



Ms Margrethe Vestager

Executive Vice-President for A Europe fit for
the Digital Age
Rue de la Loi 200
B-1049 Brussels
Belgium

26 June 2023

RE: Administrative Burden of the Foreign Subsidies Regulation

Dear Executive Vice-President,

BusinessEurope strongly advocates for bolstering European competitiveness through the promotion of open markets and enhanced trade and investment flows. We also believe that the provision of undue subsidies by foreign governments to companies operating on the internal market may often be distortive and have detrimental effects on our level playing field. Consequently, BusinessEurope has consistently shown its support for a proportionate EU response with the Foreign Subsidies Regulation (FSR).

However, we reiterate our deep concerns about the initial draft Implementing Regulation released by the European Commission for public consultation, as well as subsequent discussions, as it would introduce a burdensome corporate reporting framework that could further impede European competitiveness. The companies affected by this additional burden will more likely be EU-based companies with a global reach. BusinessEurope has been highly supportive of this instrument if it would be implemented *proportionately* and *effectively*. In its current outset, the draft Implementing Regulation fails to achieve this.¹

Overall, the notification obligations are excessive for companies and risk flooding the European Commission with unnecessary information. For the notification procedure to be effective, the European Commission should only be concerned with reviewing financial contributions that carry a distortive risk and not, by contrast, the sale of goods under normal market conditions and/or following the arm's length principle. Limiting the reporting obligations to financial contributions that fall into one of the categories of Article 5 FSR is the only sensible solution.

Companies should not be burdened with tracking financial contributions and producing labour-intensive documents regarding financial contributions that are not distortive. Adequate *de minimis* thresholds are important in this regard. They should not only shield the European Commission from reviewing a high number of filings regarding non-distortive financial contributions, but also protect companies from having to collect information about these contributions internally, and whether thresholds are exceeded.

¹ We refer to our feedback to the public consultation, available [here](#).



Consistency between the approaches for concentrations and public procurement is key in this regard.

Lastly, more guidance on the concept of foreign contributions could provide for more legal certainty and potentially allow companies to adopt leaner internal reporting procedures.

We believe that the success of the FSR is undoubtedly in the interest of the internal market and the competitiveness of its companies. Yet, we remain cautious regarding its implementation and the administrative burden it could put on European businesses if our concerns are not addressed.

Yours sincerely,

Markus J. Beyrer