



Local Government International Bureau (UK)

Position on European Commission's State Aids Action Plan

September 2005

- i) The Local Government International Bureau works with the Local Government Association (LGA) who represent nearly 500 local authorities in England and Wales, who in turn represent over 50 million people. LGIB works in conjunction with the LGA to support local authorities on European and international matters.
- ii) This position has been produced based on discussions and consultations with a wide range of stakeholders, including local authorities.

Summary

- We support for the broad lines of the proposed reorientation of aid away from the most distortive aids and towards Lisbon / 'horizontal' objectives, including focusing support on SMEs, R&D, innovation, environment, employment and training etc. The reorientation away from large firms towards SMEs also has some support although certain regions emphasise the continuing need for support to large companies to allow economic restructuring to continue.
- We especially welcome the recognition that small scale, locally-focused activities should be spared from the full bureaucracy of the current regime. This is especially important when support is offered to enterprises acting in the public interest.

Administrative reform

- One of the main reforms proposed in the Action Plan is the creation of a general block exemption bringing together SME, training, and employment block exemptions, along with regional aid, environmental and R&D guidelines, into a single consolidated block exemption.
- This simplification is a positive step; allowing the Commission to focus its efforts on the more distortive aids, and relieving public bodies from the need to notify several forms of aid.
- It is of course particularly important that the proposed general block exemption is sufficiently wide-ranging and flexible to allow the full range of aids which are compatible with the Treaty. New limitations should not be unwittingly introduced, through the process of consolidation. In this light, the general exemption, when drafted, should be 'proofed' against permissions previously granted.
- We see the integration of regional aid and environmental aid into a general block exemption as particularly beneficial. Regeneration, especially gap-funding for brownfield remediation, has been hampered until relatively recently by the lack of a dedicated gap-funding scheme. Other land and property schemes developed in

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the UK since 1999, and approved under the regional or environmental aid guidelines, have provided, at best, a piecemeal solution to land and property regeneration within the UK. The proposed general block exemption would appear to provide a far more satisfactory EU-wide solution offering legal certainty; going much of the way towards achieving the 'single EU regeneration framework' concept which has been explored over the past couple of years.

- In this light, should the integration of regional and environmental aid into the general block exemption not ultimately prove feasible, we would still find a separate block exemption for regional aid particularly helpful.
- We would also highlight that land developed by the private sector should be treated on equal terms with land developed by the public sector (provided that the minimum amount of gap-funding is paid to the developer). This focus on equality of treatment between the public and private sector should provide the necessary incentives to ensure that the private sector is not penalised for developing the more costly brownfield sites over greenfield sites.

De minimis aid / Significant Impact Tests

- We welcome proposals to increase the de minimis threshold, but question if an increase to €150,000 (over three years) constitutes a sufficiently significant change. It maybe that a threshold of €200,000 or €300,000 would be more appropriate, given the pressing need to streamline and the acknowledgement that the Commission must focus its limited resources on the largest and most distortive aids.
- Raising the de minimis threshold appears even more important in the absence of a significant impact test such as LET or LASA which both appear to have been abandoned due to legal difficulties. Local authorities were strongly supportive of such tests and we still feel there is merit in pursuing a LASA type instrument in the various frameworks and guidelines where at all feasible.

Regional Aid

- We note an increasing awareness amongst local authorities that the regional state aids regime post 2006 is as important, if not more important, to regional development than the structural funds / cohesion regime. Many local authorities are therefore working on regional aid issues closely and with a keen interest.
- We note that the draft regional aid guidelines offer the UK considerably greater population coverage than was previously envisaged due to the inclusion of the 50% population 'safety net' mechanism. 87.3(a) starting status for statistical effect regions and far greater flexibility to determine 87.3(c) areas are other key features of the proposals which we particularly welcome.
- In the light of reduced assisted area coverage in the UK post 2006, we would emphasise however the need for aid and aid schemes delivered under the various horizontal guidelines to be well promoted at the local and regional level. The future state aids regime should be seen by local authorities in the context of a move towards competitiveness objectives rather than a straightforward loss of abilities to support large companies.
- We welcome the Commission's commitment (section 6 of draft RAG) to allow new forms of enterprise aid to start-ups in assisted areas, along the lines of the UK's recently approved Enterprise Capital Fund, or the SFI programme. Lack of finance for SMEs is a well-established barrier to regional competitiveness and the Commission's more open approach in this area should help future schemes of this type to be approved across the EU.

- As regards the focus of regional aid policy overall, we question whether there is any merit in allowing, exceptionally, regional aid to be granted to firms in instances where only one EU region (non-assisted) is a potential candidate globally for the location of a large firm. At present the guidelines appear to be very inward looking, rather than recognising that the EU operates in a global context, competing as an investment location with the US, Australia, China and the Pacific rim countries etc. The ability to award such an aid, whilst not as critical to the location decision as the availability of skills etc, may prove particularly helpful in certain instances to attract leading-edge or highly innovative large businesses to the EU; boosting competitiveness. Under the proposed guidelines, if these companies short-list one EU region which is not assisted, such businesses will likely be 'lost' to regions in non-EU countries offering significant financial support.
- Irrespective of such a proposal, the State Aids Action Plan and draft regional aid guidelines should be more outward looking and do more to recognise the global context within which all EU state aid regimes operate.
- The full LGIB/LGA position on the revision of the regional aid guidelines is available separately.

Aid for public service operators (SGIs)

- We recognise that over the past decade ECJ rulings have increasingly classified public services as 'economic', and therefore subject to EU competition rules under the Treaty. Broadly speaking, health and social services in particular have been judged to be 'economic' in nature and only education (along with civil defence etc) remain as 'non-economic' services, and therefore exempt from EU competition rules. Such a distinction has meant that relatively small amounts of compensation awarded to public services operators have needed to be notified to the Commission.
- We therefore warmly welcome the recently adopted package of documents relating to compensation to SGEIs. These new instruments should provide greater legal certainty to local authorities and remove the burden of notification in cases of smaller awards. It is particularly helpful that the ceilings have been doubled from those originally envisaged to 30€ of aid and 100€ turnover respectively.
- However, several problems remain for local authorities in relation to the interpretation of the four Altmark criteria, and we would still encourage the Commission to provide further guidance on this subject.
- More fundamentally, there is clearly still a need for a new approach to define and protect public services from the full weight of competition law and to allow greater public intervention in cases of market failure. Such an approach would be best coordinated at the EU level but would respect subsidiarity and member states' choices as to whether to privatise public services or not. In this light, we would welcome some additional proposals from the Commission as to what an EU Framework for SGIs might contain, but would reserve judgement on the desirability of such a framework until more details were forthcoming (the concern being that the framework would in fact offer no improvement over the ECJ judgements and classify nearly all public services as economic).
- Although a comment not directly related to state aids, we also support an approach to remove publicly-funded health services from the scope of the EU Services Directive. Whilst we support greater competition amongst public service providers, the Commission's Services Directive appears poorly drafted with too many inconsistencies regarding the treatment of SGEIs. As suggested previously,

an EU framework approach dedicated to SGIs might be preferable, depending on detail, rather than piggy-backing essential public services into the scope of a directive primarily concerned with commercial services.

- Our full position on state aids to SGEIs can be found here: http://www.lgib.co.uk/media/LGIB_response_SGEI.pdf
- Our full position on the draft Services Directive can be found here: http://www.lgib.gov.uk/media/Services_Directive_response.pdf
- Our full position on Public Private Partnerships and EU procurement rules can be found here: http://www.lgib.gov.uk/media/LGIBresponse_PPPs_July04.pdf

Aid for R&D and Innovation

- We particularly support aid to business incubation facilities and innovation centres. Such aid helps to boost the competitiveness of local economies while having a near-negligible effect on EU competition. A more flexible approach to university activities, including spin-out companies, is also pressing.
- We welcome the increased focus on innovation, but we recognise that it may prove difficult to define innovation *per se*. Whilst we are keen that innovation should be promoted through the state aids regime, it may sit better as a topic embedded in the other frameworks / block exemptions, rather than existing separately (also bearing in mind the need to streamline and reduce separate mechanisms as much as possible).
- Either way, we emphasise the need to involve all partners in the design and delivery of innovation schemes, particularly acknowledging the role that local authorities can play in facilitating links and networking between universities, industry, communities and other partners within the regions.

Aid for Business Infrastructure

- Finally, we recognise that broadband infrastructures are critical for business development and that they should be treated in a manner consistent with other critical infrastructures, such as roads and energy, and not subject to delays in approval, or unnecessarily rigid rules.

Conclusion

- These are our initial thoughts and reactions to some of the issues raised in the state aids action plan and other documents. As an organisation we continue to work with and consult with a wide range of partners both within the UK and across the EU.
- We will continue our work through the Committee of the Regions and the European Parliament amongst others and look forward to an ongoing dialogue with the Commission, on these important topics.

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