1. Background

Training usually has a positive impact on society as a whole because it increases the pool of skilled workers from which firms can draw. So it improves the competitiveness of the economy and promotes a knowledge society capable of embracing more innovative developments.

However, employees are free to change employers. A company’s training efforts may then end up benefitting one of its rivals. This is particularly true of training in skills that are transferable between firms. Employers may therefore be reluctant to provide the socially desirable level of training. State aid may step in here and help to create additional incentives for employers to provide training.

The Commission is therefore generally in favour of training aid. This is reflected in the General Block Exemption Regulation (1), which exempts the vast majority of State aid for training from prior notification to Commission, as long as the training measures fulfil a number of clearly defined conditions. This means that these measures can be implemented by Member States immediately, i.e. without awaiting clearance by the Commission.

However, larger aid amounts usually create a bigger threat to competition and trade within the common market. The Commission reserves the right to carry out an in depth-assessment for such cases and they must therefore be notified. For these cases the Communication on ‘Criteria for the compatibility analysis of training state aid cases subject to individual notification’ (referred to below as the ‘Communication’) outlines the conditions under which the Commission investigates such aid.

2. Scope of the Communication and notification threshold

The General Block Exemption Regulation (2) sets the notification threshold for training aid at €2 million. This means that any individual aid, whether granted ad hoc or on the basis of a scheme, with a grant equivalent exceeding €2 million per training project, will be subject to individual notification to the Commission.

Below the notification threshold of €2 million, an aid measure is normally exempted from notification. However, this exemption is only valid for aid schemes (regardless of the size of the firms benefitting from the scheme) and individual aid to small and medium-sized companies. Ad-hoc training aid to a large firm is never covered by the General Block Exemption Regulation, even if it is below the threshold of €2 million. For such aid the Commission will apply the same principles mutatis mutandis as set out in the Communication, though normally in a less detailed manner, as the sums are still modest.

3. Assessment criteria

The assessment criteria in the Communication reflect the ‘refined economic approach’, introduced by the Commission’s State Aid Action Plan in 2005. (3) The core element of the refined economic approach is the ‘balancing test’ which has already been translated into guidelines on other types of horizontal aid (4).

The idea behind the balancing test is to disentangle the positive and negative effects resulting from aid, evaluate them and then balance them. That means first looking at the purpose of State aid and asking whether there is a market failure that needs to be corrected (see point 3.1 below). Furthermore the test looks at the design of the aid: State aid should be an appropriate instrument to remedy the problem (point 3.2), induce a change of behaviour in the aid recipient (point 3.3) and be proportionate

(1) The content of this article does not necessarily reflect the official position of the European Commission. Responsibility for the information and views expressed lies entirely with the authors.


(point 3.4). These positive effects must then be balanced against any negative effects the aid might have (points 3.5 and 3.6).

The criteria set out in the Communication are not applied mechanically. The level of the Commission’s assessment and the kind of information it will require will depend on the risks of distortion of competition and thus on the nature of each particular case.

3.1 Existence of a market failure

Skilled workers increase a firm’s productivity and competitiveness. Therefore it is in the interest of all employers to train their employees. Nevertheless, employers may under-invest in training for a number of reasons.

First, an employer may be concerned that, once trained, an employee will leave the firm before this investment in human capital can be recouped. This concern is even more pronounced when the investments only pay off over a longer period or when the training skills are not specific to the needs of the company and thus could be beneficial for any other potential employer. In contrast, specific training (i.e. training that is tailored to the needs of the company) only yields productivity gains for this specific firm and can normally be fully justified.

From a socio-economic viewpoint underinvestment in training may even occur when firms can fully recoup their investment, but the private benefits are smaller than the benefits for society as a whole. Such positive external effects of training may arise in particular if training improves transferable skills; i.e. skills that can be used in more than one firm. Here again, the scope for positive external effects is less pronounced for specific training than for general training.

State aid can help to remedy this market failure that leads to an underinvestment in training. It can provide employers with an incentive to step up their training efforts. For small training sums, the existence of such market failure is assumed and they are therefore covered by the General Block Exemption Regulation. However, for larger projects falling under the Communication, a Member State should demonstrate that there is indeed a market failure justifying the aid.

Obviously, a crucial element of the Commission’s analysis is the nature of the training: General training will normally bring more positive external effects, as the skills acquired could benefit a wider range of the economy as a whole. Specific training, on the other hand, is more tailored to towards the specific needs of the employer and the general benefits are therefore less pronounced. In most cases, a training project consists of a mix of specific and general measures.

The definitions of ‘specific training’ and ‘general training’ are laid down in the General Block Exemption Regulation (\(^6\)) and are also applicable for evaluating training aid that is subject to individual notification:

- ‘specific training’ means training involving tuition directly and principally applicable to the employee’s present or future position in the undertaking and providing qualifications which are not, or are only to a limited extent, transferable to other undertakings or fields of work;
- ‘general training’ means training involving tuition which is not applicable only or principally to the employee’s present or future position in the undertaking, but which provides qualifications that are largely transferable to other undertakings or fields of work.

In this context, the Commission will assess the transferability of the skills acquired during the training: The more transferable the skills, the higher the likelihood of positive external effects. An indicator of transferable skills could be if a training project is jointly organised by several independent companies, or if employees from different companies can take part in the training. Another indicator would be if the training is certified, leads to a recognised diploma or is accredited by public authorities or institutions.

3.2 Appropriateness

State aid is not the only policy instrument available to Member States to encourage training. In fact, most training is provided through education systems (e.g. universities, schools, vocational training carried out or sponsored by State authorities).

Therefore the Commission will assess whether in a given case, State aid is an appropriate mean to achieve the EU objective. Normally, as long as the Member State has considered other policy options, and decided on the advantages of a selective instrument such as State aid, it is considered appropriate. The Commission will take particular account of any impact assessment the Member State may have made for the proposed measure.

3.3 Incentive effect

State aid for training must result in aid beneficiaries changing their behaviour so that they provide more and/or better training than would have been the case without the aid. In other words there must be an incentive effect.

Incentive effect is identified by ‘counterfactual analysis’, i.e. we compare the levels of intended

training with aid and without aid. This is a crucial question, as most employers need to train their workforce simply to ensure proper functioning of their companies. It cannot therefore be presumed that State support for training, especially for specific training, is always needed. The aid would just subsidise training activities which the employer would have undertaken anyway.

To demonstrate an incentive effect, the beneficiary must have submitted an aid application to the Member State concerned before starting the training project. Furthermore, the Member State should demonstrate that State aid will lead to an increase in the training project size, quality, scope or participants, compared with a situation without aid. The additional amount of training offered with aid can be shown, for example, by a higher number of training hours, by a higher number of participants or by a shift from company-specific to general training.

To verify that there is an incentive effect, the Commission will examine internal documents on training costs, budgets, participants, content and scheduling. It will also assess whether there is a legal obligation for employers to provide a certain type of training (e.g. security): if such an obligation exists, the Commission will normally conclude that there is no incentive effect.

The relationship between the training programme and the business activities of the aid beneficiary is also of particular interest: the closer the relationship, the less likely the incentive effect. For instance, training on the introduction of new technology in a specific sector is unlikely to have an incentive effect, since firms have no choice but to train their workforce on the newly introduced technology.

3.4 Proportionality of the aid

To assess proportionality, the Commission looks at whether the amount of aid is kept to the minimum required.

As the first step, the eligible costs of the project have to be defined. This calculation is based on the cost categories set out in the General Block Exemption Regulation. They comprise costs such as expenses for trainers, for trainers’ and trainees’ travel and accommodation expenses, depreciation of tools and equipment (to the extent that they are used exclusively for the training project) and trainees’ personnel costs (only the hours during which the trainees actually participate in the training).

For cases subject to individual notification, the eligible costs are limited to the costs arising from training activities which would not be undertaken without aid. This means that not all costs arising from the training project can be taken into account, but only the extra costs, that are generated by the extra training activity (which in turn is triggered by State support). Once the extra costs have been established, it is necessary to assess how much of these extra costs can accrue to the company. We thus arrive at ‘net extra costs’ equalling the part of the extra costs of the training that the company cannot recover by benefiting directly from the skills acquired by its employees during the training. These net extra costs can then be covered by State aid.

For many cases it will be difficult to calculate the exact amount of ‘net extra costs’. The Communication therefore points out that aid intensities (i.e. aid amount as a percentage of extra costs) must never exceed those defined in the General Block Exemption Regulation. They are set at 60% for general training projects and 25% for specific training projects.

3.5 Negative effects of the aid

If all the conditions mentioned above are met, the negative effects of the aid are likely to be limited and an analysis of negative effects may not be necessary. However, in some cases, where aid is necessary and proportionate for a specific undertaking to increase the amount of training provided, the aid may still result in a change in behaviour of the beneficiary which significantly distorts competition. In these cases the Commission will conduct a thorough analysis of distortions of competition.

In certain cases training aid may lead to the following distortions of competition:

Product entry and exit: In a competitive market, firms sell products that bring profits. By altering costs, State aid alters profitability, and can therefore affect the firm’s decision to offer a product or not. For example, State aid that reduces the costs of production (such as staff training) would enable products with otherwise poor commercial prospects to enter a market, to the detriment of the product portfolio of rivals not receiving aid. Alternatively, the avail-


ability of State aid may affect a firm’s decision to withdraw a product from the market: State aid for training could reduce the size of losses and enable the product to stay in the market for longer — which may mean that the products of other, more efficient firms not receiving aid are be forced to exit instead.

**Effect on trade flows:** State aid for training may result in some territories benefitting from more favourable production conditions. This may result in the displacement of trade flows in favour of the regions where such aid is given.

**Crowding out of training investment:** To survive in the marketplace and maximise profits, firms have incentives to invest in training of staff. The optimal amount of investment in training which each firm is willing to make also depends on how much its competitors invest. Firms which are subsidised by the State may reduce their own investment. Alternatively, if the aid induces the recipient to invest more, competitors may react by cutting their own training expenditure. If, to achieve the same objective, aid beneficiaries or their competitors end up spending less in the presence of aid than in its absence, their private investment in staff training is crowded out by aid.

### 3.6 Balancing

The last step in the analysis is to evaluate to what extent the positive effects of the aid outweigh its negative effects. This exercise will be carried out on a case-by-case basis. Unless quantitative information is readily available the Commission will use qualitative information for assessment purposes.

### 4. Conclusion

By adopting the ‘Communication on criteria for the compatibility analysis of training state aid cases subject to individual notification’, the Commission filled a gap in its legal framework, as it provides guidance on the assessment of large training aid cases which are not covered by the General Block Exemption Regulation. The provisions reflect the experience the Commission has gathered with such cases over the past few years and thus codifies existing case-law in this field.