

June 2021 - Consultation of the European Commission - Communication on the Framework for State aid for research, development and innovation

AFEP Contribution

The European Commission opened for consultation (until 3 June) a proposal for the targeted revision of its communication on a **framework for state aid for research, development and innovation** (hereinafter "RDI").

By simplifying the 2014 text, including aids to technological infrastructures in the scope, and updating existing definitions, it intends to provide appropriate incentives for all European economic players and allow Europe's green and digital transition.

Compared to the 2014 communication, AFEP member companies consider that:

- this text does **not substantially increase the possibilities offered to Member States to strengthen European RDI**, which goes against the sectoral or general objectives declared by the Commission;
- it shows a **lack of ambition in the context of the evolution of global RDI**;
- within the framework of cooperation allowed, the text **does not sufficiently simplify the procedures and does not allow the acceleration of the processes**. It maintains an often harmful division between projects phases and reporting obligations which slows down projects and makes them less competitive and efficient.

1. Transversal observations

Before commenting further on the draft opened for consultation, AFEP member companies recall the ever more strategic importance of RDI for the European economy:

- The revision of the 2014 communication must be an opportunity to bring European state aid policy up to date in a world that has changed profoundly over the past seven years (with general digitisation of the economy, globalised competition, economic power of third countries ...). A revision is therefore welcome insofar as it takes into account the important developments that RDI has undergone.
- The approach concerning RDI state aids must be part of a pragmatic, global vision that takes into account the challenges faced by societies and their economies (environmental emergencies, health challenges, digital transformations, adaptations or technological transformations...). In the coming years, the development of R&D will be a response to these challenges, a question of European sovereignty and a long-term growth factor.
- The competitive context of RDI has changed significantly since 2014, with an increasingly important international mobility of research factors. The competition in RDI beyond the borders of Europe and the development of new international players in many sectors should be taken into account.

- Economic policy should ensure an effective link between public and private European research, to avoid the risk of dividing efforts at the European level. At the same time, other geographic areas benefit from much more flexible regulations than those applicable in the Single Market and often from direct and articulated support between public and private research.
- Regulations should therefore better consider the decompartmentalization of RDI between research sectors and between fundamental and applied research, which are often inseparable. The significant ex-ante economic risks of these activities and the flexibility of adaptation that research projects require to be successful should also be taken into account. This reality complicates the ex-ante evaluation of projects and reinforces the interest in complementarities between public and private actions, and limited barriers surrounding them.
- RDI is a growth factor in almost all sectors; it is important to consider revising its framework using specific tools, within the framework of the IPCEI tool or the issue of subsidies from third countries¹, as well as promoting more generally a global legal framework to avoid excessive administrative burdens and support the development of a large-scale “RDI”.

While companies appreciate the Commission's efforts to adapt to observed market evolutions (definitions including in § 17-h the “digital transformation” and in § 17- II the “technological infrastructure” -), they nevertheless deplore the fact that this revision remains far from the economic reality, maintaining **heavy administrative requirements** and economic consequences which does not favour European economic interests.

2. Comments specific to the text

Aim for more pragmatism

- In order to ramp up and reach positive outcomes, RDI requires heavy investments in **prototypes and pilot projects**. Companies regret that in 2021 this crucial step for the development of future RDI is not better considered than in 2014. Similarly, the “TRL” (technology readiness level) used to assess the level of maturity of a technology to finance RDI is not retained. Carrying out large-scale industrial tests is often very expensive (this is the case, for example, of tests carried out for the use of hydrogen in industrial processes currently under development). The artificial partitioning of the research and innovation stages reduces its chances of success and increases the project implementation period.

Companies therefore ask for the financing of State Aids to be extended to this strategic phase of RDI.

The possibility to fund this type of tests would support this essential step for the validation of the industrial feasibility of new processes or products.

¹ See in this sense the recent publication of the proposed regulation on foreign subsidies

- As part of the verification of the aid proportionality, **§ 81** provides that the **indirect costs of RDI projects** can be calculated by a **flat rate** of “up to 15%, applied to total eligible direct R&D project costs”.

This new provision compared to the 2014 framework text is **not satisfactory** for the following reasons:

- this freezing of indirect costs amounts leads to de facto limiting investments in RDI,
- creating a new threshold will probably lead to future implementation difficulties in RDI; as a reminder, the threshold used in European programs, in particular in “Horizon Europe” adopted in 2018 for the 2021/2027 period, is significantly higher (25%) and, therefore, an incentive.

Companies deplore that this § 81 limits too much the European support needed for the development of RDI within the Single Market. To remedy this orientation, they recommend **reviewing the wording of § 81** as follows:

The eligible costs shall be supported by the most recently available documentary evidence, which shall be clear and specific. Indirect R&D project costs may also be calculated on the basis of a simplified cost approach in the form of a flat-rate of up to 15%, applied to total eligible direct R&D project costs. In the latter case, both categories of direct and indirect costs. They should be established on the basis of normal accounting practices, must comprise only eligible R&D project costs listed in Annex I and must be duly justified.

- Finally, the green transition of the European economy should be encouraged by targeted adaptations of tools such as the Framework on aid for RDI to support collective creativity.

The companies propose to include a widened eligible cost base in projects directly contributing to the achievement of the objectives of the Green Deal, or the possibility of a "green bonus" allowing the raise of the aid intensity thresholds for projects that are part of its implementation.

Procedures with serious consequences for individual aid: to simplify

- Ex-ante control (§ 48 – ii)

Businesses are aware of the necessary role played by the European Commission to prevent public subsidies from distorting competition in the internal market. Ex-ante control is therefore required. However, they regret that the wording remains unchanged in the 2021 version while, at the same time, competition from third countries has intensified. As speed is the key to all success when it comes to RDI, the right balance between this necessary control and the excessive burdens it can cause has to be found.

The **implementation of the counterfactual scenario** is an exercise that remains complex to carry out; it is the source of many and long debates between stakeholders, especially as it conditions the amount of individual aid granted.

The major characteristic of state aids in RDI is to encourage Member States to support national or transnational projects contributing to the realization of strategic projects for the future of the EU in many sectors (environment, industry, etc.).

Without denying the need to consider counterfactual scenarios, companies deplore that they are time-consuming, in the face of agile and rapid global competition, in prospective RDI areas that are precisely intended to propel Europe into a new economy.

Faced with this observation, companies propose that the Commission's legitimate questions come closer to the economic reality to best meet its expectations (less theoretical, requests limited to retroactive scenarios over a maximum of 5 years, etc.) and thus allow economic actors to satisfy them within a reasonable timeframe.

- Transparency (§ 100 and 101)

While understanding the role of a “further safeguard against undue distortions”, the companies stress once again how the transparency required on “all relevant acts and pertinent information about the aid awarded” provides to third parties a lot of information - even if some are made confidential before publication.

As such, their main remark concerns a quantified modification in § 101 which lowers the transparency thresholds for aids below € 100K (€ 500K in the 2014 version). Such a decision amounts to increasing the number of sources of “information” for competitors from third countries and consequently weakening European companies.

Companies want the 2014 provision which sets the transparency threshold for aids below € 500K to be retained.

In summary

European economic players wish to support the European economy through their RDI efforts. They nevertheless deplore that this text does not improve the necessary agility in terms of RDI (cumbersome procedures) and still does not prove to be suited to the expectations of the industrial and research world.

The extension of funding possibilities for industrial pilots and prototypes on the one hand and the easing of reporting constraints, on the other hand, should be provided in this review. In addition, specific adjustments to the priorities of European research, in particular regarding the Green Deal, should be possible.

Alone or in collaboration with public structures, industrial research will indeed contribute to future European competitiveness in the face of very different foreign behaviour.

ABOUT AFEP

Since 1982, AFEP gathers the largest companies present in France. The association, based in Paris and Brussels, aims to foster a favourable environment for businesses and to present the vision of its members to French public authorities, European institutions and international organisations. Restoring business competitiveness to achieve sustainable growth and employment in Europe and meet the challenges of globalisation is AFEP's priority. AFEP has around 113 members. More than 8 million people are employed by AFEP member companies and their cumulative annual turnover amounts to 2,600 billion euros.

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