

Subsidy Advice Unit Report on a proposed subsidy to Stena Line Ports Ltd. for Holyhead Breakwater

Referred by Welsh Government

9 August 2023

Subsidy Advice Unit

Part of the Competition and Markets Authority

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1. 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).
- 1.2 The SAU has evaluated the Welsh Government's assessment of compliance with the requirements of Chapters 1 and 2 of Part 2 of the Act (the Assessment) in relation to a proposed subsidy to Stena Line Ports Ltd. (Stena) for the refurbishment of the breakwater at the Port of Holyhead (the Port).¹
- 1.3 This report is based on the information provided to the SAU by the Welsh Government in its Assessment and evidence submitted relevant to that Assessment.
- 1.4 This report is provided as non-binding advice to the Welsh Government. The purpose of the SAU's report is not to make a recommendation on whether the subsidy should be given, nor to assess whether it complies with the subsidy control requirements. The Welsh Government is ultimately responsible for granting the subsidy, based on its own assessment, having the benefit of the SAU's evaluation.
- 1.5 A summary of our observations is set out at section 2 of this report.

The referred subsidy²

- 1.6 The Welsh Government is proposing to give a subsidy to Stena to support it in meeting the cost of refurbishing the existing 2.4 kilometre Victorian breakwater at the Port. The breakwater was constructed between 1845 and 1873 and has been under Stena's ownership since 1991. The Port is a major ferry terminal for passenger and freight sailings to Ireland (Dublin), operated by Stena Line and Irish Ferries. It is also used by cruise vessels, tankers, bulk vessels, fishing vessels and military support vessels. In addition, there is a dedicated marina in the sheltered harbour area with permanent moorings and berth facilities.
- 1.7 It is understood that Stena does not have a legal obligation to maintain the breakwater although, as its owner, it is the only entity with the right to carry out maintenance work. The Welsh Government explained that, if the refurbishment is not carried out, the breakwater could suffer an initial breach followed by further erosion and its eventual loss, which would reduce the ability of the Port to provide reliable ferry services and lead to an increase in delays and cancellations caused

¹ Chapter 1 of Part 2 of the Act requires a public authority to consider the subsidy control principles and, where applicable, the 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 prohibits the giving of certain kinds of subsidies and, in relation to certain other categories of subsidy creates a number of requirements with which public authorities must comply.

² See [Referral of proposed Holyhead Breakwater subsidy by Welsh Government](#).

by bad weather. This could lead to closure of the Port which would have significant negative social and economic consequences in the area.

- 1.8 The refurbishment is expected to cost around £100 million. However, the Assessment explains that there is a gap between the cost of the refurbishment and the commercial value that would be realised by the project. Accordingly, the Welsh Government proposes to give Stena a subsidy of around £28 million, made up of a £20 million grant and the value of a loan at a discounted interest rate.³

SAU referral process

- 1.9 On 21 June 2023, the Welsh Government requested a report from the SAU in relation to the proposed subsidy.
- 1.10 The Welsh Government explained that the subsidy is a subsidy of particular interest,⁴ as the beneficiary will receive funding in excess of £10 million.
- 1.11 The SAU notified the Welsh Government on 27 June 2023 that it would prepare and publish a report within 30 working days (ie on or before 9 August 2023).⁵ The SAU published details of the referral on 28 June 2023.⁶

³ This will be a £20 million loan with a discounted interest rate worth around £8 million to Stena.

⁴ Within the meaning of regulation 3 of the [Subsidy Control \(Subsidies and Schemes of Interest or Particular Interest\) Regulations 2022](#) which sets out the conditions under which a subsidy or scheme is considered to be of particular interest.

⁵ Sections 53(1) and 53(2) of the Act.

⁶ [SAU: Referral details](#)

2. Summary of the SAU's observations

- 2.1 Overall, we have found that the Welsh Government has engaged with each step of the four-step framework put forward in the *Statutory Guidance for the United Kingdom Subsidy Control Regime*, November 2022 ([Statutory Guidance](#)) and reflected in the SAU's *Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit*, SAU, November 2022 ([SAU Guidance](#)). The Assessment contains and references external analysis and reports (primarily, financial analysis, a business case and an economic impact assessment).
- 2.2 In summary, our key findings are:
- (a) The Assessment generally makes good use of external analysis and supporting evidence, in particular to address why a subsidy is the most appropriate instrument to achieve the Welsh Government's policy objective and to review the case for the subsidy.
 - (b) We consider that the Assessment could be improved in relation to Principle A if the policy objectives which have been identified were more clearly linked to, and addressed, either a market failure or an equity rationale.
 - (c) In relation to Principle C, the Assessment could be improved through consideration and analysis of the incentives on Stena absent the subsidy, taking account of the possible future closure of the Port (as proposed in the identified counterfactual) in addition to the anticipated decline in revenues from service disruption.
 - (d) The assessment of competition and investment in Principle F could be strengthened by providing more detail on the relevant markets and competitors and analysing the impacts on competition of the subsidy compared to the counterfactual. In addition, we consider that the Assessment in relation to Principle G could be improved by considering if there are any negative effects on international trade and investment.
- 2.3 This report is advisory only and does not directly assess whether the subsidy complies with the subsidy control requirements. The report does not constitute a recommendation on whether the scheme should be implemented by the Welsh Government. We have not considered it necessary to provide any advice about how the proposed scheme may be modified to ensure compliance with the subsidy control requirements.⁷

⁷ Section 59(3)(b) of the Act.

3. The SAU's Evaluation

3.1 This section sets out our evaluation of the Assessment, following the four-step framework used by the Welsh Government.

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

3.2 The first step involves an evaluation of the Assessment against:

- (a) Principle A: subsidies should pursue a specific policy objective in order to (a) remedy an identified market failure or (b) address an equity rationale (such as local or regional disadvantage, social difficulties or distributional concerns); and
- (b) Principle E: subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive, means.⁸

Policy objectives

3.3 The primary policy objective pursued by this proposal is 'Building a sustainable future for Holyhead port' and the Assessment identifies, in the Welsh Government's (2021-2026) Programme for Government,⁹ the following three policy objectives to which the subsidy contributes:

3.3.1 'Build a sustainable future for our key air and sea ports'.

3.3.2 'Develop masterplans for towns and high streets'.

3.3.3 'Progress our Economic Resilience and Reconstruction Mission for Wales'.

3.4 The Assessment indicates that the subsidy is consistent with growth and employment objectives in the 'Future Wales: The National Plan 2040' national development framework¹⁰ and also references the 'Welcome to Wales: Priorities for the visitor economy 2020-2025' strategic plan.¹¹

⁸ Further information about the Principles A and E can be found in the [Statutory Guidance](#) (paragraphs 3.18 to 3.42) and the [SAU Guidance](#) (paragraphs 4.7 to 4.11).

⁹ [Welsh Government Programme for government: update | GOV.WALES](#)

¹⁰ [Update to Future Wales - The National Plan 2040](#)

¹¹ [Welcome to Wales: priorities for the visitor economy 2020 to 2025](#)

3.5 We consider that the Assessment could be improved if it explained more clearly how each of the policy objectives is linked to, and addresses, the market failures or equity objectives which are identified under Principle A.

Market failure and equity objective

3.6 The Statutory Guidance explains that market failure occurs where market forces alone do not produce an efficient outcome. The most common cases of market failure which are 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.¹²

3.7 The Assessment identifies the following market failures:

3.7.1 Positive Externalities – The Assessment explains that as the owner of the breakwater, Stena is the only party able to undertake maintenance work on it. The breakwater provides protection in severe weather conditions as well as general access infrastructure, with wider social benefits for a range of third parties.

3.7.2 Public good – The Assessment explains that the breakwater has the characteristics of a public good, on the basis that (i) the consumption of its protections by one individual or beneficiary does not inhibit or diminish the ability of others to enjoy its protections and (ii) it is difficult to prevent access to the benefits of the breakwater (such as those benefiting from its flood protections and those enjoying the conservation area).

3.8 The Assessment also identifies the following equity objectives:

3.8.1 to avoid exacerbating existing distributional concerns in Anglesey, an area with high levels of deprivation (particularly in terms of income and employment); and

3.8.2 to attract future regeneration investment to the area, which may be reliant on the longevity of the breakwater and the infrastructure it provides.

3.9 In our view, the Assessment could better explain the existence of positive externalities. For example, it could further explain that there are wider social benefits of the breakwater which will not be considered by Stena when making private investment decisions and that this creates a rationale for the Welsh Government to provide a subsidy to ensure that the investment takes place, and the full social benefits are realised.

3.10 The equity objective is well explained, with reasonable evidence provided to support the conclusions that poverty, unemployment and deprivation exist in the

¹² [Statutory Guidance](#), paragraphs 3.21-3.32.

area, and that the Port is an important source of local employment. There is also further explanation of the equity objective throughout the Assessment. In our view, this provides a clearer rationale for the subsidy, consistent with the primary policy objective, than the market failures identified, and the Assessment could be improved by focusing on this objective.

Consideration of alternative policy options and why the subsidy is the most appropriate and least distortive instrument

- 3.11 In order to comply with Principle E, public authorities should consider why the decision to give a subsidy is the most appropriate instrument for addressing the identified policy objective, and why other means are not appropriate for achieving that objective.¹³
- 3.12 As the primary objective of the subsidy is to secure the long-term future of the Port, the Assessment considers whether the Welsh Government could have achieved this by other means. In doing so, the Welsh Government relies on an independent report which it commissioned from EY (the EY Report), which provides confirmation of the need for some level of public intervention. In that context, the Assessment considers a range of possible interventions: (i) a grant, (ii) a loan at market rates, (iii) a loan at a discounted rate, (iv) the possibility of the Welsh Government taking an equity stake (or a joint venture with Stena) and (v) a purchase of the breakwater by the Welsh Government and leaseback to Stena.
- 3.13 In considering these options, the Assessment explains why the project would not be viable commercially for Stena to undertake on its own and, accordingly, why a subsidy (in the form of a grant and a discounted loan) is the most appropriate instrument to achieve the Welsh Government's policy objectives.

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

- 3.14 The second step involves an evaluation of the Assessment against:
- (a) Principle C: subsidies should be designed to change the beneficiary's economic behaviour. That change should be conducive to achieving its specific policy objective, and something that would not happen without the subsidy; and
 - (b) Principle D: subsidies should not normally compensate for costs the beneficiary would have funded without any subsidy.¹⁴

¹³ [Statutory Guidance](#), paragraphs 3.40-3.41.

¹⁴ Further information about the Principles C and D can be found in the [Statutory Guidance](#) (paragraphs 3.43 to 3.57) and the [SAU Guidance](#) (paragraphs 4.12 to 4.14).

Counterfactual assessment

- 3.15 In assessing the counterfactual, the Statutory Guidance explains that public authorities should consider any change against a baseline of what would happen without the subsidy (the 'do nothing' scenario).¹⁵ This baseline would not necessarily be the current 'as is' situation (the 'status quo') but what would likely happen in the future – over the long and short term – if no subsidy were awarded.
- 3.16 The Assessment states that the counterfactual is that the refurbishment would not proceed and a breach of the breakwater would occur. This may lead to increased disruption to sailings over time and, ultimately, to a loss of port viability and the likely closure of the Port. The Assessment referred to an Outline Business Case for the refurbishment of the breakwater and an Economic Impact Assessment, both produced by Royal Haskoning (RH), an engineering consultancy, to support the counterfactual.
- 3.17 In addition to the technical report, the Assessment also refers to analysis in the EY Report, which assessed a range of funding options to carry out the refurbishment, and compared these options against the counterfactual 'do nothing' scenario. In its report, EY concluded that there was an opportunity cost to Stena by diverting funding away from other revenue-generating projects. The Assessment further mentions that Stena may not have been sufficiently incentivised to fund the refurbishment absent the subsidy because the project would not meet its threshold rate of return (or a 'hurdle' rate of return).¹⁶
- 3.18 The usage of the hurdle rate analysis, as mentioned above, provides a reasonable indicator of investment incentives under business-as-usual trading conditions. However, the analysis appears to be based on projections of falling revenues under the counterfactual (due to disruption to sailings), relative to projected levels of growth if the breakwater were to be maintained. This analysis does not take account of the possibility of the ultimate loss of port viability and the likely closure of the Port as proposed in the counterfactual. We consider that the Assessment could be improved by factoring in the possibility of the Port's closure which might reduce Stena's future revenue streams and require it to incur additional costs, in the analysis of the financial incentives for Stena to fund the refurbishment absent the subsidy.

Changes in economic behaviour of the beneficiary

- 3.19 The Statutory Guidance states that subsidies must bring about something that would not have occurred without the subsidy.¹⁷ Public authorities should consider

¹⁵ [Statutory Guidance](#), paragraphs 3.46-3.47.

¹⁶ A 'hurdle rate' is the minimum rate of return on a project or investment required by a company. It factors in the risk of a particular project and the returns of other possible investments or projects. The greater the risk of a given project or the higher the returns on other potential projects, the higher the hurdle rate.

¹⁷ [Statutory Guidance](#), paragraph 3.50.

the likely change or additional net benefit in demonstrating this. An example of this could be an increase in the scale or scope of a project or activity.

- 3.20 The Assessment states that Stena's position is that the 'full cost of the required refurbishment is not a commercially viable proposition' and that 'there is a gap between the total cost of the project and the expected commercial returns to Stena from the Port activity it safeguards'.
- 3.21 The Assessment notes that the subsidy would change Stena's behaviour by:
- 3.21.1 incentivising Stena to commit a significant amount of its own funding to the breakwater's refurbishment, which would not happen without the subsidy;
 - 3.21.2 requiring Stena to enter into a legally binding commitment to maintain the breakwater to an agreed standard (at present, only a discretionary arrangement exists for Stena to maintain the breakwater). The penalty for failing to do so would be a 'clawback' of the grant;
 - 3.21.3 requiring Stena to secure the breakwater for the long term and contribute to safeguarding the Port and its jobs; and
 - 3.21.4 requiring Stena to invest in port infrastructure long-term, thus avoiding its closure.
- 3.22 We note that the Welsh Government has critically reviewed the case for the subsidy. It commissioned an independent financial appraisal of the project and has drawn relevant conclusions from that appraisal. This supports the conclusion that the subsidy is needed to incentivise Stena to undertake the refurbishment.
- 3.23 The financial appraisal in the EY Report relies upon an estimate of Stena's 'hurdle rate' sourced from EY's research and discussions with Stena's management. We sought clarification from the Welsh Government on whether it had tested the basis for the hurdle rate used in the EY Report, given that this is not addressed in the Assessment. In response, the Welsh Government explained that it had previously sought clarification from Stena, and Stena had provided additional information about its internal cost of capital and the hurdle rate. The Welsh Government considered that this information reinforced the case for the subsidy.

Additionality assessment

- 3.24 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.¹⁸

¹⁸ [Statutory Guidance](#), paragraphs 3.49-3.53.

- 3.25 The Assessment states that the subsidy will partially contribute towards the refurbishment (ie construction) cost and not support operating expenses such as the future maintenance costs of the breakwater. Stena would fund the remainder of the refurbishment. The Assessment further mentions that Stena may not have been sufficiently incentivised to fund the refurbishment absent the subsidy because the project would not meet its hurdle rate.
- 3.26 The Assessment, supported by relevant independent analysis, demonstrates that the subsidy will only fund costs which Stena would not have otherwise funded because the project would not meet Stena's hurdle rate without public intervention.

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

- 3.27 The third step involves an evaluation of the Assessment against:
- (a) Principle B: subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it; and
 - (b) Principle F: subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom.¹⁹

Proportionality

- 3.28 The Assessment identifies the following factors in seeking to demonstrate that the subsidy is proportionate and limited to the minimum necessary:
- 3.28.1 Stena will be subject to a new legal obligation to maintain the breakwater once the refurbishment is complete (where one is not currently in place);
 - 3.28.2 the subsidy aims to maintain the breakwater's current functionality, with no enhancement or extension;
 - 3.28.3 the subsidy will be limited to eligible costs, and can only be used for the breakwater refurbishment (the commercial viability/return on investment gap);
 - 3.28.4 the subsidy will be paid after costs have been incurred and receipts provided to ensure expenditure has been spent on the breakwater, and an independent cost consultant will review prior to releasing funds;
 - 3.28.5 Stena will be using open procurement to appoint contractors; and

¹⁹ Further information about the Principles B and F can be found in the [Statutory Guidance](#) (paragraphs 3.58 to 3.93) and the [SAU Guidance](#) (paragraphs 4.15 to 4.19).

3.28.6 the grant element of the subsidy will be capped at either 20% of actual costs incurred or £20 million, whichever is less.

3.29 In our view, the Assessment provides a reasonable explanation of the ways in which some aspects of the subsidy are limited to the minimum necessary. It explains that the refurbishment will be limited to repairing what is already there, with no enhancement or extension therefore providing no additional capacity or capability, as well as including a cap on costs. It also refers back to Principle E of the Assessment, in which it was explained why a subsidy is the most appropriate tool compared to other non-subsidy interventions.

3.30 The Assessment also refers back to Principle A, detailing why the breakwater infrastructure is important in maintaining Port activities and ensuring that the social benefits are generated for a wider group of beneficiaries. We consider that the Assessment provides a reasonable explanation as to why some of the subsidy characteristics show the subsidy is proportionate to the policy objectives. The Welsh Government's conclusions are supported by a business case, detailing the wider value for money of the investment.

3.31 The Assessment could be improved by explaining how the final subsidy amount was decided, and how this is both the minimum necessary, and proportionate to the policy objective. Stena currently collects port charges from third parties for a number of port related services, but only a small amount of this revenue goes towards harbour maintenance. Although the Assessment indicates that there may be constraints which limit Stena's ability to raise port charges, the Assessment would be improved if it considered explicitly the scope for Stena to increase port charges for Port users, in order to meet some/all costs of the refurbishment.

Design of subsidy to minimise negative effects on competition and investment

3.32 The Assessment sets out the following subsidy design characteristics which could limit potential distortions to competition and investment:

3.32.1 Eligible costs are limited to spending on the breakwater's refurbishment, and will not contribute to any other operational activities.

3.32.2 The subsidy is to be used exclusively to refurbish the breakwater, and it does not allow for any extension to its capacity or capability.

3.32.3 The size of the subsidy is around 25-28% of the total project costs, with the remainder being funded by Stena.

3.32.4 Stena will be responsible for ongoing maintenance of the breakwater going forward (which under current arrangements it is not).

3.33 The Assessment provides information on some, but not all, of the subsidy characteristics listed in the Statutory Guidance.²⁰ We consider that the Assessment would be improved by clearly explaining how the subsidy design characteristics might limit competition distortions. This might include, for example, explaining how the subsidy cannot be used to subsidise other operational activities, and how this could reduce the risk of Stena gaining a competitive advantage.

Assessment of effects on competition or investment

3.34 The Assessment sets out the following:

3.34.1 The subsidy is not considered to create any new distortive impacts on competition, as its effects are intended to maintain the competitive status quo between ports and ferry routes.

3.34.2 Statistics are provided on the total market size of the Port, relative to the wider UK port industry. Statistics are also provided on the size of the passenger and freight traffic between Holyhead and Dublin, relative to the Irish Sea and the wider UK markets.

3.34.3 The main beneficiary of a reduction in the Port's activity would be the port of Liverpool. This is supported by analysis from an impact assessment undertaken by RH, and the Competition Commission Stena AB / DFDS Seaways Irish Ferries Ltd merger inquiry (2011),²¹ which found that switching is more likely to occur 'in corridor' than 'between corridors' (a corridor being one of the northern (Scotland-Northern Ireland), diagonal (northern England to Northern Ireland), central and southern groups of routes across the Irish Sea). In other words, switching is more likely to occur between Holyhead and Liverpool which are in the same (central) corridor.

3.34.4 The Assessment states that a loss of one of these ports (either Holyhead or Liverpool) could have a dramatic impact on competition leading to less choice for consumers, particularly in the more concentrated freight market where there are fewer close competitors. It is argued that the subsidy should therefore preserve existing competition.

3.34.5 Since the UK's exit from the EU, there has been an increase in traffic on direct routes from Ireland to continental Europe at the expense of Welsh ports, including Holyhead.

3.35 The Assessment considers the following potential impacts on competition:

²⁰ Statutory Guidance paragraphs 16.6-16.28

²¹ Stena AB / DFDS Seaways Irish Sea Ferries Ltd merger inquiry (CC) - GOV.UK (www.gov.uk)

- 3.35.1 A potential to create a price advantage for Stena. However, the Assessment states that any cost saving for Stena is expected to be immaterial and unlikely to translate into a competitive advantage.
- 3.35.2 A potential for Stena to gain increased capacity. However, the Assessment states that the subsidy will not create any enhancement of the existing structure. It will not allow ferry services to operate at any level of increased capacity simply by virtue of completion of the refurbishment.
- 3.35.3 A potential for Stena to develop additional port capacity. The Assessment states that the subsidy contributes only to the refurbishment of the existing breakwater structure and does not provide any new port infrastructure for Stena.
- 3.36 Overall, the assessment of Principle F could be more clearly structured. The Assessment focuses on the Port with relatively little assessment in relation to Stena, as the beneficiary of the subsidy. In our view, the Assessment could be improved by identifying the competitive impacts of the subsidy and, where appropriate, applying relevant evidence in support of the conclusions reached. The Assessment could benefit by more closely adhering to the guidance in Annex 2 of the Statutory Guidance, which explains in detail how to approach the assessment of 'Market Characteristics' in a systematic way.²²
- 3.37 The Assessment presents statistics on freight and passenger travel across the Irish Sea, but it fails to identify clearly the relevant markets and competitors who may be affected by the subsidy. While the Assessment seems to identify freight and passenger transport as relevant markets, and the port of Liverpool as the main beneficiary should the Port decline and close, the Assessment could be improved by considering if other businesses and activities could be affected by the subsidy. For example, it could have considered Stena Line's competitors on competing routes.
- 3.38 The Assessment does not clearly identify competition impacts in relation to the counterfactual (the decline and eventual closure of the Port), instead explaining that the subsidy aims to maintain the status quo, therefore limiting any competition distortions. The Assessment could be improved by considering what would happen absent the subsidy and who, and what activities, would be affected by a gradual decline and eventual closure of the breakwater at the Port, at both a port and company level. This would serve as a counterfactual against which to assess the competitive impact of the subsidy.
- 3.39 The Assessment does not clearly identify distortions to competition. Once competition under the counterfactual has been identified, the Assessment could be improved by considering what would happen as a result of the subsidy being

²² See [Statutory Guidance](#) (paragraph 16.29 - 16.63)

granted and the impact on specific economic entities (compared to the counterfactual). This could include both Stena (the direct beneficiary), as well as any other indirect beneficiaries, and also any entities which would lose out because of the subsidy (compared to the counterfactual). This could be supported by the relevant statistics provided within the Assessment.

- 3.40 We consider it reasonable that the subsidy could impact positively on competition relative to the counterfactual, by maintaining competition from the Port rather than letting it decline. However, whether Stena will gain a competitive advantage is also dependent on whether their competitors have faced (or will face) similar costs on large infrastructure projects, and we consider that the Assessment would benefit if it explored this possibility.
- 3.41 Once all the relevant impacts of the subsidy have been identified, the Assessment might have explained whether the Welsh Government is satisfied that any negative effects on competition and investment within the UK cannot be further reduced without harming the ability to meet the stated policy objective. Such an assessment might also have facilitated the consideration of the subsidy's effects on international trade and investment under Principle G.

Step 4: Carrying out the balancing exercise

- 3.42 The fourth step involves an evaluation of the Assessment against subsidy control Principle G: subsidies' beneficial effects (in terms of achieving their specific policy objective) should outweigh any negative effects, including negative effects on: (a) competition or investment within the United Kingdom; (b) international trade or investment.²³
- 3.43 The Assessment explains that the subsidy secures the breakwater and the benefits that it currently provides, thereby achieving a number of beneficial outcomes. It notes that the subsidy will help to safeguard employment and economic opportunities in an area with some of the highest levels of deprivation in Wales, and give confidence to potential investors regarding the Port's future. Finally, the Assessment indicates that securing the future of the Port will maintain choice and competition for customers using sea routes on the west coast of the UK.
- 3.44 In terms of negative effects, the Assessment considers whether the subsidy could create a price advantage for Stena by relieving it of the current maintenance fees, and whether the subsidy will enable Stena to increase capacity or to develop additional port infrastructure. It suggests that these effects are unlikely to occur because of the financial commitments Stena will make towards the refurbishment and ongoing maintenance, and because refurbishment of the existing structure will not lead to increased port capacity.

²³ See [Statutory Guidance](#) (paragraphs 3.96 to 3.98) and [SAU Guidance](#) (paragraphs 4.20 to 4.22) for further detail.

- 3.45 The Assessment explains that the subsidy will use public funding that might otherwise be available to support other interventions. It also states that the benefits of the project are difficult to measure and may not materialise in full. The Welsh Government refers to a number of mitigations, including the existence of a business case for the project and close monitoring of delivery.
- 3.46 The Welsh Government concludes that there are compelling benefits from safeguarding the breakwater and that any distortive effects on competition are unlikely to emerge because the subsidy will not confer any competitive advantage over and above the status quo. It therefore states that there is a strong argument for public funding support to refurbish the breakwater.
- 3.47 It is not clear that the Assessment in relation to Principle G takes into account all potential negative effects of the subsidy on competition and investment in the UK. As noted above, the impact of the subsidy on competition should be assessed by reference to the counterfactual, rather than the status quo. The analysis in relation to Principle G could have been strengthened by drawing on a more thorough analysis of the subsidy's potential effects on competition or investment under Principle F.
- 3.48 Although it states that the Port is a strategically important international ferry port for both passengers and freight, we note that the Assessment does not address whether there are any negative effects on international trade or investment. We consider that the Assessment would be improved if it considered whether any such negative effects exist.

Other Requirements of the Act

- 3.49 This part of the evaluation relates to the requirements and prohibitions set out in Chapter 2 of Part 2 of the Act, where these are applicable. The Welsh Government considers that none of these requirements, nor the energy and environment principles, are applicable to the subsidy.