

INTRODUCTION TO THE ANALYTICAL GRIDS ¹

Disclaimer:

The contents seek to reflect the current rules and decisional practice and do not prejudge possible developments in the State aid enforcement practice and the application of public procurement rules. In any case the services of the Directorate-General for Competition (DG COMP) are available to provide further guidance on the need for a formal notification. Such guidance may be given in the course of a pre-notification procedure. ²

Background to the analytical grids

1. In 2012, in the wake of the Leipzig-Halle judgment³, 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. The content of the 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 exercise, resulting in a need to update those grids. More specifically, the new grids integrate new State aid rules (the new General Block Exemption Regulation⁴, the new *de minimis* Regulation⁵, the new Aviation Guidelines⁶, etc.)⁷.

State aid rules and projects funded by the European Fund for Strategic Investments (EFSI)

2. EFSI financing is not State aid within the meaning of the EU Treaties, and EFSI financing will not have to be approved by the European Commission under EU State aid rules⁸. Projects supported by EFSI may however also benefit from financial support (co-financing) by Member States (ESI Funds and national co-financing). Such co-financing is, unless granted on market terms, State aid which must be approved by the Commission.

¹ This is a working document drafted by the services of the European Commission and it does not express an official position of the Commission on this issue, nor does it anticipate such a position. It is not intended to constitute a statement of the law and is without prejudice to the interpretation of the Treaty provisions on State aid by the Union Courts.

² Commission Notice on *Best Practices Code on the conduct of State aid control proceedings*, OJ C 136, 16.6.2009, p. 13.

³ Joined Cases T-443/08 and T-455/08 Flughafen Freistaat Sachsen and others v Commission, EU:T:2011:117.

⁴ Commission Regulation (EU) No 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty, OJ L 187, 26.6.2014, p. 1.

⁵ Commission Regulation (EC) No 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to *de minimis* aid, OJ L 352, 24.12.2013, p. 1.

⁶ Guidelines on State aid to airports and airlines, OJ C 99, 4.4.2014, p. 3.

⁷ State aid rules in force are available on: http://ec.europa.eu/competition/state_aid/legislation/legislation.html.

⁸ See the Communication from the Commission to the European Parliament and the Council "*Working together for jobs and growth: The role of National Promotional Banks (NPBs) in supporting the Investment Plan for Europe*", [COM/2015/0361 final](#), and the Commission's Factsheet on "*The Investment Plan for Europe: Questions and Answers*", [press release of 20 July 2015](#).

3. The Commission will assess EFSI projects with Member State co-funding on the basis of its modernised State aid framework. To support EFSI, it will assess Member State co-financing as a matter of priority, and give it fast-track treatment, aiming to complete its assessment within six weeks of receiving the required information from the Member State.

Structure of the analytical grids

4. The analytical grids follow a uniform structure, providing sector-specific guidance as to when:
 - i. aid is not involved, and therefore a notification is not necessary (due for example to the use of the infrastructure not involving an economic activity, the lack of potential for any effect on completion and trade, or the absence of economic advantage);
 - ii. aid is involved but no notification is necessary, and specific rules may apply (in case of aid exempted from notification obligations); and
 - iii. aid is involved and a notification is necessary, with reference to the main applicable State aid rules.

Access to State aid decisions on DG Competition's website

5. Decisions and other published State aid case documentation may be accessed by using the search function in the following link: <http://ec.europa.eu/competition/elojade/isef/index.cfm>

List of sector-specific grids:

- 1) Broadband infrastructures
- 2) Airports
- 3) Ports
- 4) RDI infrastructures
- 5) Culture infrastructures
- 6) Sport and multifunctional recreational infrastructures
- 7) Energy
- 8) Waste management infrastructures
- 9) Rail, metro and local transport infrastructures