

From: [Scott, Michelle](#)
To: [Morelli, Emer](#)
Subject: RE: Supply - DfE - initial response to options paper
Date: 17 December 2016 14:14:48

No problem. Eoin texted me to ask my view on AG advice. I will simply respond referencing his discussions with you (and agreeing with your line of course!)

From: Morelli, Emer
Sent: 17 December 2016 14:14
To: Scott, Michelle
Subject: Re: Supply - DfE - initial response to options paper

Michelle

Many thanks this is very comprehensive. If you don't mind I will share with David and Mike. I am very wary about giving advice without knowing Treasury's view.

Emer

Sent from my BlackBerry 10 smartphone.

From: Scott, Michelle
Sent: Saturday, 17 December 2016 14:10
To: Morelli, Emer
Subject: Supply - DfE - initial response to options paper

Emer

I have very quickly pulled together the attached pros and cons tables for the three options and added the start of a list of questions to DfE.

Clearly this is not a fully costs cost benefit paper – indeed DfE have only quantified costs, with no benefits taken into consideration in the NPVs.

I will continue to add to this paper – but just incase it is helpful at this stage

Michelle

From: [Scott, Michelle](#)
To: [Morelli, Emer](#)
Subject: Re: Supply - DfE - initial response to options paper
Date: 17 December 2016 19:47:06

It's with Simon Hamilton

Sent from my BlackBerry 10 smartphone.

From: Scott, Michelle
Sent: Saturday, 17 December 2016 19:36
To: Morelli, Emer
Subject: Re: Supply - DfE - initial response to options paper

Emer

Eoin has just texted me to say I am welcome to attend a meeting at 9:30am in the city hall on Monday morning.

Are you aware of this meeting?

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Sent from my BlackBerry 10 smartphone.

From: Morelli, Emer
Sent: Saturday, 17 December 2016 17:45
To: Scott, Michelle
Subject: Re: Supply - DfE - initial response to options paper

Michelle

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We can't do anymore now and hopefully David's clarification that more info is needed on Monday will be noted by SpAd.

Have a good rest of weekend (what's left of it) and thanks again.

E

Sent from my BlackBerry 10 smartphone.

From: Scott, Michelle
Sent: Saturday, 17 December 2016 17:38
To: Morelli, Emer
Subject: FW: Supply - DfE - initial response to options paper

Emer

Sorry – I hit send on this and have just realised I should have run it passed you first. Happy to be corrected on any of this

Michelle

From: Scott, Michelle
Sent: 17 December 2016 17:33
To: Sterling, David; Morelli, Emer; Rooney, Eoin
Cc: DoF Private Office; Brennan, Mike; Kerr, Sean
Subject: Re: Supply - DfE - initial response to options paper

David

I agree degression would be a useful additional safeguard to add. The DETI 2013 consultation didn't go as far as proposing degression (which reduces tarriffs) but did consult on suspending the scheme to new entrants once budgetary limits were reached. However, as part of the 2013 consultation DETI did state the department expected to introduce degression in the future and described the cost control measures as an interim arrangement.

We would therefore need legal advice on whether we can retrospectively add degression under the cover of the 2013 consultation (as far as I am aware, degression only applied to new installations on the GB Scheme). If DfE have correctly estimated the costs, then degression shouldn't be required within the budget period, however it would be a safeguard against future uncertainty - and higher rates if return in the early years (when the cost is close to the AME limit).

On your second point, I believe Alan Smith in DfE is an energy Economist - with a background in ofreg. It would be worthwhile as a first step checking if he has reviewed the paper.

As you say, it is unlikely we could get this confirmation before Monday.

Michelle.

Sent from my BlackBerry 10 smartphone.

From: Sterling, David
Sent: Saturday, 17 December 2016 17:01
To: Morelli, Emer; Rooney, Eoin
Cc: DoF Private Office; Brennan, Mike; Scott, Michelle; Kerr, Sean
Subject: RE: Supply - DfE - initial response to options paper

Emer/Michelle

Thanks for the work you've done on this today. Two thoughts from me:

Could degression be added to Option A as a further cost control measure (and given that this was consulted on in 2013)?

Clearly we need to move quickly to an agreed solution but we need to be sure that whatever we settle on is robust. I'd like to have someone with really good economic regulation competence

look at this (on top of our legal advice). NIAUR may be able to help with this, though it may be Monday before we can track anyone down.

David

Sent with Good Work (www.blackberry.com)

From: Morelli, Emer <Emer.Morelli@finance-ni.gov.uk>
Date: Saturday, 17 Dec 2016, 16:42
To: Rooney, Eoin <Eoin.Rooney@finance-ni.eu>
Cc: DoF Private Office <Private.Office@finance-ni.gov.uk>, Brennan, Mike <Mike.Brennan@finance-ni.gov.uk>, Scott, Michelle <Michelle.Scott@finance-ni.gov.uk>, Kerr, Sean <Sean.Kerr@finance-ni.gov.uk>, Sterling, David <David.Sterling@finance-ni.gov.uk>
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Eoin

Please see attached analysis of options based on available information to date.

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We also need detailed implementation timetables from DfE for each option including the impact of any potential legal challenge on the implementation timetable for each option.

HMT's view will also be needed to inform analysis.

I would stress that this is very much an initial summary and we will continue to work to add to this

Emer

From: [Morelli, Emer](#)
To: [Sterling, David](#); [Brennan, Mike](#)
Cc: [Scott, Michelle](#)
Date: 17 December 2016 13:39:29

David Mike

I have spoken again to SpAd to advise that DfE will need to provide further advice as informed by AG on the relative legal risks of each option and the potential impact of any legal challenge on implementation timescales eg injunction or JR.

I have also re-rehearsed the other option as discussed at yesterday's meeting, realignment of pre Nov 2015 tariff and prospective clawback as needed to meet any potential retrospective overcompensation. My reading of AG's advice is that this would be as technically difficult as Option A if not more so, but could provide a more defensible position in terms of VFM and assurance to HMT both in respect of AME cover already provided and going forward.

Again this option as with all others will require detailed consideration and, as noted yesterday, the Executive must ensure that a robust solution is proposed.

Apologies for this series of emails but Minister may be in contact.

Emer

Sent from my BlackBerry 10 smartphone.

From: [Morelli, Emer](#)
To: [Sterling, David](#); [Brennan, Mike](#)
Cc: [Scott, Michelle](#)
Subject: Fw: Supply - DfE - initial response to options paper
Date: 17 December 2016 14:18:10
Attachments: [Supply - DfE - initial response to options paper.docx](#)

David Mike

For info and with thanks to Michelle.

We need more detail before we give a final view. We will add to this as we receive that information.

Emer

Sent from my BlackBerry 10 smartphone.

From: Scott, Michelle <Michelle.Scott@finance-ni.gov.uk>
Sent: Saturday, 17 December 2016 14:10
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Michelle

From: [Morelli, Emer](#)
To: [Scott, Michelle](#)
Subject: Re: Supply - DfE - initial response to options paper
Date: 17 December 2016 21:26:35

Michelle

Thanks, no I wasn't aware of this. I'll alert David and Mike as they may wish to attend too. I am available to attend with you. I will also ask PO to register this meeting on Monday.

E

Sent from my BlackBerry 10 smartphone.

From: Scott, Michelle
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Emer

From: [Morelli, Emer](#)
To: [Scott, Michelle](#)
Subject: Re: Supply - DfE - initial response to options paper
Date: 17 December 2016 14:16:40

Thanks Michelle

Yes we are limited in our advice in the absence of detail.

E

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From: [Morelli, Emer](#)
To: [Sterling, David](#); [Brennan, Mike](#)
Cc: [Scott, Michelle](#)
Date: 17 December 2016 13:15:01

David Mike

By way of update, I have spoken to SpAd this morning regarding yesterday's AG advice and understand that Minister has now also spoken to AG.

SpAd has advised that Minister is very keen that DoF reaches a view on the potential options for the scheme going forward by tomorrow evening (Sunday).

I have advised that the AG advice is that Option C closure on the basis that the scheme is not compliant with the original State Aid approvals is the most defensible option.

Options A, realignment of the Scheme to bring it within State Aid approvals is in AG'S view more difficult as it treats those claimants before and after tariff adjustments in differing ways. DfE did not seek State Aid clearance for the revised scheme in Nov 2015.

From a DoF Supply perspective it is difficult to see the longer term benefits that will accrue from Option C closure without further information. To that end we will also need a clear sense from Treasury as to their view of the scheme going forward ie will AME cover to the original intended level still be provided over the next 18 19 years or is this at risk. In my view DoF cannot give firm advice until this is known. I have advised SpAd that it is highly unlikely that we would have this assurance by tomorrow. I don't know if we have any way of expediting this.

Minister and SpAd will be working on this over the weekend.

Emer

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To: [Sterling, David](#); [Morelli, Emer](#); [Rooney, Eoin](#)
Cc: [DoF Private Office](#); [Brennan, Mike](#); [Kerr, Sean](#)
Subject: Re: Supply - DfE - initial response to options paper
Date: 17 December 2016 17:32:32

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