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EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

COMMUNICATION FROM THE COMMISSION

Guidelines on regional state aid for 2014 - 2020

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1. PROBLEM DEFINITION

1.1. Policy context

Regional state aid aims at promoting the development of disadvantaged regions in Europe by supporting private productive investment or, in limited cases, by providing operating aid.

The regional aid guidelines (RAG) set the rules under which Member States (MS) can grant state aid to support regional economic development. They also include regional aid maps that define in which areas companies can receive regional state aid and at what intensity.

The regional aid rules (RAG, In-depth assessment communication of regional aid, General Block Exemption Regulation) expire at the end of 2013. The Commission has therefore undertaken to revise them.

The revision of the regional aid rules must consider the following major developments:

- the apparent overall reduction in regional disparities in the EU over the period 2007-2013¹ and the differentiated effects of the economic crisis at regional level;
- the increased use by MS of the block exemption regulations for granting regional aid (therefore avoiding the need for prior notification to the Commission), and the launch of the State Aid Modernisation (SAM) plan², which aims to simplify and rationalise state aid rules and to concentrate state aid enforcement on the most distortive aid;
- the need to ensure coherence with the reform of EU Cohesion policy for the period 2014-2020 and to take account of other EU policies within the Europe 2020 Strategy.

1.2. General policy problems

The policy goal of regional state aid control is to ensure that aid leads to positive results in terms of increased economic activity in the assisted areas³ and that these positive effects outweigh any potential negative effects in terms of restrictions to trade and competition within the internal market. The revision of the RAG therefore aims to address two main issues:

- (1) *The effectiveness of regional state aid as a policy tool for supporting regional economic development:* In the absence of aid, certain firms would anyway decide to invest in the assisted areas. Adequate control of the incentive effect is thus essential to ensure regional aid serves to leverage additional private investment in the assisted areas. Ineffective verification of the incentive effect causes a significant risk of deadweight which could distort competition and weakens the value-added of regional aid as an economic development tool.
- (2) *The efficiency of regional state aid rules in ensuring the control of competition effects by the Commission and MS:* MS implement regional aid rules in different ways, which could threaten the integrity of the internal market (with regions seeking to ‘outbid’ each other through aid). The Commission’s control of the negative effects

¹ Measured at NUTS 2 level by the narrowing dispersion of regional GDP per capita compared with the EU-27 average.

² Commission Communication, EU State Aid Modernisation (SAM), 8.5.2012, COM(2012) 209 final.

³ i.e. areas designated as eligible for regional aid on the basis of Article 107(3)(a) or (c) of the TFEU (‘“a” areas’ and ‘“c” areas’).

of regional aid currently does not target situations where restrictions to competition are more likely to occur, which causes imbalances and inefficiencies in the management of state aid policies by MS and the Commission.

Additional, secondary, policy problems are linked to the consistency between regional state aid control and other areas of EU policy and the need to simplify rules and processes and reduce administrative formalities.

1.3. Problems linked to the design and application of the RAG

- *Proportion of assisted areas in the EU:* At what level to set the overall population coverage of assisted areas? Does the reduction in regional disparities justify decreasing the overall coverage or should the current coverage be maintained given the economic downturn? Should an overall review of the maps be foreseen once the full extent of the crisis at regional level is known?
- *Regions most in need at EU level and national level:* What balance to strike between designating assisted areas from an EU perspective (disparities between MS) and leaving this choice to MS, based on national policy orientations (disparities within MS)? How much flexibility to give MS to designate assisted areas? Should the Commission predefine more regions (e.g. transition regions, border regions, islands, mountain areas, etc.)?
- *Differentiation of aid intensities between categories of assisted areas⁴:* Should the existing aid intensity ceilings be maintained, increased, or reduced? What levels of aid provide appropriate incentives for firms to invest in assisted areas, while minimising adverse effects on competition (windfall effects, displacement of investment) and on a public finances (deadweight effect)?
- *Sectoral scope of the RAG:* Should regional aid remain prohibited in the steel, synthetic fibres and coal sectors? How to assess regional aid in the shipbuilding sector, and should all such aid be notified?
- *Differentiation of rules between SMEs and large enterprises (LEs):* How to ensure investment aid causes companies, in particular LEs, to carry out investments that would otherwise not have taken place in the assisted areas? Should aid to investments by LEs be prohibited in ‘c’ areas (as the positive effects of the aid are less likely to outweigh the negative effects than in ‘a’ areas), or should there be stricter conditions for certain types of investments?
- *Forum shopping:* Should there be rules to limit the overlap between the RAG and other state aid guidelines, by imposing in the RAG equivalent conditions as in the other applicable guidelines, in particular to avoid any competition concerns? For regulated markets like the energy sector, should state aid be allowed under the RAG or only under sector-specific rules?
- *Notification thresholds and transparency:* Should the notification trigger of individual aid be modified to avoid measures posing low threats to competition having to be notified while other potentially distortive measures are not? How to capture the cumulative distortive effects of aid under large schemes? How to address

⁴ Currently, the aid intensity ceilings (excluding any bonuses, e.g. for SMEs) vary from 10 % to 50 %, depending on the level of development of the assisted areas.

regional aid that causes relocation? Should the requirement for MS to publish the details of aid granted (transparency regime) apply to all aid, regardless of the aid amount?

- *Rules for assessing the compatibility of notified regional aid measures:* How to ensure the aid contributes to a common objective (i.e. cohesion objective) and is appropriate for achieving this common objective? How to ensure the aid changes the behaviour of the beneficiary (i.e. without the aid, the investment would not have taken place or would have taken place in a different location) and is limited to the minimum necessary to prompt this change in behaviour? How to better address the potentially higher distortive effects of notified aid and to ensure the aid avoids undue negative effects on competition?

2. ANALYSIS OF SUBSIDIARITY

State aid control is an exclusive competence of the Commission. The Commission must assess the compatibility with the internal market of state aid granted by MS to promote regional development either directly on the basis of Article 107(3)(a) or (c) of the TFEU or on the basis of guidelines in which the Commission lays down the procedural and substantive rules it will apply when analysing the effects of regional state aid measures.

3. OBJECTIVES

The RAG balances two general objectives:

- the ‘cohesion objective’: to ensure that aid granted to further the economic development of certain areas does not create distortions of trade and competition that would be contrary to the common interest,
- the ‘competition objective’: providing a framework for the Commission to assess the compatibility of notified aid measures in a manner which is commensurate to their potential effects on the internal market.

This dual general objective can be further detailed into the following specific objectives:

(1) Efficiency and effectiveness:

- to focus regional aid on the most disadvantaged regions but allow MS to pursue national regional policies;
- to ensure regional aid targets the sectors and companies that need it;
- to keep aid levels to the minimum needed to trigger the expected regional development benefits;
- to focus Commission scrutiny on aid measures most likely to distort trade and competition;
- to enhance the methods for assessing the positive and negative effects of aid (common principles, economic analysis).

(2) Administrative simplification:

- to minimise administrative burdens on companies and national administrations.
- to simplify and rationalise the transparency and reporting requirements for MS;

(3) Consistency:

- to implement the goals and principles of the SAM initiative;
- to contribute towards the objectives of EU Cohesion policy and avoid unnecessary restrictions to the implementation of EU funds;
- to ensure consistency with other EU policies under the Europe 2020 Strategy and support MS' efforts towards a more efficient use of public finances.

4. POLICY OPTIONS

The three policy options examined can be summarised as follows:

- The baseline scenario (Option 1) consists in reconducting the provisions of the current RAG, but using the latest available Eurostat figures (2008-2010 data for regional GDP per capita, 2009-2011 for regional unemployment⁵) for establishing the regional aid maps for 2014-20.
- The Options 2 essentially consist in moderate changes to the current rules, primarily to rationalise current practice and strengthen the assessment of competition effects, while maintaining a strong focus on the cohesion objective of regional aid.
- The Options 3 consist in more radical changes to the current rules, essentially in view of reducing aid levels and focusing the intervention logic of state aid control on the most distortive cases by placing priority on the competition objective of regional state aid.

Main features of the options

| | Baseline scenario (Option 1) | Option 2 | Option 3 |
|---|-------------------------------------|---|---|
| <i>1. Designation of assisted areas</i> | | | |
| Overall population coverage | 45.5 % | 46.54 % | 38 % |
| Designation of 'a' areas | GDP <75 % EU average | Cf. baseline | GDP < 75 % or unemployment > 150 % EU average |
| Transition regime between 'a' and 'c' areas | For all ex-'a' areas | Cf. baseline | No transition regime |
| Non-predefined 'c' coverage – allocation method | Mainly indicators at national level | Indicators at both national and EU levels | Mainly indicators at EU level |
| Safety net | 50 % | 100 % for Programme countries; 50 %; minimum coverage of 7.5 % of national population | No safety net |

⁵ The same dataset would apply for Options 2 and 3.

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| Aid intensities | No change | Slight reduction, except for least developed regions | Strong reduction |
| <i>2. Scope and linkage with other guidelines</i> | | | |
| Sectoral scope | Shipbuilding and coal excluded; aid to steel, synthetic fibres prohibited | Shipbuilding included; aid to coal, steel, synthetic fibres prohibited | No prohibition (aid to coal, steel, synthetic fibres must be notified) |
| Differentiation between SMEs and LEs | Aid for LEs in 'c' areas allowed | Aid for LEs in 'c' areas only for new activities or products | No aid for LEs in 'c' areas |
| Forum shopping | Allowed | Allowed under key conditions imported from other guidelines (except for energy) | Not allowed |
| <i>3. Notification obligation and transparency</i> | | | |
| Notification obligation | Sectoral schemes; all operating aid schemes; individual aid > notification threshold; ad hoc aid | Sectoral schemes (incl. shipbuilding); large schemes; certain operating aid schemes; individual aid > notification threshold; ad hoc aid; aid linked to a relocation; aid to LEs in 'c' regions for new products | Certain operating aid schemes; individual aid > EUR 15 m in 'a' areas and > EUR 5 m in 'c' areas; aid to steel, synthetic fibres, coal |
| Transparency | Only for projects with eligible costs > EUR 50 m (LIPs) | For all individual aid | Cf. baseline (+ publication on MS website) |
| <i>4. Compatibility assessment</i> | | | |
| Contribution to regional development | Formal requirements: projects in assisted areas; in-depth analysis (demonstration of regional contribution only for beneficiaries with market share > 25 % or if capacity > 5 % in underperforming markets) | Stricter requirements: must be demonstrated at scheme level; project must contribute to scheme objectives; in-depth analysis for all notified cases | Only formal requirements |
| Incentive effect | Formal requirements (in-depth analysis re counterfactual for LIPs) | Stricter requirements for incentive effect; in-depth analysis for all individual aid | Formal requirements only |
| Proportionality | Respect of aid intensity (in-depth analysis re net | For SMEs: aid intensity; for LEs: net extra costs; | Aid intensity only |

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| | extra costs for LIPs) | in-depth analysis for all notified individual aid | |
| Balancing test | Only for LIPs subject to in-depth analysis | For all notified individual aid | No balancing test (prohibition of most distortive aid) |

5. ASSESSMENT OF IMPACTS

5.1. Designation of assisted areas

- Geographical coverage:

| Issue | Impact ⁶ | Causes |
|---|---------------------|---------------------------------------|
| 1. Effectiveness in promoting regional economic development | Option 2: + | Slightly increased geographical scope |
| | Option 3: -- | Strongly reduced geographical scope |
| 2. Efficiency in controlling distortions to competition and trade | Option 2: 0 | : |
| | Option 3: ++ | Much lower overall level of aid |
| 3. Consistency with other EU policies | Option 2: 0 | : |
| | Option 3: -- | Inconsistency with EU cohesion policy |
| 4. Reduction in administrative burden | Option 2: 0 | : |
| | Option 3: 0 | : |

- Aid intensities:

| Issue | Impact | Causes |
|---|--------------|---|
| 1. Effectiveness in promoting regional economic development | Option 2: - | Slightly reduced aid intensities |
| | Option 3: -- | Strongly reduced aid intensities |
| 2. Efficiency in controlling distortions to competition and trade | Option 2: + | Cf. above |
| | Option 3: + | Cf. above (but with more 'a' areas) |
| 3. Consistency with other EU policies | Option 2: - | Slightly limits financing under other EU policies |
| | Option 3: -- | Strongly limits financing under other EU policies |
| 4. Reduction in administrative burden | Option 2: 0 | : |
| | Option 3: 0 | : |

5.2. Scope and linkage with other state aid instruments

| Issue | Impact | Causes |
|---|---------------|---|
| 1. Effectiveness in promoting regional economic development | Option 2: + | Inclusion of shipbuilding; focus on new activities / products in 'c' areas |
| | Option 3: - | Risk of aid to failing industries; limited scope |
| 2. Efficiency in controlling distortions to competition and trade | Option 2: + | Slightly wider scope and adapted safeguards for forum shopping |
| | Option 3: + | No aid to LEs (avoiding potential high negative effects); no forum shopping |
| 3. Consistency with other | Option 2: +/- | More consistent with EU energy and environmental |

⁶ ++: strong positive impact; +: positive impact; 0: no significant impact; -: negative impact; --: strong negative impact.

| | | |
|---------------------------------------|---------------|---|
| EU policies | | policies; less consistent with EU cohesion policy and industrial policies |
| | Option 3: +/- | More consistent with EU energy and industrial policies; less consistent with EU environmental and cohesion policy |
| 4. Reduction in administrative burden | Option 2: 0 | : |
| | Option 3: + | Simplified implementation |

5.3. Notification obligation and transparency

| Issue | Impact | Causes |
|---|-------------|---|
| 1. Effectiveness in promoting regional economic development | Option 2: 0 | : |
| | Option 3: 0 | : |
| 2. Efficiency in controlling distortions to competition and trade | Option 2: + | Broad range of distortive measures notifiable |
| | Option 3: - | Only most distortive measures notifiable |
| 3. Consistency with other EU policies | Option 2: 0 | : |
| | Option 3: + | Enables to block-exempt a greater range of measures facilitating absorption of EU funds |
| 4. Reduction in administrative burden | Option 2: + | Fewer notifiable measures; broader transparency requirements |
| | Option 3: - | Fewer notifiable cases but stricter requirements for block-exempted measures |

5.4. Compatibility assessment

| Issue | Impact | Causes |
|---|--------------|--|
| 1. Effectiveness in promoting regional economic development | Option 2: ++ | Stricter requirements for contribution to regions development and incentive effect |
| | Option 3: 0 | : |
| 2. Efficiency in controlling distortions to competition and trade | Option 2: ++ | Stricter requirements, in-depth analysis for all notified individual aid |
| | Option 3: + | Prohibition of most distortive aid |
| 3. Consistency with other EU policies | Option 2: 0 | : |
| | Option 3: 0 | : |
| 4. Reduction in administrative burden | Option 2: - | Stricter requirements for LEs |
| | Option 3: 0 | : |

6. COMPARISON OF OPTIONS

Magnitude of impacts (compared to baseline scenario)

| Options | Effectiveness in promoting regional economic development | Efficiency in controlling distortions to competition and trade | Consistency with other EU policies | Reduction in administrative burden |
|--|--|--|------------------------------------|------------------------------------|
| <i>1a. Designation of assisted areas</i> | | | | |
| Option 2 | + | 0 | 0 | 0 |
| Option 3 | -- | ++ | -- | 0 |

| <i>1b. Aid intensities:</i> | | | | |
|--|----|----|---------|---|
| Option 2 | – | + | – | 0 |
| Option 3 | -- | + | -- | 0 |
| <i>2. Scope and linkage with other state aid instruments</i> | | | | |
| Option 2 | + | + | + / – * | 0 |
| Option 3 | – | + | + / – * | + |
| <i>3. Notification obligation and transparency</i> | | | | |
| Option 2 | 0 | + | 0 | + |
| Option 3 | 0 | – | + | – |
| <i>4. Compatibility assessment</i> | | | | |
| Option 2 | ++ | ++ | 0 | – |
| Option 3 | 0 | + | 0 | 0 |

* Depending on the field of EU policy.

The preferred combination of options for all issues would be Option 2.

7. MONITORING AND EVALUATION

DG COMP will continue its general monitoring practice for state aid (annual monitoring of a case sample, State Aid Scoreboard). It will also develop specific monitoring indicators for the RAG 2014-2020.

The Commission may require MS to limit the duration of certain notified schemes (normally to four years or less). Mandatory evaluations will be carried out by independent experts for schemes that may risk to significantly restrict competition, in particular schemes with a large annual budget or those where changes to the market, technological or regulatory environment may occur. These evaluations should be based on a common methodology and will be published.

The Commission intends to review the RAG in the first half of 2017, based on a consultation of MS, of other interested parties and possibly based on an independent evaluation. It will also conduct an ex-post evaluation of the RAG, in time for their revision for the period after 2020.