



# **Consultation on subsidy control Designing a new approach for the UK**

## **GMB Union response**

### **Background**

GMB Union represents more than 600,000 workers across the private and public sectors and across each nation of the UK. We are the third largest union that is affiliated to the TUC. This submission on selected questions is additional to the evidence submitted by the TUC.

### **General comments**

GMB recognises that a new subsidy regime is required following the UK's departure from the European Union. Governments of all political compositions have pursued subsidies, and we recognise that the UK has an obligation to introduce a new regime under the terms of the TCA. We have long argued that successive UK governments have failed to use legitimate flexibilities in their interpretation of EU subsidy rules and unduly timid in their approach to reforming EU rules.

While we would welcome some of the transparency commitments made in the consultation (even if we would like some of them to go further), the self-limiting nature of other proposals, and the at times ideologically charged rhetoric of the consultation, is regrettable.<sup>1</sup> Well-designed subsidies are an effective tool for mitigating market failures, protecting critical jobs, and delivering the Government's social objectives which should include good employment standards. As we argue in response to question 11, the TCA provides for a level of flexibility in pursuit of social objectives that is not fully reflected in the proposals.

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<sup>1</sup> I.e. the reference to 'the 1970s approach of Government trying to run the economy or bailing out unsustainable companies.' Consultation document, page 9.

We are specifically concerned by the lack of clarity over the powers that will be invested in the proposed independent body, and over its composition. Our responses reflect our deeply held concern that there is currently no planned requirement on the new body to engage constructively with unions. We also outline our opposition to any centralisation of powers at the expense of the devolved nations, and we call on Ministers to urgently provide clarity on this important area.

## **Defence and security**

Although the consultation document does not explicitly invite views on defence and security exemptions, it does state that ‘the Government intends to implement an exemption for subsidies where they are required for the purpose of defence or safe-guarding national security.’<sup>2</sup> The Government has extensive freedom of action in this sphere, as set out under Reservation 1 (d) of the TCA, which replicates the freedoms over defence procurement and subsidies that are enshrined in Article 346 of the TFEU.

As a defence shipbuilding union, and the lead maritime union on the Confederation of Shipbuilding and Engineering Unions (CSEU), GMB considers it *essential* that the UK retains its uninhibited freedom to award subsidies in the defence sector. If we were without the scope for industrial intervention then there is a real risk that essential sovereign defence manufacturing capabilities would be lost.

The Government has in the past found it necessary to award time-limited subsidies to prevent such a scenario, such as the 2013 decision to order three Offshore Patrol Vessels ‘to bridge the gap between the completion of the carrier and the start of the Type 26 programme’ and ‘sustain warship building on the Clyde and to maintain its viability into the future.’<sup>3</sup> The order would likely meet the definition of a subsidy as set out in the consultation document.

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<sup>2</sup> Consultation document, page 22.

<sup>3</sup> House of Commons, Official Report, 06 November 2013 : Column 259  
[https://publications.parliament.uk/pa/cm201314/cmhansrd/cm131106/debtext/131106-0001.htm#131106-0001.htm\\_spnew95](https://publications.parliament.uk/pa/cm201314/cmhansrd/cm131106/debtext/131106-0001.htm#131106-0001.htm_spnew95)

The objectives of the 2021 Defence and Security Industrial Strategy can only be met if the Government has the flexibility to use its spending powers to preserve critical domestic capacity. It is essential that this exemption is maintained under the new regime.

**Question 10: Do you agree with the inclusion of an additional principle focused on protecting the UK internal market by minimising the distortive effects on competition?**

It is unclear how this principle could be applied in practice. Any localised subsidy (including the relatively common practice of authorities investing in infrastructure, such as warehousing space or new roadworks) to secure private investment could be interpreted to be a distortion of the internal market.

While GMB believes that there needs to be much greater transparency around such subsidy awards, and that these subsidies should in all cases be conditional on enforceable commitments to job creation and good employment standards, there is a danger that the current powers of the devolved administrations and local authorities will effectively be extinguished under a regime that does not allow for local variation.

It is crucial that the voices of the devolved nations are not diminished as part of any new duties and enforcement regime. This issue is explored in more detail in our response to the questions on the proposed independent body.

**Question 11: Do you think there should be any additional principles?**

We understand that the consultation has received representations that environmental objectives should be written in as a specific policy objective for all subsidy decisions. If particular policy objectives are to be given a raised status then GMB believes that it is essential that social objectives – including job creation in the UK and raised employment standards – are given equal weight.

Environmental and social objectives do not need to be in conflict, but the reality is that existing environmental subsidies fail to deliver social justice. In our view, the pillars of securing economic growth, environmental sustainability and social justice should be given weight.

BEIS spent £4.8 billion on wind subsidies in 2019/20<sup>4</sup> but the sector employed just 6,500 FTE jobs across the UK in 2019 (and according to the ONS the real number could be as low as 3,000).<sup>5</sup> UK suppliers – including the steel industry – have been systematically excluded from order allocations by developers, and as a result historic yards lie empty.

The text of the TCA gives considerable scope for the inclusion of social objectives, including the permitting of subsidies to address ‘social difficulties or distributional concerns’ and rescue packages ‘if they contribute to an objective of public interest by avoiding social hardship or preventing a severe market failure, in particular with regard to job losses or disruption of an important service that is difficult to replicate.’<sup>6</sup> These freedoms are not fully reflected in the consultation document.

We believe that social objectives should be fully incorporated into the remit of the independent body, and we further believe that the UK should not limit its freedom of action (within the limits set by the TCA) in pursuit of socially just outcomes.

**Question 30: Which sectors or particular categories of subsidy (such as for disadvantaged areas, R&D, transport, skills etc) would benefit from tailored provisions or specific guidance on subsidy control? If so, why, and what should the nature, extent and form of the provisions be?**

Some industries will take longer to recover from the recession than others. While the outlook is uncertain, it is likely that demand will remain suppressed in aviation, cash-in-transit, and parts of the manufacturing and retail sectors even if the wider economy recovers as projected.

These jobs are often highly localised. If wage subsidies are withdrawn as planned before sectoral demand has recovered then communities will be devastated by redundancies. Such mass lay-offs are associated with long-lasting (and even

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<sup>4</sup> Written Answer to Parliamentary Question 110812, on Renewable Energy: Government Assistance, 03 November 2020 <https://questions-statements.parliament.uk/written-questions/detail/2020-11-03/110812>

<sup>5</sup> ONS, Low carbon and renewable energy economy, UK: 2019, 29 March 2021 <https://www.ons.gov.uk/economy/environmentalaccounts/bulletins/finalestimates/2019>

<sup>6</sup> TCA Article 3.4, 184-185.

intergenerational) underemployment and poor mental and physical health.<sup>7</sup> This eventuality would be completely contrary to the stated aims of the Government's 'levelling up' agenda, and it would lead instead to a 'k-shaped recovery' in which some communities are left permanently behind.

The future subsidy regime must have the flexibility to support these sectors over a longer time period. More importantly, the Government must have the political will to provide tailored support at a sector level, alongside the general schemes that cannot address the needs of every sector.

We also call on the Department to develop a close working relationship with trade unions in the steel industry. GMB has disagreed with the Commission's view that the steel industry is over-capacity and therefore that state support should be limited, which has left the industry without adequate cover when it is competing with heavily state-backed international suppliers. Policymakers have adopted a naïve interpretation of free market pressures, while other steel producing states have not hesitated to artificially subsidise their own industries. This has resulted in job losses in the UK and elsewhere. It is important that this approach is not replicated under the new regime.

### **Question 34. Should there be a minimum threshold of £50,000 below which no subsidies have to be reported?**

While we welcome the commitment towards publication of a UK register of subsidies, we are concerned that the proposed threshold is higher than the transparency thresholds adopted for different disclosure requirements in the public sector. Central UK Government departments are required to publish details of spending above £25,000, and local authorities in England are required to publish details of expenditure above the much lower threshold of £500.

While we believe that steps could be taken to narrow the transparency gap between central and local government, there should be consistency between the two regimes. There is otherwise a real risk of companies being awarded subsidies without democratic accountability, or satisfaction of the clear public interest in

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<sup>7</sup> See GMB, *After the jobs go: the effects of mass redundancies*, 05 November 2020 <https://www.gmb.org.uk/long-read/after-jobs-go-effects-mass-redundancies>

knowing whether employers have met the conditions (such as those relating to employment creation or labour standards) that public bodies may place on subsidy awards.

Following well publicised examples of inappropriate procurement and cronyism in access to contracts during the coronavirus pandemic, there is a public interest in greater transparency under future regimes – not less.

**Question 35. Do you agree that the obligation should be to upload information within six months of the commitment to award a subsidy?**

No. In our view, the proposed timescale is too long. UK Government departments are required to publish details of contract awards within 20 days, following redactions and a standstill period. There should be consistency between the two transparency regimes.

**Questions 36 to 41 on the form and functions of the independent body**

The constitution and powers of the proposed ‘independent body’ is critical to understanding the new UK subsidy regime, and it is disappointing that only scant detail is available on how the new body would operate in practice.

Specifically, the position of the devolved administrations under the new regime is ill-defined. While the consultation document sets out a general assurance that ‘the governments of Scotland, Wales and Northern Ireland will remain in charge of their own spending decisions,’<sup>8</sup> without clarity over the powers and responsibilities of the new body it is difficult to see how that assurance can be given weight.

There is a real risk that – under the new arrangements – the individual devolved nations will go from having been one of many influential voices to subordinate partners under a dominant Westminster Government. Coupled to this threat is the twin danger of a new body that is remote, technocratic, and politicised.

To illustrate our concerns, the Scottish Government has in recent years used its discretion to acquire stakes in Burntisland Fabrications (BiFab) and Ferguson

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<sup>8</sup> Consultation document, page 3.

Marine, specialist firms that support essential skills, and which otherwise risked total closure. It is unclear from the consultation document whether similar interventions would or could be blocked under the proposed body. It is essential that there is no power grab that impedes the established rights of the devolved nations to pursue different subsidy policies to the UK Government.

To mitigate these concerns, the devolved administrations should have a right to nominate representatives to the new body at a board level. The new body should uphold high standards of transparency, with proactive and timely publication of minutes and a presumption of a public right to attend hearings. Trade unions should have statutory consultation rights where a subsidy decision relates to an employer with which they are recognised, and trade unions should also be represented within the body's governance and consultative policy formation structures, as modelled on the Social Partnership approach that has been successfully pioneered by the Welsh Government.