

European Commission
DG Competition

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Danish response to the public consultation on the Notice on the recovery of unlawful and incompatible State aid

The Danish Government appreciates the opportunity to comment on the Commissions' draft revised notice on recovery of unlawful and incompatible State aid.

In general, we appreciate that the Commission in the new draft further explains the rules and procedures governing the recovery of State aid in situations where the Commission has issued a recovery decision. We find it important that the Commission provides transparency on how it intends to cooperate with Member States to ensure compliance with their obligations under Union law to recover unlawful and incompatible state aid.

We note that the draft provides for clarification on the Commission's practice to accept retrospective application of the *de minimis* rule in situations where all conditions in the *de minimis* regulation is fulfilled.

As for the time limits to execute a recover decision; the Commission will according to the draft notice maintain two deadlines in recovery decisions. A first deadline for the Member States to provide the Commission with information on the planned measures to recover the aid and a second deadline for the Member state to fulfil the recovery obligation. We find that it would be appropriate to include approximate time limits in the notice in order to ensure legal certainty, equal treatment and transparency of the recovery process.

As from 11 October 2018 the Commission has been publishing on a website the provisional and final result of recovery decisions including the identity of the beneficiaries, the aid amount repaid and the recovery interest repaid. We find it appropriate that the draft recovery notice address this practice and explains the background for the increased transparency in respect to the execution of recovery decisions.

**MINISTRY OF INDUSTRY,
BUSINESS AND FINANCIAL
AFFAIRS**

Slotsholmsgade 10-12
1216 Copenhagen K
Denmark

Tlf. +45 33 92 33 50
Fax. +45 33 12 37 78
CVR-nr. 10092485
EAN nr. 5798000026001