Response of the public consultation on the draft Union Framework for State aid for Research, Development and Innovation

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

REPSOL appreciates the opportunity to contribute to the ongoing discussion on the revision of the Paper of the services of DG Competition containing a draft Framework for state aid for research and development and innovation. Here are our comments:

1.- We need to stress the decisiveness of providing the right framework for European companies to be competitive vis-à-vis their main global competitors. European R & D & I requirements are unique. So, it is very important to bear in mind this consideration because we are trading globally.

2.- Tax matters are not considered separately, which is confusing. There are few mentions in footnotes:

Footnote 37 See the Commission notice on the application of the state aid rules to measures relating to direct business taxation (OJ C 384, 10.12.1998, p. 3) [or notice on the notion of aid].

This consideration arises when talking about “Appropriateness of the aid measure” (paragraph 56)

Footnote 40: Even though this may not be possible ex ante for a newly introduced fiscal state aid measure, Member States will be expected to provide evaluation studies on the incentive effect of their own fiscal measures (so that planned or intended methodologies for ex post evaluations should normally be part of the design of such measures). In the absence of any evaluation studies, the incentive effect of fiscal aid schemes may be presumed only for incremental measures.

This footnote is related to the requirement of “incentive effect”: “On the basis of evaluation studies provided by Member States, the Commission may consider that R&D&I fiscal aid
schemes have an incentive effect by stimulating higher R&D&I spending by undertakings.”
(paragraph 65).

We consider that it should be desirable to know ex ante which national tax provisions actually qualify as a state aid measure. Anyhow, we consider that it should be a special chapter on Tax Measures, as there is in the discussion on the revision of the Environmental and Energy Aid Guidelines (EEAG).

3.- Promoting research and development and innovation ("R&D&I") is an important Union objective laid down in Article 179 of the Treaty. It is important for avoiding uncertainty that whether a state subsidy is considered compatible with the European framework of R&D&I tax authorities do not re-characterize it by arguing that this subsidy is not R&D&I. This is another reason why we understand that it should be a clear tax scope.