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Guidelines on regional state aid for 2014 - 2020

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Impact assessment on the guidelines on regional state aid for 2014-2020
A. Need for action
Why? What is the problem being addressed?
The main problems are related to: (i) the effectiveness of regional state aid as a policy tool for supporting regional economic development; (ii) the efficiency of regional state aid rules in ensuring control of competition effects. As regards effectiveness, in the absence of aid, certain firms would anyway decide to invest in disadvantaged regions (assisted areas). Adequate control of the incentive effect is thus essential to ensure regional aid is targeted at leveraging additional private investment in the assisted areas. An ineffective verification of incentive effect causes a significant risk of deadweight which distorts competition and weakens the valued-added of regional aid as an economic development tool. Regarding efficiency, the wide discrepancies in the volume of aid and policy approach for the implementation of regional aid rules reinforce the strong variability in the effectiveness of enforcement practice, which could threaten the integrity of the internal market. The Commission's control of the negative effects of regional state aid does not adequately target measures or situations where restrictions to competition are more likely to occur, which causes imbalances and inefficiencies in the management of state aid policies. The stakeholders most affected are companies located in the assisted areas and aid granting authorities in the MS.
What is this initiative expected to achieve?
The revision of the RAG aims to: 1. concentrate regional state aid on the geographical areas most in need from an EU and national perspective; 2. focus regional state aid control on aid measures most likely to cause restrictions to trade and competition; 3. rationalise the criteria for assessing the compatibility of regional state aid; 4. strengthen and deepen the analysis of the positive and negative effects of regional aid measures; 5. simplify the transparency and reporting requirements for regional state aid and make them more effective; 6. facilitate the implementation of EU Cohesion policy and other elements of the Europe 2020 Strategy.
What is the value added of action at the EU level?
The TFEU gives the competence for assessing the compatibility of state aid to the Commission. Commission guidelines are thus essential to ensure uniform rules throughout Europe for the granting of state aid in favour of private investment that could contribute towards regional economic development. Commission action is necessary to exercise oversight over MS' regional state aid policies and ensure that regional aid is focused on the most disadvantaged regions. The Commission also acts as an arbiter by scrutinising in more detail the expected positive effects and potentially negative effects of the most distortive notified aid, in particular by verifying that certain common principles are fulfilled (e.g. incentive effect, proportionality of the aid, etc.).
B. Solutions
What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?
In the absence of compatibility criteria being laid down in the RAG and the regional aid maps, the Commission would have to assess regional aid notifications on a case-by-case basis in direct

application of Article 107(3)(a) or (c) of the TFEU. This situation would not ensure equal treatment, legal certainty or predictability, and could lead to subsidy races between MS that would highly damage trade and competition within the internal market. Commission guidelines on regional state aid are therefore necessary to ensure uniform conditions for the granting of regional state aid in the EU (i.e. a 'do nothing' approach is not conceivable). Other policy instruments than regulation at EU level (e.g. self-regulation, open method of coordination, market-based instruments, etc.) would not be effective. The preferred policy option is a moderate revision of the RAG, with various adaptations to the provisions of the current RAG. This option would involve slightly redefining the sectoral scope of the RAG, maintaining its geographical scope in favour of certain categories of regions, restricting the aid amounts or type of beneficiaries in certain categories of regions or for certain types of projects or activities, and focusing the compatibility criteria on compliance with certain key economic principles (contribution to the cohesion objective, incentive effect, proportionality, balance of positive and negative effects, etc.). This revision of the RAG takes place ahead of the revision of the general block exemption regulation (GBER) which will set out the conditions that regional aid measures will need to fulfil in order to be put into effect without prior notification to the Commission.
Who supports which option?
MS and other interested parties generally support maintaining the provisions of the current RAG, with very limited adaptations. Nevertheless, certain MS and other interested parties also favour some elements of a more extensive revision, which could correspond to certain features of the preferred option (moderate revision of the RAG).
C. Impacts of the preferred option
What are the benefits of the preferred option (if any, otherwise main ones)?
The preferred option improves the effectiveness of regional aid and gives a particular advantage to the least developed regions. By reducing aid levels, it reduces the extent of potential subsidy races and allows MS with lesser budgetary capacities to compete for more investment projects and may thus contribute further to regional cohesion between MS. At the same time, it reduces pressures on public budgets and allows to reduce distortions of competition and trade. The preferred option focuses on ensuring that aid has an incentive effect and is limited in its amount to changing the investment or location decision of the aid beneficiary in favour of the target region. For notified aid, this is achieved through an improved economic assessment of incentive effect and proportionality of the aid, and for block-exempted aid, by prohibiting investment aid to large enterprises in 'c' areas if the investment does not refer to new economic activities (as aid to existing activities has a major deadweight, and its contribution to regional development is doubtful). These changes will lead to better quality regional aid policy and improve the competitiveness of the regions concerned. In particular, as the preferred option, compared to the current situation, restricts the possibility to grant aid for activities that fall under other thematic guidelines, negative effects on the environment are likely to be reduced compared to the present situation. The preferred option would benefit people living in the assisted areas, aid beneficiaries, and the competitors of aid beneficiaries.
What are the costs of the preferred option (if any, otherwise main ones)?
The preferred option is expected to generate significant positive impacts in terms of increased levels of productive investment and economic activity in the assisted areas, which should in turn improve employment levels and living standards in the regions concerned. However, the regional and

socioeconomic impacts of the preferred option cannot be quantified as data on the outcomes and results of state aid measures is limited and disparate (partly due to a lack of evaluation of regional state aid measures by MS). Any causal effects in terms of increased regional economic development cannot be validly isolated and attributed to state aid interventions based purely on output measurements (e.g. number of projects, aid amounts, etc.). Nevertheless, as annual regional aid expenditure represented on average 0.11 % of EU GDP over the period 2007-2011, thanks to the leverage and multiplier effects of regional aid, the expected economic and social impacts of regional aid could be higher than this amount. The preferred option has an incidence on the type of investments that can be supported through regional aid in the fields of energy and environmental protection. However, it does not have any direct negative environmental impacts.
How will businesses, SMEs and micro-enterprises be affected?
SMEs and micro-enterprises are not exempted from the application of the RAG as the notion of aid applies to all sizes of undertakings. However, the revised RAG would include many rules for SMEs that are lighter or that give them a more favourable treatment. Regional operating aid will be allowed for SMEs in certain types of assisted areas (whereas certain restrictions or prohibitions exist for large enterprises including in those areas). Specific provisions for SMEs include aid intensity bonuses (+10 pp for small enterprises; +20 pp for small enterprises). Certain types of eligible costs are only allowed for SMEs. Lighter requirements also apply for SMEs regarding the notification obligation and compatibility assessment criteria (incentive effect, counterfactual, etc.). The revised RAG are expected to simplify certain aspects of the granting of regional aid to SMEs.
Will there be significant impacts on national budgets and administrations?
The revised RAG, together with the revised GBER, will contribute towards avoiding excessive administrative burdens for the enforcement of regional state aid rules The reduced aid intensity ceilings and better value for money of aid would allow MS to restrict overall aid expenditure.
Will there be other significant impacts?
The application of the revised rules is expected to enhance competition in the internal market by reducing or eliminating undue restrictions to trade and competition and making the control of the effects of regional state aid by the Commission more efficient. It is also expected to contribute positively towards MS' regional economic development strategies by helping to make state aid in favour of private productive investment in the assisted areas more effective. The revised RAG should continue to support MS' policies to stimulate endogenous growth and attract inward investment flows.
D. Follow up
When will the policy be reviewed?
DG Competition will carry out a mid-term review of the RAG in S1 2017 to assess the effects of the RAG and determine if adjustments are required. DG Competition will also conduct an ex-post evaluation of the RAG for their revision for the period after 2020. Both tasks will involve consultations of MS and other interested parties.

1. INTRODUCTION

Derogations to the general prohibition of state aid laid down in Article 107(1) of the Treaty on the functioning of the European Union (TFEU) apply to aid for certain objectives of common interest. Among these derogations, state aid to promote regional development ('regional state aid') may be granted in accordance with Article 107(3)(a) or (c) of the TFEU. Article 107(3)(a) of the TFEU refers to aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the outermost regions (OR), in view of their structural, economic and social situation. Regional state aid under Article 107(3)(c)[1] of the TFEU covers aid to facilitate the development of certain economic areas where such aid does not adversely affect trading conditions to an extent contrary to the common interest.

The Commission has exclusive competence for defining the conditions under which state aid may be considered to be compatible with the internal market. Currently, for regional state aid, these conditions are laid down in the General block exemption regulation (GBER)[2], the guidelines on national regional aid for 2007-2013 ('regional aid guidelines' – RAG)[3] and the 2009 Communication concerning the criteria for an in-depth assessment of regional aid to large investment projects (LIPs[4]) ('in-depth assessment communication' – IDAC)[5]. Provided the compatibility conditions laid down in the GBER are fulfilled, Member States (MS) may grant aid without notifying the Commission beforehand. For aid outside the scope of the GBER, MS must first notify to the Commission their intention to grant aid. To assess the compatibility of such aid with the internal market, the Commission usually applies the RAG and, for LIPs which are subject to an in-depth assessment, it applies the IDAC.

The RAG establishes the criteria for identifying the areas that fulfil the conditions of Articles 107(3)(a) and (c) of the TFEU ('a' and 'c' areas, 'assisted areas'). These areas are part of a regional aid map which also foresees the applicable maximum aid intensities in those areas[6]. Annex II provides an overview of the rules of the RAG 2007-2013. On the basis of the regional aid maps, MS can put in place schemes under the GBER.

The current regional aid rules (RAG, IDAC and the GBER) and regional aid maps will expire on 31 December 2013. It is therefore necessary to develop new rules for regional state aid for the period 2014-2020. This report assesses the impact of the design and content of the future regional aid rules laid down in RAG and GBER. However, considering that the adoption of the RAG and of new maps is a prerequisite for applying the future GBER, the Commission

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1 Article 107(3)(c) also covers sectoral aid.

2 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, OJ L 214, 9.8.2008, p. 3. The GBER covers several categories of aid (like aid to SMEs, training and employment, research and development, environmental aid) and not only regional aid. This Regulation repealed a previous exemption Regulation for regional aid 1628/2006 which was in force since 1 January 2007.

3 OJ C 54, 4.3.2006, p. 13.

4 i.e. investment projects with eligible costs over EUR 50 million.

5 OJ C 223, 16.9.2009, p. 3.

6 Cf. map in Annex I.

has to adopt first the RAG. This report will also contribute to develop different policy options for the scope of the future relevant provisions on regional aid in the GBER which will be adopted only at a later stage.

2. PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

2.1. Organisation and timing

The revision of the regional aid rules, which is led by DG Competition (DG COMP), started in 2010. It draws from the experience gathered by DG COMP with the implementation of the current RAG and GBER and is underpinned by a body of academic literature and studies on to the effectiveness of regional aid (cf. Subsection 2.2.4 and Annex VI).

The first version of the roadmap for the revision of the RAG was published on the Commission's impact assessment (IA) website in December 2010.

Other Commission services were involved in the preparation of this report through an Impact Assessment Steering Group (IASG) composed of representatives of 21 services[7]. The IASG met five times, in April 2011, January 2012, December 2012 and twice in March 2013.

2.2. Consultation and expertise

2.2.1. Targeted consultation of MS and other interested parties

In March 2011, DG COMP organised a workshop with EU and EEA MS and the EFTA Surveillance Authority to collect their views on the application of the RAG 2007-2013 and the issues to be reviewed.

DG COMP held two multilateral meetings with EU and EEA MS and Croatia and the EFTA Surveillance Authority:

- For the first multilateral meeting in February 2012, DG COMP circulated to MS a non-paper on provisional orientations for the revision of the RAG.
- For the second multilateral meeting in February 2013, DG COMP circulated to MS a draft of the future RAG.

Vice-President Almunia and DG COMP have held numerous meetings with representatives from national authorities, regional and local authorities, industry and sectoral organisations, and other interested parties.

2.2.2. Public consultation

DG COMP organised two public consultations:

[7] DG Agriculture and Rural Development, DG Budget, DG Climate Action, DG Communications Networks, Content and Technology, DG Economic and Financial Affairs, DG Education and Culture, DG Employment, Social Affairs and Inclusion, DG Energy, DG Enlargement, DG Enterprise and Industry, DG Environment, DG Health and Consumers, DG Internal Market and Services, DG Maritime Affairs and Fisheries, DG Mobility and Transport, DG Regional and Urban Policy, DG Research and Innovation, DG Taxation and Customs Union, DG Trade, Secretariat-General, Legal Service.

- To evaluate the current rules in the RAG and the relevant regional aid provisions in the GBER, a first public consultation was conducted from January to April 2012 (12 weeks), based on a questionnaire. Approximately 120 contributions were received[8].
- A second public consultation was conducted from January to March 2013 (8 weeks[9]), based on the draft of the future RAG circulated to MS. Approximately 120 contributions were received[10].

A public consultation of 8 weeks on a first draft of the GBER was launched in May 2013, with a view to discuss with MS at a first Advisory Committee in July 2013. Thereafter, the Commission will publish a draft proposal that will be subject for another public consultation and discussion with MS.

<u>Overall summary of input from the consultation of interested parties:</u>

The results of the consultations of MS and other interested parties and the results of the public consultations have been taken into account both when formulating the various elements for the revision of RAG and for assessing the effects of the policy options presented in this report (cf. Chapter 6).

MS and other stakeholders generally favour the maintenance of the current rules. Many point to the need to take account of the effects of the crisis, precisely for not making the rules more restrictive (on geographical and sectoral coverage, aid intensities, rules on compatibility assessment, etc.). Many stakeholders also call for the rules on maps and aid intensities to better reflect regional socioeconomic, geographical, and demographic particularities or handicaps. The vast majority of stakeholders are opposed to the prohibition of aid to LEs in 'c' areas and also emphasise the need for regional aid to help enhance EU industrial and sectoral competitiveness in the face of increased globalisation pressures. There is consensus on the need to avoid increasing the administrative burden for the implementation of regional state aid rules. However, there are divergent views on the appropriate criteria and procedures for assessing the compatibility of regional state aid.

2.2.3. Consultation of other EU institutions and advisory bodies

The Commission services informed the European Parliament, the Committee of the Regions (CoR) and the European Economic and Social Committee (EESC) on the draft RAG and attended several meetings with members and officials of these EU institutions and advisory bodies.

The European Parliament's (EP) Regional Policy Committee held a hearing on regional state aid in February 2013. The hearing addressed many issues, in particular the territorial coverage of regional aid and the need to address regional specificities and the question of support to large enterprises (LEs) as part of regional industrial policy (including related issues, e.g. EU

8 Cf. http://ec.europa.eu/competition/consultations/2012_regional_stateaid/index_en.html and Annex III.

9 For the second public consultation, the Commission's Secretariat-General allowed a consultation period of eight weeks instead of the standard 12 weeks.

10 Cf. http://ec.europa.eu/competition/consultations/2013_regional_aid_guidelines/index_en.html and Annex IV.

competitiveness in the global context, relocation, etc.). The EP is also drafting an own-initiative report on 'regional aid policy as part of wider state aid support'.

The CoR adopted an own-initiative opinion on 'the Regional State Aid Guidelines for 2014-2020' in February 2013[11].

The CoR considers that regional state aid is a key instrument for achieving economic, social and territorial cohesion. State aid modernisation should be part of a more comprehensive European strategy for growth, cohesion and jobs. For the CoR, regional state aid is a resource available to MS to counter the long-term effects of the crisis by supporting the economic dynamism of regions in difficulty. The CoR urges the Commission to offset the effects of the crisis by raising the aid intensities ceilings and the percentage of population covered by regional aid. The CoR considers that the new restrictions imposed on aid to LEs are not justified at a time of economic crisis; the Commission should raise the current threshold for the definition of SMEs. The CoR also demands a closer coordination of state aid rules with other EU policies, especially EU Cohesion policy, and in this regard calls for the RAG revision to take account of the category of ERDF transition regions. Finally, for the maps the CoR suggests to take into account the natural, geographical or demographical handicaps faced by certain regions .

The EESC adopted an own-initiative opinion on 'the internal market and state aid for the regions' in March 2013[12].

The EESC calls on the Commission to make competition policy more consistent with EU policies, so that competition policy does not thwart objectives of common European interest. The EESC requests that the new RAG give MS a flexible cross-sectoral instrument, in particular parameters that are better adapted to a changing economic context. The EESC stresses that regional state aid policy should be updated in line with the dynamics and pace of the post-crisis economy, meaning that a map establishing assisted areas for the whole programming period (seven years) is not appropriate. In particular, the EESC considers that LEs should not be excluded from support for investment projects that promote regional cohesion and development. Regional state aid must be fine-tuned to ensure it does not encourage businesses to relocate due to high differentials in aid between neighbouring regions. Furthermore, aid levels should be reduced in a more gradual and balanced manner, in keeping with the reduction of support under EU Cohesion policy. For the maps, the EESC proposes to use other parameters alongside GDP per capita: unemployment rate, ratio of job losses to total number employed, proportion of employees laid off or whose hours are reduced.

2.2.4. External expertise

- Ex-post evaluation of the RAG 2007-2013

[11] Cf. http://coropinions.cor.europa.eu/CORopinionDocument.aspx?identifier=cdr\coter-v\dossiers\coter-v-034\cdr2232-2012_00_00_tra_ac.doc&language=EN

[12] Cf. http://www.eesc.europa.eu/?i=portal.en.int-opinions.24236

External consultants conducted a study for DG COMP on the implementation of the existing RAG. The study, which is intended as an ex-post evaluation of the existing policy, examined six case studies covering 28 state aid measures in six MS and provided findings and recommendations on a number of issues. The study was conducted between September 2011 and December 2012. The final report was published in May 2013[13]. The findings of the study have been taken into account in particular to address the issue of aid to LEs and the incentive effect of regional aid.

- Literature review on regional state aid

A literature review conducted for DG COMP by a group of researchers examined the role and effectiveness of regional investment aid and the extent to which regional policy can reduce the disparities in economic activity levels that arise between regions belonging to an integrated trade area such as the EU[14]. The findings of the study have been used in particular for reviewing the economic rationale of regional aid in this report.

The main findings of the ex-post evaluation of large investment projects is that regional aid is one of the factors but not a determining one to invest or to locate in a disadvantaged region. The determining factors are pre-existing sites, labour costs, availably of skilled labour force, availability of transport infrastructure or of natural resources, growing demand or existing competition that leads to the need to modernise existing production facilities. On this basis, the consultant concludes that the majority of the evaluated projects would most probably have been located in disadvantaged regions in Europe also without aid. No clear causal link could be established, however between the aid and impacts on market efficiency or product market competition.

The review of academic literature assesses, from both the theoretical and the empirical point of view, the extent to which regional policy can reduce the disparities in economic activity levels that arise between regions belonging to an integrated trade area as the EU. The authors review a large number of studies assessing the effectiveness of aid. They emphasize that properly assessing the role of any policy is difficult due to the fact that one can never fully compare the situation of a region that has used state aid to the situation of this very same region if it would not have used state aid benefitted (the problem of counterfactual). The study reviews possible solutions to this measurement problem. The authors conclude, however, that many studies attempt to assess the role of regional policy *without* considering this measurement problem, and that very few assess impact in a manner that can be deemed appropriate. Two studies are discussed which both appear to find that regional aid is more effective and efficient when geared towards SMEs.

13 Cf. http://ec.europa.eu/competition/consultations/2013_regional_aid_guidelines/study_rag_evaluation_en.pdf

14 Combes, P., van Ypersele, T., *The Role and Effectiveness of Regional Investment Aid. The Point of View of the Academic Literature*, Luxembourg, 2013. Available at the internet address referred to in footnote 10.

2.3. Response to the opinion of the Impact Assessment Board

The problem definition has been further developed and strengthened (e.g. descriptions of the functioning of the current RAG, analysis of the factors that affect decisions to invest in assisted areas). The report now also explains in more detail the differences in policy approaches towards regional state aid at MS level and presents findings drawn from DG COMP's practice on the use of regional aid by MS, in particular as regards aid to large enterprises. The report also examines the main shortcomings of the current rules (e.g. inappropriate targeting of the most distortive measures, insufficient verification of the incentive effect, etc.), supported by figures and practical examples relating to DG COMP's enforcement activities. Statements regarding the general economic context (e.g. trends in regional disparities) have been updated and are presented in a more contrasted manner with respect to the potential effects of the crisis at regional level. The problem definition highlights the main problems and is illustrated with case examples. The main elements of these problems are summarised and better linked in with the objectives and options.

More emphasis has been put on the interaction between the RAG and the GBER. The overlaps between the RAG and other state aid guidelines under revision have been explained in more detail. The report now provides a more extensive analysis of the effects of possible changes to the RAG on other EU policies and funding instruments, in particular EU Cohesion policy.

The descriptions of the proposed policy options have been developed. Where feasible, the impacts of the options have been quantified, in particular for impacts on relevant sectors.

The link between the comparison of options and the analysis of impacts has been strengthened. The costs and benefits of each option (e.g. economic and social impacts, administrative burden, etc.), and the consistency with other areas of EU policies, have been more clearly identified and analysed.

Monitoring indicators are proposed. The arrangements for ex post evaluation have been clarified.

3. PROBLEM DEFINITION

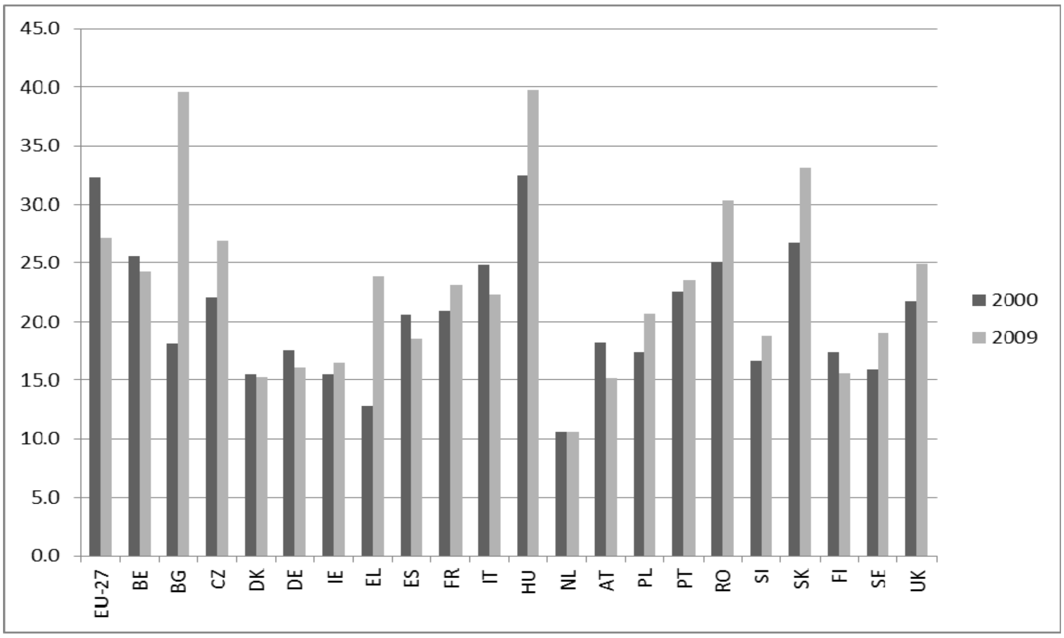
3.1. Context of the revision of the regional aid rules

The revision of the RAG must consider the following major developments:

- Economic context:

Significant overall reduction in regional disparities in GDP per capita in the EU: The growth performance of assisted and non-assisted areas in the period 2007-2013 is characterised by a narrowing of disparities in terms of GDP per capita at regional level across the EU. As shown in the figure below, for the EU-27, the dispersion of regional GDP per capita at NUTS 2 level[15] had decreased from 32.3 in 2000 to 27.2 in 2009 (latest years available)[16]. In addition, based on 2008-2010 regional GDP data (latest regional EU GDP data available), the important relative reduction in the number of regions with a GDP per capita below 75 % of the EU average[17] could provide latitude for potentially reducing the scope and level of regional aid (under the assumption that, as the level of disparities in regional development decreases, regional state aid becomes less necessary to address those disparities). This narrowing does not seem to be due to a decrease in GDP levels in the most developed MS but to an increase in the less developed MS.

Dispersion of regional GDP per capita (in PPS) at NUTS 2 level



NB: Regional dispersion does not apply for EE, IE, CY, LV, LT, LU, MT, SI.

Source: Eurostat

The graph below provides an analysis of the substantial regional differences within countries. In 2009, the highest level of regional average GDP per capita was less than twice the lowest level in DK, MT, SE, whereas in the remaining countries the difference was greater, exceeding a factor of 5 to 1 in DE, FR, PL, RO and reaching a factor of 10.5 to 1 in UK. In many MS the capital city region (at NUTS 3 level) had the highest GDP per capita (in PPS):

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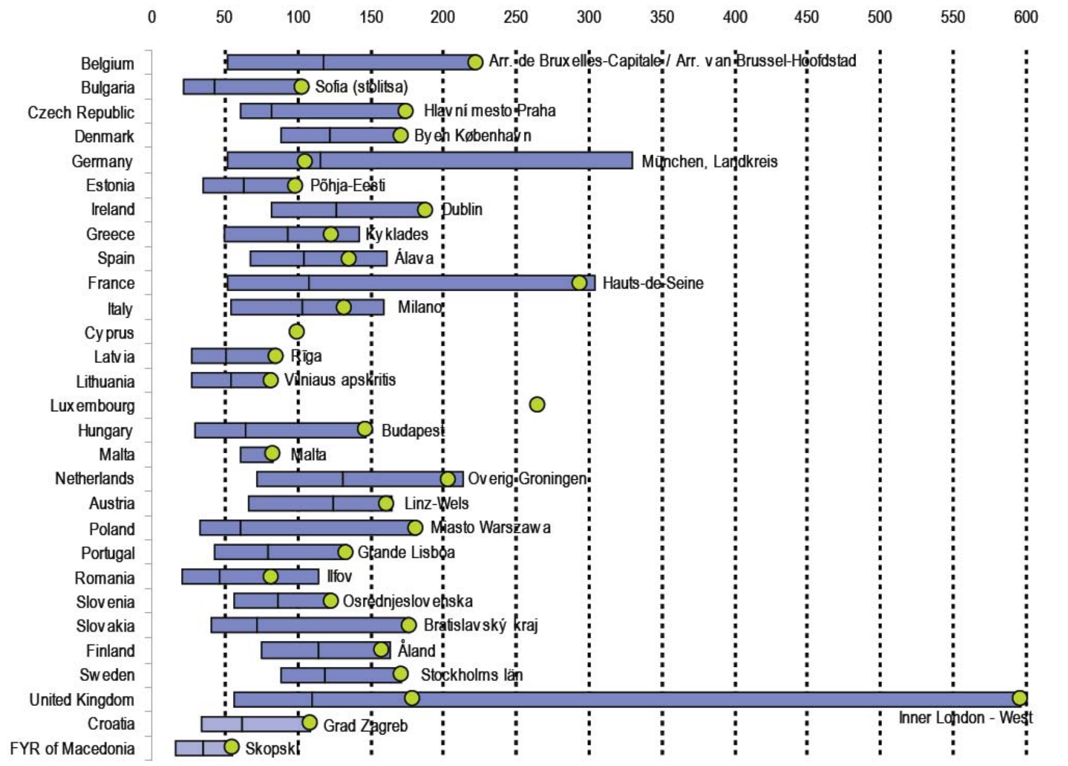
15 The dispersion of regional GDP is measured as the sum of the absolute differences between regional and national GDP per capita, weighted on the basis of the regional share of population and expressed in percent of the national GDP per capita.

16 For methodological details, see: European Commission, *Eurostat regional yearbook 2011*, Luxembourg, 2011, p. 100. Available at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-HA-11-001/EN/KS-HA-11-001-EN.PDF. For data and analyses, see: European Commission, *Eurostat regional yearbook 2012*, Luxembourg, 2012, p. 22. Available at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-HA-12-001-01/EN/KS-HA-12-001-01-EN.PDF.

17 Based on the latest available regional GDP per capita figures (2008-2010 data), the proportion of the EU population living in regions with a GDP per capita below 75 % of the EU average (i.e. the current definition of 'a' areas) would fall to around 25 % of the EU-27 population compared to around 32 % in the period 2007-2013. The number of 'a' areas would thus drop from 88 to 71.

in BE, BG, CZ, DK, EE, IE, LV, LT, HU, MT, PL, PT, SI, SK, SE, UK, as well as in HR and FYROM.

GDP per capita in PPS by NUTS 3 region, 2009 (% of EU-27 average)



(¹) The graph shows the range of the highest to lowest region for each country; the black vertical line is the average (mean); the green circular marker is the capital city region; the name of the region with the highest value is also included; Spain, 2007 (except for Asturias (ES120), Cantabria (ES130), Navarra (ES220), La Rioja (ES230), Madrid (ES300), Murcia (ES620), Cueta (ES630) and Melilla (ES640)); note that two NUTS 3 regions exist for the capital city of the United Kingdom (Inner London - West and Inner London - East).

Source: Eurostat (online data code: nama_r_e2gdp)

As regards the link between GDP and income[18], the graph below shows the variation in disposable income per inhabitant[19] across the EU MS, Croatia and FYROM in 2008. Most capital city regions reported the highest level of disposable income per inhabitant across the regions within their country (14 of the 21 MS which have more than one NUTS 2 region). Among the remaining seven MS (BE, DE, ES, IT, NL, AT, FI), disposable income per inhabitant for the capital city region generally remained above the MS average, except for Brussels and Berlin.

Disposable income of private households by NUTS 2 regions, 2008 (PPCS[20] per inhabitant)

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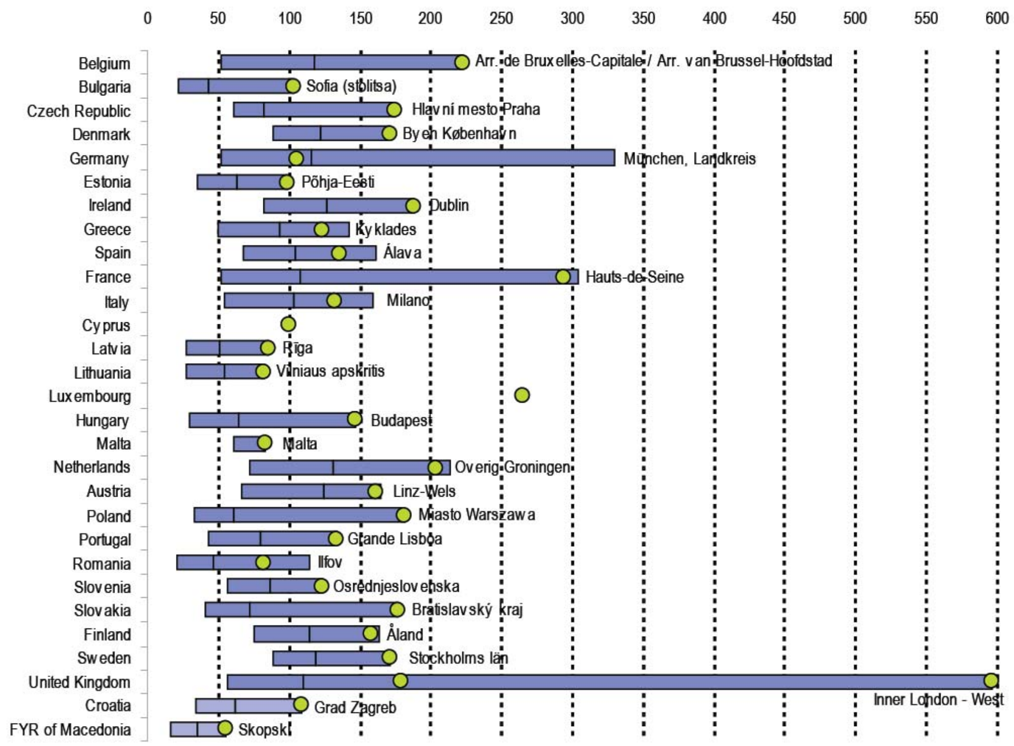
[18] See http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/GDP_and_household_accounts_at_regional_level.

[19] Disposable income covers primary income, plus social benefits and monetary transfers (from state redistribution), minus taxes on income and wealth, social contributions and similar transfers.

[20] Purchasing power consumption standards.



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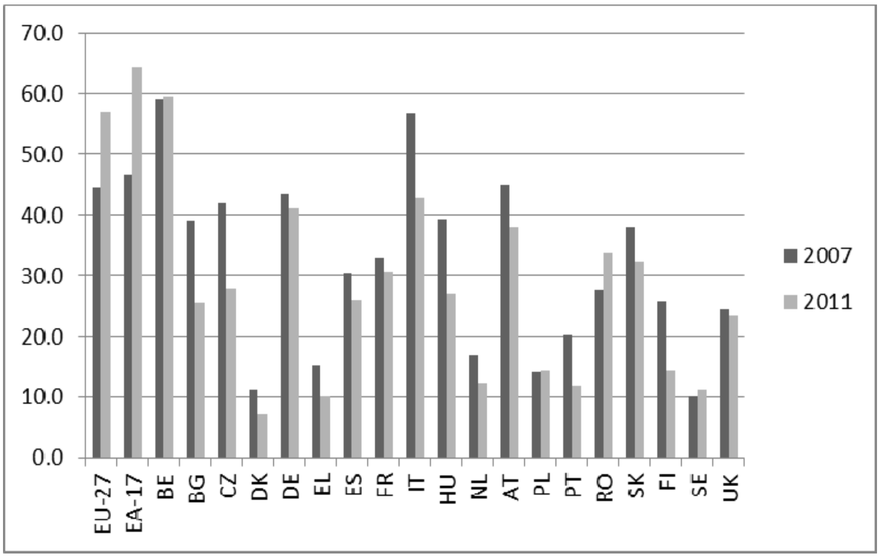
Source: Eurostat (online data code: nama_r_e2gdp)

As regards unemployment, as shown in the figure below, whereas from 2007 to 2011 the dispersion of regional unemployment rates had generally decreased at the level of MS, for the EU-27 as a whole, the dispersion of regional unemployment had increased significantly, from 44.6 to 56.9 (46.7 to 64.5 for the euro area)[21], indicating a widening in regional disparities in terms of unemployment rate[22]. The issue of increasing disparities in terms of unemployment may therefore have to be addressed as part of the revision of the RAG by considering whether it could be necessary to take into account unemployment in a more direct manner for the designation of assisted areas.

Dispersion of regional unemployment rates at NUTS 2 level

21 Cf. Bartsch, G., Scirankova, D., *Large differences in regional labour markets show asymmetric impact of the economic crisis*, 'Statistics in focus' (Eurostat), 54/2012, Luxembourg, 2012. Available at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-12-054/EN/KS-SF-12-054-EN.PDF.

22 Cf. also: European Commission, *EU Employment and Social Situation – Quarterly Review March 2013*, Luxembourg, 2013. Available at: http://ec.europa.eu/social/BlobServlet?docId=9924&langId=en.

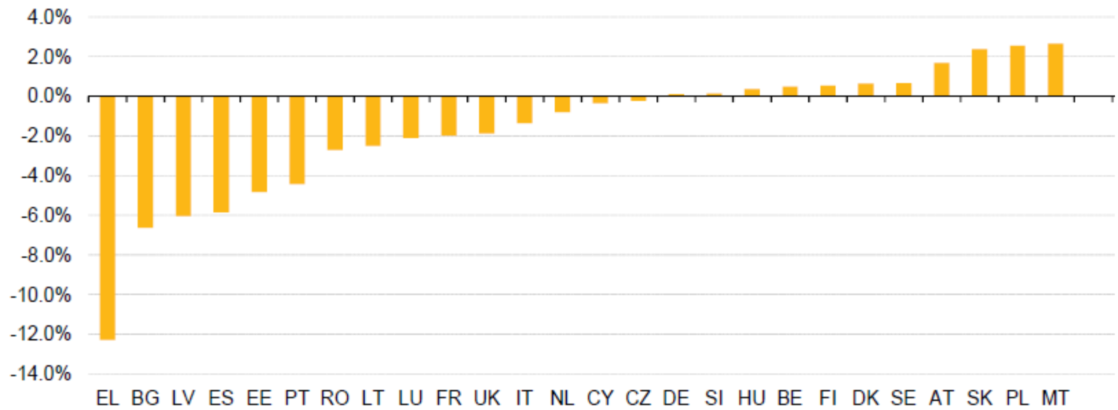


NB: Regional dispersion does not apply for EE, IE, CY, LV, LT, LU, MT, SI.

Source: Eurostat

The graph below illustrates the high variability of income (e.g. year-on-year GDP growth in EL was −3.5 % in 2010, whereas the change in median income in EL exceeded −12 %):

Change in median income in 2010 with 2009 (inflation-adjusted)



NB: Data not available for IE.

Source: Eurostat

The divergence in situations between the trends in regional disparities measured in GDP per capita and unemployment rate can be attributed on the one hand, to the fact that Eurostat regional GDP per capita data is not as recent as regional unemployment rate data (regional unemployment data is available at best for year *n* −1, whereas regional GDP per capita data is only available at best for year *n* −2), and on the other, that unemployment rate figures are generally more volatile than GDP per capita in relation to economic cycles[23]. Regarding the link between GDP and income, although GDP has come to be regarded as a proxy indicator for overall living standards (as is shown by the overall correspondence between the two graph on GDP per capita by NUTS 3 region and disposable income), there may be certain discrepancies between the two at the level of individual regions, linked for instance to the

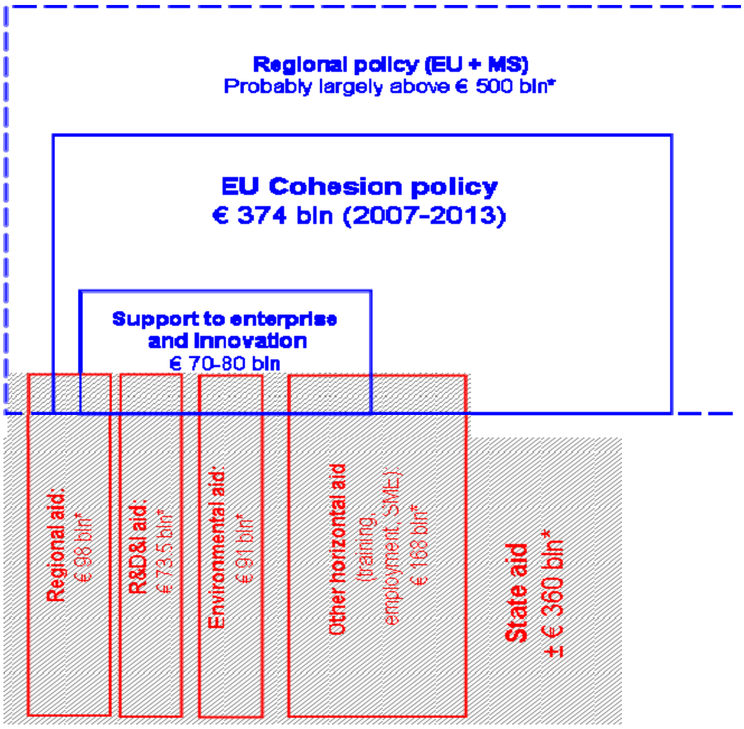
[23] Cf. http://epp.eurostat.ec.europa.eu/statistics_explained/index.php/Unemployment_statistics.

effect of social transfers, higher variability (cf. graph above), or to the 'commuting effect' (people live in one region and work in another).

Disparate effects of the crisis at regional level: The magnitude and timing of the effects of the economic crisis varies between and within MS. Some MS and regions have been particularly affected by the consequences of the financial and economic crisis and the impact of the sovereign debt crisis in certain MS has also had divergent implications at regional level. These disparate effects of the crisis at regional level are not fully captured by the lagging statistical reporting. The most recent data from Eurostat that can be used to determine the areas eligible for regional aid cover regional GDP per capita until 2010 and the level of unemployment until 2011. It is therefore not possible to determine with greater accuracy whether regional economic disparities have increased as a result of the current economic crisis. In any case, it is acknowledged that these statistics do not reflect the level of development and unemployment of certain member states and regions when the new rules will enter into force (i.e. in 2014).

- Wider EU policy context:

Coherence with the reform of EU Cohesion policy: State aid policy and EU Cohesion policy have a joint objective to ensure effective spending when EU and national funds are used for providing direct financial support to companies. About 20% or nearly EUR 70 billion of cohesion policy (ERDF, ESF and Cohesion funds) structural funds is spent in the form of State aid to companies, in the current programming period (2007-2013). 8% (EUR 28 billion) of all cohesion policy spending is used to co-fund measures benefitting exclusively SMEs. The same amount is spent predominantly on SMEs but may also benefit large companies. For state aid measures co-financed by the Structural Funds, Member States do not predominantly rely on the RAG but use other state aid guidelines as well (in particular the R&D&I, risk finance, broadband which itself accounted for €2bn of co-financing of aid measures and environmental aid guidelines) and relevant rules for SMEs, training and recruitment aid under the general block exemption. Only the RAG have a limited geographical scope and cover the less developed regions, part of the transition and more developed regions. The other state aid instruments apply across the EU like EU Cohesion policy. Therefore, these other instruments are equally – if not more – important for EU Cohesion policy. The main reforms undertaken in the SAM framework for all state aid instruments aim, like the reform of EU Cohesion policy, to refocus spending on the Europe 2020 Strategy and to ensure effective spending that promotes growth.



NB: All figures are indicative estimates and exclude aid for infrastructures

40% of Regional aid under GBER

60% of Regional Aid under RAG

Other EU policies aimed at supporting growth and jobs: The revision of the RAG should also take account of other areas of action within the Europe 2020 Strategy, linked to policies to support entrepreneurship and business expansion and to develop the potential of EU industry for growth, employment and innovation. Specific attention is also needed to the way regional state aid can support measures to improve key transport infrastructure, to ensure the deployment of advanced ICT networks, to promote rational energy use, energy-efficiency and security of supply, and to enhance environmental protection and emissions reduction. The consistency of the current revision with the other EU policies should also ensure the integrity of the internal market without undue distortions of competition.

- State aid policy context:

State aid policy control is the exclusive competence of the Commission and is meant to be a smart and inexpensive tool to help Member States to "achieve more with less".

State Aid Modernisation (SAM):

The Commission launched in May 2012 the state aid modernization package[24], which aims at fostering growth in the internal market by encouraging effective and efficient design of aid measures, focusing enforcement on cases with the biggest impact on the internal market, streamlining rules and faster decisions by the Commission.

[24] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU State Aid Modernisation (SAM), 8.5.2012, COM(2012) 209 final.

In this context, the Commission is reviewing not only the RAG, but also the Research and Development and Innovation (RDI) framework, the risk capital guidelines (RCG), the environmental aid guidelines (EAG), guidelines applicable for the aviation sector and the rescue and restructuring guidelines. In parallel, the de-minimis Regulation and the GBER are being revised. To accelerate the decision making-process of the Commission in the field of state aid, a new procedural regulation has been proposed to the European Council together with a new enlarged enabling regulation to allow the Commission to further extend the scope of the GBER.

After the adoption of the new broadband guidelines at the end of 2012, the new RAG are the next to translate into tangible policies the principles of the modernisation strategy. The RAG are the first to be adopted this year in order to allow Member States to prepare regional aid maps for the next programming period. It is envisaged to adopt the other state aid guidelines by the end of 2013. This will ensure that Member States and stakeholders have a clear set of rules as of 2014 as a reference point for the development of their policies and aid interventions. This will, in particular, be important for the expenditure under EU cohesion policy in the period 2014-2020, a significant part of which falls under the GBER.

Coherent state aid framework based on common principles:

The revised state aid framework should facilitate the treatment of 'good aid' (well-designed, targeted at identified market failures and objective of common interests, proportionate and least distortive) and prevent the granting of 'bad aid' (which distorts competition, frustrates innovation, delays necessary adjustments, fragments the internal market).

This will be achieved through a coordinated approach rooted on common principles to ensure also consistency across different guidelines and block-exemptions, in light of the SAM initiative.

The common principles underpinning the revised guidelines are the following: 1) aid is contributing to a well-defined objective of common interest; 2) it is targeting a market failure or an equity objective; 3) and it is an appropriate instrument to tackle these objectives; 4) it has incentive effect and is changing the behaviour of the company which otherwise would not have undertaken the desired activity/project or would not have located it in the target area; 5) aid is limited to the minimum necessary to change that behaviour; 6) undue negative effects are limited/avoided; 7) aid award is transparent.

In applying these criteria and in order to avoid unnecessary administrative burden, the Commission intends to take into account possible synergies with other EU policies and in particular Cohesion Policy. Therefore, for example under the RAG in assessing the contribution to regional development, these criteria will be considered to be met for measures implemented in accordance with regional development strategies defined in the context of the cohesion policy Funds; likewise it will consider as appropriate measures implementing priorities identified in an operational programme co-financed under the cohesion policy Funds.

For SMEs and smaller aid amounts, the requirements will be kept at simple and proportionate levels. First, individual notification will only be requested for large aids, while the greatest majority of SMEs will benefit from block-exempted schemes. Second, requirements for SMEs under the GBER will be streamlined and further simplified for small aid amounts

Links between RAG and the other guidelines:

The geographical limitation of the RAG is distinguishing it from the other state aid guidelines which apply across the EU territory. Therefore, not only RAG but also the other thematic guidelines (e.g. RDI framework, environmental aid guidelines, aviation guidelines or broadband guidelines) are applicable in assisted areas which could likewise contribute to the development of those areas. However, under the thematic guidelines aid is allowed to tackle primarily a market failure and not necessarily an equity objective. Therefore, the conditions under these guidelines are stricter in order to limit the distortive effects of the aid on the internal market.

As Member States may choose the framework under which they intend to grant the aid, it has to be ensured that under the future RAG minimum conditions imposed in the overlapping guidelines will be imported in the former, in order to preserve the integrity of the internal market and to limit the negative effects of the aid to minimum.

On the other hand, the positive effects of the aid granted under the thematic guidelines in assisted areas could be leveraged through higher aid intensities - for instance ‘green projects’ in an assisted area, which could fall under both environmental and regional rules. These may be entitled to more aid under environmental rules, if justified by higher costs, than a grey project in an assisted area (only falling under regional rules).

Role of the GBER:

The existence of an exemption regulation in the period 2007-2013 has widened the possibility for MS to implement a significant number of aid measures without the need for any prior notification to the Commission. Around 1200 regional aid schemes have been put in place under the GBER and around 40% of total regional aid expenditure was incurred under block-exempted schemes. Several MS[25] mainly provide regional aid under this instrument (e.g. in 2010 DE granted 99 % of the total expenditure of regional aid under the GBER, whereas FR spent only 5 % under the GBER). The success of the reform depends on the Commission’s ability to deliver a simpler, clear and more effective framework based on a sound economic rationale. In that context the review of the GBER represents a key opportunity to contribute to all objectives, with particular focus on simplification.

The GBER has made it possible to both broaden and simplify State aid enforcement but it has highlighted two main shortcomings of the current regime: (i) the rules are complex and they do not provide sufficient incentives to comply; (ii) there is a lack of consideration of the cumulative impact of aid. These shortcomings call for a double response: On the one hand,

[25] DE, BE, DK, ET, CY, LV, MT, NL, AT, RO.

the GBER can be clarified and simplified to facilitate its correct application. In parallel, evaluation of large schemes, publication obligations and ex post monitoring should contribute to a better compliance, preventing deadweight losses as well as excessive and distortive aid. On the other hand, an enlarged scope of the GBER could be envisaged (e.g certain types of operating aid schemes in OR and sparsely populated areas could be block-exempted in view of the limited negative effects on the internal market). However, any further enlargement of the scope (eg ad hoc aid to large enterprises or sectoral schemes) would require additional safeguards that would not reduce the current high administrative burden.

3.2. General policy problems

The policy goal of regional state aid control is to ensure that aid leads to positive results in terms of increased economic development in the assisted areas and that these positive effects outweigh any potential negative effects in terms of distortions of trade and competition within the internal market.

The revision of the RAG should therefore aim to address the following main problems related to:

(1) the effectiveness of regional state aid as a policy tool for supporting regional economic development;

(2) the efficiency of regional state aid rules in ensuring control of competition effects by the Commission and MS;

Additional, secondary, policy problems are linked to the articulation and consistency between regional state aid control and other areas of EU policy and the need to simplify rules and processes and reduce administrative formalities.

3.2.1. Effectiveness of regional aid at promoting regional economic development

In economic policy terms, regional investment aid is based on a model of regional development in which aid serves to leverage productive investment by firms, which in turn is intended to generate increases in output (value added) and employment.

The extent to which regional aid effectively contributes to regional development is intrinsically linked to the question whether or not the aid provides for an incentive effect. The aid has an incentive effect if either of the following is the case. 1) The aid gives the recipient an incentive to undertake an investment that would otherwise not be profitable for the firm to implement anywhere in Europe. 2) The aid induces the recipient to invest into a more disadvantaged region whereas absent aid it would instead carry out the investment in a less disadvantaged region. Where the aid does not provide for an incentive effect, its contribution to regional development is essentially nil (and possibly even negative, considering the opportunity costs of public funds and the shadow cost of taxation, i.e. the distortive effect of the taxation needed to finance the subsidy).
State aid may in some cases change the investment behaviour of firms by directing investments towards assisted areas. However, aid is not always necessary in order to correct the tendency towards the spatial concentration of economic activities in the more developed regions. The low level of development of assisted areas, which are predominantly situated in

more peripheral regions, does not necessarily result in reduced regional competitiveness, as certain other factors may make it attractive for firms to locate or to invest there. Indeed, there are mixed incentives for firms to locate investments in assisted areas due to the comparative economic advantage of locating certain investments in these regions. In some of the assisted areas, certain production factors are less costly or more readily available (e.g. greenfield sites, skilled labour, etc.). Therefore, firms may decide to locate investments in these assisted areas, even without aid, in order to benefit from lower production costs or to access new markets.

The notion of incentive effect is therefore essential for determining the effectiveness of regional state aid. In this respect, the fact that the degree of control of the incentive effect of aid by granting authorities varies significantly between MS[26] raises additional concerns.

In summary:

- In the absence of aid, certain firms would anyway decide to invest in the assisted areas. Adequate control of the incentive effect is thus essential to ensure regional aid is targeted at leveraging additional private investment in the assisted areas.
- An ineffective verification of incentive effect causes a significant risk of deadweight which distorts competition and weakens the valued-added of regional aid as an economic development tool.

3.2.2. Efficiency of regional aid rules for avoiding undue distortions of competition and trade

Apart from requiring that regional aid has an incentive effect, the regional aid rules are also aimed at minimising distortions of competition and trade, and avoiding wasteful subsidy races among MS.

When a company chooses to locate in a particular region, this may provide significant benefits to other players in the region concerned (e.g. suppliers, customers and employees) and may give rise to important knowledge spill-overs. This is also why regions often ‘compete’ to attract the investment. From the viewpoint of overall economic efficiency[27] (and potentially also from the viewpoint of the international competitiveness of the EU), it would be optimal if the region where the spill-over effects are highest would obtain the investment concerned. It is well known that from a purely conceptual point of view, a subsidy race between regions for attracting investment can result in an efficient outcome in terms of the allocation of economic activity, as the region deriving the highest benefits would typically be the one willing to offer the highest subsidy and thus be able to attract the investment[28]. However, the efficient outcome may not be achieved when some regions (e.g. the poorer regions) have constrained

[26] E.g. in some MS, granting authorities carry out an economic verification of the necessity and incentive effect to before deciding to grant regional aid to individual firms, while in others the verification of incentive effect relies mainly on formal criteria, including for larger aid amounts (e.g. application for aid before the investment). Source: Commission monitoring.

[27] In economics, ‘efficiency’ refers to the extent to which welfare is optimised in a particular market or in the economy at large.

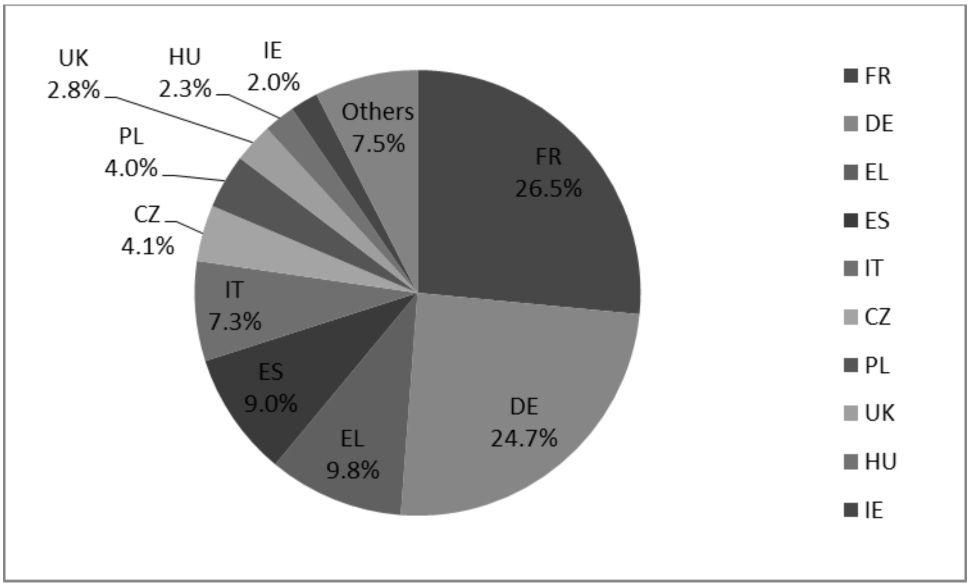
[28] Cf. Section 2.2 ‘The magnitude and economic cost of subsidy races’ of the background paper of the proceedings of the OECD Global Forum on Competition Roundtable on Competition, State Aids and Subsidies (2010). Available at: http://www.oecd.org/regreform/sectors/48070736.pdf.

resources. In such a case, the poor regions will easily be outbid by rich regions, independently of whether the investment is most efficient in the region or not. There is thus a clear risk that a subsidy competition in the presence of unequal budgetary means results in inefficient outcomes for the EU as a whole affecting its competitiveness.

Further, when the company in question is relatively indifferent between the target locations concerned (e.g. it does not really matter for the company if it is located in the region X or region Y), subsidy competition may become so fierce that the main winners will be the companies investing, not the regions. Without strict enough rules governing the granting of subsidies, the regions will find themselves in an equilibrium whereby they end up paying large sums of money to firms, which might be better spent on more productive uses, especially in times of severe strains on public budgets.

Regional state aid expenditure varies considerably between MS. MS do not have the same budgetary capacity to support their domestic economic activity. For example, FR and DE granted respectively EUR 3.3 billion (mainly operating aid in OR) of regional aid and EUR 3.6 billion (mainly investment aid) in 2011 while 7 MS (BG, DK, EE, CY, LV, MT, NL) each granted less than EUR 30 million of regional aid in the same year (cf. Annex V). Regional aid expenditure in the EU-27 over the period 2007-2011 was approximately EUR 67.4 billion. As shown in the figure below, five MS represented approximately 77 % of the total amount of regional aid granted during that period: FR: 26.5 %, DE: 24.7 %, EL: 9.8 %, ES: 9.0 %, IT: 7.3 %. With the exception of FR and ES, where a portion of the aid concerns operating for the OR, most of this aid corresponds to investment aid.

Regional state aid expenditure per MS, 2007-2011



Source: DG COMP

Due to the severe budgetary constraints in several MS and the coordination of budgetary and fiscal policies implemented as part of the European Semester, there is a need for state aid rules to contribute towards more efficient public spending.

In addition to these differences in level of regional aid expenditure, there are also notable differences in the administrative capacity of MS as regards state aid control, linked partly to differences in institutional and administrative organisation and to issues of coordination between the various levels of state aid policy-making and enforcement. In general, the role of central State aid coordinator is performed by the Ministry of Finance or the Ministry for Economic affairs (AT, BE, BG, EE, FI, DE, EL, LV, SK, SL), the Ministry for Foreign affairs (PT, ES), a department attached to the Prime minister (FR, IT), bodies similar to NCAs (CY, CZ, DK, HU, LT, MT, PL, RO) or others bodies (IE, NL, SE, UK).

Finally, there are also significant variations in the application of regional state aid rules as MS have different approaches towards regional state aid as a policy instrument for regional economic development (cf. Annex V and textbox below).

Overview: regional state aid practice in the five MS granting the most regional aid

MS	Regional aid: total expenditure/ annual average, 2007-2011) (bn EUR)	LIP cases, 2007-2013	
		< notification threshold[29]	> notification threshold
FR	17.9 / 3.6	EUR 45 m; 9 cases (aeronautics, automotive, glass, chemicals, computer activities, other manufacturing)	0
DE	16.6 / 3.3	EUR 1.231 bn; 72 cases (automotive, chemicals, energy, food products, pharmaceuticals, rubber and plastics, services, wood products, solar, transport equipment)	EUR 1 bn ; 21 cases (solar, semiconductor, paper, automotive)
EL	6.6 / 1.3	EUR 190 m; 6 cases (accommodation, hotels, services)	EUR 80 m; 2 cases (energy, glass)[30]
ES	6.1 / 1.2	EUR 433 m; 38 cases (automotive, chemicals, tourism, paper, non-metallic mineral products, solar, transport equipment, hotels, services, food products)	EUR 100 m; 4 cases (automotive, solar)
IT	4.9 / 1	EUR 85 m; 5 LIP (energy, automotive, cement)[31]	EUR 125 m; 4 cases (automotive, energy, solar)

In FR, the majority of regional aid was granted under operating aid schemes in the OR (e.g. the 8 main operating aid schemes out of the 20 schemes approved in 2007-2012 have a combined annual budget of ± EUR 1.8 billion). Regional investment aid in FR is mainly granted under the GBER and primarily to SMEs. The main regional investment aid scheme is the PAT (*prime d'aménagement du territoire*), which concerns industrial and services projects has an annual budget of EUR 40 million. Another generic scheme implemented under the GBER also serves as a basis for granting regional investment aid. These schemes are used alongside regional fiscal aid schemes and specialised financial engineering instruments[32]. Regional aid is used in all sectors of the economy, sometimes in conjunction with other forms of aid (e.g. RDI, training).

In DE, regional aid is almost exclusively granted under block-exempted investment aid schemes, the only exemption being guarantee schemes providing operating aid for SMEs and mid-caps (companies with up to 1000 employees) in Eastern Germany. The two main regional aid schemes are the *Gemeinschaftsaufgabe Verbesserung der regionalen Wirtschaftsordnung* with an annual budget of ± EUR 1.3 billion and the *Investitionszulage* with an annual budget of ± EUR 570 million. The former seems to have been used in a proportion of 30 %-40 % to support investments by LE in 2009 and 2010. The latter is an automatic fiscal aid scheme which is applicable only in Eastern Germany and is being phased-out until the end of 2013. DE accounts for around half of notified LIP cases since 2007 (i.e. 21 cases, ± EUR 1 billion aid) and represents 23 % (± EUR 1.2 billion) of all aid to LIP granted under block-exempted schemes. The notified aid mainly concerned extensions of existing establishments.

In EL, regional investment aid in EL is mainly granted under the GBER and to SMEs (there have only been 6 LIP cases below the notification threshold and 2 notified LIP cases). The main regional aid scheme is the General Development Law, which has existed since 2004. Regional aid is used in all sectors of the economy and primarily to support investment in the fields of tourism, energy and the environment, which are often co-financed through the SF.

In ES, regional aid is also mainly granted under the GBER and to SMEs. The main (national) regional investment aid scheme is the *incentivos regionales*, which has existed since 1985, and has an annual budget of EUR 298 million. Other regional schemes implemented by regions under the GBER also serve as a basis for granting regional investment aid. As in EL, regional aid is used in all sectors of the economy but notably investment in the fields of tourism, energy and the environment, with such projects often being co-financed through the SF.

In IT, regional aid is granted under more than 100 block-exempted schemes, both at national and regional level. These schemes are often co-financed by the SF and combined with other types of aid (e.g. SME, RDI, training, employment). The main national regional investment aid scheme is the *contratti di programma* (block-exempted scheme), which has an annual budget of EUR 500 million. A national tax credit scheme for investment in the manufacturing sector in assisted areas in southern IT was authorised in 2008 with an annual budget of EUR 750 million but has not been refinanced since 2009. Sicily introduced in 2009 a tax credit scheme for productive investments, which has an annual budget of EUR 480 million.

All these factors combine to reinforce the latent competition between regions to attract investment and exacerbate the risk of subsidy competition.

DG COMP's enforcement experience on notified cases (cf. Annex II and VI, Subsection 3.3.2) reveals the need for a more substantive assessment of the necessity and incentive effect of aid and of its effects on trade and competition. In the current RAG, a substantive (in-depth) assessment is only done for LIPs and only if the beneficiary has a high market share (over 25 %) or if the project is likely to result in a significant capacity increase in a market in decline (more than 5 %). However, these criteria are difficult to apply and require a lengthy assessment and do not enable to capture the most potentially distortive cases.

In summary:

- The wide discrepancies in the volume of aid and policy approach for the implementation of regional aid rules reinforce the strong variability in the effectiveness of enforcement practice, which could threaten the integrity of the internal market (with regions seeking to 'outbid' each other through aid).
- The Commission's control of the negative effects of regional state aid does not adequately target measures or situations where restrictions to competition are more likely to occur because aid is not a determining factor for the location of investment in the assisted areas or because it exceeds the minimum necessary to attract investments in the area concerned..

3.3. Problems linked to the design and application of the regional aid rules

3.3.1. Geographical coverage of the regional aid rules

- Proportion of assisted areas in the EU

Despite the crisis, the overall increase in the level of EU cohesion in terms of GDP per capita[33] and the deepened integration of the internal market that have occurred following the EU enlargements of 2004 and 2007 could justify limiting the geographical coverage of regional aid. A key problem in defining the rules on maps is whether to use the apparent reduction in regional disparities (based on the latest available regional data until 2010) as a justification to reduce the overall population coverage of assisted areas or, on the contrary, to maintain a high level of coverage given the uncertainties on the effects of the crisis at regional level due to time-lag in statistical reporting[34]. Conversely, the increase in regional unemployment disparities – at least partly as a result of the crisis – could require a more specific treatment of regions with high unemployment levels in the rules regarding the designation of assisted areas.

- Identifying the regions most in need at EU level and national level

A second key issue is what balance to strike between EU level decisions on which are the regions most in need and allowing enough flexibility for MS to supplement this with national prioritisation. Underdevelopment and permanent disadvantages are generally recognised at EU level.

Currently, those regions with a GDP per capita below 75 % of the EU average ('a' areas) as well as regions which formerly had 'a' status ('ex-a' areas) are predefined as assisted areas by the Commission. Similarly, regions with permanent disadvantages, such as the OR ('a' areas) or sparsely populated areas (SPA, predefined 'c' areas), are also predefined. By predefining these regions, the Commission ensures that MS get sufficient population coverage to cover these regions. The key question is whether the Commission should predefine more regions (e.g. all transition regions, all border regions, islands or mountainous areas, etc.) as this choice would limit the flexibility of MS for their national regional policy.

The remaining 'c' coverage is currently distributed between MS using a method based on socioeconomic criteria which compares the relative situation of regions at both national and EU level.

In addition to the use of GDP per capita as an indicator of regional disparities, given the high levels of unemployment in certain MS and regions[35], another issue to be considered could be whether to give more weight to unemployment as a criterion for the designation of assisted areas. This could be relevant, for instance, for the designation of 'a' areas (e.g. through the introduction of an unemployment indicator) or for the method for the allocation of non-predefined 'c' coverage among MS (e.g. by weighting the unemployment criterion in relation either to national or EU averages). In this respect, the issue would be whether to strengthen the EU dimension, in particular for the unemployment indicator, given the increase in unemployment disparities in Europe and the importance of the employment objective in the Europe 2020 Strategy.

- Differentiation of aid intensities between categories of assisted areas

The level of aid intensity (aid intensity ceiling) applicable in an assisted area is inversely proportional to the level of development of that assisted areas.

The question is if the existing levels should be increased or maintained, e.g. to reinforce or to maintain the attractiveness of Europe as a target for foreign direct investment; or if it should be reduced, e.g. to cope with the effects of state aid in the intra-EU context, where, due to increased market integration, the potential of state aid to distort trade and competition has increased.

The higher the aid intensity ceiling, the more investment projects can be attracted to an assisted region that, without aid, would not have been viable at all in the EU, or have been more viable in alternative regions. However, attracting projects to assisted regions involves both budgetary costs and economic costs (e.g. inefficient allocation of resources, sub-optimal specialisation). These costs are justified if they are outweighed by socioeconomic benefits in terms of cohesion and welfare. The balance is more likely to be positive if the costs of these measures are reduced to the minimum necessary. Setting the aid intensity ceilings at the right level is a key instrument to achieve this balance.

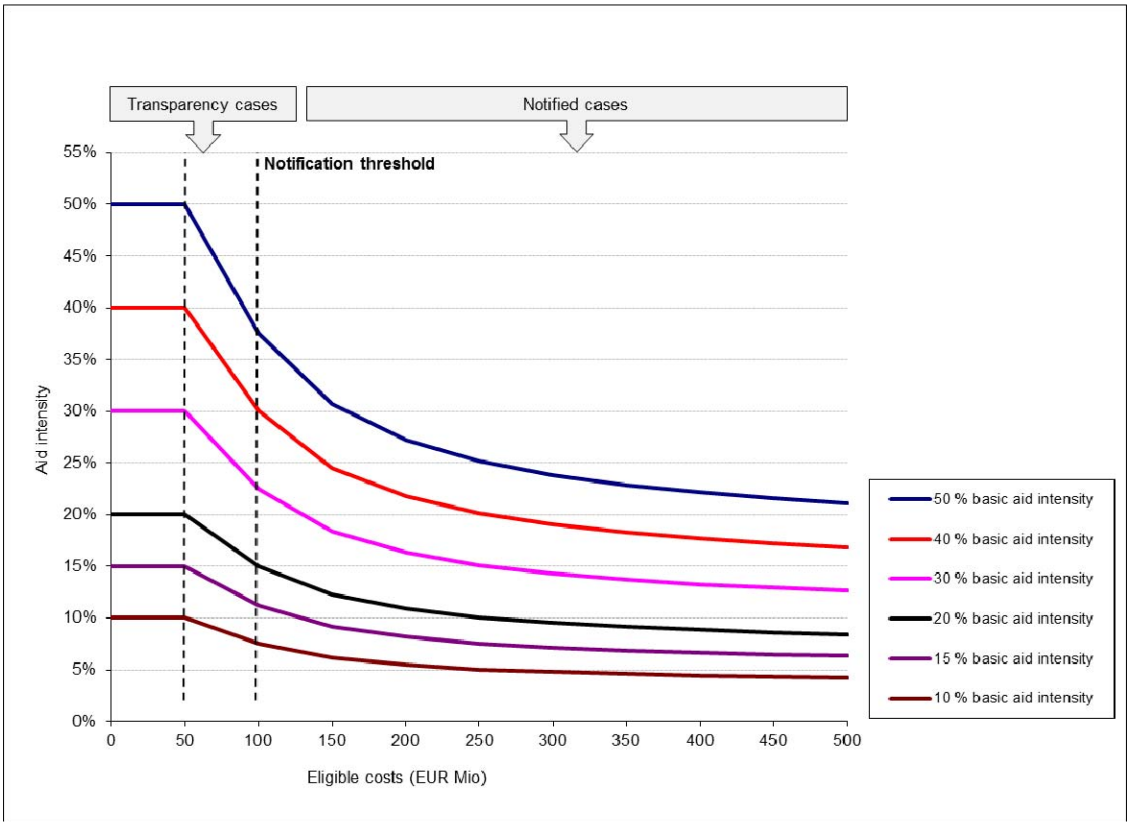
This balance will not be achieved if the current aid intensities are increased. These increased levels would allow MS to spend more but not in an efficient way because less developed MS would not have the budgetary means to compete with more developed MS to attract investments to their regions. Increased aid intensities would run against the cohesion purpose of regional aid because investments would be attracted from poorer regions to more developed regions because of budgetary means.

In the conclusion and recommendations of the ex-post evaluation of the regional aid guidelines 2007-2013[36], the consultant stresses the importance of reassessing maximum aid levels to ensure that less well-resourced countries are not excluded from competing for investment opportunities on the grounds of affordability. For example, when analysing the impact of aid on a company in determining the location of its investment, it appears that the main alternative location was in the Czech Republic but that Thuringia (Germany) was chosen eventually, due to the higher amount of aid offered there.[37]

In addition, and despite the views of some MS and stakeholders that the current aid intensities should be increased, DG COMP's case practice reveals that the current aid intensity levels are often not used to the maximum.

The table below shows the scale of aid intensities for LIP cases under the current RAG. LIPs with eligible costs between EUR 50 million and EUR 100 million are subject to the transparency requirement (cf. Section 5.3). LIPs with eligible costs above EUR 100 million have to be notified only if the maximum aid amount is granted (i.e. if the notification threshold is exceeded).

Scale of aid intensities for LIP cases (RAG 2007-2013)



As shown in the table below, in the period 2007-2012, out of the 113 LIP cases with eligible costs above EUR 100 million, only 40 cases were notified because the MS concerned had granted the maximum aid amount, thus exceeding the notification threshold. In 65 % of these

LIPs cases, MS did not use the maximum aid intensity (the aid intensity granted was capped to below the notification threshold).

As mentioned above, only 16 MS (of which, 10 EU-15 MS) granted aid to LIP in the period 2007-2013. In CZ and EL, all LIP cases had eligible costs below EUR 100 million.

In AT, BE, FR, IE, and SE, the aid intensity was capped to below the notification threshold for all LIP cases with eligible costs above EUR 100 million. In ES, HU, PT, and UK the aid intensity was capped to below the notification threshold for between around 75 % and 90 % of LIP cases with eligible costs above EUR 100 million. In PL and RO, the aid intensity was capped to below the notification threshold for respectively 64 % and 50 % of LIP cases with eligible costs above EUR 100 million.

On the contrary, in DE and IT, the maximum aid intensity was granted for respectively 70 % and 80% of LIP cases with eligible costs above EUR 100 million.

Distribution of LIP cases and aid intensity granted (2007-2012)

MS	Total LIP	< EUR 100 mio	> EUR 100 mio		Aid capped (% cases)
			< notification threshold	> notification threshold	
AT	3	2	1	0	100 %
BE	9	6	3	0	100 %
CZ	17	17	0	0	n.a.
DE	93	63	9	21	30 %
EL	6	6	0	0	n.a.
ES	40	26	11	3	78 %
FR	9	5	4	0	100 %
HU	36	23	11	2	85 %
IE	16	8	8	0	100 %
IT	9	4	1	4	20 %
PL	41	27	9	5	64 %
PT	21	12	8	1	89 %
RO	6	4	1	1	50 %
SK	3	1	0	2	0 %
SE	1	0	1	0	100 %
UK	18	11	6	1	86 %
Total	328	215	73	40	65 %

Two additional examples can be given:

- Under sectoral schemes notified in 2007-2012, the aid amount allowed was often below the maximum aid intensity (eligible costs were generally capped to a set amount per beneficiary).

- In all 38 ad hoc aid cases notified in 2007-2012, the aid amount was below the maximum aid intensity.

Therefore, on balance, the evidence based on current practice would tend to plead in favour of maintaining or reducing the current aid intensity levels, The possibility to increase the current levels of aid would therefore not be considered. A reduction of aid intensities levels may also contribute towards mitigating the negative effects linked to the differences in budgetary capacity of MS and the differences in policy approaches related to the level of aid to be given to individual investment projects.

The principle of higher aid intensities in ‘a’ areas enables to ensure preferential conditions in these areas, with one of the question to be addressed being the appropriate differential between the different categories of assisted areas (i.e. between ‘a’ and ‘c’ areas and between the different sub-categories in ‘a’ and ‘c’ areas).

The notification thresholds appear to have a limitative effect on the level of aid for LIP. The scaling-down mechanism also seem to have beneficial effects in terms of reducing the overall aid levels. It could also be considered to cap the aid intensity in relation a certain threshold of eligible costs (to limit the aid to ‘outlier’ investment projects with very high eligible costs). These points could contribute towards the formulation of the policy options as regards aid intensities and notification thresholds.

3.3.2. Material scope of the regional aid rules

- Sectoral scope

In principle, the RAG are applicable to regional aid granted in every sector of the economy apart from certain sectors which are subject to special rules (e.g. agricultural production, fisheries, transport).

However, currently, regional aid is prohibited in the synthetic fibres and steel sectors because these sectors were traditionally in overcapacity or in decline in the EEA. Therefore, the question is whether the prohibition of regional aid in these two sectors should be maintained or abandoned, considering that the structural overcapacity may be cyclical and that these sectors might not be affected by this anymore. Furthermore, some of the niches in these sectors seem to be growing because of a growing demand side. Therefore, it has to be considered whether the definition of the products excluded from receiving regional aid should be revised or not. Another possibility would be to abandon the prohibition of regional aid to these sectors and to tackle the competition concerns linked e.g. to potential overcapacity or to the maintenance of inefficient market structures on a case-by-case basis. In any case, it has to be underlined that only regional aid is prohibited to the sectors and that other types of aid (like RDI, risk finance, training and employment aid or environmental aid) might be granted.

Because of the characteristics of the coal and shipbuilding sector, regional aid granted in these sectors was allowed under specific rules which derogate from the RAG. However, the rules for the coal sector have expired and the new rules in force allow aid in this sector only for the closure of uncompetitive mines in the form of training aid, R&D&I aid or environmental aid.

Thus, the question is whether or not regional investment aid should be allowed for the category of mines not covered by the special rules in force or to prohibit regional aid in this sector considering the important harmful environmental impact of these investments. In any case, regional aid to this sector should be subject to Commission scrutiny and cannot fall under the GBER.

Regarding the shipbuilding sector, the rules in force foresee that as from 2014 this sector would be subject to the rules laid down in the RAG. The question is also whether to block-exempt or not regional aid to the shipbuilding sector or to require an individual notification considering that the aid beneficiaries would be allowed to receive in the future the applicable aid intensities in the regional aid maps compared to the current stricter regime where the aid intensities was reduced by half.

- Differentiation of rules between SMEs and LEs

In general:

To ensure effective regional aid policy, the challenge is to limit the aid to those cases where, without the aid, the investment would not have taken place in an assisted area. Even if an investment has strong positive effects on regional development, this does not mean that aid is necessary for inducing such investments. For example, investments by large firms often have very positive effects for attracting investments of smaller firms to a region. Such effects will be taken into account by large firms' location decisions but not by small firms.

Consistent with these incentives there is now a strong body of evidence suggesting that direct financial support to businesses is more efficient when geared towards SMEs.[38] Based on the evidence of a limited incentive effect of investment aid to large companies, the Commission initially proposed to limit ERDF funding for productive investments to SMEs only.[39] The proposal of a stricter treatment of large enterprises is justified in light of a recent paper published by DG REGIO[40] showing that the positive results of business support in terms of investment, productivity, employment and innovation apply to SMEs only. Reviewing support measures of EUR 40 billion granted to over 200 000 companies in seven Member States, the study finds that direct financial support seems to do little to change the investment behaviour of large firms. There is no evidence for wider benefits either although large firms do play a role in innovation networks.

Commissions practice regarding regional aid to large enterprises:

During this period, the Commission has analysed 78 cases covering mainly regional aid to LEs for very large investment projects (40 LIPs cases) but also for smaller investments (38 ad hoc cases). This case practice reveals that although the formal requirements were respected, the incentive effect of regional aid was doubtful especially in case of very small aid amounts granted on an ad hoc basis but also when it was granted to extend an existing establishment because many of these investments were not mobile in light of higher costs to build a new establishment in a different location.

Under the current rules it is presumed that the aid has an incentive effect if before the start of works the beneficiary has applied for aid and the granting authority has confirmed in writing the pre-eligibility of the project for the aid. This presumption is verified in-depth only if there are indications that the beneficiary has market shares exceeding 25 % or if the capacity created by the investment project exceeds 5 % and the market for the product concerned is in structural decline.

Only in one case the Commission has prohibited the aid because the formal requirements for incentive effect have not been respected (aid of EUR 21 million granted by Italy to Friel-Accera investment of EUR 81 million to convert an existing thermal power plant into a power plant fuels in liquid biomass).

The Commission approved 36 LIPs cases without carrying an in-depth assessment of the incentive effect of the aid or the proportionality. Half of the cases stem from Germany and account for half of the approved aid (i.e. EUR 900 million). The large majority of these cases concerned regional for the extension of existing production facility in the solar and semiconductor sector in Eastern Germany. The Commission did not perform an in-depth analysis of the incentive effect of these cases but the ex-post study commissioned by DG Competition reveal, for instance, that the investments decision in the solar sector were driven by the fast-growing market and general support for renewables in Germany, not by regional investment aid. The synergies of an existing specialized cluster were an important determinant to locate the new investments next to a pre-existing site.

In 8 LIPs the Commission opened the investigation procedure because the triggers of the in-depth assessment were activated. However, only for two cases the Commission concluded its investigation procedure and confirmed that the aid had indeed an incentive effect and it was limited to the minimum (Dell Poland and Petrogal Portugal). In other 4 car cases the Member States concerned (PL, DE and HU) withdrew the notification not allowing the Commission to conclude its investigation. However, during the formal investigation procedure the Member States were unable to prove that the aid beneficiary would in the absence of aid indeed have carried out its investment in an alternative location. This was in particular the case for aid to car producers to extend existing manufacturing sites by diversifying the existing production (e.g. introduction of a new car model) or extending capacity. In total EUR 500 million aid was notified to the Commission for the automotive sector. The investigation procedure is still on-going in other 2 LIPs notified by Germany in the car sector.

The results of the case practice are also consistent with the ex-post evaluation study of the current rules, *i.e.* despite the fact the formal rules have been complied allowing thus to presume that the aid has an incentive effect, it seems that regional aid is one of the factors - but not a determining one- influencing the decision to invest or to locate in a disadvantaged region.

For the solar sector cases, the consultant concludes that aid was not the determinant factor to locate the investment in assisted areas in Eastern Germany. The main drivers were pre-existing production plants, solar clusters, and the availability of skilled labour. The analysed investments of a number of companies would have been located in Eastern Germany even in the absence of aid because of the important synergies of an existing specialized cluster and the economies of scale achieved by being present already in the region. Regarding the pulp-paper industry in Spain/Portugal or cement industry in Hungary, the consultant illustrates that the aid had no impact on the location decision because the investments were not mobile. The beneficiaries of regional aid in the pharmaceutical industry in Ireland and internal business services in Poland acknowledged that aid provided no or very limited incentives to locate in less developed regions.

Key problem:

In light of this doubtful incentive effect of regional aid for LEs, a certain trade-off arises between keeping the rules simple (which would call for per se rules, *e.g.* a ban on aid to investment projects by LEs) and trying to achieve the optimal outcome on a case-by-case basis (which would call for strengthened conditions on checking the incentive effect and the negative effects of aid).

A key issue is therefore whether aid to investment projects by LEs should be prohibited in assisted areas or whether to allow it in exceptional circumstances where the incentive effect of the aid might be detected ex ante.

Aid to LEs is more likely to distort the internal market (trade and competition) in ‘c’ areas because the aid is often not a necessary condition for the company in question to invest or to locate an investment in these areas (*i.e.* aid then amounts to "free money" for the company in question). Moreover, the contribution to regional development of investment projects in c-areas is proportionally less important than in ‘a’ areas which are less developed.

The increased risk of lack of incentive effect for LEs, as identified in several studies and in the Commission's case practice, can be attributed in part to the observation that access to finance is more often a problem for SMEs than it is for LEs. From this perspective, financial support to SMEs can be expected to make more of a difference than financial support to LEs. Large enterprises typically have more leverage (bargaining power) vis-à-vis public authorities, as they are relatively more important to the region than individual SMEs. Even where one can establish an incentive effect, it may still be in the context of a subsidy race. The efficiency of financial support given to LEs, as measured e.g. in terms of cost per job created, may be adversely affected as a result.

As the ‘a’ areas are less developed from an EU perspective, it is desirable to ensure that investment aid can be granted to all types of companies. As ‘c’ areas are more developed, the contribution to regional development of investment projects is proportionally less important. At the same time, for projects implemented by LEs, the potential distortions of trade and competition are higher than for projects implemented by SMEs.

Therefore, the direct negative effects of aid in favour of projects implemented by LEs in ‘c’ areas are more likely to outweigh any positive externalities as such aid is more likely to distort the internal market (trade and competition). As a consequence, there is a case for arguing that regional investment aid should be limited to SMEs only in these regions.

Finally, a certain trade-off arises between keeping the rules simple (which would call for per se rules, e.g. a ban on aid to investment projects by LEs in 'c' areas) and trying to achieving the optimal outcome on a case-by-case basis (which would call for strengthened conditions on checking the incentive effect and the negative effects of aid).

Therefore, the exclusion of unnecessary aid to large enterprises ensures a better use of public funds and avoids distortions in the internal market. However, a complete ban could exclude not only ‘bad aid’ but also part of a ‘good aid’. Therefore, the issue at stake is to identify those cases where available evidence indicates that the aid is often necessary to actually attract an investment in ’c’ areas that would otherwise not have taken place.

On the basis of the case practice and of the ex post evaluation of the current rules, this seems to be the case for the development of a genuinely new activity or product. The presence of a company in a region reduces the costs of follow-up investments because of synergies and economies of scale. Therefore, the costs to locate an investment in a region with pre-existing sites are in principle lower than in another location. In this situation aid is not necessary and, therefore, not justified. However, these synergies and economies of scale play a lower role when a company decides to start a new activity compared to an existing one. Likewise, synergies play a lower role when the company intends to produce a new product.

If aid for new activities could be defined ex ante and allowing therefore to exempt it from notification, it has to be acknowledged that it is difficult to define ex ante type of investments leading to genuinely new products for which the existence of an incentive effect can be presumed. Therefore, these cases will have to be identified by the Commission on a case-by-case approach.

Expenditure of regional aid in ‘c’ regions:

DG COMP does not have any detailed data on the amount of regional aid granted to LEs neither on the basis of block-exempted schemes nor on notified schemes. The data collected as part of the State Aid Scoreboard is not disaggregated according to the size of the beneficiary. It is therefore not possible to provide any indication whether aid to LEs is concentrated in some MS or whether it is distributed more evenly.

During this period, 85% was spent on regional aid in ‘a’ areas (around EUR 57 billion of total regional aid) and around EUR 10 billion was spent on regional aid in ‘c’ areas. It is to be recalled that during this period, 32.4 % of EU population lived in ‘a’ areas and 13.8% in ‘c’ areas.

From the table below at least 10%of regional aid spent in ‘c’ regions goes to large enterprises (i.e. EUR 1 billion aid to LIPs). However, the actual spending on large companies for aid to smaller projects is not included in this figure, so the total amount of aid to large companies in these regions is higher. In terms of importance of investments costs in assisted areas, LIPs located in 'c' regions account for 30% (*i.e.* EUR 13.3 billion) of total costs in assisted areas.

Data for aid to LIPs (EUR, billion)	'a' regions	'c' regions	Total amount	Total % in 'a' regions	Total % in 'c' regions
Aid below notification threshold	4.1	0.925	5	82%	18%
Notified aid amount	1.7	0.131	1.8	93%	7%
Total aid	5.8	1	6.8	85%	15%
Eligible costs of 'transparency cases'	18.9	11.8	30.8	61%	39%
Eligible costs of notified LIPs	11	1.5	12.5	88%	12%
Total costs	29.9	13.3	43.2	70%	30%

Stakeholders virtually unanimously reject the exclusion of LEs from regional aid in 'c' areas for a variety of reasons. The key arguments put forward are that modern regional policy tries to support clusters composed of LEs and SME, and that any exclusion of LEs would endanger the efficiency of these policies, and their contribution to regional development. Others argued that any exclusion of LEs would give them an incentive to relocate activities to locations outside the EEA, or that the collateral damage from banning potentially 'good aid' would outweigh any gains resulting from the prohibition of 'bad aid'.

- Forum shopping

Currently, some state aid measures for investments in infrastructure[41] fall both under the RAG and under other guidelines, e.g. in the field of broadband networks, R&D infrastructure, energy production plants, energy distribution networks or energy efficiency measures.

This has led to situations of 'forum shopping' (choice of law) whereby MS have opted to grant aid under the RAG rather than under the other thematic guidelines in order, for instance, to offer a higher aid amount or to avoid having to comply with the stricter conditions or specific sectoral rules in those other guidelines. In practice, forum shopping occurred mainly between the environmental aid guidelines (EAG) and the RAG (20 schemes) and to a limited extend between RDI (2 schemes), broadband (1 scheme) and RAG. MS chose the RAG and not the EAG to grant aid for energy network infrastructure, electricity generation from fossil fuels or renewables, co-generation or district heating. The reason was that the regions eligible for aid where in principle 'a' areas, the measures where co-financed from the ERDF and, where relevant, the EAG imposed stricter conditions or did not allow foresee conditions for aid to energy network infrastructure. The budget of these schemes was in principle below EUR 70 million except two schemes in PL and ES that reached EUR 200 million.

Thus, the key question is how to deal with aid measures that have a double objective (cohesion and efficiency objective). It is relevant to consider if rules should be envisaged to limit displacement effects (i.e. where aid that would otherwise be applied under other guidelines is applied under the RAG) by imposing in the RAG an equivalent degree of conditions as in the other applicable guidelines, in particular to avoid any competition concerns.

A specific problem is whether sufficient safeguards can be integrated in the RAG to deal with regulated markets like the energy sector. In view of the Internal Energy Market communication[42], a relevant question is whether state aid for electricity generation and energy infrastructure should be subject to the rules of RAG or only to sector-specific rules (future environmental and energy aid guidelines) that are better suited to tackle competitions concerns in these regulated markets?

State aid for energy infrastructure and electricity generation (coal, gas, nuclear, renewables) can impact the internal market and can distort price formation on electricity markets with a cross border effect. Therefore, internal market legislation and state aid policy should be coherent when identifying the market failures and special conditions under which aid is necessary. These conditions will be developed for the first time under the new energy and environmental guidelines that will be adopted by the end of 2013 and thus after the RAG.

3.3.3. Notification thresholds and transparency

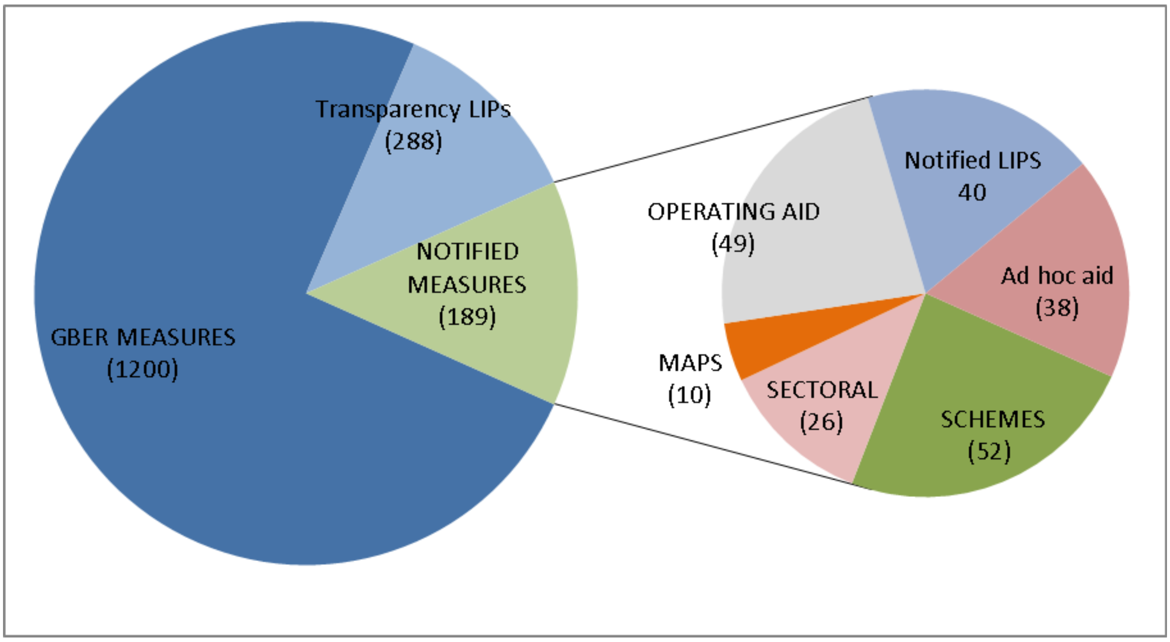
Around 40% (EUR 26 bn) of all regional aid during 2007-2011 was spent under the GBER, with MS putting in place around 1200 block exempted schemes. Block exempted aid measures do not have to be notified to the Commission and their implementation in line with simplified conditions of the block exemption regulations remains the responsibility of MS, with the Commission performing ex post monitoring to verify compliance. The use of block exemption has increased over the period, with 50% of all regional aid being granted under this instrument in 2011, which can be considered as a significant increase compared to the year 2007, when the share of block-exempted schemes did not even reach one fourth of the total regional aid expenditure.

The trend between MS in using the GBER differs. While some have mainly granted regional aid within the limits of the GBER, others notify schemes and grant individual aid on the basis of these schemes (e.g. operating aid in OR or aid under sectoral schemes) or notify individual aid either because they intend to grant the maximum allowable aid amount or the aid is granted on an ad-hoc basis.

Therefore, the links between the GBER and the RAG are particular relevant for this issue because it will allow the Commission to focus on the most distortive cases and a simpler and faster treatment will be ensured for cases with smaller impact on trade and competition in the internal market.

Currently, concerns could be voiced that the Commission's scrutiny does not focus on the most distortive cases as regards schemes and individual aid.

In the table below, it is shown the number of notified aid measures during 2007-2012.



On the one hand, MS must notify operating aid schemes in OR or in SPA that despite of a significant allocated budget (EUR 40.5 billion notified between 2007 and 2012) may have a limited effect on the internal market and, on the other hand, schemes with very large budgets could have been put in place under the GBER without allowing the Commission to assess the cumulative effect of these schemes (e.g. the German regional aid scheme with an annual budget of EUR 1.3 billion). In addition, 26 sectoral aid schemes were notified because they are deemed to be more distortive than multi-sectoral and the Commission has therefore to ensure that the negative effects of the aid do not distort competition contrary to the common interest. However, all these cases were approved especially because the foreseen budget was limited and it was demonstrate that they will contribute to the development of the regions concerned. It must be acknowledged that for the schemes targeting the energy sector the RAG was not well equipped to tackle the potential distortions of the energy market.

As regards individual aid, Commission's scrutiny focuses on ad hoc aid regardless of the amount of eligible costs and aid amount and to the other extreme on projects above EUR 100 million costs if the aid exceeds the notifications threshold which ranges from EUR 7.5 million to EUR 37.5 million for this type of projects. Compared to the other horizontal guidelines, the notification thresholds for regional aid are relatively high and target very large projects.

During 2007-12, the Commission has scrutinised 38 ad hoc cases (EUR 80 million aid in total) of which in 27 cases the aid amount was below EUR 1 million and 40 LIPs amounting to around 2 billion aid. In total, less than 3% of total regional aid expenditure was individually scrutinised by the Commission.

Regional aid expenditure in EUR billion (2007-2011)

Aid expenditure	'a'	'c'	Total	As % of total regional

	region	region		aid expenditure
Aid amount for LIP below notification threshold	4.1	0.9	5	7.5%
Notified aid amount spent for LIP	1.7	0.1	1.8	2.7%
Notified aid amount for ad-hoc aid other than LIPs	0.72	0.08	0.80	-
Total amount spent on LIP	5.8	1	6.8	10.1%
Investment aid to others than LIP	29.2	9	38.2	57.0%
Total investment aid	35	10	45	67.2%
Operating aid[43]	22		22	32.8%
Total regional aid expenditure	**57**	**10**	**67**	100.0%

The key question is if on one side to block-exempt operating aid schemes, ad-hoc aid and sectoral schemes, and on the other hand to require a notification for large schemes. Likewise, the focus on in individual cases could be shifted to projects below EUR 100 million and therefore changing the notification trigger by replacing it with an absolute amount regardless of the applicable aid intensity in the area concerned and the eligible costs of the projects.

Depending on the extended scope of the GBER, it will assessed in the chapter 5 (section 5.2) whether additional safeguards will be necessary to be introduced or not in the regulation.

Stakeholders welcome the simplification in the notification procedure, such as notification exemption for ad hoc aid below the threshold mainly because it would speed up the granting and payment process and because of the increased efficiency due to the reduced administrative burden on companies.

Many stakeholders are concerned about regional aid to companies that have relocated their activity from another MS. The revision of the RAG and GBER should enable the Commission to scrutinise these cases to verify if there is a causal link between the relocation and the award of regional aid by another MS.

Currently, the Commission ensured transparency of aid only for aid granted to LIPs. As transparency is essential to ensure accountability, a key question is whether to ask MS to ensure that all aid is granted in a transparent manner regardless of the aid amount. This will give economic operators the possibility to prevail of their rights before the European and national courts.

3.3.4. Rules for assessing the compatibility of notified regional aid measures

Currently the assessment of regional aid is based on formal requirements (so-called standard assessment) entailed in the block-exemption regulations and in the RAG. An in-depth assessment is undertaken only for aid to LIPs above the notification threshold and only if certain triggers are activated (i.e. if the aid beneficiary has a market share exceeding 25 % or if the increase in capacity generated by the investment project exceeds 5 % and the market for the product concerned is in structural decline, so-called ‘paragraph 68’ tests). The rules for the in-depth assessment laid down in the IDAC.

For aid below the notification threshold granted under the GBER, it is presumed that the aid contributes to the development of region concerned if the investment takes place in an assisted area and that it is limited to the minimum if the applicable aid intensity is respected. As regards the rules for incentive effect, the GBER distinguishes between SMEs and LE. It is deemed to have an incentive effect, if a SME applied for aid before the projected started, whereas LEs have to bring in addition evidence that without the aid scale, timing or location of the project would have been different.

For notified individual aid, the Commission is first verifying the formal requirements similar to the ones in the GBER except for incentive effect where there is no distinction between SMEs and LEs. Under the RAG it is presumed that the aid has an incentive effect if before the start of works the beneficiary applied for aid and the granting authority had confirmed in writing the pre-eligibility of the project or issued a letter of intent in case of ad-hoc aid.

Considering that large investment projects are less affected by the handicaps of the assisted area the aid intensity is scaled down. Thus, it is ensured prima facie that the aid remains proportionate to desired positive effects on the development of the regions without significantly distorting the competition on the internal market. However, additional safeguards are introduced in the RAG to ensure that the negative effects of the aid are limited and outweighed by the positive effects. To approve an aid to a LIP after a preliminary investigation, the Commission also checks whether the aid beneficiary's market share is below 25 % and whether the capacity created by the project is below 5 % of existing capacity in a market in structural decline. It is presumed that by respecting the scaling-down and by remaining below the thresholds of paragraph 68 of the RAG, potential distortions of competition remain proportionate to the objective of regional development. The overall positive balance of the aid is enshrined in the design of the rules. Only for cases where the thresholds of paragraph 68 of the RAG seem to be exceeded the positive balance of the aid is not presumed anymore, as high market shares or significant capacity increase in a market in structural decline are indicators of significant distortions that the Commission will verify in detail after opening the investigation procedure. During the in-depth assessment the Commission will verify the necessity of the aid on the basis of a counterfactual scenario and will establish whether the aid is limited to the net extra costs for locating the investment in an assisted area or to the minimum necessary to render the project sufficiently profitable in the assisted area.

The two triggers for the in-depth assessment are difficult to apply and require a lengthy assessment and do not enable to capture the most potentially distortive cases (e.g. when the aid has no economic incentive effect because the costs of locating an investment in an assisted area are lower than in an alternative location).

For instance, the Commission had only opened the formal investigation procedure in only 8 cases and had come to a final decision in 2 of those cases (4 notifications were withdrawn by the MS concerned and other 2 cases are still on-going). The definition of the relevant market often requires a lengthy analysis (the duration of LIP cases ranges approximately from 6 to 30 months) and, in the case of an in-depth assessment, the procedural steps involved in a formal investigation are relatively burdensome for MS and beneficiaries and for the Commission[44].

These triggers focus on two theories of harm (market power and maintaining inefficient market structures by contributing to overcapacities) that are irrelevant in most situations as the investment would have occurred in any event, albeit elsewhere, and as the rejection of the regional aid would not prevent the investment from increasing the market power of the beneficiary or from aggravating a situation of structural overcapacity. Furthermore, the tests were unable to identify cases for which an in-depth assessment would indeed have been necessary, either as the aid was not necessary and led to windfall profits, as the supported investment contributed little to regional development, or as the aid relocated activities that were closed down at inacceptable social costs elsewhere, or, from a cohesion perspective possibly even worse, supported an investment project which, in the absence of aid, would have taken place in a region with a similar or worse socioeconomic situation.

On the basis of the case practice and available evidence from the ex-post evaluation, despite of the respect of the formal requirements allowing to presume the existence of an incentive effect doubts could be rise on the necessity of very high amounts of regional aid to LIPs or very low amounts of ad hoc aid. The question is whether the compatibility assessment of notified aid could be maintained primarily on presumptions or whether the Commission should verify in detail for all notified cases the necessity and proportionality of the aid to ensure that the positive effects of the aid outweigh the negative effects on the internal market?

If for the GBER the rules should be based on clear and simple formal requirements to facilitate the treatment of small aid amounts, the question is how strict the rules should be for the aid measures that are notified to the Commission, knowing that only very large amounts or potentially more distortive cases must be notified?

The revision of the RAG should enable the Commission to target the most distortive cases and ensure that the aid has an incentive effect and contributes to the regional development of the area concerned and that is limited to the minimum necessary. Therefore, the question is how detailed this assessment should be and whether for all notified cases.

There is an additional risk – not comprehensively addressed in the current RAG – that regional state aid unduly displaces activity away from disadvantaged regions or encourages relocation.

The provisions on operating aid in 'a' regions (besides operating aid in SPA and OR) were hardly used by MS (only in DE). Considering that operating aid is highly distortive and that SMEs are mainly affected by the regional handicaps (in terms of access to finance), the question is whether the scope of this measure should be limited to SMEs only.

Summary – Main problems:

- Effectiveness in promoting regional economic development: ensuring that regional aid is regarded at the regions that need it the most and for investments or activities that bring genuine value-added for regional development(cohesion objective)

- Efficiency in controlling distortions to competition and trade: ensuring that aid produces an incentive for companies to invest in the assisted areas at a minimum cost in terms of disruptions to the internal market (competition objective)

3.4. Analysis of subsidiarity

In the absence of new rules and maps, the Commission would have to assess the notifications of regional aid on a case-by-case basis in direct application of the TFEU (Article 107(3)(a) and (c)), deciding whether the area concerned fulfils these provisions. This situation would not ensure equal treatment, legal certainty and predictability and could lead to subsidy races between MS that would highly damage trade and competition within the internal market.

In this respect, EU action is necessary to ensure uniform conditions for the granting of regional state aid (i.e. a 'do nothing' approach is not conceivable). The existence of a block exemption Regulation would not limit the possibility of MS to notify regional aid. In addition it is not an appropriate instrument to cater for competition concerns linked to large amounts of aid. Other policy instruments than regulation at EU level (e.g. self-regulation, open method of coordination, market-based instruments, etc.) would not be effective as external rules controlled by a third party (the Commission) are needed to ensure transparent and equal treatment in the relations between aid granting authorities and aid beneficiaries. Therefore, rules on regional aid must be put in place for the period 2014-20 and guidelines on regional aid are the appropriate tool to address the use at stake and achieve the desired objectives.

4. OBJECTIVES

4.1. General policy objectives

The general objectives of the RAG, as explained in the introduction of this report, and in line with the principles of the Commission's SAM initiative, are:

(1) to ensure that aid granted to further the economic development of certain areas does not create distortions of trade and competition that would be contrary to the common interest, and;

(2) to provide a framework for the Commission to assess the compatibility of notified aid measures in a manner which is commensurate to their potential effects on the internal market.

The main components of these general objectives are:

(1) contributing to economic, social and territorial cohesion in the EU by stimulating productive investment in disadvantaged regions and, in specific cases, alleviating specific constraints to economic activity in certain of those regions;

(2) maintaining an open and competitive framework for the location of business activities in the EU, avoiding: displacement effects, the creation or maintenance of inefficient market structures; the crowding-out of non-supported investment; subsidy competition;

(3) avoiding to impose an excessive administrative burden on economic operators, national authorities and the Commission itself for the enforcement of regional state aid rules.

4.2. Specific objectives

The specific objectives of the revision of the RAG are:

(1) Efficiency and effectiveness:

- to focus regional aid on the regions most in need from an EU and national perspective while allowing MS to pursue national regional policies;
- to ensure that regional state aid targets companies and sectors more in need;
- to keep aid levels to the minimum needed to trigger the expected benefits in terms of increased regional development;
- to focus the assessment under the RAG on the aid measures that are most likely to cause distortions of trade and competition (disincentives for productivity enhancement or innovation, negative impact on the internal market, absence of incentive effect, risk of subsidy competition);
- to strengthen and deepen the Commission's methods for analysing and balancing the positive and negative effects of notified regional aid measures (focusing less on formal criteria and more on the respect of common principles and on an in-depth economic analysis of the effects);
- to help maintain the competitiveness of European industry by preventing any segmentation of the internal market being driven by regional state aid, in particular by ensuring EU-wide transparency of state aid offer and non-discriminatory access of firms to such aid.

(2) Administrative simplification:

- to minimise administrative burdens on firms and national administrations that could delay investment decisions;
- to simplify and rationalise the transparency and reporting requirements regarding aid granted by MS.

(3) Consistency:

- to implement the goals and principles of the SAM initiative;
- to contribute towards the objectives of EU cohesion policy and avoid causing unnecessary restrictions to the implementation of the European Structural and investment (ESI) funds;
- to ensure consistency and synergy with other EU policies, in particular to promote sustainable growth-enhancing policies in a competitive internal market as part of the Europe 2020 Strategy, and to contribute to MS' efforts towards a more efficient use of public finances.

4.3. Operational objectives

Operational objective	Deliverable / action	Agent responsible	Timeframe
1. To have RAG for 2014-2020 adopted	Adoption of the RAG	Commission	Adoption in June 2013; entry into

			force: 1.1.2014*
2. To have in place regional aid maps for 2014-2020	Design and approval of the maps	MS / Commission	During S2 2013; entry into force: 1.1.2014 (at the earliest)*
3. To perform a mid-term review of the RAG	Mid-term review (Commission Communication)	Commission	1.4.2017-1.1.2018
4. To conduct an ex-post evaluation of the RAG 2014-2020	Ex-post evaluation report	Commission (with external contractors)	2018-2020 at the latest

* Except if the current RAG are prolonged, e.g. until 30.6.2014 (entry into force on 1.7.2014).

5. POLICY OPTIONS

The policy options proposed to address the specific objectives of the revision of the RAG, as highlighted in Section 4.2[45], are presented in relation to each of the following issues:

(1) the rules on the designation of assisted areas;

(2) the scope of regional aid and linkage with other state aid instruments;

(3) the rules on notification thresholds and transparency;

(4) the rules on the assessment of the compatibility of regional aid.

For each issue, three policy options are identified:

- Option 1 corresponds to the baseline scenario, which essentially consists in reconducting the rules of the current RAG;
- Option 2 generally corresponds to a policy approach that focuses primarily on the ‘cohesion’ objective of regional state aid policy;
- Option 3 generally corresponds to a policy approach that focuses primarily on the ‘competition’ objective of regional state aid policy.

Under the sub-options in Option 2, the geographical coverage of the RAG would generally be extended and the aid intensities would be slightly reduced. The sectoral scope would be slightly broadened but restrictions on aid to LEs in ‘c’ areas would be introduced as would conditions for forum shopping. The scope of the GBER would generally be extended while requiring certain measures to be notified (e.g. large schemes, aid linked to relocation, etc.). Stricter requirements would be introduced for the compatibility assessment of regional aid by extending the in-depth analysis (contribution to regional development, incentive effect, net extra costs for LEs). The balancing test would be applied to all notified individual aid.

Under the sub-options in Option 3, the geographical coverage of the RAG would be reduced and the aid intensities would be strongly reduced. The sectoral scope would be extended to sectors with potential structural overcapacity but aid to LES in ‘c’ areas and forum shopping would be prohibited. A broader scope of measures would be exempted from notification and the notification thresholds would generally be lowered. The compatibility assessment would be based only on formal requirements and aid with negative effects would be prohibited.

5.1. Rules on the designation of assisted areas and level of aid

For the rules on the designation of assisted areas and level of aid (aid intensities), the main problems to be addressed are as follows:

Problem	Drivers
Setting the level of the overall population coverage of assisted areas	Cohesion objective: Maintaining or increasing the geographical scope of the RAG to take account of the potential effects of the crisis at regional level
	Competition objective: Addressing the apparent reduction in regional disparities in the EU by reducing the geographical scope of the RAG
Identifying disadvantaged regions on the basis of regional disparities at EU level or national level	Cohesion objective: Recognising the need for MS to have sufficient scope to designate assisted areas on the basis of national policy considerations
	Competition objective: Strengthening the geographical focus of regional state aid on the EU dimension (focus on disparities between MS)
Differentiating aid intensities between categories of assisted areas	Cohesion objective: Maintaining or reinforcing the relative attractiveness of assisted areas in a globalised economic context
	Competition objective: Minimising potential distortions to trade and competition in the internal market by reducing aid levels

These issues are addressed in the options described below, which are structured according to the following main categories of parameters:

- the level of overall population coverage for assisted areas: reduction, maintenance or increase of coverage;
- the rules for the designation of 'a' and 'c' areas (including safeguards and transitory rules): focus on inter-MS disparities, focus on intra-MS disparities, or mix of both;
- the level of aid intensities per category of assisted area: maintain current aid levels, reduce aid intensities except for regions most in need, equivalent reduction for all assisted areas.

The parameters for the options presented below (including discarded options) are set out in Annex VII.

5.1.1. Geographical coverage[46]

The views of stakeholders on the design of the options are presented in Annexes III and IV.

5.1.1.1. Option 1 (baseline scenario): Provisions of current RAG but with new data

Overall population	The initial overall coverage would be set at 45.5 % of the EU-

coverage:	27 population (excluding any compensatory mechanism such as a safety net, which may add coverage to this initial figure)[47].
‘a’ areas / predefined ‘c’ areas:	The ‘a’ areas would be defined as NUTS 2 regions with a GDP per capita below 75 % of the EU-27 average. Regions that had ‘a’ area status in the period 2011-2013[48] would be designated as predefined ‘c’ areas for the period 2014-20 (higher aid intensity from 2014 to 2018).
Non-predefined ‘c’ areas:	Non-predefined ‘c’ coverage would be allocated among MS based on disparities in terms of GDP per capita and unemployment rate at national level, weighted according to the EU average.
Safety net:	A safety net of 50 % would be kept (i.e. a MS could not lose more than half of its ‘a’ and ‘c’ coverage compared to 2011-2013).

5.1.1.2. Option 2: Slight increase in nominal geographical coverage; transition regime for former ‘a’ areas; designation of non-predefined ‘c’ areas based on disparities at EU and national level; extensive safety net

Overall population coverage:	The initial overall coverage would be slightly increased to around 46.5 % of the EU-27 population (excluding the safety net) to allow a transition regime for all ex-‘a’ areas and to increase the current ‘c’ coverage.
‘a’ areas / predefined ‘c’ areas:	The ‘a’ areas would be defined as NUTS 2 regions with a GDP per capita below 75 % of the EU-27 average. Regions that had ‘a’ area status in the period 2011-2013 would be designated as predefined ‘c’ areas for the period 2014-2020 (higher aid intensity for 2014-2018).
Non-predefined ‘c’ areas:	Non-predefined ‘c’ coverage would be allocated among MS based on disparities in terms of GDP per capita and unemployment rate at both the EU and national levels.
Safety net:	The safety net would consist of: (1) no loss of previous ‘a’ and ‘c’ coverage for the period 2007-2013 for MS which have been designated to receive financial assistance under the European Financial Stabilisation Mechanism (EFSM), the European Financial Stability Facility (EFSF) or the European Stability Mechanism (ESM); (2) a maximum loss of 50 % of previous ‘a’ and ‘c’ coverage for the period 2007-2013 for other MS concerned; (3) a minimum coverage of 7.5 % of national population for MS concerned.

5.1.1.3. Option 3: Strong reduction in geographical coverage; definition of ‘a’ areas based also on unemployment; no transition regime for former ‘a’ areas; designation of non-predefined ‘c’ areas based on disparities at EU level; no safety net

Overall population coverage:	The overall coverage would be set at 38 % of the EU-27 population, which corresponds to the coverage necessary for ‘a’ areas identified on the basis of the regional GDP per capita data for 2008-2010 (±25 % of EU-27 population), plus the equivalent level of ‘c’ coverage as in the period 2007-2013 (±13 % of EU-27 population).
‘a’ areas / predefined ‘c’ areas:	The ‘a’ areas would be defined as NUTS 2 regions with a GDP per capita below 75 % of the EU-27 average or with an unemployment rate above 150 % of the EU-27 average[49]. There would be no transition regime for former ‘a’ areas.
Non-predefined ‘c’ areas:	Non-predefined ‘c’ coverage would be allocated among MS based only on disparities in terms of GDP per capita and unemployment rate at EU level (no weighting according to disparities at national level).
Safety net:	There would be no safety net.

5.1.2. Aid intensities

5.1.2.1. Option 1 (baseline scenario): Maintain the aid intensities of the RAG 2007-2013

The aid intensities of the current RAG would, in general terms, be maintained for all categories of assisted areas. This would maintain substantial levels of aid in the assisted areas (with aid intensities for LEs ranging generally from 15 % to 50 %) and the difference in aid intensities between the different categories of ‘a’ areas and between ‘a’ and ‘c’ areas would be 10 percentage points (pp).

Category of assisted area	Aid intensity (LEs; MEs; SEs)
‘a’ areas:	
below 45 % of EU-27 GDP per capita	50 %; 60 %; 70 %
between 45 % and 60 % of EU-27 GDP per capita	40 %; 50 %; 60 %
between 60 % and 75 %of EU-27 GDP per capita	30 %; 40 %; 50 %
‘c’ areas:	
Ex-‘a’ areas	(20 %)*; 30 %**; 40%**
SPAs, non-predefined ‘c’ areas	(15 %)*; 25 %; 35 %

* Depending if regional aid to LEs is allowed in ‘c’ areas.

** Aid intensity applicable until 31.1.2017; afterward aid intensity for non-predefined ‘c’ areas.

5.1.2.2. Option 2: General reduction of aid intensities by 5 percentage points, except for the least developed regions

Under Option 2, the aid intensities would be reduced by 5 pp compared to Option 1 for all categories of assisted areas, except for the ‘a’ areas with a GDP per capita below 45 % of the

EU-27 average. Aid levels would thus be reduced overall, without however affecting the least developed regions, but nevertheless maintaining significant levels of aid in all assisted areas.

Category of assisted area	Aid intensity (LEs; MEs; SEs)
‘a’ areas:	
below 45 % of EU-27 GDP per capita	50 %; 60 %; 70 %
between 45 % and 60 % of EU-27 GDP per capita	35 %; 45 %; 55 %
between 60 % and 75 %of EU-27 GDP per capita	25 %; 35 %; 45 %
‘c’ areas:	
Ex-‘a’ areas	(15 %)*; 25 %**; 35%**
SPAs, non-predefined ‘c’ areas	(10 %)*; 20 %; 30 %

* Depending if and how regional aid to LEs is allowed in ‘c’ areas.

** Aid intensity applicable until 31.1.2017; afterward aid intensity for non-predefined ‘c’ areas.

5.1.2.3. Option 3: Strong reduction of aid intensities for all regions (linear reduction)

The aid intensities would be reduced for all categories of ‘a’ area so as to have a 5 pp difference between each category of ‘a’ area, starting from 35 % for the least developed category of ‘a’ areas, while maintaining a 10 pp difference between ‘a’ areas and ‘c’ areas. The ‘a’ areas defined as NUTS 2 regions with an unemployment rate above 150 % of the EU-27 average would have a basic aid intensity of 25 %. This would significantly reduce aid levels and would also reduce overall the difference in aid intensities between ‘a’ and ‘c’ areas.

Category of assisted area	Aid intensity (LEs; MEs; SEs)
‘a’ areas:	
below 45 % of EU-27 GDP per capita	35 %; 45 %; 55 %
between 45 % and 60 % of EU-27 GDP per capita	30 %; 40 %; 50 %
between 60 % and 75 %of EU-27 GDP per capita	25 %; 35 %; 45 %
‘c’ areas:	
Ex-‘a’ areas	(15 %)*; 25 %**; 35%**
SPAs, non-predefined ‘c’ areas	(10 %)*; 20 %; 30 %

* Depending if and how regional aid to LEs is allowed in ‘c’ areas.

** Aid intensity applicable until 31.1.2017; afterward aid intensity for non-predefined ‘c’ areas.

5.2. Scope of regional aid and linkage with other state aid instruments

For the rules on the scope of regional aid and linkage with other state aid instruments, the main problems to be addressed are:

Problem	Drivers
Whether or not to prohibit regional aid in certain sectors	Cohesion objective: Allow regional aid in all sectors that present prospects for long-term economic growth
	Competition objective: Address potential overcapacity concerns or inefficient market structures by prohibiting aid in certain sectors
To what extent to differentiate regional aid	Cohesion objective: Take into account the effective contribution to regional development of investments by LEs

rules between SMEs and LEs for the most developed assisted areas	Competition objective: Address the doubtful incentive effect and potential strong deadweight of aid to LEs
Deciding on what rules to apply for investments that could also fall under other guidelines	Cohesion objective: Continue to allow a flexible use of the RAG for investments that could also fall under other guidelines
	Competition objective: Impose competition safeguards for investments that could also fall under other guidelines

These issues are addressed in the options described below which are structured according to the following main categories of parameters:

- the sectoral scope of the regional aid rules: maintain the current exclusions and prohibitions or allow regional aid in certain or all of these sectors and require an individual notification;
- the rules for regional investment aid to LEs in ‘c’ areas: continue to allow regional aid to LEs in ‘c’ areas; only allow regional aid to LEs in ‘c’ areas under certain conditions or for certain investments; prohibit all regional aid to LEs in ‘c’ areas;
- forum shopping: continue to allow full ‘permeability’ between the RAG and other guidelines; allow ‘permeability’ with conditions; prohibit forum shopping.

5.2.1. Option 1 (baseline scenario): Maintain the scope of the RAG 2007-2013

Sectoral scope:	The shipbuilding sector and the coal sector would remain excluded from the scope of the RAG; regional investment aid for activities in the steel sector and the synthetic fibres sector would remain prohibited.
Regional investment aid to LEs in ‘c’ areas:	Regional investment aid to LEs for projects located in ‘c’ areas would remain allowed (without any conditions).
Forum shopping:	Forum shopping would remain allowed (possibility for MS to choose the most favourable framework between the RAG and other thematic or sectoral guidelines).

5.2.2. Option 2: Adapted sectoral scope; aid to LEs in ‘c’ areas only for new activities or products; forum shopping only under certain conditions

Sectoral scope:	In the absence of evidence that the steel and synthetic fibres sectors are not in structural overcapacity, regional investment aid would remain prohibited for activities in these sectors. Regional aid to activities in the coal sector[50] would also remain prohibited. To address the expiry of the shipbuilding framework after 2013, aid to shipbuilding would be possible under the RAG, but not under the GBER (regional aid measures covering shipbuilding would have to be notified).
Regional investment aid to LEs in ‘c’ areas:	Regional investment aid to LEs would be allowed in ‘c’ areas only for investments that bring new activities in the area concerned or that diversify existing establishments to introduce new products. In practice, this would cover initial investment in favour of new activity in the area concerned (i.e. not a same or

	similar activity defined at 4 digits NACE code) to the activity performed in an existing establishment in the same NUTS 3 region). Regional investment aid could also be granted to LEs in 'c' areas in the following cases[51]: (i) if the LE is not present in the assisted area, for setting-up a new establishment; ii) if the LE is present in the assisted area, for investments that bring a new activity to this area (e.g. a car manufacturer that produces three models at a plant cannot receive regional aid for producing a fourth car model or replacing a model with another model because this activity falls within the same NACE category); (iii) if an LE takes over an existing production facility and invests to change the existing production activity into a new activity. The notion of 'new products' would be defined on a case-by-case basis.
Forum shopping:	Forum shopping would in general be allowed (with the exception of certain type of investments in the energy sector). However, due to the specificities of the regulated energy market, aid in favour of investment projects relating to energy infrastructures, power generation, cogeneration and district heating would only be allowed under the energy and environmental aid guidelines (EEAG), possibly with higher aid intensities in assisted areas. Investments relating to broadband network infrastructure and RDI infrastructure would be allowed under the RAG. However, in addition to the general conditions of the RAG, specific competition-related conditions would be 'imported' into the RAG from the RDIG and BBG. As aid intensities are higher under the broadband guidelines than under the RAG, it is likely that MS would opt to put in place aid for broadband network infrastructure under the BBG. However, the following minimum conditions would be 'imported' into the RAG from the BBG to preserve competition: (i) aid restricted to areas where no comparable infrastructure exists; (ii) obligation to provide open and non-discriminatory wholesale access to all third party operators; (iii) selection of the aid beneficiary on the basis of a competitive award procedure. Investment aid for R&D infrastructure and innovation clusters could be granted both under the RAG and RDIG. Part of eligible costs (e.g. machinery, equipment, wage costs) for pilot projects or commercial prototypes could be supported under RAG or RDI. Therefore, R&D infrastructure financed under the RAG would

	have to give third party access.

5.2.3. Option 3: No sectoral limitations; no aid to LEs in ‘c’ areas; no forum shopping

Sectoral scope:	Regional investment aid would be allowed in the ‘sensitive’ sectors (coal, steel, synthetic fibres, shipbuilding). Regional aid in the coal, steel or synthetic fibres sectors would have to be notified so that concerns about potential overcapacity can be addressed in the compatibility assessment. However, regional aid in the shipbuilding sector would be block-exempted as the Commission has experience in this sector.
Regional investment aid to LEs in ‘c’ areas:	Regional investment aid would not be allowed for LEs in ‘c’ areas (for any activity). Eligible costs for regional investment aid would be capped at EUR 500 million.
Forum shopping:	Forum shopping would not be allowed. The RAG would not apply for investment projects that could be covered by other guidelines (e.g. RDIG, EEAG, BBG).

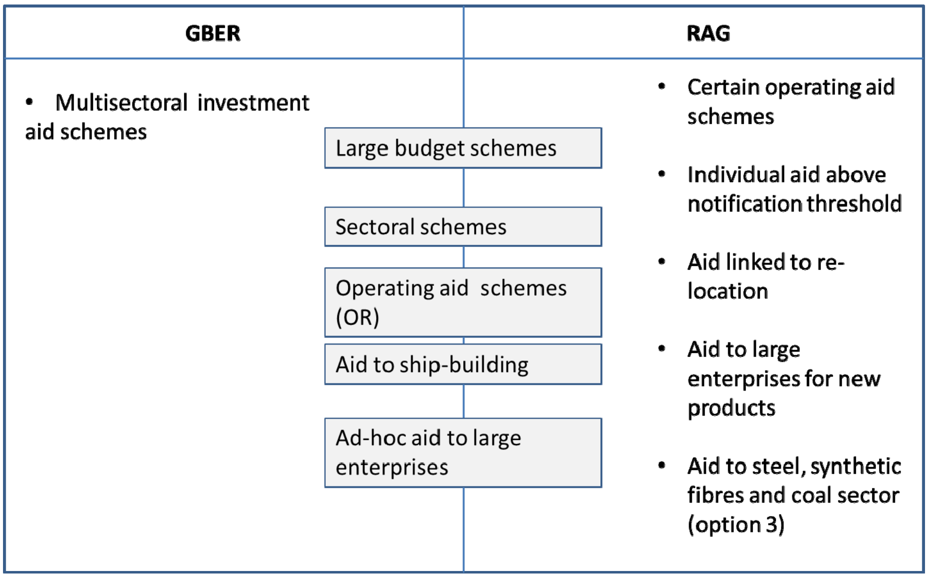
5.3. Rules on notification obligation and transparency

The options below address the following problems: how to extend the scope of the GBER (e.g. by block-exempting certain operating aid schemes in ORs and SPAs because of limited negative effects) and at the same time to simplify the current conditions (e.g. the rules on incentive effect - aid is presumed to have an incentive effect if before the start of project the company has submitted an application aid form)? How to counterbalance this simplification (e.g. by requiring a notification of large budget schemes)? Any further extension of the scope of the GBER would not allow to simplify the current conditions (e.g. block-exempting ad hoc aid to LEs would require a verification of the incentive effect to determine that it had an effect on the scale, timing or location of the project).

Extending the scope of the GBER to certain measures would also facilitate the implementation of certain operations under the ESI funds as a greater number of operations involving regional aid could be applied by MS without prior notification to the Commission.

The problems identified under Subsection 3.3.2, for which options are presented in Section 5.2., also have an incidence on the categories of aid measures that would remain subject to Commission scrutiny (i.e. aid in sectors with potential structural overcapacity, aid to LEs in ‘c’ areas for new products).

The table below summaries the parameters for the different options for this issue:



5.3.1. *Option 1 (baseline scenario): Approach of current RAG maintained*

Measures exempted from notification (GBER)	Measures subject to notification (RAG)
Schemes: • Multisectoral investment aid schemes	Investment aid schemes: • Sectoral investment aid schemes
Operating aid schemes: • None[52]	Operating aid schemes: • All
Individual aid: • Aid below the notification threshold	Individual aid: • Aid above the notification threshold[53]; • Ad hoc aid

For aid for LIPs, MS would have to report to the Commission certain information which would then be published on DG COMP's website (transparency requirement)[54], as is currently done[55].

5.3.2. *Option 2: Notification for distortive or large investment aid schemes, individual aid, and operating aid schemes; broader application of transparency requirements*

Measures exempted from notification (GBER)	Measures subject to notification (RAG)
Investment aid schemes: • Multisectoral investment aid schemes	Investment aid schemes: • Sectoral investment aid schemes (incl shipbuilding) • Multisectoral investment aid schemes with an annual budget exceeding EUR 100 million and 0.01 % of national GDP
Operating aid schemes: • Operating aid schemes to compensate the additional transport costs of goods produced in OR or in SPAs • Operating aid schemes to compensate other additional costs, up to 10 % of the	Operating aid schemes: • Operating aid schemes to reduce certain specific difficulties faced by SMEs in 'a' areas • Operating aid schemes to compensate for certain additional costs (other than

annual sales revenues or 10 % of the annual net turnover of companies in OR	transport costs) in the OR • Operating aid schemes to prevent or reduce depopulation in very sparsely populated areas (VSPA)
Individual aid: • Aid below the notification threshold	Individual aid: • Aid above the notification threshold[56] • Ad hoc aid • Aid to a company that has closed down a similar productive activity in the EEA in the two years preceding the granting of the aid or that plans to close down such an activity in the two years after the investment is completed • Aid to LEs in 'c' areas for investments in 'new products'

Increased transparency requirements would apply for all individual aid (regardless of the amount) information regarding the aid and aid beneficiary would be publish on a website.

1.1.1. Option 3: Notification only for individual aid above unified notification thresholds and distortive operating aid schemes; transparency requirements only for LIPs

Measures exempted from notification (GBER)	Measures subject to notification (RAG)
Investment aid schemes: • All investment aid schemes (provided they implement a regional development strategy) (incl. shipbuilding)	Investment aid schemes: • Only for steel, synthetic fibres and coal
Operating aid schemes: • Operating aid schemes to compensate the additional transport costs of goods produced in OR or in SPAs • Operating aid schemes to compensate other additional costs, up to 10 % of the annual sales revenues or 10 % of the annual net turnover of companies in OR	Operating aid schemes: • Operating aid schemes to reduce certain specific difficulties faced by SMEs in 'a' areas • Operating aid schemes to compensate for certain additional costs (other than transport costs) in the OR • Operating aid schemes to prevent or reduce depopulation in very sparsely populated areas (VSPA)
Individual aid: • Aid below the notification threshold • Ad hoc aid	Individual aid: • Aid above the notification threshold (unified thresholds): EUR 15 million for 'a' areas; EUR 5 million for 'c' areas (regardless of the applicable aid intensity) • Aid to a company that has closed down a similar productive activity in the EEA in the two years preceding the granting of the aid or that plans to close down such an activity in the two years after the investment is completed

Specific transparency requirements would apply only for aid to LIPs (e.g. to be published by MS on a website).

5.4. Rules on the assessment of the compatibility of notified regional aid

The options below link to the problem of whether to base the compatibility assessment of notified cases on formal requirements and to perform an in-depth assessment only for a selected category of cases or whether to verify in-depth the incentive effect and proportionality of aid and to perform a balancing test for all notified individual cases. Option 3 below which is based on formal requirements counterbalanced with prohibitions of most distortive aid (e.g. aid to large enterprises) cannot be combined with the option of requiring an individual assessment of competition concerns in the steel and synthetic fibres sectors moving away from a complete ban to a total inclusion in the RAG (option 3 in section 5.2).

5.4.1. Option 1 (baseline scenario): Two-step approach of current RAG maintained

The balance between the positive and negative effects of the aid would in general be presumed to be positive if certain formal requirements are met. Hence, it will be presumed that aid granted under a scheme contributes to the equity objective as long as the project is located in an assisted area. However, for ad hoc aid (i.e. aid granted outside a scheme), the MS must demonstrate that the aid would indeed contribute to the development of the area concerned. The aid is deemed to have an incentive effect if the beneficiary has applied for aid before the start of works and the granting authority has confirmed in writing that the project is in principle eligible for aid also before the start of works. The aid intensities in the regional aid map will be used as a proxy for the proportionality of the aid (i.e. aid limited to the minimum).

As regards individual aid (granted on the basis of a scheme) above the notification threshold, the underlying presumptions of these formal requirements would be verified in-depth, only for beneficiaries with a market share of more than 25 % or if the capacity created by the project exceeds 5 % in a market in structural decline. Considering that these triggers proved to be difficult to apply in practice, the two-step approach could be maintained but the in-depth assessment would be triggered only for aid amounts above EUR 20 million in 'a' areas and EUR 10 million in 'c' areas.

Thus, during the in-depth assessment the Commission would verify the positive and negative effects of the aid and would balance them. First, it would be verified if the project would contribute to the development of the regions by looking the number of direct or indirect jobs created, knowledge spillovers or cluster effects. Second, the counterfactual scenario, i.e. what would have happened without the aid, would be verified on the basis of documents available when the investment or location decision had been made. Third, aid would be considered to be compatible with the internal market only if it is necessary to compensate for the low profitability of the investment or to compensate the net extra costs to locate the investment in an assisted area. The negative effects would be also verified. The negative effects related to the structure of the market, market shares and performance of the market would be relevant only if the aid has an effect on the investment decision, because when the investment decision has been taken and the aid influences only the location. In this latter situation, the negative effects related to the alternative location are of relevance. Therefore, the negative effects could not be compensated by any positive effects in two situations: (a) if the alternative location is in a less developed region (i.e. a higher aid intensity is allowed), the aid cannot be considered to be compatible with the internal market as it runs against the cohesion objective of the aid; (b) if the aid causes a closure of a similar or same activity within the EEA.

5.4.2. Option 2: Stricter formal requirements; in-depth analysis for all notified large cases

Stricter formal requirements would be introduced at the level of the scheme and for LEs to ensure a positive balance of the aid for which the Commission is not performing a balancing test because the aid is below the notification threshold. In view of the strict treatment of LEs, operating aid in 'a' areas would be limited to SMEs only (except for the OR).

Thus, the scheme must contribute towards a regional development strategy and must contain a system to select the projects that would contribute the most to the objectives of the scheme (e.g. scoring system). If a scheme is co-financed through the ESI Funds, then the MS does not longer need to demonstrate that it fits within a regional development strategy as this will be presumed. When granting aid, the MS should confirm that the selected project contributes to the objectives of the scheme. The aid would be conditional upon the maintenance of the investment in the area concerned for five years. When applying for aid the beneficiaries would have to explain what would have happened in absence of the aid (counterfactual). In addition, LEs would have to provide documentary evidence to demonstrate the counterfactual. Before granting the aid, the MS would have to check the credibility of the counterfactual. Works could start only after the aid is granted. For SMEs, aid intensities would be used as a proxy for the proportionality of the aid (i.e. aid limited to the minimum). For LEs, MS would have to limit the aid to the net extra costs of locating the investment in an assisted area compared to the alternative location or to compensate for the lower profitability of the investment in the assisted area.

Under Option 2, while, on the one hand, MS would have to fulfil stricter requirements to demonstrate the contribution to regional development, the appropriateness and the incentive effect of the aid, on the other, so as to avoid duplication of checks under state aid and cohesion rules, for measures implemented in accordance with regional development strategies defined in the context of ESI funds, these conditions will be considered as fulfilled.

To limit the distortive effect of very large aid amounts granted to LIPs, eligible costs would be capped at EUR 500 million. This would reduce the amount of aid for a limited number of cases with very high eligible costs and thus contribute to reducing the deadweight effect of regional aid (aid in excess of the level required to produce an incentive to invest).

For individual aid above the notification threshold and ad hoc aid, the formal requirements would be verified in depth for all cases (cf. in-depth analysis described in Option 1). The Commission would check the positive and negative effects of all notified individual aid: i.e. contribution to regional development, incentive effect (counterfactual), proportionality (net extra costs). The positive effects would be balanced against the negative effects.

5.4.3. Option 3: Prohibition of aid for certain types of large cases

The compatibility conditions for regional aid would be based on the formal requirements described under Option 1. For individual aid above the notification threshold or ad hoc aid, the Commission would verify the same formal requirements for all cases. The positive balance of the aid would be ensured by prohibiting aid to beneficiaries with a market share above 25 % or if the project results in a capacity increase of more than 5 % of the market, or where the aid causes the project to be located in a more developed region compared to the counterfactual location.

6. ANALYSIS OF IMPACTS

The assessment of impacts focuses on regional (i.e. territorially differentiated) and socio-economic impacts. The impacts in terms of consistency and coordination with other EU policies and administrative burden are assessed as relevant for each issue, except for the geographical coverage and aid intensities which are specific to the RAG[57] (Subsection 6.1)[58].

The environmental impact is only relevant in relation to the sectoral scope of the RAG, in particular for forum shopping and will therefore be assessed only in Subsection 6.2.

NB: In the Sections below, the description of the impacts mainly focuses on Options 2 and 3 as the impacts of Option 1 constitute the baseline scenario, in relation to which the impacts of Options 2 and 3 are presented.

6.1. Rules on the designation of assisted areas and level of aid – Options

1.1.2. Geographical coverage

	Option 1 (baseline scenario)*	Option 2	Option 3
Overall population coverage	45.5 % EU-27 pop.	46 5% EU-27 pop.	38 % EU-27 pop.
Designation of ‘a’ areas (NUTS 2)	GDP < 75 % EU average	GDP < 75 % EU average	GDP < 75 % or unemployment > 150 % EU average
Transition regime between ‘a’ and ‘c’ areas	All ex-‘a’ areas	All ex-‘a’ areas	No transition regime
Allocation method for non-predefined ‘c’ coverage	Based on GDP and unemployment indicators mainly at national level	Based on GDP and unemployment indicators at national and EU levels (intermediary method)	Based on GDP and unemployment indicators at EU levels (EU method)
Safety net	50 %	50 % + min. 7.5 % of	No safety net

		nat. pop.; specific clause for programme countries	
Aid intensities	No change	5 pp reduction, except for least developed regions	Strong reduction ('a': 35 %/30 %/25 %; 'c' 5 pp reduction)

* For the baseline scenario, the provisions of the current RAG would be maintained, but using regional GDP per capita data for 2008-2010 and regional unemployment data for 2009-2011.

6.1.1.1. Regional and socioeconomic impacts

The table below shows the main characteristics of each option in terms of differentiated effect per number of regions or per MS.

Geographical coverage (main impacts of options)

	Percentage of EU-27 population covered	No of NUTS 2 regions covered	No of MS with corresponding areas
Option 1 (baseline scenario)			
'a' areas	25.17 %	71	17
Predefined 'c' areas: Ex-'a' areas SPAs	 6.96 % 0.58 %	 17 18 (NUTS 3)	 8 5
Non-predefined 'c' areas	12.79 %	n/a	16
Safety net	0.05 %	n/a	2
Total	45.55%	88 (18)	27
Option 2			
'a' areas	25.17 %	71	17
Predefined 'c' areas: Ex-'a' areas SPA	 6.96 % 0.58 %	 17 18 (NUTS 3)	 8 5
Non-predefined 'c' areas	14.53 %	n/a	16
Safety net	0.15 %	n/a	3
Total	47.39 %	88 (18)	27
Option 3			
'a' areas	33.36 %	88	19
Predefined 'c' areas: Ex-'a' areas SPA	 n/a 0.54 %	 0 16 (NUTS 3)	 0 4
Non-predefined 'c' areas	4.11 %	n/a	16
Safety net	n/a	n/a	n/a
Total	38.00 %	88 (16)	25

In terms of overall population coverage, Option 2 differs little from the baseline scenario, whereas the overall coverage is the main difference between Options 2 and 3 (for Option 2, 47.2%, including safety net, against 38 % for Option 3). However, Options 2 and 3 would differ significantly regarding the overall number of regions covered (71/88 ‘a’ areas; 35/16 predefined ‘c’ regions) as Option 2 would lead to more regions being designated as ‘c’ areas (both predefined and non-predefined). In Option 3, more regions would be designated as ‘a’ areas, which would comparatively favour 4 MS with high unemployment rates in relation to the EU average (BE, IE, EL, ES).

The major impacts of Options 2 and 3 are therefore related to the degree of autonomy for MS to designate non-predefine ‘c’ areas, which is stronger in Option 2, and the level of recognition of EU disparities (measured in GDP per capita or unemployment rate), which is stronger in Option 3. The intermediate allocation method for non-predefined ‘c’ coverage under Option 2 would advantage only a few MS (IE, EL, ES, IT). At EU level, the overall effects of the safety net under any of the options are relatively minor although the impacts for the MS concerned may be significant.

A more extensive description of the impacts per MS or groups of MS is provided in Annex VII.

The table below shows which MS would gain or lose the most under each option, compared to the level of coverage in the current maps (situation for 2011-2013):

Gain or loss of coverage per MS and per option

	MS that would gain coverage	Neutral impact	MS that would lose coverage
Option 1 (baseline scenario): Maintain provisions of current RAG with new data	5: BE, DK, FR, AT, UK	8: BG, EE, LV, LT, MT, PL, RO, SI	14: CZ*; DE; IE; EL; ES; IT; CY; LU; HU; NL; PT; SK*; FI; SE
Option 2: Slight increase in geographical coverage; EU and national disparities	6: BE, IE, ES, FR, AT, UK	12: BG, EE, LV, LT, MT, NL, CY, EL, PL, RO, SI, PT	9: CZ; DK; DE; IT; LU; HU; SK; FI; SE
Option 3: Strong reduction in geographical scope; focus on EU disparities	1: ES	4: BG, EE, LV, LT	22: BE; CZ; DK; DE; IE; EL; FR; IT; CY; LU; HU; MT; NL; AT; PL; PT; RO; SI; SK; FI; SE; UK

* Coverage loss only due to demographic change.

Most MS clearly favour the baseline scenario. Some MS however favour certain elements of Options 2 or 3. Option 2 would appear to be acceptable by most MS. Option 3 would significantly reduce coverage for most MS, which therefore oppose it (except FR, ES, EL).

The population coverage in ‘a’ areas will decrease from 32.4 % to 24.2 % of the EU-27 population based on GDP per capita data for 2008-2010.

The less developed regions will be located mainly in the new MS (EU-12) and the north (UK) and south of the EU (EL, IT, ES, PT). The ‘a’ coverage in ES will be significantly reduced (from the current 36 % to 6.8 %). DE, BE and MT will lose all their ‘a’ coverage.

There is a shift of less developed regions to the east and south of the EU. This means that those areas phasing-out the ‘a’ status will have lower aid intensities (from 30 %/40 % currently, to 10 %/15 %).

The poorest regions of the EU (in RO and BG) will have an aid intensity of 50 %. Other ‘a’ areas will be allowed to compensate only 35 % or 25 % of the eligible costs.

6.1.1.2. Coordination with other EU policies

For the regional aid maps, it is relevant to ensure consistency with the main features of the rules on regions eligible under EU Cohesion policy. As regards the definition of ‘a’ areas, Options 1 and 2 are consistent with Cohesion policy (same definition as for the category of less developed regions), whereas Option 3 is not. Even if the assisted areas will be determined on the basis of a different set of data (2008-2010) than the one for SF regions (2007-2009), there are no obstacles for the implementation of the SF. On the basis of the latest available data two additional regions in Greece would fall below 75 % EU GDP average and would be treated as ‘a’ areas under RAG, whereas under SF they would be treated as ‘transition regions’. Due to the use of the latest available data, these two additional regions would actually benefit from a more favourable treatment under state aid policy (e.g. higher aid intensities).

The other parameters (allocation method, safety net, aid intensities) do not have any major incidence on consistency with EU cohesion policy: the resulting regional aid maps would not fully match the regions eligible under the ERDF, but this does not have substantial practical implications beyond the scope of the discrepancies that currently exist between the two policies (cf. baseline scenario). In particular, any such discrepancies would not cause any restrictions for the implementation of EU Cohesion policy beyond the type which would exist under the baseline scenario (differences in coverage between certain assisted areas and certain ERDF eligible regions, consequences in terms of possibilities to apply the RAG for operations co-financed under the ERDF, certain effects on prioritisation of interventions under the ERDF due to more or less facilitated use of the RAG depending on the region, etc.).

Conclusion:

Options 2 does present significant advantages in terms of contribution to EU cohesion and regional development compared to the baseline scenario, as tit increases the possible scope and depth of regional aid interventions. Option 3 would in fact have stronger negative effects in this respect. Option 3 enables the best results in terms of state aid control policy, and

Option 2 to a lesser extent. Option 3 presents certain inconsistencies with other EU policies, in particular EU Cohesion policy. All options are neutral in terms of administrative burden.

Overall, as regards the rules on the designation of assisted areas, the options can therefore be scored as follows:

1. In terms of effectiveness in promoting regional economic development, Option 2 would have a positive impact (geographical coverage slightly increased compared to baseline) and Option 3 would have a strong negative impact (strong reduction in geographical coverage).

2. In terms of efficiency in controlling distortions to competition and trade, Option 2 would have no significant impact (moderate increase in geographical coverage) and Option 3 would have a strong positive impact (strong reduction in geographical coverage).

3. In terms of consistency with other areas of EU policy, Option 2 would have no significant impact (moderate divergence in designation criteria for assisted areas compared to EU Cohesion policy) and Option 3 would have a strong negative impact (strong divergence in designation criteria for assisted areas compared to EU Cohesion policy).

4. In terms of administrative burden, Options 2 and 3 would have no significant impact.

6.1.2. Aid intensities

Aid intensities – Options

Category of assisted area	Aid intensity (LEs*)		
	Option 1 (baseline scenario)	Option 2	Option 3
‘a’ areas:			
below 45 % of EU-27 GDP per capita	50 %	50 %	35 %
between 45 % and 60 % of EU-27 GDP per capita	40 %	35 %	30 %
between 60 % and 75 %of EU-27 GDP per capita	30 %	25 %	25 %
‘c’ areas:			
Ex-‘a’ areas	20 %	(15%)†‡	(n/a)†‡
SPAs, non-predefined ‘c’ areas	15 %	(10%)†	(n/a)†

* +10 pp for MEs; +20 pp for SEs.
† Depending if regional aid to LEs is allowed in ‘c’ areas.
‡ Aid intensity applicable until 31.1.2017; afterward aid intensity for non-predefined ‘c’ areas.

6.1.2.1. Regional and socio-economic impacts

The macroeconomic cost of regional aid (in terms of budgetary costs and welfare losses due potential restrictions to competition) is directly correlated with the level of aid intensities.

Under the baseline scenario there would, in any case, be a significant reduction of the overall level of aid as, for 2014-2020, the proportion of ‘a’ areas (25 %) would decrease significantly compared to 2007-2013 (32 %). As shown in the table below, under the baseline scenario, the weighted average aid intensity ceiling[59] (28.1 %) would also be substantially reduced compared to the current RAG (33.1 %), even if the aid ceilings per category of assisted area remain unchanged.

Option 2 would considerably reduce the overall level of aid as the aid intensity ceilings in all categories of assisted area would be reduced by 5 percentage points (except for the least developed ‘a’ areas) and as in ‘c’ areas only investments that bring genuinely new activities/products to the area concerned would be eligible for aid. The weighted average aid intensity ceiling would be 23.8 %. The assisted areas most affected by Option 2 would those in two most developed categories of ‘a’ areas and all ‘c’ areas.

Weighted aid intensities (AI)

	Current RAG		Option 1 (baseline scenario)		Option 2		Option 3	
	% pop.	AI	% pop.	AI	% pop.	AI	% pop.	AI
‘a’ areas:		50 %						
< 45 % EU-27 GDP/capita	12.6 %	40 %	6.9 %	50 %	6.9 %	50 %	6.9 %	35 %
> 45 %, < 60 %	6.4 %	30 %	4.7 %	40 %	4.7 %	35 %	4.7 %	30 %
> 60 %, < 75 %	13.2 %		13.6 %	30 %	13.6 %	25 %	21.8 %	25 %
‘c’ areas:		20 %						
Ex-‘a’ areas	3.4 %	15 %	7.0 %	20 %	4.7 %	15 %	0.0 %	15 %
SPA, non-predefined ‘c’ areas	9.4 %	33.1 %	13.4 %	15 %	15.1 %	10 %	4.7 %	10 %
Weighted average AI				28.1 %		23.8 %		25.6 %

Under Option 3, the share of ‘a’ areas (33.4 % coverage) would increase by over one third compared to the baseline scenario (25 % coverage) and the weighted average aid intensity ceiling would be 25.6 %.

NB: The higher weighted average aid intensity under Option 3 is due to the inclusion of additional ‘a’ areas based on the unemployment criterion. Similar findings could therefore be drawn if the weighting were based on the number of regions covered as there would be 88 ‘a’ areas under Option 3 and 71 ‘a’ areas under Options 1 and 2.

Overall, compared to the baseline scenario, Option 2 would reduce the most the overall level of potential distortions to trade and competition (by providing the lowest weighted average intensity ceiling) and, ceteris paribus, would thereby reduce the overall volume of regional aid (aggregate budgetary cost). Option 2 would significantly increase the relative attractiveness of the least developed category of ‘a’ areas, as the aid intensities would be reduced for the other categories of assisted areas. Option 3, however, would significantly decrease the relative attractiveness of the least developed regions.

Although Options 2 and 3 foresee a reduction of the aid intensity for the other two categories of ‘a’ areas, their attractiveness is not significantly affected either because they compete with less regions in the first category or because aid to LEs in ‘c’ areas is restricted to genuinely new activities and products. Under Options 2 and 3, ‘c’ areas would become less attractive compared to the baseline scenario.

6.1.2.2. Coordination with other EU policies

A reduction of average aid intensities, as foreseen in particular by Option 2, would allow to contribute to several objectives of other EU policies. By reducing distortions to trade and competition and ensuring a more effective use of budgetary resources, Option 2 would contribute to the overall competiveness of European industry on the world markets.

For operations that are co-financed under the SF, the reduction of aid intensities in Options 2 and 3 would proportionally reduce the amount of co-financing for operations that involve regional state aid, as the co-financing rate is calculated in relation to the aid amount. The reduction of aid intensities could therefore introduce a restriction on the capacity for MS to implement SF operational programmes.

At the level of individual projects or initiatives, any reduction of aid intensities would also mechanically reduce the amount of aid that can be allocated towards investment aimed at helping to implement the objectives of the Europe 2020 Strategy in the assisted areas.

It does not appear possible to propose any valid estimates of the potential impact of reductions in aid intensity ceilings on economic activity as this outcome can be influenced by many heterogeneous factors (e.g. sensitivity to aid, propensity to invest, cross-sector divergences, etc.), only some of which can be attributed to aid. Achieving such estimates through econometric modelling would be relatively complex given the uncertainty regarding causality and counterfactual (e.g. of incentive effect), which would not enable to make statistical inferences with high levels of confidence.

In terms of image, a reduction of aid intensities could have negative consequences for the EU's competitiveness as a global business location (even if the actual effects of aid on helping to attract inward FDI are not evidenced).

On aid intensities, stakeholders are divided into two groups: one group, which includes stakeholders that voiced concerns with regard to the 'border region' issue, requests a systematic further reduction of aid intensities in 'a' areas, going beyond the reductions reflected in Option 3. Another group demands to maintain the status quo under the current RAG, in particular if aid to LE should continue to be allowed in 'c' areas (baseline scenario). Several stakeholders underline the need to have high aid intensities in 'a' areas or matching clauses to prevent the disappearance of activities to locations outside the EEA.

Conclusion:

Reductions in aid levels can have a negative impact on the relative attractiveness of the assisted areas as investment locations (compared to the non-assisted areas). Option 2 would moderately reduce the attractiveness of 'a' areas, except for the least developed regions. Option 3 would strongly reduce the attractiveness of all 'a' areas. Both options would equally reduce the attractiveness of 'c' areas.

A reduction in aid levels directly reduces the amount of potential distortions to competition and trade.

The reduction of aid intensities would also reduce the amount of EU co-financing that can be allocated to individual projects and would restrict the capacity to mobilise investment in support of the Europe 2020 Strategy in the assisted areas.

Overall, as regards the level of aid, the options can therefore be scored as follows:

1. In terms of effectiveness in promoting regional economic development, Option 2 would have a negative impact and Option 3 would have a strong negative impact.

2. In terms of efficiency in controlling distortions to competition and trade, by reducing the aid levels, Options 2 and 3 would have a positive impact.

3. In terms of consistency with other areas of EU policy, Option 2 would have a negative impact and Option 3 would have a strong negative impact.

4. In terms of administrative burden, Options 2 and 3 would have no significant impact.

6.2. Scope of regional aid and linkage with other state aid instruments – Options

	Option 1 (baseline scenario)	Option 2	Option 3
Sectoral scope	Shipbuilding and coal excluded from RAG; aid to steel and synthetic fibres prohibited	Shipbuilding included in RAG (but aid must be notified); aid to coal, steel and synthetic fibres prohibited	No prohibition (but all aid to coal, steel synthetic fibres, must be notified);
Differentiation between SMEs and LEs	Aid for LEs allowed in ‘c’ areas	Aid for LEs in ‘c’ areas only for ‘greenfield investment’, new activities/products	No aid for LEs in ‘c’ areas
Forum shopping	Allowed	Allowed with limitations (except the energy sector)	Not allowed

6.2.1. Regional and socioeconomic impacts

6.2.1.1. Scope of RAG

Regarding sectoral scope, the options are likely to produce differentiated impacts at regional level depending on the importance of the sectors concerned in each assisted area. Option 3 could nevertheless present the risk of allowing aid to possibly failing industries or industries in decline, which could have negative effects for the sustainability of regional development.

It is relevant to examine in more detail the regional and socioeconomic impacts of allowing regional investment in the shipbuilding industry as this is proposed under Option 2.

The shipbuilding industry consists of two main segments:

– shipyards, which are active in the construction and repair of civil or naval vessels, and

– the marine equipment industry which produces a wide variety of supplies not only for shipyards but also for boating, fisheries, offshore activities, etc.

There are approximately of 150 shipyards in the EU. The 40 largest shipyards are engaged in the construction of large commercial vessels. Overall, EU shipyards account for approximately 110 000 direct jobs. The main shipbuilding MS in the EU (ranked by production of merchant ships in 2012) are: DE, IT, RO, NL, PL, ES.

The marine equipment industry accounts for approximately 7 300 enterprises and approximately 287 000 jobs. The main activities in this segment are the manufacture of propulsion (engines), steering equipment, cargo handling, navigation, electricity and safety, coatings, etc. The main locations in the EU (ranked by turnover) are: DE (29 %), NL (14 %), FI (12 %), FR (10 %).

Except in PL, RO, EL, southern IT, Galicia, all major European shipyards appear to be located in non-assisted areas or possibly non-predefined ‘c’ areas: northern DE, Rhine estuary (NL), FR, FI, and northern ES.

Stakeholders active in the steel sector or the synthetic fibres sector are generally in favour of maintaining the current prohibition of aid (to avoid repeating the subsidy races of the 1970s and 1980s). However, several stakeholders consider that the definition of these sectors should be clarified in order to allow regional aid in growing niche markets that are not in structural overcapacity.

Strict treatment of LEs:

A differentiated approach between SMEs and LEs would lead to better value for money investments which generate a bigger contribution to growth and jobs in the EU. Moreover, the changes will reduce distortions of competition emanating from "free money" that is presently afforded to LEs in ‘c’ areas.

Limiting the deadweight linked to aid without incentive effect (Option 2) would contribute to improved regional development of ‘c’ areas representing an important synergy between cohesion objective and competition objective. However, a complete ban of regional aid to LEs (Option 3) might affect the regional development of ‘c’ areas because ‘good-aid’ (e.g. aid for new activities) might be crowded out.

Regional impact:

Depending on the initial overall population coverage (ranging from 38 % to 46.5 %), assisted areas corresponding to approximately 13 % to 21.5 % of the EU-27 population could be designated as ‘c’ areas (predefined and non-predefined), although only a portion of regional aid granted in these areas would be for LEs. The effects of the limitation of aid to LES in ‘c’ areas would therefore appear to be relatively circumscribed both as regards the number of regions concerned and the aid amounts that could be involved.

12 MS only have ‘c’ areas (AT, BE, CY, DE, DK, FI, FR[60], IE, LU, MT, NL, SE) and would therefore be most affected. EL, ES, IT, PT would be less affected as they would have both ‘a’ and ‘c’ areas. EU-12 MS (except CY, MT) would also be less affected as they would consist entirely of ‘a’ areas (with the exception of the capital city regions in CZ, HU, PL, RO, SK).

Distribution of LIPs between MS

MS	Total No of LIPs	LIPs with eligible costs below EUR 100 m	LIPs with eligible costs above EUR 100 m	
			Below the notification threshold	Above the notification threshold
AT	3	2	1	0
BE	9	6	3	0
CZ	17	17	0	0
DE	93	63	9	21
EL	6	6	0	0
ES	40	26	11	3
FR	9	5	4	0
HU	36	23	11	2
IE	16	8	8	0
IT	9	4	1	4
PL	41	27	9	5
PT	21	12	8	1
RO	6	4	1	1
SK	3	1	0	2
SE	1	0	1	0
UK	18	11	6	1
Total	328	215	73	40

78 LIPs were located in ‘a’ areas that would have ‘c’ status during the period 2014-2020. These regions are in BE (7 LIPs), DE (53 LIPs), ES (14 LIPs), PL (3 LIPs) and EL (1 LIPs).

Sectoral impact:

DG COMP does not have data on the sectoral coverage of regional aid. However, indications regarding the distribution of LIPs per main sector and MS can be given in the table below.

Distribution of LIPs per main sector and MS

Sectors	Total amount (EUR m)	Transparency cases (total amount, EUR m) / MS concerned (No of cases)	Notified LIPs (total amount, EUR m) / MS concerned (No of cases)
Automotive	1 169	668 / CZ (7), ES (6), DE(5), HU (5) FR (4), PL (4), UK	501 / DE (2), HU (2), IT (2), PL (2), RO (1), SK (1), UK

		(3), IT (1), PT (1)	(1)
Solar	842	275 / DE (9), ES (4), PT (1), UK (1)	567 / DE (13), ES (1, IT (1)
Electronics	431	347 / CZ (4), HU (2), PL (2), RO (2), SK (2), DE (1)	84 / PL (1), SK (1)
Paper	420	193 / ES (3), DE (2), HU (2), PL (2), PT (2)	227 / DE (4), PL (1)
Semiconductors	323	60 / HU (1), IE (2), PT (1)	263 / DE (1), PL (1)
Energy	316	292 / HU (4), PT (4), DE (3), IT (3), PL (2), UK (1)	24 / IT (1)
Chemicals	304	304 / DE (8), ES (6), PL (3), HU (2), UK (2), BE (1), FR (1), PT (1)	–
Wood products	293	293 / PL (7), DE (3), BE (1), CZ (1), ES (1)	–
Computer activities	175	175 / HU (3), PL (3) BE (1), DE (1), FR (1), IE (1), UK (1), PT (1), SE (1)	–
Glass	153	123/ PL (3), DE (2), PT (2), FR (1)	30/ DE (1)

The majority of stakeholders oppose the prohibition of regional aid to LEs in 'c' areas (Option 3). Those stakeholders underline that LEs are a key element for clusters, which modern regional policies try to develop, and that their exclusion would strongly disrupt the continued development of former 'a' areas. Some stakeholders consider that the reasons in favour of the exclusion of LEs in 'c' areas would equally, or even more, apply in 'a' areas. Others consider that the key issue that an exclusion is supposed to address, i.e. the absence of an incentive effect for aid to LEs, could also, or even better be addressed, by stricter incentive effect rules, both for block-exempted and notified aid, or the vetoing of automatic fiscal aid which, according to most studies, involves substantial deadweight. Several stakeholders suggest to allow aid to LEs at least in predefined 'c' areas, or at least for smaller LEs that face similar difficulties as larger medium-sized firms. Only a minority of stakeholders (Nordic MS and UAPME[61]) support the exclusion of large enterprises, or at least of very large enterprises.

Forum shopping: The options on forum shopping have differentiated impacts at regional level. The choice between the RAG and other thematic or sectoral guidelines is more of an issue in 'a' areas (less developed regions) because of the higher aid intensities allowed in these regions compared to the thematic guidelines. Option 1 would mainly affect the companies located in non-assisted areas who can receive aid only under the strict conditions of the energy and environmental aid guidelines that ensure that aid is necessary to tackle a market failure and is limited to the minimum. In addition, under this option a foreclosure of the energy market could not be excluded if the aid beneficiary would not be required to provide third party access to the subsidised infrastructure. Under Option 2 and 3 these companies would be put on an equal footing with those located in assisted areas and the integrity of the energy market would be preserved.

6.2.2. Environmental impact[62]

Sectoral scope: Allowing regional aid to the coal sector (Option 3) would have a significant negative environmental impact. While it is not possible, within the scope of this impact assessment, to quantify precisely the full extent of these negative environmental effects, it is nevertheless likely that allowing regional aid in favour of uncompetitive coal mines could lead to significant increases in greenhouse gas and pollutant emissions (e.g. coal is one of the energy sources with the highest of levels of CO_2 emissions per kWh of electricity produced).

Forum shopping: Under Option 1 an environmental impact would be present because regional aid could be granted for investments that would not be eligible under the future energy and environmental aid rules (e.g. co-generation from fossil fuels and not only from renewables). However, the impact would be limited under Option 2 and 3. For example, if aid for co-generation investments and district heating would be granted it would be allowed only for high-efficient equipment for co-generation and energy-efficient district heating.

6.2.3. Coordination with other EU policies

Sectoral scope: By prohibiting regional aid to the steel and synthetic fibres (Options 1 and 2), the Commission's industrial policy might be affected[63]. However, the large majority of stakeholders active in the steel sector supported the prohibition of regional aid in this sector.

Strict treatment of LEs: The proposal to prohibit regional aid to LEs for investments located in 'c' areas is consistent with the proposal under the draft regulations for the European Structural and Investment Funds (ESI Funds) to restrict the scope of ERDF support to productive investments by LEs to investment priorities within the thematic objectives relating to investment priorities in the research, technological development and innovation and energy efficiency and renewable energy. Under Option 2, existing establishments in 'c' areas would benefit from regional aid only if new establishments or new activities or new products are brought to the area concerned. This option might affect the existing clusters that have been benefiting from regional aid and will not be eligible for regional aid in the next period because the area concerned moved out of 'a' status and will be a 'c' area. Under Option 3, aid for new production facilities or extension of the existing ones would be possible for LEs only to the extent laid down under the thematic aid guidelines, such as aid for research and development, aid for environmental protection or energy-efficiency, or aid for broadband networks[64].This option limits the 'good aid' to the extent laid down in the other aid instruments that are not fit to cater for the cohesion objective of regional aid. Therefore, under Option 3 there is a risk that not only 'bad aid' would be banned but also 'good aid' that has a cohesion objective under the RAG.

Forum shopping: As regards the energy sector, Option 2 and Option 3 would impose certain restrictions for the implementation of EU Cohesion policy, as MS would no longer have the choice of applying the RAG in certain circumstances (e.g. co-generation from fossil fuels or less efficient district heating and cooling). On the other side, Option 2 and 3 would be most consistent in comparison to the baseline scenario with the EU energy, environmental and climate policies.

To what extent are they consistent with other relevant EU policies, including structural funds?

- *RAG and GBER*

The RAG applies only to aid measures that have potential higher distortive effects for the internal market. Therefore, the Commission has to scrutinize the compatibility of this aid with the internal market to ensure the negative effects of the aid are limited to the minimum and are outweighed by the positive effects of the aid.

All small aid amounts or less distortive measure would fall under the GBER. On the basis of the case practice, it is proposed to block exempt operating aid scheme for OR and sparsely populated areas. This will greatly facilitate the treatment of these schemes in FR, ES, PT, SE and FI and the absorption of EU funds.

Under GBER the treatment of aid will be greatly facilitated. Member States have to comply with simple, straightforward rules (e.g. it is presumed that the aid has an incentive effect if the company has applied for aid before the start of works; it is presumed that the aid is limited to the minimum if the aid intensities are respected).

For aid that needs to be notified COMP is envisaging to verify in depth the incentive effect and to ensure that the aid is limited to the minimum necessary. For RAG it is proposed to move away from the two-step approach (formal requirements and in-depth analysis for few cases if certain triggers are activated) to one step approach (ie in-depth analysis for all notified aid measures)

RAG and other guidelines:

The options presented in the report on forum shopping take into account the interlink of RAG with the other guidelines.

The geographical dimension of RAG distinguishes it from the other rules. However, other types of aid instruments, like start-up aid, SME aid, R&D&I aid, risk finance aid, environmental aid, training aid or aid for broadband networks can be used to promote the development of these regions. DG COMP considers increasing the aid intensities under these other guidelines for investments taking place in assisted areas in order to recognize the regional handicaps.

RAG and ESI funds:

Treatment of co-financed regional aid measures will be facilitated: it will be presumed that a scheme is contributing to the regional development of the area concerned as long as it part of an operational program. In addition, it will be deemed to be an appropriate instrument.

Only a fraction of cohesion policy funds (ERDF, ESF, Cohesion Fund) is spent in the form of state aid, estimated as 20 %, or nearly EUR 70 billion, in the current programming period (2007-2013). Only a fraction of this is spent under the RAG (around one third).

For state aid measures co-financed by ESI funds, MS do not predominantly rely on the regional aid guidelines that are mainly allowing investment aid to business in identified disadvantaged regions; other state aid guidelines are used (in particular the R&D&I, risk finance, broadband which itself accounted for €2bn of co-financing of aid measures- and environmental aid guidelines) and relevant rules for SMEs, training and recruitment aid under the general block exemption.

Consistency with EU cohesion policy is ensured not only by the regional aid guidelines, but by the whole set of state aid instruments. The revision of all relevant state aid rules, including of the GBER, in line with the principles of state aid modernization will contribute to ensuring efficient implementation of cohesion policy.

6.2.4. Administrative burden

In general, a certain trade-off arises between keeping the rules simple (which would call for per se rules, e.g. a ban on aid to investment projects by LEs in ‘c’ areas) and trying to achieve the optimal outcome on a case-by-case basis (which would call for strengthened conditions on checking the incentive effect and the negative effects of aid). For Options 2 and 3, the restriction or prohibition of aid to LEs in ‘c’ areas, combined to the conditions or restrictions on forum shopping, could reduce the overall volume of regional aid measures to be processed.

The inclusion of shipbuilding under Option 2 will not significantly increase the existing administrative burden. Since 2007, 21 cases have been approved for the development of the shipbuilding sector. For Option 3, the possible increase in the volume of notified aid measures due to the abolition of all sectoral prohibitions could be mitigated by restrictions in the volume of aid measures due to the prohibition of aid to LEs in ‘c’ areas.

Conclusion:

Option 2 has positive impacts both for the efficiency in promoting regional development and in terms of efficiency in controlling distortions of competition and trade. Option 2 is more consistent with the EU energy and environmental policies due to its adapted safeguards for forum shopping, but less consistent with the Cohesion policy as certain restrictions will be imposed (energy sector will be outside RAG and for broadband and RDI infrastructures additional conditions will be imposed). Option 2 might be less consistent with the Steel action plan to be adopted in June 2013.

Option 3 has drawbacks in terms of contribution to EU cohesion (complete ban of large enterprises in ‘c’ areas), but positive impacts in terms of competition policy enforcement. Option 3 is consistent with the EU energy policy but less consistent with EU environmental and climate change policy by not prohibiting aid to the coal sector. Likewise option 2 due to the restricted scope of RAG as regards energy sector, it is less consistent with the EU cohesion policy. However, by extending the scope of RAG to the steel sector it is likely to be consistent with the Steel action plan in preparation by the Commission.

Overall, as regards the scope of regional aid and linkage with other state aid instruments, the options can therefore be scored as follows:

1. In terms of effectiveness in promoting regional economic development, Option 2 would have a positive impact and Option 3 would have a negative impact.

2. In terms of efficiency in controlling distortions to competition and trade, Options 2 and 3 would have a positive impact.

3. In terms of consistency with other areas of EU policy, Option 2 would have a positive impact as regards the consistencies with EU energy and environmental policies but a negative impact as regards Cohesion policy. Option 3 would have a positive impact as regards the EU energy policy but negative impact as regards the EU environmental and climate change policies and cohesion policy.

4. In terms of administrative burden, Option 2 would have no significant impact and Option 3 would have a positive impact.

6.3. Rules on notification obligation and transparency – Options

	Baseline scenario (Option 1)	Option 2	Option 3
Notification obligation	• Sectoral schemes • All operating aid schemes • Individual aid above the notification threshold • Ad hoc aid	• Multisectoral schemes with large budgets • Sectoral schemes (incl. shipbuilding) • Certain operating aid schemes • Individual aid above the notification threshold • Ad hoc aid • Aid linked to the closure of a similar or same activity in the EEA • Aid to LEs in 'c' areas for investments in 'new product'	• Certain operating aid schemes • Individual aid > EUR 15 m in 'a' areas and > EUR 5 m in 'c' areas; • Aid linked to the closure of a similar or same activity in the EEA • Aid to steel, synthetic fibres and coal sector
Transparency, reporting	Transparency requirements only for projects with eligible costs between EUR 50-	Transparency requirements for all individual aid regardless of amount	Cf. baseline with publication on the website of MS

	100 m		

1.1.3. Regional and socioeconomic impacts

Sectoral schemes: Maintaining the notification obligation (Options 1 and 2) would mainly impact LV (12 schemes) and ES (4 schemes), which notified most of the sectoral schemes. EE, IT, LT, PL, RO each notified 2 such schemes. The main sectors concerned were gas and electricity (improving the distribution networks, or production of energy from renewables), water and waste management, processing of agricultural products into non-agricultural ones. In terms of budget or impact on beneficiaries, the impact is relatively low considering the overall budget (in general less than EUR 75 million) and the low amount of aid per company which is in almost all cases significantly below the maximum allowable aid intensities (e.g. the eligible costs are capped to EUR 8 million per beneficiary). The biggest sectoral schemes were put in place in LT and PL in the energy sector (around EUR 200 million budget) and in RO in the agricultural sector (EUR 200 million). PL also has another scheme of EUR 1.3 billion covering the energy sector, telecommunications, RDI and spas.

Multisectoral schemes with a large budget (Option 2): The main regional aid schemes in DE (2 schemes), EL (1 scheme), ES (2 schemes), IT (2 schemes), PL (1 scheme), UK (1 scheme) would have had to be notified to the Commission, if this requirement had existed in the RAG 2007-2013. In 2010, expenditure under these schemes ranged from EUR 130 million (EL) to EUR 2.6 billion (DE)[65].

Operating aid schemes: The exemption from notification (Options 2 and 3) would facilitate the implementation of schemes for OR (34 schemes in total) in FR, ES, PT, and for SPA (3 schemes in total) in FI, SE. Until the end of 2012, the Commission had approved around EUR 40 billion for operating aid in these regions.

Individual aid: Maintaining the focus on aid granted to projects with eligible costs above EUR 100 million (Options 1 and 2) would impact mainly DE, and to a lesser extent SK and IT. These MS used the maximum allowable aid intensity in almost all of their projects and therefore had notified the aid. Currently, out of 40 notified cases around half (17 cases) came from DE. On the contrary, ES, HU, IE, PL, PT, UK decided to limit the aid to the notification threshold for almost all their projects above EUR 100 million, thus escaping the Commission scrutiny. Out of 113 projects, the aid was capped to the notification threshold in 73 cases. Option 3 (focusing on projects below EUR 100 million) would affect not only the MS previously mentioned but also EL, BE, CZ, FR, SI, IT, RO. During the current period, the Commission has approved EUR 2 billion of aid for projects with eligible costs above EUR 100 million (i.e. less than 5 % of total regional aid spent until the end of 2011). However, MS granted another EUR 5 billion to projects with eligible costs above EUR 50 million. Stakeholders generally welcome high notification thresholds as in Options 1 and 2 and even suggest adjusting them according to inflation. Regarding the proposal to cap the eligible costs for which enterprises can receive regional aid at EUR 500 million (cf. Option 2), the impact is limited. Out of 40 LIP cases decided between 1.1.2007 and 31.12.2012 under the current RAG, only nine had eligible costs above EUR 500 million, the average amount of eligible expenditure being EUR 349.60 million (average aid amount of EUR 44.91 million) .

Ad hoc aid: Options 1 and 2 (requiring a notification) would mainly impact PL which notified 28 cases out of the 38. The other MS concerned would be ES, EL, LT, LV, PT, SK. EUR 80 million were approved until the end of 2012 for ad hoc aid. In 27 cases the aid amount per beneficiary was significantly below EUR 1 million. Therefore, many stakeholders would probably favour Option 3.

Aid linked to a closure of a same or similar activity within the EEA: This issue would potentially impact more MS with ‘a’ areas. Most of the stakeholders consider that this type of aid is potentially distorting the internal market and should be subject to Commission scrutiny. Other stakeholders oppose this approach as the closure of inefficient sites is standard business practise and the de facto prohibition of relocation aid within the EU could cause many companies to leave.

Transparency: A transparency requirement for each single aid award would impact all MS. However, if it is limited to aid for projects with eligible cost below EUR 100 million, it would concern only 16 MS (mainly DE, HU, ES, PL)[66]. Stakeholders consider that increased transparency is important to avoid a partitioning of the internal market, in particular to improve access to aid schemes, but that unnecessary formalities should be avoided.

6.3.2. Coordination with other EU policies

Sectoral schemes: Some stakeholders consider that imposing a notification requirement for sectoral schemes (Options 1 and 2) is not consistent with the thematic approach of Cohesion policy and the Europe 2020 Strategy. DG COMP’s experience shows that this notification requirements impact a limited number of cases and use of the SF. Until the end of 2012, 50 % of the approved investment aid schemes were sectoral schemes (i.e. 26 cases) and only a part were co-financed with EU funds. In terms of the approved budget, the sectoral schemes account for less than 20% (i.e. EUR 2.6 billion) of the total regional aid approved until the end of 2012. Thus, there is no important obstacle for the use of the SF.

Multisectoral schemes with a large budget: Because the notification trigger (Option 2) is relatively high (yearly expenditure ranging between EUR 100 million and EUR 250 million) it would have a low impact on the use of the SF. If this requirement existed in 2011, one of the main regional aid schemes in DE (EUR 2.6 billion in 2010), ES (EUR 121 million in 2010), IT (EUR 243 million) and PL (EUR 160 million) would have been affected.

Individual aid: Requiring a notification whenever the aid is potentially linked to a relocation of activity within the EU (Options 2 and 3), would also allow the Commission to ensure that SF are not used to encourage relocation within the EU. Options 2 and 3 would also ensure an efficient implementation of the durability requirement imposed under Cohesion policy. This would not be possible under Option 1.

Ad hoc aid: Exempting ad hoc aid from the notification obligation (Option 3) would run against the focused approach of the Europe 2020 Strategy, as such aid is at the discretion of the MS without necessarily being consistent with a regional development strategy.

Transparency: A transparency requirement for each single aid award would impact all MS. The current transparency obligation (limited to aid for projects with eligible cost above EUR 100 million) currently concerns only 16 MS (mainly DE, HU, ES, PL)[67]. Stakeholders consider that increased transparency is important to avoid a partitioning of the internal market, in particular to improve access to aid schemes, but that unnecessary formalities should be avoided.

1.1.4. Administrative burden

Option 1 would not reduce the current administrative burden.

Option 2 would increase the administrative burden for some MS (e.g. those having large schemes) and would reduce it for others (e.g. operating aid schemes). The transparency requirements would not increase significantly the administrative burden, given that Member States are already under an obligation to keep record of State aid expenditures (for monitoring purposes) and to report in a computed form (reporting obligations). The main cost is linked to the inter-operability of data, which is already ensured in a few MS. In addition, transparency mechanisms would lead to easier reporting and enforcement at national level, spare resources and speed up procedures (especially with regards to complaints). EE and SI (provided they would remove the password and make it available to the public) already have transparency mechanisms for individual state aid awards.

Option 3 would not reduce the current administrative burden on MS and beneficiaries just because fewer cases would be notified (e.g. sectoral schemes and ad hoc aid). The current safeguards could not be simplified and therefore the compliance with them would not result in reduced administrative cost. In addition, more individual aid would have to be notified as the notification thresholds of EUR 15 million and EUR 5 million capture projects with eligible costs below EUR 100 million.

Stakeholders welcome the simplification in the notification procedure, such as notification exemption for ad hoc aid below the threshold mainly because it would speed up the granting and payment process and because of the increased efficiency due to the reduced administrative burden on companies.

Conclusion:

All options on notification thresholds and transparency requirements are neutral as regards their effectiveness in promoting regional economic development. Option 2, contrary to Option 3, allows the Commission to better ensure an efficient control of the most distortive cases with reduced administrative burden for certain MS. Although under Option 3 fewer cases would be notified, MS would need to comply with stricter requirements for those aid measures exempted for notification and would not reduce the current high administrative costs. Only Option 3 has any positive impact on consistency with other policies as it enables to block-exempt a greater range of measures.

Overall, as regards the rules on notification obligation and transparency, the options can therefore be scored as follows:

1. In terms of effectiveness in promoting regional economic development, Options 2 and 3 would have no significant impact.

2. In terms of efficiency in controlling distortions to competition and trade, Option 2 would have a positive impact and Option 3 would have a negative impact.

3. In terms of consistency with other areas of EU policy, Option 2 would have no significant impact and Option 3 would have a positive impact.

4. In terms of administrative burden, Option 2 would have a positive impact and Option 3 would have a negative impact.

6.4. Rules on the assessment of the compatibility of regional aid – Options

	Option 1 (baseline scenario)	Option 2	Option 3
Contribution to regional development	Formal requirements: location in assisted areas; in-depth analysis (demonstration of regional contribution only for beneficiaries with market share > 25 % or if capacity > 5 % in a market in structural decline)	Stricter requirements: Regional contribution must be demonstrated at scheme level; project must contribute to scheme objectives; in-depth analysis for all notified cases	Only formal requirements
Incentive effect	Formal requirements (except for LIPs subject to in-depth analysis, i.e. counterfactual checked by Commission)	Stricter requirements for incentive effect; in-depth analysis for all individual aid	Only formal requirements
Proportionality	Respect of aid intensity (except for LIPs subject to in-depth analysis, i.e. aid limited to net extra costs)	Respect of aid intensities only for SMEs; for LEs MS must limit the aid to net extra costs (aid intensities used as cap); in-depth analysis for all notified individual aid	Only aid intensity

Balancing test	Only for LIPs subject to in-depth analysis	Always for notified individual aid	No balancing test (prohibition of most distortive aid)

A distinction must be made between the assessment by MS of individual aid given under RAG schemes and the assessment by the Commission of individually notified aid.

A variant of Option 2 would be to reserve the stricter requirements as regards the assessment of the incentive effect by MS of aid given under GBER and RAG schemes to the somewhat larger aid amounts, i.e. above EUR 2.5 million, with a view to striking an appropriate balance between reducing the administrative burden and preserving sufficient checks on the incentive effect.

Further, a differential approach between GBER or RAG schemes could be justified on the basis that RAG schemes contain certain features (their size, sectoral focus or otherwise) that require a somewhat stricter approach. For instance, under GBER the formal incentive effect could consist of checking that the firm has not started works before the aid application.

6.4.1. Regional and socioeconomic impacts

The stricter formal requirements under Option 2 would only impact notified schemes. During 2007-2012, not only sectoral schemes have been notified but also multisectoral schemes which fell outside the GBER. In total, 13 MS notified 52 investment aid schemes (45 direct grant schemes, 7 tax schemes). Option 2 would impact mainly LV, ES, IT, RO and DE which notified the large majority of the schemes.

The prohibition of aid to beneficiaries with market shares exceeding 25% or creating capacity of more than 5% (Option 3) would impact mainly notified LIPs in the car, paper, solar and semiconductor sectors, assuming that the threshold of market shares or capacity increase would be more likely to be exceeded in these sectors. These projects are generally mobile and often the alternative location is outside the EEA. Under Options 1 and 2, aid in these sectors would not be prohibited but it would be ensured that the aid has indeed an incentive effect and is limited to the minimum.

The risks that company relocate their investments outside EU exists for both ‘a’ and ‘c’ regions. Only mobile investments face this risk. The relocation is due to the globalized economy and is drived by other considerations than state aid. From the case practice, it results that global companies will invest in parallel in Europe and outside if the market is growing. To mitigate the relocation risk it is proposed to allow investment aid to large enterprises in ‘c’ areas only for greenfield investments. In addition, for very large investments which are subject to Commission’s scrutiny it is proposed to take account of aid granted by non-EU grantors when verifying the counterfactual scenario.

6.4.2. Coordination with other EU policies

The compatibility rules of regional aid ensure that EU funds do not distort the internal market contrary to a common interest when they are channelled towards undertakings. Until the end of 2012, over 1 200 schemes were put in place on the basis of the GBER and only around 52 investment aid schemes were notified (around EUR 17 billion aid). Only a part of those 52 schemes were co-financed and were subject to Commission scrutiny. Therefore, the rules laid down in the RAG do not substantially impact the use of the SF. In any case, the treatment of co-financed schemes is facilitated under the three options considering that the regional contribution dimension is deemed to be present for these cases. The verification of the incentive effect and of the proportionality of the aid would also ensure the value added of the EU funds.

6.4.3. Administrative burden

Option 2 would significantly increase the administrative burden for MS, beneficiaries and the Commission as it would require MS and beneficiaries to provide additional information compared to the current baseline situation (higher burden of proof the criteria on contribution to regional development, appropriateness, incentive effect, proportionality, etc.) and would involve, similar to the type of analysis currently only carried for LIP cases. Under Option 2, the assessment of notified measures would resemble more this type of assessment as regards the documentation to be provided by MS and beneficiaries and the level of analysis required on behalf of the Commission. Nevertheless, from an overall perspective it has to be considered that Option 2 would involve also the transfer of a number of measures under the GBER and therefore, in this respect, a reduction of the scope of the notification requirement. This trade-off therefore diminishes the negative impact of Option 2 in terms of administrative burden.

Stakeholders generally have a preference for the baseline scenario which is essentially based on per se rules. It is generally accepted that rules and definitions in the RAG should be clear, simple, and unequivocal, to ensure the predictability, transparency, and speediness of Commission decisions. Many stakeholders consider that the enhanced economic approach reflected in Option 2 is not compatible with these requirements.

Many respondents to the public consultation state that the counterfactual analysis proposed under Option 2 is disproportionate and that it would present a heavy burden in particular for SMEs, which do not have the human and financial resources to prepare the required types of documents. The counterfactual analysis and net extra costs calculations are considered to be complex to perform and require beneficiaries to provide information on their internal management decisions, for which there are no harmonised evaluation criteria. Therefore, some respondents have suggest to eliminating the requirement for SMEs provide proof of a counterfactual analysis. Some suggest that even for LEs the counterfactual requirement is very burdensome and that it should be avoided.

Conclusion:

Option 2 would ensure that regional aid contributes effectively to regional development without undue distortions of competition because of the stricter requirements and because of the depth of analysis of the individual cases notified to the Commission. Option 2 would also address the shortcomings of the current rules as regards the common compatibility criteria (contribution to regional development, incentive effect, proportionality, etc.) although higher administrative costs would result from the stricter requirements for LEs for aid below notification threshold.

Option 3 would have no significant impact on improving the effectiveness of regional aid as the compatibility assessment would rely mainly on formal requirements. Option 3 would however contribute to limiting the negative effects of regional aid as the aid would be prohibited if the beneficiary has a market share above 25 %, if the project results in a capacity increase of more than 5 % of the market, or if the aid causes the project to be located in a more developed region that the counterfactual location.

Overall, as regards the rules on the assessment of the compatibility of regional aid, the options can therefore be scored as follows:

1. In terms of effectiveness in promoting regional economic development, Option 2 would have a strong positive impact and Option 3 would have no significant impact.

2. In terms of efficiency in controlling distortions to competition and trade, Option 2 would have a strong positive impact and Option 3 would have a positive impact.

3. In terms of consistency with other areas of EU policy, Options 2 and 3 would have no significant impact.

4. In terms of administrative burden, Option 3 would have no significant impact, but Option 2 would have a negative impact (strong negative impact as such but mitigated by the extended scope of the GBER).

7. COMPARING THE OPTIONS

The table below provides a recapitulative overview of the main features of the options.

	Baseline scenario (Option 1)	Option 2	Option 3
1. Designation of assisted areas			
Overall population coverage	45.5 %	46.54 %	38 %
Designation of ‘a’ areas	GDP <75 % EU average	Cf. baseline	GDP < 75 % or unemployment > 150 % EU average
Transition regime between ‘a’ and ‘c’ areas	For all ex-‘a’ areas	Cf. baseline	No transition regime
Non-predefined ‘c’ coverage – allocation	Mainly indicators at national level	Indicators at both national and EU levels	Mainly indicators at EU level

method			
Safety net	50 %	100 % for Programme countries; 50 %; minimum coverage of 7.5 % of national population	No safety net
Aid intensities	No change	Slight reduction, except for least developed regions	Strong reduction
2. Scope of regional aid and linkage with other guidelines			
Sectoral scope	Shipbuilding and coal excluded; aid to steel, synthetic fibres prohibited	Shipbuilding included; aid to coal, steel, synthetic fibres prohibited	No prohibition (aid to coal, steel, synthetic fibres must be notified)
Differentiation between SMEs and LEs	Aid for LEs in 'c' areas allowed	Aid for LEs in 'c' areas only for new activities or new products	No aid for LEs in 'c' areas
Forum shopping	Allowed	Allowed under key conditions imported from other guidelines (except for the energy sector)	Not allowed
3. Notification obligation and transparency			
Notification obligation	Sectoral schemes; all operating aid schemes; individual aid above the notification threshold; ad hoc aid	Sectoral schemes (incl. shipbuilding); large schemes; certain operating aid schemes; individual aid above the notification threshold; ad hoc aid; aid linked to a relocation; aid to large enterprises in 'c' regions for investments in new products	Certain operating aid schemes; individual aid > EUR 15 m in 'a' areas and > EUR 5 m in 'c' areas; aid to steel, synthetic fibres, coal
Transparency	Only for projects with eligible costs > EUR 50 m (LIPs)	For all individual aid	Cf. baseline (+ publication on MS website)
4. Compatibility assessment of regional aid			
Contribution to regional	Formal requirements: projects in assisted	Stricter requirements: Must be demonstrated	Only formal requirements

development	areas; in-depth analysis (demonstration of regional contribution only for beneficiaries with market share > 25 % or if capacity > 5 % in a market in structural decline)	at scheme level; project must contribute to scheme objectives; in-depth analysis for all notified cases	
Incentive effect	Formal requirements (in-depth analysis re counterfactual for LIPs)	Stricter requirements for incentive effect; in-depth analysis for all individual aid	Formal requirements only
Proportionality	Respect of aid intensity (in-depth analysis re net extra costs for LIPs)	For SMEs: aid intensity; for LEs: net extra costs; in-depth analysis for all notified individual aid	Aid intensity only
Balancing test	Only for LIPs subject to in-depth analysis	For all notified individual aid	No balancing test (prohibition of most distortive aid)

Although each of the options outlined above is distinct and any combinations of the options for the four issues could in theory be possible, all Options numbered 1, 2 and 3 nevertheless each present similar traits:

- The baselines (Option 1) involve a reconduction of current RAG with minor incremental technical improvements or adaptations to changes in the overall economic and policy context, e.g. for the regional aid maps by using latest available data.
- Options 2 present an approach which is aimed at drawing full profit from state aid modernisation and which also strengthens the relative position of the RAG vis-à-vis other state aid guidelines and instruments, while nevertheless seeking to ensure support to MS' regional development policies through optimal use of public financial support in favour of private productive investment. The extended scope of the GBER as well as the simplified requirements therein (e.g. as regards the check by MS of the incentive effect) for all or most cases are ensure that the overall administrative burden for MS is likely to be reduced.
- Options 3 present a more radical approach, focusing more on competition concerns and possible remedies, which in some cases leads to reconsidering some of the fundamentals of the established regional state aid control.

The three types of options present different approaches to the ultimate rationale of regional state aid control, which is balancing the 'cohesion' objective against the 'competition' objective. From a competition viewpoint, Options 1 and 2 are more conducive for MS to develop their national regional state aid policy. Option 3, on the other hand, presents a stricter approach from a competition viewpoint, which focuses on maintaining the integrity of the internal market. Options 1 and 2 therefore focus more on cohesion objective while Option 3 focuses more on the competition objective.

MS and other stakeholders generally consider that the baseline options are preferable. However, the Options 2 would also appear to satisfactorily address the concerns of a significant number of MS and other stakeholders. Options 3 seem less supported.

Specific assessment of impacts on SMEs compared to baseline scenario:

Options	Impact on SMEs
1a. Rules on the designation of assisted areas:	
Option 2	0
Option 3	0
1b. Aid intensities:	
Option 2	Slight reduction in aid intensities
Option 3	Strong reduction in aid intensities
2. Scope of regional aid and linkage with other state aid instruments:	
Option 2	More favourable treatment of aid to SMEs in ‘c’ areas
Option 3	More favourable treatment of aid to SMEs in ‘c’ areas
3. Rules on notification obligation and transparency:	
Option 2	Maintained notification requirement for ad hoc aid could capture more aid to SMEs (cf. below on administrative burden)
Option 3	Lowered notification threshold could capture more aid to SMEs
4. Rules on the assessment of the compatibility of regional aid:	
Option 2	Broader application of in-depth analysis could capture more aid to SMEs (cf. below on administrative burden)
Option 3	0

Specific assessment of administrative burden:

As mentioned in Chapter 6, the assessment of administrative burden is only relevant as regards the scope of regional aid and linkage with other state aid instruments, the rules on notification obligation and transparency and the rules on the assessment of the compatibility of regional aid.

It is not possible to quantify ex ante the administrative burden linked to one or the other option as it will vary significantly depending on the MS concerned, the budget dedicated to State aid and by which means (i.e. block exempted measures or not). By way of illustration the estimated impacts of the notification and transparency obligations would be that the approximately 40 ad hoc aid cases and 30 OR/SPA operating aid cases not to be notified any more depending on the option.

The table below presents a qualitative scoring of each option according to the expected magnitude of the impacts in relation to the general policy objectives identified in Section 4.1. The magnitude of impacts is quantified on the basis of a comparison with the baseline scenario, following the indications presented in the textboxes at the end of each section in Chapter 6.

Magnitude of impacts for each option

Options	Effectiveness in promoting regional economic development	Efficiency in controlling distortions to competition and trade	Consistency with other areas of EU policy	Reduction in administrative burden
1a. Rules on the designation of assisted areas:				
Option 2 Option 3	+ − −	0 + +	0 − −	0 0
1b. Aid intensities:				
Option 2 Option 3	− − −	+ +	− − −	0 0
2. Scope of regional aid and linkage with other state aid instruments:				
Option 2 Option 3	+ −	+ +	+ / − * + / − *	0 +
3. Rules on notification obligation and transparency:				
Option 2 Option 3	0 0	+ −	0 +	+ −
4. Rules on the assessment of the compatibility of regional aid:				
Option 2 Option 3	+ + 0	+ + +	0 0	− 0

Legend: ++: strong positive impact; +: positive impact; 0: no significant impact; −: negative impact; − −: strong negative impact
* Depending on the field of EU policy.

On this basis, the preferred combination of options would be:

- Option 2 for the rules on the designation of assisted areas and aid intensities;
- Option 2 for the scope of regional aid and linkage with other state aid instruments;
- Option 2 for the rules on notification thresholds and transparency;
- Option 2 for the rules on the assessment of the compatibility of regional aid

Compared to the baseline scenario (Option 1) and to the sub-options under Options 3, the sub-options under Options 2 would have the following impacts:

- the strongest positive impact as regards effectiveness in promoting regional development (strong positive impact: 1 occurrence; positive impact: 2; no significant impact: 1; negative impact: 1);
- the strongest positive impact as regards efficiency in controlling distortions to competition and trade (strong positive impact: 1; positive impact: 3; no significant impact: 1);
- the lowest negative impact as regards consistency with other areas of EU policy (strong positive impact: 0; positive impact: 1; no significant impact: 3; negative impact: 3);
- equivalent impacts to the sub-options under Options 3 as regards reduction in administrative burden (positive impact: 1; no significant impact: 3; negative impact: 1).

8. MONITORING AND EVALUATION

8.1. Monitoring

In accordance with Article 108 of the TFEU, 'the Commission shall, in cooperation, with Member States, keep under constant review all systems of existing aid in those Member States'.

8.1.1. General monitoring practice for state aid

Article 21(1) of Council Regulation No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 (now Article 88) of the EC Treaty[68] provide that 'Member States shall submit to the Commission annual reports on all existing aid schemes with regard to which no specific reporting obligations have been imposed in a conditional decision […]'.

- State Aid Scoreboard[69]

The State Aid Scoreboard provides information on the overall situation of state aid in each MS and on the Commission's state aid control activities. The information published in the Scoreboard is based on the annual reports submitted by MS. The Scoreboard provides information on state aid expenditure and state aid measures and describes the trends and patterns of state aid expenditure per sector, per MS and per type of aid measures. The Scoreboard also contains information on the number of aid measures or aid amounts per type of assisted area, per form of aid or aid instrument, etc.

- Annual monitoring of selected state aid cases (sampling basis)

DG COMP currently monitors every year a sample of existing aid schemes (covering notified and block-exempted schemes). This ex-post monitoring exercise involves a check of the legal basis and of the list of beneficiaries and an evaluation of the implementation of the scheme for a sample of beneficiaries. It allows to detect and to correct irregularities in the implementation of schemes by MS and therefore monitor MS' respect of the RAG rules (not the quality of the RAG). The scope and methodology of the monitoring exercise has been evolving and the number of measures monitored has been increasing over the last years (63 measures in 2012/13). The sample focuses on measures with the biggest distortion potential, but also includes schemes with a smaller impact. The exercise encompasses schemes from all MS and from all the main categories of aid. Between 2006 and 2012, 34 regional aid cases (23 block-exempted schemes and 11 approved aid schemes) were monitored, covering 19 MS. Aid schemes approved under regional aid rules ranked among the least problematic of all monitored aid categories with a representative sample of cases.

NB: DG COMP's decision-making practice regarding notified state aid measures also provides an important monitoring and evaluation tool that can reveal conceptual and practical difficulties in the design of the regional aid rules.

8.1.2. Specific monitoring indicators for the RAG 2014-2020 (ad hoc monitoring system)

Based on the information stemming from the transparency obligations of MS (cf. Section 5.3) and DG COMP's database of cases linked to its official registry of notified State aid measures, DG COMP will develop some monitoring indicators, as proposed in the table below, in order to assess the implementation of the revised rules on regional aid during the period 2014-2020 as regards results (as opposed to impacts – which are relevant for the achievement of the general objectives of the RAG revision (cf. Section 4.1), or to outputs – for operational objectives).

The list of indicators proposed below may therefore be adapted or refined as part of the definition of this monitoring system, including as regards data collection and exploitation of findings. Also DG COMP will also seek to measure progress in the achievement of the general objectives of the RAG revision by using the data collected from MS.

Proposed monitoring indicators

Issue	Proposed results indicator	Frequency / data source
1. Contribution to economic, social and territorial cohesion	Aggregate No of jobs created or maintained through regional aid measures	Annual / DG COMP case registry; DG COMP state aid scoreboard; MS transparency obligations
2. Regional targeting	% of regional aid granted in 'a' and 'c' areas	Annual / DG COMP case registry; DG COMP state aid scoreboard; MS transparency obligations
3. Sectoral targeting	% of regional aid granted per NACE group or class	Annual / DG COMP case registry MS transparency obligations
4. SME focus	% of regional aid granted for SMEs (in value)	Annual / MS transparency obligations
5. Strategic targeting	% of regional aid granted for operations cofinanced by ESI funds (in value)	Annual / DG COMP case registry; MS transparency obligations
6. Budgetary incidence	% regional aid granted as share of national GDP per MS (in value)	Annual / DG COMP state aid scoreboard; MS transparency obligations
7. Focus on the most distortive cases	Number of cases raising significant competition concerns	Annual / DG COMP case registry
8. Avoidance of excessive administrative burden	% of block-exempted aid v notified aid (aid amount)	Annual or periodic / DG COMP state aid scoreboard; MS transparency obligations

8.2. Evaluation

8.2.1. Mandatory evaluation of certain notified schemes

The current State aid set-up focuses little on the actual, measured impact of aid schemes. Rather, schemes are approved ex-ante on the basis of pre-defined criteria on the assumption that their overall balance will be positive, without a proper evaluation of their impact on the markets and over time. Monitoring focuses on compliance with the pertinent legal provisions in a sample of cases, while annual reports merely provide data related to the on-going implementation of the scheme. Ex-post evaluation in contrast has a distinct objective: it provides analysis on the effectiveness and efficiency of an aid measure and suggests improvements and lessons to be learnt.

For these reasons, under the umbrella of SAM, DG COMP has proposed to introduce more systematic ex-post evaluations of aid schemes, thus ex-post evaluation requirement is being systematically inserted during the revision of the State aid Guidelines[70]. Evaluation would be particularly relevant for RAG, since the bulk of the aid is granted under schemes.

State aid evaluation should in particular allow: (1) to verify that the assumptions underlying the approval of the scheme on the basis of an ex ante assessment are still valid; (2) to assess whether the scheme is effective in achieving the direct objective for which it was introduced; (3) to cater for unforeseeable negative effects, in particular the potential aggregated effect of a large scheme[71].Based on the assessment, evaluation can help where appropriate to improve the design of the scheme, introduce corrective measures, calibrate interventions to maximise effectiveness and efficiency. Such improvements could vary from adjustments in the project design (such as change in selection criteria, reinforced check on incentive effect), up to more significant options (for instance, promoting the use of an alternative aid instrument, redefined objectives, redefined target beneficiaries).

Evaluations will be carried out for schemes where the potential distortion of competition is particularly high, i.e. that may risk to significantly restrict competition if their implementation is not reviewed in due time. The evaluation requirement will therefore concern in particular schemes with annual budget exceeding a certain threshold or for novel schemes (for instance large enterprises' new investments in c) areas) or those that face the possibility of significant market, technological or regulatory change in the near future that may require to review the assessment of the scheme.

For schemes subject to evaluation, the Commission may require the MS to limit the duration of the notified schemes (normally to four years or less) and to evaluate them. Aid schemes subject to mandatory evaluation may require re-notification. The precise scope and modalities of each evaluation will be defined in the decision authorising the scheme.

These evaluations shall be carried out by independent experts and should be based on a common methodology (for which DG COMP will provide guidance). The evaluation reports will be published and available to the general public.

8.2.2. Mid-term review of the RAG

The Commission intends to review the RAG in the first half of 2017, based on a consultation of MS, of other interested parties and possibly based on an independent evaluation. The purpose of the mid-term review will be to assess the effects of the new provisions in the RAG and to determine if adjustments may be required. The mid-term review will address issues linked to the specific objectives identified in Section 4.2.

8.2.3. Ex post evaluation of the RAG 2014-2020

The Commission intends to carry out an ex post evaluation of the RAG, in time for their revision for the period after 2020 (i.e. at the latest in 2018-2020). This ex post evaluation will in principle be conducted in accordance with the Commission's Evaluation Standards[72]. It will in principle be carried out by an independent external contractor and will involve a consultation of MS and of other interested parties.

To support the revision of the RAG 2014-2020, the ex post evaluation of the RAG 2014-2020 should aim to focus not only on the implementation of the RAG 2014-2020 by MS and by the Commission, but also on the overall impact of regional state aid policy in relation to the dual policy objective of EU regional state aid control (cohesion and competition[73]). In particular, the evaluation would seek to analyse the effects of the RAG 2014-2020 on parameters such as the contribution to regional economic development, the location of productive activities, behavioural aspects (incentive effect), impacts on competition, etc. The scope of the ex post evaluation could therefore be relatively broader than the ex post evaluation of the RAG 2007-2013 conducted in 2010-2012[74]. In this respect, although the use of a case study approach based on semi-structured interviews for the evaluation of the RAG 2007-2013 has proven valid, for the future, the use of more quantitative methods could possibly also be envisaged (e.g. multi-criteria analysis, modelling, testing, etc.).

The ex post evaluation will generally enable to assess whether the RAG strike an adequate balance between being sufficiently strict so as to avoid undue distortions of competition and providing enough flexibility for MS to support regional development though aid for productive investment.

Generally, as the Commission also intends to encourage MS to conduct ex post evaluations of their regional aid measures (schemes or programmes of schemes) in addition to the mandatory evaluations that may be required for certain types of measures (cf. Subsection 8.2.1), the results of such evaluations by MS could be integrated into the ex post evaluation of the RAG 2014-2020.

In addition, the evaluation activities intended to be carried out as part of the implementation of the EU cohesion policy in the period 2014-2020 (which cover in particular ex post evaluations to be carried out by the Commission or by the MS) should provide useful input for the evaluation of the RAG and of state aid rules in general.

Appendix – Glossary

‘a’ area: area designated in application of Article 107(3)(a) of the TFEU in which regional may be granted to companies

Aid (State aid): measure fulfilling the criteria laid down in Article 107(1) of the TFEU

Aid beneficiary: company that receives state aid

Aid intensity: aid amount expressed as a percentage of eligible costs

Aid measure: aid scheme or individual aid

Aid scheme: act on the basis of which, without further implementing measures, individual aid may be granted to certain companies defined in the act in a general and abstract manner

Ad hoc aid: individual aid not awarded on the basis of an aid scheme

Assisted area: ‘a’ area or ‘c’ area

BBG: broadband guidelines

‘c’ area: area designated in application of Article 107(3)(c) of the TFEU in which regional may be granted to companies

EAG: environmental aid guidelines

EEA: European Economic Area

EEAG: environmental and energy aid guidelines

ESI: European structural and investment funds (common framework in 2014-2020 for the European regional development fund (ERDF), European social fund (ESF), Cohesion fund, European agricultural fund for rural development (EAFRD) and European maritime and fisheries fund (EMFF))

GBER: general block exemption Regulation

IDAC: in-depth assessment Communication

Incentive effect: change of the aid beneficiary’s behaviour imputable to the aid (e.g. decision to conduct an initial investment in the assisted area concerned)

Individual aid: aid granted to a given company on the basis of an aid scheme or as ad hoc aid

Initial investment: productive investment by a company in tangible or intangible assets (as defined in the RAG and GBER)

Investment aid: regional aid granted for an initial investment

FDI: foreign direct investment

Forum shopping: possibility for MS to choose which set of rules to apply for assessing if an aid measure is compatible with the internal market

LE: large enterprise (enterprise with 250 or.

LIP: large investment project (initial investment with eligible costs exceeding EUR 50 million)

ME: medium-sized enterprise (enterprise which employs fewer than 250 persons and more than 50 persons and which has an annual turnover not exceeding EUR 10 million, or an annual balance sheet total not exceeding EUR 10 million)

MS: Member State

Notification threshold: aid amount above which the individual aid must be notified to the Commission

NUTS: nomenclature of territorial units for statistics

Operating aid: aid intended to reduce a company's current expenditure

OR: outermost regions (FR: Guadeloupe, Guyane, Martinique, Mayotte, Réunion, Saint-Martin; PT: Azores, Madeira; ES: Canarias)

RAG: regional aid guidelines

RDI: research, development and innovation

RDIG: research, development and innovation guidelines

SAM: State aid modernisation

SF: Structural Funds(in 2007-2013: ERDF and ESF)

SE: small enterprise (enterprise which employs fewer than 50 persons and which has an annual turnover not exceeding EUR 2 million, or an annual balance sheet total not exceeding EUR 2 million)

SME: small and medium enterprises (enterprise which employs fewer than 250 persons and which has an annual turnover not exceeding EUR 50 million, or an annual balance sheet total not exceeding EUR 43 million)

SPA: sparsely populated area (in principle, a NUTS 3 region with less than 12.5 inhabitants per km^2)

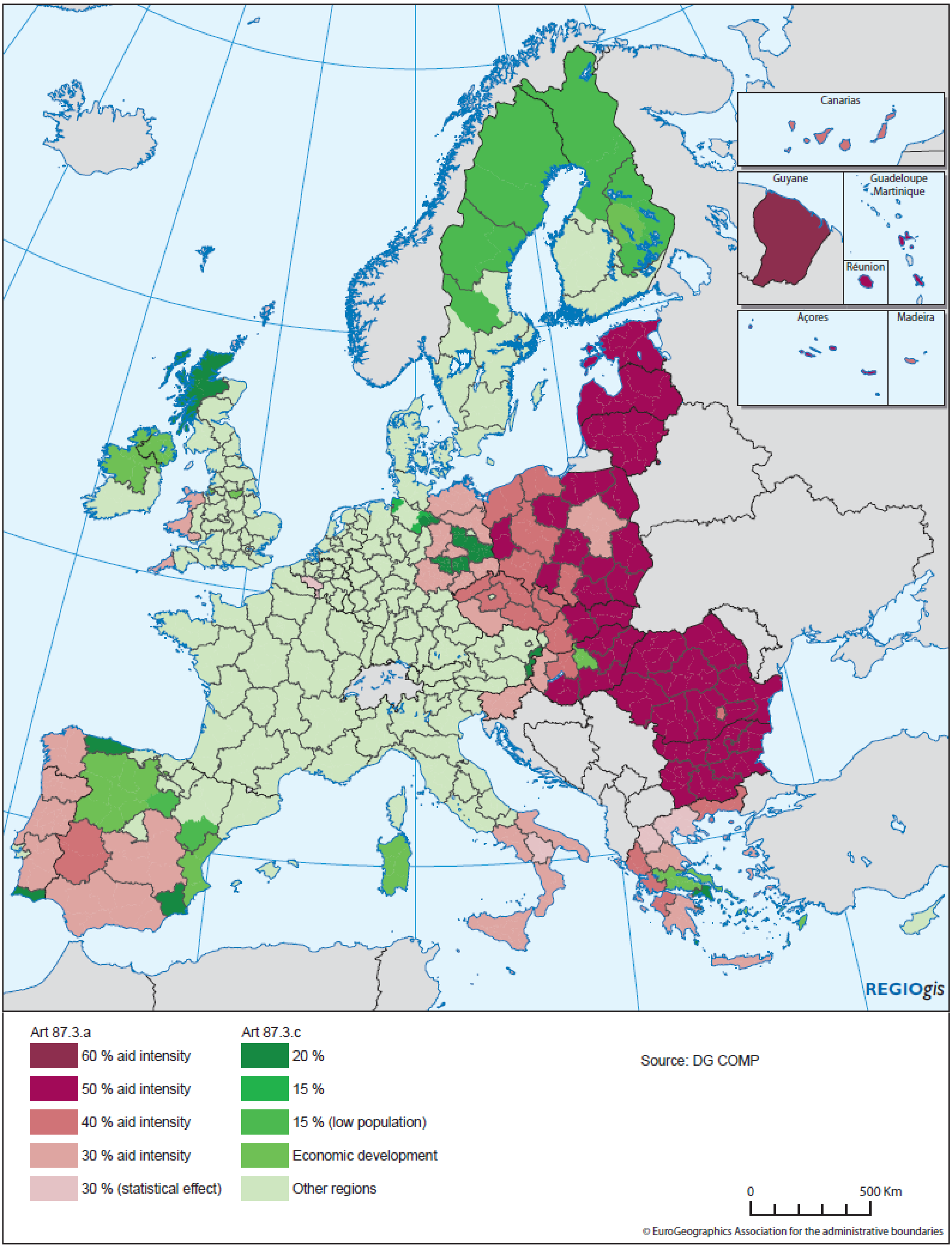
Structural overcapacity: situation a sector or subsector where, over a period of at least five years, the average capacity utilisation rate is lower than the average capacity utilisation rate for manufacturing industry as a whole

TFEU: Treaty on the functioning of the European Union

Market in structural decline: market in which, over a given period at EU or EEA level, the growth rate of the market for the product concerned (e.g. measured in apparent consumption, sales, etc.) is below the general growth rate of the economy (e.g. measured in GDP, gross value added, etc.).

VSPA: very sparsely populated area (in principle, a NUTS 2 region with less than 8 inhabitants per km²)

Annex I – Assisted areas eligible for regional state aid, 2011-2013[75]



Annex II – Overview of the rules and functioning of the RAG 2007-2013

Regional aid aims at promoting the development of the less-favoured regions by supporting initial investment, employment linked to initial investment and newly created small enterprises or, in exceptional cases, by providing operating aid.

For each new RAG, the Commission determines key variables:

Eligible areas - identified in the regional aid maps for each MS[76]. Two categories of eligible regions can be distinguished with different aid ceilings (aid intensities):

– *Article 107(3)(a) regions* (generally 30-50% aid intensity): These are regions where the standard of living is abnormally low or where there is serious underemployment[77].

– *Article 107(3)(c) regions* (generally 15% aid intensity): These are problem areas defined on the basis of indicators proposed by the MS, subject to specific conditions (a list of socioeconomic and geographic criteria) to prevent abuse.

Coverage of EU population eligible for regional aid (volume of regional aid at the EU level): Currently 46.6% of the EU-27 population.

Coverage of MS population eligible for regional aid (spread of regional aid between MS).

Types of aid - currently 3 types of aid identified in the RAG:

– *Initial investment aid* - calculated as a percentage of the investment's value (tangible and intangible assets) or as a percentage of the wage-cost of the jobs linked to the initial investment.

– *Operating aid* - regional aid aimed at reducing a firm's current expenses is normally prohibited. However, it can be granted in Article 107(3)(a) regions (if temporary, proportional and progressively reduced), in outermost regions or in regions with low population density.

– Aid to newly created small enterprises

Exemption of notification

The GBER exempts from notification to the Commission transparent regional investment schemes (which respect the rules on eligible expenses, the maximum aid intensities defined in the regional aid map for the MS concerned and are not sector-specific). Transparent ad hoc aid granted to an individual company (including large enterprises) is also exempt from notification provided it is used to top-up aid granted under schemes and it does not exceed 50% of the total amount of aid. If the conditions of the GBER are not fulfilled, regional aid needs to be notified and will be assessed on the basis of the RAG.

Obligation of notification - the following types of regional aid must be notified and will be assessed under the standard assessment (1) or as part of an in-depth assessment (2):

– operating aid schemes (excluding aid for newly created small enterprises);

– sectoral investment aid schemes;

– investment aid schemes applying non-transparent forms of aid[78];

– ad hoc investment aid that does not supplement aid granted under a scheme which is below 50% of total aid to be granted to the investment;

– large investment projects (LIPs)[79] if the aid exceeds 75 % of the maximum amount of aid an investment with eligible costs of EUR 100 million can receive in the region concerned. They are subject to specific conditions and adjusted aid intensity ceilings.

(1) <u>Standard compatibility criteria (based on per se rules contained in the RAG):</u>

- The aid addresses an activity within the sectoral scope of the RAG. This covers every sector of the economy except the fisheries sector, the coal industry, the primary production of agricultural products listed in Annex I of the Treaty, with the exception of processing and marketing of such products. In the latter sector, and in several others (transport, shipbuilding) special rules apply. Aid to the steel sector and synthetic fibres sector is prohibited.
- The aid is granted for an initial investment defined as an investment in material and immaterial assets relating to the setting up of a new establishment, the extension of an existing establishment, the diversification of the output of an establishment or a fundamental change in the production process. Replacement investment is excluded.
- The eligible expenditure is defined either in reference to material and immaterial investment costs resulting from the initial investment project or with regards to estimated wage costs for jobs directly created by the investment project.
- The contribution to regional development is deemed to be present as long as yhe investment is located in an assisted area, as defined by the regional aid map and the aid is notified within the period of validity of the map. Only for ad-hoc aid, MS must demonstrate that the aid will contribute to the regional development of the region concerned.
- The total aid amount for the investment does not exceed the applicable aid intensity ceiling.
- Regional aid is deemed to produce an incentive effect to undertake investments in the assisted area provided the company applies for aid before the start of works and the granting authority confirms in writing that the project is in principle eligible for aid.
- All the acquired assets are new (except for SMEs and in case of a takeover of an establishment that would otherwise have closed).
- The investment is maintained in the region for a minimum period of at least 5 years (3 years for SMEs) after its completion. Where the aid is calculated in reference to wage costs, the jobs directly created by the investment have to be filled within 3 years and maintained for at least 5 years after the completion of the investment.
- The beneficiary contributes at least 25% of the eligible costs.
- The aid beneficiary is not a firm in difficulty[80].

(2) <u>In-depth assessment (based on the 2009 In-depth Assessment Communication – IDAC)[81]:</u>

It is presumed that by respecting these standard criteria mentioned above the aid will have positive effects on the development of the region. However, despite the adjusted aid ceilings, certain aid for LIPs could still have significant effects on trade and may lead to substantive distortions of competition. This might be the case where[82]:

(a) the aid beneficiary accounts for more than 25 % of the sales of the product(s) concerned on the market(s) concerned before the investment or will account for more than 25 % after the investment, or

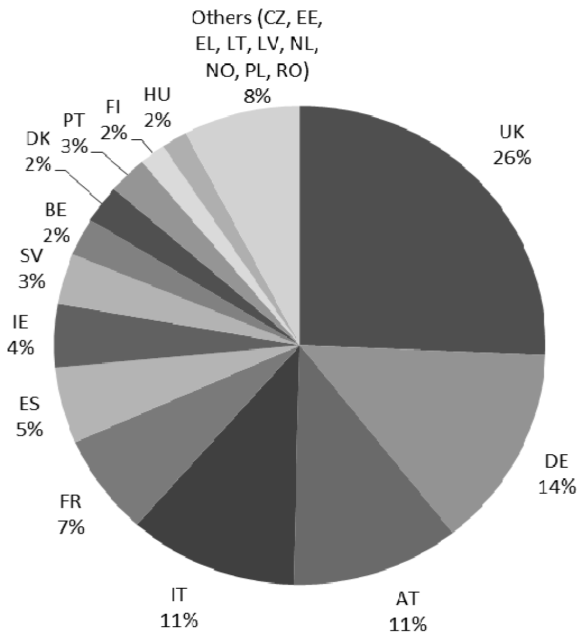
(b) the production capacity created by the project is more than 5 % of the market measured using apparent consumption data for the product concerned, unless the average annual growth rate of its apparent consumption over the last five years is above the average annual growth rate of the EEA's GDP.

In case these thresholds are exceeded, the Commission will open a formal investigation procedure and proceed to an in-depth assessment to verify that State aid is an appropriate instrument to achieve the objective of regional development. The Commission will assess whether the aid has an incentive effect and is proportionate and will perform a balancing test to check whether the benefits of the aid outweigh the resulting distortions of competition and effect on trade between MS.

Annex III – Main results of the first public consultation (questionnaire)

Respondents

DG COMP received 118 replies. These were mainly from interest groups (48 replies), but nearly half of the replies came from public sector bodies: public authorities (47) and public organisations (7). A few replies were from private companies (13) and individual citizens (3). The replies came from 22 EU/EEA MS, with nearly two-thirds of replies from 4 MS: UK, DE, AT, IT:



48% of respondents have been involved in projects that have received regional state aid (as granting authority, aid recipient, investor, etc.) – (more than one reply possible):

– Granting authority: 26

– Aid recipient: 21

– Investor in aided project: 9

– Competitor of aid beneficiary: 4

– Other (e.g. consultant, administrative body, etc.): 10

NB: Several respondents only partly filled-in the questionnaire or only submitted other documents. This explains the lower number of answers to each individual question presented below (generally between 75 and 90 replies for each question).

General questions[83]

The general assessment of the Commission's policy and action in the field of regional aid is positive. Respondents indicate that prioritisation on most distortive aid, greater simplification and better linkage to Europe 2020 aims would be desirable. They would also in majority favour block-exempting sectoral regional investment aid schemes, ad hoc regional investment aid, and operating aid schemes in OR.

(5) What is your general assessment of the Commission's policy and action in the field of regional state aid control?
Insufficient: 6% Average: 29% Good: 42% Excellent: 5% N/A: 20%
(Total answers: 87)

(6) Is the general approach of the current rules on regional state aid adequate as regards the objective of regional development?
Yes: 41% No: 48% N/A: 11% (Total answers: 90)

(7) Do the current rules achieve an adequate balance between promoting the economic development of assisted areas and limiting the distortions of trade and competition that may arise from state aid?
Yes: 41% No: 43% N/A: 16% (Total answers: 86)

(8) Does the current EU control on regional aid focus on the most distortive cases?
Yes: 22% No: 38% N/A: 40% (Total answers: 86)

(9) Do the current rules provide sufficient legal certainty or predictability of the Commission's decisions?
Yes: 40% No: 32% N/A: 28% (Total answers: 85)

(10) Does compliance with the rules on regional state aid lead to a higher administrative burden?
Yes: 63% No: 18% N/A: 19% (Total answers: 90)

(11) Should Europe 2020 goals regarding smart, sustainable and inclusive growth be further reflected in the rules on regional State aid?
Yes: 63% No: 18% N/A: 19% (Total answers: 90)

(12) In your view, should any of the following categories of regional aid be block-exempted:
Sectoral regional investment aid schemes:
Yes: 55% No: 15% N/A: 29% (Total answers: 78)

Ad hoc regional investment aid:
Yes: 51% No: 16% N/A: 33% (Total answers: 81)

Operating aid schemes in OR:
Yes: 39% No: 17% N/A: 44% (Total answers: 70)

Sectoral scope

Overall, respondents consider that the current exclusions and special rules for certain sectors are justified.

(13) Is the exclusion of certain sectors (e.g. fisheries and aquaculture, the primary production of agricultural products, coal, steel, shipbuilding, synthetic fibres, and transport) adequate in view of the regional development objective?
Yes: 48% No: 35% N/A: 17% (Total answers: 88)

(14) Is the current exclusion of sectors difficult to implement?
Yes: 30% No: 28% N/A: 43% (Total answers: 80)

(15) The current guidelines treat undertakings in the field of processing and marketing of agricultural products in a similar way to other undertakings. Do you consider that this treatment should be maintained?
Yes: 52% No: 9% N/A: 39% (Total answers: 88)

(16) Do the current rules ensure that sectors in overcapacity cannot benefit from regional State aid?
Yes: 40% No: 15% N/A: 45% (Total answers: 82)

Eligible areas

Respondents are generally critical of the current rules for MS to designate assisted areas, in terms of effective targeting of the most disadvantaged areas and sufficient flexibility to address regional problems and economic trends.

(17) Do the current methods used for establishing the regional aid maps ensure that regional State aid is appropriately targeted geographically to disadvantaged areas?
Yes: 35% No: 46% N/A: 18% (Total answers: 93)

(18) Do these methods leave enough flexibility to appropriately take into account the specific characteristics of the regions? Are the criteria used the right indicators (GDP and unemployment at NUTS 2 and 3 level)?
Yes: 29% No: 50% N/A: 21% (Total answers: 90)

(19) Do these methods leave enough flexibility to take into account the evolutions in economic development of the regions?
Yes: 31% No: 51% N/A: 18% (Total answers: 87)

Aid ceilings

Views are fairly split on whether the aid ceilings target the problems effectively faced by companies in eligible areas or enable to channel aid to regions most in need. However, there seems to be more agreement on the need to differentiate more the aid ceilings according to the type or status of companies. Furthermore, respondents generally consider that the aid ceilings do not offer enough incentive to invest in eligible areas. There is no consensus on whether the differences in aid ceilings between different regions lead to distortions of trade and competition.

(20) Do the aid ceilings ensure that regional investment aid is proportionate to the problems faced by undertakings located in eligible areas?
Yes: 38% No: 42% N/A: 20% (Total answers: 88)

(21) Should the aid ceilings be further adapted according to the type of undertakings as LEs and SME may not face similar problems?
Yes: 52% No: 31% N/A: 17% (Total answers: 90)

(22) Do the aid ceilings ensure that regional aid is proportionate to the contribution to economic development of the eligible area by the aided investment project?
Yes: 35% No: 40% N/A: 24% (Total answers: 82)

(23) Do the current aid ceilings provide a sufficient incentive for undertakings to invest and/or to create jobs in eligible areas?
Yes: 31% No: 45% N/A: 24% (Total answers: 88)

(24) Do the current differences in aid ceilings between different regions lead to undue distortions of trade and competition to an extent contrary to the common interest?
Yes: 35% No: 35% N/A: 31% (Total answers: 84)

Initial investment and incentive effect

The majority of respondents consider regional investment aid should not be limited to initial investment projects. They consider that the rules on incentive effect are sufficient.

(25) Should regional investment aid be limited to initial investment projects to ensure that it contributes to the economic development of eligible areas?
Yes: 31% No: 51% N/A: 18% (Total answers: 89)

(26) Do the formal and/or substantive provisions on incentive effect ensure that without regional aid, beneficiaries would not have undertaken the project in the same location or would not have carried out the project with/at the same size/scope/total amount/speed?
Yes: 48% No: 24% N/A: 28% (Total answers: 85)

Large investment projects

Respondents agree that the focus on LIP in the current rules ensures that the potentially most distortive cases are assessed and that the market share test and the overcapacity in market in decline test are well suited to identify such cases. However, views are mixed on the usefulness of the scaling-down mechanism, which are overwhelmingly considered easy to apply. Most respondents reject a cap on very large investment projects. NB: The percentage of ‘not applicable’ replies on these questions is fairly high though.

(27) Do the current rules ensure that regional aid for LIP that are most likely to distort trade and competition is appropriately assessed?
Yes: 32% No: 21% N/A: 48% (Total answers: 82)

(28) Do the current triggers of paragraph 68 of the RAG ensure that the Commission focuses on the aided projects which are the most likely to distort trade and competition?
Yes: 33% No: 14% N/A: 53% (Total answers: 81)

(29) Does the scale of adjusted regional aid ceilings ensure that regional state aid is proportionate to the problems faced by undertakings located in eligible areas?
Yes: 27% No: 26% N/A: 47% (Total answers: 81)

(30) Are the current scaling-down rules easy to apply?
Yes: 31% No: 4% N/A: 65% (Total answers: 77)

(31) Should the scaling-down be complemented by introducing a cap which would apply on very large investment projects?
Yes: 17% No: 32% N/A: 51% (Total answers: 77)

Operating aid

Respondents consider that in the areas concerned, operating is an appropriate and irreplaceable instrument to foster regional development. They consider also that the current rules do effectively limit the aid to the amount necessary.

(32) Is operating aid a suitable tool to promote a sustainable economic development of eligible areas?
Yes: 44% No: 19% N/A: 36% (Total answers: 88)

(33) Do you consider that other instruments could reach the same objective with less distortion of the market?
Yes: 14% No: 30% N/A: 57% (Total answers: 81)

(34) Do the current rules ensure that operating aid does not exceed what is necessary to promote the economic development of eligible areas?
Yes: 27% No: 7% N/A: 65% (Total answers: 81)

(35) Does the current approach on operating aid in the OR and the low population density areas deserve a detailed analysis in the light of the distortive potential of these aids?
Yes: 23% No: 18% N/A: 60% (Total answers: 80)

Aid to newly created small enterprises

Respondents generally consider that the rules on aid to newly created small enterprises are effective and useful to address the problems faced by small start-ups in assisted areas and are well designed.

(36) Do the provisions on aid to newly created small enterprises ensure an effective answer to a market failure regarding the early stage development of small enterprises in eligible areas and are such provisions appropriately designed?
Yes: 38% No: 22% N/A: 41% (Total answers: 79)

Annex IV – Main results of the second public consultation (draft RAG)

General

DG COMP received 119 replies. These were mainly submitted by interest groups (46 %), public organisations (45 %), private organisations (8 %), one political party and one MEP.

The replies came from 12 EU or EEA MS. Almost two thirds of the replies came from DE (39 %) and UK (26 %). Other stakeholders that have contributed to the public consultation came from the following countries: AT, BE, CZ, FI, FR, IT, NL, NO, PL, ES.

Executive summary

The most frequently mentioned issue is the prohibition of aid for LEs in ‘c’ areas. More than 60 % of the respondents commented on this issue and clearly oppose this proposal.

Around a quarter of respondents (28) see problems with the proposed aid intensities, and several (24) respondents disagree with the differences between the aid intensity levels of different regions. Many of the respondents who disagree with the proposed aid intensities request to maintain those at least at current levels.

The requirement that a project may only start after a decision to award aid has been made by the granting authority – in order to prove incentive effect – is criticised by 14 respondents (circa 10 %). This requirement is seen as an obstacle for investment decisions due to the time-consuming approval process, and often also as an administrative burden, which could hinder the implementation of investment projects.

Approximately 15 % of respondents (19) disagree with the originally proposed overall population coverage ceiling of 42 % and urge for at least 45 %, or the current 45.5 %.

About 22 % of respondents (26), mainly from DE, stress the importance of keeping ‘c’ status in border regions adjacent to ‘a’ areas.

- Maps:

Overall population coverage: Approximately 15 % (19, of which 14 are interest groups, 4 are public organisation, 1 is a private company) disagree with the originally proposed overall population coverage ceiling of 42 % and urge for at least 45 % or the current 45.5 %. One respondent would raise it to even higher levels to accommodate the accession of Croatia. Some respondents welcome the announcement about increasing the population coverage to 45 % and see it as a compromise.

Ex-‘a’ areas: A few respondents welcome the fact of maintaining predefined ‘c’ status for those regions. Some respondents ask for a longer transition period than 4 years, i.e. until 2020 and some suggest including statistical effect regions into the phasing-out regime.

Transition regions (with a GDP between 75 % and 90 % of the EU-27 average): These ex-‘a’ areas will qualify as predefined 'c' regions, while other transition regions with the same level of GDP will not get a predefined 'c' coverage. Therefore, 8 respondents (7 from the UK, and 1 from FR) require that the regional aid maps should be harmonised with SF eligible areas, i.e. that all transition regions will be designated as predefined ‘c’ areas and that all less developed regions become automatically ‘a’ areas. A few even argue that transition regions should enjoy higher aid intensities (+5 pp.) than ‘c’ areas in more developed regions.

Low population density areas: Some respondents (4) insist that the new RAG should take into account more the specificities of the low population density areas, as they are particularly affected by the RAG. In particular, the Northern Sparsely Populated Areas welcome the fact that they are still eligible for aid, and that both investment and operation aid may be granted in these areas.

Mountains, islands: Some respondents (8) insist that the new RAG should take into account the specificities of their remoteness and permanent and severe handicaps, in line with Article 174 and Article 175 of the TFEU and should grant them a similar status to the that of sparsely populated areas, i.e. (i) inclusion in the list of "predefined" areas under article 107.3.c)[84] and (ii) acceptance of operating aid for islands to compensate transport extra costs or to prevent loss of populations (Islands Commission, Shetland Islands, Balearic islands). Euromontana[85] suggests applying the rules for OR and VSPA also to mountain areas, in order to contribute better to territorial development and cohesion. In particular, operating aid should be available also in non-predefined ‘c’ areas.

OR: Some respondents (5) insist that the new RAG should take into account to a larger extent the specificities of the OR, such as the Conference of Peripheral Maritime Regions of Europe.

Border regions: Almost a quarter of respondents (27, of which 18 are public organisations, 4 are interest groups and 3 are private companies), mainly from DE, stress the importance of keeping their ‘c’ status in border regions adjacent to ‘a’ areas. However, only 15of these respondents ask explicitly for a specific allocation of ‘c’ coverage for MS with regions adjacent to ‘a’ areas of another MS. A small number of respondents request that transition regions bordering less developed regions should become pre-defined ‘c’ areas (UK). Regions which border Convergence regions should receive a special treatment.

Distribution method: Some respondents welcome the fact the MS have received more flexibility in determining 'c' regions. A few respondents positively note that the RAG offer some flexibility in defined circumstances to lower the minimum population size for 'c' regions, but one asks for a further move to a minimum population of 50.000 (UK). Another respondent indicates that the obligation of minimal size should be removed. A few respondents oppose to change the formula for allocating 'c' coverage, which is based on EU rather than national averages. National averages should be taken into account in regional aid allocation to reflect the widening economic disparities within MS.

Selection criteria for regions: The only comment on this issue was the need for openness and transparency in the process of drawing up the regional aid maps for 2014-20.

Data to use: Five respondents (3 interest groups and 2 public organisations) find that GDP per capita and unemployment data is not enough to determine the assisted area status in the future. Two respondents state that the significance of unemployment figures as an indicator of economic wealth should be relativised and that the significance of GDP per capita indicators is relatively low if it is not calculated at local purchasing power parity, taking into account higher costs of living and investment, for example mountain areas. Therefore, the choice of GDP and unemployment indicators as only indicators used to design non-predefined ‘c’ areas will not lead to a fully satisfactory identification of areas in need of specific assistance. Such data should better reflect the situation of the region, i.e. social and economic disparities, remoteness of markets, limited private sector, low population density, etc.

Mid-term review of 'c' areas: Two respondents are in favour of the mid-term review. One other argues that the mid-term review of 'c' areas could create uncertainty in investment decisions detrimental to 'c' areas and undermine the benefit of a stable multiannual framework for the SF. Another respondent asks for clarification on the way the mid-term review will be implemented.

- Aid intensity

Around a quarter of respondents (28, of which 17 are interest groups, 10 are public organisations and 1 is private company) see problems with the proposed aid intensities, and several respondents (24, of which 11 are interest groups, 10 are public organisations and 3 are private companies) disagree with the differences between the aid intensity levels of different regions. Many of those who disagree with the proposed aid intensities request to maintain those at least at current levels. It is blamed not to take into account the direct effects of the economic crisis in Europe in terms of relocation restructuring and on enabling investment by existing businesses. The current levels represent the minimum levels that would be required to serve as an adequate incentive for investments in 'c' areas. Taking into account the current aid intensities provided for in the GBER in favour of SMEs in all areas of the EU and of the EEA, the proposed aid intensity ceilings for 'c' areas are too low to attract investments in 'c' areas. The incentive to invest in 'c' areas is further diminished by the fact that in all areas of the EU and the EEA the allowed aid intensity is only 10 pp. lower than those of the 'c' areas. Some respondents insist that the current sliding scale approach, which allows some aid to LEs and 20 pp. more and 10 pp. more to small and medium-sized enterprises respectively, should be kept. There is some concern (24 replies) regarding the difference in aid intensities between different regions, including those between border regions (17, of which most responses came from DE (12), AT (3), one from FR and one from NO). Some argue that the difference between any NUTS 2 regions should be limited to a maximum of 10 or 15 pp. In the case of border regions it is emphasised that the current gap should not increase in the next period. Regional aid intensities ceilings should be kept on current levels (13 respondents).

- Sectoral *scope*:

Regarding excluded sectors, very few responses relate to this point. The exclusion of sectors in not clear enough, the exemptions and derogations should be listed in a comprehensive way. In particular, the treatment of transport sector is unclear (it is partly admissible). Two respondents argue that regional aid should be allowed also for the processing of agricultural products (even Annex I), especially in the food industry, if the beneficiary is an SME. Regarding prohibited sectors, the exclusion of the steel industry is supported by 5 respondents and is opposed by two contributors (one interest group from IT and one public organisation from PL)

- Exclusion of LEs:

The majority (73, i.e. 61 %; of which 44 are interest groups, 23 are public organisations and 6 are private companies) of the respondents oppose the prohibition of regional investment aid for LEs in 'c' areas. Some respondents argue that at least the granting of investment aid in 'c' areas, while some say that both the granting of investment and operation aid in 'a' areas should be allowed. Access to regional aid should be evaluated on the quality of the investment, on its expected impact on the economy and on its effect on competition, and on technologies concerned (e.g. key enabling technologies) rather than on the size of the enterprise. The arguments outlined by the Commission to justify such a limitation do not clearly demonstrate the ineffectiveness of these support measures, nor the potentially distortive effects on competition. Larger businesses act as a crucial anchor in local and regional economic development, often forming important value chains with SMEs. By narrowing the scope of regional aid, an unintended consequence would be to adversely affect SME development, sometimes even the development of SMEs located in non-‘c’ areas. The RAG as envisaged would also create a clear disincentive for medium sized SMEs to employ new workers for fear of becoming LEs and losing aid. The proposal disadvantages high growth enterprises, which is against the stated aims of giving regional aid. Several (12, of which 10 are interest groups and 2 are public organisations) respondents also argue that the definition of SMEs should be broader, where the number of employees is set at a higher level (varying from 500, 750, 1 000, to 1 500 employees) as the current proposal does not distinguish between large-scale multinational enterprises and locally-grown mid-tier companies. A few also suggested revising the turnover and the balance sheet figures used for the definition of SMEs. Some claim that LEs should be eligible for aid at least in islands and peripheral areas, mountains, OR, etc. because their exclusion could have a major adverse impact on these fragile economies. Only one respondent is in favour of excluding LEs from aid in ‘c’ areas, even suggesting that under certain circumstances this could be introduced also in ‘a’ areas beyond operating aid.

New investment should not be favoured over recurring ones: The now proposed procedure bears the risk of preventing regular adjustments of companies by deferring investment decisions in order to become eligible for aid needed. This would reduce their capacity to compete with enterprises from third countries. Therefore, a few respondents suggested deleting this provision.

Potential relocation of investment outside EU: Some respondents put forward the risk – i.e. excluding regional aid targeted to larger projects involving larger companies – of relocation of investments not only within the EU, but outside the EU, to locations where workforce is cheaper. This would have significant knock-on effect on the supply chain, SME development and would affect local development, and ultimately the European industrial sector and economic growth. The changes could also hinder foreign direct investment in Europe.

- Notification obligation

Some respondents (7) welcome the simplification of the notification procedure, such as the notification exemption for ad hoc aid below the threshold and for newly created small enterprises, mainly because it would speed up the granting and payment process and because of the increased efficiency due to the reduced administrative burden on companies.

Sectoral schemes: Only one respondent comments on this issue and welcomes that schemes aimed at tourism activities or the processing and marketing of non-Annex I. agricultural products do not need to be notified to the Commission.

Closure of an activity within two years: There is only one comment on this issue, which asks for SMEs to be exempted from this requirement, as it would be disproportional given the project and beneficiary sizes, therefore the relatively low impact on the local economy.

- Compatibility of regional aid

12 respondents (coming from 9 countries) indicate that the compatibility criteria should not be disproportionate for assessing the compatibility of regional aid, that it is particularly difficult to prove if an aid is adequate, in particular for SMEs and that the administrative burden is too

heavy. One other respondent welcomes this new approach as it increases transparency, but is concerned that these criteria may entail some elements of legal uncertainty.

Contribution to a common objective: no comments were received.

Appropriateness: one respondent indicates that the granting authority cannot always determine independently under which form the aid is granted.

Formal requirements for incentive effect (start of works): The requirement that a project may only start after a decision to award aid has been made by public authorities is often (by 11 respondents, of which 11 are interest groups and 3 are public organisations) criticised, as it is found inefficient and ineffective. It is considered to be inefficient, because the beneficiary will have to wait on a decision that may delay the start of the project, and additionally it would not have an influence on the decision-making process. It is considered to be ineffective, because some investments may not take place at all (at least not in the given region or not even in the EU) due to the long duration of evaluation of the project application before the final decision is taken. There should be some flexibility in the application of this criterion for the cases where it is not possible to wait. A few respondents (2) indicate that proving the incentive effect of an aid constitutes a heavy workload for the beneficiary. They claim that there is no safety as to whether the action of the beneficiary is modified by the state aid and it is also not sure if the beneficiary's choice is motivated by the best choice or by the ones that best correspond to the Commission's argumentation. Some respondents (5) suggested keeping the current requirement in this respect. There is more clarity needed on the definition of 'start of works' (6 respondents). One suggests including also the planning phase of a project, others require considering the date of supplying the product or service, the start of construction work, or the date of payment.

Distinction between SMEs and LEs (counterfactuals): Six respondents state that the counterfactual analysis is disproportionate and that it would present a heavy burden in particular for SMEs, which do not have enough human and financial resources to prepare such a type of document. Such an analysis is considered to be a complicate assessment based on many management decisions, to which there are no harmonised evaluation criteria. Therefore, some respondents suggest eliminating the requirement of providing proof of a counterfactual analysis by SMEs. Some suggest that even for larger companies the counterfactual requirement is very burdensome and should be avoided. It is unclear to some respondents whether the counterfactual scenario that has to be submitted by beneficiaries by using an application form only applies to LE or also to SMEs.

Proportionality: SME / LE (net extra costs): Only a few respondents commented this point. One respondent suggests removing the paragraph on proportionality or motivating it better. Another respondent explains that the definition and calculation of 'net additional costs' is in practice very difficult. One respondent suggests capping the eligible costs at EUR 300 million.

Relocation: Only one respondent comments on this issue, positively noting the Commission's intention to fight aid-induced relocations and therefore valuing the requirement that granting authorities have to verify and confirm that the aid has not triggered a relocation of an undertaking from another region.

Attraction of investment from poorer regions: no comments were received on this issue.

Consistency with the Europe 2020 Strategy: Some respondents indicate that the draft RAG may be detrimental to the Europe 2020 Strategy and ask for closer coordination of state aid rules with other EU policies, especially Cohesion policy which would enable them to contribute to the key objectives of the Europe 2020 strategy. Some aspects of the RAG, in particular limiting regional aid to SMEs in 'c' regions, are in contradiction with the EU's goal of increasing competitiveness and re-industrialising Europe. They also suggest a better compatibility with other regulations, such as the GBER, the RDI guidelines and other policies such as agriculture, environment, and aquaculture. The OR ask for a coordination of state aid related policies and a specific collaboration with the Commission for them. The RAG are also blamed for not being compatible with the Commission's CARS 2020 Communication which recalls the important role of the car sector in creating growth and jobs.

- Other issues

Simplification: Some respondents (9) appreciate the Commission's intention of simplification while some indicate that the new RAG is in contradiction with the State Aid Modernisation process as it is becoming more complex. Some respondents request a further simplification of the RAG rules and better synergies between the RAG and other EU related rules and procedures. A few respondents claim for clearer guidance explaining the whole system of rules, exemptions, and eligibility governing the number of different aid allowed (de minimis, GBER, etc.) in order to ensure legal certainty in their aid activities.

Transparency: One respondent indicates that transparency could be improved if they could make one request for all EU related items (Structural Funds, etc.). The data linked to transparency should be centralised by the Commission with a link to the webpages of the MS in order to find the information quickly. Transparency should not lead to publishing business data which would lead to disadvantages for the enterprise.

Transition period of 6 months: A few respondents wish to have a transition period of 6 months until 30 June 2014, i.e. to allow the granting of aid under existing schemes.

Introduction of operating aid: Some respondents appreciate that the new RAG contain specific rules for operating aid, in particular for SPA.

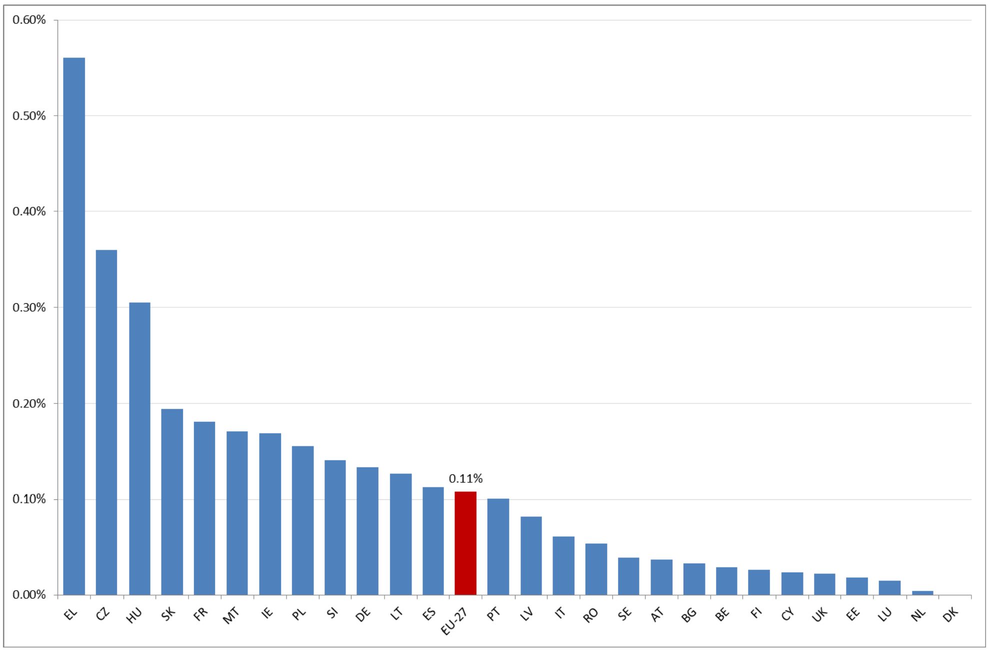
Broadening the scope of the paragraph, which provides for the eligibility of the costs of buying the assets from third parties in the case of acquisition of an establishment: Two respondents request to include in paragraph 87 of the draft RAG besides the acquisition of companies also the transfer of companies.

Annex V – Data on regional aid expenditure and measures

- Differences in the application of regional aid by MS

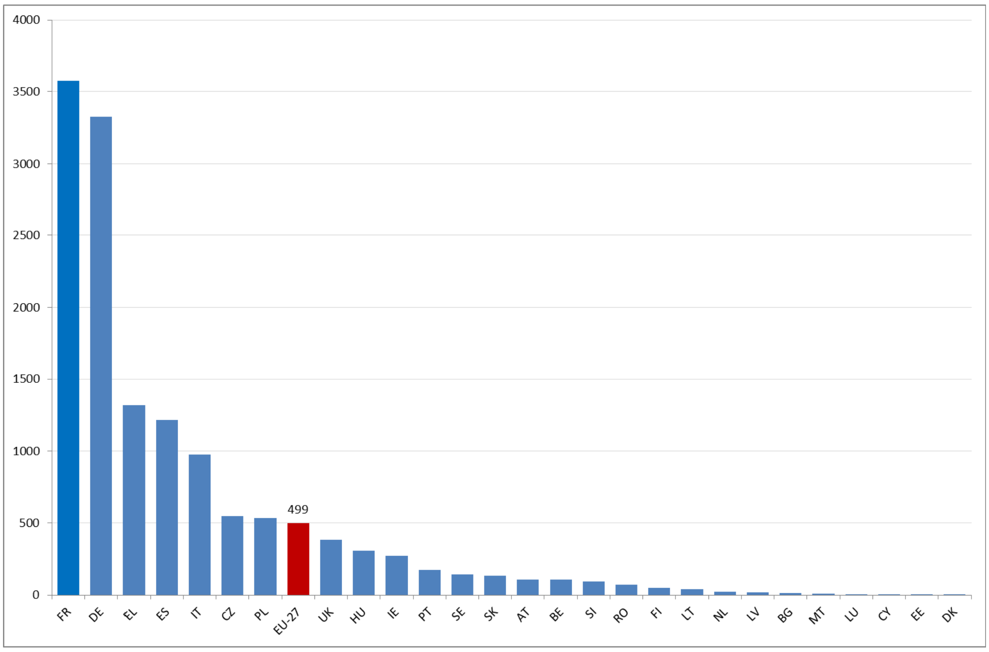
As shown in Figure 1 below, over the period 2007-2011, regional aid expenditure represented 0.11 % of EU GDP. The share of regional aid as a proportion of GDP varies considerably between MS, which illustrates the differences in the importance given by MS to the use of regional aid as an economic policy tool.

Figure 1: Regional state aid expenditure as % of GDP (averages 2007-2011)



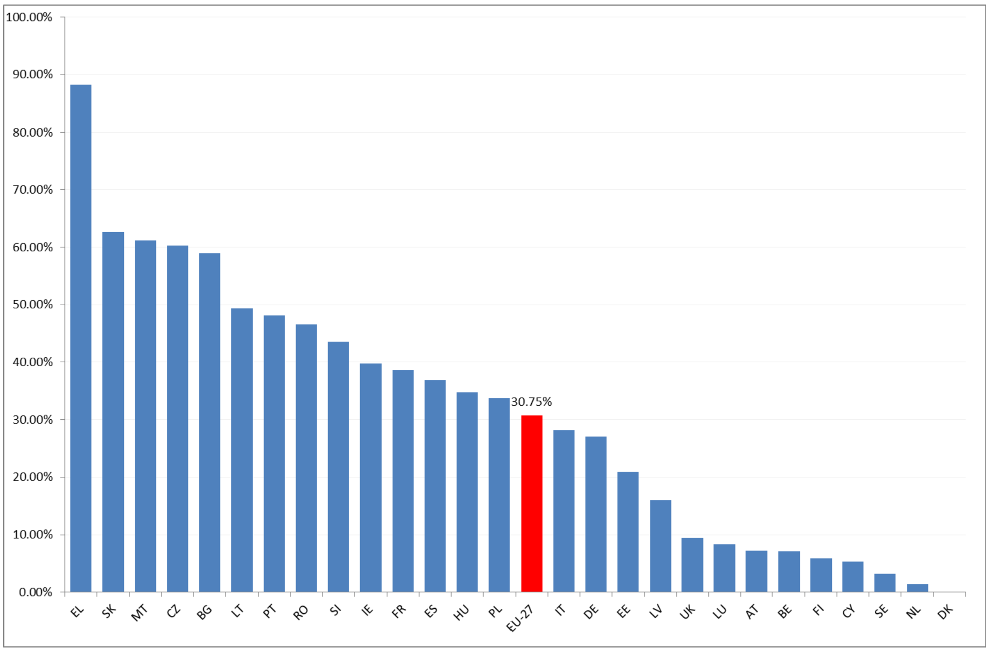
The repartition of regional aid expenditure in absolute amounts is significantly different (cf. Figure 2 below), which underlines the differences in the budgetary capacities of MS. Regional aid expenditure in the EU-27 over the period 2007-2011 was approximately EUR 67 billion.

Figure 2: Regional state aid expenditure in mio EUR (2011 constant prices, averages 2007-2011)



Regional aid represented approximately 31 % of all horizontal aid expenditure in the EU in the period 2007-2011 (cf. Figure 3 below). The share of regional aid in the overall of volume of horizontal aid also varied widely between MS.

Figure 3: Regional state aid expenditure as % of total horizontal aid (averages 2007-2011)



- Variations in the application of different types of regional aid

Regional aid amounted to EUR 67 billion over the period 2007-2011, thereby representing the most important category of aid expenditure. Around 40% (EUR 26 billion) was spent on the basis of aid measures implemented under the GBER. Another 55 % of aid is approved after a standard assessment, a large proportion of which was for operating aid schemes. Less than 5 % of aid is subject to an individual assessment (for LIP above EUR 100 million).

- Increased use of the GBER for granting regional aid

Between 2007 and 2012, MS put in place around 1 000 schemes targeted assisted areas on the basis of the block exemption regulations for regional aid. The GBER has allowed MS to considerably simplify the process of granting regional aid (cf. Table 1 below). In 2011, more than half of all regional aid measures were block-exempted, representing around 50 % of the total amount of regional aid granted that year. Several MS only provide regional aid under this instrument (e.g. UK).

Expenditure for block-exempted regional aid (2011 constant prices)

Expenditure in EUR billion	2007	2008	2009	2010	2011
Block-exempted regional aid	2.5	4.3	5.3	7.2	7.0
Total regional aid	10.3	13.5	14.6	15.1	14.0
Share of exempted aid as % of regional aid	24 %	32 %	37 %	48 %	50 %

Notified regional aid, 2007-2012

Notified cases	No of measures	Approved aid amounts (EUR mio)	MS concerned
Individual aid:			
Ad hoc	38	80	ES, EL, LT, LV, PL, PT, SK
LIP	40	2 000	DE, IE, IT, ES, HU, PT, PL, RO, SK, UK
Schemes:			
Investment aid:	52	14 000	AT, BG, DE, ES, EL, HU, IE, IT, RO
Maps + amendments	10	0	
Sectoral	26	2 600	EE, ES, IT, LT, LV, PL, RO
Operating aid:			
OR	34	40 000	ES, FR, PT
SPA/VSPA	5	425	FI, SE
Standard 'a' areas	5	n.a.	DE
Newly created small enterprises	5	100	AT, ES, LU, MT, SE
Total	189	5 9205	

Aid to LIPs below the notification threshold

Year	Total No of cases	Aid amount (EUR mio)	Sum of aid < 10 mio	Sum of aid [10-20 Mio]	Sum of aid [20-30 mio]	Sum of aid > 30 mio
2007	80	1 434	22	25	21	12
2008	53	949	15	18	14	6
2009	51	881	13	17	17	4
2010	31	449	10	15	5	1
2011	41	778	7	13	19	2
2012	32	553	6	14	11	1
Total	288	5 047	73	102	87	26

Aid to LIPs below the notification threshold per MS

MS	Total No of cases	Sum of aid amount (EUR mio)
AT	3	14
BE	9	133

CZ	17	474
DE	72	1,231
EL	6	190
ES	37	433
FR	9	45
HU	34	809
IE	16	116
IT	5	85
PL	36	778
PT	20	399
RO	5	121
SK	1	26
SV	1	10
UK	17	176
Total	288	5,047

Annex VI – Incentive effect of investment aid to large enterprises

The lack of an incentive effect of regional aid for large firms has been documented in a number of carefully designed studies both in the context of impact evaluation and academic research. It has to be acknowledged that studies assessing the difference in impact between aid to SMEs and aid to LEs are few in number and are based on different evaluation methods.

However, based on a thorough review of the academic literature[86] there are very few studies which assess the impact of regional aid on the basis of an appropriate methodology that identifies the causal effects of the aid, i.e. can answer the question whether aid induced large firms to invest instead of going to firms that were going to invest anyway. The study evaluating the UK regional aid scheme is based on an appropriate counterfactual methodology that can actually identify such causal effects. In contrast, the evaluation of the German regional aid scheme[87] cannot identify causal effects because the effect regional aid to large enterprises is evaluated as the impact of firms that applied for aid. Those who applied are compared to those who did not apply. But such a study may just prove that firms that have an investment idea apply for money and investment more than firms that do not have an investment idea and therefore do not apply for money. Such a study can therefore not inform on the question whether regional aid induced investments. However, the credibility of the results of the cited studies on regional aid also gain credibility because the literature on the evaluation of R&D aid programs has consistently found little incentive effect for large firms.[88]

A recent paper published by the evaluation unit in DG REGIO[89] summarizes the findings of available studies analyzing the impacts of different business support schemes on the basis of a counterfactual scenario. These studies enable to analyze the impact of over EUR 40 billion of public support (grants or net grant equivalent) given to some 235 000 firms under 12 support schemes[90] in seven different EU Member States. The paper shows that the positive results of business support in terms of investment, productivity, employment and innovation apply to SMEs only and that direct financial support seems to do little to change the investment behavior of large firms. There is no evidence for wider benefits although large firms do play a role in innovation networks. These findings are based on the results of following studies analyzing both investment aid schemes and innovation schemes: in Italy (Bondonio&Martini (2012), in UK (Criscuolo et al (2012), in Denmark (CEBR analyzing a Danish innovation schemes (2010), in Germany (Czarnitzki et al (2011) analyzing an innovation scheme and GEFRA and IAB (2010) analyzing the investment scheme in Eastern Germany).

Regarding the efficiency and effectiveness of regional investment aid, the results of an academic study[91] examining the main UK regional aid scheme between 1986 and 2004 is also particularly relevant because of its methodological rigour. The authors identify the effects of regional aid on employment, investment, and total factor productivity and conclude that the positive results are confined to smaller firms. They attribute this effect partially to large firms being more able to 'game' the system and take the subsidy without changing their investment and employment levels, and partially to the existence of more severe financial constraints for smaller firms.

Similar findings can be found in the evaluation of the main investment business support scheme in Italy[92] published by DG REGIO. It seems that the positive effects of business support are confined to SMEs, while large enterprises are using the money for projects they would have carried out anyhow.

Hart et al. (2008) find a mixed relationship between regional assistance, firm size and employment growth. The employment growth equations indicate that, after controlling for selection bias in the assisted sample, support to both domestic firms/plants (usually smaller in size) and inward investors (usually larger) is positively and significantly related to employment growth in the period 2004-06.

DG Competition recently commissioned a study to evaluate the need for regional aid and its effects on a sample of 28 large projects with investment expenditure above EUR 50 million for which aid was awarded between 2007 and 2013[93]. These projects were undertaken by large enterprises in the following sectors: pharmaceuticals, solar, internal business services, car manufacturing, cement, and paper industry. The study illustrates that regional aid is one of the factors - but not a determining one- influencing the decision to invest or to locate in a disadvantaged region. The determining factors are pre-existing sites, labour costs, the availably of skilled labour, the availability of transport infrastructure or of natural resources, growing demand or existing competition that leads to the need to modernise existing production facilities. On this basis, the study concludes that even if, for some projects, the aid made a difference, the majority of the projects would most probably have been located in disadvantaged regions in Europe without aid.

Annex VII – Parameters for the options regarding the designation of assisted areas

The geographical scope of the RAG is determined by five main elements applied in sequential order:

(1) the level of overall population coverage for the EU as a whole;

(2) the rules for the identification of 'a' areas;

(3) the rules for the identification of possible categories of earmarked (predefined) 'c' areas;

(4) a method for distributing among MS the remaining 'c' coverage (non-predefined) on the basis of regional disparities;

(5) a possible correction mechanism to balance-out any excessive variations in regional aid coverage from one period to the next (safety net).

As these various elements are closely interlinked, composite options combining sub-options for each of these five elements were presented in the main body of the report. The parameters of the underlying sub-options for each element and the discarded sub-options are presented below.

Overall population coverage

For the overall population coverage, an infinite number of options between 0 % and 100 % exists. The options selected are presented in Subsection 3.3.1., and include the baseline scenario (maintaining the coverage at the present level (46.5 %), a limited reduction 45 %, and a major reduction (38 %).

Rules for the designation of 'a' areas

Traditionally, a-areas are defined at NUTS 2 level as areas with a GDP per capita below 75 % of the EU average and outermost regions. The Commission constantly held that this operational definition reflects an appropriate interpretation of Article 107(3)(a) of the TFEU which provides that 'aid to promote the economic development of areas where the standard of living is abnormally low or where there is serious underemployment, and of the regions referred to in Article 349, in view of their structural, economic and social situation' may be considered to be compatible with the internal market.

However, the use of GDP-based indicators inevitably brings into question the worthiness of GDP as a measure of socioeconomic progress and well-being. Other, more refined (composite) indicators could be better suited to define the target regions of Article 107(3)(a). There is also the legal argument that a GDP-based interpretation alone fails to take fully account of the 'underemployment' component of the Article. And finally, the use of the NUTS 2 level is contested by some who consider that a different level (NUTS 3) could also be taken into account.

Nonetheless, there is an established consensus between MS on the use of GDP per capita for defining 'a' areas. Using a different definition would create a major inconsistency to the definition of the category of 'less developed' regions under the ERDF, which is identical. In addition, the use of indices of regional development[94] or regional competiveness[95], would raise significant methodological and practical difficulties in terms of data collection, comparability and processing. Using the NUTS 2 level would introduce a major level of unequal treatment as the size of NUTS 3 regions is very heterogeneous, both between and within MS, and GDP results are strongly biased by daily by shuttling of workers from rural residential areas to industrial centres. Therefore, the traditional approach is maintained both in the baseline Option and Option 2, whereas Option 3 is based on the combined use of regional GDP per capita and regional unemployment at NUTS 2 level.

In summary, the other sub-options that were considered but discarded are described in the table below:

Rules on the designation of 'a' areas – Discarded sub-options

Other options considered	Reasons for discarding
Using other indicators than regional GDP per capita (or unemployment)	Consensus on regional GDP per capita as a valid proxy indicator of standard of living; difficult political acceptability of unlinking the definition of 'a' areas from the definition of the ERDF category of 'less developed' regions
Using composite indices of regional development or regional competiveness	Relatively complex; problems of data availability and comparability; difficult political acceptability due to uncertain outcome
Setting the threshold for regional GDP per capita at another level than 75 % of the EU average	Difficult political acceptability of unlinking the definition of 'a' areas from the definition of the ERDF category of 'less developed' regions
Defining 'a' areas at NUTS 3 level (keeping the threshold of 75 % of EU GDP per capita)	Significant increase in number of 'a' areas; strong geographical dispersion of 'a' areas (reduced concentration)

Rules for the definition of predefined 'c' areas

Traditionally, predefined regions where defined as regions which had benefitted from an 'a' status in the preceding period, and required a soft transition to non-assisted status in order not to endanger their future continued positive development, and SPAs. Under the options presented this approach is maintained for the baseline scenario, and slightly amended under Option 2 (exclusion of ex-'a' areas with a GDP per capita above 90 %), whereas Option 3 does not foresee any predefined 'c' areas, except SPA. The options to introduce an additional category of predefined 'c' areas, the border regions, or to replace ex-'a' and SPA by transition regions, as defined for ERDF purposes, were discarded, for the reasons explained below:

- border regions

Where regions with a different regional aid status (e.g. non assisted areas or 'c' areas with low aid intensity ceiling) are adjacent to 'a' areas with a high aid intensity ceiling, the difference in aid intensities may lead to local cross-border relocations. The RAG 2007-2013 took account of this specific local effect on trade by allowing that MS could use parts of their non-predefined ‘c’ coverage to designate as ‘c’ areas NUTS 3 regions or parts of NUTS 3 regions adjacent to ‘a’ areas or having land or sea borders (up to 30 km) with non-EEA or non-EFTA MS. In addition, they allowed that the aid intensity ceilings in these regions could be increased in order to ensure that the differential in aid intensities did not exceed 20 %. The border area status therefore gave the right to designate areas, within the overall EU population coverage and the national population quota, without creating a specific status as predefined ‘c’ area.

The February 2013 European Summit noted in its conclusions that the ‘Commission will ensure that Member States can accommodate the particular situation of regions bordering convergence regions’ for the future RAG. Certain MS derive from that statement the conclusion that the Commission should create an additional category of predefined ‘c’ areas for border areas. This would increase the national population quota of the MS concerned, and would reduce the non-predefined ‘c’ population coverage available for distribution between MS. Prima facie, such a specific status does not seem necessary: first, the envisaged individual notification requirement (and implicit prohibition) of aid that causes relocations allows to tackle the problem at its root; second, the MS principally concerned have a level of ‘c’ coverage which should allow them to designate the regions concerned. .

- transition regions

Under the ERDF rules, the notion of transition regions includes all NUTS 2 regions with a GDP per capita between 75 % and 90 % of the EU 27 average. They include a large number of regions that either never benefitted from ‘a’ status, or were at least not eligible for ‘a’ status in the previous period. They represent some 15 % of the EU-27 population. Taking into account that a-areas represent some 25 %, the predefined ‘a’ and ‘c’ areas amount to 40 %, i.e. exceed the overall population ceiling set under Option 3, or leave only a very limited margin of flexibility for MS to select non-predefined ‘c’ areas for their map. For this reason, and since large parts of individual transition regions are well-off, the possibility to define one option on the basis of transition regions was discarded.

<u>Method for the allocation of non-predefined ‘c’ coverage among MS[96]</u>

The non-predefined c-coverage results after deduction of the ‘a’ areas and the pre-defined ‘c’ areas from the overall population coverage: it is distributed between MS following a distribution key for which three sub-options were considered:

(1) baseline: to keep the current method used in the RAG 2007-2013, which is mainly based on socioeconomic disparities (GDP per capita and unemployment) within each MS, but also takes account of the overall situation of the MS compared to the EU average (NUTS 3 regions with either a GDP per capita below 85 % of the national average or an unemployment rate above 115 % of the national average), weighting according to the position of that MS in relation to the overall calculation at EU level;

(2) Option 3: a key which is derived exclusively from the position of individual regions compared to the relevant EU averages (GDP per capita below 90 % of the EU average or unemployment above 115 % of the EU average), not taking account of disparities within MS;

(3) Option 2: an intermediary method, which takes as a starting point the current RAG method, but which reinforces the EU dimension by including in the comparison basis those regions which have a GDP per capita below 90 % of the EU average or an unemployment rate above 125 % of the EU average (unless already selected due to intra-MS disparity).

<u>Safety net</u>

In the RAG 2007-2013, it was foreseen that a MS could not lose more than 50 % of its previous overall coverage (‘a’ and ‘c’) compared to the previous map for the 2000-2006 period. This approach is basically maintained in Option 2, but completed by a minimum population ceiling of 7.5 %, whereas Option 3 does not foresee a safety net approach.

In the non-paper on the revision of RAG sent to MS in December 2011, DG COMP had proposed to abandon the general safety net for all MS (e.g. maximum loss of 50 %) and that, instead, a specific safety net that would apply, on the one hand, to MS which consist of one NUTS 2 or 3 region (i.e. CY and LU, for which there is no possibility to apply the allocation method as internal regional disparities cannot demonstrated) and, on the other, to MS which have been or will have been designated to receive financial assistance under the Greek Loan Facility and the European Financial Stabilisation Mechanism (EFSM) (i.e. at the time: EL, PT, IE; at the time the European Financial Stability Facility (EFSF) and the European Stability Mechanism (ESM) did not exist)[97]. For these two categories of MS, it was foreseen to limit the reduction in population coverage to 75 % of the previous overall coverage.

This idea seemed justified in economic terms and also politically consistent with the aim of relieving MS strongly affected by the sovereign debt crisis. In practice, however, it raised several considerable legal and technical problems difficulties as the list of MS that receive support under the ESFM, EFSF or ESM is subject to changes. In addition, EFSM, EFSF or ESM support is intended to be transitory. It would not be consistent to on the basis of this status in 2013, which is not intended to be long-lasting. The validity of determining the ‘c’ coverage for certain MS for the whole period until the end of 2020 on the basis of their status as regards support under such funds and mechanisms in 2013 is questionable. This option was therefore discarded.

The impact of option 2 in this report is detailed in the table below as regards the final outcome per Member State.

MS (% of nat. pop.)	Maps 2011-2013			Maps 2014-2020			
	‘a’	‘c’	**Total**	‘a’ (incl. OR)	Predefined ‘c’ (all ex-‘a’ areas + sparsely populated areas)	Non-predefined ‘c’ (allocation	**Total**

						+ safety net)	
MS with only predefined ‘a’ or ‘c’ coverage:							
1. Bulgaria	100	0.0	**100**	100	0	0	**100**
2. Croatia	*100*	*0.0*	***100***	*100*	*0*	*0*	***100***
3. Cyprus	0.0	50.0	**50.0**	0	0	0 + 50	**50**
4. Czech Republic	88.6	0.0	**88.6**	88.1	0	0	**88.1**
5. Greece	56.1	43.9	**100**	45.9	10.1 + 0.2 = 10.3	23.4 + 43.8	**100**
6. Estonia	100	0.0	**100**	100	0	0	**100**
7. Latvia	100	0.0	**100**	100	0	0	**100**
8. Lithuania	100	0.0	**100**	100	0	0	**100**
9. Malta	100	0.0	**100**	0	100	0	**100**
10. Poland	100	0.0	**100**	86.3	13.7	0	**100**
11. Romania	100	0.0	**100**	89.4	10.6	0	**100**
12. Slovakia	88.9	0.0	**88.9**	88.5	0	0	**88.5**
13. Slovenia	100	0.0	**100**	52.9	47.1	0	**100**
14. Sweden	0.0	15.3	**15.3**	0	12.3	0	**12.3**
MS with predefined ‘c’ coverage:							
1. Austria	0.0	22.5	**22.5**	0	0	26.9 +0	**26.9**
2. Belgium	12.4	13.5	**25.9**	0.0	12.1 + 0	18.6 + 0	**30.7**
3. Denmark	0.0	8.6	**8.6**	0	0	8.3 + 0	**8.3**
4. Finland	0.0	33.0	**33.0**	0	0 + 24.2	1.9 + 0	**26.1**
5. France	2.9	15.5	**18.4**	2.9	0	21.7 + 0	**24.7**
6. Germany	12.5	17.1	**29.6**	0	12.9 + 0	14.4 + 0	**27.3**
7. Hungary	72.2	27.8	**100**	70.4	0	6.6 + 0	**77.0**
8. Ireland	0.0	50.0	**50.0**	0	0	53.3 (+ 50.0)	**53.3**
9. Italy	30.2	3.9	**34.1**	29.0	0	4.7 + 0	**33.8**

10. Luxembourg	0.0	16.0	**16.0**	0	0	0 + 8	**8**
11. Netherlands	0.0	7.5	**7.5**	0	0	(4.5) + 7.5	**7.5**
12. Portugal	70.1	6.6	**76.7**	69.2	0	(6.2) + 7.5	**76.7**
13. Spain	36.2	23.5	**59.6**	6.8	28.2 + 0.5 = 28.8	31.8 + 0	**67.5**
14. United Kingdom	4.0	19.9	**23.9**	3.9	0 + 0.4	22.5 + 0	**26.8**
EU-27	32.4	13.8	**46.2**	25.2	7.0 + 0.6 = 7.6	13.8 + 0.6	**47.2**

Based on three-year averages of Eurostat data at NUTS 2 or NUTS 3 levels (NUTS 2010 nomenclature), using regional GDP data for 2008-2010 (21/3/2013) and unemployment rate data for 2009-2011 (only at NUTS 2 level, 26/3/2013); population data for 2010; population density data for 2010.

Annex VIII – Detailed impacts for the components of the regional aid maps

- Overall population coverage

In terms of overall population coverage, Options 1 and 2 obviously provide the broadest coverage. For Options 1, 2 and 3 the final overall population coverage, including the safety net, would be respectively 45.55 %, 45.15 % and 38.00 %. Under any of the three options the overall number of NUTS 2 regions affected remains the around same (between 84 and 88).

Most stakeholders recognise the need to maintain the exceptional character of regional aid by ensuring that the coverage of eligible areas does not exceed 50 % of the EU population. However, many stakeholders consider that, because of the crisis, the overall population coverage should remain at the current level or even be slightly increased, and are thus opposed to the effective 42 % target mentioned in the draft RAG. Other stakeholders consider that the current overall population coverage is excessive and does not allow to design efficient regional aid policies since simply too many regions benefit from high levels of aid.

- Designation of ‘a’ areas

For the baseline and Option 2, the impact on the different MS growing out of ‘a’ status or the effects of regions moving up from one category to another is clear. There are 13 less NUTS 2 regions in the lowest category, 5 less in the middle category and 1 more in the highest category. Three MS which had ‘a’ areas in the period 2011-2013 no longer have any ‘a’ areas: BE, DE, MT. LV move up from the lowest category to the next one and EE and LT jump to the highest category. Under Option 3, the results are similar but the additional ‘a’ areas fall under the highest category. In addition, two additional MS (BE (Brussels) and IE (Border, Midlands, Western)) would become ‘a’ areas based on the unemployment criterion. The other new ‘a’ areas are all in EL and ES, which already had ‘a’ areas.

For the designation of ‘a’ areas, Options 1 and 2 are identical. Including unemployment as a parameter for the definition of ‘a’ areas would lead to a significant increase in the coverage for ‘a’ areas to detriment of ‘c’ areas (with no predefined ‘c’ areas beside SPA and only 4 % non-predefined ‘c’ coverage). Under Options 1 and 2, all areas with a GDP per capita below 75 % of the EU-27 average of GDP per capita (in PPS) are defined as ‘a’ areas as well as all the OR, which gives a total ‘a’ coverage of 25.17 %: BG (100 % of national population), CZ (88.1 %), EE (100 %), EL (45.9 %), ES (2.3 % + 4.5 % for OR), FR (0 % + 2.9 %), IT (29.0 %), LV (100 %), LT (100 %), HU (70.4 %), PL (86.3 %), PT (64.6 % + 4.6 %), RO (89.4 %), SI (52.9 %), SK (88.5 %), UK (3.9 %). Under Option 3, an extra 8.2 % of the EU-27 population would be defined as ‘a’ areas. Four MS are impacted: BE (10 % of national population); IE (27 %); EL (2.6 %), ES (83.5 %).

Most stakeholders agree, for practical reasons, and to ensure maximum consistency with definitions under the EU Cohesion policy funds, to the continued application of the threshold of 75 % of GDP per capita at NUTS 2 level for the definition of ‘a’ areas (which also includes all OR). Certain MS (FR, ES, EL, CY) take the view, however, that income indicators alone are insufficient to describe the socioeconomic situation of a region, and that other indicators of regional welfare, in particular unemployment indicators, could also be taken into account

(Option 3). This would allow to tackle the effects of the crisis in some MS and would bring the interpretation of Article 107(3)(a) closer to its literal provisions which explicitly refer to a situation of serious underemployment. A small number of stakeholders also suggest to define 'a' areas at NUTS 3 level or by combining NUTS 2 and NUTS 3 levels.

- Transition regime between 'a' and 'c' areas

Under Option 2, all areas which were 'a' during the period 2011-2013 are predefined as 'c' areas if their GDP per capita for the period 2007-2009 is above 75 % but below 90 % of the EU-27 average. Five MS have regions in this situation: BE (12.1 % of national population), DE (12.9 %), EL (10.1 %), ES (22.3 %), MT (100 %). Option 1 includes four further ex-'a' areas with a GDP per capita above 90 % of the EU-27 average: Galicia in ES, Mazowieckie in PL, Bucureşti-Ilfov in RO, and Zahodna Slovenija in SI. Option 3 foresees the abolition of this transition regime which would impact the above-mentioned eight MS as they would lose this coverage. However, the use of unemployment as a parameter to define 'a' areas partially compensates this for BE (−12.1% +10 %); EL (−10.1 % +2.6 %), ES (−22.3 % +83.5 %). DE, MT, PL, SI, RO would lose this entire coverage.

As regards the definition of the various categories of predefined 'c' areas, most stakeholders prefer the status quo of the current RAG; they underline in particular the need to ensure appropriate continuity in the availability of aid for regions that lost 'a' status due to a relative improvement of their economic situation (ex-'a' areas). Some stakeholders suggest to replace the category of ex-'a' areas by a new category of transition regions which would, as is foreseen for the EU Cohesion policy funds, include all NUTS 2 regions with a GDP per capita between 75 % and 90 % of the EU average, independently of whether they ever had 'a' status. The proposal in the draft RAG to limit the scope of 'a' areas to ex-'a' areas with a GDP per capita below 90 % of the EU average, which would exclude the Bucharest region, the Warsaw region, Western Slovenia, and Galicia, is criticised in particular by the stakeholders concerned. These regions could normally not be fully covered by 'c' status, and could face major competition for the location and maintenance of industry from the neighbouring 'a' areas. SI also emphasises that the exclusion of Western Slovenia from regional aid could destabilise the country's fragile economic recovery. A very small minority of stakeholders suggests to maintain the category of statistical effect regions that served as a transition instrument to mitigate the effects of the 2004 enlargement for EU-15 MS. Stakeholders agree on the need to maintain the SPA and VSPA in their unchanged definitions and with an appropriate level of flexibility. A large number of directly concerned stakeholders demand a specific status as predefined 'c' area for regions that border 'a' areas.

- Method for the allocation of non-predefined 'c' coverage among MS

NB: The number of NUTS 2 cannot be identified for this component of the options as the allocation of non-predefined 'c' coverage among MS is done at NUTS 3 level.

The allocation of non-predefined 'c' coverage impacts only those MS which are not entirely 'a' and show sufficient internal disparity. Under Option 2, 11 MS are *not* impacted by this provision: BG, CZ, EE, CY, LV, LT, LU, MT, RO, SK, SE. Under Option 1, PL and SI are also not impacted as they would be entirely covered as 'a' areas or predefined 'c' areas. The difference between Option 1 and Option 2 is a decrease of the overall population coverage by 0.4 %. For non-predefined 'c' coverage, this means however an increase from 12.79 % to 14.53 %. These 0.4 % are shared out over the 16 MS under Option 2, and proportionately to their non-predefined coverage under Option 1. Under Option 3, non-predefined 'c' coverage would be reduced to 4.11 %. Coverage would be the following: BE (6.6 %), DK (2 %), DE (6.5 %), IE (13.1 %), EL (19.2 %), ES (1.3 %), FR (7.5 %), IT (1.6 %), HU (2.2 %), MT (18.0 %), NL (0.2 %), AT (3.1 %), PL (1.7 %), PT (5.5 %), SI (2.8 %), UK (7.4 %).

As regards the allocation method, most stakeholders strongly reject the idea (put forward in the non-paper) of basing the distribution key exclusively on EU dimension parameters, and support the traditional distribution key which takes into account both national and EU-wide criteria. The intermediate approach proposed in the draft RAG, which reinforces the EU dimension by taking into account the unemployment situation in an EU-wide context but without excluding the national dimension, is considered by a large majority of stakeholders to be an appropriate compromise.

- Safety net

The effect of Options 1 and 2 for the safety net would be limited. For Option 1, the safety net would add 0.05 pp to the overall coverage (compared to +0.15 pp under Option 2, i.e. if a minimum coverage of 7.5 % of national population is added). Under Option 1, the following MS would benefit from this provision: CY (not losing more than 50 %, result 25 %), LU (not losing more than 50 %, result 8 %). Under Option 2, the level of non-predefined 'c' coverage would be sufficient so that DK would not need this provision, only for NL (7.5%). By removing the safety net (Option 3), CY and LU would no longer have any regional aid coverage whatsoever. Also due to the other parameters of Option 3, DK would see its entire coverage limited to 2 %, DE to 6.5 %, MT to 18 %, NL to 0.2 %, AT to 3.1 %. UK would see its non-predefined 'c' coverage limited to 7.4 %.

Most stakeholders, except CY, welcome the safety net proposed in the draft RAG (losses limited to 50 % and minimum population of 7.5 %) which replaces the highly-contested rules contained in the non-paper.