ABOUT YOU

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Please provide your contact details below.

Name	The Republic of Bulgaria
Organisation represented	The Ministry of Finance; The Ministry of Transport, Information Technology and Communications; The Ministry of Education and Science; The Ministry of Tourism; The Executive Agency for Small and Medium-Sized Enterprises;
Main business activities	Public institutions
Location (country)	The Republic of Bulgaria
E-mail address:	stateaid@minfin.bg;

In the interests of transparency, the Commission asks organisations who wish to submit comments in the context of public consultations to provide the Commission and the public at large with information about whom and what they represent by registering in the Transparency Register and subscribing to its Code of Conduct. If an organisation decides not to provide this information, it is the Commission's stated policy to list the contribution as part of the individual contributions. (Consultation Standards, see COM (2002) 704; Better Regulation guidelines, see SWD(2015)111 final and Communication on ETI Follow-up, see COM (2007) 127).

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If your organisation is not registered, you have the opportunity to Register now. Then you can return to this page, continue replying the questionnaire and submit your contribution as a registered organisation.

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For registered organisations: indicate here your Register ID number

Please choose one of the following options on the use of your contribution:

Our contribution,

X Can be directly published with my personal/organisation information (I consent to publication of all information in my contribution in whole or in part including my name/the name of my organisation, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication).

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Cannot be directly published but may be included within statistical data (I understand that my contribution will not be directly published, but that my anonymised responses may be included in published statistical data, for example, to show general trends in the response to this consultation) Note that your answers may be subject to a request for public access to documents under Regulation (EC) No 1049/2001.

NOTE: You should follow the order of the questions, even though you are not required to reply to all questions. Please mark questions that are not relevant for you 'not applicable'. You may also submit additional information that you consider relevant.

SECTION A: GENERAL

1. Have you used the Code?

Yes.

2. In your experience, what are the main positive effects of the Code and what were the underlying success factors?

Please give specific examples.

On the basis of the experience in the field of the contacts preceding the notification procedure (the pre-notification), as a whole, we could conclude that the consequences of advance bilateral contacts have a positive impact on the speeding up of the decisions on notifications in all fields and the improvement of the enforcement.

3. In your experience, what are the main negative effects of the Code?

Please give specific examples.

On the basis of the limited experience of the Republic of Bulgaria in the enforcement of the Best Practice Code, we could not confirm that all the procedures are as productive and efficient as possible for all parties concerned.

The lack of detailed description of the relations between the Commission and the Member States in the enforcement of the Best Practice Code allows different interpretations by the different case teams of the Commission working on various procedures.

In particular, in more lengthy procedures of pre-notification and notification, and when within the assessment of the procedure a change in the case team has occurred, sometimes a request for information from the Commission again occurs about questions that have already been asked at an earlier stage by the previous case team and already thoroughly and comprehensively replied to. This further delays the procedure. Regarding the complaints procedure, as an example we can point out the lack of information from the Commission to the Member State, whether the complaint procedure is closed or still open. This leads to unpredictability and uncertainty to the party concerned by the complaint.

4. Have you encountered difficulties with any procedures laid down in the Code?

If yes, please explain what difficulties you have encountered.

No.

SECTION B: THE USE OF THE CODE OF BEST PRACTICE

1. GENERAL

5. Which parts of the Code do you find useful?

As most useful, we could indicate the following sections: “Contacts preceding the notification procedure (Pre-notification)”, “Mutually agreed planning” and “Complaints“.

6. Which parts of the Code do you find not useful?

There aren't parts that are not considered as useful. The information is accurate, concrete and the systematic.

7. Since the Code entered into force in 2009, has it had a positive impact on the conduct of State aid procedures by the Commission?

Please provide examples.

Please, look at our answer of question 2.

As an example we could point out the successfully held pre-notification procedure, which was notified in 2013 State aid SA.36333 (2013/N) – Bulgaria "Digital television decoders to households with low income" and 2013 State Aid SA.36234 (2013/N) – Bulgaria "Broadband Network Project", as well as JESSICA Bulgaria scheme (SA.35040).

8. From your experience, does the Code improve the predictability of State aid procedures?

Please give specific examples.

Yes, definitely, due to intensive informal contacts, teleconference meeting, exchange of e-mails and mutual willingness for co-operation.

For example, we could point out the successfully held pre-notification procedure, notified in 2013 State aid SA.36333 (2013/N) – Bulgaria "Digital television decoders to households with low income".

9. What was your smoothest procedure, and what can be learned from it?

In our view, the state aid notification for digital TV decoders and partner exchange of views in relation to postal services, as well as the pre-notification JESSICA Bulgaria scheme (SA.35040), Aid for the purposes of covering the compensation owed by NEK to AES in relation to the cancellation of the Belene NPP (SA.46521) and Granting of individual state guarantee in favour of Bulgarian Development Bank (SA.42303 (2015/PN)) were our smoothest procedures. In terms of conclusions, the informal contacts are very important, in particular the clarifications within teleconference calls: all these approaches very much facilitate the timely adjustments of national schemes and enrich knowledge of national administrations of the latest developments of state aid rules.

As a very useful practice we could point out the preparation of Non paper document of the Commission, for example for the case SA.35040, summarising the already clarified questions during the pre-notification phase. The application of such type of document during the official notification allows that even if the case team is changed, the deadline of the procedure not to be extended by asking questions that have already been examined and accepted by the Commission services.

2. PRE-NOTIFICATION CONTACTS

10. Please indicate how many pre-notification contacts you had with the Commission since 2009?

Since 2009, the Republic of Bulgaria had 9 pre-notification contacts with the Commission.

In terms of the state aid measures in the field of telecommunications and the clarifications on certain national measures in the postal service sector, quite regular phone/e-mail contacts and more rarely meetings with the Commission's services experts were held.

11. Have you experienced any difficulty in arranging pre-notification contacts?

If so, please explain the nature of such difficulties.

There weren't any difficulties encountered in the pre-notification procedure.

In addition, the additionally established during the state aid modernisation communication channel through the contact points for/in every Member State considerably facilitates the informal communication with the Commission.

12. In general, were the pre-notification contacts useful?

If so, please explain why.

Yes, they were definitely useful – please, take into account our previous answers, provided above. We highly appreciate the approach undertaken by the Commission services for focusing on the informal contacts and setting as much as possible issues in an informal way. This approach is less burdensome for the administration, speeds up very much the notification process and gives opportunity to the Member States for timely adjustments of national schemes or for swift implementation of necessary national measures in order to avoid formal investigation procedures.

13. In how many cases has the Commission made a first contact within the two week indicative timing following receipt of the draft notification form?

We do not keep such statistics, but so far we have not found substantial delays and deviations in timing.

14. How long have the pre-notification contacts lasted? Did they have a positive impact on the overall duration of the State aid procedure?

Pre-notification contacts varied in lengths, depending on the quality of the information, proved by the Granting Authorities. In general, the pre-notification procedures had a positive impact on the total duration of the procedure, related to the substantial State aid assessment.

However, in cases where the answers provided by the Granting Authorities were not sufficiently detailed and exhaustive, the procedure was delayed significantly.

15. Has there been any difference in duration for certain categories of cases (e.g. novel aid instruments, particular sectors, large amounts of aid, etc.).

Pre-notification contacts varied in lengths, depending not on the instruments of aid but on the quality of the information, proved by the Granting Authorities. More detailed information is provided in the answer of the question 14.

16. Was the aid beneficiary involved in the context of the pre-notification contacts? Was this useful?

It depends on the particular (pre-)notification measure.

To be more specific, when there are schemes concerned, it might not be appropriate as an approach to involve all the potential beneficiaries in the pre-notification contacts, since they sometimes might not even be known in advance.

For ad hoc measures, where the beneficiary is concerned, of course, it could be useful.

3. PRELIMINARY EXAMINATION

17. In how many cases since 2009 has the Commission sent you a comprehensive information request within 4 to 6 weeks after the notification?

Please also indicate the total number of cases notified.

We do not keep such statistics, but so far we have not found delays and/or deviations in timing, which have been substantial obstacle for the Bulgarian authorities.

From 2009, we have 24 notified measures.

For the notifications in the field of telecommunications, (for both of the cases quoted above), the Commission sent a comprehensive information request within the quoted time frame. (SA.36333 and SA.36234).

18. In how many cases has the Commission raised further questions after you replied to the initial information request?

We do not keep such statistics, but it seems as it is a regular Commission's practice for the Bulgarian measures.

19. Were the questions raised by the Commission difficult to answer?

If yes, please give examples of a case where this has been particularly difficult?

No.

20. Was sufficient information on the state of play of ongoing preliminary examinations provided by the Commission?

No.

4. FORMAL INVESTIGATION PROCEDURE

21. Have you encountered any difficulties with the handling of confidentiality issues for the publication of the decision?

If so, please give specific examples.

No.

22. According to the Code, the Commission aims to adopt a final decision within 4 months after the submission of the most recent information. Do you find this deadline appropriate?

The deadline is appropriate.

However, it will be a good practice periodically, the complainant, the Member State and the beneficiary to be informed on a regular basis, about the progress of each case and about the outcome of the investigation.

5. MUTUALLY AGREED PLANNING (MAP)

23. Since 2009, have you made any requests for a MAP? In how many cases was the MAP agreed with the Commission?

Yes, once in the postal sector.

Similar request was also made within the bilateral partnership initiative of the Republic of Bulgaria with the Commission regarding measures in the energy sector.

24. If you have never used this procedure, please indicate the reasons for not requesting its application.

Due to the small amount of notified to the Commission measures, it was not necessary to often use this procedure.

In the Republic of Bulgaria, the Granting Authorities traditionally choose to apply the de minimis and the block exemption regime.

25. If a MAP was agreed, has the procedure been useful?

If not, please indicate what could have made the procedure more useful.

Yes.

26. Did the Commission and the Member States respect the time frame laid down in the MAP? Were there any difficulties in respecting the MAP?

Please provide specific examples.

Yes, the time frame was respected and no difficulties in respecting the MAP were met.

27. Should the MAP be reserved for specific types of cases, e.g. novel, technically complex or sensitive cases? Or should it be made available to other cases?

It must be applicable and extended to all cases.

28. Do you have any suggestions on how to improve the MAP?

It could be improved by extending its application for all possible cases.

6. COMPLAINTS

29. Have you lodged or been concerned by a complaint lodged with DG COMP? How many complaints have you been concerned with since 2009?

Since 2009, the Republic of Bulgaria has been concerned by 41 complaints lodged.

30. In your experience, do you consider that the Commission generally deals with complaints within the 12 months indicative deadline?

We do not keep such statistics, but however, there are complaints that have been proceeded for much longer, without being able to provide concrete examples, since we do not have information about the current status of all complaints.

31. Have you been informed by the Commission on the state of play of your complaint?

If yes, how did this communication take place?

Yes, for certain cases, the Republic of Bulgaria has been informed by the Commission that a certain complaint procedure has been closed.

This information was received by formal way of communication – by an official letter from the Commission, or informally by e-mail – through the national state aid coordinator of the Commission.

32. Have you received a request for information from the Commission in the context of an investigation?

If yes, did you encounter any difficulties in replying to the Commission's request?

If yes, please give specific examples.

Yes. A request from the Commission was received for provision of clarifications in the field of the railway transport, terrestrial transition in our country and in the postal sector, as well. There were no particular difficulties in answering the Commission experts' questions and on their part; they are always at our disposal to provide further explanations.

33. Do you have any recommendations on how to improve the communication between the Commission and the parties to the complaint during the handling of the case? Please make specific suggestions or give examples of cases where, in your opinion, this has been handled in an appropriate manner.

Regarding the Complaint chapter we suggest that additional clarification is made so that it is guaranteed that all parties of the complained are informed, without explicit request.

To be specific, in order to assure that the Member States will be provided in practice and on a regular basis with information on the concrete status of all the complaints, we suggest the term "systematically" to be amended by the Commission in order to be clear that the information from the Commission will be provided, e.g. "on every three/six months".

Moreover, we would like to suggest that the Member State to be explicitly and officially informed for any case when the complaint is being closed or deemed to be withdrawn.

7. LANGUAGE WAIVER

34. Since 2009, in how many cases did you use one of the Commission's working languages (English, French or German) for exchanges with the Commission?

We do not keep such statistics, but however, there is a practice that the communication with the Commission is held in one of the Commissions' working languages. It is predominantly applied in case of urgency, and the Granting Authority agrees to apply for a language waiver in order to improve the speed of the procedure. In all the cases the communication is held in English.

In addition, we consider it would be very useful for the Member States and the Granting Authorities the inclusion of methodological part explaining with examples and options for the calculation of the gross subsidy equivalent in the different aid instruments, as well as other methodological aspects in the implementation of the State aid rules which are of mutual interest to be formalized.

35. Would you agree to applying for a language waiver in order to improve the speed of the procedure?

Yes.

SECTION C: NEW TOPICS TO BE CONSIDERED IN THE CODE OF BEST PRACTICE

8. GENERAL

36. In 2013, the State Aid Procedural Regulation[2] was amended. As a result, a series of new elements were introduced as the new complaint form and possibility of the Commission to impose fines for failure to reply to market information requests. This amendment was part of the wider State Aid Modernisation which gave more responsibility to the Member States in designing and implementing support measures while streamlining and updating the framework of State aid rules.

Following the revision of the Procedural Regulation and the State Aid Modernisation process, what changes could be introduced to make the Code more useful?

Please explain why.

We consider that all changes and introductions as a result from the state aid modernisation (working formats/thematic working groups, the SAM WG, prioritisation, transparency and exchange of best practices) should be introduced in the Best Practice Code – including the below mentioned in sections 9-12. We refer to our answer of the question 33 as well.

9. SECTOR INVESTIGATIONS AND REQUESTS FOR INFORMATION

37. The Procedural Regulation provides the possibility for the Commission to conduct an inquiry across Member States into a sector of the economy or the use of an aid instrument. Do you find it useful to propose guidance on such an inquiry within the Code?

Yes.

38. The Procedural Regulation provides the possibility to Commission to ask questions to undertakings following the opening of the formal investigation procedure. Do you find it useful to propose guidance on such market investigation tools within the Code?

Yes.

10. ENHANCED COORDINATION

[2] Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 248, 24.9.2015, p. 9, replacing Council Regulation No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 83, 27.03.1999, p. 1.

39. To accompany the State aid modernisation and enable contacts with Member States, DG Competition has set up a network of country contact points. Should the Code refer to this network and explain their role?

Yes.

40. Do you have any suggestions on how to improve the cooperation between DG COMP and the network of country contact points?

No, for the moment the cooperation between the Commission and the state aid contact points is very good. The contact points from the Commission for the Republic of Bulgaria always immediately assist, are very cooperative and react quickly whenever necessary.

41. Should the Code refer to and explain the portfolio approach for the treatment of cases. For example, the process whereby Member States and Commission agree on a process for timely delivery on a group of cases, possibly by deprioritising other cases?

Yes, although as far as this tool is binding for the Member States' authorities, we consider it as more appropriate that it should be arranged in a binding act, not one of a methodological nature, whatever the Best Practice Code is.

11. PARTNERSHIP WITH THE MEMBER STATES FOR THE STATE AID MODERNISATION

42. To accompany the State aid modernisation and enable its uptake at the national level, the Commission has promoted a strengthened partnership with the Member States. How do you think the Code could reflect the practices of the partnership?

We consider that as soon as the Commission has gained some experience in the field, it would be appropriate to outline the general framework of the partnerships, the key phases and steps in the negotiation of the bilateral cooperation/partnership between the Commission and the Member States.

What is more, we consider that such an approach would have to settle how the Commission services identify the areas where the law enforcement in a particular Member State needs improvement and on the basis of what criteria.

It should also be arranged an obligation for the Commission to provide guidance and information on best practices in a certain time frame, in order to provide support for the enforcement of the Member State.

12. MONITORING

43. Following the revision of the State aid rules in the context of the State Aid Modernisation process, a significant number of measures have been implemented by Member States under the General Block Exemption Regulation and monitored by the Commission ex post. Would it be useful to make a reference in the Code to the monitoring and its objectives?

Please explain why.

Yes, we consider that the Member States should be informed about the monitoring process of the Commission as well as the criteria, under which deviations are classified.

Such information would serve the Member States to develop national procedures in the most appropriate manner and to minimize the error rate, so that they are in full compliance with applicable regime.

In our opinion the State aid authorities should be informed on a regular basis and about the most common mistakes, as well as about the identified variations in the enforcement of the block exemption regime.

SECTION D: MISCELLANEOUS

44. Do you have any other comments or documents on the application of the Code?

Please provide us with a copy of such documents.

No.

45. Please indicate whether the Commission may contact you for further details on the information you have submitted

X Yes. No.

THANK YOU FOR RESPONDING TO THIS QUESTIONNAIRE.