The Commission communication on state aid for innovation contains a number of general statements and points of view that could be distortive of competition if invoked as they are presented. In the communication a number of specific questions are asked.

General comments

The communication does not convincingly argue for the possibility of identifying "innovation-related activities, that clearly address the market failures that are hampering innovation" nor does it argue well for the statement that in the cases described "the benefits of State aid are likely to out weigh any possible harm to competition".

The State Aid Action Plan and the general considerations on innovation assume that state aid is appropriate to counter "market failure". This concept is, however, not so well defined that all member states will necessarily agree on whether a "market failure" exists and the use of the concept does not necessarily ensure that measures targeted at market failure do not distort competition within the EU. Even though a measure may address a set of circumstances identified as a "market failure", it will not necessarily have effect only against them, and if other member states do not react to the "market failure" in exactly the same manner, distortion is very likely.

The balance between benefits and harm to competition is generally in the document considered to be a question of the size of the enterprise. Generally the Commission seems to be of the opinion that aid to SME does not distort competition between member states. This may be statistically true, but in the maritime field at least many SME are competing globally and can therefore easily be influenced by state aid to competitors in other countries, including other member states.

There is generally a great risk associated with any state aid that is not specifically controlled by the Commission. Even if ex-ante criteria are established it is not reasonable to assume that no member state will ever infringe them either voluntarily or involuntarily. Therefor any limitation in Commission control should be avoided. If necessary spot-checks could replace systematic control.

Specific remarks

The principles that funding should not attempt to ‘pick winners’ must logically exclude most forms of state aid that is specific to sectors or distributed under non-objective criteria. This includes aid to sectors defined by criteria such as long-time-to market. The belief that certain sectors, such as biotech, are high-tech (which implies that all sector not so identified are not high-tech) is fallacious. Low-tech objects may be produced by high-tech means and vice versa. Biotech and nanotechnology need not be new or high-tech (e.g. beer brewing may be low tech, nanotech and biotech).

The requirement of an incentive effect is marred by the fact that there is no indication of how it is to be demonstrated how the recipient or another company would have acted in the absence of the support.

A separate framework for innovation already exists at least for the shipbuilding sector. Boundaries between industrial sectors will always be to a certain degree arbitrary and artificial. A supported innovative production method for one sector may well be usable in another. Thus a competitive distortion between producers could arise from the fact that one such manufacturer is active in both sectors. With that in mind it would seem desirable either to have a separate framework for innovation covering all sectors, or to incorporate all rules on innovation into the horizontal rules on state aid.

The problems identified in the communication may affect innovation, but they are not accurately enough defined to permit member states to resolve them by uncontrolled state aid. Some may apparently be resolved by harmonizing member states rules, which would be preferable to subsidies.

Subsidizing start-up and growth would have to avoid distortion towards companies already existing and/or already grown.

Yours Sincerely

Michael Prehn

Danish Maritime
128 St. Kongensgade
DK-1264 Copenhagen
Denmark