Twitter Thread by SpinningHugo

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In anticipation of the AZ contract publication, a quick walk through of the vaccine contract we do have (which may be different, though I doubt it) and why the Commission's argument is disgraceful

The relevant obligations of the contractor (AZ) are in 1.3 and 1.71.

Those obligations are in three stages.

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First two

They must make reasonable best efforts

1. to obtain EU athorisation

2. to manufacture once authorisation granted

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Once those are satisfied THEN the contractor must deliver according to the estimated schedule (which may be adjusted for delay).

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The Commission's argument is that once the authorise (today!) the first two stages are satisfied. And the strict duty to deliver kicks in.

(see @vonderleyen interview in German here

https://t.co/i3Z7nQuLnE)

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But the reason why AZ has manufacturing capacity in advance of this long delayed authoristion by the Commission, is that the UK bought and approved months ago the same drug, so it has stock manufactured under that contract for the UK.

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If the UK contract didn't exist, there would be no stock.

A Soriot explained in his interview, the UK bught much earlier and stipulated that vaccine manufactured at UK plants go to the UK.

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https://t.co/REP32HbZIc

The "reasonable efforts" duty is expressly subject to contractual obligations to other parties.

This is how these kind of contracts work.

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It isn't "first come first served" but rather "once you give approval, you don't get the benefit of manufacturing ramp up we did under other contracts for other buyers."

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Bluntly, according to the information currently in the public domain, I think the Commission's behaviour is a disgrace. There is a failed procurement scandal here, and they're trying to deflect from their own failure.

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Disclosure: I am a contract lawyer. I am not a small minded Farage-ist Brexiteer. I wish we'd never left the EU.

Qualification: we haven't seen the AZ contract yet. We don't know what was said in negotiations.

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