

**Jeremy Miles AC/AM**  
**Y Cwnsler Cyffredinol a Gweinidog Brexit**  
**Counsel General and Brexit Minister**



**Llywodraeth Cymru**  
**Welsh Government**

Ein cyf/Our ref: CG/05038/19

Mick Antoniw AM  
Chair  
Constitutional and Legislative Affairs Committee  
National Assembly for Wales  
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20 March 2019

Dear Mick

Thank you for your letter of 6 February on The State Aid (EU Exit) Regulations 2019, and for your support in this matter.

I have noted that you wrote to the House of Lords Secondary Legislation Scrutiny Committee, the House of Lords Constitution Committee, and the House of Commons Public Administration and Constitutional Affairs Committee. Thank you for sharing the response you received with us. This seems helpful and I await to hear the UK Government's response.

You requested that I provide the Committee with an update when I am in a position to do so. You will have seen that there have been two further UK EU Exit SIs which are connected to the wider State aid issue, and you have received letters about these SIs.

As you have seen, our consent was not sought for The State Aid (Agriculture and Fisheries) (Amendment) (EU Exit) Regulations 2019. For this SI we adopted the same approach as for The State Aid (EU Exit) Regulations 2019. The Minister for Environment, Energy and Rural Affairs wrote to the Secretary of State setting out our position regarding State aid, and our disappointment that the systems established under the SI did not fully reflect devolution.

Our consent was sought for The Regulation (EC) No 1370/2007 (Public Service Obligations in Transport) (Amendment) (EU Exit) Regulations 2019. The substance of this SI is the provision of public transport, but it is intrinsically linked to the wider State aid regime. After much consideration, we gave consent to this SI on the basis that it was primarily concerned with public transport, but also took the opportunity to reiterate our position on the wider issues around the administration of State aid. My letter on this SI set out the basis on which consent was given.

The Minister for Economy and Transport has since received a letter from the Secretary of State for Business, Energy and Industrial Strategy regarding State aid. In this letter he

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

reiterates that State aid is reserved, but acknowledges that there is a difference of opinion on whether the regulation of State aid is reserved.

The letter also notes that there is no difference of opinion between our administrations on the current policy adopted in relation to State aid, and we concur with that.

The letter also gave further reassurance that, in bringing the EU State aid rules into UK law through the Regulations under the EU (Withdrawal) Act 2018, the substantive rules will be frozen as they stand at exit day. The powers currently held by the European Commission to make and amend block exemption and de minimis regulations will not be brought into the domestic regime. There is limited scope, therefore, to depart from mirroring the EU State aid regime using powers in the Regulations.

The letter also committed that, in the longer term, the UK Government will work closely with the Welsh Government and the other devolved administrations on the development of State aid policy. This includes continued engagement between officials and facilitating input on policy development, though this work will be strongly influenced by the negotiations with the EU on the Future Economic Partnership. The letter also restated the aim of concluding a Memorandum of Understanding on State aid.

Therefore, we are reassured that there is still scope to resolve the ongoing dispute between our administrations to reflect devolution in the medium to longer term, and will continue working with the UK Government towards that end.

Yours sincerely



**Jeremy Miles AM**

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