

**Targeted review of the General Block Exemption Regulation (State aid): extended scope for national funds to be combined with certain Union programmes (2nd consultation)**

Reference HT.5224

---

The consulted document is the draft proposal of the Commission regulation amending Regulation (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (hereinafter “AmdGBER”)

It extends GBER for the purposes of InvestEU Programme<sup>1</sup> (hereinafter “RegIEU”).

#### **A. AmdGBER SHOULD TREAT BLENDING OPERATIONS**

InvestEU enables to combine financial instruments with grants (“blending”)<sup>2</sup>. AmdGBER doesn’t treat the blending operations. State aid rules for one project with blending are therefore two-way:

- under specific rules for InvestEU (sect. 16 AmdGBER)
- AND under remaining GBER articles, too.

The same project would have to satisfy two different state aid rule sets in the same time. This overcomplexity of the rules **would practically disable the blending operations**.

We propose to involve blending operations under the specific rules for InvestEU.

Specifically, we propose to change AmdGBER as follows:

1. To change the title of the section 16:

~~Aid involved in financial products supported~~ **provided** by the InvestEU Fund **Programme**

2. To change the article 56d, par. 1:

1. This Section shall apply to aid ~~involved in financial products supported~~ **provided** by the InvestEU Fund **Programme** that provide aid to implementing partners, financial intermediaries and/or final beneficiaries.

2. To change the article 56d, par. 4, first sentence:

4. The maximum thresholds laid down in Articles 56e and 56f shall apply to the total outstanding financing, in so far as that financing contains aid, provided under ~~any financial product supported by the InvestEU Fund~~ **Programme**.

3. To change the title of the article 56e:

Conditions for aid ~~involved in financial products supported~~ **provided** by the InvestEU Fund **Programme**

4. To change the introductory sentence in article 56e, par. 1:

1. Aid to the final beneficiary under ~~a financial product supported by the InvestEU Fund~~ **Programme** shall comply with

#### Reasons:

„InvestEU Programme“ involves blending operations<sup>3</sup>.

„Financial product“ doesn’t involve blending operations<sup>4</sup>.

---

<sup>1</sup> Proposal for a Regulation establishing the InvestEU Programme from 29.5.2020. {COM(2020) 403 final}

<sup>2</sup> Blending operations combine major part of repayable forms of support (financial product) with a minor part of non-repayable forms of support (grant). RegIEU: par. 53), 54) of the preamble; art. 2, par. 1. 5); art. 6

<sup>3</sup> as for its definition in art. 2, par. 1., point (1) RegIEU

<sup>4</sup> as for the definition in art. 2, par. 1., point (10) RegIEU

## 2. AmdGBER SHOULD ALIGN REQUIREMENTS FOR DIGITAL CONNECTIVITY WITH CPR

GBER has been defining next generation access networks (NGA) based on the term “very high speed” over years. The requirements for “very high speed” develop over the time. What was very high speed ten years ago may be terribly slow today. **What does the “very high speed” exactly mean for the programming period 2021-2027?**

- Since year 2014, NGA network must provide speed at least 30 Mbps upgradable to 100 Mbps by a simple upgrade of active components by year 2020. Unfortunately, GBER did not state what explicitly what the “very high speed” was; this caused many significant problems.
- From 2021, new Common Provisions Regulation (CPR)<sup>5</sup> defines objectives on “very high capacity networks” (VHC)<sup>6</sup> which must provide speed at least 100 Mbps upgradable to 1 Gbps for households and at least 1 Gbps for socioeconomic drivers.

We welcome that DG COMP proposes to specify the speed requirements in GBER now. AmdGBER to the current definition adds a new sentence “*NGA networks include networks capable of providing 1 Gbps upload and download speeds*” to the current definition<sup>7</sup>.

1. Should we infer that the new requirement for NGA is at least 1Gbps (eventually 100 Mbps upgradable to 1 Gbps) and therefore slower networks will not be considered NGA anymore? This is not clear from the AmdGBER proposal.
2. If yes, there is an inconsistency in terminology introduced by CPR (very high capacity networks) and GBER (very high speed, next generation access networks) for the same networks.
3. In any case, the **block exemption is not apparent for VHC networks supported by CPR.**

We propose to put in line GBER with CPR:

- To define the term VHC in AmdGBER;
- To replace term NGA with term VHC in whole GBER, or to clarify the relation of VHC to NGA for the purpose of block exemption;
- To clarify the last but one sentence in Art. 1, point (2), letter c) AmdBGER and align it with the requirements of CPR on VHC networks, for instance

~~NGA~~ VHC networks ~~include~~ are networks capable of providing at least 100 Mbps upload and download speeds upgradable to 1 Gbps.

Reasons:

- Block exemption should aim on VHC networks supported under CPR (need to use the same terminology in GBER and CPR), otherwise the implementation of support under CPR requires notification – and the GBER loses its sense here.
- The requirements for speed in GBER should be aligned with requirements for VHC networks {COM(2016) 587 final} – at least 100 Mbps upgradable to 1Gbps.

---

<sup>5</sup> Proposal for a Regulation laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, and the European Maritime and Fisheries Fund and financial rules for those and for the Asylum and Migration Fund, the Internal Security Fund and the Border Management and Visa Instrument {COM(2018) 375 final}

<sup>6</sup> Annex IV, enabling condition 3.1 CPR, with reference to Communication Connectivity for a Competitive Digital Single Market - Towards a European Gigabit Society {COM(2016) 587 final}

<sup>7</sup> Art. 1, point (2), letter c) AmdBGER, which is amending Art. 2, point (138) GBER.