

Subsidy Control Team  
Department for Business Energy and Industrial Strategy

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Dear Subsidy Control Team

### **Subsidy control: designing a new approach for the UK consultation – feedback from the charity sector**

The UK charity sector plays a significant role supporting the UK economy, contributing £18.2bn, or 0.9% of total GDP. According to the most recent statistics there are approximately 166,592 voluntary organisations in the UK, employing over 900,000 staff and managing over 19 million volunteers. The charity sector receives funding from a wide range of sources, including from the Government in the form of direct grants, tax relief and fees for contracted services.

State aid restrictions have always been an important consideration for charities, but there has been a lack of clarity about when they apply and whether this is appropriate for charities, given the nature of their activities for the public good. The COVID-19 pandemic highlighted the crucial role that charities play in our society and in many cases their continued operation was only possible due to Government grants and loans. This was particularly important for charities with large property portfolios which were required to close, losing out on important income, while still incurring significant fixed costs. The Government's decision to increase state aid limits and subsequently business grant allowances was welcome, but the time that was taken to reach these decisions and the practical difficulties that this caused for efforts to support the COVID response was regrettable. The chance to contribute to the design of a new UK subsidy control regime is a positive development, which can help ensure that the key role of charities within the economy and wider society can be properly taken into account.

Following consultation, with their member charities, the Charity Finance Group, Charity Retail Association, Charity Tax Group and National Council for Voluntary Organisations have joined together to emphasise six key principles for the design of the UK subsidy control regime.

1. **The position of charities needs to be clear in published guidance.** It is unfortunate that the key role of charities to the UK economy charities is not directly mentioned in the consultation document and impact assessment. This is particularly so given the important role of state funding and support for charity-led provision of research, social care, education and many other activities.
2. **There should be a general presumption of charities not being subject to subsidy controls where their activities are not business.** One of the characteristics of a subsidy, set out in the consultation document is that *"The award of the subsidy must confer a benefit on persons supplying goods or services **in the course of a business**, which would not be available under commercial terms"* (our emphasis). The large majority of the work of charities is not-business and undertaken for the public good. As a result, we do not believe it is appropriate for funding for these activities to be subject to subsidy controls. The consultation document also notes that public authorities will need to assess the material effects on

competition and international trade or investment and judge whether the benefits of the subsidy are greater than the harmful impacts of providing the subsidy. In all cases where the charity is not undertaking -business activities there will be no such distortions. Where appropriate, we also believe this principle should apply to public grant givers, such as the National Lottery Communities Fund.

3. **There needs to be certainty wherever possible on how subsidy control affects charities' activities that may be regarded as being in the course of a business.** There are charitable activities that would fulfil this definition. But in determining how this applies the nature of the charity sector needs to be understood. For example, in the particular case of most charity shops charities are converting donated goods to cash. This is a fundraising activity and not a business activity. Where charitable activity is subject to subsidy control rules, it is important that there is charity specific guidance. This for example should cover the fact that charitable activity can be carried out by one of the charities wholly-owned trading subsidiaries.
4. **Subsidies granted temporarily to address a national or global economic emergency should be exempted from the rules on prohibited subsidies.** We strongly support the proposal outlined in the consultation document. COVID-19 demonstrated the need for flexible funding and grant support at short notice. Charities will always play a leading role in response to national and global emergencies. It is important that the new UK subsidy control regime allows immediate and unrestricted support in exceptional circumstances so that their work can be done when it is needed most.
5. **Where charities are subject to subsidy controls the highest permitted allowances should be applied.** We welcomed the Government's decision to use the highest permitted threshold of 325,000 Special Drawing Rights over a three-year period for the Small Amounts of Financial Assistance Allowance (in the context of COVID support grants). We see no reason why this should be reduced. Where charities are subject to subsidy control, we also believe there is a strong case for them being recognised as providing Services of Public Economic Interest as their work is exclusively for the public benefit.
6. **Confirmation is needed that funding and tax reliefs previously regarded as not being subject to EU state aid rules will be treated in the same way under the UK subsidy control regime.** This certainty will help charities plan ahead in the knowledge that subsidy control rules will not disadvantage them. For example, mandatory charity business rates relief has never been deemed to be subject to EU state aid rules. This is also the case for other charity tax reliefs and tax refunds.

Charities would be very happy to meet officials to discuss this consultation response and the design of the UK subsidy control regime. Please contact us if you would like to arrange a meeting or have any questions<sup>1</sup>.

A number of charity bodies will also be submitting separate more detailed responses, with comments on the individual consultation questions.

Yours sincerely,

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Caron Bradshaw OBE, Chief Executive, **Charity Finance Group**

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