PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

SUBSIDY CONTROL BILL

First Sitting

Tuesday 26 October 2021

(Morning)

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not later than

Saturday 30 October 2021

The Committee consisted of the following Members:

Chairs: Caroline Nokes, † Mr Virendra Sharma

† Baynes, Simon *(Clwyd South)* (Con)
† Benton, Scott *(Blackpool South)* (Con)
† Blackman, Kirsty *(Aberdeen North)* (SNP)
† Bowie, Andrew *(West Aberdeenshire and Kincardine)* (Con)
† Buchan, Felicity *(Kensington)* (Con)
† Esterson, Bill *(Sefton Central)* (Lab)
† Fletcher, Colleen *(Coventry North East)* (Lab)
† Flynn, Stephen *(Aberdeen South)* (SNP)
† Hollinrake, Kevin *(Thirsk and Malton)* (Con)
† Kinnock, Stephen *(Aberavon)* (Lab)
† Malhotra, Seema *(Feltham and Heston)* (Lab/Co-op)
† Millar, Robin *(Aberconwy)* (Con)
† Mortimer, Jill *(Hartlepool)* (Con)
† Scully, Paul *(Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy)*
† Stafford, Alexander *(Rother Valley)* (Con)
† Tomlinson, Michael *(Lord Commissioner of Her Majesty's Treasury)*
† Whitley, Mick *(Birkenhead)* (Lab)

Kevin Maddison, Bradley Albrow, *Committee Clerks*

† attended the Committee

Witnesses

Professor Steve Fothergill, National Director, Industrial Communities Alliance, and Professor in the Centre for Regional Economic and Social Research (CRESR), Sheffield Hallam University

Dr Serafin Pazos-Vidal, Head of Brussels Office, Convention of Scottish Local Authorities

Thomas Pope, Deputy Chief Economist, Institute for Government

Professor Stephanie Rickard, Professor of Political Science, London School of Economics

Public Bill Committee

Tuesday 26 October 2021

(Morning)

[Mr Virendra Sharma *in the Chair*]

Subsidy Control Bill

9.25 am

The Chair: Before we go further and begin, I have some preliminary announcements to make. May I encourage Members to wear masks when they are not speaking? That is in line with current Government guidance and that of the House of Commons Commission. Please give each other and members of staff space when seated and when entering or leaving the room. *Hansard* colleagues will be grateful if Members could email their speaking notes hansardnotes@parliament.uk. Please switch electronic devices to silent. Tea and coffee are not allowed during sittings.

Today, we will first consider the programme motion on the amendment paper. We will then consider a motion to enable the reporting of written evidence for publication and a motion to allow us to deliberate in private about our questions for the oral evidence session. In view of the time available, I hope that we can take those matters formally without debate.

Ordered,

That—

(1) the Committee shall (in addition to its first meeting at 9.25 am on Tuesday 26 October) meet—

(a) at 2.00 pm on Tuesday 26 October;

(b) at 11.30 am and 2.00 pm on Thursday 28 October;

(c) at 9.25 am and 2.00 pm on Tuesday 2 November;

(d) at 11.30 am and 2.00 pm on Thursday 4 November;

(e) at 9.25 am and 2.00 pm on Tuesday 16 November;

(f) at 11.30 am and 2.00 pm on Thursday 18 November;

(2) the Committee shall hear oral evidence in accordance with the following Table:

Date	Time	Witness
Tuesday 26 October	Until no later than 10.30 am	Industrial Communities Alliance; Convention of Scottish Local Authorities
Tuesday 26 October	Until no later than 11.25 am	Institute for Government; Professor Stephanie Rickard, London School of Economics
Tuesday 26 October	Until no later than 2.30 pm	Institute of Directors
Tuesday 26 October	Until no later than 3.00 pm	Monckton Chambers
Tuesday 26 October	Until no later than 3.40 pm	DWF Group; UK Steel
Tuesday 26 October	Until no later than 4.00 pm	Daniel Greenberg, House of Commons Counsel for Domestic Legislation
Tuesday 26 October	Until no later than 4.30 pm	Competition and Markets Authority
Tuesday 26 October	Until no later than 5.00 pm	Ivan McKee, Scottish Government Minister for Business, Trade, Tourism and Enterprise

(3) proceedings on consideration of the Bill in Committee shall be taken in the following order: Clauses 1 to 9; Schedules 1 and 2; Clauses 10 to 78; Schedule 3; Clauses 79 to 92; new Clauses; new Schedules; remaining proceedings on the Bill;

(4) the proceedings shall (so far as not previously concluded) be brought to a conclusion at 5.00 pm on Thursday 18 November.—*(Paul Scully.)*

Resolved,

That, subject to the discretion of the Chair, any written evidence received by the Committee shall be reported to the House for publication.—*(Paul Scully.)*

Resolved,

That, at this and any subsequent meeting at which oral evidence is to be heard, the Committee shall sit in private until the witnesses are admitted.—*(Paul Scully.)*

The Chair: Copies of the written evidence that the Committee receives will be made available in the Committee Room and circulated to Members by email.

9.28 am

The Committee deliberated in private.

Examination of Witnesses

Professor Steve Fothergill and Dr Serafin Pazos-Vidal gave evidence.

9.30 am

Q1 The Chair: Before we start hearing from witnesses, do any Members wish to make a declaration of interest? No.

We will now hear oral evidence from Steve Fothergill, national director of the Industrial Communities Alliance, who is here in person, and Dr Serafin Pazos-Vidal, head of the Brussels office for the Convention of Scottish Local Authorities, who is appearing virtually. Before I call the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion that the Committee has agreed. For this panel, we have until 10.30 am. Will the witnesses please introduce themselves?

Professor Fothergill: Thank you and good morning. In this context, I have two roles. I am Professor Steve Fothergill, a professor of regional and economic development at Sheffield Hallam University. I am an economist by background. I have worked on these issues for many decades. My second role is national director—chief officer, not the political boss—of the Industrial Communities Alliance, which is the all-party association of local authorities in the older industrial areas of England, Scotland and Wales.

Members might be wondering which hat I am wearing. Fortunately, from my point of view, my personal views as a long standing academic coincide with those of the organisation for which I work part time, the Industrial Communities Alliance, so I am wearing both hats simultaneously. If we get on to territory where I am expressing a personal view as an academic, I will try to flag that up.

Would it be helpful if I were to make an opening statement? Perhaps I could do that after the introduction of the other witness.

Dr Pazos-Vidal: I am very grateful to be able to contribute to this hearing. I am responsible for the international policy unit of the Convention of Scottish Local Authorities, which is the local authority association of the 32 Scottish councils—the equivalent to the Local Government Association in England or Wales for instance. A lot of that work these days refers to repatriation of European Union powers. A lot of what we are going to say has been discussed and validated by our political structures and through the councils. I am also an academic researcher on this whole issue of multilevel governance, which is about how levels of government relate to each other—an issue that I believe is particularly true in this Bill. Where it is helpful for the discussion, I will speak from that international academic experience.

The Chair: Thank you. Professor Fothergill, you have one minute for a brief statement, because time is very limited.

Professor Fothergill: I will do my best. There are two points I want to make by way of introduction. First, we need subsidy control. Subsidies can be expensive and they can be distortive, but they can also deliver valuable objectives—things like regional development, the green agenda and so on—so we do need rules.

The second point I would like to make—this is the big concern I want to air in front of the Committee as we proceed—is about the relationship between the Bill and the levelling-up agenda. The Subsidy Control Bill is potentially a very useful tool in delivering the levelling-up agenda, but at the moment the details are very thin. In particular, there is an absence of an assisted area map, and no commitment to developing one. That would be extremely helpful in promoting growth in the less-prosperous local economies of the United Kingdom.

Q2 Seema Malhotra (Feltham and Heston) (Lab/Co-op): Thank you, Professor Forthergill, for joining us today. I have two brief questions on your comments about the interface between the Bill and the levelling-up agenda. First, what more needs to be done to the Bill to strengthen the involvement and the achievement of the levelling-up agenda in relation to targets and policy? Should there be reporting on that? Should the Competition and Markets Authority's report consider the geographical distribution of subsidies, for example?

Secondly, do you think that the UK Government and the devolved Administrations will have a common way of delivering policy goals under the subsidy control principle—on market failure and equity rationales, for example? How might that be interpreted by different levels of government? Does more need to be done for a stronger relationship between Westminster and the devolved Administrations and local government on the implementation of the measures?

Professor Fothergill: Okay—there is quite a lot in that. Let me clarify the point I was trying to make about how an assisted area map would strengthen the levelling-up agenda, and how it might be incorporated into the legislation.

An assisted area map would define the areas where you could give additional subsidies to firms to promote investment, to bring in businesses from abroad, and to strengthen existing businesses in the locality, for example. We had an assisted area map under the old EU state aid rules, but let me be quite clear: the whole idea of an assisted area map was not something that was imposed on the UK from Brussels; we had an assisted area map in the UK long before Britain even joined the EU. There were maps back in the '60s and early '70s defining the areas where it was legitimate to give additional aid to businesses to promote new jobs or protect existing ones.

I do not think we need some after the event audit of how the geography of subsidies has worked out. What we need, in advance, are some clear criteria defining the places where enhanced subsidies can be given. That sends an important signal to businesses in particular that if they were interested in investing in one of the less-prosperous parts of the UK, they might be able to draw down significant financial assistance. At the moment, the legislation does not rule out an assisted area map, but equally, it does not rule one in. I have to say, with due respect to the Minister, that that leaves a huge amount of discretion in the hands of the ministerial team. In the absence of any commitment in the legislation to defining how an assisted area map should be drawn up, I think it is perhaps taking the whole issue away from the scrutiny of Parliament. That is how the legislation should be strengthened on that point.

On the question of the relationship between the UK Government and the devolved Administrations, it is perhaps fair and reasonable that the whole of the UK operates under broadly the same rules, but there is then a subsidiary issue of whether the different tiers of government in the UK actually take advantage of those rules. That has always been the case. It was the case under the old EU state aid rules; we had rules about what you could and could not do, but the different parts of the United Kingdom put larger or smaller amounts of funding into different schemes to support businesses. As long as that was all within the rules, that was okay. In terms of the detailed implementation of the legislation, and I think a lot of the real operation of this legislation does depend on the details—the devil is in the details—then, clearly, it would be good to have that meaningful dialogue between Westminster and the devolved Administrations, even if we are, at the end of the day, working within a single set of rules for the whole United Kingdom.

Q3 The Chair: Thank you. Dr Serafin, would you wish to comment?

Dr Pazos-Vidal: Yes. I could only agree, in general terms, with what has been said already. I will take the questions in order. Quite clearly, there is an expectation from local authorities that there is a specific targeting of given areas, because that will provide legal certainty for public authorities, but also for economic operators, about whether the subsidies can or cannot be applied. That makes sense, and it is clearly a message that comes from many councils across Scotland, particularly from those that have benefited from assisted area status. It is

worth recalling, in the case of Scotland for instance, that the regional selective assistance scheme has been running for many years, awarding around £20 million through 60 or so awards a year. That is something that local authorities want to retain, but the same could be applied to colleagues from the rest of the UK.

Quite clearly, as has been mentioned, the Bill does not say one thing or the other. The supporting documents do say, more or less, that there might be some guidelines or guidance on the special targeting of assisted areas, which, as has been mentioned, has been a feature of the UK policy toolbox since the 1930s. The Bill could, for instance, define what an assisted area is. That would be encouraged, and there would be limited discretion on that for whoever the Minister might be in however many years' time.

That would be helpful, but it is also important to distinguish that having assisted areas does not mean having European-style assisted areas. After all, the geographies that we have seen in the assisted area maps so far have been developed by Eurostat, according to —I would say—very technocratic approaches that did not fit the geographies of the UK. It created a certain degree of lineation by imposing certain geographies that are not recognisable in the UK, so we should not necessarily look at just having the old maps.

The good thing however, is that the UK, and Scotland, and different parts of the UK, are very privileged in the amount of data that is available at a very local level—sub-municipal level, sub-local level, ward and street level—which will allow the granularity that we perhaps did not have under the EU system. Now that we are moving to creating a home-grown system of assisted areas, that could be very much put to use, in a way that has perhaps not been used at the same level during the time of EU membership.

We should not underestimate the importance for this Bill of the participation of the devolved Administrations, and also local government. After all, we are talking about policy choices, not competition policies. It is about policy outcome and political rationale, and we have a very divided system of Governments, which is asymmetric in certain respects. If a decision is just taken by a Minister, or a Minister just issues guidance, as set out in clause 79, that will not work.

We should not underestimate the constitutional impact that the United Kingdom Internal Market Act 2020 had on the territorial constitution and the governmental relations of the UK. That needs to be addressed—one issue with the Act is subsidy control—by taking a more inclusive approach in terms of how rules are made, even if the Minister has to say at the end, "We need to have a system of engagement and consultation."

In my view, that should also be specifically incentivised, mentioned and encouraged in the Bill itself, so that it is not a question of the Government of the day just deciding to engage or not to engage. This is quite important—it is part of the role of intergovernmental relations. I should also say that, in a statement to this House in March 2018, the UK Government committed to engage with local government when designing the new rules. That is actually one of the ways of honouring the Government commitment.

Q4 Seema Malhotra: May I follow up on how the guidance should be developed more inclusively? Where in the Bill are there gaps relating to the involvement of the devolved Administrations? Is it in the development of the guidance? Are there powers for the Secretary of State that the devolved Administrations do not have, such as the ability to call in and make challenges? I would be very grateful for your view on that.

Dr Pazos-Vidal: You are absolutely right. Ideally, the Bill should be the framework of how this engagement should be done. Under clause 79, the Secretary of State should consult anybody whom they consider it appropriate to consult before issuing statutory guidance. In our view, that is too general and not reflective of the territorial constitution of the UK as it stands. There should be a provision that the Secretary of State must consult the devolved Administrations in a dedicated system that should also involve local law. There should be a duty to make sure that different parts of the UK have full ownership of the final outcome—it is true that the Secretary of State will issue the guidance—but also the intelligence and the local know-how about these ideas. It is very easy to see things in a certain way in Westminster, but when you are in different parts of the UK, they do not look like that.

On the call-in powers, it is true that UK Ministers have responsibilities only for England on some issues, whereas other Ministers across the UK have responsibilities on the same issue in other parts of the UK. It makes sense that whenever the competent authority is in a devolved part of the UK, the same consultation mechanism should be provided, mutatis mutandis, before the Secretary of State decides to call in a subsidy. That seems to be quite inclusive. I have to say that the intergovernmental review, which was updated in March this year, tends to go in the other direction, but as the supporting document suggests, we cannot wait for the intergovernmental review to happen, because it will take its time.

Subsidy control is potentially a sensitive constitutional and political issue. We are already introducing provisions to make sure that the mechanism of consultation happens. It is quite consistent with the direction of travel in which we should be going. As I say, the intergovernmental review really goes in that direction, but that is a wider piece of work, and I think we should introduce those social provisions in the Bill.

Likewise, because the Government committed to a consultation mechanism with local government a couple of years ago, there should be some provisions for that. That is what we had when the European Commission used to draft the guidelines. The member states had a special legislative committee, and there were specific procedures for local government. There was even a statutory procedure through the European Committee of the Regions. There was a whole infrastructure to help the Commission design the rules. We do not have to replicate exactly the same things, but at the very least we should have the same level of ownership as we had during our EU membership—or more. That is only right and proper if we are to ensure that the system works in the long term.

Equally, the new subsidy control unit in the CMA could benefit from the work of the devolved state aid units, which are not mentioned in the Bill or the supporting documents, but naturally these teams have a lot of experience working with local authorities, sorting out the practicalities of how to assign a subsidy. It would be a shame if all this knowledge was not properly used to design the system and rules that will emerge from the Bill.

Professor Fothergill: May I amplify my remarks on the consultation and the involvement of the devolved Administrations? The crucial thing is to include a commitment to consultation and to their involvement in the drawing up of the detailed guidance, because the guidance really matters. Let me illustrate how this might work in the context of an assisted area map, if we are to have such a map; I know from personal involvement that an assisted area map has been drawn up the last three times round, and a full consultation process has been undertaken. Indeed, there was a two-stage consultation process, in which the principles underlining the map were out for consultation first, because the map was largely drawn here in the UK, though parts of it were set by Europe, and then the draft map went out to consultation.

I am also aware that the devolved Administrations largely drove the detailed drawing of that assisted area map within their own patch. There needs to be a commitment to undertake a similar sort of procedure.

Q5 Bill Esterson (Sefton Central) (Lab): Good morning, Dr Pazos-Vidal and Professor Fothergill. You have talked a lot about the assisted area map, Professor, and I certainly take your points about its history and benefits, not least as an MP from Merseyside, which has benefited enormously from state aid over many years. However, there are some criticisms of the way that assisted area maps interact with area boundaries. For example, there are cases where an area that needs investment and support is inside the assisted area, yet the businesses that could deliver that support are outside. Could you say a bit about what the counter-argument is, and what the answer to those sorts of boundary issues might be? I suspect that may be part of our deliberations.

Professor Fothergill: I think that we can draw a map better this time if it is simply drawn here in the UK. Last time, the way that the system worked was that certain areas under EU rules automatically qualified for assistance, such as west Wales and the valleys, the highlands and islands, and Cornwall. There was also a particular deal over Northern Ireland, which meant that the whole of Northern Ireland automatically qualified. The rest of the map beyond those limited areas was drawn within the UK, but it was drawn within an overall population envelope, in terms of population coverage, that was set by Brussels, so it was a question of, "We have so much coverage to allocate. Where do we allocate it?".

The Government went through a very difficult procedure to try to target the areas that were most in need, as well as places within or close to those areas where there were genuine opportunities to promote jobs and support businesses. In a sense, it is no good putting a line around a residential area and saying, "That is eligible for business support", because there are not businesses in most residential areas; it is the big areas of trading estates and so on that need to be targeted.

Obviously, within a fixed population envelope, not everywhere that perhaps deserved coverage was able to get coverage. If we are drawing a map here in the United Kingdom under our own rules, we can increase the population coverage of that assisted area map to better reflect the true extent of economic disadvantage in the United Kingdom. Under the old EU rules, only about a quarter of the entire UK population was on the map. That really does not accurately reflect the extent of areas that need levelling up in the United Kingdom.

Q6 The Chair: Would you like to add anything, Dr Pazos-Vidal?

Dr Pazos-Vidal: Just briefly, as a complement. My earlier point about consultation at EU level was about all the guidance, not just the regional aid guidance for assisted areas, which is what has been mentioned. Of course we would like to replicate the system and improve on it. On this issue I think—

The Chair: Dr Pazos-Vidal, could you speak up a little bit?

Dr Pazos-Vidal: Yes, sorry. I withdrew from the mic. The general provisions are more state aid-like than just regional aid guidance received in the assisted areas, as my colleagued referred to previously. On the issue of assisted areas, it is important to highlight that assisted areas of regional aid guidance, as they used to be known, were done in complement to the so-called structural funds. Likewise, it is important that we develop the UK's shared prosperity fund. It appears there will be an announcement on that in tomorrow's statement by the Chancellor.

As we have seen so far from the pilots of the shared prosperity fund that are already running—the community renewal fund or the levelling-up fund more generally—they already do some special targeting. It makes sense that the assisted areas map that might be developed should complement the geographical prioritisation that we have seen, and probably want to see now in the shared prosperity fund. Sometimes to reinforce that, and sometimes because these things were not prioritised by the shared prosperity fund subsidies or grants, policy outcomes could be promoted by way of public subsidy. It is important to develop both the shared prosperity fund and the assisted areas map in parallel to make sure they are consistent.

As I said earlier, the UK has incredible advantages in terms of the amount of data that it has. For instance, I know from my experience of international work on EU legislation that it was very common for UK impact assessments of UK input of EU law to be taken as a reference for other countries, because they were very well done. We have a huge degree of knowledge that we can use in the UK to develop maps that deliver, and to learn from possible mistakes, or non-optimal allocation of subsidies in the past in the UK.

Perhaps connected to that is the ongoing work on better regulation by the UK Government, and the need for special and better input of the rules. That is something that the UK will be well equipped to provide, if the Government are allowed to be helped by different parts of the UK and the competent authorities there.

Q7 Simon Baynes (Clwyd South) (Con): Thanks to both our witnesses for their excellent presentations this morning. I want to look at this issue of the maps from the point of view of a north-east Wales MP. That area has really missed out on a great deal of subsidy compared with west Wales and south Wales, as you mentioned, Professor. That is obviously due to the assisted area map. You raised points about perhaps questioning exactly

[Simon Baynes]

how that is drawn up. As a former county council and town councillor, I feel that it is often at the council level that the areas of deprivation are properly understood, rather than at the devolved Administration level. I feel that the Subsidy Control Bill gives us an opportunity to recast the way in which we provide subsidies, so that we are more flexible and not so obsessed by area maps; you just alluded to their shortcomings. Another Member mentioned the question of how you deal with issues at the boundaries, which is always a major problem. Does the Bill gives us an opportunity to be more flexible and drill down to the local level, which is often where the knowledge lies of what should be done about areas of deprivation?

Professor Fothergill: I would not deny that there are huge amounts of knowledge at local level, but local economies tend to operate beyond the boundaries of individual local authorities. Local economies do not operate at the level of standard statistical regions, but neither do they operate on the small geographical scale of most local authorities; they tend to span several neighbouring areas.

The problem is that if we do not have a map and some sort of discrimination in favour of less prosperous areas, you would be treating potential investment in Guildford, let us say, on the same basis as potential investment in Grimsby. You would not be attempting to incentivise the levelling up of the United Kingdom. In certain places, if we really are serious about levelling up, we have to put more resources into that effort, and we have to use state aid as one of the tools for delivering new jobs.

There is a lot of evidence, accumulated over many years, that state aid subsidies for investment do work and deliver extra jobs in the more disadvantaged areas. It is an effective policy tool, as long as we do it properly and do not squander public money by giving grants automatically; obviously, we would have to scrutinise each case individually, within a set of broad rules. In west Wales and the valleys, for example, it has been possible to give investment projects capital grants of up to 30%, whereas in the more prosperous parts of south-east England, it has not been possible to support investment at all. There has been that positive discrimination in favour of the less prosperous places.

There is a boundary problem; that is inherent in any drawing up of maps. Maps can be drawn sensitively, though, and in a hierarchical way. You do not have to have an area that is entitled to loads of money, and have the rest of the country entitled to no support. You can have a gradation of areas. Indeed, we had a gradation of areas under the old EU system, and under the old UK system before we joined the European Union.

Dr Pazos-Vidal: The Bill is, in a way, is an expression of the legal and cultural difference between continental, EU and UK law. In EU and continental law, everything that is not explicitly mentioned is forbidden, whereas in common law, and certainly in this Bill, it is almost the opposite principle: you can do everything that is not specifically forbidden. That works in theory; in practice, it does not, and that is why we need guidelines, block exemptions, and maps. You need commonly understood criteria across the UK to avoid subsidy rises and the opposite, which is doing less, because the UK public sector is much more risk-averse than the public sector in other European or western countries. We see that at the moment. The old EU rules are de facto being used by managers in local authorities across the UK because they are far more detailed, safe and understood than the provisional framework we have at the moment.

If you do not have a common understanding across the UK about how rules should be applied, what subsidies, even if you leave a lot of local latitude, which we support, of course, we might end up going down the track of, "Are these investments that are actually needed?" and that is why this has to be done. In the same way, there has to be a certain common framework across the UK, because if you leave the onus for doing checks on local authorities, some will not have the capacity or resources, and others would. A common understanding across the UK is helpful for everybody, and that also includes maps.

The Chair: A lot of Members have indicated that they want to speak now. I have the list and I will call those whose eye I have caught—I will try to call Members whom I have seen first. Seema Malhotra, do you have a question?

Seema Malhotra: I am happy to come back in later.

The Chair: Thank you. Could I have Stephen Flynn?

Q8 Stephen Flynn (Aberdeen South) (SNP): Thank you, Professor Fothergill and Dr Pazos-Vidal. A lot of what we have heard from you both has been incredibly helpful, but it perhaps shows the limitations of the Bill—we are talking about is what is not in the Bill. Dr Pazos-Vidal, in your last answer you touched on the impact that the lack of detail and certainty could have. I would like to tease that out a little bit more with both of you. What impact do you think the lack of detail and certainty behind the provisions in the Bill will have on the devolved nations in the UK when it comes to making investment decisions? What impact will it have on local government and the decisions that it makes? Finally, Dr Pazos-Vidal, I think you said a wee while ago that the Bill as it stands is not reflective of the territorial constitution of the UK. Could you elaborate on that statement?

Professor Fothergill: Could I emphasise that the Bill settles remarkably little? It deals with the basic principles that will underpin the UK subsidy control regime. Those principles are very sound—they are not out of line with what we previously lived within and they do make sense. It settles the principles and some of the mechanisms legally, but it does not actually tell us what you can or cannot do. That is all going to come forward in the secondary legislation—the statutory instruments, is that the term? Ministers will be able to issue the secondary legislation within the framework of the Bill. From the point of the view of the devolved Administrations, for example, the passage of the Bill will still leave them pretty much in the dark as to what they can and cannot do. The important element in all of this is the guidance that will be issued subsequently. Quite what that guidance will say or is required to say is not specified in detail in the Bill.

Dr Pazos-Vidal: Absolutely, I completely agree. The Bill provides a good skeleton to start working on the guidance. In an ideal world, that would be enough—everybody would have the same understanding and

there would be a very cohesive set of ideas on what needs to be done, what the priorities are and so on. Some countries in northern Europe are like that—they are very consensual democracies. I think the UK is a bit more complicated than that and therefore there should be a bit more detail. The UK is complicated and asymmetric, and therefore some of the provisions ideally need to be in the Bill. It is not about being too prescriptive—that is not the UK way—but about marking the direction of how the secondary legislation should be carried out.

In respect of the territorial constitution, it is just an academic expression. Quite clearly, the internal market Act could be considered part of the constitution because of the way it repatriates EU powers and the way it treats common frameworks. Irrespective of that, the Scotland Act always recognised that the UK level—Westminster Ministers—has powers over the internal market. That has always been the case, but in a way the internal market goes a step further. At the same time, public authorities, devolved Administrations and local government have competencies on local economic development, provision of public services and so on. Those powers also need to be recognised. Ideally, and this goes back to the point I made earlier, the Bill needs to be reflective of the powers of the UK Westminster Government and the internal market of the UK, and of the specific powers that local authorities and the devolved Administration Parliaments have in those policy areas. At the moment, the territorial element—the devolved and local element of the Bill—is limited, to put it politely. It would be helpful for the coherence of the system and to avoid problems of political interpretation in the future if some of that is put into the Bill. It does not have to be very detailed, but some improvements to the Bill would be helpful for the scheme in the long term.

The Chair: I am going to request that Members are brief, because many of you wish to ask questions.

Q9 The Parliamentary Under-Secretary of State for Business, Energy and Industrial Strategy (Paul Scully): May I ask some brief questions, for some brief answers, to get through this? This is a permissive structure rather than asking for explicit permission. When you ask for explicit permission from the state aid regime in the EU, essentially the assisted area maps give an exemption to having to ask for that permission in the first place and wait those months to do it. What is the purpose of the maps that you are talking about, apart from "within guidance" rather than because no exemption is required?

Professor Fothergill: The assisted area maps allow a higher rate of financial support for certain sorts of activities—subsidies, state aid or whatever you wish to call it—than is allowed outside the assisted area maps, so you can provide more intensive support. If you really want to attract inward investors to that locality, you can put more money on the table within an assisted area than you can outside an assisted area. One of the advantages of having a map in advance is that it is a clear signal to everyone concerned. Businesses know that those are areas where financial support can be made available, and local players know that in those areas it is possible to put money on the table if necessary to deliver an investment.

If everywhere is treated the same, everybody will be competing against one another on a level playing field, in terms of powers to give financial support or subsidy. If we are seriously interested in levelling up, we have to back that up with something beyond rhetoric. We have to back it up with some action.

Q10 Paul Scully: Do you agree that the reason we need to level up is that that system has not worked to date?

Professor Fothergill: I disagree that it has not worked. There is plenty of evidence, as I was trying to say earlier, that support for businesses through the various programmes of regional investment aid over the years has delivered substantial numbers of new jobs in the less prosperous areas of the country. Often it has meant that we have been swimming against the tide in many of those places, with old industries disappearing at the same time as we have been doing our best to create new jobs. We have not solved the problem, but plenty of evidence shows that the use of what was state aid—we used to call it regional development grants, or regional selective assistance in England, many years ago—has positive benefits and delivers jobs in the places on the assisted area map.

Q11 Paul Scully: My final question is whether there is any example beyond the EU that we can look to? We are flipping that approach on its head: is there any other trading bloc or country that has a wider regime than the subsidy control regime that we are proposing?

Professor Fothergill: I am not an expert on some of the international systems, I have to say. I would hesitate to look across the Atlantic, from what I understand of the system there, because I do not think they have a simple system—a map—that applies in the United States, and therefore you get the horrible situation developing of a subsidy race between individual states. In many respects, that is what we want to avoid in the United Kingdom. We want a system where Guildford is not bidding against Grimsby. We want a system where places that really need the investment have the powers to deliver the investment. It is not just the places—the local place—of course; it is the Department for Business itself having the powers to mobilise its resources to give financial assistance in the Grimsbys rather than in the Guildfords.

Q12 Paul Scully: Dr Pazos-Vidal, on that last question about international comparisons, do you have any view?

Dr Pazos-Vidal: Yes. I could also say, if I quote some data from pre-pandemic, that in the regional selective assistance scheme in Scotland—I just checked that quickly when you raised that question—there were 69 awards worth in total £24 million, and the jobs created or safeguarded were around 2,500. That is evidence about where these schemes have worked, and we can look at that and evaluate that in terms of the development of the new system.

When it comes to international comparisons, I completely agree with Professor Fothergill. Clearly, the reason why this system exists across the Union—the state aid regime or the procurement framework legislation—is to provide the kind of chaotic system we have in the so-called competitive federalism model, such as in the US. Definitely, the UK would be much smaller and I would say more homogeneous in many ways. We should not actually have a system that is imitating that, because I think even the Americans sometimes would love to have a system that is more consistent than what we had in the EU and

probably that we will have in the UK, so definitely no. A system that incentivises subsidy races and competitive federalism such as in the US will not perhaps be helpful.

In any case, it is a matter of choice. On this issue, I have been working with my Finnish and Norwegian colleagues, and one is from part of the EU and the other is not from part of the EU. One—Norway—uses special targeting so that certain remote areas will actually get additional subsidies, whereas Finland does the minimum in what it sets. In that more domestic context—a more European context, I mean, or closer to the UK—there is a variety of models, so it is just a question of finding the model that suits the UK, given the geographies, the mobility and the economy of the UK, specific area diversities that we have in the UK, and also the very specific asymmetric system that we have in the UK.

The Chair: Thank you. I am going to call Kirsty Blackman first, then Steve Kinnock, Kevin Hollinrake, Alexander Stafford and Mr Millar. As already indicated, and looking at the time, could we stick to brief questions and brief answers to carry on up to the allocated time?

Q13 Kirsty Blackman (Aberdeen North) (SNP): I have two questions, but the first one is a yes/no answer. The first is: has COSLA been consulted on what the forthcoming guidance is likely to say? The second question is for both of you. Schedule 1, principle F says:

"Subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom."

Can I ask you both if that sounds like it is meaningful, and if it is meaningful, what does it mean?

Dr Pazos-Vidal: I assume that the first question was addressed to me. We have had a number of discussions, it is true, in the preparation of the Green Paper and the consultation, and some of this work was facilitated by other organisations, such as ones you are going to speak to later today. I think when we are talking about consultation, we are talking about consultation as something that is structured, something that is predictable, something that has more accountability and something that approaches corporate action to a certain extent. That is something that in the UK is far more touch and go compared with other countries. I think this is an opportunity, on something as potentially economically and politically sensitive as this, to have a much more structured system of consultation, rather than the issue of a local approach. That sometimes works fine—no problem—and I have said to myself that perhaps we could possibly do that many times over the years. Here it is a rather serious matter that is also very political as well, and we should have a very predictable and pre-set system. I should have mentioned that there is a precedent in the UK with the Localism Act 2011. Part 2 deals with subsidies and passing down funds from the EU. At the time, we negotiated a system of proper consultation with local government, in this case from the UK Government, so perhaps that is an issue at present that we can look at in terms of implementing this Bill.

Professor Fothergill: Subsidies are something that you should only use sparingly and where they really deliver something that is beneficial. That is why we need the principles that are set out in the legislation. Indeed, it is hard to see how we can get away from those principles that are set out in the legislation, because all bar one are embodied in the trade and co-operation agreement that was signed with the EU last December. The additional point that the UK Government have added is basically to stop one area entering into a bidding game with another area within the UK, and that, in a sense, is a sensible addition. These are meaningful principles: you use subsidies sparingly, but you use them where they really can deliver something that you think is socially and economically valuable.

Q14 Stephen Kinnock (Aberavon) (Lab): I have a question for Professor Fothergill about aid intensity. As we know, under the previous state aid regimes, there were upper limits on the percentage of state aid that could be given. There is no guidance on what the aid intensity percentages should be in this legislation. Could you briefly set out what your thoughts on that are —I would certainly assume that aid intensity should be higher than was the case previously—and why that should be?

Professor Fothergill: The detail is not there in the legislation. It is all to be determined; it will follow in the guidance, one presumes. Under the old EU rules, the aid intensity ceiling varies from scheme to scheme and from place to place, but if we were talking about regional investment aid, for example, the maximum aid you could give in the top tier of assisted area was 30% for a larger business. It actually rose to 50% for a very small business, but the problem that we had under the old EU rules was that in the lowest category of assisted area, which covered most of the assisted areas in England, the ceiling for regional investment aid was only 10%. Frankly, at 10%, that is very marginal and very unlikely to make much of a difference to business decisions. If a decision is that marginal, really, come on: is it going to tip the balance? Incidentally, the EU has recently raised that lower threshold to, I think, 15%.

Q15 Kevin Hollinrake (Thirsk and Malton) (Con): Are you talking about the turnover?

Professor Fothergill: The 10% to 15%?

Kevin Hollinrake: Of turnover?

Professor Fothergill: No, that is 10% of the cost of a capital investment. It has recently been raised to 15%. Certainly, if we are setting aid intensity ceilings in the UK under the detailed guidance, we need to set them at levels that really can make a difference; otherwise, you are probably ending up just giving money to projects that would have gone ahead anyway, which is not the objective and is actually contrary to the principles of the legislation.

Q16 Kevin Hollinrake: Subsidies are allowed only for enterprises. Are we missing anything out? Does that mean that social enterprises are excluded? Are the thresholds—£500,000 and £315,000—the right ones? That is pretty much mirrored in what we have already in the EU. Is that the right level? Should it be lower or higher for scrutiny purposes, and should there be a central register of subsidies, rather than those being held at local authority level?

Professor Fothergill: I do not think I have a definitive answer on your first point. I was asked the same question a couple of days ago, and I was not actually sure where charitable and third-sector businesses stood in all this.

On your third point, which is about a central register, I think there is a lot of merit and transparency in the whole system.

I hope I have understood your second point correctly. The intention behind the Bill is that there will be what is called, in technical terms, a de minimis threshold, below which you do not have to comply with the rules.

Q17 Kevin Hollinrake: You do not have to report it.

Professor Fothergill: Yes, you can just get on and do things. Colleagues with whom I work in local government say that when they are involved in giving small amounts of financial support to businesses, or would like to do so—when we are talking about small amounts, it is unlikely to distort competition within the UK, or indeed international competition—there are too many hurdles if you have to go through lots and lots of paperwork.

Q18 Kevin Hollinrake: But £500,000 is not a small amount.

Professor Fothergill: We may be talking about slightly different things. I am talking about the de minimis threshold, which the Bill sets at £315,000 over three years or thereabouts.

Q19 Kevin Hollinrake: There are two different levels: £500,000 inside a scheme and £315,000, accumulative, outside a scheme. Do you think those are the right levels?

Professor Fothergill: I do not have a view on the £500,000 issue. Is that about reporting?

Kevin Hollinrake: Yes.

Professor Fothergill: I see no reason that things should be reported. This is a personal view, not the view of the alliance, but I know that the local authorities that I work with in the Industrial Communities Alliance have welcomed an increase in the de minimis threshold. Operationally, that makes sense and does not lead to big damage to competition across the country, or indeed to damage to international trade.

Q20 Seema Malhotra: May I ask for some final clarification on that? Part of the question was about the reporting. If all the decisions have been made and the work has been done on a subsidy, reporting—putting an entry on the database—should not be an onerous matter. Are you objecting to that also?

Professor Fothergill: No, I am not objecting to reporting. By the way, when I speak of reporting, I should clarify that the alliance has not taken a particular view on the issue. If I am speaking about reporting, I am expressing a personal opinion that it should not be too onerous. I would have to consult some of my local authority colleagues to clarify their precise views on that, but I know that their precise view on the de minimis threshold is that the increase is a good idea.

The Chair: Dr Serafin, do you wish to add anything, briefly?

Dr Pazos-Vidal: Some of the EU rules are there because one size fits all. Even the level of the threshold is low because the prices in some countries are much lower than you experience in the UK, so it makes complete sense to raise the threshold, which is welcome.

On the level of reporting, the feedback we got from councils in Scotland, and from colleagues across the UK as well, is that it should not be even more onerous than what we had in the EU. Perhaps the proposed system goes in a direction whereby it is less onerous, and that should definitely be the way forward.

The Chair: I am afraid that this might be the last question.

Q21 Alexander Stafford (Rother Valley) (Con): On the map situation, it seems to me that you are trying to recreate the previous situation with the EU. If you mention Grimsby, you might as well mention Rother Valley. I can tell you that the previous system does not work. My concern is that if areas get more prosperous, they will be over-subsidised, and if areas get less prosperous over the next five or 10 years, they will miss out on subsidies. To me, there is no flexibility with the map. Could you talk to me briefly about how you will keep it flexible, so that when areas change financially, they can benefit or, equally, come out of the system we have in mind?

Professor Fothergill: First, I would remind you that the map is not simply an EU concept. If anything, an assisted area map was something that the UK sold to the European Union as being a good idea, because we had done it for lots of years. The point is that the map should not be set in stone for all time, of course. Indeed, over the years, the assisted area map in the UK has evolved and changed. Under the EU rules, it used to change on a seven-year cycle. I remember that even before we joined the European Union—I am getting long in the tooth—we changed and revised our assisted area map on several occasions. If an area gets more prosperous, it will come down a tier. If another area is hit by a closure of a major employer, we would have the flexibility to up its status on the map. The map is not for all time; it is a tool, and the details can be adjusted.

The Chair: I am afraid that brings us to the end of the time allotted for the Committee to ask questions. I thank the witnesses on behalf of the Committee.

Examination of Witnesses

Thomas Pope and Professor Stephanie Rickard gave evidence.

10.31 am

The Chair: We will now hear oral evidence from Thomas Pope, deputy chief economist at the Institute for Government, who is here in person, and Professor Stephanie Rickard, professor of political science at the London School of Economics, who is appearing virtually. For this session, we have until 11.25 am. Could the witnesses please introduce themselves?

Thomas Pope: I am Thomas Pope, deputy chief economist at the Institute for Government. I have been leading our work on subsidy control for the last couple of years.

Professor Rickard: Good morning. I am Stephanie Rickard, professor at the London School of Economics. I am a political economist, specialising in Government subsidies.

Q22 The Chair: Would the witnesses please give a one-minute statement?

Thomas Pope: Great. We have been looking at this area for a couple of years, from back before the trade and co-operation agreement was agreed. The Bill, as a structure, certainly fits with lots of our recommendations and makes sense, taking advantage of the flexibility that the TCA affords. The decision has been made to move away from state aid and this broad structure makes sense—it fits.

A concern would be that, as it stands, the Bill creates a system that is very much a skeleton—there is more to come later. We need to think about the way in which that secondary legislation is going to be made, and how the guidance is going to be made and updated over time. On the enforcement side, one concern would be that there is a risk that damaging subsidies are going to slip through the net. I am sure we can get on to this in more detail later, but particularly on schemes, there is a bit of a risk that damaging schemes might slip through the net.

Professor Rickard: Subsidies can be a very important policy tool for Governments. We see more and more Governments using subsidies more and more often—last year alone, subsidies more than tripled in developed economies—so I really commend the efforts to design a subsidy control regime.

I would like to draw the Committee's attention to one issue that I think is particularly important, which is transparency. The benefits of transparency, and more of it, outweigh the costs. One of the benefits I would flag is that transparency can potentially ensure that granting authorities comply with the principles that are laid out in the Bill. They are asked to self-certify their compliance with the principles—that is a bit like me asking my students to mark their own exams. They may do so very diligently and very carefully, but there may at times be some incentives to deviate from the principles and to give themselves a higher mark. Having greater transparency and requiring more subsidies to be notified and to be put into the database for public scrutiny will help to ensure that the granting authorities are very careful in complying with the principles. While I applaud the commitment to transparency that is very obvious is chapter 3, I would encourage Members to think carefully about the ways in which we could further increase the transparency to ensure that the UK was a world leader in transparency in subsidies and so as to help to provide consistency and certainty for business and accountability to taxpayers.

The Chair: Thank you. I call Seema Malhotra.

Q23 Seema Malhotra: Thank you, Mr Sharma. I thank Professor Rickard and Thomas Pope for coming in today to give evidence. I will pick up on the issue of transparency first. What specific additions to the Bill might you recommend to increase transparency? I am also interested in your view on whether there should be some form of reporting for all subsidies under the Bill or whether there should be a threshold. Could that be done in a more streamlined way to allow for that transparency?

Could I also ask for your view on whether the six-month reporting deadline is necessary? In your view, could that threshold be reduced if decisions had already been made about the subsidy? Those questions are for both our witnesses. Finally, do you believe that the one-month challenge window is sufficient in the context of how the scheme is being designed and is likely to operate in order to make sure there can be an effective challenge to any subsidies?

Thomas Pope: On transparency, as most of you know, there is the £315,000 de minimis threshold. If the subsidy is below that level, we need not worry whether it is complying with the system. There is then a higher £500,000 threshold. If a subsidy complies with a scheme that has already been approved, it need not be put on the database if it is below £500,000.

Q24 Seema Malhotra: Can I clarify one thing, because I want it to be clear? Being below £315,000 means that the subsidy does not need to comply with the principles—does not need to be checked against those—and does not need to be reported?

Thomas Pope: Yes, that's right. The purpose of having a de minimis threshold is that we are worried only about subsidies that are likely to distort competition or investment. The judgment has been made. It is quite hard to know exactly what the right level there is. I think a bit higher than the EU level, which was €200,000, seems about right, so £315,000 certainly seems reasonable.

My view is that there is a benefit to more transparency. Therefore, it is worth having a lower threshold for publishing to the database than for someone having to think about whether they are complying with the regime and all its principles. There are a couple of reasons for that.

First, I think we want to understand how the system is actually working and the impact of different decisions that we are making in the system. One of the big policy levers we are pulling in the system is the £315,000 de minimis threshold, and we want to understand how influential that is. Are lots of subsidies bunching at £300,000 or £310,000 so as not to comply with the system? That is not necessarily a problem, but we want to understand what impact the system is having on how subsidies are offered. If we censor everything so we see only the stuff above £315,000, we have a less good sense of how the system is operating.

Likewise, with the £500,000 threshold for subsidies that are approved under a scheme, we want to understand how often a scheme is being used and how much public authorities are going down that route. Again, we want to know whether a £400,000 subsidy is being approved under a scheme. I do not think that means we should pull the transparency limit down to £500 or £1,000.

Personally, I think a public authority also has to ask the question, "Is this a subsidy?" With quite big amounts of money, such as £100,000 or £200,000, they will be thinking about that. For £1,500 here or there, I imagine that would be quite a big additional burden. Realistically, we are never going to move the de minimis threshold down to £1,500 or £50,000. A level on the transparency database of around the EU level or a bit lower—about £175,000; I know that was in the original consultation as a possibility—would be a reasonable compromise between those two concerns. We could even have fewer things that needed to be put on the database if the subsidy was below £315,000, although we might want it on the database somewhere.

Professor Rickard: I will give a few examples of things that could be changed to help to improve transparency. The first would be to lower that threshold and report subsidies even if they were below £350,000 over three years. Report subsidies that were included in a scheme, even if they were less than £500,000. Report subsidies even if they were subsidies for the public economic interest.

I would shorten that time for reporting; I think six months is too long. If it is a tax break for 12 months, after 12 months a competitor might be out of business, so I certainly think that there would be scope to shorten the time to reporting. I would increase the time to challenge. One month is too short, particularly if someone is learning about a subsidy only through the public reporting and the database. Remember, for subsidies not publicly reported in the database, how will we know about them? Where will we learn information about them? I would increase the time that people had, or people with interest had, to challenge a subsidy.

I would maintain the information on the subsidy for longer than six years. Six years is mentioned in the Bill. I do not see a good justification for deleting information after six years, particularly if we want to analyse how the regime is working. We need this over-time data, this long-time thing, to ask, is the regime working? Are we achieving what we want to achieve with our subsidies? Are we getting good value for money? Are we helping disadvantaged areas? Are we helping to create economic activity? To assess that, we need to have this information and we should not delete it after a certain time.

I would ensure that certain types of information were reported. At the moment, the Secretary of State is given the discretion to ask for certain types of information, but I would want to see as much information as we could possibly get, while protecting commercially sensitive information.

Finally, I would look to make sure that all the information was self-contained in the database, without having links to local councils or other information. As we know, links break and information gets lost. I understand that there is this concern about putting a burden on granting authorities. One possibility may be to ask the recipients themselves to help to provide some of the information, so we could cross-reference and make sure that we had the correct information from the granting authority and the correct information from the recipients.

Those are just some ideas that would help to improve transparency. Through transparency, we can get better compliance and better value for money, and we can help to ensure that the subsidies that are being granted meet the goals that we are setting out to achieve.

Q25 Stephen Flynn: Thank you both for your contributions so far. Thomas, if I picked you up correctly at the start, you made a reference to damaging schemes. Can you elaborate on that and what you are thinking in that regard?

I also have a question for both of you. Thomas, you touched on this in your remarks in relation to this being a skeleton of a Bill. We heard earlier from Professor Fothergill and Dr Pazos-Vidal about the potential implications of that lack of clarity about what sits behind the Bill and what the Government will be coming forward with: statutory instruments or secondary legislation. Do you see the lack of detail in the Bill having a consequence for the investment decisions of public bodies right across the UK?

Thomas Pope: On schemes, my specific concern—and this links to the one-month challenge window—is that a scheme gets added to the database or is set up. There is then a 28-day window where a potential interested party—someone who might be damaged by a subsidy that could be offered under the scheme—has a chance to appeal and to ask for more information and go through the process as set out in the Bill. Once that challenge window has passed, the scheme is approved and subsidies that fit with that scheme can then be offered with no opportunity to challenge.

The risk is that, if I am a competitor business and a business I am competing against is going to get a subsidy under a scheme, but has not yet got that subsidy at the point when the scheme has been set up, I will probably not know that the scheme is here and the clock is ticking. Here is this subsidy that will come later, and I am an interested party because a subsidy could go to my competitor. It is not even clear that that business would be an interested party, so my concern is that there is a benefit to using schemes in that you do not need to go through a separate process for every subsidy, but there is a corresponding risk that if there is not sufficient scrutiny of the schemes when they are set up, there is almost a sort of free pass if a scheme slips through the net and it allows you to give quite damaging subsidies. Once the time limit has passed, there is nothing you can do about that.

In terms of the Bill being a skeleton, there is a trade-off here. We want to be flexible and we want to be able to update elements of our regime over time. Things that are set in primary legislation are harder to change, but at the same time there are bits of the Bill where there is a lot of power given to the Secretary of State, with very little indication about how he or she might need to, for example, decide what constitutes a subsidy of interest or of particular interest. Those are subsidies that would have to be sent to the Competition and Markets Authority before they could be offered. More detail there would be good.

As to whether it will actually cause uncertainty and affect investment decisions, I do not talk directly to public authorities in the same way that some of your other witnesses will. To the extent that you can write very good guidance and have clear secondary legislation, that need not be a major issue. There are other ways that legal certainty can be provided. There probably is an extent to which this system will take a bit of bedding in. It is not clear how the Competition Appeal Tribunal is going to treat appeals and what the burden of evidence will be, or how easy it will be to challenge a subsidy subject to the principles. Probably that means there will be a bit of caution, at least initially while that beds in, because there will be legal precedent that will build up as well. Again, I do not think that will be a permanent feature necessarily.

Professor Rickard: I will weigh in briefly on the streamlined routes that have been proposed. The Government could propose a streamlined route, and they would bring it to Parliament, so there would be some room for scrutiny, but once that streamlined route or scheme is set up, granting authorities can just designate that subsidy as falling within that scheme, and then it is

assumed to comply. That is a potentially interesting situation where you have a scheme and granting authorities say, "Yes, the subsidy is part of the scheme." If we then assume compliance and do not see these subsidies showing up in the database, that potentially allows some leeway for subsidies that are not fully compliant with all of the principles. That would be one potential way in which the streamlined scheme would lay on top of the individual subsidies.

It is a route, of course, for the Government to set priorities and say, "This is an area in which we would like to see subsidies." They are signalling a policy direction in which they would like to go. Of course, when you get a new Government, you might get new schemes. That would be right and proper. In a democratic system, you have a new Government with a new platform, and the voters have chosen that platform, but it does set up, potentially, a situation where you would have a streamed route scheme full of subsidies, and when there is a new Government there is a new streamed route scheme for subsidies. I am thinking about how to transition between them and the potential uncertainty generated for both businesses and granting authorities.

I want to pick up on one thing that Mr Pope said about who can challenge a potential subsidy. This is an area that would benefit from additional scrutiny. Thinking about who has a particular interest in challenging those subsidies, there may be good reasons to expand the potential set of challengers to ensure that it includes not just competitors but maybe also employees, trade unions, taxpayers or interest groups. That would give us more eyes on the subsidies to ensure that they are complying with the principles, ensuring value for money and achieving the economic outcomes that they set out to achieve.

Q26 Seema Malhotra: Can I ask for one quick point of clarification? Would that mean, Professor Rickard, that you would widen the definition of interested parties to include those groups explicitly?

Professor Rickard: Yes. In my opinion, that would be a good strategy. The benefits of ensuring increased scrutiny of how these subsidies are being allocated and how taxpayers' money is being spent would outweigh any potential costs.

Q27 Seema Malhotra: Would that include the devolved Administrations?

Professor Rickard: That is a good question. I do not have an opinion on that; I do not think I could say.

Q28 Simon Baynes: Thank you, witnesses, for your contributions this morning. Which subsidy system internationally would you consider the best role model for the UK, and why?

Professor Rickard: That is an excellent question. The UK is in a unique position because of the TCA. It is hard to find a perfect analogy internationally because of the TCA, and the structure and the limit of the TCA puts the UK in a unique position.

However, there are world-leading examples in transparency, for example Norway and Germany. They are extremely transparent in their subsidies. States within Germany provide annual subsidy reports that run to 50, 60 or 70 pages. I am not saying that that is necessary, but that is the kind of world-leading transparency that the UK could and should aim for.

What the UK is setting up in the subsidy control regime here is closer to what we see in the World Trade Organisation. The WTO allows subsidies, except for those that are prohibited, a bit like what is suggested here. Granting authorities are allowed to provide subsidies, and they self-certify that their subsidies comply with the rules, as we see in the Bill. Those subsidies then persist until they are challenged. That is the best analogy that we see.

The challenge in the WTO system is that many subsidies that do not comply with the principles, with the agreed upon rules, persist for a long time, and in fact may never be challenged. That is the challenge in the subsidy control regime here: granting the ability to self-assess your own subsidies to ensure that they comply with the principles, but thinking about what happens when a subsidy that does not comply with those principles is enacted. How long does it persist before it is challenged? Certainly in the WTO system they persist for a very long time, because it is difficult to enact that challenge.

Q29 Simon Baynes: But is there one country, in the overall scope of what we are talking about—not just transparency but effectiveness—that you think is a role model?

Professor Rickard: I think that Norway is an excellent role model, but again it is in a slightly different situation because it is not bound by the TCA. It has a different system, because it does not have devolved Administrations or devolved authorities. It has Parliament providing budgets to particular subsidy categories, and then an independent body assigning subsidies to groups based purely on economic logic and cost-benefit analysis. So there are politics involved in the budgeting—"We allocate this amount of money for subsidies to research and development"—but then the decision making is granted to an independent body of experts. That works particularly well, because there is still democratic accountability at the budgeting level, but the actual decision-making process is apolitical and led by experts, based on economic logic.

Simon Baynes: Thank you, Professor. Thomas?

Thomas Pope: As Professor Rickard was alluding to, we are going to be more or less unique in having a domestic subsidy control regime like this. The main examples internationally are the EU state aid system and the WTO system, both of which have that international dimension. We have looked in our research at other systems and what other countries try to do, such as Canada in its inter-provincial free trade agreement. It has more barriers to trade than we do. It has a consulting requirement on subsidies, although it is not a very strong one.

Having looked at other countries, what you see in those countries that do not have a domestic subsidy control regime, which is most of them outside of the EU, are the negative effects of not having one. The US is the obvious example, which other witnesses have alluded to, where you get these quite big subsidy races between cities or states. In Canada, there have also been issues with the risk of subsidy races.

Very centralised countries are in a different situation, because if only one authority can grant subsidies, you are not worried about subsidy races. In a world made up purely of central Governments, I think that it would

still be good practice to have a set of rules like this, but you would probably design the rules and the system slightly differently. In the UK, we have the three devolved authorities, which puts us in a different situation and means that, even though we are unique in having a domestic subsidy control regime and even though it is required by our TCA obligations, it is a positive thing and it will be very helpful.

Q30 Simon Baynes: Is there one country that you particularly admire, and how do they do it?

Thomas Pope: As I say, I do not think that there is one that has a domestic regime. We are charting our own course here.

Q31 Bill Esterson: You have both outlined your concerns about the system in relatively general terms. Do you have specific advice on what you would do differently on some of the challenges? Professor, could you speak about the challenges in self-certification and marking your own exams, which you have referred to? Mr Pope, perhaps you could address some of the timeframe points that you started to touch on?

Professor Rickard: That is an excellent question. Some of the things that could help would be lengthening the time available to challenge—extending it beyond a month would be helpful—and clarifying, and potentially expanding, the definition of interested parties who could potentially challenge a subsidy if they are concerned.

Clause 71(3) has this really interesting phrase. It says that the relevant date you can challenge from is the date on which the subsidy has been published to the database or

"the date on which the interested party first knew or ought to have known"

about the subsidy decision in question. That is difficult. What is the date that a potential challenger ought to have known about the subsidy? That is one particular phrase that jumped out at me, and I am curious to think more about it. We should think about extending the time that you can challenge and defining more clearly and broadly who potential challengers may be, but also about how we will learn about a subsidy if it has not been notified and if we do not have publicly available information about it.

Potential challengers can ask the granting authority for information, and the Bill provides a duty on the granting authorities to provide that information. However, it is difficult to know, particularly within this short timeframe, how I will learn of this subsidy. How will I learn that there is a subsidy that is disadvantaging me and that I think is not complying with the principles? How can I learn that in this very short timeframe? Those are some concrete examples of changes that could be made to increase the ability of interested parties, competitors, businesses and others to scrutinise the subsidies that are being provided.

Q32 Bill Esterson: Before I ask Mr Pope to answer the same question, how would you make that information more widely available and easier to find?

Professor Rickard: The database set up by the Department for Business, Energy and Industrial Strategy is excellent, but I would make sure that more subsidies were notified into that database and that it fully encompasses all the information—not linking to other pages, but putting all relevant information into that database. I would also require granting authorities to put that information into the database in a timely fashion—quicker than six months—and make sure that more subsidies have to be notified, not allowing those exemptions for subsidies under £350,000 or £500,000 within a scheme.

Q33 Bill Esterson: Thanks very much. I will ask you the follow-up question as well, Mr Pope: if not six months, how quickly should that information be there?

Thomas Pope: I will answer the first question first. I agree with many of the suggestions outlined by Professor Rickard. My real concern is that, as that 28-day period is so short, there is a risk that a subsidy or scheme that is concerning is missed by potential interested parties. The issue could be that they do not qualify as interested parties, so you could expand that, or that the time is too short.

I would propose one solution. At the moment, the CMA has a reactive role in the system—deliberately so. It issues reports on subsidies of interest and particular interest before they have been offered, if those public bodies offer the subsidies to the CMA for review. In special cases, where the Secretary of State is concerned about a subsidy, it can issue a post-award referral, and after a subsidy has been awarded, the CMA can issue a report. I think that the CMA should have the ability to do that investigation off its own bat. That would not mean giving it a standing a court, or anything like that, but that it could keep an eye on potentially problematic subsidies. If the CMA reports on a subsidy and raises a concern—there would not be ratings—it is much more likely that interested parties would be aware of that. I would possibly go even further and allow the CMA to have standing in court, but I understand that that is quite a departure from the system and it probably will not be a goer. However, at the very least, the CMA could have the proactive ability to investigate and issue reports ex-post.

The six-month challenge deadline is clearly something that has been brought in from the TCA, and that is the maximum we are allowed. I am afraid that I do not have a very strong view on the right amount. I have not spent enough time actually writing the reports. The public authorities have to be very strong on that.

Q34 Seema Malhotra: To clarify, that is the maximum amount.

Thomas Pope: We could make it shorter within our own legislation if we wanted to.

Q35 Kirsty Blackman: My questions focus particularly on chapter 3, which is about the subsidy database and transparency. Do you have any idea what the logic is behind the tax entries in the database? It seems to me that if something relates to a subsidy measure that is taxed, it may not need to be reported for almost two years—or even longer—because it is a year past the first declaration on the tax. Does that make sense, or would it be better to have something different?

I have two more questions. In the event of cumulative subsidies, where an organisation receives various subsidies from various organisations and it takes them over the threshold of the three-year period, who is responsible for ensuring that that is put on the subsidy database? I am not clear on that.

[Kirsty Blackman]

Lastly, EU state aid rules have a number of de minimis exemptions for agriculture and various other things. Does the fact that the Bill does not include them cause problems, or is it more of a tidying-up exercise?

Thomas Pope: On tax, again, that is a longer allowance that is in the TCA, and that is why it looks like that in the Bill. Of course, the bigger question is why it was permitted in the TCA in the first place. I think it is because tax measures tend to operate on a slightly different cycle—we have our financial years and budgets—and that is why there is a different time period, but I am not quite sure.

In terms of cumulative subsidies, I am not sure that they would end up on the database—I do not believe that is the case. In terms of monitoring that, and knowing whether subsidies have exceeded a de minimis limit, I think that is the responsibility of the recipient rather than the public body. However, I am afraid that is one where you would have to ask some lawyers.

Professor Rickard: I do not know the logic behind the 12 months, but as I said in my opening remarks, I think that is quite a long time. If a competitor is benefitting from a discriminatory tax break, then after 12 months I could be out of business. So it does seem like a very long time, and I would think about the potential benefits of shortening it.

The cumulative subsidies question is an excellent point, and it highlights the arbitrariness of having these thresholds. The monetary thresholds are potentially obscuring these cumulative subsidies, exactly as has been suggested. In my own research on procurements, not in the UK but elsewhere, I find that Governments break up their procurement contracts specifically to get them below the threshold so that they do not have to report them and they are not open to scrutiny. I am not suggesting that happens in terms of subsidies, but these cumulative subsidies could potentially take on that kind of logic where you are breaking up a subsidy or collaborating on providing subsidies below that threshold that actually end up going above the threshold.

Finally, in terms of exemptions, there are exemptions included in this Bill. Sometimes they may be legacy exemptions, but I think that the benefits of having this information surely outweigh the costs. If we understand where the subsidies are going and who is getting subsidised, we can have a better understanding of whether these subsidies are working and achieving their goals. If you are weighing up the costs and benefits, I think the benefits of having fewer exemptions would outweigh the costs.

Q36 Kirsty Blackman: To follow that up, probably with Mr Pope, it says specifically that indirect subsidies are to be included. In the event that an indirect subsidy occurs, who is responsible for ensuring that there is transparency and information about that?

Thomas Pope: That is a very good question, and one that I am afraid I do not know the answer to.

Q37 Andrew Bowie (West Aberdeenshire and Kincardine) (Con): Thank you very much for your evidence this morning. Coming to Mr Pope first, you spoke about the domestic subsidy control regime being almost unique, and said that we were charting our own course. On balance, do you think having a subsidy control regime is a good thing?

Thomas Pope: Yes.

Q38 Andrew Bowie: Why do other countries around the world choose not to do it?

Thomas Pope: That is a very good question. I think there are various benefits, and in our research we have outlined them. I think there is a particular case, in a system where competing jurisdictions can offer subsidies, for worrying about subsidy races. Actually, that is effectively a co-ordination problem, and a subsidy control regime is effectively that co-ordination.

I also think that, in general, there are benefits to setting out very clearly what the principles are by which you are going to offer subsidies. An interesting analogy—it is not quite the same—is fiscal rules; they are not legally binding in the same way, but these rules are set out by politicians to indicate what we think is sensible policy. They can sometimes help you to resist, for example, political pressure to save a business that is going under but that has no long-term prospects. Those rules can also be quite helpful.

In general, it is quite hard to hold the line on those things, and that probably explains why there are not domestic subsidy control regimes in general, because this is Governments tying their own hands. In general, it is quite hard to do that. It just so happens that we have an international obligation that requires us to do that, but I think that is actually a benefit rather than a cost. That would be my answer as to why there are not lots of subsidy control regimes elsewhere. Professor Rickard may know better than me on that.

Professor Rickard: No, Mr Pope is absolutely right. You are committing to saying that the regions within the United Kingdom will not compete with each other in trying to win business, jobs and investment by awarding subsidies. It is difficult to give up that ability, and say that we will not engage in that type of subsidy war, but we have seen the damage that competitive subsidy provisions have caused. Estimates suggest that in the United States $80 billion a year is spent by states competing for business with subsidies. If they agreed not to do it, and had their own subsidy control regime, real income in manufacturing alone would increase by 5%, so there are real economic gains to tying your hands and saying, "We're not going to engage in subsidy races."

Evidence suggests that subsidy races do not work in the long term. Even providing big subsidies does not necessarily guarantee that you will get businesses where you want them to be. For example, the US biotech industry is concentrated in five cities with world-leading universities and very deep and highly educated labour pools. Businesses locate there despite the fact that 41 out of 50 states have very generous subsidies to try to lure them to their regions, so evidence suggests that spending subsidies to try to attract jobs may not always work, and doing so is really a waste, in terms of spending a lot of money in a way that potentially hurts productivity and real income.

Q39 Kevin Hollinrake: Professor Rickard, Mr Pope said that he felt that the level for reporting should be lower than £500,000; it should be £175,000. You agreed, but you did not specify a level. What level do you think it should be?

Professor Rickard: I don't have a strong feeling on the level. I am not sure where the £175,000 number came from. I heard Mr Pope mention it. I do not know the logic behind it.

Kevin Hollinrake: I think it's the EU level.

Professor Rickard: Okay, thank you. I do not see why it could not be lower. I recognise that there is a concern that we are putting a burden on granting authorities, but the granting authorities have this information. They have already collated it and made a decision. Increasingly, with tech, I do not think it is a huge burden to upload that type of information to a database, so I would argue for an even lower threshold than £175,000. If I gave you a number, it would be an arbitrary number—as I suggested, all thresholds are arbitrary numbers—but it could be as low as £100,000. I think that would not unduly burden governing authorities, but would increase transparency to ensure value for money and compliance with the principles.

Thomas Pope: I completely agree that all of these numbers are somewhat arbitrary. The reason I mentioned £175,000 specifically is that it is the EU level, and it is the number that was in the Government's consultation at the start of the year. That was a question in the consultation, but in the end the level was higher. It is very hard to say whether the right number is £100,000, £80,000, £150,000, £175,000 or £210,000. It should be low enough that we have a good sense of how the system is actually affecting how subsidies are offered.

Q40 Seema Malhotra: I want to follow up on a couple of points, starting with the duty to provide pre-action information—primarily, clause 76. There are ways in which a public authority may refuse or suggest that it would be difficult to give information based on a number of categories—commercial sensitivity, confidentiality and so on—without it seeming to be clear how that could then be challenged. I wonder whether transparency, and being able to bring a challenge with the information needed, needs to be stronger, or whether the role of the CMA might need to be stronger to support requests for information.

Thomas Pope: I am not an expert on that, and you will probably want to ask other witnesses. I think part of the point here is that a failure to comply with something like this could be challengeable, not directly, under the process set out in this Bill, but that is also a violation of public law. But as I say, it would be better to ask a lawyer than me on that.

Professor Rickard: One possibility, potentially, when you are talking about commercially sensitive information is not to limit the amount of commercially sensitive information that would be in the database but, when you do get a public request, to do something similar to what they do with Nomis and the labour data, which is very disaggregated by firms. You have to sign a declaration saying why you are using this information and that you are not going to use it in a commercial way. That may be a way to provide the necessary information to a potential challenger, but in a way that protects information that is potentially commercially sensitive. So I certainly think there are ways around it, and I think that it would be important to explore some of those mechanisms.

Q41 Seema Malhotra: May I ask one further follow-up question in relation to this? I am not saying that there would be, but there may be circumstances in which accurate information is not always reported. What mechanisms do you see in the Bill—or does there need to be more on this—in relation to potential audit and checking of the accuracy of the information being submitted, and who should be doing that?

Professor Rickard: I think you are right that we are not only trusting the governing authorities to mark their own exams, but trusting them to provide accurate information about what they have done. So I think there are two possibilities—this is blue-sky thinking. One, as I have suggested before, is to collate information—get the information from the granting authority, but also request information from the body or entity that has received the subsidy. And then you can confirm: do these numbers match? This happens in trade all the time: you say, "What is the export data? What is the import data? Can we match these data?" And if not, what is the problem; why do they not appear to match? One way to have a check and balance on the information that is being provided by the governing authority is to seek this kind of information from the people who received the subsidy. It could even be a condition of receiving the subsidy that you will report this information.

The second suggestion, which is one that Mr Pope offered previously, is giving the CMA a bigger role for audits, and even beyond that. I am glad to see that the CMA has been tasked with doing five-yearly reports, but I really think that there is a lot of additional room for ex post scrutiny, not only of the regime but of individual subsidies, to say, "Did this subsidy achieve this goal? Was the subsidy successful? Did it engender jobs, business and economic opportunities?" I think that is a really important role for the CMA or another entity like that, but in order to be able to do this kind of auditing, this ex post analysis, we need more information, which means we need more transparency.

Thomas Pope: I would agree with all of that. What I would say is that I think there is an incentive to get the information right, in that I think if you are found to have got it wrong, probably your 28-day time limit after you have offered accurate information does not apply. So you do want to make sure that you are providing accurate information here. But I completely agree about some role for the CMA or some other body in getting the information from recipients—it sounds like a very good idea to me—and checking that, subject to how burdensome that would be. Yes, that is a good cross-validation. I suppose the concern here would be that the CMA ends up a sinkhole of time, just looking through every single thing that goes on the database, but if you just have a flag to say, "Hold on, the information doesn't match here," and then the CMA looks further, they are two strategies that work together quite well, I think.

Q42 Kirsty Blackman: Professor Rickard, you mentioned the subsidy database that there is already. I have had a bit of a look at that. Do you think that it is a model for how we should take this forward, or do you think that there are significant amounts of information that we need to add to it in order that it will make sense to people? You did touch on this, but could you just expand on it?

Professor Rickard: I think it is a commendable first step. I think it is great that it is publicly available, that it is online, that it is relatively transparent. There would be some more things that I would like to see. For example, there are many cases, as you will know from looking at it, where it just says "other" or "not available", and there are a lot of cells that have not been filled in or do not look as if they have been filled in correctly. I

encourage some mechanism to ensure that you cannot just say "other" or "not available". Sometimes the amounts are listed as zero; I am not sure I understand why that is the case. I also think best practice could be followed in terms of international comparability. For example, you could put on these codes that we use to identify the sector, like NACE codes—internationally standard codes that would identify the sector to which these subsidies are going.

The Bill is really commendable and is a great initial step, and I am glad to see it up there, but there are ways that it could be improved by providing more information, and more consistent and detailed information, and by using some of these international standard codes that exist in databases that we use—for example, for imports, employment, industries or firms.

Q43 Seema Malhotra: I am keen to get your views on the subsidy advice unit and its role, responsibilities and powers as defined in the Bill. Do you think that the unit should have some further external voices on it, whether on the board or involved in its work? It seems to have a huge amount of responsibility, but its membership can only be drawn from within the CMA, from which panels might be appointed to undertake reviews. To give confidence, a process of review will need to be robust and have knowledge of devolved competencies, regional issues and so on. Do you think the unit will be strong enough, or do you think it needs some adaptation in order to make it the most effective it needs to be?

Thomas Pope: I certainly think that the CMA and/or the subsidy advice unit should have a membership and input reflecting its four-nation role in the UK and the fact that, although subsidy control is a reserved matter, it affects devolved competence and the operation of policy in all four nations of the UK. I therefore think it is appropriate that there be better devolved representation. These statutory responsibilities go to the CMA and are then exercised by the subsidy advice unit and the Office for the Internal Market. I think it is time for a look at the CMA's governance, although that is obviously slightly beyond the scope of the Bill.

There could certainly be ways that the subsidy advice unit could get input. A particular concern could be that, because the regional economies of the UK can look quite different, you may need a different set of local expertise when the CMA or SAU were looking into a particular subsidy in Scotland from what you would need in the north of England, which has quite a different industrial structure. There are lots of creative ways that the SAU could do that. You could have regional panels that have that expertise. I would go further and have a real look at the governance of the CMA as well, because ultimately, while it is the SAU doing the subsidy control, those are the CMA's powers.

Professor Rickard: I was surprised to see in legislation that members of the SAU can only be employees of the CMA. There may be very good reasons for that. The key for the SAU is to ensure that it is insulated from politics and that the decisions it makes are really not only economic logic but are consistent with the principles. Of course, there is a role for politics in that—people saying, "We want to achieve these particular outcomes"—but I think you really want the SAU to be a technocratic body staffed by experts who will review a subsidy on balance, in line with the principles. With those goals in mind, there may be scope for expanded membership, or certainly at least for ensuring some sort of feed-in from experts on the particular issues, subsidies or areas that the SAU happens to be investigating.

The Chair: I am afraid that brings us to the end of the time allotted for the Committee to ask questions and, indeed, for this morning's sitting. I thank our witnesses, on behalf of the Committee, for their evidence. The Committee will meet again at 2 pm this afternoon here in the Boothroyd Room to continue taking oral evidence.

11.25 am

The Chair adjourned the Committee without Question put (Standing Order No. 88).

Adjourned till this day at Two o'clock.