

Communication Review

on important projects of common European interest (IPCEI)

Introduction

We welcome the review of the Communication on important projects of common European interest (IPCEI) and appreciate the opportunity to contribute to the process that will lead to the definition of an updated set of criteria regarding the definition of IPCEI and its compatibility with the internal market of State Aid.

We fully support the objectives of the review and shares the need of some targeted adjustments to the proposed version of the IPCEI Communication. In particular:

- Point 25 – on the definition of the FID
- Point 20 – on the level of co-financing
- Point 56 – on the retroactive applicability of this Communication
- Other comments on Art.22.d (SMEs), Art.22.f (Taxonomy), Art.37 (Claw-back mechanisms), Art.32 (Internal documents of the beneficiary)

Point 25 – the definition of the FID

“For the purpose of this Communication, first industrial deployment means the upscaling of pilot facilities, demonstration plants or of the first-in-kind equipment and facilities covering the steps subsequent to the pilot line including the testing phase, but neither mass production nor commercial activities. [...]”

An encompassing definition of First industrial deployment (FID)

We acknowledge the underlying principle of this provision and that the European Commission aims at avoiding that activities linked to mass production are financed under the State aid. We nevertheless recognize that part of the actual formulation does not recognize the specificities of some sectors which are key to enhance EU's economic and technological competitiveness and that, thus, might be excluded from participating to an IPCEI.

This notably apply to the case of large shipbuilding sector where high-complex vessels require high time and costs of construction, and where there is a strong level of customization depending on the customer, on the operational profile or on market segment. With these assumptions, the costs of a first innovative large scale prototype cannot be absorbed by a large serial production. Therefore, disruptive innovations can only be tested at small scale in laboratories first, and applied on the first industrial prototype, which is inevitably sold to the client later, thus implying commercial activity.

This case is also foreseen by article art. 1 par. 1.3 (15) letter j) of the Communication from the Commission 2014/C 198/01 “*Framework for State aid for research and development and innovation*” where “experimental development” includes “*the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes.*”.

In conclusion, it appears that **in the construction of large vessels it is not possible to decouple the FID from its implementation onboard a large vessel which is too expensive to produce for it, or to be used only for demonstration and validation purposes.**

Briefly, **we strongly recommend to the European Commission to amend the definition of FID taking into consideration the definition of “experimental development” included in the Communication from the Commission 2014/C 198/01, so to include prototypes or pilots which are necessarily the final commercial product.**

i.e. we propose the following amendment:

25. For the purpose of this Communication, first industrial deployment means the upscaling of pilot facilities, demonstration plants or of the first-in-kind equipment and facilities covering the steps subsequent to the pilot line including the testing phase **and any “experimental development” as defined by art. 1 par. 1.3 (15) letter j) of the Communication from the Commission 2014/C 198/01**, but neither mass production nor commercial activities²². [...]

²² Limited atypical sales related to the testing phase, including sample or feedback or certification sales, are excluded from the notion of “commercial activities”.

Point 20 – the level of co-financing

“The project must involve significant co-financing by the beneficiary”

We agree with the need that beneficiaries are the first and foremost entity leading the innovative projects. Large investments have to be developed and deployed, in order to ensure the transition in the Strategic Value Chain and to implement transformative business models. Nevertheless such important level of investments must come with some certainty of economic conditions for implementing investments.

The proposed addition of “*significant*” to the co-financing provided by the beneficiary risks to generate too much uncertainty on the funding intensity during the preparation of the Project Portfolio thus discouraging those ambitious capital intensive projects, having the possibility to be more transformative.

Therefore, **we call upon the European Commission to clarify that the State Aid may cover up to 100% of the funding gap, in presence of a co-financing from the beneficiary.**

Point 56 – the applicability of this Communication

“The Commission will apply the principles set out in this Communication to all notified aid projects in respect of which it is called upon to take a decision after its applicability, even where the projects were notified prior to that date.”

We welcome the decision to prolong the validity of the current IPCEI Communication until the end of 2021 in order **to provide predictability and legal certainty during the revision process**. Indeed, IPCEIs are a key instrument not only to overcome systemic market failures as well as inherent and new societal challenges, but also to boost Europe’s technological innovation and economic competitiveness, while preserving a level playing field within the internal market.

In the light of the above, we, therefore, recognize the necessity to amend and replace the current IPCEI Communication with the new draft version published on 23 February 2021, nevertheless we doubt that the provisions on *Application* (points 55-56, section 5.4 of the draft Communication) will ensure legal certainty and predictability in particular on those IPCEIs that are currently under preparation.

Therefore, **our recommendation is to take into consideration any possible negative effect resulting from the fact that, for IPCEIs under preparation, criteria for the IPCEIs under preparation will be most probably approved after the Chapeau Project is submitted.**

Other comments

General comment

IPCEIs is a key instrument to ensure European Leadership on high technological industries In order to increase its effectiveness it is recommended:

- to reduce administrative burden by simplifying approval procedures and therefore by shortening the timing of approval.
- to identify with industrial stakeholders a fair balance approach between the duty to disseminate and implement results outside the Project and the right to preserve the industrial and technological standpoint especially when capital intensive investments are in any case made by the industry.

Point 22.d (SMEs)

We welcome the ambition **to foster the participation of SMEs** in IPCEI. At the same time, the provision regarding the inclusion of SMEs can be hard to implement in capital-intensive sectors, which, by definition, hardly comprise SMEs within their network of industries. Links with specific SMEs instruments should be envisaged and established to support SMEs participation. SMEs and startups are a very important part of the innovation chain which radiates and extends from large companies; therefore any mechanism connecting SMEs initiatives to coordinated plans of large companies is to be promoted.

Point 32 (Internal documents of the beneficiary)

It is important to note that sharing **internal documents of the beneficiary** may entail some confidentiality issues. It is, therefore, recommended to consider confidentiality aspects and internal procedures of the beneficiary that may collide with requests to provide relevant documents.

In conclusion, our key recommendations are summarized as follows:

- 1. to amend the definition of FID taking into consideration the definition of “experimental development” included in the Communication from the Commission 2014/C 198/01, so to include prototypes or pilots which are necessarily the final commercial product..**
- 2. To clarify that the State Aid may cover up to 100% of the funding gap, in presence of a co-financing from the beneficiary.**
- 3. To take into consideration any possible negative effect resulting from the fact that, for IPCEIs under preparation, criteria for the IPCEIs under preparation will be most probably approved after the Chapeau Project is submitted.**
- 4. To ensure confidentiality is fully preserved when internal documents of the beneficiary are required for the evaluation of the proposed IPCEI, in the case they contain competitive data.**
- 5. To adopt simplified and faster procedures for the approval of IPCEIs.**