HT. 618 – Consultation on the draft R&D&I-Framework – Comments from the Norwegian Government

The Norwegian Ministry of Trade, Industry and Fisheries has the overall responsibility for the sector crossing instruments in the Norwegian Government’s competition policy, and coordinates comments from the Norwegian central administration in State Aid regulatory processes at the European Commission (hereinafter “the Commission”) and the EFTA Surveillance Authority.

The Norwegian Government refers to the public consultation on the draft Framework for State Aid for research, development and innovation (hereinafter “the Guidelines”).

On a general note, the Norwegian Government welcomes the draft Guidelines. Nevertheless, the Norwegian Government would like to comment on a few issues.

General issues
Firstly, the Norwegian Government would like to voice its opinion that EU funding should be subject to the same state aid rules as aid granted by the Member States. For undertakings, the effect on competition is the same regardless of whether the source of the aid is granted by the EU or the by the Member States. Furthermore, some undertakings and countries have easier access to EU funding than others. Thus, exempting EU funding from the state aid rules is contrary to the objective of the internal market.

Secondly, the Norwegian Government requests that the definition of non-severable is included in the Guidelines.
1.3 Definitions – research infrastructure
It is the opinion of the Norwegian Government that the definition of a research infrastructure could be more precise. The definition allows for different interpretations regarding what constitutes infrastructure. Can for example one or a few sets of instruments constitute a separate research infrastructure or does the infrastructure consist of the entire laboratory with all its equipment? In a situation with several different, but related sets of equipment or instruments, where should one draw the line between the different infrastructures? Different interpretations may lead to different results regarding when the maximum aid intensity is reached.

2.1 - Research organisations and research infrastructures as recipients of state aid
In paragraph 19 (b) it is stated that knowledge transfer activities are of a non-economic character where all income from those activities is reinvested in the primary activities of the organisation. It is the opinion of the Norwegian Government that it should read profits instead of income, as income should be used to cover the costs of the activities. If all income from the knowledge transfer activities is to be invested in the primary activities of the organisation instead of being used to cover the costs of the knowledge transfer activities, the organisation will not be able to develop and maintain its knowledge transfer activities.

Further, the Norwegian Government believes that the following wording of paragraph 19 (b) should be reconsidered:

"...where they are conducted either by a department or a subsidiary of the research organisation or research infrastructure or jointly with, or on behalf of other such entities"

Knowledge transfer activities are often conducted by technology transfer agencies, innovation intermediaries etc, and with the new definition of research and knowledge dissemination organisation these are now themselves regarded as research organisations. The Norwegian Government asks that the Commission reconsider this definition.

Research infrastructures
The Norwegian Government urges the Commission to reconsider the proposed aid intensity for investment aid to research infrastructures. In our experience, it can be difficult to get private investments for large multi-use research infrastructures, thus preventing the establishment of first class research infrastructures. Markets are often distorted by previous state financing of such infrastructures even if the research infrastructure has primary economic use, and the expectation that infrastructures still will be financed that way. Open access research infrastructures should be able to receive 100 % state funding given that the other preconditions are fulfilled, especially if all of the aid is transferred to enterprises under the rules for “Aid for research and development projects”. If that is not an option, the 15 % income allowed from economic activity in order to approve 100 % state financing should be raised. The Norwegian Government seeks to promote more cooperation between research institutions and enterprises. The Norwegian Government therefore suggests that 75 % economic activity should be the limit, because this will leave a substantial part of the income to non-economic activity like education and fundamental research.
Paragraphs 22 -23
The Norwegian Government requests that the Commission clarifies whether paragraph 22 (a) and (b) are cumulative. Further, the Norwegian Government asks that the Commission clarifies in (b) whether the "public funding is available to entities" pertains to end users or the research infrastructure itself.

Furthermore, the Norwegian Government would very much appreciate it if the Commission could clarify whether or not an investment in a research infrastructure could be considered as a scheme if all the aid is passed on to the end users through reduced prices, cf. paragraphs 22 and 23 of the draft. An interpretation of paragraphs 22 - 23 is that the investment in a research infrastructure may be financed 100 % by the State as long as the aid is passed on through reduced prices in line with normal state aid rules.

Paragraph 92
With regard to paragraph 92, we believe that the 3 year time limit should be increased. Research infrastructures could have a much longer life-time. Research infrastructures with state financing will thus impact the market conditions for a longer time-period than 3 years. In Norway, the depreciation time for buildings is frequently set at 50 years, while equipment typically has a depreciation time of 15 years. It is suggested that the time limit is raised to 15 years. Furthermore, we would like to point out that 100 % state financing has been provided to European research infrastructures such as Fraunhofer (cf. case N 365/2007), without being considered as aid, and ask that the Commission take this into account when drafting the Guidelines.

Yours sincerely,

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This document has been signed electronically and therefore it is not signed by hand