EAPB Position on the "State Aid Action Plan. Less and Better Targeted State Aid: a Roadmap for State Aid Reform 2005-2009"

1. Key political orientation

The European Association of Public Banks - EAPB would like to thank the Commission for the opportunity to contribute their views on the "State Aid Action Plan. Less and Better Targeted State Aid: a Roadmap for State Aid Reform 2005-2009". The EAPB represents the interests of 20 public banks, funding agencies and associations of public banks throughout Europe, which together represent some 100 public financial institutions with a combined balance sheet total of EUR 3,000 billion and over 170,000 employees, i.e. representing a European market share of approximately 15%. Public development banks have a special interest in the European State aid policy, as they manage the greater part of business support measures in the Member States.

The European public banks support the European Commission's ambition to effect a comprehensive reform of the existing State aid rules. The multitude of diverse legal texts has created great complexity and led to legal uncertainty. In the day-to-day work, it has become more and more difficult to apply these rules and to understand their content, and the systematic framework, be it in relation to the EU rules or in relation to national rules. We therefore warmly welcome the Commission's intention to create more legal certainty. The more so against the background of the fact that sufficient flexibility and coherence is a necessary precondition for efficient business support and for achieving the objectives which last but not least serve the Community interest, as the Commission states in its Action Plan.

We also are very much in favour of any effort to reduce red tape. Obviously, the clearer and more transparent the rules for State aid control are, the higher their legitimacy and acceptance. However, an unbureaucratic approach tends to be at odds with well-meant targetedness of legal provisions. Yet, it must be stated that the advantages of transparency and legal certainty of an unbureaucratic approach by far outweigh eventual and exceptional windfall gains. In our view, there is no alternative to this approach, if the rules for State aid control are to maintain their workableness.

We welcome the Commission's intention to closely involve market participants in the drawing up of future proposals. This also will lead to more transparency and help to integrate the experience of those who work with the rules every day. In this context, we also welcome the strengthened economic approach that the Commission intends to take, if this is understood as taking the concerns of the concerned economic parties into account to a

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greater degree. These general aims of the action plan should be mirrored by each individual rule. The reform of the State aid provisions should, moreover, not lead to more rigorousness.

2. Individual aspects

As regards R&D and innovation, we support an inclusion of innovation aspects into the R&D framework, as we generally are in favour of the greatest possible consistency of texts. We would, however, like to point out that innovation cannot be understood in technological or scientific terms only, but should be seen from a broader angle. We believe that this approach is taken in the Action Plan as well and would like to invite the Commission to proceed in this direction. In terms of practicability and transparency, we welcome the intention to exempt certain measures in favour of R&D and innovation from the obligation to notify them to the Commission.

The EAPB agrees with the European Commission that the provision of risk capital plays a key role for entrepreneurship in Europe. Therefore we appreciate the idea to increase the flexibility of the rules and the thresholds for aid. However, we would like to draw the Commission’s attention to the fact that the difficulty in accessing risk capital is a problem for SMEs in all phases of their life-cycle and does not only apply to start-ups and young enterprises. The reviewed Communication on risk capital should take account of this fact.

We warmly welcome the idea to create a general block exemption for SMEs and the intention to extend its scope to further fields such as regional aid and rescue aid for SMEs. Apart from consolidation, simplification is another important aspect in this context, as rightly stated in the Action Plan. Clarity, unambiguousness and practicability should be key criteria for its design. Otherwise, a general block exemption would not serve its aim of reducing bureaucracy, but rather increase it. The general block exemption should, however, neither result in more rigidity of rules nor should it narrow down the existing range of business support facilities. Finally, the possibility to notify should continue to exist alongside the exemption.

An increase of the amounts of aid exempted by the block exemption and of the de minimis threshold is a valuable and necessary step in reflecting the economic evolution.

As regards Public Private Partnerships (PPP), they are increasingly recognized as an appropriate means to foster transport, energy and information and communication technology infrastructures by the Commission. In the framework of the Cohesion Policy, for example, PPP are considered as being a possible “appropriate method of financing investment”, as stated in the Community Strategic Guidelines for 2007-2013.

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State aid rules for PPP, if they are considered as necessary at all, should not be too rigid, as this would be an obstacle for a support of PPP through structural funds means and would risk jeopardising the establishment of PPP as such. They would impede the desired transfer of public tasks to private parties and into the market-economy. The realisation of urgently necessary projects could be prevented. We would instead like to suggest that projects that have undergone a public tender should not be considered as relevant for State aid rules. Furthermore, we would like to encourage an intensive dialogue between DG Competition and DG Regio to coordinate their activities in this field.

We agree with the Commission that the long time frame for the treatment of cases is a considerable shortcoming in the practices and procedures of state aid policy. Experience has shown that it is very difficult to communicate the reasons for the delays to investors, who often react with a lack of understanding. It should in general be possible to conclude the notification process within three to six months. However, reducing the time frames must not be unidirectional and be effected at the expenses of the Member States only. A review of the Commission's internal procedures certainly is a necessary element of a procedural reform.

In this context, we would welcome a public consultation on the steps to take towards procedural reforms. "Best practice guidelines" must however not become the standard against which the practices in each Member State, let alone each State aid case is measured. The situation in the Member States is too divergent to allow for a simple transfer of experience from one Member State into the system of another Member State. Furthermore, it would be very helpful to define the term "complete notification" more clearly.

When it comes to the establishment of independent monitoring authorities, we wonder whether the establishment of additional levels of control would be an appropriate and feasible way to reduce red tape.

Independently from the steps to be taken in the Action Plan's attempt to reform the European State aid policy, coherence and transparency should be valid objectives for any proposal in this field in the future. Any need for consolidation should be avoided as far as it is possible in advance. In our opinion, an intensive cooperation with the Directorates General involved in State aid policy could contribute to achieving this goal.

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