Consultation on a draft framework for state aid for research and development and innovation

ALSTOM Contribution

Alstom welcomes the updated draft framework, which marks in several respects a positive outcome of the debate launched by the Issues paper from December 2012 and by the consultation on the GBER in spring 2013.

We support in particular:
- The increased notification thresholds which will enable the Commission to focus its resources on the potentially most disruptive cases.
- The fact that the Matching Clause is kept in the Framework (§ 92) and that the Commission will be able to use its investigative powers to collect data relating to support granted to non EU companies. Although unfortunately this can only happen in the restrictive circumstances described in Regulation 734/2013: only in Phase II, and if the latter has proved to be ‘inefficient’. Nevertheless, this ought to improve the implementation of this clause in the coming years and contribute to the achievement of a level playing field at a global level in the public support to RDI.
- The clarification that funding managed by the Commission through Joint Undertakings does not constitute State Aid, which is logical since the Commission controls such structures.

However, it must be kept in mind that the EU framework is the most restrictive one from a global standpoint. Therefore these guidelines must ensure a level playing field both within Europe and between Europe and the rest of the world. With this objective in mind, we call for their improvement on four points:

1. Aid Intensity Levels

Although the proposed framework maintains most of the allowable existing aid intensity levels, there is one exception regarding the aid intensity level for loans and repayable advances, which decreases from 40% to 35% for experimental development projects. This is surprising as the draft framework considers this form of support to be “a particularly apt way to ensure that the aid is kept to the minimum”, therefore we suggest that the allowable aid intensity level provided in such cases remains at 40%.

2. “Net extra costs” approach based on Net Present Values: a highly unpractical methodology

ALSTOM is particularly concerned by the proposal to cap the RDI state support to the Net Extra Costs identified by comparing the NPV of the aided project and that of the counterfactual scenario.

Today, the Commission services’ assessment is based on the profitability of the aided project compared to the counterfactual scenario, using therefore the Internal Rate of Return (IRR). NPVs are also used to demonstrate the incentive effect of the aid. This methodology, which was borne out of practice rather than planned for in the existing Framework, is already quite complex. Indeed, most of the possible beneficiaries require extensive support of external
legal and economic advisors to prepare their notifications. Despite this, the Commission itself seems to be satisfied with its results, since it was explicitly retained in the Regional Aid guidelines released in July 2013 to assess aid for investment decisions, which are very similar to RDI decisions. However, it is important that the IRR and the NPV are only used to demonstrate the incentive effect of the aid, i.e. that it changes the behaviour of the beneficiary. It should not be used to set the maximum acceptable amount of aid in absolute terms. Such a calculation is a very complex one, and cannot be summarised in simply comparing a financial indicator of two scenarios.

Hence we do not see any reason requiring the “net extra costs approach” to set the maximum acceptable amount of aid in absolute terms. It will drastically increase the complexity of the process, while decreasing its transparency and predictability due to a more subjective analysis, taking into account “the probabilities of the different business scenario occurring” (§ 87) and by using “sector or firm specific benchmark” (§ 88). The proposed Framework does not provide any guidance as to how, in economic environments where non-EU companies often provide most of the competition, the Commission will identify relevant counterfactual scenario, assess their probabilities of occurrence and obtain relevant sectoral benchmarks. This will clearly extend the examination process and appears not to be in line with the key objective of simplification which is at the heart of the State Aid Modernisation process.

Therefore we call for an evolution of the draft Framework to be based on the existing methodology, and avoid any shift to a “net extra costs”-based alternative.

3. Transparency requirements

We welcome the Commission’s insistence on transparency of state aid schemes and measures, which is critical to ensure an economic level playing field in Europe. However one must take into account the sensitive nature of RDI projects, which are key to Europe’s future global competitiveness. Therefore, we believe that it would be inappropriate to extend the transparency requirements to non-EU actors, while there is no reciprocity in that regard.

Hence we propose limiting the transparency requirement included in the Framework to EU-based stakeholders, or stakeholders having the main part of their activities located in the EU. Access to this information could be granted to non-EU stakeholders on a reciprocal basis, for example within bilateral or multilateral trade agreements.

4. Matching clause

As explained above, we welcome maintaining the matching clause in the draft Framework and the possibility to use the Commission’s investigative powers. However, we believe this provision should be completed with the possibility for the Commission to use the exchange of information clauses which may exist in the existing or future bilateral trade agreements.