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From: Marcus Porter
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Keith

Further to last week's meeting on the above and as agreed, I have now given further thought to the further amendments that I said I would need to notify DETI of and attach a further copy of the Regs showing additional track change comments in bold within the Regs concerned - regs 23 and 25. You will see that it is the same point for each reg and that it concerns grants/state aids.

You'll recall I had intended to make these comments a couple of weeks ago but we concluded it would be better to wait and ascertain DETI's intentions, given the possibility at that point that they might await DECC's amendments before proceeding to make their own Regs.

Now that we know that they do not intend to wait, I don't think we can hold off making these comments for much longer. The same problem exists of course in the GB Regs and we hope that DECC will make suitable amendments to deal with the issue. Although DETI aren't going to await those, the difficulty with these particular provisions is that getting the wording wrong in the Regs gives rise to the risk of infraction proceedings against the UK. I don't see how we can legitimately fail to notify DETI of this risk. But as yet there is no remedial wording drafted by DECC to offer them.

A drawback with notifying them of this is that it is likely to be clear from doing so that the problem also affects the GB Regs but I don't see a way around that and I have tried to mitigate against this by referring in my comments only to the GB Regs. Moreover DECC are aware of our views in relation to their corresponding provisions.

Having said that we probably can't wait much longer before passing on these comments to DETI, I note that there may now be some technical hitch arising from a request for information from the relevant NI committee. I also note that tech standards still isn't resolved. In the circumstances perhaps we can hold off a little further until the air has cleared. What do you think?

Marcus

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