State aid modernisation package

Bojana Vrcek
DG COMP

Zagreb 2 July 2015
Structure of the presentation

1. Main objectives of State aid modernisation and the role of Member States

2. General Block Exemption Regulation (GBER): Main issues (incentive effect, calculation of gross grant equivalent, cumulation overview of aid categories)

3. De Minimis Regulation
Strategic approach to State aid control

1) More responsibility for MS: **Partnership**
2) Towards a more pragmatic reading of **NoA**
3) Meaningful **ex-post control**: Transparency, Evaluation, monitoring & recovery
4) An "**own initiative**" **strategy**, focusing on key areas of the EU economy
State aid modernisation – objectives I

- **Communication on “State Aid Modernisation”** (2012)
  - Support growth in times of budget constraints
  - "More with less"

- **Stricter control of more distortive aid:**
  - Prove real incentive effect
  - Limit aid to what is necessary (proportionality)

- **Simplify rules for "good aid"**
State aid modernisation – objectives II

• Foster growth in a strengthened, dynamic and competitive internal market, by encouraging “good aid” and discouraging useless or counter-productive aid

• Focus enforcement on cases with the biggest impact on internal market

• Streamline rules and faster decisions

State of play

• Most instruments of the State aid modernisation ("SAM") initiative entered into force on 1 July 2014; ensuring successful implementation is key in current phase of transition
SAM – new guidelines

► De Minimis Regulation
► Regional aid guidelines
► Risk Finance Guidelines
► Aviation Guidelines
► RDI Guidelines
► Energy and Environmental Aid Guidelines
► GBER
SAM – New GBER - 1

- **GBER → Key element of SA Modernisation**
  - New GBER adopted in 04/2014 and in force in 07/2014
  - Facilitate implementation of ESI Funds

- **Main elements:**
  - No ex ante notification and standstill requirement
    → More responsibility with MS/MA’s
  - Less demanding conditions on incentive effect, proportionality …
  - Widening of range of exempted measures
New categories of aid brought under GBER:

- Aid to compensate natural disaster damage
- Operating aid in remote & in sparsely populated areas
- Individual regional aid measures
- Aid for urban development projects in assisted regions
- Aid for broadband infrastructure
- Aid for start-ups, for SME financing, for innovation clusters & research infrastructure
- Aid for culture and heritage conservation, for sport and multifunctional recreational facilities
- Aid for the remediation of contaminated sites
- Aid for renewables and district heating
- Aid for local infrastructure….
State aid under GBER schemes

- Situation 2011 → 63% of aid measures in EU were implemented under GBER

- Ambition 2014-20 → 90% of aid under GBER
Regional aid under GBER schemes

% of Regional Aid under RAGBER / GBER

DK FR IE EL LU SK PT ES IT SE PL BG LV EE LT HU BE DE CZ RO NL SI MT CY UK FI AT
SAM implementation: transparency

Why transparency?

increases Government accountability and empowers markets to monitor compliance and challenge poorly designed aid

New transparency obligations for Member States:

Develop national or regional transparency websites and publish information on individual aid awards above € 500 000 as of July 2016

Complement EU's financial transparency system which discloses the beneficiaries of EU funds

Ongoing work to facilitate transparency:

IT module to collect, store and publish data on individual aid amounts
SAM implementation: evaluation

Evaluation: closing the State aid 'policy cycle'
→ Current key challenge: Ensure good standard for first cases
Conclusions - 1

- **SA policy = essential instrument of cohesion**
  - SA control is in the interest of weaker regions and MS
  - ESI Fund operations need to comply with SA rules

- **State aid modernisation = relevant for ESI Funds:**
  - Most business support measures co-financed by ESI will be “block exempted” (brought under GBER)
  - Should facilitate ESI Fund implementation
  - But also greater responsibility for MS/MA’s
Conclusions - 2

Challenges ahead:

- Building up of SA expertise in MA’s
- Clarification of SA rules on infrastructure in the light of the Leipzig-Halle Judgment
- Streamlining of procedures for approval of Major Projects involving State aid
The General Block Exemption Regulation 2014-2020 (GBER)
State Aid Modernisation: a review of the State aid rules with aim of:

Fostering growth in a strengthened, dynamic and competitive internal market

Focussing enforcement on the cases with the biggest impact on the internal market and

Streamlining the rules and enabling faster decisions
The GBER 2014-2020

- The GBER 2014-2020 is a set of 43 exemptions that can be used to provide effective and compliant State aid.
- Aid under GBER can be provided without prior approval from the Commission.
- To use the GBER, the granting body must publish a scheme on the internet and complete an online form which goes to the Commission.
Reasoning: Interdependent Features

- Extend
- Simplify
- Safeguard
**Extend**

<table>
<thead>
<tr>
<th>Type of aid</th>
<th>Aid amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>De minimis</td>
<td></td>
</tr>
<tr>
<td>GBER extended (new types and categories)</td>
<td></td>
</tr>
<tr>
<td>GBER extended (notification and intensity threshold)</td>
<td></td>
</tr>
<tr>
<td>Notified aid</td>
<td></td>
</tr>
<tr>
<td>Block-exempted</td>
<td></td>
</tr>
<tr>
<td>De minimis</td>
<td></td>
</tr>
</tbody>
</table>

**GBER extension**
New Aid Categories

- New block exemption includes:
  - Aid to make good the damage caused by certain natural disasters
  - Social aid for passenger transport
  - Aid for broadband infrastructures
  - Aid for culture and heritage conservation
  - Aid for audio-visual works
  - Aid for sport and multifunctional recreational infrastructures
  - Aid for innovation clusters
  - Aid for process or organisational innovation
  - Research infrastructures
  - Aid for local infrastructure
• **Between 2014 and 2020, it is estimated that 66% of aid amounts and 75% of aid measures are likely to be exempted under the new GBER.**

*Data: analysis based on aid amounts awarded in 2012, aid measures notified/block-exempted in 2012*
Simplify

- A significant number of rules have been simplified or clarified

- During four consultations, Member States have provided feedback on areas of difficulty. The Commission has revised parts of the document to address these.

- For example, we have simplified the test for "incentive effect", conditions for start-up aid and innovation aid for SMEs.
Safeguards

• State aid is only exempted under GBER where all compatibility conditions are met.

• There will be more ex-post checks.

• Member States should have appropriate processes in place to administer the GBER.

• The Commission may suspend or withdraw the GBER where non-compliance is identified.
General Provisions
(Articles 1-12 and 57-58)
When GBER applies

- Certain types of aid **excluded** in Article 1, such as:
  - Aid for export related activity
  - Some aid measures to the fishery and aquaculture sector
  - Some aid measures in the primary agricultural production sector
  - Aid to facilitate the closure of uncompetitive coal mines
  - Aid to undertakings in difficulty

- **Notification thresholds** – GBER does not cover aid above the levels set out in Article 4: such measures must be notified.

- **Aid must be transparent** (it is possible to calculate precisely the GGE of the aid ex ante).
Incentive Effect

State aid should encourage the beneficiary to undertake an activity in the common interest.

SMEs + LEs aid under schemes - incentive effect present if they have not started the activity before applying for the aid.

In case of ad hoc aid to large enterprises – additional documentation needed.
Transparency

- Publication of information on a Member State / regional website

- Information on each scheme as well as individual aid awards over €500,000 (special rules for tax schemes)

- Information must be published within 6 months from the date the aid was granted (for tax schemes - within 1 year from the date declaration is due)
Evaluation

Concerns aid schemes in some aid categories (regional, SMEs, R&D&I, environment and broadband), with an average annual budget over €150 million.

These schemes are covered by the GBER for an initial period of 6 months.
Can be extended by the Commission upon approval on an evaluation plan (describing e.g. scope of evaluation, result indicators, methods and timeline).
De Minimis Regulation

Regulation No 1407/2013
General *De Minimis* Regulation

**Presumption = no State aid** because *de minimis* aid is deemed too small to affect trade or distort competition and thus not fulfilling all the criteria of Article 107(1) TFEU

**Scope NEW!: Light undertaking in difficulty definition:**
- Not in collective insolvency proceedings
- At least B- rating for large undertakings

**Scope = all sectors, with the exclusions of:**
- Certain sectors: fisheries, agriculture, coal, acquisition of road freight transport vehicles granted to undertakings performing road freight transport for hire or reward
- Export aid (directly linked to quantities exported, establishment and operation of a distribution network or other current expenditure linked to export)
- Aid contingent upon the use of domestic over imported goods
Amount & form of *de minimis* aid

- Maximum **EUR 200 000** over any period of three fiscal years (road transport: EUR 100 000)
  - if the ceiling is exceeded the whole amount cannot benefit from the Regulation, not even the fraction below the ceiling
  - per single undertaking (NEW!)

- **Transparent aid**: the Regulation applies only to *de minimis* aid for which it is possible to calculate precisely the gross grant equivalent (GGE) *ex ante*

- **Form of *de minimis* aid**:
  - Grant / interest rate subsidy  ➔ € 200 000
  - Equity/quasi-equity  ➔ € 200 000
  - Loan  ➔ 2 methods to calculate the GGE
  - Guarantee  ➔ 3 methods to calculate the GGE
De minimis loans – 2 methods

1. Nominal amount method: "safe harbour" thresholds
   • loan is secured by collateral covering at least 50% of the loan;
   • loan amount:
     • €1 000 000 over five years or
     • €500 000 over 10 years;
   • if a loan is for less than those amounts and/or is granted for a shorter period, the GGE of the loan shall be calculated as a corresponding proportion of the ceiling

2. GGE has been calculated on the basis of the reference rate applicable at the time of the grant
De minimis guarantee – 3 methods

1. Nominal amount method = "safe harbour" thresholds
   • guarantee rate: 80 %; and
   • amount guaranteed is € 1500000 and the duration of the guarantee is 5 years; or
   • amount guaranteed is € 750000 (or € 375000 for undertakings performing road freight transport) and the duration of the guarantee is 10 years.
   • if the amount guaranteed is less than those amounts and/or is granted for a shorter period, the GGE shall be calculated as a corresponding proportion of the ceiling

2. Method based on the Guarantee Notice: GGE calculated on the basis of safe-harbour premiums laid down in a Commission notice

3. Notified methodology: Methodology used to calculate the GGE of the guarantee notified and approved by the Commission
NEW!: Indirect *de minimis* measures

*De minimis* Regulation only applies at final recipient level!

⇒ Compatibility/no aid at financial intermediary level needs to be ensured

**A. No aid at the financial intermediary level**

- Open selection and all advantages passed on to final recipients (quantification of the advantage is necessary)
- Market-conform investments
- *De minimis* aid

**B. Compatible unquantified aid at the financial intermediary level**

- GBER (Article 21(18) - risk finance)
- Risk Finance Guidelines
Thank you!
bojana.vrcek@ec.europa.eu