

Draft GBER, PART II - EXPLANATORY MEMORANDUM

I. OBJECTIVE AND CONTEXT OF THE PROPOSAL

The Commission launched a broad review of State aid rules with a Communication on State aid Modernisation ("SAM") of 8 May 2012. State aid enforcement should contribute to sustainable, smart and inclusive growth, focus on cases with the biggest impact and rules should be streamlined for faster, better informed and more robust decisions.

The review of the General block exemption Regulation ("GBER") is at the centre of the SAM reform and shall contribute to all objectives, with particular focus on simplification. A first public consultation on a far-reaching review of the GBER was held from 8 May to 28 June 2013 (see http://ec.europa.eu/competition/consultations/2013_gber/index_en.html). The Commission is currently processing the large number of replies.

In the meantime, on 22 July 2013, the EU's Council of Ministers adopted the revision of Council Regulation (EC) No 994/98 ('Enabling Regulation'), which will enter into force on the twentieth day following its publication in the *Official Journal*. This adoption creates the legal basis for future block exemptions in the following new categories: innovation; culture and heritage conservation; making good the damage caused by natural disasters; making good the damage caused by certain adverse weather conditions in fisheries; forestry; promotion of food sector products not listed in Annex I of the TFEU; conservation of marine and freshwater biological resources; sports; social aid for transport for residents of remote regions; certain broadband infrastructure; and infrastructure in support of the objectives of the Enabling Regulation and objectives of common interest.

The Commission is now enabled to draft compatibility criteria for block exemptions in these new categories. When drafting such criteria, the Commission has to take into account that distortions of competition have to be minimised, that new block exempted measures contribute to the objectives of State Aid Modernisation and that the Commission already has sufficient substantial experience with the respective (sub-)category (see recital (4) of Regulation No 994/98 and point 20(b) of the SAM Communication). As in the past, the process of block exemptions will therefore be gradual also for the new categories. On the other hand, the timely adoption of the revised Enabling Regulation allows to launch already now the consultation process on criteria for those new (sub-)categories where sufficient case experience exists:

- making good the damage caused by natural disasters;
- social aid for transport for residents of remote regions;
- certain broadband infrastructure;
- innovation;
- culture and heritage conservation;
- sports and multifunctional infrastructure.

In addition to the above new (sub)categories proposed, further categories will be inserted at a later stage, when the Commission will have a clearer view on the compatibility criteria that could be foreseen. For instance, while there is a substantial case experience with State aid to cinema and audio-visual works, the Commission finds it more appropriate to propose the draft compatibility

criteria for the block exemptions in this area in the light of the final text of the Cinema Communication to be adopted by the Commission in early autumn. Other aid categories could be inserted, if there are specific requests, as in the case for aid to ports' infrastructure. On the latter ones, the Commission services seek feed-back from Member States and other stakeholders on whether exemption from the notification requirement is necessary, as well as on what kind of compatibility criteria should be devised. Other aid categories are not inserted due to lack of case-experience and may therefore be considered at a later stage, after the adoption of the relevant Guidelines and the development of case-practice.

In order to achieve a consolidated single adoption of the entire revised GBER including new categories in time, the consultation period has to be launched immediately following adoption of the Enabling Regulation. This is an urgency calling for a reduced consultation period as foreseen in Article 29(2) of Council Regulation (EC) No 659/1999. The present public consultation is the first step in a process which will involve further consultations.