ROYAL NORWEGIAN MINISTRY OF
TRADE, INDUSTRY AND FISHERIES

European Commission

Your ref	Our ref	Date
	16/1682-	30th May, 2016

Comments from Norway to the proposed amendments to the General Block Exemption Regulation

Introduction

First of all, Norway would like to thank the European Commission for the opportunity to comment on the draft Regulation amending Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (the General Block Exemption Regulation, GBER). The Norwegian Government welcomes the proposed amendments to the General Block Exemption regulation (GBER) in order to simplify and clarify the State aid rules.

Regional aid – amendments to the sector exclusions in disadvantaged regions

The Norwegian Government welcomes the proposed amendments to the GBER that will allow for regional aid also to energy and transport undertakings if the aid is granted through horizontal, operating aid schemes in specified disadvantaged regions. The Norwegian authorities agree that such generally applicable schemes in these regions should treat the energy and transport undertakings in the same way as other types of undertakings within the same geographical area. We are of the opinion that the proposed amendments will counteract the current distortions of competition between excluded and non-excluded sectors. Likewise, they will reduce the incentives for "guideline shopping" and increase the efficiency of the schemes by decreasing compliance costs and administrative burdens following from sector exclusions, both for affected companies and for national authorities controlling the schemes.

Postal address	Office address	Telephone*	<engelsk navn>	Our officer
PO Box 8090 Dep	Grubbegata 1	+47 22 24 90 90		Elisabeth Torkildsen
0032 Oslo		Vat no.		+47
postmottak@nfd.dep.no	www.nfd.dep.no	912 660 680		

However, based on our reading of the proposed wording, we are concerned that the regional aid to cover *general operating costs* may be granted to transport and energy undertakings only when such undertakings are situated in areas qualifying as outermost regions.

Article 349 of the Treaty of the European Union (TFEU) provides for specific measures in the outermost regions, taking into account the special characteristics and constraints of these regions. Likewise, TFEU Article 174 recognizes that special attention and measures are required to reduce disparities between the levels of development of the various regions. The basic principles of Article 174 are similar to those of article 349. Particular attention should according to Article 174 be paid to regions suffering from severe and permanent natural or demographic handicaps *including the northernmost regions with very low population density*. In such very sparsely populated areas, with either a poor or negative population development, the challenges stem mainly from the geographical features, with large distances, difficult climate conditions and large areas with very sparse population. .

In line with the rationale above, paragraph 16 in the Regional Aid Guidelines apply the same provision for very sparsely populated areas and the outermost regions with respect to operating aid.

Furthermore, the types of aid schemes being operated in outermost regions are in their characteristics very similar to the relevant aid scheme in Norway's very sparsely populated areas. As in the outermost regions, the Norwegian scheme is designed as a tax scheme; it is general/horizontal in nature and open to all sectors eligible for aid under the EEA rules. At the offset all undertakings pay social security contributions on the gross salaries to their employees. The rates of social security contributions are regressive, depending on the severity of the regional disadvantages in the relevant area; the more severe the disadvantages are, the lower the rate. As mentioned, the reduced rates apply only in *very* sparsely populated areas and are determined, on a general basis, according to a range of parameters in the area in which the undertaking is registered/carrying out its business. The parameters are *i.a.* very low population density (less than 8 inhabitants per square kilometre), poor population development, the degree of remoteness and the development in the labour market. The aid is granted as an automatic tax relief by way of a right for the relevant undertakings to use the applicable reduced rate when calculating and declaring their social security contribution to the tax authorities. The relief applies to all types of undertakings within the very sparsely populated areas, in all sectors eligible for regional aid.

The aim of the Norwegian scheme is to stimulate employment and thus prevent depopulation, by compensating additional general operating costs resulting from the permanent handicaps in the disadvantaged areas. Facilitating a better population development 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 to economic and social development. Labour is the most influential factor on 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 regions and mentioned by the Commission in its comments, fully correspond to the problems caused by such limitations to tax schemes in very sparsely populated areas. The problems presented in the Commission's explanatory note - that it will not be feasible to separate the compensation for additional transport costs from the compensation of other additional costs when administering and applying horizontal operating aid schemes in the outermost regions -

are just as relevant in very sparsely populated areas. Thus, it is necessary to ensure a simple and efficient regional state aid system in both types of regions.

We include the relevant part of the reference below:

«The current GBER rules for regional operating aid treat differently additional transport costs and other additional costs that undertakings have due to operating in outermost regions. However, the distinction between additional transport costs and other additional costs does not correspond to the way operating aid schemes in outermost regions function. In practice, these schemes are horizontal in nature (mainly tax exemptions applied to all undertakings operating in the region in quesiton) and therefore compensate handicaps of companies in outermost regions without making a distinction between different cost elements. Moreover, the current GBER provisions for additional transport cost impose a strict reimbursement system that experience has shown to be burdensome to apply.

Therefore, a simplification of the rules is necessary. [….]
In addition, given the general and to some extent permanent character of the handicaps of outermost regions, as well as the fact that the aid schemes to address these handicaps often apply to all undertakings in the region (horizontal schemes), the exclusions of certain sectors from the provisions on operating aid do not seem justified.»

The same arguments are put forward in paragraph 10 of the preamble of the Commission's proposal for amendments.

Since the challenges in terms of regional development are basically comparable in outermost regions and very sparsely populated areas, and the administrative burdens and distortive effects of sector exclusions are identical, also very sparsely populated areas should be given the opportunity to apply general, regional horizontal operating aid schemes also to energy and transport undertakings. Comparable treatment would be within the logic of the system and would rectify a lack of consistency in the present proposal. It should also be mentioned that a removal of the mentioned sector limitations for regional operating aid schemes also in 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.

Proposal for amendments to Articles 2 and 15

We therefore suggest some amendments to the proposed wording which to a larger degree will align very sparsely populated areas with outermost regions, as concerns the possibility of including the transport and energy sectors in horizontal, regional operating aid schemes.

It is Article 13 that defines the general scope for regional aid and limits the granting of aid in specified sectors. In the proposal for an amended Article 13 (b) the Commission introduces a new rule, allowing for regional aid also in the transport and energy sectors in outermost regions and sparsely populated areas if the aid is granted through general operating aid schemes. As the Norwegian authorities understand, this represents the substantive new rule in the Commission's proposal for amendments regarding sector limitations in horizontal regional operating aid schemes

Article 15 paragraphs 2 and 3 set the further details on the types of regional operating aid schemes that could be block-exempted, in outermost regions and sparsely populated areas, respectively. The situation for the *very sparsely populated areas* (less than 8 inhabitants per

km2), seems, however, not to be specified. Since the substantial and technical challenges in the very sparsely populated areas are highly similar to the ones of the outermost regions, we find appropriate that general, horizontal operating regional aid schemes may cover transport and energy undertakings also in very sparsely populated areas.

Thus, we would ask the Commission to provide in Article 15(3) for comparable treatment of *very sparsely populated areas* and *outermost regions* as regards regional, horizontal operating aid schemes.

Technically this could be done by amending the proposed Article 15 point 3 as described below:

Article 15

1. Regional operating aid schemes in outermost regions and sparsely populated areas shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. In sparsely populated areas, the regional operating aid schemes shall compensate for the additional transport costs of goods which have been produced in areas eligible for operating aid, as well as additional transport costs if goods that are further processed in those areas, under the following conditions:

   […]

3. In outermost regions, the operating aid schemes shall compensate for the additional operating costs, incurred in outermost regions as a direct result of one or several of the permanent handicaps referred to in Article 349 of the Treaty, where the beneficiaries have their economic activity in an outermost region and subject to the following conditions:

   (a) the annual aid amount per beneficiary under all operating aid schemes does not exceed one of the following percentages:

   (i) for undertakings engaged in manufacturing activities:

   — […%] of the gross value added annually created by the beneficiary in the outermost region concerned; or

   — [… %] of the annual labour costs incurred by the beneficiary in the outermost region concerned; or

   — [… %] of the annual turnover of the beneficiary realised in the outermost region concerned.

   (ii) for undertakings engaged in other activities:

   — […%] of the gross value added annually created by the beneficiary in the outermost region concerned; or

   — […%] of the annual labour costs incurred by the beneficiary in the outermost region concerned; or

   — […%] of the annual turnover of the beneficiary realised in the outermost region concerned.

   (iii) The percentages set out in points (i) and (ii) may be increased by [… percentage points] in outermost regions that are located more than 4000 km from the capital of the Member State concerned; or

   (b) for undertakings with an annual turnover up to [EUR 300 000], as an alternative to the percentages set out in point (a), the annual aid amount per beneficiary undertaking under all operating aid schemes does not exceed [EUR 150 000].

   [(c) *The rules referred to in this paragraph shall apply also to undertakings in very sparsely populated areas. However, in such areas the annual aid amount per beneficiary under all operating aid schemes shall not exceed [20] % of the annual labour costs incurred by the beneficiary in the very sparsely*

populated area concerned.]

Introducing the supplementary concept of very sparsely populated areas to the GBER, would require a corresponding supplement in the definitions in Article 2 point (48):

1. Sparsely populated areas' means NUTS 3 regions with less than 12.5 inhabitants per km2'. [*Very sparsely populated areas means NUTS 2 regions with less than 8 inhabitants per km2 and other smaller contiguous areas adjacent to those Statistical regions.*]

Ports and airports

The Norwegian Government welcomes the Commission`s proposal to include aid for port and airport infrastructure in the scope of Regulation No 651/2014. Numerous Commission cases regarding state aid to ports indicate this need for clarification and simplification and GBER will be effective instruments in this regard.

Question regarding the proposed changes to Article 12 (2)

The Commission has proposed amendments to Article 12 in order to facilitate monitoring of fiscal aid. Regarding this, the Norwegian Government would like a clarification regarding the term "tax declarations". In Norway excise duties are based on principles of self-assessment and self-declaration, i.e. the importer/producer of the goods shall on his/her own initiative calculate and pay the tax to the tax authorities on a monthly basis. The tax authorities can in the future control whether the tax was correct or not.
Does "tax declarations" encompass all situations where fiscal aid is awarded based on a declaration by the beneficiary of the aid? Or does the wording refer to a specific document? Furthermore, should "tax declarations of the beneficiaries" be interpreted to include fiscal schemes where the aid is granted to the final beneficiary through an intermediary, whereinafter the intermediary makes the declaration to the tax authorities? For example, the electricity tax is paid by the distribution network operator, i.e. the intermediary delivers quarterly declarations to the Tax Administration. The declaration includes reduced tax on electricity delivered to the industry (the beneficiary). These declarations cumulate the awarded aid for several beneficiaries, based on the different reduced rates/exemption. Is the wording in article 12 (2) meant to encompass these types of declarations as well?
If we as in the last example, have to report on the final beneficiary when the aid is granted through an intermediary, we will have to introduce new regulations for reporting information from these beneficiaries to the tax authorities. This will increase the administrative burden substantially on the tax authorities and the companies/beneficiaries in question.

Administrative burden savings

It is not possible to estimate the reduction in administrative burden for the authorities and final beneficiaries resulting from the renewed GBER.

In the short term, the administrative burden has increased for the Ministry responsible for competition policy (the Ministry of Trade, Industries and Fisheries). The reform has made it necessary to increase the knowledge of state aid rules among all levels of government. The Ministry has trained other parts of the government as well as regional and local authorities, and other aid grantors on state aid rules and the use of GBER in order to increase the

competence and knowledge of this. The Ministry has also prioritised to strengthen the scrutiny of schemes reported under GBER. For administrations generally we expect that the reform will lead to decreased administrative burdens in the future. The Norwegian authorities is of the opinion that there is still a need for more knowledge of the GBER and encourage the Commission to organise sessions with public administrations stimulation to better knowledge of the rules.

The Ministry has encouraged the use of GBER rather than notification processes wherever possible, since this is a less cumbersome process than notification. Consequently, the GBER is widely used. However, the amount of notifications has not decreased since the introduction of the new rules. We believe that one explanation to this development is the increased awareness of state aid rules in general.

Yours sincerely,

Monica Wroldsen
Deputy Director General

Elisabeth Torkildsen
Senior Adviser

This document has been signed electronically and therefore it is not signed by hand.