



Digital Innovation Hub_s & State aid rules

Irina Orssich
CNECT F4

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What is State aid?

Article 107 (1) TFEU

- Any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.
- But the Treaty leaves room for a number of **policy objectives for which State aid can be considered compatible...** such as R&D&I

Instances in which the existence of State aid is excluded

- No economic activity: research infrastructure not meant to be commercially exploited
- No potential effect on trade between Member States: purely local impact
- No economic advantage at the level of the owner/developer
- No economic advantage at the level of the operator
- Research infrastructure acting as a mere intermediary
- No economic advantage at the level of the user

Economic activities of research organisations and research infrastructure (Section 2.1)

➤ **Non-economic activities (point 19):**

- **Primary activities:** Public education organised within the national educational system; independent R&D; wide dissemination of research results on a non-exclusive and non-discriminatory basis;
 - **Knowledge transfer** conducted by the research organisation/infrastructure or jointly with/on behalf of other such entities; all profits reinvested in primary activities.
- ## ➤ **Economic activities:** e.g. renting out equipment or laboratories to undertakings, R&D services, contract research for industry
- ## ➤ **Cross-subsidisation of economic activities is avoided** by separating the costs, revenues and financing of economic from non-economic activities
- ## ➤ **Lack of clear separation** → Entire research organisation and its funding are subject to State aid rules!

Economic activities of research organisations and research infrastructure

If RO/RI is both publicly and privately funded → State aid is present if:

- public funding allocated to the relevant entity for a specific accounting period exceeds the costs of non-economic activities incurred in that period (point 20 – footnote 22)

Ancillary economic activities' (point 20) not subject to State-aid rules if

- directly related to and necessary for the operation of the RO/RI
- **or** intrinsically linked to RO/RI main non-economic use
- Must be limited in scope - consuming exactly the same inputs as non-economic activities and allocated capacity is $\leq 20\%$ of relevant entity's overall annual capacity
- ➤! Claw-back of excessive aid resulting from a higher proportion of economic activities in comparison with *ex-ante* estimations!

Economic activities of research organisations and research infrastructure

- **No State aid** to RO/RI as an 'intermediary':
 - Any advantage through public funding is quantifiable and demonstrable
 - **and** is fully passed on to the final recipients (e.g. price-reduction)
 - **and** no further advantage for intermediary - selected with open tender procedure, or customers are entitled to acquire services from any intermediary

Instances in which there is no need to notify for state aid clearance, but other requirements could apply

General Block Exemption Regulation Art 25-29 GBER

- **Article 26 GBER** allows investment aid up to EUR 20 million for research infrastructures (economic activities), representing 50% of the eligible costs (investment costs in tangible and intangible assets).
- **Article 27 GBER** allows investment and operating aid (max. 10 years) up to EUR 7.5 million per innovation cluster, representing maximum of 50 % of the eligible cost (running & marketing of cluster, management of facilities, organisation of training & conferences & networking and transnational cooperation).
- **Article 14 of the GBER** regional investment aid

Instances in which there is no need to notify for state aid clearance, but other requirements could apply

General Block Exemption Regulation Art 25-29 GBER

- **Article 28 GBER** allows innovation aid for SMEs up to EUR 5 million per undertaking and project/50% of the eligible costs for
 - obtaining, validating and defending patents and other intangible assets,
 - secondment of personnel from a research and knowledge-dissemination organisations or from a large enterprises. (new function).
 - Costs for innovation advisory and support services can be granted up to 100%/max. EUR 200 000 per undertaking within any three year period.

Instances in which there is no need to notify for state aid clearance, but other requirements could apply

General Block Exemption Regulation Art 25-29 GBER

- **Article 28 GBER**
- 'innovation advisory services' means consultancy, assistance and training in the fields of knowledge transfer, acquisition, protection and exploitation of intangible assets, use of standards and regulations embedding them;
- 'innovation support services' means the provision of office space, data banks, libraries, market research, laboratories, quality labelling, testing and certification for the purpose of developing more effective products, processes or services.

Instances in which there is no need to notify for state aid clearance, but other requirements could apply

General Block Exemption Regulation Art 25-29 GBER

- **Article 29 GBER** allows aid for process and organisational innovation up to 50% for SMEs and *15% for large companies* up to EUR 7.5 mio per undertaking per project for: equipment, research, knowledge and patents, additional overheads and other operating costs...
- 'organisational innovation' means the implementation of a new organisational method and 'process innovation' means the implementation of a new or significantly improved production or delivery method (including significant changes in techniques, equipment or software).

Framework for State aid for research and development and innovation

- In the absence of a block exemption, a State aid or State aid scheme must be notified to the Commission and authorised before it is put into effect.
- The Commission normally would examine such cases under the 2014 *Framework for State aid for research and development and innovation*

THANK YOU