Briefing: An opportunity to strengthen the Subsidy Control Bill

Centre for Public Data, August 2021

Summary

- In July 2021, the Subsidy Control Bill proposed a new domestic subsidy regime for the UK, covering how public authorities award subsidies to businesses. In 2018, the UK spent about £8 billion on such subsidies, and this is expected to increase.
- The Bill is missing a simple, low-cost route to support businesses and the Government’s own strategic goals for subsidies, using transparency data.
- Under the Bill, public authorities must report their subsidies on a new transparency database. However, the Bill only requires large subsidies (typically over £500,000) to be published - the minimum required to meet the UK’s legal obligations.
- This means that many large subsidies will not be published, making it harder to spot harmful subsidies, harder to evaluate subsidies, and harder for businesses which are damaged by unlawful subsidies to challenge them.
- Instead, we recommend all subsidies over £500 should be included on the transparency database. This would reduce the harms that subsidies can cause, by allowing everyone to spot problems like rent-seeking, and enabling more analysis.
- Crucially, this would not create new burdens on business, or be expensive - the Government estimates this would cost just £20,000 per year across the UK.
- Hence, we recommend the Bill should be amended to reduce the threshold at which subsidies are published to £500. This is an easy way to support efficient evidence-led subsidies, and support UK businesses and taxpayers.

Background

Subsidies and the new UK regime

Subsidies are awarded by public authorities (like national and devolved governments, local authorities and research councils) to businesses and other economic actors. Subsidies are used to incentivise R&D, regional development and other strategic priorities. They can include grants, loans and tax reliefs, but not contracts, which are governed separately.

Until 2021, the UK’s subsidy regime was regulated by the EU. The UK has traditionally awarded less public funding than most other countries, spending around £8bn a year, but this is set to increase - last year’s Spending Review announced ‘the highest sustained levels of public sector net investment since the late 1970s’.

In July, the Subsidy Control Bill laid out a proposed new domestic subsidy regime, which is more flexible than the EU system. Under the new UK regime, subsidies are no longer
pre-approved, as under EU state aid rules, but are assessed by individual authorities against general principles (see the House of Commons Library briefing for details).

The Government’s stated goals for the new subsidy regime are to enable ‘strategic interventions’ to support its priorities, while providing certainty for business and supporting fair competition, by preventing subsidies that may be ‘harmful and distortive’.

It aims to create a subsidy control system that is more flexible and less bureaucratic, allowing public authorities to grant financial support suited to their specific needs. However, the Financial Times has warned that the new flexible regime may pose ‘significant risk’, and warns that ‘on the altar of speed, it has sacrificed scrutiny’.

**Transparency data proposals**

Under EU state aid law, subsidies awarded over €500,000 were published online. To support the new regime, the UK Bill mandates that authorities enter the following subsidies on a new transparency database:

- Subsidies over £500,000 awarded under a ‘scheme’. These are not cumulative, so the same business could receive repeated subsidies that were not published.
- Subsidies cumulatively worth over £315,000, if not awarded via a ‘scheme’, and awarded to the same entity within three years.

These thresholds for publication are the highest that were put forward at consultation stage.

**How these transparency thresholds were decided**

The Bill's impact assessment justifies setting these transparency thresholds as follows:

- Although publishing more subsidies would create the benefits of increased scrutiny and better subsidy design, these benefits would be ‘minimal’ for subsidies below £500,000, and lowering the threshold below £500,000 could worsen data quality.
- Although the cost of lowering the threshold to zero would be just £10,000 annually, the benefits from additional scrutiny would be just 0.00001% of the regime’s value.
- Overall, the extra cost is felt to outweigh the benefits from additional transparency.

We think this is mistaken. Data quality should not decrease from lowering the threshold, since public authorities will already have evaluated which awards are inside the subsidy regulations. The impact assessment does not justify why the benefits added to the regime by additional scrutiny would be only 0.00001% - this seems unrealistically low.

**The opportunity**

Instead, if all subsidies over £500 were published, all market participants would be able to spot harmful or wasteful subsidies. Transparency provides a blunt, but effective, way to mitigate some of the potential dangers of subsidies, without adding bureaucracy or cost.

In the Bill, the period allowing subsidies to be challenged starts when information is placed on the national database. In the absence of such information being on the database, there
is less certainty, with the test based upon case law. Therefore it would help public bodies to manage the risk of challenge to require such information to be placed online. It would also give competitors better information on subsidies provided to rivals.

As such, this proposal would support an effective regime and the Government’s goals:

- It would **reduce the potential harms that subsidies can create**. The enforcement of the regime relies on ‘interested parties’ reporting problematic subsidies. Making subsidies public means outsiders can more easily challenge harmful subsidies.
- It would **help ensure subsidies are used efficiently** - this data is best analysed both inside and outside of government, so it’s important the data is public.

It would support businesses, especially smaller ones, and help create a level playing field:

- All businesses would have **equal access to information**, which would support new entrants, encourage overseas investment, and increase business confidence.
- Like any public dataset, this data would be a **valuable resource** for startups.

Crucially, requiring the reporting of smaller subsidies would not add admin burden or cost:

- Public authorities already have to report larger subsidies on the database - in the digital era, the **marginal cost of uploading additional data is zero**.
- It would reduce the need for public authorities to respond to individual FOI requests.
- It would be **in line with transparency thresholds elsewhere in the public sector**, such as the **£500 publication threshold** for local government expenditure.

Implementing this would be straightforward and not create new burdens for businesses. There are no privacy or commercial confidentiality concerns.

**What we recommend**

We recommend an amendment to the Bill reducing the publication thresholds to:

- **All individual subsidies, of any size, awarded under a registered ‘scheme’**
- **Cumulative subsidies over £500, not awarded under a registered ‘scheme’, if awarded to the same entity within three years.**

**About us**

The [Centre for Public Data](https://www.centreforpublicdata.org) is a new non-partisan organisation founded in 2020 to improve the quality of data collected and published by the UK Government. We work with partners to ensure the UK’s public data works for everyone. We’d be delighted to discuss these issues further: [contact@centreforpublicdata.org](mailto:contact@centreforpublicdata.org).