Brussels, 06.01.2016

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|  | EUROPEAN COMMISSIONDG Competition |
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**Consultation Paper**

**review of the Notice on a Simplified procedure for treatment of certain types of state aid**

The purpose of this consultation is to invite **Member States** and **stakeholders** to comment onthe use and experience gained with the application of the **Notice** **from the Commission on a simplified procedure for the treatment of certain types of State Aid**[[1]](#footnote-2) (the 'Simplified Procedure Notice' or the 'Notice').

These comments will be used as input for the intended review or possible repeal of the Simplified Procedure, as foreseen in paragraph 25 of the Notice.

The Commission invites Member States and stakeholders to submit their comments to DG COMPETITION by 6 April 2016.

**1. INTRODUCTION**

On 29 April 2009, the Commission adopted the Simplified Procedure Notice to ensure that certain categories of notified aid that normally do not raise doubts as regards their compatibility with the internal market are approved as quickly as possible when Member States provide a complete notification. The Notice lists the conditions under which the Commission will usually adopt short-form decisions declaring certain types of State support measures compatible with the internal market and provides guidance in respect of the procedure itself.

The Notice entered into force on 1 September 2009.

The Notice includes a list of aid measures, in principle suitable for simplified treatment. It provides for three main categories of cases:

* Category 1 (paragraph 5(a) of the Notice) groups those aid measures falling within the standard assessment section of frameworks and guidelines, recently taken over by the General Block Exemption Regulation[[2]](#footnote-3);
* Category 2 (paragraph 5(b) of the Notice) comprises aid measures with features corresponding to those aid measures approved in at least three earlier Commission decisions ('precedent decisions');
* Category 3 (paragraph 5(c) of the Notice) reiterates, in substance, the content of Article 4 of the Implementing Regulation[[3]](#footnote-4) ('Article 4 IR'), which already provides for a simplified notification procedure for certain alterations to existing aid.

Following the revision of the State aid General Block Exemption Regulation and Guidelines in the context of the State Aid Modernisation process, the revision of the Notice appears to be necessary to reflect the new substantive setup. This consultation will therefore aim at collecting the views of the Member States and stakeholders on the **experience gained with the implementation of the Notice during the past six years**.

This consultation is a REFIT initiative[[4]](#footnote-5).

**2. HOW TO CONTRIBUTE TO THE CONSULTATION**

Member States and other stakeholders are invited to respond to the questionnaire hereunder. Replies can be submitted in all official EU languages. Given the possible delays in translating replies in certain languages, translations of the replies in one of the Commission's working languages (English, French or German), would be welcome. In addition, any comments on the Simplified Procedure Notice, but beyond the scope of this questionnaire, will be welcome.

For your convenience, the questions are sorted by topic. If you do not feel concerned by a particular question, please reply 'not applicable'.

The deadline for the replies is 6 April 2016. Replies should be sent to the European Commission, DG COMP, State aid registry, 1049 Brussels, reference **'HT 1401'**, preferably via e-mail to Stateaidgreffe@ec.europa.eu.

The Commission services plan to make the replies to this questionnaire accessible on their website [http://ec.europa.eu/competition/consultations/open.html](file:///%5C%5Cnet1.cec.eu.int%5CCOMP-Services%5CDirection-H%5CH-4%5C_forum%5CHT.2664%20Procedural%20Reform%20-%20Procedural%20Regulation%5CState%20Aid%20Modernisation%20Initiative%202011-2012%5CDocuments%20and%20Settings%5Ctenreca%5Cwendlbe%5CLocal%20Settings%5CForum%20other).

Therefore, if respondents do not wish their identity or parts of their responses to be disclosed, that fact should be clearly indicated and a non-confidential version should be submitted at the same time. In the absence of any indication of confidential elements, DG COMPETITION will assume that the response contains none and that it can be published in its entirety.

**About You**

**Specific privacy statement**: All contributions received, together with the identity of the contributor, will be published on the Internet, unless the contributor objects to the publication of personal data on the grounds that such publication would harm its legitimate interests. In that case the contribution may be published in anonymous form.

For rules on data protection on the EUROPA website, please see: <http://ec.europa.eu/geninfo/legal_notices_en.htm#personaldata>

## 1. Do you object to the disclosure of your identity?

Yes  No 

## 2. Do any of the exceptions foreseen in Article 4 of Regulation 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents[[5]](#footnote-6) apply to your response? If so, please indicate clearly which parts should not be disclosed, justify the need for such confidential treatment and provide a non-confidential version of your response for publication on the Commission website.

Please provide your contact details below.

|  |  |
| --- | --- |
| ***Name*** |  |
| ***Organisation represented*** |  |
| ***Main business activities*** |  |
| ***Location (country)*** |  |
| ***E-mail address:*** |  |

***NOTE: You are requested to follow the order of the questions, even though you are not required to reply to all questions. You can also submit additional information on the Simplified Procedure Notice that you consider relevant and which does not fit any specific question.***

**Section A: General Policy Questions**

1. Have you made use of the Simplified Procedure Notice?
2. From your experience, please describe the main positive effects of the Simplified Procedure Notice. Please give concrete examples.
3. From your experience, please describe the main negative aspects of the Simplified Procedure Notice. Please give concrete examples.
4. Have you encountered difficulties using the Simplified Procedure Notice to get State aid measures approved?

 Yes No

 If yes, please explain what difficulties you have encountered.

1. Are the existing categories of State aid measures under the Simplified Procedure Notice clearly defined and easily applicable? Please explain.
2. From your experience, do you consider the Simplified Procedure Notice to be necessary for a speedier treatment of notifications of State aid measures? Is it useful? Please provide concrete examples.

**Section B: The use of the Simplified Procedure**

General

1. Which features of the Simplified Procedure Notice incentivised you to use it?
2. Which features of the Simplified Procedure Notice dis-incentivised you from using it?
3. How many cases have you notified under the Notice since its entry into force? How many of the cases you have notified were approved by the Commission services under the Simplified Procedure Notice?
4. How would you evaluate the effectiveness of the Simplified Procedure Notice? Please provide any relevant reports that describe its effectiveness.

Simplified Procedure Notice Categories

1. Please indicate which categories and sub-categories of measures under the Simplified Procedure Notice were the subject of your notifications. Please explain why. If possible, please refer to the relevant paragraphs of the Notice (i.e., Category 1 paragraphs 5(a)(i)-(xi), Category 2 paragraphs 5(b)(i)-(ix), Category 3, paragraph 5(c) of the Notice).
2. Please explain why you have resorted to a specific category and sub-category in your notifications. Did you find a category and sub-category particularly useful? Please explain why.
3. Please indicate whether there are any categories and sub-categories of measures under the Simplified Procedure Notice which you have deliberately not used. Please explain why.
4. Which of the two provisions concerning the prolongation and amendments of existing schemes (i.e., paragraph 5 (b)(ix) and 5(c) of the Notice) have you used and why?
5. Based on your experience, did you find it useful to have two different provisions concerning the prolongation and amendments of existing schemes (i.e., paragraph 5 (b)(ix) and 5(c) of the Notice)?

Yes No

If not, please explain why.

1. At the moment, a Member State may notify a measure either under Article 4 of the Implementing Regulation[[6]](#footnote-7) (Article 4 IR) or under paragraph 5(c) of the Simplified Procedure Notice. If applicable, in what circumstances did you decide to apply the Notice instead of Article 4 IR? Please explain the reason for your choice.

Pre-Notification (PN) Phase

1. How many PN contacts did you have with the Commission services? How long did the PN phase take?
2. Did you find the PN contacts useful?
3. What was the major subject matter of the PN contacts (identifying the appropriate category, *prima facie* compatibility assessment, additional information requested by the Commission services)?
4. How many requests for information from the Commission did you receive in the PN phase?
5. Did you receive clear feedback as regards the *prima facie* compatibility of the measure from the Commission services at the end of the PN phase?

Yes No

If not, please explain in which way the feedback received (if any) was not clear.

1. Did you apply for a waiver from filling in the entire notification form?

Yes No

If yes, for which part did you request the waiver? Did the Commission services grant it?

1. What were the resources and the time needed for you to submit a draft notification form?
2. Have you encountered difficulties in completing the notification form?

Yes No

If yes, please describe the main difficulties you have encountered.

1. Based on your experience, in which cases do you think you do not need to provide a draft notification form under the Notice?
2. Has any of the cases you have notified under the Simplified Procedure Notice been reverted to the normal procedure by the Commission? Please explain why.

Notification (N) Phase

1. How long did the N phase take in the cases you have notified?
2. In the N phase, do you consider the period of 2 months provided for in paragraph 17 of the Notice sufficient for a Member State to notify the aid measure(s) concerned?

Yes No

If not, please explain why.

1. Did you make any amendment to the draft notification of the State aid measure after the PN phase?
2. How many requests for information from the Commission did you receive in the N phase?
3. How long did the N phase take in the cases you have notified under the Simplified Procedure Notice?

Publication of Summary Notifications

1. Have you ever consulted the dedicated webpage on summaries of aid measures notified by the Member States and currently assessed by the Commission <http://ec.europa.eu/competition/elojade/isef/dsp_simple_notif.cfm>?
2. Do you think that the publication of the summary of notification by the Commission services is useful?
3. Did you ever provide comments on the publication of the summary of notification?

**Section C: Intended Review or repeal of the Notice**

1. Do you consider the current scope of measures covered by the Simplified Procedure to have been appropriately framed?

Yes No

If not, please explain what difficulties you have encountered.

1. From your previous experience, how many cases would you consider notifying under the Simplified Procedure in the coming two years?
2. From your previous experience, what changes could be introduced to render the Simplified Procedure more useful for your purposes considering the enlarged scope of the GBER?
3. From your previous experience, can you identify any categories of State aid measures that could be added to the scope of the Simplified Procedure? Please explain why.
4. From your previous experience, can you identify any categories of State aid measures that could be excluded from the scope of the Simplified Procedure? Please explain why.

**Section D: Miscellaneous**

1. Do you have any other comments on the application of the Simplified Procedure Notice, on points not covered in this questionnaire?
2. Please provide copies of any documents or reports which may be relevant for assessing the application of the Simplified Procedure Notice and contributing to the reflection on its possible review.
3. Please indicate whether the Commission services may contact you for further details on the information submitted, if required.

Yes No

**THANK YOU FOR RESPONDING TO THIS QUESTIONNAIRE.**

1. OJ C136, 16.06.2009, p. 3-12. [↑](#footnote-ref-2)
2. 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). [↑](#footnote-ref-3)
3. Commission Regulation No. 794/2004 of 21 April 2004 implementing Council Regulation (EC) No. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 140, 30.4.2004. [↑](#footnote-ref-4)
4. REFIT is the European Commission's Regulatory Fitness and Performance programme. Action is taken to make EU law simpler and to reduce regulatory costs, thus contributing to a clear, stable and predictable regulatory framework supporting growth and jobs. [↑](#footnote-ref-5)
5. OJ L 145, 31 May 2001, p. 43. [↑](#footnote-ref-6)
6. Commission Regulation No. 794/2004 of 21 April 2004 implementing Council Regulation (EC) No. 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 140, 30.4.2004. [↑](#footnote-ref-7)