COMMUNITY FRAMEWORK FOR STATE AID FOR RESEARCH AND DEVELOPMENT AND INNOVATION

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1. INTRODUCTION

1.1. Objectives of State aid for Research and Development and Innovation

Promoting Research and Development and Innovation (hereinafter: R&D&I) is an important objective of common interest. Article 163 of the EC Treaty stipulates that 'The Community shall have the objective of strengthening the scientific and technological bases of Community industry and encouraging it to become more competitive at international level, while promoting all the research activities deemed necessary...'. Articles 164 to 173 determine the activities to be carried out in this respect and the scope and implementation of the multi-annual framework programme.

When meeting in Barcelona in March 2002, the European Council adopted a clear goal for the future development of research spending. It agreed that overall spending on Research and Development (hereinafter: R&D) and innovation in the Union should be increased with the aim of approaching 3% of GDP by 2010. It further clarified that two-thirds of this new investment should come from the private sector. To reach this objective, research investment should grow at an average rate of 8% every year, shared between a 6% growth rate for public expenditure¹ and a 9% yearly growth rate for private investment.²

The objective is through State aid to enhance economic efficiency³ and thereby, contribute to sustainable growth and jobs. Therefore, State aid for R&D&I shall be compatible if the aid can be expected to lead to additional R&D&I and if the distortion of competition is not considered to be contrary to the common interest, which the Commission equates for the purposes of this framework with economic efficiency. The aim of this framework is to ensure this objective and in particular, to facilitate that Member States can better target the aid to the relevant market failures.

Article 87 (1) of the EC Treaty lays down the principle that State aid is prohibited. In certain cases, however, such aid may be compatible with the Treaty on the basis of Article 87 (2) and (3). Aid for R&D&I will primarily be justified on the basis of Article 87 (3) (b) and 87 (3) (c). In this framework the Commission lays down rules which it will apply in the assessment of aid notified to it, thereby exercising its discretion and increasing legal certainty and transparency of its decision-making.

1.2. State aid policy and R&D&I

In the context of the Lisbon strategy the level of R&D&I is considered not to be optimal for the EU economy, implying that an increase in the level of R&D&I would lead to higher growth in the European Union. The Commission considers that the existing rules for State aid to Research and Development (hereafter: R&D) have to be modernised and enhanced to meet this challenge.

¹ It must be kept in mind that only a part of the public expenditure on R&D will qualify as State aid.
³ In economics, the term “efficiency” (or “economic efficiency”) refers to the extent to which total welfare is optimized in a particular market or in the economy at large. Additional R&D&I increases economic efficiency by shifting market demand towards new or improved products, processes or services, which is equivalent to a decrease in the quality adjusted price of these goods.
The Commission, in this framework, expands the existing possibilities of aid to R&D to new activities supporting innovation. Innovation is related to a process connecting knowledge and technology with the exploitation of market opportunities for new or improved products, services and business processes compared to those already available on the common market, and encompassing a certain degree of risk. For the purpose of State aid rules, the Commission considers however that State aid for innovation should be authorised not on the basis of an abstract definition of innovation but only to the extent that it relates to precise activities, which clearly address the market failures that are hampering innovation and for which the benefits of State aid are likely to outweigh any possible harm to competition and trade.

In addition, the Commission aims at supporting a better administration of State aid to R&D&I. It intends to extend the scope of the block-exemption for R&D, which is currently limited to aid to small and medium-sized enterprises (hereafter: SMEs). A future general block exemption regulation (hereafter: BER) will cover the less problematic aid measures in the area of R&D&I. This framework will continue to apply for all measures notified to the Commission, be it because the measure is not covered by the BER, be it due to an obligation in the BER to notify aid individually, be it because the Member State decides to notify a measure which could in principle have been block-exempted under the BER, as well as for the assessment of all non-notified aid.

Besides, to focus the Commission’s scrutiny better, this framework provides, for the assessment of measures falling within its scope, not only rules on the compatibility of certain aid measure (Part 5 below) but also, due to the increased risk of certain aid measures to distort competition and trade, an additional methodology to be applied in case of detailed assessment (Part 6 below).

In that context the Commission underlines that competitive markets should in principle, on their own, lead to the most efficient outcome in terms of R&D&I. However, this may not always be the case and government intervention might then improve the outcome. Undertakings will invest more in research only to the extent that they can draw concrete commercial benefits from the results and are aware of the possibilities to do so. There are many reasons for a low level of R&D&I, which are partly due to structural barriers, and partly to the presence of market failures. Structural barriers should preferably be handled by structural measures, whereas State aid may play a role in counter-weighing market failures. Furthermore, empirical evidence indicates that for State aid to be efficient it must be accompanied by favourable framework conditions, such as adequate intellectual property right systems, a competitive environment with research and innovation-friendly regulations and supportive financial markets.

However, State aid also distorts competition, and strong competition is at the same time a crucial factor for the market-driven stimulation of investment in R&D&I. Therefore, the design of State aid measures must be carefully made in order to limit the distortions.

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5 A “market failure” is said to exist when the market, if left to its own devices, does not lead to an economically efficient outcome. It is in those circumstances that state intervention, including state aid, has the potential to improve the market outcome in terms of prices, output and use of resources.

6 Including: university education, research programmes and public research facilities, IPR rules favouring innovation, attractive framework conditions for undertakings to do R&D&I.
Otherwise, State aid can become counter-productive and reduce the overall level of R&D&I and economic growth.

The main concern related to R&D&I aid to undertakings is that rival undertakings’ dynamic incentives to invest are distorted and possibly reduced. When an undertaking receives aid, this generally strengthens its position on the market and reduces the return to investment to other undertakings. When the reduction is significant enough, it is possible that rivals will cut back on their R&D&I activity. In addition, when the aid results in a soft budget constraint for the beneficiary, it may also reduce the incentive to innovate at the level of the beneficiary. Furthermore, the aid can support inefficient undertakings or enable the beneficiary to enhance exclusionary practices or market power.

1.3. The balancing test for aid to Research and Development and Innovation

1.3.1. The State Aid Action Plan: less and better targeted aid, balancing test for the assessment of aid

In the State Aid Action Plan\(^7\), the Commission announced that “To best contribute to the re-launched Lisbon Strategy for growth and jobs, the Commission will, when relevant, strengthen its economic approach to State aid analysis. An economic approach is an instrument to better focus and target certain State aid towards the objectives of the re-launched Lisbon Strategy. “

In assessing whether an aid measure can be deemed compatible with the common market, the Commission balances the positive impact of the aid measure in reaching an objective of common interest against its potentially negative side effects by distortion of trade and competition. The State Aid Action Plan, building on existing practice, has formalised this balancing exercise in what has been termed a **balancing test**\(^8\). It operates in three steps to decide upon the approval of a State aid measure; the first two steps are addressing the positive effects of State aid and the third is addressing the negative effects and resulting balancing of the positive and negative effects:

1. Is the aid measure aimed at a well-defined objective of common interest? (ex: growth, employment, cohesion, environment)
2. Is the aid well designed to deliver the objective of common interest i.e. does the proposed aid address the market failure or other objective?
   i. Is State aid an appropriate policy instrument
   ii. Is there an incentive effect, i.e. does the aid change the behaviour of firms?
   iii. Is the aid measure proportional, i.e. could the same change in behaviour be obtained with less aid?
3. Are the distortions of competition and effect on trade limited, so that the overall balance is positive?

This balancing test is applicable to the development of rules as well as assessment of cases.

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\(^7\) SAAP (Fn. 4), para. 21.

\(^8\) Cf. SAAP (Fn. 4), para. 11 and 20, as elaborated in more detail already in the Communication on Innovation, COM(2005) 436 (final) of 21.9.2005.
For a block exemption regulation, the State aid is compatible if the conditions laid down are fulfilled. The same applies in general to most cases addressed in this framework. However, for the individual aid measures which may have a high distortive potential due to high aid amounts, the Commission will make an overall assessment of the positive and negative effects of the aid based on the proportionality principle.

1.3.2. **Market failures**

To establish rules ensuring that aid measures achieve this objective, it is, first of all, necessary to identify the market failures hampering R&D&I. R&D&I takes place through a series of activities, which are upstream to a number of product markets, and which exploit available R&D&I capabilities to develop new or improved products and processes in these product markets, thus fostering growth in the economy. However, given the available R&D&I capabilities, market failures may prevent the market from reaching the optimal output and lead to an inefficient outcome for the following reasons:

- **Positive externalities/knowledge spill-overs**: R&D&I often generate benefits for society in the form of knowledge spill-overs. However, left to the market, a number of projects may have an unattractive rate of return from a private perspective, even though the projects would be beneficial for society because profit seeking undertakings neglect the external effects of their actions when deciding how much R&D&I they should undertake. Consequently, projects being in the common interest may not be pursued unless the government intervenes.

- **Public goods/knowledge spill-overs**: For the creation of general knowledge, like fundamental research, it is impossible to prevent others from using the knowledge (public good), whereas more specific knowledge related to production can be protected, e.g., through patents allowing the inventor a higher return on their invention. To find the appropriate policy to support R&D&I, it is important to distinguish between creation of general knowledge and knowledge that can be protected. Undertakings tend to free ride on the general knowledge created by others, which makes undertakings unwilling to create the knowledge themselves. In fact, the market may not only be inefficient but completely absent. If more general knowledge was produced, the whole society could benefit from the knowledge spill-overs throughout the economy. To achieve this, governments may have to pay fully for the creation of fundamental research.

- **Imperfect and asymmetric information**: R&D&I are characterised by a high degree of risk and uncertainty. Due to imperfect and asymmetric information, private investors may be reluctant to finance valuable projects; highly-qualified personnel may be unaware of recruitment possibilities in innovative undertakings. As a result, the allocation of human and financial resources may not be adequate in these markets and valuable projects for the economy may not be carried out.

- **Coordination and network failures**. There may be problems that impair the ability of undertakings to coordinate or at least interact, and so deliver R&D&I. Problems may arise for various reasons, including difficulties in coordinating R&D and finding adequate partners, whereas coordination is a good mechanism to increase the level of R&D&I.

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9 This includes services.
1.3.3. **Appropriate instrument**

It is important to keep in mind that there may be other, better placed instruments to increase the level of R&D&I in the economy e.g., regulation, increase in funding of universities, general tax measures in favour of R&D&I. The appropriateness of a policy instrument in a given situation is normally linked to the main reasons behind the problem. Reducing market barriers may be more appropriate than State aid to deal with the difficulty by a new entrant to appropriate R&D&I results. Increased investment in universities may be more appropriate to deal with a lack of qualified R&D&I personnel than granting State aid to R&D&I projects. Member States should therefore choose State aid when it is an appropriate instrument on the basis of the problem they are trying to address. This requires spelling out the market failure they intend to target with the aid measure.

1.3.4. **Incentive effect and necessity of aid**

State aid for R&D&I must result in the recipient of aid changing its behaviour so that it increases its level of R&D&I activity and R&D&I projects or activities take place which would not otherwise be carried out, or which would be carried out in a more restricted manner. The Commission considers that as a result of aid, R&D&I activity should be increased in size, scope, amount spent or speed. Incentive effect is identified by counterfactual analysis, comparing the levels of intended activity with aid and without aid. Member States must clearly demonstrate how they intend to ensure that the incentive effect is present.

1.3.5. **Proportionality of the aid**

The State aid measure can only be well-designed if the aid is necessary in all its elements to create the incentive for R&D&I. State aid will be inefficient to the extent that it replaces private investments (crowding out and windfall gain). Necessity of the aid is therefore a crucial condition for the granting of State aid.

The need to provide incentives depends on the size of the market failure related to the different types of measures and beneficiaries. Consequently, in order to ensure that aid is proportionate and limited to the amount necessary, different thresholds are expressed in terms of aid intensities and bonuses in relation to the eligible costs.

1.3.6. **Negative effects of the aid to R&D&I must be limited so that the overall balance is positive**

The risks/distortions of competition resulting from State aid for R&D&I can be categorized as:

- Disrupting the dynamic incentives of undertakings and crowding out
- Supporting inefficient production
- Exclusionary practices and enhancing market power
- Effects on the localisation of economic activities across Member States

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10 See the notice on the application of the State aid rules to measures relating to direct business taxation; OJ C 384, of 10.12.1998
Effects on trade flows

The negative effects are normally higher for higher aid amounts and for aid granted to activities which are close to commercialisation of the product or the service. Therefore aid intensities shall generally be lower for activities linked to development and innovation than for research related activities. Furthermore, in the definition of eligible costs it is important to ensure that costs that can be considered to cover routine company activities are not eligible for aid. Also, characteristics about the beneficiary and the relevant markets have an influence on the level of distortion. Such aspects will be taken into account in more detail for the cases which will undergo a detailed assessment.

1.4. Motivation for specific measures covered by this framework

Applying these criteria to R&D&I, the Commission has identified a series of measures for which State aid may be compatible with Article 87(3) (c) of the EC Treaty.

Aid for projects covering fundamental and industrial research and experimental development is mainly targeted at the market failure related to positive externalities, including public goods. The Commission considers it useful to maintain different categories of R&D&I activities regardless of the fact that the activities may follow an interactive model of innovation rather than a linear model. Different aid intensities reflect different sizes of market failures and how close the activity is to commercialisation. Furthermore, compared to the previous rules, certain innovation activities have been included in experimental development. In addition, the bonus system has been simplified. Due to expected larger implication of market failures and expected higher positive externalities, top-ups appear justified for SMEs, collaboration of and collaboration with SMEs, cross-border collaboration as well as public-private partnerships (collaborations of undertakings with public research organisations).

Aid for technical feasibility studies related to R&D&I projects aims at overcoming the failure related to imperfect and asymmetric information. The studies are considered to be further away from the market than the project itself, and therefore relatively high aid intensities can be accepted.

Aid for industrial property rights costs for SMEs is targeted at the same market failure and the aim is to increase the possibilities for SMEs to sufficiently appropriate returns, thereby giving them an incentive to undertake R&D&I.

Aid for technological transfer addresses the failure consisting in imperfect information. The differing ways of operation of the academic and entrepreneurial sectors bring about that each sector is inadequately informed of the capacities and needs of the other. Increased flow of information between them will yield higher social benefit from R&D&I activities carried out in both sectors.

Aid for young innovative undertakings has been introduced to deal with the market failures linked with imperfect and asymmetric information, which harm these undertakings in a particularly acute way, damaging their ability to receive appropriate funding for innovative ventures.

Aid for process and organisational innovation in services is meant to tackle the problem that innovation in services activities may not be directly linked to fundamental or industrial research. Innovation in services tends to be based on new processes and organisation, which derive from the diffusion and recombination of knowledge and technology. Process and organisational innovation in services may be affected by market failures linked to imperfect information and positive externalities.
Aid for advisory services and innovation support services, provided by innovation intermediaries, targets market failures linked with insufficient information dissemination, externalities and lack of coordination. State aid is an appropriate solution to change the incentives for SMEs to buy such services and to increase the supply and demand of the services provided by innovation intermediaries.

Aid for the the loan of highly qualified personnel addresses imperfect information market failures in the labour market in the EU. Highly qualified personnel in the EU are more likely to be hired by large undertakings, because they tend to perceive large undertakings as offering better working conditions, more secure and more attractive careers. By contrast, SMEs could benefit from important knowledge transfer and from increased innovation capabilities, if they would be able to recruit highly qualified personnel to conduct R&D&I activities. Creating bridges between large undertakings or universities and SMEs may also contribute to address coordination market failures, and support clustering.

Aid for innovation clusters aims at tackling market failures linked with coordination problems hampering the development of clusters, or limiting the interactions and knowledge flows within clusters. State aid could contribute in two ways to this problem: first by supporting the investment in open and shared infrastructures for innovation clusters, and secondly by supporting cluster animation, so that collaboration, networking and learning is enhanced.

2. SCOPE OF APPLICATION AND DEFINITIONS

2.1. Scope of application of the framework

This framework applies to State aid for research and development and innovation. It will be applied in accordance with other Community policies on State aid, other provisions of the European treaties and legislation adopted pursuant to those Treaties.

According to general Treaty principles, State aid cannot be approved if the aid measure is discriminatory to an extent not justified by its State aid character. With regard to R&D&I, it should in particular be underlined that the Commission will not approve an aid measure which excludes the possibility of exploitation of R&D&I results in other Member States.

Public authorities may commission R&D from companies or buy the results of R&D directly from them. If there is no open tender procedure, there might be State aid within the meaning of Article 87 (1) EC Treaty. If, on the other hand, these contracts are awarded according to market conditions, in particular after a tender procedure in accordance with Directive 2004/18/EEC\textsuperscript{11}, the Commission will normally consider that no State aid within the meaning of Article 87 (1) EC Treaty is involved.

This framework applies to aid to support research and development and innovation in all sectors governed by the EC Treaty. It also applies to those sectors which are subject to specific Community rules on State aid, unless such rules provide otherwise.\textsuperscript{12}

It shall be recalled that this framework applies to State aid for R&D&I in the environmental field\textsuperscript{13}, as there are many synergies to exploit between innovation for quality and performance and innovation to optimise energy use, waste and safety.

\textsuperscript{11} OJ No L 134, 30.4..2004, p.114.

\textsuperscript{12} Council Regulation 1107/70 provides in Article 3 special rules for the compatibility of State aid to R&D in the sector of transport by rail, road and inland waterway.
Following the entry into force of Commission Regulation (EC) No 364/2004 amending Regulation (EC) No 70/2001 of 12 January 2001 as regards the extension of its scope to include aid for research and development, aid for research and development to SMEs is exempt from the notification requirement under the conditions stipulated in that regulation. Member States, however, remain free to notify such aid. If they decide to do so, this framework will continue to be used for the assessment of such notified aid.

While personnel costs are eligible in several of the measures covered by this framework and a measure on aid for the loan of highly qualified personnel has been introduced, general employment and training aid for researchers continue to fall under the specific State aid instruments for employment and training aid, currently Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid and Commission Regulation (EC) No 2204/2002 of 12 December 2002 on the application of Articles 87 and 88 of the EC Treaty to State aid for employment.

Aid for research and development and innovation for undertakings in difficulty in the meaning of the Community Guidelines on State aid for rescue and restructuring undertakings in difficulty is excluded from the scope of this framework.

2.2. Definitions

For the purpose of this framework the following definitions apply in general:

(a) “small and medium-sized enterprises”, (afterwards: SMEs) “small enterprises” and “medium-sized enterprises” (or “undertakings”) shall mean such undertakings in the meaning of Commission Regulation (EC) No 70/2001, last amended through Commission Regulation (EC) 364/2004 or any regulation replacing that regulation;

(b) “large enterprises” shall mean undertakings not coming under the definition of small and medium-sized enterprises;

(c) “aid intensity” shall mean the gross aid amount expressed as a percentage of the project’s eligible costs. All figures used shall be taken before any deduction of tax or other charge. Where aid is awarded in a form other than a grant, the aid amount shall be the grant equivalent of the aid. Aid payable in several instalments shall be discounted to its value at the moment of granting. The interest rate to be used for discounting purposes and for calculating the aid amount in a soft loan shall be the reference rate applicable at the time of grant. The aid intensity is calculated per beneficiary;

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13 See current Community guidelines on State aid for environmental protection, OJ C 37, 3.2.2001, p. 3, point 7. In addition, in the context of the revision of the environmental guidelines, the Commission will consider the opportunity to integrate new measures that can also cover eco-innovation.
18 Currently: OJ C 244 of 1.10.2004, p. 2.
(d) “public research organization” shall mean a not-for-profit entity, such as university or research institute, irrespective of its form or way of financing, whose primary goal is to conduct activities defined in letters e), f) and g) below and to disseminate their results by way of teaching, publication or technology transfer; all profits are reinvested in these activities, the dissemination of their results or teaching; undertakings that can exert influence upon such an entity, in the quality of e.g. shareholders or members, enjoy no preferential access to the research capacities of such an entity or to the research results generated by it.

(e) “fundamental research” shall mean experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any direct practical application or use in view.

(f) “industrial research” shall mean the planned research or critical investigation aimed at the acquisition of new knowledge and skills for developing new products, processes or services or for bringing about a significant improvement in existing products, processes or services. It comprises the creation of components of complex systems, which is necessary for the industrial research, notably for generic technology validation, to the exclusion of prototypes as covered by point 2.2. (g).

(g) “experimental development” shall mean the acquiring, combining, shaping and using existing scientific, technological, business and other relevant knowledge and skills for the purpose of producing plans and arrangements or designs for new, altered or improved products, processes or services. These may also include e.g. other activities aiming at the conceptual definition, planning and documentation of new products, processes and services. The activities may comprise producing drafts, drawings, plans and other documentation, provided that they are not intended for commercial use20.

The development of commercially usable prototypes and pilot projects is also included where the prototype is necessarily the final commercial product and where it is too expensive to produce for it to be used only for demonstration and validation purposes. In case of a subsequent commercial use of demonstration or pilot projects, any revenue generated from such use must be deducted from the eligible costs.

The experimental production and testing of products, processes and services are also eligible, provided that these cannot be used or transformed to be used in industrial applications or commercially.

Experimental development does not include the routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements. When classifying different activities, the Commission will refer to its own practice as well as the specific examples and explanations provided in the OECD Frascati Manual21.

20 Commercial use means the objective to produce direct economic benefit by selling the prototype, results of a demonstration project or the output of experimental production at a price that is significant compared with the costs. It does not include any non-commercial income linked with a prototype, demonstration project or experimental production, provided that income is significantly lower than costs.

3. State aid within the meaning of Article 87 (1) of the EC Treaty

3.1. Public research organisations and innovation intermediaries as recipients of State aid in the meaning of Article 87 (1) of the EC Treaty

The question whether public research organisations are recipients of State aid must be answered in accordance with general State aid principles.

In line with Article 87 (1) of the EC Treaty and the case-law of the Court, public financing of R&D activities by public research organisations will qualify as State aid, if all conditions of Article 87 (1) of the EC Treaty are met. In accordance with the jurisprudence, this requires inter alia that the public research organisation qualifies as an undertaking in the meaning of Article 87 (1) of the EC Treaty. This does not depend on its legal status (non-profit making or not), but what is decisive for its qualification as an undertaking is whether the public research organisation carries out an economic activity, which is an activity consisting of offering goods and services on a given market. Accordingly, any public funding of economic activities falls under Article 87 (1) of the EC Treaty, should all other conditions be fulfilled.

3.1.1. Public funding of non-economic activities

In case that the same entity carries out activities of economic and non-economic nature, the public funding of the non-economic activities will not fall under Article 87 (1) EC, if the following conditions are fulfilled:

– The two kinds of activities can be clearly separated and
– The funding of these activities can be clearly separated and
– The entity is able to properly allocate costs to either one of the activities and therefore, no cross-subsidization of the economic activity will take place.

If, to the contrary, economic and non-economic activities are inseparably linked, any public funding meant to support the non-economic activity may be of State aid relevance.

Member States must assess this on a case-by-case basis. The Commission nevertheless believes that the primary activities of public research organisations, notably the conduct of independent research and the dissemination of its results, are of a non-economic character.

3.1.2. Public funding of economic activities

Public research organisations or other not-for-profit innovation intermediaries (e.g. technology centres, incubators, chambers of commerce) may occasionally perform economic activities, such as renting out infrastructures, supplying services to business undertakings or performing contract research. These entities should perform economic activities on normal market conditions, and public funding of these economic activities will generally entail State aid.


23 Economic activities which can be clearly separated from other activities of the public research organisation comprise research carried out under contract with industry, the renting out of research infrastructure and licensing intellectual property rights to research results or otherwise commercially exploiting these results.
However, if the public research organisation or not-for-profit innovation intermediary can prove that the totality of the State funding that it received to provide certain services has been passed on to the final recipient, and that there is no advantage granted to the intermediary, the intermediary organization may not be recipient of State aid. For aid to the final recipients, normal State aid rules apply.

3.2. Indirect State aid in the meaning of Article 87 (1) of the EC Treaty to undertakings through publicly funded public research organisations

This section is intended to clarify under which conditions undertakings obtain an advantage in the meaning of Article 87 (1) EC in cases of contract research by a public research organization or collaboration with a public research organization. As far as the other elements of Article 87 (1) of the EC Treaty are concerned, the normal rules apply. In particular, it will have to be assessed in accordance with the relevant jurisprudence whether the behaviour of the public research organisation can be attributed to the State.24

3.2.1. Research on behalf of undertakings (Contract research or research services)

A project is carried out by a public research organisation on behalf of an undertaking if the public research organisation as agent renders a service against payment of an adequate price and the undertaking as principal specifies the terms and conditions of this service. Typically, the principal will own the results of the project and carry the risk of failure. If a public research organisation carries out a contract, there will normally be no State aid passed to the undertaking through the public research organisation, if one of the following conditions is met:

(1) the public research organisation provides its service at market price or,

(2) if there is no market price, the public research organisation provides its service at a price which reflects its full costs plus a reasonable margin.

3.2.2. Collaboration of undertakings and public research organisations

In a collaboration project, at least two partners participate in the design of the project, contribute to its implementation and share the risk and the output of the project. In case of collaboration projects carried out jointly by undertakings and public research organisations, the Commission considers that no indirect State aid is granted to the industrial partner through the research organisation due to the favourable conditions of the collaboration if one of the following conditions is met:

(1) where the participating undertakings bear the full cost of the project.

(2) where the results which do not give rise to intellectual property rights may be widely disseminated and any intellectual property rights to the R&D&I results which result

24 Cf. case C-482/99, France V. Commission, 16 May 2002; Stardust Marine on the issue of imputability to the State.
from the activity of the public research organisation are fully allocated\textsuperscript{25} to the public research organisation.

(3) where the public research organisation receives from the participating undertakings compensation equivalent to the market price for the intellectual property rights\textsuperscript{26} which result from the activity of the public research organisation carried out in the project and which are transferred to the participating undertakings. Any contribution of the participating undertakings to the costs of the public research organisation shall be deducted from such compensation.

If the Member State does not want to rely on one of the assumptions above, the conclusion that no State aid is present may also be drawn on the basis of a concrete assessment of the case.\textsuperscript{27} There may also be no State aid where the assessment of the contractual agreement between the partners leads to the conclusion that any intellectual property rights to the R&D&I results as well as access rights to the results are allocated to the different partners of the collaboration adequately reflecting their respective interests, work packages, and financial and other contributions to the project. If the above provisions are not fulfilled, the Commission will consider the full value of the contribution of the public research organisation to the project as aid to undertakings.

4. **Compatibility of aid under Article 87 (3)(b) of the EC Treaty**

According to Article 87 (3) (b) of the EC Treaty, aid for R&D&I to promote the execution of an important project of common European interest may be considered to be compatible with the common market.

The Commission will conclude that Article 87 (3) (b) applies if the following cumulative conditions are fulfilled:

- the aid proposal concerns a project which is described regarding the terms of its implementation including its participants as well as its objectives. The Commission may also consider a group of projects as project in the meaning of this provision.

- the project must be in the common European interest: the project must contribute in a concrete, exemplary and identifiable manner to the Community interest. The advantage achieved by the objective of the project must not be limited to the Member State or the Member States implementing it, but must extend to the Community as a whole. The project must present a substantive leap forward for the Community objectives, e.g. by being of great importance for the European Research Area or being a lead project for European industry. The fact that the project is carried out by undertakings in different

\textsuperscript{25} “Full allocation” shall mean that the research organization enjoys the full economic benefit of those rights by retaining full disposal of them, notably the right of ownership and the right to license. These conditions may also be fulfilled if the organisation decides to conclude further contracts concerning these rights including licensing them to the collaboration partner.

\textsuperscript{26} “Compensation equivalent to the market price for the intellectual property rights” refers to compensation for the full economic benefit of those rights. In line with general State aid principles and given the inherent difficulty to establish objectively the market price for intellectual property rights, the Commission will consider this condition fulfilled if the research organisation as seller negotiates in order to obtain the maximum benefit at the moment when the contract is concluded.

\textsuperscript{27} This provision does not intend to modify the obligation of the Member States to notify certain measures on the basis of Article 88 (3) of the EC Treaty.
countries is not sufficient. The positive effects of the aid could be shown e.g. by
important spill-overs for society, through the contribution of the measure to the
improvement of the Community situation regarding R&D&I in the international context,
through creation of new markets or the development of new technologies. The benefits
of the project should not be confined to the industry directly concerned but its results
should have wider use in the European economy (up- or downstream markets, alternative
uses in other sectors, etc.).

– the aid is necessary and presents an incentive for the execution of the project, which
must involve a high level of risk. This could be shown by looking at the level of
profitability of the project, at the amount of investment and time path of cash flows and
at feasibility studies, risk assessments and expert opinions.

– the project is of great importance with regard to its character and its volume: it must
be a meaningful project with regard to its objective and substantial in size.

The Commission will look at the notification more favourably if there is a significant own
contribution of the beneficiary to the project. The same applies in principle if the project
involves undertakings or research entities from a significant number of Member States.

In order to allow for the Commission to properly assess the case, the common European
interest must be demonstrated in practical terms: for example, it must be proved that the
project enables significant progress to be made towards achieving specific Community
objectives.

5. Commission assessment of the compatibility of aid under Article 87(3) (c)
of the EC Treaty

State aid for research and development and innovation shall be compatible with the common
market within the meaning of Article 87 (3) (c) of the EC Treaty, if, on the basis of the
balancing test set out above, it leads to increased R&D&I-activities without adversely
affecting trading conditions to an extent contrary to the common interest. The Commission
will view favourably notifications of aid measures which are supported by rigorous
evaluations of similar past aid measures demonstrating the incentive effect of the aid.

5.1. Conditions for compatibility applying to all measures

5.1.1. Different degrees of analysis

This framework is used for the assessment of all aid for research and development and
innovation which is notified to the Commission. The Commission will assess all such
notifications on the basis of the balancing test presented in part 1.

All notified aid is first assessed by reference to the provisions laid down in part 5, notably in
what regards the aided activity, aid intensities and conditions attached for compatibility.

The Commission considers that the balancing test is more likely to be fulfilled if certain
conditions are met which ensure that risks of distortions for competition and trade are a priori
more limited. This relates notably to the type of beneficiary, to the activity aided and to the
amount of aid received. For that reason, the Commission considers that the criteria for
compatibility set out in part 5 are sufficient to consider that the balancing test is met. This is
notably the case when the aid beneficiary is an SME, provided the aid amount is below a
certain threshold and the aid is not granted after the start of the activity.
By contrast, when the aid beneficiary is a large company, the Commission considers that the incentive effect of the aid requires a specific demonstration. Once the incentive effect is demonstrated (and the aid amount is below a certain threshold) the Commission considers that the balancing test is met if the criteria for compatibility set out in part 5 are fulfilled. Above a certain aid amount and for certain activities, the Commission considers that it is not possible to consider in advance that the balancing test is met if the criteria for compatibility set out in part 5 are fulfilled. Such measures are therefore subject to a more detailed assessment pursuant to part 6 of this Framework.

### 5.1.2. Incentive effect and necessity of aid

State aid must have an incentive effect, i.e. result in the recipient changing its behaviour so that it increases its level of R&D&I activity: as a result of the aid, the R&D&I activity should be increased in size, scope, amount spent or speed.

The Commission considers that the aid does not present an incentive for the beneficiary in all cases in which the R&D&I-activity\(^{28}\) has already commenced prior to the aid application by the beneficiary to the national authorities.

If the aided R&D&I-project has not started before the application, the Commission considers that the incentive effect is automatically met for the following aid measures:

- project aid and feasibility studies where the aid beneficiary is an SME and where the aid amount is below EUR \([5]\) million for a project (project aid plus aid for feasibility study) per SME;
- aid for industrial property rights costs for SMEs
- aid for technological transfer
- aid for young innovative enterprises;
- aid for innovation advisory services; aid for innovation support services;
- aid for the loan of highly qualified personnel.

For all other measures\(^{29}\), the Commission will require that an incentive effect is demonstrated.

In order to verify that the planned aid will induce the aid recipient to change its behaviour so that it increases its level of R&D&I activity, the Member States shall provide an evaluation of the increased R&D&I activity for all individual measures assessed by the Commission, on the basis of a counterfactual analysis comparing a situation without aid and a situation with aid being granted. The following criteria may be used, together with other relevant quantitative and/or qualitative factors submitted by the Member State that made the notification:

*Increase in project size:* increase in the total project costs (without decreased spending by the aid beneficiary by comparison with a situation without aid); increase in the number of people assigned to R&D&I activities;

\(^{28}\) If the aid proposal is to grant aid for an R&D&I-project, this does not exclude that the potential beneficiary has already carried out feasibility studies which are not covered by the request for State aid.

\(^{29}\) I.e. project aid for large undertakings; aid for process and organisational innovation in services and aid for innovation clusters.
Increase in scope: increase in the number of the expected deliverables from the project; more ambitious project illustrated by a higher probability of a scientific or technological break-through or a higher risk of failure (notably linked to the higher risk involved in the research project, to the long-term nature of the project and uncertainty about its results)

Increase in speed: shorter time before completion of the project as compared to the same project being carried out without aid;

Increase in total amount spent on R&D&I: increase in total R&D&I spending by the aid beneficiary; changes in the committed budget for the project (without corresponding decrease in the budget of other projects); increase in R&D&I spending by the aid beneficiary as a proportion of total turnover;

In case a significant effect on at least one of these elements can be demonstrated, taking account of the normal behaviour of an undertaking in the respective sector, the Commission will normally conclude that the aid proposal has an incentive effect.

In case the Commission undertakes a detailed assessment of an individual measure, these indicators may not be considered sufficient demonstration of an incentive effect, and the Commission may need to be provided with complementary evidence.

When assessing an aid scheme where the incentive effect is not automatically ensured (cf. para. 2 above), the Commission considers that the conditions of the incentive effect are satisfied if the Member State has committed itself to grant individual aid under the approved aid scheme only after it has verified that an incentive effect is present and to submit annual reports on the implementation of the approved aid scheme. In the annual reports, the Member State must demonstrate how it has assessed the incentive effect of the aid before granting the aid through the use of the quantitative and qualitative indicators given above.

5.1.3. Proportionality

Where an aid can be considered to have an incentive effect, the Commission considers that the eligible costs and maximum aid intensities laid down for each measure in part 5.2. are proportionate to the problem tackled. However, in the case of a detailed assessment, the Commission will require evidence from Member States to secure that this criteria is met.

5.1.4. Measures subject to a detailed assessment

For the following measures, due to the higher risk of distortion of competition, the Commission will carry out a more detailed assessment.

For measures covered by a BER

- for all cases notified to the Commission following a duty to notify aid individually as prescribed in the BER.

For measures covered by this framework:

Where the aid amount exceeds [5] Mio €

- for project aid\(^{30}\) and feasibility studies (aid amount per undertaking in project aid plus aid for feasibility study)

\(^{30}\) For EUREKA-projects, this ceiling is set at 10 Mio €.
The purpose of this detailed assessment is to ensure that high amounts of aid for R&D&I do not distort competition to an extent contrary to the common interest, but actually contribute to the common interest. This happens when the benefits of State aid in terms of additional R&D&I outweigh the harm for competition and trade.

The detailed assessment is a proportionate assessment, depending on the distortion potential of the case. Accordingly, the fact that a detailed assessment will be carried out does not necessarily imply the need to open a formal investigation procedure, although this may be the case for certain measures.

Provided Member States ensure full co-operation and provide adequate information in a timely manner, the Commission will use its best endeavours to conduct the investigation in a timely manner.

Part 6 provides guidance as to how the Commission will conduct its detailed assessment.

5.2. Specific conditions for certain aid measures

5.2.1. Aid for R&D&I projects

Aid for R&D&I projects will be considered compatible with the common market within the meaning of Article 87 (3) (c) of the EC Treaty provided that the conditions set out in this section are fulfilled.

Category of R&D&I

The aided part of the research project must completely fall within one or more of the following research categories: fundamental research, industrial research; experimental development.

Basic aid intensities

The basic aid intensity, as calculated on the basis of the eligible costs of the project, shall not exceed:

(a) 100% for fundamental research
(b) 50% for industrial research;
(c) 25% for experimental development;

The aid intensity will be calculated on the basis of the costs of the research project to the extent that they can be considered as eligible. If the costs are partly generated by other activities - in particular other R&D activities - they must be broken down by type of activity in order to allow for such a calculation.

When a project is comprised of different tasks, each task must be qualified as falling under the categories of fundamental research, industrial research or experimental development or as not falling under any of those categories at all. This qualification need not necessarily follow a chronological approach, moving sequentially over time from fundamental research to activities closer to the market. Accordingly, nothing will prevent the Commission from qualifying a task which is carried out at a late stage of a project as industrial research, while
finding that an activity carried out at an earlier stage of the project constitutes experimental development or is not research at all.

The aid intensity must be established for each beneficiary and for each partner receiving State aid in a collaboration project.

In the case of State aid for an R&D project being carried out in collaboration between research organisations and undertakings, the combined aid deriving from direct government support for a specific research project and, where they constitute aid (see point 3.2), contributions from research organisations to that project may not exceed the applicable aid intensities for each benefiting undertaking.

**Bonuses**

The ceilings fixed for industrial research and experimental development may be increased as follows:

(a) where the aid is to be given to SMEs, the aid intensity may be increased by 10 percentage points for medium-sized enterprises and by 15 percentage points for small enterprises;

(b) a top-up of 15 percentage points may be added if at least one of the following conditions is fulfilled: 31

(i) the project involves effective collaboration between at least two undertakings which are independent of each other. No single undertaking must bear more than 70% of the eligible costs of the collaboration project. Furthermore, for large undertakings the increase only applies if they collaborate with at least one SME or if the collaboration is cross-border, that is to say, the research and development activities are carried out in at least two different Member States. Subcontracting is not considered to be effective collaboration;

(ii) or the project involves effective collaboration between an undertaking and a public research organisation, particularly in the context of co-ordination of national R&D policies, where the research organisation bears at least 10% of the eligible project costs and has the right to publish the results of the research projects insofar as they stem from research implemented by that organisation. Subcontracting is not considered to be effective collaboration. In case of cooperation between an undertaking and a public research organisation, the maximum aid intensities and bonuses specified in this Framework do not apply to the public research organisation.

(iii) or only in case of industrial research, if the results of the project are widely disseminated through technical and scientific conferences or published in scientific and technical journals or in open access repositories (databases where raw research data can be accessed by anyone), or through free or open source software.

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31 Projects falling under the Framework programme of the European Community for research, technological development and demonstration activities will automatically qualify for a bonus for collaboration due to the minimum conditions for participation in such projects.
Table illustrating the aid intensities:

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<thead>
<tr>
<th></th>
<th>Small enterprise</th>
<th>Medium-sized enterprise</th>
<th>Large enterprise</th>
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</thead>
<tbody>
<tr>
<td><strong>Fundamental research</strong></td>
<td>100%</td>
<td>100%</td>
<td>100%</td>
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<tr>
<td><strong>Industrial research</strong></td>
<td>65%</td>
<td>60%</td>
<td>50%</td>
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<tr>
<td><strong>Industrial research</strong></td>
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<td>subject to:</td>
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<tr>
<td>- collaboration between undertakings;</td>
<td>80%</td>
<td>75%</td>
<td>65%</td>
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<tr>
<td>for large undertakings: cross-border</td>
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<tr>
<td>or with at least one SME</td>
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<td>or</td>
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<td>- collaboration of an undertaking</td>
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<td>with a public research organisation</td>
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<td>or</td>
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<td></td>
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<tr>
<td>- dissemination of results</td>
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<tr>
<td><strong>Experimental development</strong></td>
<td>40%</td>
<td>35%</td>
<td>25%</td>
</tr>
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<td><strong>Experimental development</strong></td>
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<td>subject to:</td>
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<tr>
<td>- collaboration between undertakings;</td>
<td>55%</td>
<td>50%</td>
<td>40%</td>
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<td>for large undertakings, with cross-</td>
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<td>border or at least one SME</td>
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<td>- collaboration of an undertaking</td>
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<td>with a public research organisation</td>
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</table>

**Eligible costs**

The following costs shall be eligible:

(a) personnel costs (researchers, technicians and other supporting staff to the extent employed on the research project)

(b) costs of instruments and equipment to the extent and for the period used for the research project. If such instruments and equipment are not used for their full life for the research project, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice, are considered as eligible.
(c) costs for building and land, to the extent and for the duration used for the research project. With regard to buildings, only the depreciation costs corresponding to the life of the research project, as calculated on the basis of good accounting practice are considered as eligible. For land, costs of commercial transfer or actually incurred capital costs are eligible.

(d) cost of contractual research, technical knowledge and patents bought or licensed from outside sources at market prices, where the transaction has been carried out at arm’s length and there is no element of collusion involved, as well as costs of consultancy and equivalent services used exclusively for the research activity.

(e) additional overheads incurred directly as a result of the research project.

(f) other operating expenses, including costs of materials, supplies and similar products incurred directly as a result of the research activity.

**Form of aid**

(1) *Form of aid*

Project aid may be granted in all forms.

(2) *Repayable advance*

A repayable advance shall mean a loan for a project which is paid in one or more instalments and the conditions for the reimbursement of which depend on the outcome of the project. If a Member State grants a **repayable advance** which qualifies as State aid in the meaning of Article 87 (1) of the EC Treaty, the following rules replace the provisions concerning the permissible aid intensity:

The aid measure must provide that in case of a successful outcome of the project, the loan is repaid with an interest rate at least equal to the applicable reference rate set by the Commission. In order to allow the Commission to assess the aid measure, it must provide for detailed provisions on the repayment in case of success and clearly define what will be considered as a successful outcome of the research activities, and all these details must be notified to the Commission. The Commission will examine that the definition of a successful outcome has been established on the basis of a reasonable and prudent hypothesis.

In case the project fails, the advance does not have to be fully repaid. The Commission will normally require that the repayment is in proportion to the degree of success achieved. In particular in case of a success exceeding the outcome defined as successful above, the State should be entitled to continue to request payments beyond repayment of the loan amount including interest according to the reference rate foreseen by the Commission.

The advance may cover up to a maximum of 40% of the eligible costs for the experimental development phase of the project and up to 60% for the industrial research phase, to which bonuses can be added.

(3) *Fiscal measures*

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On the basis of evaluation studies provided by Member States in the notification, the Commission will consider that R&D&I fiscal aid schemes have an incentive effect by stimulating higher R&D&I-spending by undertakings.

The aid intensity of an R&D&I fiscal State aid measure can be calculated either on the basis of individual R&D&I projects or, at the level of an undertaking, as the ratio between the overall tax relief and the sum of all eligible R&D&I costs incurred in a period not exceeding three consecutive fiscal years. In the latter case, the R&D&I fiscal State aid measure may apply without distinction to all eligible R&D&I activities; the applicable aid intensity for experimental development must then not be exceeded.

At the time of notification, the Member State must provide an estimate of the number of beneficiaries;

When submitting their annual report on the approved aid scheme, the Member State must provide the list of beneficiaries having received an annual tax relief in excess of 100,000 EUR, including the amounts of the aid received.

Matching clause

In order to address actual or potential direct or indirect distortions of international trade, higher intensities than permissible under the foregoing provisions may be authorized if – directly or indirectly – competitors located outside the European Union have received (in the last three years) or are going to receive, aid of an equivalent intensity for similar projects, programmes, research, development or technology. However, where distortions of international trade are likely to occur after more than three years, given the particular nature of the sector in question, the reference period may be extended accordingly.

If at all possible, the Member State concerned will provide the Commission with sufficient information to enable it to assess the situation, in particular regarding the need to take account of the competitive advantage enjoyed by a third-country competitor. If the Commission does not have evidence concerned the granted or proposed aid, it may also base its decision on circumstantial evidence.

5.2.2. Aid for technical feasibility studies

Aid for technical feasibility studies preparatory to industrial research or experimental development activities shall be compatible with the common market within the meaning of Article 87 (3) (c) of the EC Treaty provided that the aid intensity, as calculated on the basis of the study costs, does not exceed the following aid intensities:

for SMEs, 75% for studies preparatory to industrial research activities and 50% for studies preparatory to experimental development activities,

for large undertakings, 65% for studies preparatory to industrial research activities and 40% for studies preparatory to experimental development activities.

33 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 effects of their own fiscal measures.

34 Conversely, where an R&D&I fiscal State aid measure distinguishes between different R&D&I categories, the relevant aid intensities must not be exceeded.
5.2.3. Aid for industrial property rights costs for SMEs

Aid to SMEs for the costs associated with obtaining and validating patents and other industrial property rights shall be compatible with the common market within the meaning of Article 87 (3) (c) of the EC Treaty up to the same level of aid as would have qualified as R&D aid in respect of the research activities which first led to the industrial property rights concerned.

Eligible costs are
(a) all costs preceding the grant of the right in the first legal jurisdiction, including costs relating to the preparation, filing and prosecution of the application as well as costs incurred in renewing the application before the right has been granted;
(b) translation and other costs incurred in order to obtain the granting or validation of the right in other legal jurisdictions;
(c) costs incurred in defending the validity of the right during the official prosecution of the application and possible opposition proceedings, even if such costs occur after the right is granted.

5.2.4. Aid for technological transfer

Public research organisations may embark in the licensing of intellectual property rights stemming from their own research results, or otherwise seek to commercially exploit these results (hereinafter referred to as ‘technological transfer’), sometimes via specialized separate offices or subsidiaries (hereinafter referred to as ‘technological transfer offices’). Since technological transfer may not be immediately profitable, aid may be granted for such activities. Such aid must be temporary and abolished over time.

Aid to public research organisations or their technological transfer offices for technological transfer may be granted for a limited duration of five years where the aid is degressive. Its intensity may amount to 100 % in the first year but must have fallen in a linear fashion to zero by the end of the fifth year. In the case of non-degressive aid, its duration is limited to five years and its intensity must not exceed 50 % of the eligible costs.

The eligible costs shall be the personnel and administrative costs directly linked to the technological transfer. Net receipts from such transfer must be deducted from the eligible costs, and possible profits must be reinvested in R&D.

5.2.5. Aid for young innovative enterprises

Grant aid for young innovative enterprises of EUR 1 million gross shall be compatible with the common market within the meaning of Article 87 (3) (c) of the EC Treaty provided that the beneficiary qualifies as young innovative enterprises as defined below and fulfils the following conditions:

By young innovative enterprise is meant a small company that has been of existence for less than 5 years at the time when the aid is granted and
i) for which the Member State can demonstrate that it will in the foreseeable future develop products, services or processes which are technologically new or substantially improved

35 I.e. receipts from technological transfer after deduction of remuneration paid to inventors and of contributions to funds exclusively used to finance R&D&I-activities.
compared to the state of the art in its industry in the Community, and which carry a risk of technological or industrial failure. This evaluation should be done by an independent expert, notably on the basis of a business plan. or

ii) the R&D expenses of which represent minimum 15% of its total operating expenses, as certified by an external auditor.

The beneficiary may receive the aid only once during the period it qualifies for young innovative enterprise. This aid may be cumulated with other aid under this framework, with aid for research and development and innovation block-exempted by Regulation 364/2004 or any successor regulation and with aid under the risk capital guidelines.

The beneficiary may receive State aid other than R&D&I aid and Risk Capital aid only 3 years after the granting of the young innovative enterprise aid.

5.2.6. Aid for process and organisational innovation in services

Aid for process and organisational innovation in services shall be compatible with the common market within the meaning of Article 87 (3) (c) of the EC Treaty with a maximum aid intensity of 25% for SMEs and of 15% for large companies. Large companies are only eligible for such aid if they collaborate with SMEs in the aided activity, whereby the collaborating SMEs must incur at least 30% of the total eligible costs.

By process innovation is meant the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment and/or software). Minor changes or improvements, an increase in production or service capabilities through the addition of manufacturing or logistical systems which are very similar to those already in use, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, regular seasonal and other cyclical changes, trading of new or significantly improved products are not considered innovations.

By organisational innovation is meant the implementation of a new organisational method in the undertaking’s business practices, workplace organisation or external relations. Changes in business practices, workplace organisation or external relations that are based on organisational methods already in use in the undertaking, changes in management strategy, mergers and acquisitions, ceasing to use a process, simple capital replacement or extension, changes resulting purely from changes in factor prices, customisation, regular seasonal and other cyclical changes, trading of new or significantly improved products are not considered innovations.

Routine or periodic changes made to products, production lines, manufacturing processes, existing services and other operations in progress, even if such changes may represent improvements do not qualify for State aid.

The following conditions must be met


37 Cf. definition in the OSLO manual, page 51.
a) Organisational innovation must always be related to the use and exploitation of Information and Communication Technologies (ICT) to change the organisation.

b) The innovation shall be formulated as a project with an identified and qualified project manager, as well as identified project costs.

c) The result of the aided project shall be the development of a standard, of a business model, methodology or concept, which can be systematically reproduced, possibly certified, and possibly patented.

d) The process or organisational innovation shall be new or substantially improved compared to the state of the art in the Community. The novelty could be demonstrated by the Member States for instance on the basis of a precise description of the innovation, comparing it with state of the art process or organisational techniques used by other undertakings in the same industry.

e) The process or organisational innovation project shall entail a clear degree of risk. This risk could be demonstrated by the Member State for instance in terms of: project costs in relation to company turnover, time required to develop the new process, expected gains from the process innovation by comparison with the project costs, probability of failure.

In principle, the same costs are eligible as for project aid (cf. point 5.2.1). In case of organisational innovation, however, costs of instruments and equipments cover costs of ICT instruments and equipment only.

5.2.7. Aid for innovation advisory services; aid for innovation support services

Aid for innovation advisory services and for innovation support services shall be compatible with the common market within the meaning of Article 87 (3) (c) of the EC Treaty to the benefit of SMEs only, and up to a maximum of €200,000 within any three year period\(^\text{38}\), provided the following conditions are fulfilled:

- The service provider benefits from a national or European certification. If the service provider does not benefit from a national or European certification, the aid may not cover more than 75% of the eligible costs.

- The SME must use the State aid to buy the services at market price (or if the service provider is a non-for-profit entity, at a price which reflects its full costs plus a reasonable margin).

The following costs shall be eligible:

- costs of innovation advisory services: management consulting; technological assistance; technology transfer services; training; consultancy for acquisition, protection and trade in Intellectual Property Rights and for licensing agreements; consultancy on the use of standards

- costs of innovation support services: office space; data banks; technical libraries; market research; use of laboratory; quality labelling, testing and certification;

\(^\text{38}\) Without prejudice of any additional de minimis aid
If the service provider is a non-for-profit entity, the aid may be given in the form of a reduced price, as the difference between the price paid and the market price (or a price which reflects full costs plus a reasonable margin). In such a case, the Member States should ensure transparency about the full costs of the innovation advisory and innovation support services provided, as well as about the price paid by the beneficiary, so that the aid received can be measured and monitored.

5.2.8. **Aid for the loan of highly qualified personnel**

Aid for the loan of highly qualified personnel detached\(^{39}\) from a public research organisation or a large undertaking to an SME shall be compatible with the common market within the meaning of Article 87 (3) (c) of the EC Treaty, provided the following conditions are fulfilled:

By “highly qualified personnel” is meant researchers, engineers, designers and marketing managers with university degree and at least 5 years of relevant professional experience. Doctoral training may count as relevant professional experience.

SMEs receiving the personnel on loan from a university or from a large undertaking shall be eligible for State aid. The personnel borrowed must not be replacing other personnel, but be employed on a newly created function within the undertaking and must have been employed for at least two years in the research organisation or the large undertaking, which is sending the personnel on loan. The personnel must work on R&D&I within the undertaking.

Eligible costs are all personnel costs for borrowing and employing highly qualified personnel as defined above, including the costs of using a recruitment agency, as well as a mobility allowance for the personnel on loan. The maximum aid intensity shall be 50% of the eligible costs, for a maximum of 3 years per undertaking and per person borrowed.

This provision does not allow covering consultancy costs (payment of the service rendered by the expert, without employing the expert in the undertaking) as such, which are covered under the rules for SME-aid.\(^{40}\)

5.2.9. **Aid for innovation clusters**

“Innovation clusters” can be described as groupings of independent undertakings - innovative start-ups, small, medium and large undertakings as well as public research organisations -, operating in a particular sector and region and designed to stimulate innovative activity by promoting intensive interactions, sharing facilities and exchange of knowledge and expertise and by contributing effectively to technology transfer, networking and information dissemination among the undertakings in the cluster. Preferably, the Member State should intend to create a proper balance of SMEs and large undertakings in the cluster, to achieve a certain critical mass, notably through specialisation in a certain area of R&D&I and taking into account existing clusters in the Member State and at EU-level.

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\(^{39}\) „Detached“ is understood to mean that the researcher is employed by the SME during the period of detachment and has the right to return to its previous employer afterwards.

\(^{40}\) Currently: Regulation 70/2001.
Aid may be granted for the setting up, expansion and animation of innovation clusters exclusively to the legal entity operating the innovation cluster. This entity shall be in charge of managing the participation and access to the cluster’s premises, facilities and activities. Access to the cluster’s premises, facilities and activities must not be restricted and the fees charged for using the cluster’s facilities and for participating in the cluster’s activities should reflect their costs.

**Investment aid** may be granted to the legal entity setting up or expanding an innovation cluster for the following facilities:

- Facilities for training and research centre;
- Open-access research infrastructures: laboratory, testing facility;
- Broadband network infrastructures.

The maximum aid intensity is 15%. In the case of aid being granted to an SME, the ceilings may be increased by 15% percentage points for aid granted to a small enterprise and by 10% percentage points for aid granted to a medium-sized enterprise.

The eligible costs shall be the costs relating to investment in land, buildings, machinery and equipment.

**Operating aid for cluster animation** may be granted to the legal entity operating the innovation cluster. Such aid must be temporary and, as a general rule, must be abolished over time, so as to provide an incentive for prices to reflect costs reasonably rapidly.

Operating aid for cluster animation may be granted for a limited duration of five years where the aid is degressive. Its intensity may amount to 100% the first year but must have fallen in a linear fashion to zero by the end of the fifth year. In the case of non-degressive aid, its duration is limited to five years and its intensity must not exceed 50% of the eligible costs.

The eligible costs shall be the personnel and administrative costs relating to the following activities:

- Marketing of the cluster to recruit new companies to take part in the cluster;
- Management of the cluster’s open-access facilities;
- Organisation of training programs, workshops and conferences to support knowledge sharing and networking between the members of the cluster.

When notifying investment aid or aid for cluster animation, the Member State must provide an analysis of the technological specialisation of the innovation cluster, existing regional potential, existing research capacity, presence of clusters in the EU with similar purposes and potential market volumes of the activities in the cluster.

### 6. Compatibility of Aid Subject to a Detailed Assessment

The Commission considers that an increase in the level of R&D&I activity in the EU is in the common interest of the Community as it can be expected to significantly contribute to growth, prosperity and sustainable development. In this context, the Commission recognises that State aid has a positive role to play when it is well targeted and creates the right incentive for undertakings to increase R&D&I. Nevertheless, State aid may also lead to significant distortions of competition which must be taken into consideration.
6.1. Methodology of the detailed assessment: R&D&I criteria for economic assessment of certain individual cases

Below, the Commission presents guidance as to the kind of information it may require and the methodology it would follow for measures subject to a detailed assessment. This guidance is intended to secure predictability about the motivations for the Commission’s decisions, in a manner which is transparent, foreseeable and consistent with legal certainty.

Detailed assessment will be conducted on the basis of the following positive and negative elements which will apply in addition to the criteria set out in Part 5. In some cases, the applicability and the weight attached to these elements may depend on the form or objective of the aid. The level of the Commission’s assessment will be proportional to the risk of distortion of competition. This means that the detailed assessment will not necessarily require that all the following criteria be verified; the scope of the analysis will depend on the nature of the case. State aid for activities that are far away from the market is therefore less likely to give rise to very extensive scrutiny.

Member States are invited to provide all the elements that they consider useful for the assessment of the case. The Member States are, in particular, invited to rely on evaluations of past State aid schemes or measures, impact assessments made by the granting authority, risk assessments, financial reports, internal business plans that any company should realise for important projects, expert opinions and other studies related to R&D&I.

6.2. Positive effects of the aid

The fact that the aid induces undertakings to pursue R&D&I in the Community which they would not otherwise have pursued constitutes the main positive element to take into consideration when assessing the compatibility of the aid.

In this context, the Commission will notably pay attention to the following elements:

- the net increase of R&D&I conducted by the undertaking;
- the contribution of the measure to the global improvement of the sector concerned as regards the level of R&D&I;
- the contribution of the measure to the improvement of the Community situation regarding R&D&I in the international context.

6.2.1. Existence of a market failure

As indicated in Part 1, State aid may be necessary to increase R&D&I in the economy only to the extent that the market, on its own, fails to deliver an optimal outcome. It is established that certain market failures hamper the overall level of R&D&I in the Community. However, not all undertakings and sectors in the economy are confronted to these market failures to the same extent. Consequently, as regards measures subject to a detailed assessment, the Member State should provide adequate information whether the aid refers to a general market failure regarding R&D&I in the Community, or to a specific market failure.

Depending on the specific market failure addressed, the Commission will take into consideration the following elements:

- Knowledge spillovers: the level of information dissemination foreseen; the specificity of the knowledge created; the availability of IPR protection.
– **Imperfect and asymmetric information**: level of risk and complexity of research; need for external finance; characteristics of the aid beneficiary to receive external finance.

– **Coordination failures**: number of cooperating undertakings; intensity of cooperation; diverging interest between cooperating partners; problems in designing contracts; problems of third parties to coordinate cooperation.

### 6.2.2. Appropriate Instrument

State aid for R&D&I can be authorised under Article 87 (3) (c) of the EC Treaty when it is necessary to achieve an objective of common interest, as an exception to the general prohibition of State aid. An important element in the balancing test is whether and to what extent State aid for R&D&I can be considered an appropriate instrument to increase R&D&I activities, given that other less distortive instruments may achieve the same results.

In its compatibility analysis, the Commission will take particular account of any impact assessment of the proposed measure which the Member State would have made. Measures, for which the Member State has considered other policy options and for which the advantages of using a selective instrument such as State aid are established and submitted to the Commission, are considered to constitute an appropriate instrument.

### 6.2.3. Incentive effect and necessity of aid

Analysing the incentive effect of the aid measure is the most important condition in analysing State aid for R&D&I. Identifying the incentive effect translates into assessing whether the planned aid will induce undertakings to pursue R&D&I which they would not otherwise have pursued.

A series of indicators that the Commission may consider as demonstration of an incentive effect are listed in Part 5.1.1. However, when a measure undergoes a detailed assessment, the Commission considers that a more precise analysis of the incentive effect of the aid is necessary to avoid undue distortions of competition.

In its analysis, the Commission will, in addition to the indicators mentioned in Part 5.1.1, take into consideration the following elements:

– **Specification of intended change**: the intended change in behaviour State aid aims at in the notified case has to be well specified (new project triggered, size, scope or speed of a project enhanced).

– **Counterfactual analysis**: the change of behaviour has to be identified by counterfactual analysis: what would be the level of intended activity with and without aid? The difference of the two scenarios is considered to be the impact of the aid measure and describes the incentive effect.

– **Level of profitability**: if a project is not, in itself, profitable to undertake for a private undertaking, but would generate important benefits for society, it is more likely that the aid has an incentive effect. To evaluate the overall profitability (or lack thereof) of
the project, evaluation methodologies can be used which are standard practice in the particular industry concerned.\(^{41}\)

- **Amount of investment and time path of cash flows:** High start-up investment, low level of appropriable cash flows and a significant fraction of cash flows arising in the very far future are considered positive elements in assessing the incentive effect.

- **Level of risk involved in the research project:** On the basis of e.g. feasibility studies, risk assessments and expert opinions the assessment of risk will in particular take into account the irreversibility of the investment, the probability of commercial failure, the risk that the project will be less productive than expected, the risk that conducting the project would undermine other activities and the risk that the project costs undermine the undertaking’s financial viability.

- **Continuous evaluation:** measures for which (low scale) pilot projects are foreseen, or which define well specified milestones resulting in termination of the project in case of failure and where a publicly available ex-post monitoring is foreseen are considered more positive as regards the assessment of the incentive effect.

### 6.2.4. Proportionality of the aid

Independently of the conditions mentioned in Part 5, the Member State concerned should provide the additional following information:

- **Open selection process:** Where there are multiple (potential) candidates for undertaking the R&D&I project in a Member State, the proportionality requirement is more likely to be met if the project has been allocated on the basis of an open tender procedure.

- **Aid to the minimum:** In other circumstances, Member States have to explain how the amount given has been calculated to ensure that it is limited to the minimum necessary. Member States can notably rely on the evidence put forward under point 6.2.3. (“incentive effect”).

### 6.3. Analysis of the distortion of competition and trade

In assessing the negative effects of the aid measure, the Commission will focus its analysis of the distortions of competition on the foreseeable impact the R&D&I aid has on competition between undertakings in the product markets concerned.

The impact on competition in the innovation process, i.e. competition in terms of R&D&I which takes place upstream of product markets, will be relevant insofar as it has a foreseeable impact on the outcome of future product market competition. In certain cases the results of R&D&I, e.g. in the form of intellectual property rights, are themselves traded in so-called technology markets, for instance through patent licensing. In these cases, the Commission may also consider the effect of the aid on competition in the technology markets.

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\(^{41}\) These may include methods to evaluate the Net Present Value of the project (NPV; the sum of the discounted expected cash flow resulting from the investment minus the investment cost), the internal rate of return (IRR) or the return of capital employed (ROCE). Financial reports and internal business plans containing information on demand forecasts; cost forecasts; financial forecasts (e.g. NPV, IRR, ROCE), documents that are submitted to an investment committee and that elaborate on various investment scenarios or documents provided to the financial markets could serve as evidence.
The impact of R&D&I on product markets is largely dynamic and the analysis will therefore be of a forward-looking nature. Frequently, the same source of innovative activity may be associated with multiple future product markets. If so, the impact of State aid should be looked upon on the set of markets concerned.

There are three distinct ways in which R&D&I aid can distort competition in product markets:

1. R&D&I aid can distort the dynamic incentives of market players to invest (crowding out effect).
2. R&D&I aid can create or maintain positions of market power.
3. R&D&I aid can maintain an inefficient market structure.

State aid may also have a negative effect on trade in the common market. In particular where R&D&I aid leads to the crowding out of competitors, the aid measures may essentially result in a shift of trade flows and location of economic activity.

6.3.1. Distorting dynamic incentives

The main concern related to R&D&I aid to undertakings is that competitors’ dynamic incentives to invest are distorted. When an undertaking receives aid, this generally increases the likelihood of successful R&D&I on the part of this undertaking leading to an increased presence on the product market(s) in the future. This increased presence may lead competitors to reduce the scope of their original investment plans (crowding out effect).

In its analysis, the Commission will notably take into consideration the following elements:

- **Aid amount.** Aid measures which involve significant amounts of aid are more likely to lead to significant crowding out effects. The significance of the aid amount will be measured with reference to total private R&D expenditure in the sector, and the amount spent by the main players.

- **Closeness to the market / category of the aid.** The more the aid measure is aimed at R&D&I activity close to the market, the more it is liable to develop significant crowding out effects.

- **Open selection process:** Where the supported research projects are tendered out or where the grant is given on the basis of objective and non-discriminatory criteria, the Commission will take a more positive stance.

- **Exit barriers:** Competitors are more likely to maintain (or even to increase) their investment plans when exit barriers to the innovation process are high. This may be the case when many of the competitors’ past investments are locked in to a particular R&D&I trajectory.

- **Incentives to compete for a future market:** R&D&I aid may lead to a situation where competitors to the aid beneficiary renounce competing for a future market, because the advantage provided by the aid (in terms of the degree of technological advance or in terms of timing) reduces the possibility for them to profitably enter this future market.
– **Product differentiation and intensity of competition:** Where product innovation is rather about developing differentiated products (related e.g. to distinct brands, standards, technologies, consumer groups) competitors are less likely to be affected. The same is true if there are many competitors in the market.

### 6.3.2. Creating market power

Aid in support of R&D&I may have distortive effects in terms of increasing or maintaining the degree of market power in product markets. Market power is the power to influence market prices, output, the variety or quality of goods and services, or other parameters of competition on the market for a significant period of time, to the detriment of consumers. The Commission will assess the market power before the aid is granted, and the change in market power, which can be expected as a result of the aid.

The Commission is concerned mainly about those R&D&I measures allowing the aid beneficiary to transfer or strengthen market power held on existing product markets to future product markets. The Commission is therefore unlikely to identify competition concerns related to market power in markets where each aid beneficiary has a market share below [25%] and in markets having a market concentration with Herfindahl-Hirschman Index (HHI) below [2000].

In its analysis, the Commission will notably take into consideration the following elements:

– **Market power of aid beneficiary and market structure:** Where the recipient is already dominant on a product market, the aid measure may reinforce this dominance by further weakening the competitive constraint that competitors can exert on the recipient undertaking. Similarly, State aid measures may have significant impact in oligopolistic markets where only a few players are active.

– **Level of entry barriers:** In the field of R&D&I, significant entry barriers may exist for new entrants. These barriers include legal entry barriers (in particular IPRs), economies of scale and scope, access barriers to networks and infrastructure, and other strategic barriers to entry or expansion.

– **Buyer power:** The market power of an undertaking may also be limited by the market position of the buyers. The presence of strong buyers can serve to counter a finding of a strong market position if it is likely that the buyers will seek to preserve sufficient competition in the market.

– **Selection process:** Aid measures which allow undertakings with a strong market position to influence the selection process, e.g. by having the right to recommend undertakings in the selection process or influencing the research path in a way which disfavours alternatives path on unjustified grounds, is liable to raise concern by the Commission.

### 6.3.3. Maintaining inefficient market structures

R&D&I aid may, if not correctly targeted, support inefficient undertakings and hence lead to market structures where many market players operate significantly below efficient scale. In its analysis, the Commission will notably consider whether the aid is granted in markets featuring overcapacity, in declining industries or in sensitive sectors. Concerns are less likely in situations where State aid for R&D&I aims at changing the growth dynamics of the sector, notably by introducing new technologies.
6.4. Balancing and decision

In the light of these positive and negative elements, the Commission balances the effects of the measure and determines whether the resulting distortions adversely affect trading conditions to an extent contrary to the common interest. The analysis in each particular case will be based on an overall assessment of the foreseeable positive and negative impacts of the State aid. For that purpose the Commission will not use the criteria set out above mechanically but will make an overall assessment based on the proportionality principle.

The Commission may raise no objections to the notified aid measure without entering into the formal investigation procedure or, following the formal investigation procedure laid down in Article 6 of Regulation 659/1999\(^{42}\), decide to close the procedure with a decision according to Article 7 of that regulation. In case it takes a conditional decision in the meaning of Article 7 (4) of that regulation, it may in particular consider attaching the following conditions, which must reduce the resulting distortions or effect on trade and be proportionate:

- Lower aid intensities than the maximum intensities allowed in Part 5, including claw-back mechanisms and different conditions for repaying reimbursable advances;
- Diffusion of results, collaboration and other behavioural commitments;
- Separation of accounts in order to avoid cross-subsidization from one market to another market, when the beneficiary is active in multiple markets:
- No discrimination against other potential beneficiaries (reduce selectivity).

7. Cumulation

As regards cumulation, the aid ceilings fixed under this framework shall apply regardless of whether the support for the aided project is financed entirely from State resources or is partly financed by the Community, except in the specific and limited context of the conditions established for Community funding under the RTD Framework Programmes, adopted respectively in accordance with Title XVIII of the EC Treaty or Title II of the Euratom Treaty.

Where the expenditure eligible for aid for R&D&I is eligible in whole or in part for aid for other purposes, the common portion will be subject to the most favourable ceiling under the applicable rules. This limitation does not apply to aid granted in accordance with the Community guidelines on State aid to promote risk capital investments in SME.

Aid for R&D&I shall not be cumulated with de minimis support in respect of the same eligible expenses in order to circumvent the maximum aid intensities laid down in this framework.

8. Special rules for agriculture and fisheries

As regards R&D aid concerning products listed in Annex I to the EC Treaty, and by way of derogation from aid intensity limitations or supplements specified elsewhere in this

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framework, the Commission will continue to allow an aid intensity of up to 100%, subject to fulfillment in each case of the four following conditions:

– it is of general interest to the particular sector or sub-sector concerned,
– information that research will be carried out, and with which goal, is published on the internet, prior to the commencement of the research. An approximate date of expected results and their place of publication on the internet, as well as a mention that the result will be available at no cost, must be included.
– the results of the research are made available on internet, for a period of at least 5 years. This information on the internet shall be published no later than any which may be given to members of any particular organisation.
– aid shall be granted directly to the researching institution or body and must not involve the direct granting of non-research related aid to a company producing, processing or marketing agricultural products, nor provide price support to producers of such products.

Cases of R&D aid for Annex I products not fulfilling the above conditions are to be examined under the normal rules of the present framework.

9. **Final provisions**

9.1. **Monitoring and reporting**

In line with the requirements of Regulation 659/1999 of the Council\(^\text{43}\) and Regulation 794/2004 of the Commission\(^\text{44}\), Member States must submit annual reports to the Commission.

Beyond the requirements stipulated in those provisions, annual reports for R&D&I-aid measures shall contain for each measure, including the granting of aid under an approved scheme, the following information:

– the name of the beneficiary;
– the aid amount per beneficiary;
– the aid intensity;
– the sectors of activity where the aided projects are undertaken.

In case of clusters, the report must also give a brief description of the activity of the cluster and its effectiveness in attracting R&D&I activity. The Commission may request additional information regarding the aid granted, to check whether the conditions of the Commission’s decision approving the aid measure have been respected.

The annual reports will be published on the internet site of the Commission.

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For all aid granted under an approved scheme to large undertakings, Member States must also explain in the annual report how the incentive effect has been respected for aid given to such undertakings, notably using the indicators and criteria mentioned in section 5.1.2. above.

The Commission considers that further measures are necessary to improve the transparency of State aid in the Community. In particular, it appears necessary to ensure that the Member States, economic operators, interested parties and the Commission itself have easy access to the full text of all applicable R&D&I aid schemes.

This can easily be achieved through the establishment of linked internet sites. For this reason, when examining R&D&I aid schemes, the Commission will systematically require the Member State concerned to publish the full text of all final aid schemes on the internet and to communicate the internet address of the publication to the Commission. The scheme must not be applied before the information is published on the internet.

Besides, whenever aid for R&D&I is granted on the basis of aid schemes which does not fall under the duty for individual notification and exceeds:

- for project aid\(^{45}\) and feasibility studies\(^{46}\), a total aid amount per undertaking and project of [3 Mio €]
- for all other measures, an aid amount of [1] Mio € per undertaking or, for aid for innovation clusters\(^{47}\), per cluster.

Member States must, within 20 working days starting from the granting of the aid by the competent authority, provide the Commission with the information requested in the standard form laid down in the Annex to this framework. The Commission will make summary information available to the public through its website (http://europa.eu/comm/competition/).

Member States must ensure that detailed records regarding the granting of aid for all R&D&I measures are maintained. Such records, which must contain all information necessary to establish that the eligible costs and maximum allowable aid intensity have been observed, must be maintained for 10 years from the date on which the aid was granted.

The Commission will ask Member States to provide this information in order to carry out an impact assessment of this framework three years after its entry into force.\(^{48}\)

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\(^{45}\) Cf. point 5.2.1.

\(^{46}\) Cf. point 5.2.1.

\(^{47}\) Cf. point 5.2.8.

\(^{48}\) In that process, Member States may want to support the Commission by providing their own ex post assessment of schemes and individual measures.
9.2. Appropriate Measures

The Commission herewith proposes to Member States, on the basis of Article 88(1) of the EC Treaty, the following appropriate measures concerning their respective existing research and development aid schemes:

In order to comply with the provisions of this framework, Member States should amend, where necessary, such schemes in order to bring them into line with this framework within twelve months after its entry into force, with the exception of the duty to provide more detailed annual reports and the extended reporting duty on certain projects, which should be applied to existing aid schemes within six months after its entry into force.

The Member States are invited to give their explicit unconditional agreement to these proposed appropriate measures within two months from the date of publication of this framework. In the absence of any reply, the Commission will assume that the Member State in question does not agree with the proposed measures.

9.3. Entry into force, validity and revision

This framework will enter into force on the first day of the second month following its publication in the Official Journal of the European Union and will replace the Community Framework for State aid for Research and Development.

It will cease to be valid on 31 December [2013]. After consulting the Member States, the Commission may amend it before that date on the basis of important competition policy or research policy considerations or in order to take account of other Community policies or international commitments. The Commission intends to carry out a review of the framework 3 years after its entry into force.

The Commission will apply this framework to all aid projects notified in respect of which it is called upon to take a decision after the framework is published in the Official Journal, even where the projects were notified prior to its publication.

In line with the Commission notice on the determination of the applicable rules for the assessment of unlawful State aid (“consecutio legis”), the Commission will apply in the case of non-notified aid,

– this framework if the aid was granted after its entry into force;
– the framework in force when the aid was granted in all other cases.

Form for the provision of summary information for aid under the extended reporting obligation (point 9.1)

(1) Aid in favour of (name of the undertaking/undertakings receiving the aid, SME or not):

(2) Aid scheme reference (Commission reference of the existing scheme or schemes under which the aid is awarded):

(3) Public entity/entities providing the assistance (name and co-ordinates of the granting authority or authorities):

(4) Member State where the aided project or measure is carried out:

(5) Type of project or measure:

(6) Short description of project or measure:

(7) Where applicable, eligible costs (in EUR):

(8) Discounted aid amount (gross) in EUR:

(9) Aid intensity (% in gross grant equivalent):

(10) Conditions attached to the payment of the proposed aid (if any):

(11) Planned start and end date of the project or measure:

(12) Date of award of the aid: