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Competition *policy brief*

Occasional discussion papers by the Competition Directorate–General of the European Commission

State aid modernisation – a major revamp of EU State aid control

1. What is State aid modernisation about?

Starting in May 2012 the Commission began adopting a major reform package called State aid modernisation (SAM). SAM is a change in governance of EU state aid policy that allows better allocation of public resources and promotes higher efficiency and better quality of policy interventions. Among the key objectives of the reform are tangible cuts in red tape, the promotion of a better use of limited public resources by Member States and of a higher contribution of aid measures to growth.

In a nutshell

State aid modernisation:

- cuts red tape and simplifies the granting of State aid, which increases the efficiency of state aid policy

- provides incentives for Member States to allocate good aid to companies in a non-distortionary manner, contributing directly to promoting growth and jobs

- contributes to better quality of public service by promoting principles of accountability and transparency.

By July 2014, several regulatory changes entered into force that make it easier to grant aid for growth-promoting projects and aid that has minimum distortionary effects in the Single Market. These new provisions are supported by higher agreed standards of transparency and accountability of state aid. These common standards will be ensured by Member States in close partnership with the Commission.

The Commission itself will proactively guide Member States in conceiving schemes that are well-designed and that do contribute to achieving desired results of the state aid modernisation.

As part of the SAM package, the Commission has adopted 10 guidelines (on e.g. R&D and innovation; broadband connections; energy and environment; risk financing of SMEs and midcaps; regional aid, etc.), based on common principles.The Commission has also adopted 5 regulations to make State aid control instruments and procedures more efficient[1].

What will be the impact of the new rules?

One of the cornerstones of the reform is the new General Block Exemption Regulation (GBER), which simplifies aid granting procedures for Member States by authorising without prior notification a wide range of measures fulfilling horizontal common interest objectives.

In the future, three-quarters of today's state aid measures and some two-thirds of aid amounts could be covered by the new GBER. That proportion could increase to 90% of all aid measures provided Member States use the GBER to the full extent. This means that only cases with the biggest potential to distort competition in the Single Market will remain for ex ante assessment (notification).

Possibilities for block exemption now cover a wide array of sectors and aid measures:

- New categories for exemption, following the adoption of the Enabling Regulation, such as innovation aid to large enterprises, broadband, and audio-visual.
- New forms of exempted aid within existing categories, such as a wider concept of risk finance aid, investment aid for research infrastructures, new possibilities for energy and environmental aid.

[1] For a comprehensive overview of State Aid Modernisation see the Commission website: http://ec.europa.eu/competition/state_aid/modernisation/index_en.html

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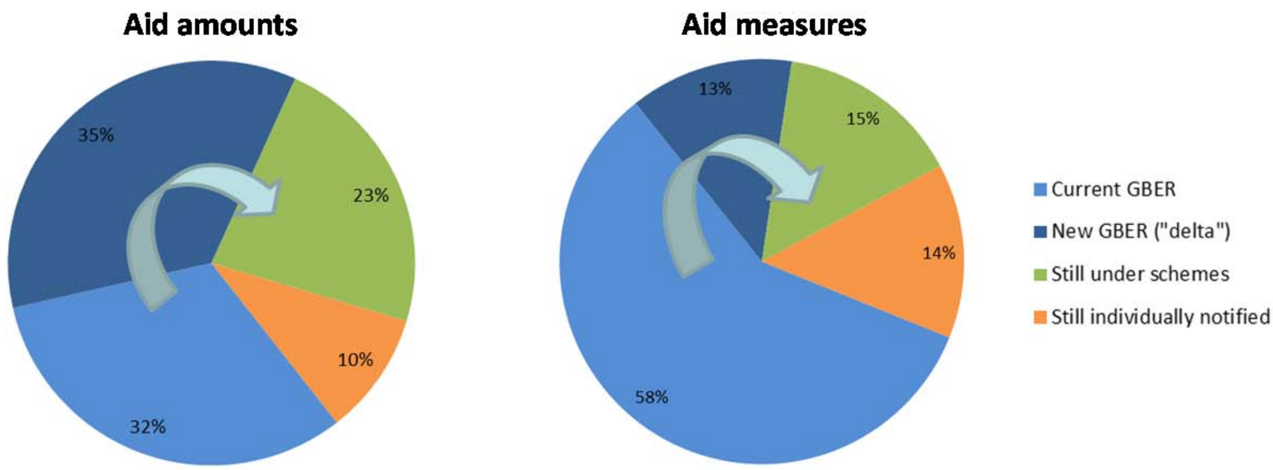


Data: analysis based on aid amounts awarded in 2012, aid measures notified/block-exempted in 2012

- Higher notification thresholds and larger aid intensities. For example, the threshold for notification of R&D and innovation aid has doubled. Member States can now grant aid for experimental development of up to €15 million per project and per beneficiary without prior Commission approval, as compared to €7.5 million under the previous rules. For aid aimed at allowing SMEs and midcaps to access risk finance, the notification threshold has increased from EUR 1.5 million per year to an overall amount of EUR 15 million over the full development cycle of the company.

This increased use of the GBER will have a strong impact on aid beneficiaries and on granting authorities, leading to faster access to the aid (through avoidance of the notification process) and reduction of administrative burdens (thanks to simpler conditions, e.g. for demonstrating the incentive effect).

2. With more flexibility comes more responsibility

Under the new set of State aid rules, granting authorities will enjoy much wider margin to design and implement aid measures. At the same time, the Commission must fully play its role as guardian of fair competition within the single market. The reformed State aid rules strike a balance between, wider margins for the Member States on the one hand, and, proper compliance with the and limiting distortions of competition on the other. A number of initiatives aim to safeguard that balance:

- Transparency:[2] aid awards will become public at the individual level. This will ensure peer review, public control and greater accountability.
- Monitoring: strengthened ex post controls of compliance with the formal conditions for exemption.
- Ex post evaluation[3] of large schemes: a more solid and effective method to ensure good aid with incentive effect; it will also help design better schemes with more limited impact on competition and trade.

3. What about aid still to be notified?

Throughout the State aid modernisation process, the Commission followed a consistent approach in establishing new Guidelines containing the criteria for assessing State aid compatibility. A key objective was to encourage Member States to grant aid which will make a genuine difference in enhancing economic growth. Another objective of the common approach is to ensure, for each aid measure, that aid is well designed to suit its objective and that competition distorsions remain limited. Here are a few illustrations of that common approach:

- The scope of the new rules on risk finance has been radically enlarged, now covering SMEs, small midcap and innovative midcaps, and applying only to amounts above EUR 15 million per company, compared to EUR 1.5 million per year and per company today. It also covers a wider range of financial instruments, including equity, quasi-equity, loans and guarantees, in order to facilitate access to finance for SMEs. Such measures contribute to enhancing economic growth by helping companies to overcome funding difficulties in the most critical stages of their life cycle.

- The new regional aid guidelines make it easier to grant smaller amounts of aid for regional development purposes, increasing the overall share of regions where regional aid can be granted from 46.1% to 47.2 % of the EU population and ensuring, through the adoption of new regional aid maps, that public money goes where it is most needed. In parallel, the guidelines adopt a stricter approach on aid for investments made by large enterprises in the more developed assisted areas. This reduces the risk that such aid would be treated as "free money" by such firms, wasting taxpayers' money while distorting competition in the Single Market.

[2] See Policy Brief on transparency: http://ec.europa.eu/competition/publications/cpb/2014/004_en.pdf

[3] See Policy Brief on evaluation: http://ec.europa.eu/competition/publications/cpb/2014/007_en.pdf

- The new environmental and energy aid guidelines support Member States in their efforts to reach their 2020 climate targets, while addressing the market distorsions observed in the recent past. For instance, some renewable energy technologies have reached maturity and their costs are decreasing, so they should be increasingly exposed to market signals. The new guidelines provide for gradual introduction of competitive bidding processes for allocating public support. The guidelines also include criteria for supporting energy infrastructure and allow aid to secure adequate electricity generation when there is a real risk of insufficient electricity generation capacity.

- The new rescue and restructuring guidelines, which cover aid granted to companies in financial difficulties, aim to preserve the balance between ensuring that jobs and know-how are kept while avoiding artificially keeping inefficient firms alive at taxpayers' expense with a damaging impact on growth. The new guidelines also make it more likely that investors – especially shareholders, who receive the highest returns when a firm is performing well – will bear a fair share of the cost of restructuring.

4. What does it mean at national and local level in the future?

Most of the new rules entered into force on 1 July 2014 and the associated benefits will start materialising gradually. In the coming months, existing schemes will need to be adapted and measures will be implemented by Member States under the new rules. At the same time, Member States have to take steps to ensure transparency and evaluation in the years to come.

What makes a measure compatible with the internal market?

State aid modernisation clarifies the criteria for finding that an aid measure is compatible and hence can be approved:

1) The aid measure must be aimed at **an objective of common interest**;

2) It must be targeted towards a situation where aid can bring about a material improvement **that the market cannot deliver itself**, for example by remedying a market failure or addressing an equity or cohesion concern;

3) It must be an **appropriate** policy instrument to address the objective of common interest;

4) The aid must **change the behaviour** of the undertaking(s) concerned in such a way that it engages in additional activity that it would not carry out without the aid, or it would carry it out in a restricted or different manner or location;

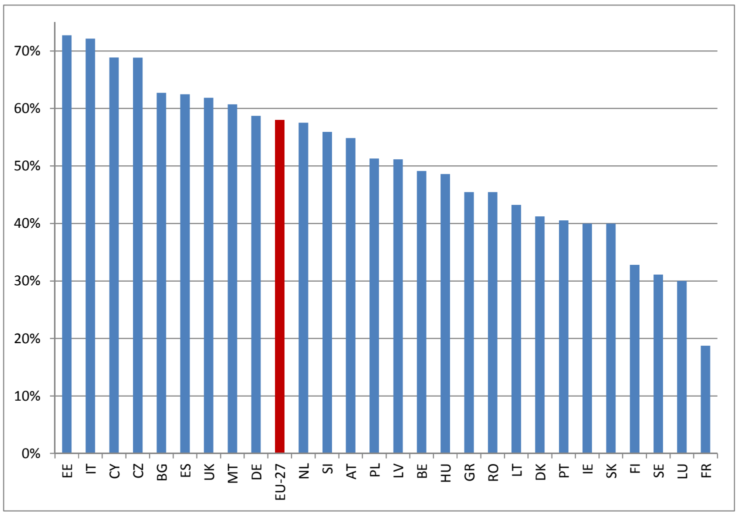
5) The aid amount must be **limited to the minimum needed** to induce the additional investment or activity;

6) **negative effects on competition** and trade between Member States must remain sufficiently **limited**;

7) the relevant acts and pertinent information about aid awards must be **transparent** (public).

When it comes to making full use of the new GBER, the ball is now in the court of the Member States. As the graph shows, use of the GBER varies considerably across Member States. There is considerable scope to exploit the full potential of the new rules. The Commission is giving its full support, for instance by visiting all Member States to listen to concerns and to give practical advice.

The new comprehensive set of rules effectively puts in place a new partnership between Member States and the Commssion. Both have important roles to play. The Commission will focus on the cases with the biggest impact on competition and will prioritise its processes in agreement with Member States.



The Member States will have more responsibility for designing and implementing schemes without prior notification, and putting efficient checks in place at national level (which can be achieved through appropriate institutional set-up and for which many Member States are stepping up their efforts). For that purpose, it is essential to reinforce training and sharing of knowledge at the level of granting authorities, including at local levels.