



European Commission
DG Competition
Rue de la Loi
B-1049 BRUSSEL

Your ref

Our ref
20/6971-4

Date
30 September 2020

Draft Commission Guidelines on Regional State Aid – comments from Norway

The Norwegian authorities welcome the opportunity to comment on the draft Commission Guidelines on regional state aid (hereinafter the RAG).

Regional state aid both in the forms of investment aid and operating aid is crucial for reaching objectives of a common interest (avoid or reduce depopulation). Norway has a very small population relative to the area. Average population density is 17,5 inhabitants per km². The Norwegian regional aid map for the period 2014-2020 covers approximately 25 % of the population and has a total population density of 4,7 inhabitants per km². Outside of the capital region and the few larger cities, the population is very small and the conditions for economic activity are generally less favourable. In particular, smaller markets for commodities and labour, in conjunction with long distances to alternative markets, these places face severe handicaps.

The Norwegian authorities welcome and mainly support the Commission draft new Guidelines. Based on both recent local government reforms and the development in population and employment in Norwegian sparsely populated areas, we do, however, have concerns in particular about operating aid schemes in very sparsely populated areas and the scope of sector exclusions. We would therefore propose certain amendments to the draft Guidelines. A key concern for the Norwegian authorities is the horizontal operating aid scheme Regionally Differentiated Social Security Contributions scheme (the RDSSC scheme).

Operating aid to smaller geographical areas than administrative units

It has long been a trend in Norway that small municipalities become smaller, while the larger municipalities grow. At the same time, the municipalities' responsibilities and tasks have increased significantly. These trends necessitate larger municipalities.

The objectives for Norwegian local government reform are to ensure good, equal services for inhabitants, comprehensive and coordinated community development in all municipalities, sustainable and financially solid municipalities and to strengthen local democracy and further empower the municipalities by transferring more responsibilities and tasks.

We have recently finalised a municipal reform, resulting in the amalgamation of 119 municipalities into 47 new municipalities. From 2020 the number of municipalities are substantially reduced, from 428 to 356. Still, however, too many small municipalities struggle with the capacity and competence to deal with the large volume of complex tasks for which the local government sector has become responsible over time. This is particularly true in very sparsely populated areas. The Government will, in close cooperation the county governors, continue to promote municipal amalgamations across the country.

Commonly, large municipalities merge with their smaller neighbours. Once amalgamated, the frequently strong development in the large municipalities hides the weaker development in their former neighbouring municipalities, which subsequently inhibits the possibility of operating aid. The new amalgamated municipality does not qualify for aid, however, parts of it are still very sparsely populated. The need for state aid in these former municipalities therefore does not change. A lesson learnt from the reform is that municipalities face disincentives to amalgamate because of the varying degree to which they are assisted by regional aid measures. Furthermore, there are several cases of smaller municipalities that are within the regional aid map and covered by the RDSSC scheme amalgamating with larger neighbours which are not covered by the regional aid map. Since the development in the larger municipalities dominate that of the smaller municipalities, the amalgamated municipality will, in general, not be included in the regional aid map in the upcoming period.

If the Guidelines were to allow for aid to smaller geographical areas than administrative units, it would alleviate this barrier to structural reform as well as allow the schemes to be targeted towards areas that have the greatest need for aid.

We would draw the Commission's attention to the Norwegian authorities' comments to the targeted consultation on the ex-post evaluation of the Regional Aid Framework in 2019. Norway has pointed out that the Guidelines are not flexible enough to target areas that have the greatest need for regional aid, exemplified at NUTS II level, as growth both in terms of population, labour market and economic growth is extremely unevenly distributed within an administrative unit. As explained above, this is true also at, and below, the LAU2 level.

Based on the above, Norway would suggest that the Guidelines allow, at least in very sparsely populated areas and for fully horizontal operating aid schemes, for differing aid intensities within administrative units at the lowest geographical level (LAU2) in municipalities that have amalgamated. Furthermore, to ensure transparency, the designated areas should build on official statistical units, which, however, are different from administrative units, cf. Regulation No 1059/2003. For Norway, that would mean *basic statistical unit (grunnkrets)*.

The following proposal entails both an amendment in the definitions in Section 2.2 and of Section 7.3.1.2 of the Guidelines:

1. New definitions in Section 2.2 Definitions:
 - a. dd) A basic statistical unit is a non-administrative unit below the local area unit level 2 (LAU2).
 - b. ee) '[fully] horizontal operating aid scheme' means a scheme in outermost regions or in very sparsely populated areas which covers activities falling

within all sectors, except the steel sector, production¹ of lignite and coal[as well as the financial sector etc. as mentioned in paragraph 17].

2. A new footnote to paragraph 169 in Section 7.3.1.2:
 - a. For fully horizontal regional operating aid schemes in very sparsely populated areas, a member state may designate parts of NUTS II regions with less than 8 inhabitants per km² or other smaller contiguous areas adjacent to those Statistical regions, provided that the areas designated have less than 8 inhabitants per km² and that their designation does not exceed the specific allocation of 'c' coverage referred to in paragraph (142). Such areas can be formed by non-administrative units in amalgamated municipalities provided that the requirements under Annex III (2) are fulfilled and that the data for these basic statistical units are official data from the national statistical offices. These areas can also extend beyond the notified regional aid map, provided the criteria is otherwise fulfilled and if the areas have amalgamated with a municipality outside of the regional aid map.

Sector exclusions

The Norwegian authorities would like to comment on two issues regarding the sector exclusions in the draft Guidelines.

1. *When should specific sectors or activities be excluded from the scope of regional aid schemes?*

We recognize the reasoning for the exclusion of the steel sector and the production of lignite and coal, and we would like to express our support for these exclusions.

We also recognize the reasoning for excluding from the scope of the Guidelines sectors which are subject to sector specific state aid rules to avoid so-called "forum shopping". We support this approach in so far as non-horizontal aid schemes are concerned.

However, we believe that general sector exclusions should not apply to *fully horizontal regional operating aid schemes* in very sparsely populated areas, i.e. schemes that are applicable to undertakings in all sectors eligible for aid under the RAG. The Commission has already accepted operating aid to the transport and energy sectors in the GBER. We see no reason why these sectors should not also be included in the RAG.

We would argue that sector exclusions may lead to undue negative effects on competition and trade domestically, and that this is the case for regional aid schemes that are fully horizontal.

An example of a fully horizontal regional operating aid scheme is the Norwegian Regionally Differentiated Social Security Contribution scheme (the RDSSC). The aim of the RDSSC scheme is to stimulate employment and thus prevent depopulation by compensating additional general operating costs resulting from the permanent handicaps in the disadvantaged areas. Thus, the social security contribution rates are regionally differentiated, with decreasing rates according to the magnitude of the handicaps within different regions of the very sparsely populated areas of Norway.

¹ This should be aligned with the final definition of this sector/activities.

In a fully horizontal aid scheme, sector exclusions lead to domestic distortions between sectors that are included in the scheme and sectors that are not included in the scheme. In the case of the Norwegian RDSSC scheme, the administrative costs of the exclusions also raise serious concerns about the compliance costs, especially for undertakings engaged in both excluded and included sectors.

Reducing or preventing depopulation in very sparsely populated areas is a key element in Norwegian regional policy. This, in line with EU cohesion policy, is linked to the perspective of making use of all parts of the country as a means for economic and social development. Employment is the most influential factor in people's choice of residence. Therefore, any scheme aiming to prevent or reduce depopulation needs to address the functioning of the labour market to be sufficiently targeted and efficient. Last but not least, the technical difficulties caused by the sector limitations in outermost regions² fully correspond to the problems caused by such limitations to horizontal regional operating aid schemes in very sparsely populated areas.

We are of the opinion that fewer sector exclusions in fully horizontal regional operating aid schemes will alleviate the current domestic distortions of competition between excluded and non-excluded sectors. Likewise, it will reduce the incentives for "forum shopping" and increase the efficiency of the schemes by decreasing compliance costs and administrative burdens following from sector exclusions, both for affected undertakings and for national authorities controlling the schemes.

A removal of the sector limitations for fully horizontal regional operating aid schemes in outermost regions and very sparsely populated areas would only concern very limited and clearly defined geographical areas and have very little, if any, negative effects on competition and trade.

We therefore ask the Commission to *include* all sectors in fully horizontal regional operating aid schemes, except for steel, lignite and coal, and if deemed necessary financial activities etc. as mentioned in paragraph 17.

This may be done by way of a derogation from draft paragraph 12. One way may be to add the following at the end of paragraph 16: "In these areas it may be considered compatible to include sectors as mentioned in paragraph 12 [and 17] in fully horizontal regional operating aid schemes."

This, combined with the above proposed restrictive definition of fully horizontal regional operating aid schemes, should safeguard that any aid under the RAG to these sectors will not have an undue negative effect on competition and trade or increase the risk of "forum shopping". On the contrary, it would make it possible for the Norwegian authorities to notify all of the RDSSC scheme under the RAG, whereas today, the part of the scheme covering the transport and energy sectors is granted under the GBER.

As regards the Commission's comment in the explanatory note on the current use of the provisions in the RAG to grant aid to broadband and research infrastructures, we would like to point out that the Norwegian authorities do make use of these provisions, as broadband and research infrastructures are covered by the RDSSC scheme. In light of this, we would propose that, at least, neither broadband and research infrastructures nor any other new

² Cf. The Commission in its comments to the [Draft amending Regulation](#) in the targeted review of the GBER in 2016.

sectors are added to the list of sectors excluded from the new RAG.

2. Definitions of sectors and activities in the RAG and alignment with other state aid regulations

According to paragraph 11 of the draft Guidelines, regional aid to the “production of lignite and coal” will not be considered to be compatible with the internal market. We assume that this includes mining of coal and lignite as covered by NACE Rev. 2 Division 5. However, it is unclear whether this also includes the production of crude coal and lignite tars as covered by NACE Rev. 2 class 19.10 and manufacture of hard-coal and lignite fuel briquettes as covered by class 19.20. This should be clarified, preferably by reference to the relevant NACE classification.

We would also recommend that the other sector and activity definitions in the RAG are clarified and aligned with other state aid guidelines and regulations. The Norwegian authorities propose that these definitions to the extent possible are based on the NACE classifications, with explicit references to the relevant divisions, classes or groups. This would provide a clear and common interpretation of the definitions across the internal market.

In order to align definitions between different parts of the state aid rules and reduce the risk of unintended differences between definitions in different parts of the state aid rules, it could be practical to establish a principle of one time/one place definitions. For example, that sectors which are subject to specific state aid rules are defined in these specific rules only. In the horizontal state aid rules, such as the GBER and the RAG, it would then be possible to “define” these sectors simply by way of reference to the definitions in the specific rules.

As a final comment, the Norwegian authorities note that according to footnote 61 of the draft Guidelines, concerning the designation of “a” areas, the data used in the Guidelines is based on the NUTS 2021 nomenclature. We understand that this nomenclature will apply also to “c” areas. We would like to stress that the general use of the NUTS 2021 nomenclature could be made more transparent in the Guidelines. Furthermore, we will need to look at if and what impact this may have for the designation of Norwegian “c” areas. We may therefore have to submit further comments to the draft Guidelines.

Yours sincerely