Facilitating the green and digital transition.

State Aid: Revision General Block Exemption Regulation

On 6 October 2021 the Commission presented its draft proposal for the revision of the 2014 General Block Exemption Regulation (GBER). The proposal is currently under consultation. Adoption of the revised GBER is scheduled for the first half of 2022. The European Commission is charged with ensuring that state aid granted by member states complies with the rules of the internal market (which should ensure that public spending does not cause unfair competition between companies and member states). Therefore, member states have to notify any planned aid measures to the Commission before putting them into effect. In general, aid measures can only be implemented after approval by the Commission.

The GBER introduces an important exception to this obligatory notification procedure. It exempts specific categories of state aid from the requirement of prior notification and allows member states to implement these measures directly without prior approval. The rationale behind this is that in these cases the benefits to society largely outweigh the potential negative impact on the principles of fair competition.

The fact that a state aid measure does not meet these criteria only means that the measure must be notified to the Commission, which will then assess whether the state aid can be approved under the EU state aid rules. It doesn't mean that this measure is incompatible with the Treaty.

The categories of aid that are exempted from notification are the following:

- Regional aid
- Aid to SME's (including access to finance)
- R&D support
- Training aid
- Aid for disadvantaged workers and workers with disabilities
- Aid for environmental protection
- Aid to make good the damage caused by natural disasters
- Social aid for transport for residents of remote regions
- Aid for broadband infrastructures

- Aid for culture and heritage conservation, for sport and recreational infrastructure, for local infrastructure
- Aid for regional airports and for ports
- Aid involved in financial products supported by InvestEU
- Aid for European Territorial Cooperation

The GBER determines the eligible beneficiaries, the maximum aid intensities, the absolute aid amounts and the eligible costs.

The current revision of the GBER mainly aims (besides simplification, clarification and harmonisation) to ensure that the rules reflect new Commission priorities, in particular the Green Deal and the Industrial and Digital Strategies.

The revision follows the update of the GBER in July 2021 which aligned the state aid rules with the funding rules under the new Multiannual Financial Framework. With the aim to improving the interplay between EU funding rules and EU state aid rules and to avoid unnecessary complexities, the update streamlines the state aid rules applicable to national funding of European projects (and financial products in support of these projects) like InvestEU, Horizon Europe and European Territorial Cooperation projects. Furthermore, to support the twin digital and green transition, the revision of July simplified the rules for energy efficiency measures in buildings, introduced a new block exemption for publicly accessible recharging and refuelling infrastructure and introduced new rules for access to fast broadband, for 4G and 5G networks as well as for trans-European digital connectivity infrastructure.

The main changes of the current revision are related to regional aid, risk finance aid for SME's, RDI aid and environmental and energy aid:

1. Regional aid

a. Aligning the regional aid section with the new Regional aid Guidelines applicable as from 2022
b. Extension of operating aid to prevent or reduce depopulation from very sparsely populated areas to sparsely populated areas

2. Risk finance aid for SME's

a. Introduction of a green bonus: for investments improving environmental performance in line with the Taxonomy Regulation, the investment must exceed only 30% instead of 50% of the SME's annual turnover
b. Reduction of the minimum thresholds for private participation in risk finance investments for assisted areas (to take into account disparities in access to non-bank funding)
c. Extension of start-up aid to include aid in the form of a transfer of intellectual property rights (IPR) and related access rights, from a research organisation where the underlying IPR has been developed, if the transfer is to a small and innovative enterprise. The

transferred IPR's must be necessary to bring a new product or service to the market and its value must be set at market price

d. The definition of innovative enterprises (which allows for increased state aid) will include recipients of European Innovation Council funds or the EIC Seal of Excellence

3. RDI aid

a. GBER provisions on RDI aid are brought in line with the revised Framework for State Aid for RDI
b. Introduction of a new article 26a clarifying the conditions for investment aid (up to 25%) for testing and experimentation infrastructures (technology infrastructures). Contrary to research infrastructure, experimentation infrastructures are mainly used for economic activities (providing services to undertakings). Constructing or upgrading a state of the art testing and experimentation infrastructure involves high up-front investment costs, which together with an uncertain client base, can render access to private financing difficult.
c. Digital Innovation Hubs (part of the Digital Europe Programme) can qualify as innovation clusters under GBER

4. Environmental and energy aid

a. Alignment with the draft revised Climate, Environmental protection and Energy Aid Guidelines (CEEAG)
b. Expanding the scope in line with the Green Deal objectives and the European Climate Law
c. Environmental protection
    i. Specific provisions for investment aid for CCUS
    ii. Introduction of a new specific category for investment aid for the purchase of clean and zero-emission vehicles (complementing the provisions on investment aid for recharging and refuelling infrastructure which have been introduced in the recent targeted GBER revision)
    iii. Loans/guarantees contracted by SME's/small-caps providing energy performance improvement measures (related to buildings) can be supported
    iv. Introduction of a green bonus of 15% can be granted to energy efficiency measures that lead to a reduction in primary energy demand of at least 40 %
    v. Integration in the scope of the GBER of investment aid for the rehabilitation of ecosystems, the protection of biodiversity and the implementation of nature-based solutions for climate change adaptation/mitigation
    vi. Integration of aid for investments in resource efficiency or the circular economy
    vii. Introduction of higher aid intensities where aid is granted after a competitive bidding process
    viii. Introduction of a new category for aid that takes the form of reduction in environmental taxes which are needed for certain resource-intensive sectors
    ix. Tax reductions in favour of energy-intensive businesses under the Energy Taxation Directive are block exempted provided these schemes impose conditions that increase energy efficiency and investments in decarbonisation

d. Energy
   i. Integration of investment and operating aid for storage projects that are connected to renewable energy generation facilities
   ii. Integration of investment aid for green hydrogen projects (in line with the hydrogen strategy). Operating aid for small scale installations for the promotion of green hydrogen will also be exempted
   iii. Inclusion of provisions for operating aid to renewable energy community projects, exempting projcts below 1 MW of installed capacity from competitive bidding
   iv. Investments in district heating systems based on fossil fuels are no longer eligible under the GBER. Introduction of specific safeguards in line with the Green Deal objectives for investment support in district heating generation using natural gas as well as for investments/upgrades in distribution networks
   v. Support to energy infrastructure using natural gas has to be adjusted to take into account the Green Deal objectives
   vi. With regard to investments in energy infrastructure, the scope of the GBER will be be enlarged to block exempt support for investments not located in"assisted areas". Exemption of aid for energy infrastructure will als apply to new energy sources like hydrogen.

Proposal for amendment

New Article 36 (c). Investment aid for diversification of the output of establishments in the automotive ecosystem.

Investment aid for the diversification of the output of an establishment in the automotive ecosystem from conventional parts and components into products and services that correspond to the objectives of the digital and green transition shall be compatible with the internal market within the meaning of Article 107(3) ot the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty

Motivation.

- The decarbonisation of road transport will have a dramatic impact on automotive employment: 'According to a recent study by the German IFO Institute, 215 000 jobs will be at risk in the value chain of conventional powertrains in Germany by 2030 as a result of the transition from combustion to electric engines (the study assumes that BEVs need to have a market share of 29-36% by 2030). BEVs have fewer components and are simpler to produce, while at least 36% of their added value is in batteries. When extrapolated, this means 620 000 jobs at EU level' (EESC, The EU mobility strategy and EU industrial value chains: automotive ecosystem approach, CCM1/187, p. 7)
- While it is true that new jobs will be created in adjacent industries as IT, 5G networks, power electronics, charging infrastructure, production of renewables, smart grids, smart roads, mobility services, batteries, alternative fuels, energy storage, it is also true that these jobs will probably

be created elsewhere at another moment and with other skillsets than the jobs that will disappear.

- While the uptake of BEV's is supported by demand-side measures and the transition to electric powertrains also enjoys important investment aid (IPCEI's on batteries), support is also needed for the many companies in the automotive value chain that have to redefine their value chain positioning as demand for parts and components for conventional powertrains will gradually fade away. Stranded assets (not at least human) in the automotive supply chains must be avoided by ensuring timely and adequate support for the many companies that do not have the resources (human and financial) to reshape their activities and move to more promising business models. Investment aid to support diversification will allow to preserve local economic activities and local jobs.
- Although companies in the automotive supply chain can enjoy from SME or regional aid, this is not the case for those companies that are not based in assisted areas of have a headcount of over 250.
- Although rescue- and restructuring aid is available for automotive companies that are running into trouble but this kind of aid is reserved for ailing companies only. Companies that want to anticipate change cannot benefit from rescue- and restructuring aid.