Dear Sirs,

Subject:  HT 618 – Consultation on the draft R&D&I-Framework

On 20 December 2013, the European Commission (Commission) launched its public consultation on the draft R&D&I-Framework (Framework). The EFTA Surveillance Authority (Authority) welcomes the proposal and invites the Commission to consider the following comments when preparing the final version of the Framework:

1. Reference to Technology Readiness Levels

In footnotes 15 to 17 of the draft Framework, the Commission introduces a reference to Technology Readiness Levels (TRL).

The use of TRL has already been indicated in the earlier Issues Paper\(^1\), which suggested that the current definitions of “fundamental research”, “industrial research” and “experimental developmental” could be explicitly linked to the widely-used TRL industrial categories.

The Authority notes that the draft Framework does not contain any definition (either directly or by reference\(^2\)) of TRL, of which several versions exist, depending on the sector and the organisation concerned. In the absence of such definition, it is furthermore unclear whether the introduction of TRL is intended to modify, or merely illustrate, the categories of, respectively, “fundamental research”, “industrial research” and “experimental developmental”.

Furthermore, the draft Framework now refers to three sources for categorising R&D&I measures, namely the decisional practice, the Frascati Manual and the TRL. In case of conflict, it is unclear which source should take precedence.

The Authority invites the Commission to clarify the definition of TRL and the intended purpose of their introduction in the final Framework and/or any explanatory document it intends to prepare.

2. Application of the Framework to demonstration plants

The Authority invites the Commission to consider whether to enlarge the scope of the Framework to cover certain types of installations aimed at demonstrating the commercial application of new technologies (demonstration plants), and thereby to close the “gap”
between the Framework and the Guidelines on State Aid for Environmental Protection (EAG) identified in the case practice.

This issue has arisen in the decisional practice concerning demonstration plants for innovative green technologies. Both the Commission and the Authority have recognised that state aid for such demonstration plants is covered by neither the Framework nor the EAG. The "gap" arises because these demonstration plants do not fall under the EAG as they do not follow their economic logic, i.e. allowing for state aid in order to render an environmentally friendly, but in comparison to a less environmentally friendly alternative non-profitable project sufficiently profitable. At the same time, they do not fall under the definition of experimental development as defined in the Framework read in combination with the Frascati Manual, as explained in the Commission decision "Alpha Ventus":

"Concerning the potential applicability of provisions on prototypes and pilot projects, the Commission is not convinced that the [Alpha Ventus] project meets the conditions set in the R&D&I Framework together with the Frascati Manual. The reason for this is that, notably in the absence of any research staff, obtaining experience and compiling engineering and other data to be used in evaluating hypotheses, writing new product formulae, establishing new finished product specifications, designing special equipment and structures required by a new process and preparing operating instructions or manuals on the process does not seem to be "the principal purpose" of the Alpha Ventus project as required under point 116 of the Frascati Manual."

This "gap" in the state aid guidelines creates uncertainty for aid-granting authorities and undertakings alike. Accordingly, the Authority invites the Commission to consider whether demonstration plants – in particular for innovative green technologies – should be included in the new Framework, e.g. as a separate aid category.

Please do not hesitate to contact the responsible case handler, Fabian Kaisen (02 286 1880), in case of any queries regarding these comments.

Yours faithfully,

Per Andreas Bjorgan
Director
Competition and State Aid Directorate

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4 Commission decision "Alpha Ventus", above, para. 78.
5 Ibid., para. 69.
6 Alternatively, demonstrations plants in the area of environmental and energy technologies could also be covered by the EAG currently under revision. In order to cover all types of such demonstration plants, it would however need to go beyond the new aid category for projects of first commercial scale and small installations producing energy from renewable sources as currently proposed in the draft EAG.