

Appendix C: Case Studies

Purpose

- C.1 We conducted case studies exploring the impact of eight subsidies and schemes to help us understand the impact of the Act on competition and investment in the UK through examining information about selected individual subsidies and schemes given during the review period. As set out in the consultation on our approach, the case studies principally aimed to supplement our quantitative analysis on the impact of the Act on competition and investment.¹ We also took the opportunity to ask questions related to the effectiveness of the subsidy control regime.
- C.2 We considered only subsidies given under the new regime, therefore those relatively recently awarded at the stage we conducted the case studies. Many public authorities in our case studies told us that it was too soon to say definitively whether their policy objectives had been achieved by the projects because they were still in the delivery phase. Similarly, impacts on competition and investment may not yet have materialised.
- C.3 As such, the extent to which we can draw conclusions is limited. The case studies are, however, a useful initial indicator of how different participants of the subsidy control regime experience it.
- C.4 This Appendix provides anonymised summaries of the case studies, and the information we received. We used the same request for information for each of the case studies, although received different information depending on the experiences of the parties and the nature of the subsidies. As a consequence, the summaries below will differ in the content covered.

Methodology

- C.5 We reviewed the subsidy database, supplemented by desk research, to select eight case studies based on a set of characteristics to ensure the case studies covered as many aspects of the regime as possible. These included:
- (a) subsidy value;
 - (b) subsidy type;

¹ See [Subsidy Advice Unit: Proposed approach to monitoring under the Subsidy Control Act 2022 - GOV.UK](#), paragraphs 4.11 to 4.14.

- (c) sectors;
- (d) the type of public authority granting the funds (e.g. central government department, local authority or devolved government);
- (e) the geographic location of the public authority and spend;
- (f) whether funds were granted under a streamlined route; and,
- (g) date of the award.²

C.6 It is important to note that these case studies were exploratory rather than investigative in nature. Their purpose was to obtain views and information about the regime and its impact. We did not consider or draw conclusions on the appropriateness of the subsidies or their compliance with the Act.

Table 1.1 Breakdown of the Case Studies

	Subsidy /Scheme	Amount	Purpose	Streamlined Route	PA Type
Case Study A	Subsidy	More than £100 million (SoPI)	Clean Energy Generation	No	UK Government
Case Study B	Subsidy	£10 million to £50 million (SoPI)	Construction on a brownfield site	No	Local Authority
Case Study C	Subsidy	Less than £500,000	Advanced Manufacturing	Yes – Research and Development	UK Government and Arm’s-Length Body
Case Study D	Scheme	SSoI	Advanced Manufacturing	No	Arm’s-Length Body
Case Study E	Subsidy	£15 million - £40 million (SoPI)	Manufacturing to support Clean Energy Generation	No	Arm’s-Length Body
Case Study F	Subsidy	£500,000 - £5 million	Communications	Yes – Research and Development	UK Government
Case Study G	Subsidy	£5 million - £10 million SSoI	Zero-emission Buses	No	Local Authority
Case Study H	Scheme	Budget between £100 million - £300 million	Support of housing	No	Devolved Government

² To ensure that projects were suitably progressed for any potential impacts to have the change to materialise. We note that the fact that the regime has only been in place for three years was a limitation in this regard.

Information requests

C.7 We sent information requests to each of the public authorities to understand their experiences with the regime. Our questions covered:

- (a) the impact on competition and investment, namely:
 - (i) subsidy design;
 - (ii) post-award monitoring;
 - (iii) impacts on the beneficiary;
 - (iv) impacts on other market participants;
 - (v) impacts on international trade and investment;
 - (vi) third party and sector engagement; and
 - (vii) any other competition and investment impacts such as from cumulation or impacts on geographic locations.
- (b) the effectiveness of the operation of the act, including:
 - (i) defining subsidies;
 - (ii) subsidy design;
 - (iii) resourcing;
 - (iv) guidance and support; and
 - (v) legal challenge and international obligations.

C.8 Beneficiaries of subsidies were also sent information requests, which covered:

- (a) impacts on competition and investment, including:
 - (i) any impact on the business following the subsidy;
 - (ii) any impacts on other the wider market;
- (b) the subsidy award process;
- (c) compliance with the subsidy control requirements;
- (d) guidance and support;
- (e) transparency and accountability processes;

(f) legal certainty; and

(g) the SAU.

C.9 We engaged with relevant third parties through information requests and meetings: these included competitors, investors, and those assisting with the design and monitoring of the subsidies. They were asked to share their views on how they considered the market had been impacted, if at all, by the subsidy; how investor confidence was impacted; and any other views on the case study or the regime more widely.

Responses

Case Study A

C.10 Case Study A involved a subsidy given by a UK government department. The subsidy related to the supply of clean energy in a novel market and a new geographical area. Its value was estimated to be more than £100 million, constituting a SoPI. This subsidy was the subject of an SAU report.

Public authority

Classification and the Assessment

C.11 The public authority stated that it found the process of defining the subsidy and drafting the assessment to be a lengthy process of 'medium difficulty.' It attributed this to the fact that the issues and process were unfamiliar given the relative novelty of the regime.

C.12 The public authority told us that engagement with DBT's subsidy control team and the Statutory Guidance were useful, especially with regard to defining the subsidy as a SoPI and outlining the policy objective. However, the public authority still considered that it needed external legal advice on how the cumulation rules applied. The public authority suggested more detailed guidance on this point in the Statutory Guidance would be helpful, along with example assessments and case studies to guide public authorities.³

The SAU Process

C.13 The public authority found pre-referral engagement with the SAU valuable in clarifying elements of the Statutory Guidance and how to take forward the assessment.

³ We note that DBT have now published such a case study: [Subsidy control principles assessment: case study - GOV.UK](https://www.gov.uk/government/case-studies/subsidy-control-principles-assessment-case-study).

- C.14 The public authority told us that it drew on previous SAU reports, however noted that many of the issues it encountered were novel and so not covered by reports. The public authority suggested it would be helpful if there was a way to understand which reports covered issues relevant to its assessment.
- C.15 The public authority stated that it would in the future consider a voluntary referral to the SAU as a way to reduce legal and reputational risks.

The Subsidy Database

- C.16 The public authority found the process for uploading information to the subsidy database was straightforward, with DBT providing clear guidance and timelines. Some boxes, however, were too restrictive to allow for accurate entries.

Beneficiary

- C.17 The beneficiary told us that the public authority had explained the process to them, and that the beneficiary considered the perceived legal risk level to be low. The beneficiary relied on internal legal advice but noted that the Statutory Guidance was accessible enough to be understood without legal input. It had no concerns with the process or the regime.

Third parties

- C.18 We engaged with a competitor to the beneficiary and a third party active in low carbon energy generation. Both told us that the subsidy and others like it encouraged investment. This was because the risk profile of innovative projects in the relevant area is high and subsidies reduce the risk for parties, making investment more appealing for traditional investors. Both parties viewed subsidies as key to accelerating the commercialisation of the sector in which the beneficiary operates.

Case Study B

- C.19 Case Study B involved a direct grant from a local authority for the purpose of construction on a brownfield site in a city centre. The subsidy was between £10 million and £50 million, constituting a SoPI.⁴ It was the subject of an SAU referral.

Public authority

- C.20 In general, the public authority told us that the regime was too new to comment on its effectiveness. Additionally, it reported that, given that the construction project

⁴ At the time of granting the subsidy, the threshold for a SoPI in a non-sensitive sector was £10 million.

was still in its delivery phase, it was too early to judge whether it had achieved its policy objective or whether there were any impacts on competition.

Classification and the assessment

- C.21 The public authority reported that it was clear from the outset that the measure was to be a subsidy. It received external legal advice to support this conclusion, as well as to support the drafting of the assessment, which was conducted as part of the decision-making process to give the subsidy. The public authority felt the Statutory Guidance was reasonably helpful although highlighted areas where more detail was needed.⁵
- C.22 The public authority told us that it found drafting the assessment to be difficult given its lack of expertise. In particular, the public authority found assessing market failure and the impact on trade and competition went beyond the analysis typically carried out for a business case supporting a proposed policy. It reported that the time it took to complete an assessment was disproportionate to the size of the subsidy, however it considered that the process would become easier with time and increased expertise.
- C.23 The public authority found previous SAU reports useful, although it told us that its external legal advisors thought that they would be more helpful if the original principles assessments could also be shared.

Risk assessment

- C.24 The public authority told us that it had carefully considered the level of legal risk involved, and it had in place a rigorous process of assurance and review.

Beneficiary

- C.25 The beneficiary told us that it had to submit a business case to justify the need for subsidy funding. After receiving the subsidy, it was subject to detailed monitoring by the public authority, including reviews of invoices, weekly meetings and quarterly reports.
- C.26 The beneficiary indicated that the project would have a positive impact on competition and investment by acting as a catalyst for economic growth in the wider geographical area, which had not seen much development in recent years.

Third party

- C.27 A competitor to the beneficiary had not seen any changes to the market. However, it felt that the successful delivery of the project and others like it would increase

⁵ We note that this was the first version of the Statutory Guidance, which has subsequently been revised by DBT.

investment in the area, particularly in areas where viability would otherwise be challenging. This might be the catalyst for other building developments in which the competitor could be involved.

- C.28 The competitor was not aware of the subsidy database but was aware of the subsidy through local knowledge and the SAU's report. It had previously received a similar award from the same public authority and noted that it had enlisted the help of external lawyers to advise on the process.

Case Study C

- C.29 Case Study C involved a subsidy designed by a central government department and delivered by an Arm's Length Body (ALB). The subsidy was made under the Research, Development and Innovation streamlined route, and was for the purpose of innovation in advanced manufacturing. The award was less than £500,000.

Public authority

- C.30 The subsidy was part of a programme run by a central government department to encourage research and development in advanced manufacturing processes. The subsidy was targeted at small and medium-sized enterprises. The objective of the subsidy included collaboration with larger parties.
- C.31 The subsidy was originally designed under the transition regime following UK exit from the EU and before the Act came into force. The ALB reassessed the subsidy following commencement of the Act in January 2023 to ensure that it fell within the streamlined route. The ALB was satisfied that the Statutory Guidance was clear on what was required for compliance.

Beneficiary

- C.32 The beneficiary was an SME⁶ who partnered with a larger enterprise in line with the subsidy design.
- C.33 The beneficiary explained that the subsidy was key in obtaining initial funding from private investors, as it indicated government interest in its work.
- C.34 In order to obtain funding, the beneficiary said that it submitted a proposal which was considered by individuals with relevant expertise and experience in the technical area of innovation. These experts were engaged by the public authority. The subsidy was monitored following the grant of funds.

⁶ Small- and Medium-sized Enterprise.

- C.35 The beneficiary reported that it had internal expertise on subsidy control matters, meaning it felt well informed on how the regime influenced the design of the subsidy. Additionally, it found that the Statutory Guidance helped it understand how the Act applied and how it could impact the beneficiary's operations. The beneficiary told us that it took particular steps to understand the Act and associated risks of legal challenge. Ultimately, it considered challenge unlikely given the lack of competitors in the sector within the UK as that the beneficiary operates in a nascent market.
- C.36 The beneficiary reported concerns about having the details of the award published on the subsidy database. In particular, duplicate entries of the same award were added to the database which they indicated had the potential to prejudice future awards by creating the impression that the beneficiary had received more funding than it actually had. The beneficiary was not clear how to have its concerns about the database entry addressed.

Third parties

- C.37 We heard from one of the beneficiary's private sector investors. It told us that the subsidy was indicative of the public authority's interest in the beneficiary's work, which motivated private sector investment. The investor noted that it had a preference for investing in companies that had received subsidies in the form of a direct grant, as opposed to equity investments, as this approach does not dilute shareholdings.
- C.38 The investor was broadly aware of the subsidy control regime but not of the potential for legal challenge. However, it was not overly concerned with the risk of challenge under the regime and considered that the due diligence it would usually undertake would pick up any risks. The investor trusted the public authority to take the appropriate steps to ensure compliance.
- C.39 We also heard from a business operating in an adjacent market to the beneficiary. It told us that innovative activities of this nature in this sector are usually supported by government and therefore did not believe subsidies such as this would cause issues.

Case Study D

- C.40 Case Study D related to a scheme made by an arm's-length body providing funding in the form of a direct grant for research and development for advanced manufacturing. The scheme was classified as a SSol, with 10 to 15 awards made under the scheme.

Public authority

Thresholds

- C.41 The value of subsidies given under the scheme was influenced by the SSoPI thresholds. The public authority said that it wanted to avoid referral to the SAU due to the tight timelines involved. Therefore, it capped the subsidy awards under the scheme so as not to pass the threshold for a SSoPI.⁷ It also ensured that the scheme did not cover sensitive sectors (which involve a lower referral threshold).
- C.42 The public authority told us that it engaged extensively with DBT's subsidy control team, and thresholds were a key part of discussions. It felt that the Statutory Guidance was unclear on the definitions of each sensitive sector.

Assessment

- C.43 The public authority reported that it would have benefitted from drafting the assessment at an earlier stage of the design process.

Transparency

- C.44 The public authority found uploading information to the subsidy database easy, as a result of clear guidance. It indicated that, having subsequently seen submissions from other public authorities, it could have provided more detail.

Legal risk

- C.45 The public authority was confident that, following engagement, with DBT in particular, it had followed the processes set out in the Act and created a legally compliant scheme. It also conducted extensive engagement with market participants, none of whom raised issues with the scheme. It was therefore assured that the scheme would not be challenged.

Competition and investment

- C.46 The public authority considered that, although still relatively new, the scheme was delivering on its objectives. In particular, the scheme aimed to address the concentrated nature of the market by enabling the growth of SMEs. New opportunities for the sector were being realised, increasing levels of investment across the sector. The public authority viewed investor confidence in this sector as growing due to the subsidy.

⁷ At the time at which the scheme was made, a scheme had to be capable of giving a subsidy exceeding £10 million to constitute a SSoPI.

Beneficiaries

- C.47 We heard from more than half of the beneficiaries of the scheme. Most beneficiaries did not seek expert legal advice on subsidy control and instead relied on the public authority to ensure the scheme was compliant. Of those that did seek their own legal advice, one routinely did so for all external funding received while the other wanted specific advice on subsidy control, particularly given the nature of the organisation and the relative novelty of the regime.
- C.48 Beneficiaries generally did not express a view on the impact of the regime in competition and investment, although one suggested it helped advance early-stage innovation and technologies.

Third parties

- C.49 We identified nine parties that operated in the relevant or adjacent markets. They were provided the opportunity to comment, but we did not receive responses to our information requests.

Case Study E

- C.50 Case Study E was a direct grant from an ALB of between £15 million to £40 million, constituting a SoPI. The subsidy was for the purpose of manufacturing to support clean energy generation. It was the subject of an SAU report.

Public authority

- C.51 The public authority told us that it was not difficult to identify the measure was a subsidy. However, it found it more challenging to ensure that the subsidy had been designed in compliance with the Act. For example, there was uncertainty as to whether the funding could be awarded under a legacy scheme, and external legal advice was sought on this issue. The public authority said that other parts of the regime, such as prohibitions, were sufficiently similar to those that applied under the EU State Aid regime, and as such felt they had the requisite expertise.
- C.52 The public authority described the regime overall as permissive and indicated that this would encourage investment once investors gained more of an understanding of the regime.

Assessment

- C.53 The public authority found that conducting the assessment was difficult although they considered this was because it was the first such assessment it had conducted. The process was described as very resource intensive, requiring additional time over usual appraisal processes.

- C.54 Difficulties highlighted included understanding whether the public authority had included sufficient information and evidence; whether it had addressed points in the appropriate places; identifying the market failures; and identifying the counterfactual given it is difficult to predict how a nascent market will operate.
- C.55 Given this was early in the regime, the public authority reported that there were not many individuals with the experience with subsidy control to assist. It nonetheless felt that it had the internal expertise, resources and evidence – particular with respect to assessing the impact on competition and investment – needed to draft the assessment, and did not seek external advice.
- C.56 It told us that it followed the Statutory Guidance closely but found there were areas of ambiguity that required extensive interpretation.⁸ It reviewed relevant SAU reports but reported that it was difficult to interpret them without having sight of the original assessment.

Transparency

- C.57 The public authority did not itself upload the subsidy to the subsidy database. This instead was completed by a devolved government's subsidy case team. The team had a template mirroring the fields on the database to co-ordinate entries and provided close support to the public authority over the required information.
- C.58 The public authority noted that it was difficult to amend errors made in a subsidy database entry. Doing so required a completely new upload. The public authority also noted issues with the database's search function and, although they noted improvements had been made, felt that further improvements were necessary. Generally, the public authority found other entries on the database to be inconsistent and confusing.

Legal risk

- C.59 Given the size of the subsidy and the novelty of the regime, the public authority indicated it would rate the risk level as medium (though without defining this further). It was particularly concerned about the impact of receiving a negative report from the SAU, and legal challenge.

Beneficiary

- C.60 The beneficiary received support from a public sector inward investment agency and the public authority to understand how to apply for subsidy funding. The beneficiary further sought external advice on subsidy control and the economic impact from lawyers and consultants. It also sought external legal advice in

⁸ The public authority later told us that the main areas of contention had been clarified with recent updates to the Statutory Guidance.

particular on assurance over whether the information uploaded to the Subsidy Database was appropriate. The potential for legal challenge was assessed as low.

- C.61 The beneficiary told us that that it agreed with the role the SAU played in the subsidy control regime, as differing layers of review help to ensure that subsidies granted are fair, but they felt it was quite a lengthy process.

Third parties

- C.62 We identified five parties that operated in the market or adjacent markets. They were provided with the opportunity to comment, but we did not receive responses to our information requests.

Case Study F

- C.63 Case Study F involved a subsidy between £500,000 and £5 million in the form of a direct grant given by a UK government department to beneficiaries in the information and communication sector, under the Research, Development and Innovation streamlined route.

Public authority

Design

- C.64 The public authority made the award for a single project regarding research and development in the information and communication sector. The project involved several bodies of various sizes and types, including businesses and academic institutions, collaborating on this project. They each received individual subsidies given by the public authority through one main delivery partner (as such, the main beneficiary). References to beneficiaries include the main beneficiary and all these parties.
- C.65 The public authority found the Statutory Guidance useful in describing the requirements for compliance with the streamlined route. The project was originally designed under the EU State Aid regime, but was amended to be compliant with the new regime once the Act came into force. The public authority did not consider it needed any major changes to do so and was able to draw on expertise from the EU State Aid regime to support compliance with the UK regime.

Transparency

- C.66 The public authority found it difficult to upload information to the subsidy database. It also noted that similar information was required by other databases (such as Contracts Finder)⁹ running the risk of inconsistency and increasing the

⁹ Contracts Finder is the government contracts database. It allows parties to search for upcoming tenders and find information about previous contracts. See [Contracts Finder - GOV.UK](https://www.contractsfinder.gov.uk).

administrative burden involved. This was particularly the case as each individual award under the scheme had to be uploaded. The public authority was also concerned that the transparency obligations would not be met until all awards were uploaded, leaving it at risk of challenge over a longer period of time.

Beneficiaries

- C.67 One beneficiary stated that the subsidy supported cooperation with multiple parties that otherwise would have been difficult. Another beneficiary confirmed that without the subsidy, it would not have participated in the project. Several beneficiaries considered that the scope of the project would have been much reduced without the subsidy.
- C.68 One beneficiary consulted with an external legal advisor at the request of the public authority to ensure that it was in compliance with the Act's requirements. The legal risk was assessed as low. Another of the beneficiaries told us that the public authority's governance processes were extensive, which it assumed was to ensure compliance with the Act, though it sought its own external legal advice on compliance with the Act prior to signing the grant funding agreement. It felt that responsibility for compliance and the subsequent legal risk lay with the public authority and/or the lead beneficiary. Two of the beneficiaries were not concerned with compliance and another told us that it thought the risks involved were low due to the size of the award.
- C.69 Two beneficiaries told us that they did not consider the funding they received to constitute a subsidy, as neither considered themselves to be enterprises for the purpose of the Act.
- C.70 There were no concerns about the award being uploaded to the subsidy database, and the beneficiary said that it fully understood the importance of transparency.

Third parties

- C.71 We spoke to a competitor in the market. It was satisfied with the open and competitive process to obtain funding, which was widely advertised. It also said that this type of research and development work is not yet developed enough to attract private investment due to a lack of short-term investment returns and thus is reliant on subsidy funding. It felt that such subsidies were successful in generating returns.
- C.72 The competitor noted that the public authority had made funding available across the sector which was positive for competition. It had itself received similar funding in other contexts. The competitor indicated that when it had done so it had obtained extensive external legal advice to ensure compliance with the Act. It expressed concern in particular over the potential for the award to be overturned

and told us that it did not receive support from the public authority in ensuring compliance.

Case Study G

C.73 Case Study G was a subsidy of a value between £5 million and £10 million provided by a local authority in the form of a direct grant to support the purchase of zero-emission buses and related charging infrastructure to contribute towards regional net zero targets. The subsidy constituted a SSol.

Public authority

C.74 The public authority found classifying the financial assistance as a subsidy was straightforward. However, it needed external legal advisors to undertake the assessment. The legal advice received indicated a low risk of challenge.

C.75 The public authority had a positive experience with the subsidy database finding it clear and straightforward to use. It noted however that it had experienced technical difficulties with other subsidies, such as beneficiary company numbers not being recognised.

C.76 Overall, the public authority considered that the regime could serve to increase investor confidence by creating a transparent and predictable framework that promotes fair competition. However, it also found that this was undermined to some extent by some of the complexity involved and the potential for legal challenges. In particular, the requirement to complete assessments and ensure compliance was difficult as some public authorities would lack the necessary resources and expertise.

Beneficiary

C.77 The beneficiary said that the subsidy was effective in leveraging its investment in zero-emission buses. It could not comment on the impact of the subsidy on the market but reported that decarbonisation was of importance to its investors and so felt the subsidy increased investor confidence.

C.78 The beneficiary sought external legal advice to understand the obligations related to subsidy control as set out in the grant funding agreement with the public authority. This work did not include a legal risk assessment, as the beneficiary considered that this was the sole responsibility of the public authority.

Third parties

C.79 We contacted nine parties that operated in the relevant or adjacent markets. Only one, a key competitor to the beneficiary, responded. It told us it had no concerns about the subsidy.

Case Study H

C.80 Case Study H concerned a scheme made by a devolved government to support housing. The budget of the scheme was over £100 million. The scheme was not classified as a SSol nor a SSoPI.¹⁰

Public authority

C.81 The public authority designed the scheme and granted funds with the assistance of relevant organisations that acted as delivery partners. These organisations identified the needs to be addressed by the scheme.

Classification and the Assessment

C.82 The public authority found it difficult to apply the requirements of the Act to the scheme, as it involved non-profit organisations as beneficiaries. As such, it did not consider that there was any traditional competition or market involved.

C.83 The public authority reported that it was unsure, because it had not identified a market or competition impact, whether the financial support constituted a subsidy. However, it had adopted a risk-averse approach, and conducted an assessment. The public authority considered that the resources needed to complete the assessment was not proportionate to its assessment of impact on competition.

C.84 The public authority found that the Statutory Guidance was not drafted in sufficient detail and wanted more definitive advice. In particular, it highlighted a lack of confidence in assessing Principle F. The public authority received support from a government subsidy team but, given the nature of the beneficiaries and support provided, it was unsure whether the level of analysis was appropriate.

C.85 The public authority's delivery partners agreed with its views on the impact on competition and investment.

Beneficiary

C.86 Those beneficiaries that responded to our information requests shared the views of the public authority regarding competition and investment. The majority of beneficiaries did not engage with subsidy control and did not consider that expert advice on the scheme was required. One beneficiary told us that it thought that subsidy control was the sole responsibility of the public authority and therefore did not see the need to engage with the regime. Another beneficiary noted that the Statutory Guidance provided sufficient detail to satisfy them of compliance.

¹⁰ A scheme is classified as either an SSol or an SSoPI when it has the potential for subsidies meeting SSol or SSoPI thresholds to be granted under it, rather than due to the overall budget for the scheme itself. See paragraph 10.8 of [the Statutory Guidance](#).

Third parties

C.87 We contacted relevant bodies in the sector for comment but did not receive responses to our information requests.