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EUROPEAN COMPETITION AND COMPETITIVENESS DAY IN
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EUROLINK

The new approach to State aids and its consequences for the Romanian business
environment in the view of the newly adopted General Block Exemption
regulation

Opening statement

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Ladies and Gentlemen¹,

Let me first thank the organisers for inviting me to this important conference². Romania is an important partner in working out a competitive order in the Union and I have the pleasure to transmit the warm greetings of Competition Commissioner Kroes on the occasion of this Competition Day. As is well known we work closely with the Competition Council in this country in the context of the European Competition Network and on many other occasions. And we have shown that together we can find acceptable solutions to difficult cases also in the application of State Aid rules, such as in the Automobile Craiova case.

Let me start on State Aids on a more general note.

[The importance of State aid control]

I think the current financial crisis has shown that State aid discipline is as important today as it was perceived to be when the Rome Treaty was written 50 years ago and as we have made clear during the Accession negotiations. It says it all, that Heads of States in the latest European Council supported the need to continue to apply State aid rules in the context of the financial crisis. They know only too well that without a neutral European Commission, Member States would have ended up in a State aid subsidy race, which would have been even more expensive for them. A subsidy race that would amplify the long term effects because no Member State would, by itself, take sufficient measures to limit distortion

¹ The opinions put forward in this section are the personal views of the official concerned. They have not been adopted or in any way approved by the Commission, and should not be relied upon as statements of the Commission's or DG Competition's views.

² Thanks are due to Bente Tranholm-Schwarz

of competition. Indeed, State aid control is not a barrier but part of the solution in dealing with crisis situations.

To quote European Competition Commissioner Kroes: "Without a solid competition policy such as this, the European economy would descend into chaos". ... We need a clear level playing field for European consumers and businesses, not a jungle. But a jungle is what we would get if we suspended or abandoned competition policy

[State aid action plan and the accomplishment of the Lisbon Strategy]

But before I get into the details of the new General block exemption, allow me to recall the reasoning behind the new approach in State aid policy.

In 2004 the European Council expressed a need for renewed impetus to the so-called Lisbon Strategy. When the Commission adopted the State aid Action Plan in 2005 a main purpose was to ensure that State aid would contribute to the new Lisbon Strategy and thus better target its objectives. It was the first time the Commission presented a comprehensive and consistent reform package in the field of State aid policy.

This reform was based on:

- less and better targeted state aid;
- a refined economic approach;
- more effective procedures, better enforcement, higher predictability and enhanced transparency;

But what does it mean that State aid target better the Lisbon objectives. State aid can make the internal market work better by correcting market failures. Thus, contributing to the Lisbon objectives means setting up rules ensuring that State aid will diminish the market failures.

[GBER and other State aid rules]

Since 2005, we have revised nearly all our rules. The new Regional aid guidelines, the Research, development and innovation framework, the Risk capital guidelines and the Environmental guidelines focus on areas where State aid can boost growth and jobs or help us meet the challenge of climate change. The refined economic approach has helped the Commission to set up conditions ensuring that State aid is targeted at the market failures.

The new General Block exemption³ covers the most obvious market failures and includes measures we know would have limited distortions and for which the assessment criteria could be clearly articulated and implemented by the Member States.

With the new General block exemption the Commission is delivering on its commitments in the State Aid Action Plan and the Small Business Act, to make it quicker and easier for Member States to give the right kinds of State aid, that benefit the European economy and society as a whole, and not just one company or sector.

³ Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (Text with EEA relevance), *OJ L 214, 9.8.2008, p. 3–47*

The new Block exemption covers 26 categories of aid, up from 10 previously. Some of the most important new categories of aid covered by this reform are:

- Innovation aid for SMEs, research and innovation
- R&D aid for large businesses
- risk capital
- environmental protection aid
- regional development aid
- Aid measures promoting entrepreneurship, including for young innovative businesses;

A specific objective of the new rules is to facilitate access for small and medium-sized companies to all 26 categories of aid covered by the Regulation. In nearly all instances SMEs have access to bonuses and are eligible whether they operate in assisted or non-assisted areas.

Thus, it also allows Member States to grant State aid targeted at creating jobs, boosting competitiveness and improving the environment and is likely to reinforce the recent positive trend in the Union, where the balance has been shifted away from State aid for favoured industries or companies, and towards so-called horizontal aid.

[The role to be played by various actors]

The new General block exemption was the last puzzle in our novel system for assessing State Aid, which now consists of three levels of assessment:

1. the General Block Exemption with no obligation to notify to the Commission;
2. the standard assessment of schemes or individual cases; and
3. the detailed assessment of cases involving big aid amounts to a single company.

The State Aid Action Plan acknowledged we had to increase the speed and predictability of our procedures. This new system will allow both Romania and the Commission to use the resources in a more efficient manner. In parallel with the widening scope of the block exemption regulations, we are further strengthening our monitoring activities in order to meet the objective of the State Aid Action Plan: to step up monitoring of the compliance of conditions laid down in State aid decisions, including the respect of the provisions of the block exemption regulations.

[Shared responsibilities]

Improving State aid rules and practices is indeed a shared responsibility between the Commission and the Member States. This takes me to discussing shortly recent progress in our cooperation with Romania and particularly the Competition Council on implementing State Aid rules.

In 2007 total State Aid (less railways) granted in Romania was still above the EU average and stood at 1.4 billion Euros (over 5 billion Lei), more than double of the state aid average in the EU when compared to the respective GDP. And only 36% of aid in the industrial and service sectors was granted for horizontal objectives (R&D&I, energy and environment, regional development, SMEs, training, etc). This is still considerably below the EU average of 80%. It is also true that we have had substantial

problems initially on privatisation cases and state aid given in that context, such as in Craiova where we had to recover nearly 30 million € of aid that had been given illegally⁴.

But at the same time we have seen a number of decisions where we could declare aid as compatible, such as the allocation of 143 million € regional aid for the future development of the same Craiova site⁵. In total we have seen until October of this year seven positive decisions. We have also seen growing use by the Romanian authorities of the block exemptions already existing before the GBER, with 20 such measures for regional development. We hope of course to see intensive use of the provisions now being made available via the GBER since September. And let me be clear: the open, fair and transparent implementation of programmes under the new GBER will also be a major test for the governance systems for state aid in the Member States.

I believe a major success of our cooperation with Romania has been the putting in place of the pre-consultation mechanism on privatisations subsequent to the difficulties experienced in the Craiova privatisation. As to the practical aspects of the mechanism, the Romanian authorities inform the Commission of planned privatisations, including general information on the company (i.e. public stake, public debts, net result, etc) and the privatisation method chosen. The Commission assesses this information

⁴ IP/08/315 Date: 27/02/2008: State aid: Commission requests Romania to recover €27 million unlawful aid from Automobile Craiova

⁵ IP/08/666 Date: 30/04/2008: State aid: Commission endorses €143 million aid to Ford for two large investment projects in Craiova, Romania

for state aid implications. If necessary, additional clarifications are requested or changes recommended until the process appears free of aid. Since, Romania has submitted 31 individual privatisations for our assessment. 19 cases were prima facie problematic: of these problematic cases, 14 have been successfully closed, i.e. Romania has complied with our recommendations, whereas 6 are still pending. Finally, 10 cases were unproblematic, i.e. we did not find obvious state aid concerns.

After a number of months of experience, it can now be concluded that the pre-consultation mechanism has overall functioned well. In particular the most recent privatisation cases show that the Romanian authorities seem to be willing to design privatisations with a view to avoid State Aid problems.

[improve practice further]

We have also made efforts to improve our own internal practice and increase efficiency in the State aid field further. Thanks to these measures, the average length of the preliminary examination procedure for a notified case has fallen to an average duration of around 5 months.

However, we would like to go further. We are working on a best practice package which should take us further in cutting red tape and make action in the State Aid field more and more efficient. We are consulting with the Member States on that matter and we will bring this package to a general discussion at a large Commission State Aid Conference on 21 November in Brussels.

Finally, we expect that in the not too distant future Courts will play a larger role in the enforcement also of State Aid rules. State aid enforcement by national courts in the Union is currently dealt with under a 1995 notice on cooperation with national courts and enforcement of cases by the national courts concerns only a trickle of cases, far from the scale which we would need. We consider that the scope of this 1995 notice is not sufficiently broad. We therefore work on the drafting of a new notice with a much broader focus on private enforcement of State aid rules.

[Let me conclude]

Let me finish with a more general comment. Across the European Union, the balance is shifting away from aid for favoured industries or companies, towards horizontal aid which can foster growth and tackle climate change. So the new approach in State aid will contribute more to the Lisbon objectives. With the implementation of the State Aid Action Plan and the General Block exemption, we will face less red tape and faster decisions. Hence, the new rules are in place – and they seem to be working. Now it is up to the Member States to make use of them to improve the business environment.

Thank you