



Department for
Business, Energy
& Industrial Strategy

Lord Callanan
Minister for Business, Energy and
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Lord Thomas of Cwmgiedd
House of Lords
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Dear Lord Thomas,

During the final Committee session for the Subsidy Control Bill on 9 February, you asked whether there will be recovery of damages against authorities that give subsidies wrongly. I want to clarify my answer to that question.

Where a subsidy decision made by a public authority is being challenged before the Competition Appeal Tribunal (CAT), the remedies available to the CAT under the Bill will be the usual judicial review remedies. These would take the form of a mandatory order, prohibiting order, quashing order, declaration or injunction, or the equivalents in Scotland. There is also the subsidy-specific remedy of a recovery order as provided for under clause 74 of the Bill. The CAT may grant all of these at its discretion.

The Bill does not provide for the awarding of damages by the CAT on the review of a subsidy decision under clause 70, and a claimant would need to make out a separate private law cause of action in order to seek damages.

As I said at Committee, I expect that there will be a high level of compliance with the regime. We have estimated that there will be between 15-30 cases in the CAT each year. However, it is impossible to say what proportion of these cases would involve recovery and the amount that would be recovered. Recovery is an entirely discretionary remedy, and the amount recovered will depend on the size of the subsidies that have been challenged.

I hope that this additional information clarifies the response I gave at Committee. I will be copying this letter to all Peers who participated in the debate, and placing a copy of this letter in the Libraries of the House. I look forward to further discussions as the Bill progresses through the House.

Yours sincerely,



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