

Subsidy Advice Unit calls for views on guidance to assist public authorities

The Competition and Markets Authority (CMA) is consulting on guidance that sets out the role of the Subsidy Advice Unit (SAU). The SAU is a new CMA function created by the Subsidy Control Act, which provides a new regime for governing the provision of subsidies within the UK following its exit from the EU.

Subsidies are offered to achieve specific public objectives (for example, car manufacturers could be offered a subsidy to help lower the price of electric vehicles to support the achievement of environmental targets). The SAU will provide advice to public authorities at all levels, evaluating their assessments of financial assistance they provide, via subsidies, to organisations.

The SAU will provide independent, non-binding advice on the assessments of certain high-value subsidies that are referred by public authorities, taking into account any effects that they might have on competition or investment in the UK. The SAU will publish these reports. Decisions on whether or not to offer subsidies are for public authorities, not the SAU or CMA.

In addition, the SAU will periodically monitor and review the operation of the UK subsidy control regime.

The CMA is seeking views on its draft guidance, particularly how the SAU will:

- Exercise its functions, including its information gathering powers, and the procedures it will adopt, including the way it will engage with public authorities.
- Evaluate and report on the public authority's assessment of the subsidy or scheme's compliance with the subsidy control requirements.
- Decide which subsidies and schemes to review when it has discretion to do so.

Rachel Merelie, Senior Director at the CMA, said:

The CMA has been asked to play a specific and important role in the new UK subsidy control regime. We will use our expertise to ensure public authorities have expert and independent advice to help inform their policy decisions.

We're keen to hear a range of voices on our draft guidance to help make sure the UK benefits from a world-leading subsidy control regime.

The draft guidance explains the SAU's proposed approach to transparency,

consultation, confidentiality, and publication of its reports. It also provides information about its online Public Authority Portal, which public authorities will use to submit referrals to the SAU once the new regime comes into effect.

The CMA is also [consulting on a draft Statement of Policy](#) in relation to the enforcement by the SAU of its information-gathering powers for the performance of its monitoring functions.

The CMA welcomes all views on its [draft guidance](#) and Statement of Policy by 10 August 2022 and plans to publish its final guidance later this year.

The launch of the SAU's consultation follows the publication of the [BEIS consultation on the statutory guidance for the Subsidy Control Act 2022](#).

1. The establishment of the Subsidy Advice Unit is one of a series of new measures contained within the Subsidy Control Act. The Act establishes a new system of subsidy oversight and control within the UK to replace the EU State Aid regime.
2. The Act, which was granted Royal Assent in April 2022, will establish the Subsidy Advice Unit within the CMA as a Committee of the CMA Board. The SAU will play a defined role in the UK's new subsidy control regime through its review and monitoring functions.
3. Subsidies can take various forms including; a cash payment, a loan with interest below the market rate, or a guarantee. Subsidies are administered by all levels of government in the UK. The definition of public authority is wide and captures any person who exercises functions of a public nature, including public authorities at any level of central, devolved, regional or local government and non-governmental bodies that are performing a public function.
4. Since 1 January 2021, the UK has complied with the commitments on subsidy control set out in its free trade agreements with other countries, notably the provisions of the UK-EU Trade and Cooperation Agreement (TCA), and the World Trade Organisation (WTO) rules on subsidies, as well as the relevant provisions within the Northern Ireland Protocol.
5. The government is exempting a limited set of subsidies from the control principles, such as those required for safeguarding national security and subsidies granted temporarily to address emergencies such as flooding. All subsidies will still be subject to WTO rules.
6. Subsidies which can be referred to the SAU are those which fall under the definitions of a Subsidy or Scheme of Interest (discretionary referral) or Subsidy or Scheme of Particular Interest (mandatory referral). These definitions were [consulted on by BEIS earlier this year](#) and will be confirmed in regulations.
7. Under the Subsidy Control Act 2022, the Secretary of State for Business, Energy and Industrial Strategy can also call in any subsidy pre- or post-award to be treated as a Subsidy or Scheme of Particular Interest.