



Guidance

The CMA's state aid role if there's no Brexit deal

Updated 4 March 2019

The Competition and Markets Authority's (CMA) state aid role is subject to the parliamentary approval of the draft state aid 'no deal' Statutory Instrument ([The State Aid \(EU Exit\) Regulations 2019](#)).

State aid rules following Brexit

The draft state aid Statutory Instrument (SI) was laid before Parliament on 21 January 2019, to ensure a domestic state aid regime would be in place after Brexit.

This SI would establish in the UK a state aid equivalent to the EU regime. In the event of no deal, it gives the CMA the function of being the UK state aid enforcement authority, in place of the European Commission, from exit day.

The SI does not materially alter the substance of the EU state aid framework.

The SI requires the CMA to publish the existing EU guidelines as statements of policy with any necessary amendments by day one of Brexit. In line with the objectives of the EU Withdrawal Act, only minimal changes will be made to existing guidelines to ensure they are operable on exit day.

CMA state aid procedures

Rules on procedures are being kept as similar to the European Commission's current procedural rules as possible to ensure certainty and continuity for businesses.

However, within the confines of the framework set out in the SI, the CMA will seek to be accessible to aid grantors and to make its procedures as clear and efficient as possible.

The CMA has consulted on [draft procedural guidance](#) which provides general information on the processes it intends to use when examining and investigating notified aid in the event of a no deal Brexit.

The state aid SI requires the CMA to publish a notice, on or before exit day, on the following:

- the form and content of notifications
- the form and content of complaints
- the form, content and date for the submission of annual reports in relation to existing aid schemes, and aid which is exempt from notification
- the form and summary information for aid that is exempt from notification

Independence of decision-making

The CMA is considering the design of its decision-making structures and processes, with a view to ensuring the robustness, independence and impartiality of its decision-making if state aid powers are formally conferred on it.

All state aid cases will be considered, on an initial examination, by a dedicated CMA state aid team, supported by professionals across the CMA and decisions will be taken by senior officials.

For those more complex cases which raise sufficient issues to warrant further investigation, decisions will be taken by a State Aid Decision Group made up from members of the CMA's independent Panel and normally chaired by an individual with judicial experience. The Panel is being expanded to allow for this.

Further details of the CMA's decision-making structures are included in the CMA's procedural guidance which will be finalised prior to Brexit.

State aid approved or exempted by the European Commission

State aid approved by the European Commission or given under a block exemption before Brexit, will not need to be approved again by the CMA.

In cases where approved or exempted aid granted prior to Brexit is misused, the CMA will have powers to investigate.

State aid not yet approved by the European Commission

State aid which has been notified to the European Commission, and on which the European Commission has not made a decision on or before the UK's exit from the EU, will need to be re-notified to the CMA in the event of no-deal Brexit.

The CMA will have powers to investigate cases where aid has been granted without prior approval and where no block exemption applies (whether before or after exit day).

Interested parties who wish to complain to the CMA about aid granted will be able to do so.

Notifying the CMA of state aid

The CMA will accept notifications of state aid from the point at which the UK leaves the EU if there is no Brexit deal.

The CMA will engage in informal 'pre-notification' discussions with aid grantors now where those aid grantors are expecting to notify state aid cases shortly after Brexit.

Aid grantors can contact the CMA to begin discussions about such cases by emailing stateaidenquiries@cma.gov.uk.

Aid grantors will be able to notify the CMA of state aid using a new online notification system. The CMA will provide further guidance to aid grantors on how to access the system, as well as training on how to use it, in advance of Brexit.