Ministry of Economic Affairs
and Employment of Finland

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Directorate-General for Competition
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AMENDMENT OF THE GENERAL BLOCK EXEMPTION REGULATION ON STATE AID

On 26 June 2019 the Commission launched a public consultation on a draft Regulation amending Regulation (EU) N:o 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (General Block Exemption Regulation, GBER).

The Employment and Well-Functioning Markets Department at the Ministry of Employment and the Economy serves as the co-ordinating authority in Finland for matters related to EU State aid regulation. In response to the public consultation of the Commission's Directorate-General for Competition, the Ministry respectfully submits the attached observations of Finland concerning revision of the Regulation in question.

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ATTACHMENTS Observations of Finland

Attachment

Observations of Finland on the Commission proposal to amend the General Block Exemption Regulation on State Aid

The proposed amendment to the General Block Exemption Regulation (GBER) would exempt the following three forms of aid from the prior notification requirement.

- National funding involved in financial products supported by the InvestEU fund;
- Research, development and innovation projects that have secured the Seal of Excellence under the Horizon 2020 or Horizon Europe programmes, and projects and teaming measures that are co-financed under Horizon 2020 or from Horizon Europe;
- European territorial co-operation projects.

The proposal also includes several other amendments.

General view of the proposal

Finland broadly supports the proposal, which would simplify and streamline regulatory control of State aid within the EU through a targeted enlargement of the range of support measures enjoying an exemption to the notification requirement. Another potentially favourable aspect of the proposal is that it would facilitate the combination of national and EU funding.

Finland stresses the importance of ensuring that any enlargement of the GBER and relaxation of its general applicability criteria has no significant impacts that distort competition or encourage aid competition in the internal market. The general premise must be that the GBER will only discharge from the notification requirement aid measures that have a limited distorting impact on competition.

Finland stresses the importance of monitoring the effects of regulation on competition and the market in order to ensure that protective measures are adequate in relation to the relaxation granted.

The key relaxations to be made in GBER rules

The amendments of general provisions under the draft Regulation focus on the following areas with respect to three forms of aid to be exempted from the notification requirement: (1) allowing grants of aid to enterprises in difficulty, (2) the Deggendorf condition, (3) the incentive effect of aid, (4) non-application of the aid cumulation criterion, and (5) transparency of aid.

Finland does not consider it fully justified to propose abandoning a key general condition of the GBER when granting aid, even though the restriction would only apply to limited financial instruments (InvestEU). The proposed rule would disrupt the coherence of the GBER and undermine adherence to a strict and focused State aid policy.

It is vital to include sufficiently strong competition safeguards at the level of EU funding programmes where aid is subject to limited and focused regulatory relaxation. For example, it is the impression of Finland that the Deggendorf condition is not currently considered in the context of EU funding programmes, and that this approach would also be justifiable in future. The measures that protect competition from distortion and prevent adverse impacts are relatively superficial and general as described in the draft Regulation and working documents. *Finland considers it necessary for the draft regulation to give a more detailed account of the measures that protect competition, and the effects of regulation on competition and the market should also be monitored to ensure that protective measures are adequate in relation to the relaxation granted.*

The simplification of State aid rules required by the Regulation and the relaxation of general GBER provisions may increase the risk of distorting competition in the national and internal markets with respect to forms of aid affected by the foregoing enlargement of block exemptions. Increases in maximum aid levels or aid ceilings and a rise in the notification threshold are also conducive to similar impacts.

Reduction of administrative burden

With regard to European territorial co-operation, the State aid granted under the Interreg programmes is often very minimal, so the proposed change would reduce the administrative burden involved in processing State aid, both for beneficiaries and the administrative authority. Most of the aid currently granted falls under the *de minimis* heading, with administrative authorities asking enterprises to account for the subsidies that they have received, and using these declarations to monitor cumulation of aid. The change would reduce administrative work and should be supported.

The amendment to GBER would simplify the EU State aid procedure by eliminating the current prior notification requirement concerning aid, and by streamlining processes.

Detailed proposals of the draft Regulation

Finland calls attention to the following detailed observations that could be clarified and made more effective in further preparatory work.

1. The general definitions

Article 2, points 83a–86 (Technology Readiness Level, TRL). Finland considers that deploying the proposed TRL classification would somewhat impede the work of aid authorities. While TRL indicators can characterise the current and target state of development in certain circumstances, their use either brings no additional benefit or increases complexity in many contexts. TRL indicators are best suited for situations in which technology evolves in a fairly linear way, whereas difficulties soon arise, for example, when using them to characterise the development of services. The underlying presumption of linear evolution in TRL indicators is somewhat outdated. *Suomi proposes abandoning the TRL classification and retaining the present wording of the definition.*

2. Rules governing aid from the InvestEU fund

Under Article 56e(1) (c), a guarantee fee may be zero, meaning that there is no need to charge any guarantee fee. Finland points out that as the aid instruments concern repayable financial instruments, it would be necessary to clarify why they should not necessarily include even a small minimum payment under circumstances involving a relaxation in general rules, for example with respect to the incentive effect.

Article 56 e(11) (a) (SMEs and small or innovative mid-caps). Finland considers that the nominal maximum threshold value of EUR 30 million in total funding granted to the final beneficiary seems high in principle, even though this is total funding and not the amount of aid. The maximum aid is EUR 15 million under Article 21 of the current GBER, for example.

Article 56 f. The preparatory work should specify a justification for why no constraints (eligibility requirements) are applied to beneficiaries, and grants of aid also fall within the scope of the relaxation in general GBER rules.

3. Rules governing the Seal of Excellence and Horizon funding

Expanded use of the Seal of Excellence is a worthy goal, as this will enable the use of EU-level specialist assessments of projects when considering national funding.

Finland also considers it necessary to point out that the aims of national funding may differ in part from those of EU funding. Financing of businesses that have secured the Seal of Excellence is not always justified, as they are not necessarily the growth enterprises that form the principal target of national financing. While the Seal of Excellence indicates high quality results, it does not gauge whether the beneficiary is capable of exploiting those results commercially. Financing often seeks to support RD&I results that can be commercialised, and business growth paths. Finland stresses the importance of retaining discretion in individual cases.

Finland finds that the maximum aid levels proposed for the GBER (Article 25 b) are higher than the horizontal RD&I provisions of the Regulation. For example, the share of public financing for experimental development may be 70 per cent of eligible costs. Finland stresses the importance of outlining more detailed grounds for increasing the maximum aid levels and of assessing the matter from the perspective of the functioning of the internal market in further preparatory work by the Commission.