

Answer to the Consultation on the Review of the Communication on Important Projects of Common European Interest – The Association of Swedish Engineering Industries (Teknikföretagen)

Comments on the draft Communication from the Commission – Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest.

Summary

The Association of Swedish Engineering Industries (Teknikföretagen) welcomes the European Commission initiative to engage stakeholders in a review of the Criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest.

Teknikföretagen represents over 4,200 member companies that constitute one third of Sweden's exports, making Teknikföretagen the primary representative of Swedish industry. Our member companies comprise both major, renowned, global corporations as well as a majority of micro-, small-, and medium sized enterprises. A common denominator is that they develop technologically advanced products and services exported in fierce global competition.

The mission of Teknikföretagen as an organization is to strengthen the competitiveness of our member companies. To that end, upholding EU competition rules and maintaining a strict application of EU state aid policy are central priorities. Thus, Teknikföretagen asserts that the framework for important projects of common European interest (IPCEI) shall continue to apply only when there are significant market or systemic failures the market itself cannot address that would justify state aid within the provisions of Article 107(3)(b) of the Treaty on the Function of the European Union.

General comments

Teknikföretagen asserts that the framework for important projects of common European interest (IPCEI) shall continue to apply only when there are significant market or systemic failures the market itself cannot address that would justify state aid within the provisions of Article 107(3)(b) of the Treaty on the Functioning of the European Union.

Teknikföretagen notes that in general, as part of EU competition rules, there is an inherent risk of distorting competition on the Single Market by granting state aid, and disincentivizing private investments. A distortion of competition on the Single Market, to the detriment of innovative micro-, small- and medium sized enterprises that are vital for European industry's market driven industrial ecosystems, undermines the functionality of the Single Market and, thus, Europe's competitive advantage in the global marketplace.

Teknikföretagen maintains that the *political objective* of reducing strategic dependencies is better achieved through enabling diversification in sourcing and strengthening structural components and framework conditions for a well-functioning EU Single Market. This requires a strict application of EU competition and state aid rules, that stimulate the growth of innovative companies of all sizes; investments into horizontal research and development programs based on open competition and excellence; an agile regulatory framework that can easily adapt to the latest technological advancements on the market (as well as yet to be placed on the market); and an ambitious trade policy that facilitates market access and establishes a level playing field with third countries. Potential (over)use of the IPCEI-instrument may contribute to centralizations in – and potentially monopolized – supply chains resulting in a less resilient, innovative, and competitive European industry.

Teknikföretagen is concerned that the use of the IPCEI framework will lead to distortions to the competition among companies of different sizes and industries originating in Member States of varying will and ability to grant state aid, as only companies from co-financing Member States are able to participate and, to our knowledge, take part in the results of projects of *common interest*. This is exacerbated by non-market driven identification of market and systemic failures that need to be addressed by the instrument and lack of competition in the selection process of beneficiaries. Preferably, the identification of market and systemic challenges shall be carried out in close dialogue with the private sector and financing be awarded based on excellence in open calls, securing a broad representation of involved companies both in size and Member State of origin. We have yet to see empirical evidence that use of the IPCEI-instrument is beneficial to the dynamic, functionality and advancement of its existing, market driven industrial ecosystem; nor that it generates positive spillover effects across industrial ecosystems and Member States. We therefore call for thorough assessments before the initiation of new projects and subsequent to the conclusion of projects with specific regard to distortions of competition on the Single Market.

Teknikföretagen stresses the need for non-ambiguity in the criteria for the analysis of the compatibility with the internal market of State aid to promote the execution of important projects of common European interest, to secure a transparent and inclusive process that safeguards competition on the Single Market. It is essential to ensure that the criteria are applied the same throughout the EU, to which end it would be advantageous for the European Commission to establish a central

contact point providing information on the application of the criteria. This could, preferably, be complemented with an online platform providing information on emerging projects and progress of ongoing projects for increased transparency. This would also limit the risk of companies being reprimanded retrospectively for not having met the criteria. Additionally, a forum for continuous, structured dialogue with the private sector should be established to evaluate the need of new and emerging projects, by assessing market and systemic issues that need to be addressed and, thus, the suitability of applying the IPCEI-instrument rather than other, more market driven instruments. This would contribute to increased transparency in the selection process and limit the risk of market distortions. Finally, the process must not be too administratively burdensome for companies.

Please find our detailed comments below.

Detailed comments

Eligibility criteria

§ 14 We emphasize that concrete contribution to set policy objectives must be used as criteria to justify a project and not as justification in itself for initiating projects without addressing explicit market or system failures the market itself cannot address.

§ 16 This is a key criterion that could be defined more clearly. It must be a precondition that projects are only initiated in order to address market or systemic failures that the market itself cannot address.

§ 17 We welcome the increased minimum number of participating Member States; and would be open to consider raising the minimum requirement even more. Broader participation furthers the spread of possible positive outcomes/effects by diversifying benefits geographically. It also limits the possibility that a small number of Member States repeatedly utilize the instrument to the advantage of its domestic industry, thus limiting the risk of market distortions. We stress that a smaller number of participating Member States shall only be justified when meeting the conditions in footnote 17. We would welcome a specification on what constitutes benefitting a “wide part of the EU”.

§ 18 We welcome the requirement that all Member States must be informed of emerging projects and given an adequate opportunity to participate. This could be further developed to ensure that the private sector can stay informed of emerging projects and progress of ongoing projects.

§ 20 It is unclear what “significant co-financing” constitutes which we would like a clarification on. Such as for example matching private funding and state aid.

§ 22 We welcome considering collaboration with SMEs in different Member States as a positive indicator.

§ 23 The specific criterion states that projects must be of a major innovative nature. This could be further specified to ensure an open and transparent process with beneficiaries being awarded funding through open competition based on excellence.

Compatibility criteria

§ 29 The balancing test ought to assess any possible detrimental effects to the functioning of existing market driven industrial ecosystems through distortions of competition with specific regard to micro-, small- and medium sized enterprises; and consider the risk of contributing to centralized/monopolized value chains.

§ 34 The possibility that “[if] justified by the funding gap analysis, the aid intensity could cover all of the eligible costs” illustrates the risk for distorted competition and should be cross-referenced to **§ 20** and **§ 42**.

§ 39 It is unclear how addressing “actual or potential direct or indirect distortions of international trade” (based on circumstantial evidence) due to competitors outside the EU receiving aid will affect competition on the Single Market. However, the use of this kind of *matching clauses* poses a significant risk of distorting competition on the Single Market to the detriment of innovative micro-, small- and medium size companies that are vital for European industry’s market driven ecosystems, thus limiting European industry’s global competitiveness. The issue should rather be addressed within the realm of European trade policy (multilaterally in the WTO, through bilateral agreements, or trade defense instruments) – or explicitly through the proposed new instrument on foreign subsidies. We would prefer that this paragraph was taken out. If not, it needs to be clearly specified that the paragraph adheres to the principles of proportionality and incentive effect.

§ 42 We would welcome a clarification of “very significant contribution by the beneficiaries themselves or significant contribution by independent private investors”.

§ 43 Preferable we would rephrase this paragraph as a requirement, accordingly: “The selection of beneficiaries shall be carried out through a competitive, transparent and non-discriminatory procedure”.

§ 45 Distortions of competition and impact on trade between Member States must be avoided, not “limited”. Suggest rephrasing: “For the aid to be compatible, the negative effects of the aid measure in terms of distortions of competition and impact on trade between Member States must be avoided”.

§ 48 It must be a precondition that there is no risk of a subsidy race between Member States for a project to be initiated.

§ 49 It must be a precondition that aid is not “conditional on the relocation of a production activity or any other activity of the beneficiary from another country within the EEA to the territory of the Member State granting the aid” for a project to be initiated.