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Suggested clarifications of Article 9.1 and 9.2 of GBER

In connection with proposing amendments of GBER relating to mainly an extended scope for national funds to be combined with certain Union programmes, the Commission has also proposed certain amendments of Article 9.1 and 9.2 of GBER. These amendments relate to the thresholds when individual aid awards are to be published on a state aid website.

The proposed wording of Article 9.1 may give rise to problems in the interpretation and we would thus like to suggest a minor redrafting to increase the clarity of the paragraph.

Fiscal aid given to beneficiaries active in primary agricultural production is covered by GBER while other forms of aid to such production is covered by ABER. As far as we understand the aim of the amendments to Article 9 of GBER is to align the threshold for publication of individual aid awards given to beneficiaries active in primary agricultural production under GBER to the threshold already applicable to aid given under ABER. We have no objections to this. However, a beneficiary granted aid relating to his primary agricultural production can also conduct an activity which is not related to his primary agricultural production and he may be granted aid directed towards that other kind of activity. Those two activities may be carried out in the same company, thus being regarded as the same beneficiary in state aid terms.

Let us take an example. Company A runs a dairy farm (=primary agricultural production) but also operates an industrial manufacturing of goods. Company A is granted two kinds of fiscal aid, one relating to his primary agricultural production and one to his other kind of business, each

amounting to 100 000 euro. Publication should be made of the agricultural aid on the website, as 100 000 euro is above the threshold set for such aid. However, the aid granted him in line of his industrial business, no publication should be made as the threshold for such aid, namely 500 000 euro, is not reached. That this is the intention of proposed amendment is supported by the wording of Article 9.2, where the first range 0,06-0,5 is said to apply “only for primary agricultural production”. Having the industrial aid also published for company A in the example above would make comparisons with competitors only active in industrial production difficult and would not treat the same kind of business activities equally.

In order to clarify the above interpretation, we would like to suggest the following clarification (see track changes, as well as colouring the relevant sections in yellow) of the text.

Further, we would like to mention a minor error in at least the Swedish and English language versions of Article 9.2. The first range should read 0,06-0,5 not 0,06-05.

Swedish proposals (see track changes below):

(8) in Article 9, paragraphs 1 and 2 are replaced by the following: “1. *The Member State concerned shall ensure the publication on a comprehensive State aid website, at national or regional level of:*

(a) the summary information referred to in Article 11 in the standardised format laid down in Annex II or a link providing access to it;

(b) the full text of each aid measure, as referred to in Article 11 or a link providing access to the full text;

(c) the information referred to in Annex III on each individual aid award exceeding EUR 500 000, or, for beneficiaries active in primary agricultural production, each individual aid award for such production, exceeding EUR 60 000.

As regards aid granted to European Territorial Cooperation projects referred to in Article 20, the information referred to in this paragraph shall be placed on the website of the Member State in which the Managing Authority concerned, as defined in Article 21 of Regulation (EU) No 1299/2013 of the European Parliament and of the Council, or [Article 44 of new ETC Regulation], whichever is applicable, is located. Alternatively, the participating Member States may also decide that each of them shall provide the information relating to the

aid measures within their territory on the respective websites. As regards aid granted to European Territorial Cooperation projects referred to in Article 20a the publication obligations laid down in this paragraph shall not apply.

2. For schemes in the form of tax advantages, and for schemes covered by Article 16 and 21 the conditions set out in paragraph 1(c) of this Article shall be considered fulfilled if Member States publish the required information on individual aid amounts in the following ranges (in EUR million):

0,06-0,5 (only for primary agricultural production);

0,5-1;

1-2;

2-5;

5-10;

10-30; and

30 and more.”

The amendments of Article 9 relating to the revised thresholds for agricultural aid will require some adjustments of our national regulations. According to the Commission proposal, the amending regulation will enter into force on the 20th day following that of its publication in the EUT. We would like suggest an addition, allowing Member States a somewhat longer period for complying with these new provisions in Article 9, along the lines of the following: “Member States shall comply with the provisions relating to the lower threshold for primary agricultural production laid down in Article 9 at the latest within six months after the entry into force of this Regulation.”

Please do not hesitate to get back to us if any questions should arise.

Best regards,



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Deputy Director-General

