencies; (4) preserving a viable competitive market structure; and (5) mitigating the effects of inflation.

3.72 The Assessment lists the following negative effects:

a) The scheme could counteract incentives for firms to become more energy efficient. The Assessment notes that, due to significant uncertainty in firms' behaviour on energy efficiency as a result of high energy prices, it cannot quantify this impact at this stage. However, it argues that since firms will still face significantly higher final prices than they would have if the energy price crisis had not occurred there will still be large incentives to improve their energy efficiency.

b) Firms that are not eligible for the EBDS-ETII scheme may face competitive disadvantage compared to firms that are eligible. The Assessment however

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[44] Beneficial effects to outweigh negative effects: Subsidies' beneficial effects (in terms of achieving their specific policy objective) should outweigh any negative effects, including in particular negative effects on— (a) competition or investment within the United Kingdom; (b) international trade or investment.

[45] SAU Guidance, paragraphs 4.20-4.22

[46] Statutory Guidance, paragraphs 3.96, 3.97 and 3.98

states that the sector-based eligibility criteria ensures that eligible firms are the least able to pass through increasing costs. The Assessment estimates that the competitive disadvantage would be relatively small, although could not robustly quantify it due to the complexities of comparing different sectors (or the same sector in different countries).

3.73 The Assessment also recognises that the EBDS-ETII scheme could impact competition and trade with the EU because it reduces the competitive disadvantage for UK firms compared to competitors who are receiving subsidies in EU countries. The Assessment notes, however, that the scheme has been designed to ensure that the impact is limited, that it has been implemented in response to an international crisis and has not been designed to improve UK businesses' relative competitive position in international markets. The Assessment further states that it is not possible to quantify the effects on competition with other competitors currently, because reliable estimates of international energy prices are not available.

3.74 In our view, the Assessment has not attempted systematically to identify and evaluate (quantitatively or qualitatively) relevant beneficial effects and all potential negative effects of the scheme. In particular, the benefits of the scheme merely refer to broad strategic objectives, and the Assessment does not set out clearly how and to what extent the scheme would directly contribute to them. It also does not clearly set out why impact on international trade and investment is mainly focussed on the EU.

3.75 We recognise that some of the benefits and negative effects may be difficult to quantify, and the assessment contains some explanation of why quantification has not been possible for the negative effects. However, the Assessment would benefit from a quantitative or qualitative analysis of the relative scale of costs and benefits (relevant to the policy objective of the scheme) identified in order to demonstrate that the positive effects outweigh the negative impacts of the scheme (see notably paragraph 3.37 above).

Energy and Environment Principles

3.76 This step involves an evaluation of the Assessment of compliance with the energy and environment principles, where these are applicable to the subsidy/scheme.[47]

3.77 The Statutory Guidance summarises the scope of the different energy and environment principles that apply to different types of subsidies.[48] The Assessment

[47] See Schedule 2 to the Act

[48] Principles A and B apply to all subsidies in relation to energy and environment. Principle C applies for subsidies for electricity generation adequacy, renewable energy or cogeneration. Principle D applies to subsidies for electricity generation only. Principle E applies to subsidies for renewable energy or cogeneration. Principle F applies to subsidies in the form of partial exemptions from energy related taxes and levies. Principle G applies to subsidies that compensate

covers Principles A, B and G. We are satisfied that the other Energy and Environment Principles are not applicable to this scheme.

Principle A: Aim of subsidies in relation to energy and environment

3.78 The assessment against Principle A should show how the subsidy is consistent with delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market, or increasing the level of environmental protection compared to the level that would be achieved in the absence of the subsidy. If a subsidy is in relation to both energy and environment, it should meet both of these limbs.[49]

3.79 The Assessment suggests that the scheme is consistent with the first limb of Principle A, that is delivering a secure, affordable and sustainable energy system and a well-functioning and competitive market. The Assessment briefly describes the impact of increased prices and volatility on firms, as well as the challenges faced by suppliers in respect of uncertainty and wholesale market liquidity challenges in relation to non-domestic energy bills. The Assessment justifies the intervention by reference to the avoidance of unprecedented price increases and the significant associated risk of insolvencies for firms in Energy and Trade Intensive sectors.

3.80 However, as noted in our evaluation of the Step 1 Assessment, the Assessment would be strengthened with a clearer explanation of the scheme objective(s) and supporting evidence setting out how the scheme is consistent with delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market. For example, the high-level objectives identified in the Step 1 Assessment do not clearly set out whether the focus of the intervention is designed to maintain a well-functioning and competitive market in the targeted ETII sectors or in the energy sector.

Principle B: Subsidies not to relieve beneficiaries from liabilities as a polluter

3.81 The assessment against Principle B should explain clearly how the proposed subsidy or scheme does not relieve a polluter from having to bear the full costs of the pollution caused.[50]

3.82 DESNZ states that receipt of the subsidy does not relieve suppliers from any liabilities arising from their responsibilities as polluters and briefly identifies the mitigation of carbon leakage as a benefit of the scheme. The Assessment goes on to state that the primary objective of the scheme is to ensure that the energy

electricity intensive users for increases in electricity costs, Principle H relates to subsidies for decarbonisation of industrial emissions. Principle I relates to subsidies for improving energy efficiency of industrial activities.

[49] Statutory Guidance, paragraphs 4.19-4.28

[50] Statutory Guidance, paragraphs 4.29-4.35

consumption is greater than zero in the event of a firm shutdown, but also notes that this is not expected to place the UK off-track from meeting its carbon budgets.

3.83 In line with the Statutory Guidance,[51] the Assessment would be strengthened with a clearer explanation and supporting evidence to demonstrate how the terms of the scheme ensure that the beneficiaries are not relieved from any liabilities as polluters under the relevant law, either directly or indirectly.

3.84 In addition, it is not clear from the Assessment why references to environmental benefits and costs have been included in the assessment of Principle B, given that the stated focus of the intervention is identified as the first limb of Principle A only. If DESNZ feel that both limbs of Principle A are engaged, they may wish to consider the need to address this in Principle A and include relevant detail and supporting evidence in the assessment against the Subsidy Control Principles (notably Step 1 and 4).

Principle G: Subsidies in the form of compensation for increases in electricity costs

3.85 Under Principle G, subsidies in the form of compensation for electricity-intensive users given in the event of an increase in electricity costs resulting from climate policy instruments shall be restricted to sectors at significant risk of carbon leakage due to the cost increase.

3.86 The Assessment states that a number of policies have been developed (renewables obligation, feed-in tariffs and Contracts for Difference) intended to increase the share of electricity generated from renewable sources. The Assessment also notes the associated risks of price increases, which may reduce competitiveness, and reference a UK government exemption scheme providing relief to some energy intensive sectors.

3.87 In our view, the brief explanation provided does not appear to directly address Principle G in the context of the EBDS-ETII scheme. The Assessment would be strengthened by addressing whether the intervention forms part of the wider suite of climate change policy instruments and, if so, providing an explanation with relevant supporting evidence explaining how the EBDS-ETII is restricted to sectors at risk of carbon leakage and/or how the EBDS-ETII complements other UK government initiatives such as the Energy Compensation and Exemption schemes[52] referred to in the assessment.

[51] Statutory Guidance, paragraph 4.29-2.35

[52] Energy Intensive Industries (EIIS): Guidance for applicants seeking a certificate for an exemption from the indirect costs of funding Contracts for Difference (CFD), the Renewables Obligation (RO) and the small-scale Feed in Tariff (FIT) (publishing.service.gov.uk)

Other Requirements of the Act

3.88 This step in the evaluation relates to the requirements and prohibitions set out in Chapter 2 of Part 2 of the Act, where these are applicable.[53] DESNZ confirmed that none of these prohibitions or other requirements applied to EDS-ETII.

[53] Statutory Guidance, chapter 5