

European Commission has launched a public consultation on the revision of the General Block Exemption Regulation (the GBER)

State funding meeting the criteria of Article 107(1) TFEU constitutes state aid. However, according to Art 109 TFEU, the Council may determine categories of aid that are exempt from the notification procedure set out in Article 108(3) TFEU. By adopting Regulation (EC) No. 994/98 ('Enabling Regulation'), the Council enabled the Commission to declare compatible with the internal market aid in the following categories: small and medium sized enterprises (SMEs), research and development, environmental protection, employment and training and regional aid. The General block exemption Regulation (GBER), in force since 29 August 2008, simplifies aid granting procedures and allows a range of measures fulfilling horizontal common interest objectives.

The Commission launched, with its Communication on State aid Modernisation (SAM) of 8 May 2012, a broad review of State aid rules. State aid enforcement should facilitate sustainable, smart and inclusive growth, focus on cases with the biggest impact on the single market, streamline the rules and provide for faster, better informed and more robust decisions.

The review of the GBER is at the centre of the SAM reform and shall contribute to all objectives, with particular focus on simplification. A first consultation on the GBER review took place between 20 June and 12 September 2012 and another public consultation on a far-reaching review, including a draft Regulation, was held from 8 May to 28 June 2013. The Commission is currently processing the numerous replies.

In the meantime, on 22 July 2013, the EU's Council of Ministers adopted the revision of the Enabling Regulation, which will enter into force on the twentieth day following its publication in the Official Journal. This adoption creates the legal basis for block exemptions in new categories: innovation; culture and heritage conservation; making good the damage caused by natural disasters; making good the damage caused by certain adverse weather conditions in fisheries; forestry; promotion of food sector products not listed in Annex I of the TFEU; conservation of marine and freshwater biological resources; sports; social aid for transport for residents of remote regions; certain broadband infrastructure; and infrastructure in support of the objectives of the Enabling Regulation and objectives of common interest.

The Commission is now enabled to draft compatibility criteria for block exemptions for these new categories, to the extent distortions of competition can be minimised, new block exempted measures contribute to the objectives of SAM and the Commission already has sufficient substantial experience with the respective subcategory. Considering these selection criteria, the present consultation covers the following aid categories:

- making good the damage caused by natural disasters;
- social aid for transport for residents of remote regions;
- certain broadband infrastructure;
- innovation;
- culture and heritage conservation;
- sports and multifunctional infrastructure.

As in the past, the process of block exemptions will therefore be gradual also for the new categories. On the other hand, the timely adoption of the revised Enabling Regulation allows to

launch already now the consultation process on criteria for subcategories where sufficient case experience exists.

In addition to the above new (sub)categories proposed, further categories will be inserted at a later stage, when the Commission will have a clearer view on possible compatibility criteria. For instance, while there is a substantial case experience with State aid to cinema and audio-visual works, the Commission finds it more appropriate to propose the draft compatibility criteria for the block exemptions in this area in the light of the final text of the Cinema Communication to be adopted by the Commission in early autumn. Other aid categories could be inserted, if there are specific requests, as in the case for aid to ports' infrastructure. On the latter ones, the Commission services seek feed-back from Member States and other stakeholders on whether exemption from the notification requirement is necessary, as well as on what kind of compatibility criteria should be devised. Other aid categories are not inserted due to lack of case-experience and may therefore be considered after the adoption of relevant Guidelines and the development of case-practice.

GBER II shall later merge with the general review of the GBER with a view to a single adoption.

A prolongation of the period of application of the present GBER until 30 June 2014 is also proposed.

The period for this consultation is: 24.07.2013 – 10.09.2013.

The consultation is available in:

Explanatory Memorandum:

PDF:

http://ec.europa.eu/competition/consultations/2013_second_gber/explanatory_memo_en.pdf

Draft GBER II:

DOCX:

http://ec.europa.eu/competition/consultations/2013_second_gber/draft_regulation_en.docx

PDF:

http://ec.europa.eu/competition/consultations/2013_second_gber/draft_regulation_en.pdf

Draft prolongation Regulation:

PDF:

http://ec.europa.eu/competition/consultations/2013_second_gber/gber_prolongation_regulation_en.pdf