

From: [Moore, Stephen \(DFE\)](#)
To: [Dukelow, Victor](#); [McCormick, Andrew \(DFE\)](#)
Cc: [Murphy, Shane](#); [McMurray, Stephen](#); [McEvoy, Martin](#); [Marten, Lucy](#); [McAdams, Jonathan](#); [Adair, Joanne](#); [Smith, Alan](#)
Subject: Re: RHI State aid notification - readout of 7 March telephone call with DG Comp
Date: 07 March 2017 19:27:59
Attachments: [image001.png](#)

Victor

In relation to clawback from CAFRE, whilst this would be logical, I think the Commission would say that is a matter for NI, not them.

This is because CAFRE is not an undertaking and therefore is not receiving State aid.

Stephen

Sent from my BlackBerry 10 smartphone.

From: Dukelow, Victor
Sent: Tuesday, 7 March 2017 19:03
To: McCormick, Andrew (DFE); Moore, Stephen (DFE)
Cc: Murphy, Shane; McMurray, Stephen; McEvoy, Martin; Marten, Lucy; McAdams, Jonathan; Adair, Joanne; Smith, Alan
Subject: Re: RHI State aid notification - readout of 7 March telephone call with DG Comp

Stephen, Lucy

If the Commission was content that this is brushed up with the 2018 regs I wonder could we also say we would seek to include clawback arrangements in this case. That could both address CAFRE's desire not to be seen as being better off and the Commission's desire that we have not to have made anyone better off.

Victor

Sent with BlackBerry Work (www.blackberry.com)

From: ["McCormick, Andrew (DFE)"] <Andrew.McCormick@economy-ni.gov.uk>
Sent: 7 Mar 2017 6:29 p.m.
To: ["Moore, Stephen (DFE)"] <Stephen.Moore@economy-ni.gov.uk>
Subject: [RE: RHI State aid notification - readout of 7 March telephone call with DG Comp]
Cc: ["Dukelow, Victor"] <Victor.Dukelow@economy-ni.gov.uk>, "Murphy, Shane" <Shane.Murphy@economy-ni.gov.uk>, "McMurray, Stephen" <Stephen.McMurray@economy-ni.gov.uk>, "McEvoy, Martin" <Martin.McEvoy@finance-ni.gov.uk>, "Marten, Lucy" <Lucy.Marten@economy-ni.gov.uk>, "McAdams, Jonathan" <Jonathan.McAdams@economy-ni.gov.uk>, "Adair, Joanne" <Joanne.Adair@economy-ni.gov.uk>, "Smith, Alan" <Alan.Smith@economy-ni.gov.uk>

Would it suffice to commit to fixing this in the Regs for 1 April 2018 onwards?

Many thanks for all the progress on this.

From: Moore, Stephen (DfE)
Sent: 07 March 2017 18:26
To: McEvoy, Martin; Marten, Lucy; Moore, Stephen (DfE); McAdams, Jonathan; Adair, Joanne; Smith, Alan
Cc: Dukelow, Victor; Murphy, Shane; McCormick, Andrew (DFE); McMurray, Stephen
Subject: Re: RHI State aid notification - readout of 7 March telephone call with DG Comp

Martin

I think the big issue is not the actual payments to CAFRE but the impression that the Commission's decision would effectively be seen as the Commission giving its legal approval for a situation in which a beneficiary of the RHI scheme could have moved from one tariff band to another and been awarded more State aid.

Remember at the time the regulations were changed the whole point was to reduce the amount of aid going to new biomass boilers and those that were already accredited were to be unchanged.

This seems to have been an unintentional error in the drafting of the 2015 regulations and if nothing can be done legally to correct this error, then I think the Commission will be looking for us to commit to fixing this.

If we can also stop or reduce the payments to CAFRE now even better.

Hope this makes sense.

Stephen

Sent from my BlackBerry 10 smartphone.

From: McEvoy, Martin
Sent: Tuesday, 7 March 2017 17:59
To: Marten, Lucy; Moore, Stephen (DfE); McAdams, Jonathan; Adair, Joanne; Smith, Alan
Cc: Dukelow, Victor; Murphy, Shane; McCormick, Andrew (DFE); McMurray, Stephen
Subject: RE: RHI State aid notification - readout of 7 March telephone call with DG Comp

Happy to oblige, Lucy

Martin

From: Marten, Lucy
Sent: 07 March 2017 17:59
To: McEvoy, Martin; Moore, Stephen (DfE); McAdams, Jonathan; Adair, Joanne; Smith, Alan

Cc: Dukelow, Victor; Murphy, Shane; McCormick, Andrew (DFE); McMurray, Stephen
Subject: RE: RHI State aid notification - readout of 7 March telephone call with DG Comp

Martin

If you could look at it that would be great.

Many thanks

Lucy

Lucy Marten

RHI Task Force
Department for the Economy
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9251 (ext: 29251)
Mob: Personal information redacted by
TextRelay: 18001 028 9052 9251
Web: www.economy-ni.gov.uk



Please consider the environment - do you really need to print this e-mail?

From: McEvoy, Martin
Sent: 07 March 2017 17:58
To: Marten, Lucy <Lucy.Marten@economy-ni.gov.uk>; Moore, Stephen (DfE) <Stephen.Moore@economy-ni.gov.uk>; McAdams, Jonathan <Jonathan.McAdams@economy-ni.gov.uk>; Adair, Joanne <Joanne.Adair@economy-ni.gov.uk>; Smith, Alan <Alan.Smith@economy-ni.gov.uk>
Cc: Dukelow, Victor <Victor.Dukelow@economy-ni.gov.uk>; Murphy, Shane <Shane.Murphy@economy-ni.gov.uk>; McCormick, Andrew (DFE) <Andrew.McCormick@economy-ni.gov.uk>; McMurray, Stephen <Stephen.McMurray@economy-ni.gov.uk>
Subject: RE: RHI State aid notification - readout of 7 March telephone call with DG Comp

Lucy

Would you like me to look into this, or punt it to Paul McGinn?

Martin

From: Marten, Lucy
Sent: 07 March 2017 17:44
To: Moore, Stephen (DfE); McAdams, Jonathan; Adair, Joanne; Smith, Alan
Cc: Dukelow, Victor; Murphy, Shane; McCormick, Andrew (DFE); McMurray, Stephen; McEvoy, Martin
Subject: RE: RHI State aid notification - readout of 7 March telephone call with DG Comp

Stephen

For information, CAFRE had asked if they could be excluded from the increased tariff band (see attached email trail) but there was nothing in the regulations to allow us to exclude them.

I think we need to take advice from DSO as to how we can exclude the CAFRE boiler from the Regs.

Lucy

Lucy Marten

RHI Task Force
Department for the Economy
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9251 (ext: 29251)
Mob: Personal information redacted by
TextRelay: 18001 028 9052 9251
Web: www.economy-ni.gov.uk



Please consider the environment - do you really need to print this e-mail?

From: Moore, Stephen (DfE)

Sent: 07 March 2017 15:59

To: Marten, Lucy <Lucy.Marten@economy-ni.gov.uk>; McAdams, Jonathan <Jonathan.McAdams@economy-ni.gov.uk>; daniel.arnold@beis.gov.uk; Adair, Joanne <Joanne.Adair@economy-ni.gov.uk>; Smith, Alan <Alan.Smith@economy-ni.gov.uk>

Cc: Dukelow, Victor <Victor.Dukelow@economy-ni.gov.uk>; Murphy, Shane <Shane.Murphy@economy-ni.gov.uk>; Irrelevant information redacted by the RHI Inquiry;

Irrelevant information redacted by the RHI Inquiry; McCormick, Andrew (DFE) <Andrew.McCormick@economy-ni.gov.uk>; McMurray, Stephen <Stephen.McMurray@economy-ni.gov.uk>

Subject: RHI State aid notification - readout of 7 March telephone call with DG Comp

Lucy, Jonathan, Joanne, Alan and Dan

Just received a phone call from Kate Kelliher in DG Comp during which we discussed a number of points and next steps, as follows.

In particular, there are a number of actions and questions I may need your help to address. These are highlighted in bold below.

1. CHP

Kate outlined a possible rationale for including CHP in the NI decision. This would be based on information and data the Commission has received in relation to the CHP tariffs in the GB RHI scheme.

However, when I explained that the NI CHP installations would probably not be accredited until

after 1 April 2018, Kate agreed with me that these could be excluded from the scope of this decision.

She said she would discuss this with Ronald Van de Ven, but thinks this would be OK.

She also added that **we have to specifically ask that CHP be excluded and commit to notifying this as soon as appropriate.**

2. The CAFRE biomass boiler

Kate and Ronald are happy that there is no State aid to the CAFRE biomass boiler and that it falls outside of the scope of State aid.

However, the Commission's legal services are not content and want them to mention this banding issue and, even though it doesn't catch any undertakings, they seem to want us to commit to doing something about this.

Exactly what they want is unclear.

One suggestion was that we consider and commit to removing the CAFRE boiler from the scope of the 2017 Regulations or we commit to amending the 2017 Regulations as soon as possible to ensure the CAFRE boiler does, as the very least, no better than it did previously.

Kate appreciates that amending the 2017 regulations is not something we can do instantly, but she did ask if we could see if RHI payments to CAFRE could be ruled outside the scope of the Regulations or the Energy Act 2011.

Have we any plans to address the CAFRE boiler issue?

3. Notification

The Commission is on course to invite us to Notify this Friday or next Monday.

When we do so, she is suggesting we make some minor revisions to our pre-notification paper (to turn it into the Notification paper) and the supplementary information form.

In particular, she wants us to revise the text on the incentive effect and proportionality to simply confirm that the scheme complies with the incentive effect and proportionality tests as set out in the Environmental Aid Guidelines.

Similarly, she wants us to revised the Supplementary Information form by removing our answers to specific questions (i.e. nos 32 – 39), as these do not need to be answered for the RHI scheme.

She also wants us to revise our answer to questions 27 and 28. These are as follows.

- 27 .Please provide evidence that the aid will be granted only until the plant has been fully depreciated according to normal accounting rules and provide a detailed analysis of the depreciation of each type of the investments for

environmental protection (see point 131(d) of the EEAG):

28 For aid schemes, please specify how the compliance with the condition in point 131(d) of the EEAG will be ensured:

I will discuss the questions above with Alan Smith (and BEIS? - *Dan do you know how BEIS answered these questions?*) and suggest how we might revise the answers.

I will also draft the Notification paper and revised the Supplementary Information form as suggested by DG Com.

4. Inspections

Kate's final question relates to the inspections of installations.

Are we inspecting all installations, including non biomass installations?

Happy to discuss.

Stephen

Stephen Moore

State Aid Unit
Department for the Economy
Netherleigh
Massey Avenue
Belfast, BT4 2JP
Tel: 028 9052 9415 (ext: 29415)
Mob: Personal information redacted by
TextRelay: 18001 028 9052 9415
Web: www.economy-ni.gov.uk



NEW - 'State aid: A Beginner's Guide for Public Bodies in Northern Ireland' can now be accessed through the DFE Internet site: <https://www.economy-ni.gov.uk/publications/state-aid-beginners-guide-public-bodies-northern-ireland>

Please consider the environment - do you really need to print this e-mail?

This communication (and any attachment) is covered by legal professional privilege. Its unauthorised use, disclosure, storage or copying is not permitted. If you are not the intended recipient please return or destroy and inform the sender accordingly. Internet e-mail is not a secure medium. Any reply to this message could be intercepted and read by someone else. Please bear that in mind when deciding whether to send material in response to this message by e-mail. This e-mail (whether you are the sender or the recipient) may be monitored, recorded and retained by the ITAssist. E-mail monitoring and blocking software may be used. You have a responsibility to ensure laws are not broken when

composing or forwarding e-mails and their contents.

This communication (and any attachment) is covered by legal professional privilege. Its unauthorised use, disclosure, storage or copying is not permitted. If you are not the intended recipient please return or destroy and inform the sender accordingly. Internet e-mail is not a secure medium. Any reply to this message could be intercepted and read by someone else. Please bear that in mind when deciding whether to send material in response to this message by e-mail. This e-mail (whether you are the sender or the recipient) may be monitored, recorded and retained by the ITAssist. E-mail monitoring and blocking software may be used. You have a responsibility to ensure laws are not broken when composing or forwarding e-mails and their contents.