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Dear Kirsty,

I am writing to follow on from the Committee session on Tuesday 16 November and our discussion in relation to Clause 68 of the Subsidy Control Bill, which concerns the governance arrangements for the Subsidy Advice Unit (SAU). I have also provided further information on the application of the clause on the misuse of subsidies, and specifically whether this applies to Minimal Financial Assistance.

### **CMA organisational structure**

You asked if I could clarify the governance arrangements for both the SAU and the Office for the Internal Market (OIM) and provide an organisational chart for the Competition and Markets Authority (CMA) to help illustrate the differences between the two. You can find the requested organisational chart at Annex A to this letter.

Unless otherwise specified in legislation, functions of the CMA are exercisable by the CMA Board, on behalf of the CMA.<sup>1</sup> The CMA Board already has powers<sup>2</sup> to delegate to (a) a member of the CMA Board or a member of staff of the CMA, who has been authorised for that purpose by the CMA Board, (whether generally or specifically) or (b) a committee or sub-committee of the CMA Board (which may include members of the CMA Panel or CMA staff) that has been so authorised. Under Clause 69, the SAU may make a reference to the CMA Panel Chair for the constitution of a CMA panel group.

Clause 68 of the Subsidy Control Bill provides that the CMA must establish a new committee of the CMA board called the Subsidy Advice Unit.<sup>3</sup> While this establishes the SAU as a distinct unit, it is for all intents and purposes a part of the “core” CMA organisation.

The Office for the Internal Market is constituted differently, and its unique governance arrangements were designed to reflect its specific functions and relationship to the devolved administrations. Under the UK Internal Market Act 2020, the CMA may authorise an Office for the Internal Market ‘task group’ to carry out relevant functions under the

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<sup>1</sup> Paragraph 28 of Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

<sup>2</sup> Paragraph 29 of Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

<sup>3</sup> As stated in clause 68(2), in accordance with paragraph 29(1) of Schedule 4 to the Enterprise and Regulatory Reform Act 2013.

UKIM Act on the CMA's behalf. The OIM task groups are constituted by the OIM Panel Chair (who also sits on the CMA Board) and they are composed of Members of the OIM Panel.

As you are aware, the devolved administrations have a role in appointments made to the OIM Panel, including the Panel Chair, which again reflects the unique role played by the OIM. We consider that a similar arrangement would not be appropriate for the Subsidy Advice Unit, because the new subsidy control functions relate to reserved policy matters. As a non-ministerial department reporting to the UK Parliament, it is appropriate that appointments to the CMA's Board and Panel are undertaken by the Secretary of State, acting in the interests of the whole of the UK. In both cases, however, neither the Secretary of State nor the devolved administrations play a direct role in recruiting staff members to either the CMA (and, by extension, the SAU) or the OIM. These are internal, operational matters for the CMA.

### **Misuse of subsidies**

During the Committee session on 16 November, you asked for a clarification of whether the right to recover misused subsidies under Clause 77 applies to Minimal Financial Assistance. I confirm that Clause 77 does apply to those subsidies.

In many instances, we expect that when giving subsidies, public authorities will continue to put in place contractual arrangements with the beneficiary that allow them to recover the amount if it is misused. However, this clause provides the public authority with the right to recover a misused subsidy, even where there is no such contractual arrangement in place.

I hope that this additional information is helpful. I am copying this letter to other members of the Committee and will arrange for copies to be placed in House Libraries.

Yours sincerely,



**PAUL SCULLY MP**

Minister for Small Business, Consumers & Labour Markets  
Minister for London

# ANNEX A:

## ILLUSTRATION OF CMA ORGANISATIONAL STRUCTURE (including Office for the Internal Market and Subsidy Advice Unit)

