

European Commission

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Consultation on a draft revised *de minimis* regulation – Comments from Norway – HT.5647

The Norwegian Ministry of Trade, Industry and Fisheries (“the Ministry”) refers to the draft for a Commission Regulation on the application of the Articles 107 and 108 of the Functioning of the European Union to *de minimis* aid. We would like to thank the Commission for the opportunity to submit comments.

Norway welcomes the proposed increase of the *de minimis* aid, which a single undertaking may receive over any period of 3 fiscal years. The proposed increase of the ceiling to 275.000 euro reflects the inflation that took place since the entry into force of Regulation (EU) No 1407/2013 and the likely estimated developments during the period of validity of this regulation, that is the period from 2014 to 2030.

The increase of the ceiling to 275.000 euro is in line with our own calculation of inflation in the Eurozone, where we have used OECDs projected inflation for the years 2022 to 2024, and the inflation target of 2 percent for the years 2025 to 2030. We find that the Consumer Price Index (CPI) has increased by 46 percent from 2014 to 2030 in the Eurozone, while the CPI in Norway has increased by 52 percent. The ceiling of *de minimis* aid is calculated to 274.454 euro, by using data on CPI for the Eurozone and taking the average across the years 2024 to 2030, that is the period of validity for this regulation.

The global economy is facing significant challenges. In particular, the war in Ukraine has contributed to increases in prices on energy and food. Monetary policy can contribute to lowering inflation by increasing interest rates. However, there is a considerable amount of uncertainty associated with projected inflation. In our view, the Commission should take the uncertainty into account, and consider a larger increase of the *de minimis* ceiling.

Regarding the de minimis register, Norway supports a mandatory de minimis register. However, the register should be designed in order to ensure that it entails a simplification for the granting authority and the aid recipient. This will only be possible if the register contains information that is sufficiently updated and complete to enable the granting authorities to rely solely on the information provided in the register, instead of also having to obtain a self-declaration from the aid recipient.

To incentivise the granting authorities to submit complete information quickly, we suggest that the Commission considers whether it would be possible to implement a rule that ensures priority for the aid that has been registered first in the de minimis register.

Under the current regulation, the granting authority must obtain a declaration from the aid recipient stating whether they have received de minimis aid previously, in order to control for cumulation. According to the draft regulation this legal requirement will cease to apply after the de minimis register has been in force for three fiscal years. The cumulation control done in the form of a self-declaration would in theory be replaced by consulting the register. In theory this amendment would lead to a simplification of the aid granting process. However, based on the current draft, we are concerned that the authorities will have to obtain the declaration regardless, leading to an increased administrative burden instead of a simplification.

This concern is based on the fact that there is no deadline and no sanctions for a granting authority for not publishing information in the register. This means that it is likely that the register will not be complete, or at least that there will be a lag and that the register will not be fully up to date. Therefore, an aid grantor might award aid based on incomplete information from the register. We assume that if this aid leads to overcompensation, the aid grantor that granted aid at a later date will have to recover the aid even if they acted according to the information from the register. If this is the case, it seems like a big risk for the aid grantor to rely solely on the register when checking for overcompensation. A cautious aid grantor might also require a declaration from the aid recipient. Hence, the administrative burden will increase.

We suggest that the Commission considers whether it would be possible to introduce a rule whereby the authority who registered the aid last in the de minimis register has to recover the aid. This means that if granting author A grants 275.000 euro (presuming this is the maximum limit) on 1 June 2025, but only registers the aid on 1 January 2026, and aid grantor B grants 275.000 euro aid 1 September 2025, but registers the aid on the 2 September 2025, then A would be the one granting incompatible aid, not B (even though B granted the aid after the aid recipient had already received the maximum amount from A).

This solution will have the following benefits:

- It will incentivise the aid grantor to register the aid as soon as possible, in order to ensure that the aid granted will remain compatible state aid. This will likely increase the quality and reliability of the de minimis register.
- A granting authority would be able to base its decision on the information provided in the register, without worrying that they might grant incompatible aid because of information that was omitted from the register.
- This will ensure that the register reduces the administrative burden of the granting authority and the aid recipient, in line with what is suggested in the draft regulation.
- The solution will entail a more just system because it incentivises the aid grantors that have acted according to their legal obligations, while it sanctions the aid grantors that have not registered the aid.
- It does not negatively affect competition as overcompensation will be recovered.

Lastly, we want to point out the challenges of the concept of a single undertaking in regard to cumulation control using the register. The maximum aid amount is calculated based on aid per “single undertaking”, which might encompass several enterprises. However, the register will contain information only on enterprises, not on undertakings. In order for the register to be used for cumulation control, it must be easier to automatically identify which enterprises are included in a single undertaking, by extracting information from the register.

Yours sincerely

Marie Wiersholm (b.a.)
Deputy Director General

Mari Løvhaug
Adviser

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