



EUROPEAN COMMISSION

DG Competition

State aid: General Scrutiny and Enforcement
The Director

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Subject: Working Group Infrastructure – Documents for discussion

Dear Madam/Sir,

As mentioned in the Agenda of the meeting of the Working Group Infrastructure to be held on 23 September 2015 in Brussels (Centre Albert Borschette), the main points for presentation and discussion will be (1) the Infrastructure Analytical Grids, (2) the role of JASPERS in Major Projects co-financed by European Structural and Investment Funds (ESI Funds), and (3) the State aid aspects of the Investment Plan for Europe (EFSI).

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1. Infrastructure Analytical Grids

Regarding the Infrastructure Analytical Grids, please find enclosed the revised analytical grids, which will soon be published on the website of DG COMP.

In 2012, in the wake of the Leipzig-Halle judgment, DG COMP provided guidance by way of so-called "analytical grids" on the application of State aid rules to the public financing of infrastructure projects. These 2012 analytical grids were specifically intended to facilitate the assessment process in order to ensure the respect of State aid rules when implementing Operational Programmes under Structural Funds and the Cohesion Fund. Therefore, they were sent to the Member States on 1 August 2012 with a common letter signed by DG REGIO and DG COMP.

The content of the 2012 analytical grids reflected the rules and decisional practice at that point in time. Since then, the State aid regulatory framework has undergone modifications in the context of the State aid modernisation exercise¹, resulting in a need to update those grids. The attached revised analytical grids aim at providing guidance as regards State aid rules applicable to the financing of infrastructures in specific sectors: broadband, research, culture, sports, energy, waste management, airports, ports, rail and local transport. All grids are structured in a way that they first mention the reasons why State aid may be present or not.

The previous analytical grids included a general document providing relevant information for all types of infrastructure ("General Grid"). Please note that the new version of the General Grid is still under development and will be communicated as soon as possible.

2. Major Projects co-financed by ESI Funds: the role of JASPERS

In the new programming period a new procedure to speed up the treatment of major projects financed by ESI Funds was set up. Member States have the possibility to submit an Independent Quality Review (IQR) report drawn up by an independent expert, role currently fulfilled by JASPERS², a technical assistance partnership between DG REGIO, EIB and EBRD. The independent quality review function of JASPERS will be separated from the traditional activities provided by JASPERS such as project preparation support and strategic advice.

The Commission services are committed to undertake efforts to streamline the treatment of major infrastructure projects co-financed by ESI Funds which are submitted via the new procedure in order to ensure that delays in the implementation of ESI Fund operations are avoided.

3. European Fund for Strategic Investments (EFSI)

The EFSI package has been adopted on 22 July 2015. The third session intends to provide a state of play as regards the State aid aspects of EFSI.

¹ http://ec.europa.eu/competition/state_aid/modernisation/index_en.html

² Joint Assistance to Support Projects in European Regions (JASPERS), see the website: <http://www.jaspers-europa-info.org/>

EFSI financing by the EIB is not State aid within the meaning of the EU Treaties. That EFSI financing will thus not have to be approved by the European Commission under EU State aid rules. Projects supported by EFSI may however also benefit from financial support (co-financing) by EU Member States. Such co-financing is, unless granted on market terms, State aid which must be approved by the Commission³. To support EFSI, the Commission will assess Member State co-financing as a matter of priority, and give it fast-track treatment as indicated amongst other in the Communication from the Commission of 22/7/2015 "Working together for jobs and growth: The role of National Promotional Banks (NPBs) in supporting the Investment Plan for Europe"⁴. EU State aid rules go hand in hand with the Investment Plan's objective of addressing market failures and mobilising private investment.

Please note in this respect that the EFSI Regulation n° 2015/1017⁵ also aims at incentivising the combination of different sources of funding together with the EIB EFSI funds (see in particular article 9.7 of the Regulation). The Working Group will also provide a state of play of the workstreams concerning this issue.

Yours faithfully,

Karl SOUKUP
[signed]

Annexes:

The revised Infrastructures Analytical Grids (10 pdf files)

³ Unless it is block-exempted from notification or granted under an approved scheme.

⁴ http://ec.europa.eu/priorities/jobs-growth-investment/plan/docs/150722_communication-on-role-of-npb_en.pdf

See also MEMO/15/5419 (point 24): http://europa.eu/rapid/press-release_MEMO-15-5419_en.htm

⁵ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2015.169.01.0001.01.ENG