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

My/our contribution,

☐ 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).

☐ Can be directly published provided that I/my organisation remain(s) anonymous (I consent to publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that this is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner thatwould prevent publication.

☐ 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? Malta has made use of the Code.

2. In your experience, what are the main positive effects of the Code and what were the underlying success factors? The Code provides clarity on the application of State aid control procedures to State Aid authorities as well as to beneficiaries. Success factors include guidance to Member States, advocacy to beneficiaries and visibility on the various control procedures.

   Please give specific examples.

3. In your experience, what are the main negative effects of the Code?
   Certain areas of first-hand experience such as procedures regarding unlawful aid could also be dealt with in the Code.
   Please give specific examples.

4. Have you encountered difficulties with any procedures laid down in the Code? No
   If yes, please explain what difficulties you have encountered.

SECTION B: THE USE OF THE CODE OF BEST PRACTI

1. GENERAL

5. Which parts of the Code do you find useful? The section on pre-notification contacts is the most useful in our case.

6. Which parts of the Code do you find not useful? Although one cannot specifically identify a section as being not useful, in our case we have not made particular use of the section on Mutually Agreed Planning.

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? The Code has provided a useful insight on the work carried out by the Commission.
   Please provide examples. Of particular value is the clarity on procedures and proceses.

8. From your experience, does the Code improve the predictability of State aid procedures? The elaboration on State aid control procedures in the Code gives more clarity when planning any notification process.
   Please give specific examples.

9. What was your smoothest procedure, and what can be learned from it?
   The smoothest procedures were those which were the shortest, primarily as a result of a degree of preparedness. This resulted in open discussions leading to enhanced mutual understanding. This facilitated an early reply, also given due to the urgency and importance of the cases at hand.

2. PRE-NOTIFICATION CONTACTS

10. Please indicate how many pre-notification contacts you had with the Commission since 2009? There have been 2 pre-notification contacts with the Commission.

11. Have you experienced any difficulty in arranging pre-notification contacts? No
If so, please explain the nature of such difficulties.

12. In general, were the pre-notification contacts useful? Yes.
If so, please explain why. Such contacts were useful as they provided guidance as well as the opportunity to discuss the measure itself. This resulted in the Decision being handed down in a timely manner.

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? The Commission made a first contact within the two-week indicative timeframe.

14. How long have the pre-notification contacts lasted? Did they have a positive impact on the overall duration of the State aid procedure? The pre-notification contacts lasted for approximately 4-6 months.

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.). N/A

16. Was the aid beneficiary involved in the context of the pre-notification contacts? The beneficiary was not directly involved in the pre-notification contacts. Was this useful? It is best that discussions are held between the Commission and public authorities.

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. N/A

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

19. Were the questions raised by the Commission difficult to answer? N/A
If yes, please give examples of a case where this has been particularly difficult?

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

4. FORMAL INVESTIGATION PROCEDURE

21. Have you encountered any difficulties with the handling of confidentiality issues for the publication of the decision? No
If so, please give specific examples.

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? Yes, however the Commission should strive to adopt a decision in a shorter timeframe in those instances where a Member State only has a low number of pending cases.

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? No requests for a MAP have been made.

24. If you have never used this procedure, please indicate the reasons for not requesting its application. This procedure has not been used as the majority of State aid measures are implemented in line with the *General Block Exemption Regulation*.

25. If a MAP was agreed, has the procedure been useful? N/A
If not, please indicate what could have made the procedure more useful.

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. N/A

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? The MAP should be reserved for novel, technically complex and sensitive cases. Such procedure goes hand in hand with the Commission's State aid case prioritization exercise.

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

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? Malta has been concerned with 4 complaints lodged with DG COMP since 2009.

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

31. Have you been informed by the Commission on the state of play of your complaint? If yes, how did this communication take place? The Commission has informed the authorities of the status of complaints via official correspondence sent through electronic mail.

32. Have you received a request for information from the Commission in the context of an investigation? Yes
If yes, did you encounter any difficulties in replying to the Commission's request? If yes, please give specific examples. No specific difficulties were encountered with the Commission's request.

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. The Commission should forward all relevant documentation in support of a complaint to the Member State. This will facilitate the understanding by the national authorities of the nature of the complaint and thus the case can be dealt with more holistically and expeditiously.

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? English was used in the majority of cases.

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

8. GENERAL

36. In 2013, the State Aid Procedural Regulation[3] 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. The Code should be in line with what is stated in the Procedural Regulation so as to ensure consistency between the two documents; thereby providing guidance on all matters. It would be useful for the Code to adequately reflect changes made to the Procedural Regulation, especially with regards to guidance on the imposition of fines and penalty payments.

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

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? Cooperation between DG COMP and the network of country contact points should continue to be developed. One could possibly explore how best to enhance this service in dealing with specialized sectors that fall under the remit of other Commission Services, so as to enhance feedback and continuity.

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? There is validity to this proposal as this will enhance programming and the speed, particularly where there are a large number of pending cases concerning a Member State. However, the Code should remain flexible enough to allow for a case-by-case approach in dealing with unplanned and urgent cases.

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? The Code could be used to ensure coherence and consistency in the application of procedural rules by encouraging the exchange of information between the Commission and Member States, therefore leading to procedures of a better quality.

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? Such reference in the Code would be useful as it would provide guidance as to what type of information is required by the Commission
Please explain why.

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. N/A

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

Yes ☑ No ☐

THANK YOU FOR RESPONDING TO THIS QUESTIONNAIRE