

What do the SAU Reports on Great British Energy and the National Wealth Fund reveal about how Principle Assessments should be completed under the Subsidy Control Act?

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The “headline” thesis – “Not what we expected”

- **Expected: Guidance on principles**
- **Reality: Guidance on assessment writing.**
- **Focus on reasoning and not outcomes**
- **The reports are akin to “quality assurance”**

The Subsidy Assessments



- Flagship assessments involving Great British Energy and the National Wealth Fund
- More than £11 billion of public capital examined under the Subsidy Control Act
- An opportunity to see how the SAU approaches market failure, proportionality and balancing
- The surprising lesson: the reports reveal more about *how to write an assessment* than *how to interpret the principles*

Where is the Jurisprudence?

- **The background: EU State aid law**
- **Substantive thresholds previously provided**
- **Guidance on compliance expected**
- **But the reports do not provide this**

It's not the answer, it's the working!

- SAU criticism focuses on explanation
- Rarely challenges conclusions
- Process over outcome
- Peer review, not adjudication

Telling us what's wrong, not what's right

- **Identification of gaps in reasoning**
- **Exposing of analytical weakness**
- **Highlighting of missing evidence**
- **But less helpful on what is enough**

The SAU's Favourite Word – “More”

- **More explanation**
- **More evidence**
- **More analysis needed.**
- **But little guidance on how much is enough**

Why is this happening? (*Brussels this is Not*)

- **The SAU is not a decision-maker**
- **Authorities assess themselves**
- **The SAU reviews the assessment**
- **Its role is inherently procedural**

The SAU's Unwritten Rulebook

- Define the objective
- Explain the intervention
- Assess effects and distortion
- Show your working

The Counterfactual: Less than Meets the Eye

- **A counterfactual is required**
- **Credibility matters**
- **Sophistication is less important**
- **Explain why it is plausible**

What Should Practitioners Do?

- **Assessment-writing matters**
- **Transparency matters**
- **Reasoning matters**
- **The law remains unsettled**

So, Who is Checking the Merits?

- **Not the SAU**
- **Not generally the CAT**
- **Authorities assess themselves**
- **A potential accountability gap?**

Questions?

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