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Ireland's position on the proposed changes to the SGEI De Minimis Regulation 360/2012

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Introduction

Ireland welcomes the opportunity to submit a Position Paper to the Commission on the proposed changes to the SGEI De Minimis Regulation.

Ireland notes that the evaluation on State subsidy rules for health and social services of general economic interest and the SGEI De Minimis Regulation showed that the SGEI De Minimis Regulation has been overall fit for purpose.

Ireland thanks the Commission for their proposals to revise the SGEI De Minimis threshold to adapt it to the current prevailing economic context within which the EU finds itself, to align particular concepts with the general De Minimis Regulation and to improve requirements relating to transparency. Ireland welcomes the revision and also the proposed stability of the regulation until 2030.

The SGEI De Minimis Regulation and the SGEI Decision of 2012 aimed to have a positive impact upon the reduction of the administrative burden. However, there still seems to be room for improvement to decrease this burden and clarify certain basic concepts pertinent to the application of SGEI Rules, such as the definition of a Single Undertaking. The lack of clarity of such SGEI concepts may lead Member States to have recourse, in certain instances, to external accounting and legal advice, thereby increasing costs and administrative burdens. In addition, the proposed mandatory introduction of a De Minimis Register at national level would only further exacerbate the administrative burdens currently being experienced by Member States.

In terms of threshold ceilings, Ireland notes that almost half of respondents to the public and targeted consultations carried out by the Commission expressed a wish to increase the relevant ceilings, a view shared by Ireland.

Importance of De Minimis Aid for the level playing field: Possibility for equal application

Regulatory tools facilitating small aid amounts with less administrative complexities are important safeguards of the level playing field. The simpler approach and lower aid amounts provide equal opportunities for all Member States, irrespective of fiscal or administrative capacity, to provide equal levels of State Aid to support policy objectives while avoiding a negative impact on trade and competition.

State Aid rules with complex administrative arrangements, and scope for large aid amounts only favour Member States with large budgets and large public administration systems that can practically utilise the flexibility provided. Therefore, Ireland considers that the De Minimis Regulation is the ideal solution to allow for State Aid that is appropriate, proportionate and necessary and minimises distortion of trade and competition by providing a legal basis and monetary limits that can be used equally in all Member States, large and small.

It is because of this equality of application, counterintuitively, that increasing the De Minimis ceiling, is actually supportive of the level playing field. On this basis, Ireland supports an increase in the SGEI De Minimis ceiling.

An increase to the aid ceiling

Time period for calculating the aid ceiling

Although the ceiling has been amended, the three fiscal years condition has not. Finance and international trade moves faster than ever, and as such we consider that three fiscal years is too long. As with the monetary value, the time period was set at a time when trade and finance moved slower.

The last few years have shown us how quickly the global economic environment can shift, and Member States need De Minimis aid to quickly provide support. Undertakings who received support for Brexit challenges, still had to consider that aid during the COVID crisis and now again for the Ukraine crisis.

Ireland therefore considers that two fiscal years would be more appropriate, and we ask the Commission to give consideration to such a change.

Single Undertaking definition

Ireland agrees with the points raised by other Member States previously regarding the practical difficulties with the definition of Single Undertaking as set out in Point 2 of Article 2 of the draft text and the pre-existing Regulation 1407/2013.

The limited nature of De Minimis Aid means that it is often granted to micro-enterprises, including sole-traders, for whom it is very difficult to assess shareholding relationships with other entities related to the beneficiary.

In the context of a proposed register, Ireland acknowledges the experiences of other Member States that operate a register as regards the difficulties with the definition. For a register to operate effectively, this issue would need to be addressed.

A Mandatory Public Register

Ireland does not support the introduction of a mandatory register for De Minimis Aid. The introduction of such a register would create an unnecessary administrative burden disproportionate to the nature of De Minimis Aid which is too small to impact trade or competition.

Furthermore, Ireland has concerns as to how any future national SGEI De Minimis Register would operate alongside with, or be combined with, any such register proposed to be introduced in respect of general De Minimis aid.

Ireland appreciates the benefits of collecting data, however the approach proposed by the Commission creates administrative costs that are disproportionate to the benefit received, particularly, as De Minimis Aid is so small. The revised transparency publication threshold of EUR 100,000 across the State Aid legal framework can deliver the benefits in terms of data analysis and transparency.

Concluding remarks

Ireland thanks the Commission for their work in revising the SGEI De Minimis Regulation 360/2012.

Due to the nature of De Minimis aid with small aid amounts and administrative simplicity, it can be applied equally in all Member States, irrespective of fiscal or administrative capacity. Increasing the scope of the regulation, whilst still keeping a low aid ceiling is conducive to the level playing field. Regulations and Guidelines permitting large aid amounts with complex conditionalities favour large Member States, whereas De Minimis aid can be used equally by all Member States.

Ireland can support an increase in the ceiling of SGEI De Minimus Aid. We also propose the amendment of the three fiscal year time period in light of the current economic conditions.

Ireland does not support the introduction of a mandatory register as such a register would create an administrative burden greatly disproportionate to the actual nature of De Minimis Aid and, similar to other Member States, has real concerns regarding the practical difficulties with the definition of Single Undertaking in that context.

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