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Lord Lamont of Lerwick  
House of Lords  
London  
SW1A 0PW

Dear Lord Lamont,

I am very grateful to you for giving me the opportunity to clarify my meaning in the debate on Monday 7 February on two specific excerpts of my speech.

The first point which you asked me to clarify was that **the Subsidy Advice Unit (SAU) will support public authorities in giving the subsidies that are most likely to be distortive.**

It is indeed the case that we want to provide support to public authorities who are giving those types of subsidies that are most likely to be distortive. That support will be focused on ensuring that a subsidy is indeed the right tool to address their objective, improving their subsidy or scheme design, and to properly identify and minimise those distortions to competition, trade, and investment.

By definition, subsidies are actually or potentially distortive measures – but they can also bring substantial policy advantages. The primary purpose of subsidy control is therefore to minimise those distortive effects without unnecessarily impeding public authorities' ability to deliver desired policy benefits. This Bill sets out a differentiated risk-based approach, whereby those subsidies that are less likely to cause significant distortion can proceed with minimum red tape, while subsidies that are more likely to cause significant distortion are subject to greater scrutiny.

These more potentially distortive measures are those which the SAU will scrutinise. They will be defined, in regulations, as 'Subsidies or Schemes of Interest' and 'Subsidies or Schemes of Particular Interest.' The Secretary of State may also call in other potentially distortive subsidies on a case-by-case basis, as a safety net.

In relation to these subsidies, the SAU will be performing two important functions: in all cases it will provide proper scrutiny of the public authority's assessment of compliance

for the benefit of interested parties and wider transparency, and it can also provide, where it judges appropriate, useful advice to public authorities so that they can improve their subsidy analysis and design, thereby reducing the distortive effects of a subsidy only to those that are absolutely necessary, and outweighed by the benefits it brings.

The second matter on which you asked for further clarification was my argument that **it would be an extensive and disproportionate responsibility for the CMA to duplicate the public authority's assessment of compliance in the course of an investigation.**

As I said in Committee, the design of this subsidy control regime is predicated on certain fundamental points.

Firstly, public authorities are themselves best placed to decide whether or not to give a subsidy and how to design it.

Secondly, public authorities make subsidy-giving decisions in the context of a wider framework of spending controls, evidence-based business cases, and direct or indirect democratic accountability. These rules and guidelines are in place for every public authority in the UK, whether set by HM Treasury, by the Devolved Administrations, or by the authority itself. Even without a subsidy control regime, public authorities ought to have an excellent understanding of the benefits and costs of a specific measure, and how it incentivises the recipient to change their behaviour to meet the policy objective.

Thirdly, statutory obligations place a very strong pull on a public authority, as public authorities must comply with those obligations. I therefore see the appropriate enforcement functions for the subsidy control regime to be a matter of scrutiny and accountability. In this Bill, those scrutiny and accountability functions include the transparency database, the SAU referrals, and a challenge mechanism that corresponds closely to judicial review.

These three points have informed the argument I made in Committee on Monday – and as I said on Wednesday, I stand by those words. It is an inherently far more arduous and intrusive task for a regulator to replicate in full the evidence base and decision-making process of a public authority purely for the purpose of subsidy control, than it is to ask the public authority to apply a set of subsidy control principles and other requirements within its existing decision-making process.

I do not, therefore, believe it to be a problem or an oddity that the subsidy giver will know more about any specific subsidy than the SAU. For the opposite to be true, it would take an inordinate amount of time, intrusion, and CMA resources. I do not believe that this would be a proportionate constraint on the subsidy-giving capabilities of a democratically accountable public authority, nor a sensible use of public money.

Once again, I would like to thank you for giving me the opportunity to explain more fully, and I look forward to further discussions as the Bill progresses. I will also be placing a copy of this letter in the Libraries of the House.

Yours sincerely,

A handwritten signature in blue ink, reading "Martin Callanan". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

**Lord Callanan**

Minister for Business, Energy and Corporate Responsibility