

ROMANIAN COMPETITION COUNCIL'S POSITION ON THE EUROPEAN COMMISSION CONSULTATION DOCUMENT ON STATE AID FOR INNOVATION

Preserving competition is the main way to foster innovation, because on a functional market the undertakings have to invest in innovation in order to obtain competition advantages and achieve a higher level of profit.

The 2007-2013 Scientific Research, Technological Development and Innovation Strategy, proposed by the Ministry of Education and Research, stipulates among Romania's objectives in this field, by 2013, the following:

- Technologically innovative undertakings: over 50% of the total number of active undertakings;
- Undertakings with own research capacity (specialized personnel and laboratories): over 30% of the total number of active undertakings;
- The level of the research-development costs for the undertakings: over 60% of the total research-development costs.

Fulfilling the objectives included in the 2007-2013 Scientific Research, Technological Development and Innovation Strategy, proposed by the Ministry of Education and Research, is conditioned upon the adoption of concerted policies, the one on State aid being of outermost importance.

The Romanian Competition Council has issued 4 decisions in the field of research-development and innovation, as follows:

- Decision no.419/2003 on the "Core research-development programs of the Ministry of Education, Research and Youth";
- Decision no.420/2003 on the authorisation of the State aid scheme within the National Plan for Research-Development and Innovation;
- Decision no.429/2003 on the authorisation of the State aid scheme within the Program "Development of Innovation and Technologic Transfer Infrastructure";
- Decision no. 430/2003 on the authorisation of State aid scheme within the Program of Grants for Scientific Research.

The EC consultation document on State aid for innovation was analyzed by the Competition Council. In the process of drafting the answers, the opinion of the National Authority for Scientific Research was also taken into consideration.

We hereby submit the answers to the questions enclosed in this document:

1. Do you think that it is appropriate not to create a separate Framework for innovation and that the new possibilities for State aid target selected innovation-related activities?

We consider as less important the fact that the new rules on State aid for innovation form a distinct framework or are introduced in the existing regulations. The wording in the Treaty, as well as the prerogatives to which the Commission is empowered allow the adoption of either one of the two above-mentioned solutions. Irrespective of their form, these new rules should consistently tackle the elements causing a low level of innovation at European level, compared to its international competitors.

Still, considering that innovation does not represent a *de facto* purpose and that it is strictly related to the research-development activity, the risk capital, environmental protection, we consider that the modification of the regulations in these fields is an appropriate solution. Also, this solution would be in line with the Commission's goal of simplifying the legislative framework, as proposed in the State aid Action Plan.

2. Do you think that the problems presented in Annex and the market failures identified by the Commission as hampering the innovation process are accurate? If so, why? If not, why not?

In our opinion, the causes identified by the Commission as impeding innovation are correct, being identified in Romania as well.

Still, it is evident that these are not the only ones. The 2007-2013 Scientific Research, Technological Development and Innovation Strategy, proposed by the Ministry of Education and Research on November 11, 2004, stipulates that among the main problems confronting this field are the following:

- Infrastructure and technological transfer services that are insufficiently developed and have a low viability;
- Obsolete research-development infrastructure;
- Reduced number of specialized personnel with an increasing age average.

Moreover, the Commission Staff Working Document: Women and Science: Excellence and Innovation – Gender Equality in Science (Brussels, 11.03.2005) stipulates that the current European approach with regard to family and career does not sustain in a sufficient manner women' involvement in scientific research, which impedes the European objective of raising researchers' number in view of building a dynamic knowledge-based economy.

But the solution to the complex problems affecting innovation does not sum up to the adoption of regulations on State aid. The further adoption of other policies shall provide that. These policies shall certainly relate to State aid policy, according to the Framework Program on innovation and competitiveness.

3. The measures described in this Communication provide ex-ante criteria on the basis of which State aid for innovation would be approved. Do you think that such an approach is adequate?

We consider that the adoption of ex-ante criteria for granting State aid for innovation is appropriate. This way the predictability, flexibility and transparency necessary for the adaptation of the legal framework on granting State aid are ensured. This also creates incentives for attaining the envisaged purpose, namely the promotion of innovation as a priority objective in view of transforming the European economy in the most competitive and dynamic economy based on knowledge.

4. Stakeholders are invited to provide empirical evidence about the appropriateness of authorising State aid to large companies, in particular in connection with the objective of developing clusters around poles of excellence in the EU. Do you think that the Commission should develop ex-ante rules allowing State aid for Innovation to the benefit of large companies, or that such type of aid should always be subject to a case-by-case stricter analysis on the basis of a notification to the Commission? As far as support to innovation (or other State aid) is concerned, would it be appropriate to distinguish between different categories of large companies? If so, on the basis of which criteria? And for which purpose?

We consider that State aid granted to large undertakings should be subject to a stricter analysis, on a case by case basis, following the submission of an ex-ante notification to the Commission. Thus, the risk of granting distorting State aid in favour of large undertakings would be eliminated. The large companies have financial resources that could be allotted to innovation, considering that innovation raises firms' competitiveness. A large firm which does not continuously pursue investments in research and innovation is not able to face the international competition pressures.

Large undertakings can overcome market failures that occur as obstacles against innovation by other means than distorting State aid. This means may consist in:

- Raising the speed of the information flow;
- Eliminating the administrative and legal barriers;
- Promoting the culture of innovation and a pro-innovative approach among youngsters.

We also consider that a distinction should be made between different types of large undertakings, focusing on those with high technological development potential (undertakings that might gather research clusters).

Moreover, an efficient handling of the State aid, including the innovation aids, supposes their orientation mainly towards SMEs. SMEs are the most important economic driving force at European level, as well as at national level, as main employment opportunities providers.

5. Stakeholders are invited to provide empirical evidence about the appropriateness of authorising State aid to non-technological innovation, notably in services sectors.

Currently it is difficult to find a generally applicable definition for innovation. Therefore, it is not possible to create a unitary ex-ante regulation, allowing the granting of other types

of State aid for innovation than the technological ones. The lack of general criteria governing innovation generates the risk of competition distortion.

Innovation must also be sustained in the non-technological fields, by means of encouraging specialised training, information dissemination and coordination of innovative projects.

6. Should the rules on State aid for innovation include regional bonuses for cohesion purposes? Should they differ according to the geographical situation of the region, irrespective of cohesion issues?

Rule applicable to State aid for innovation must allow the granting of certain regional bonuses, because this would allow a common approach of the State aid and regional cohesion policies.

The need for increasing the competitiveness has to be related to the regional development objectives, having as purpose the enhancing of the social cohesion.

7. Are some types of aid more suited to specific situations and specific innovation activities (ex: tax rebates, secured loans, repayable advances)?

The means of granting State aid have to be adapted to the specific character of the innovation activity, with a view to obtain the best results on a case by case basis.

8. Do you agree with the proposed criteria to define innovative start-ups, with the approach of not defining eligible costs, with the amounts of aid and cumulation rules? Do you think that different eligibility criteria should be established for high-tech sectors like biotech and pharmaceuticals which have long time-to-market and product development cycles?

We consider that the above-mentioned criteria respond to the necessity of sustaining innovation, being therefore normal to grant aid to new innovative undertakings because the innovative projects require a longer preparation, as well as financial support.

9. Beyond the proposed rules, empirical arguments are welcomed that demonstrate the need for State aid: i) for start-ups independently of the innovativeness criterion, and ii) for innovative SMEs established for more than [5 years].

We consider that currently, granting State aids to new undertakings on the basis of ex-ante regulations, regardless of their innovative character, as well as to SMEs older than five years could have distorting effects on competition. Although the innovative potential of the SMEs and that of new undertakings is clear, this cannot be considered sufficient by the authorities so as to decide the granting of support measures. Competition could be the most efficient instrument used to promote innovation in this field.

10. Do you think that other types of State aid apart from those currently granted in respect of risk capital are required in order to help European SMEs grow beyond the start-up phase? If so, which ones?

We consider that current rules in the field of risk capital have to become more flexible, in order to solve innovation related problems. Innovation is a highly risky activity, which normally hardly attracts traditional forms of capital subscription. Thus, public finances have to support innovative actions in a higher degree than the one allowed by the current ceiling, especially those involving high technology and risks concerning the launch of innovative products.

Innovative SMEs have to be encouraged at the beginning of their activity, because their own financing capacity is limited when compared to the research investments requirements and the access to credits is limited by the risk afferent to research. Since the market failures prevent them from finding appropriate financing solutions for the beginning stage of their development, State aid can be welcomed, as long as it is limited in time and to minimum necessary.

11. Do you think that these provisions would produce the expected effects in terms of encouraging SMEs to launch innovative products in the market? If not, what changes should be made to these rules?

Supporting different activities than the ones currently considered when granting research-development State aid, especially activities as optimizing the manufacturing process and the training in the field of marketing or management is opportune to the encouragement of SMEs, which find it difficult to gain finances for covering the afferent costs.

In Romania, the 2004-2008 Government Strategy on SMEs establishes as actions, within the support measure for innovation, the access of SMEs to new technologies by:

- Intensifying the cooperation between universities, research institutes and productive SMEs;
- Facilitating the transfer and dissemination towards the SMEs of the research results obtained within the research-development programs;
- Stimulating innovation and technological transfer infrastructure;
- Creating incentives for the implementation of inventions;
- Exploiting the own creative capital;
- Counselling for the protection of industrial property rights.

12. Is there evidence that these provisions should be extended to large companies? Do you think that notification should be required for measures granting substantial amounts of aid to individual firms or individual sectors? If yes, above what amount? What empirical evidence should then be requested by the Commission?

No, because the rules applicable to State aid for innovation have to be elaborated based on the effects on competition. While concerning the State aid granted to SMEs a more flexible approach, which does not require notification, is preferred, concerning large undertakings or the allocation of large sums of aid, a thorough assessment by the Commission is required. Only this kind of assessment would allow the granting of non-distorting State aid, so that the measure does not become contrary to the common objective. The notification requirement does not mean that large undertakings shall not benefit from State aid for innovation, but the decision in these situations shall be taken on a case by case basis.

13. How would you regard specific support for innovation intermediaries which merge or develop a joint venture to reach critical mass in a technological field of specialisation? Should investment aid be permitted in this context? If so, on what conditions? What other measures could be envisaged?

In case the activities undertaken by intermediaries are not market-oriented and do not create a selective advantage to certain undertakings, the support is welcomed.

Direct support to intermediaries must not be accepted because:

- Direct support threatens to distort competition;
- Intermediaries indirectly benefit from the support granted to customers they serve.

14. Is there evidence that the recruitment by SMEs of other types of highly skilled personnel should be also aided?

SMEs could also benefit from support measures for the recruitment of highly qualified personnel in the field of marketing, management, protection of industrial property rights. This recruitment process is subject to the fact that this new type of personnel does not replace own employees, because the launching on the market of innovative products does not imply only the contribution of researchers and engineers.

15. Should the Commission adopt specific rules for cases where a researcher chooses not to return to his/her home university or where the university no longer intends to hire him/her back?

The mobility of qualified personnel – researchers and academic personnel – represents the premises for the establishment of a European innovation area. This brings benefits to the economic development, as well as to the social and cultural field.

Romanian National Authority for Scientific Research considers that no special rules should be adopted concerning the transfer of personnel by undertakings and the existing rules on researchers' mobility should be applied.

16. What definition of cluster/clustering activities should be followed and what criteria should be used to distinguish clusters from the broader category of innovation intermediaries?

According to the Romanian National Authority for Scientific Research, the cluster represents a group of innovative undertakings, universities and research institutes, operating in a certain economic field and region, which interact in order to create incentives for innovative actions.

Universities or research centres which form part of clusters have to fulfil unitary quality criteria.

17. Do you think that State aid should be allowed to promote European centres of excellence? If so, what type of State aid, for what reasons, and subject to what conditions? What other, possibly better, measures could be envisaged?

Yes, State aid for promoting European centres of excellence should be authorised. A coherent balance needs to be reached so to adopt flexible rules, allowing incentive effects and not having distorting consequences on competition.

We consider that State aid for promoting European centres of excellence has to be allowed, subject to the definition of objectives that are clear, common and of general concern to all EU Member States, by means of concentrating available human and financial resources for attaining them.

18. Are additional criteria needed to avoid State aid being fragmented and to encourage the concentration of resources in a limited number of poles of excellence?

In order to encourage resources to focus in a limited number of poles of excellence, one has to be developed, both at national and European level, mutually accepted quality criteria, as well as methodologies meant to ensure a proper quality. This way, the innovation, economic and social development potential in a knowledge- based society may be encouraged.

19. What are your views more generally about the need for additional provisions for infrastructure that supports innovation (e.g. in the field of energy, transport etc.)?

Yes, additional provisions regarding infrastructure that supports innovation are necessary, to guarantee the non-discriminatory access, as well as technological neutrality.

The Romanian National Authority for Scientific Research considers that modern communication requirements, opened to all stakeholders, involve investments for the implementation of high speed and broad band communication, allowing optimal use of the calculation resources. The reduction of oil resources implies the necessity to raise

investments in the field of renewable energy, with immediate effects on innovation in the field of bio-technologies and high technologies.

20. Do you think that large firms should be entitled to State aid, e.g. to establish research facilities in a European pole of excellence? Should the Commission try and develop specific criteria to control such State aid? What type of economic evidence should be requested to analyse the necessity of such State aid?

According to the Romanian National Authority for Scientific Research, large companies that participate at the creation of European poles of excellence as stipulated in the 7th Framework Program makes them eligible to receive State aid.

Regarding the necessity to establish certain specific control criteria for the above-mentioned State aid, as well as the economic evidences required for the assessment of such measures, we consider that the institution that could provide the best approach on this issue is the European Commission, on the basis of its expertise in this field.