

ROADMAP			
TITLE OF THE INITIATIVE	State aid control: Review of the Notice on a simplified procedure for the treatment of certain types of aid ('Simplified procedure Notice') (2009/C 136/03)		
LEAD DG – RESPONSIBLE UNIT	DG COMP – UNIT 03	DATE OF ROADMAP	June 2015
This indicative roadmap is provided for information purposes only and is subject to change. It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.			

A. Context and problem definition

(1)	What is the political context of the initiative?
(2)	How does it relate to past and possible future initiatives, and to other EU policies?
(3)	What ex-post analysis of existing policy has been carried out? What results are relevant for this initiative?
<p>(1) The Simplified procedure Notice sets out the conditions under which the Commission will usually follow a simplified procedure and adopt short-form decisions declaring certain types of State support measures compatible with the common market, and provides guidance in respect of the procedure itself. In 2009, the Commission announced its intention to carry out a review of the Notice on the basis of either (i) important competition policy considerations or (ii) in order to take account of the evolution of the State aid law and its decision making practice (see point 25 of the Notice). The first review of the Simplified procedure Notice was scheduled four years after the publication of the Notice – i.e., in 2013 (see point 25 of the Notice), but was not carried out then due to the ongoing revision of the substantive State aid framework.</p> <p>(2) Considering the current revision of the State aid framework, in particular of Commission Regulation (EC) No 800/2008 (the General Block Exemption Regulation or 'GBER'), of Commission Guidelines for the application of the State aid rules, of the Procedural Regulation and Enabling Regulation as part of the State Aid Modernisation ('SAM', see SAM roadmap), the Commission intends to carry out a review of the Simplified procedure Notice to reflect, on the one hand, the amendments brought to the State aid framework and, on the other hand, to take account of the experience gained with the implementation of the Notice (for the links of State aid modernisation to the Europe 2020 growth strategy, see the separate roadmap on the broader SAM initiative). The possible revision of the Simplified procedure Notice would be followed by a possible revision of the Code of Best Practice for the conduct of State aid control procedures.</p> <p>(3) As it is an internal procedural document setting out the technical way in which the Commission would tackle particular types of State aid cases (e.g. indicative deadlines) a fully-fledged evaluation is not an appropriate tool to gauge its effects. The Commission will base its intended review of Simplified procedure Notice on the experience gained from case-handling over years of operation of the Notice. Moreover, specific feedback on the use of and the experience with the current Simplified procedure Notice will also be provided by Member States and stakeholders through a public consultation, to be launched by the end of 2015. The results of the Commission analysis would be summarised and presented to the Member States and stakeholders at the outset of the public consultation. The Commission intends to analyse the outcome of the consultation and, on this basis and considering its own experience with the application of the Simplified procedure Notice, possibly come forward with revised guidance, if need be.</p> <p>Hence, the intended review of the Simplified procedure Notice would ensure coherence and consistency in the application of the various instruments of the State Aid framework, in particular of the GBER and further Commission Guidelines. The intended review would equally draw conclusions as regards the implementation and effectiveness of the Notice.</p> <p>Ensuring procedural coherence and consistency in the application of the State aid rules will provide legal certainty to stakeholders and contribute to the reduction of administrative burden. The review will take stock of the State aid modernisation exercise and thus ultimately, will contribute towards Europe's 2020 agenda.</p>	
What are the main problems which this initiative will address?	
<ul style="list-style-type: none"> • Significant inconsistency between the current text of the Simplified procedural Notice (i.e., notification requirement and assessment by the Commission) as regards certain categories of State aid measures described in Section 2 of the Simplified procedure Notice (i.e., aid measures falling under the 'standard assessment' sections of existing frameworks or guidelines, measures corresponding to well-established Commission decision-making practice, prolongation or extension of existing schemes) following the amendment of the GBER and Commission Guidelines. Significant simplification of the notification 	

procedures was already achieved through the revision of GBER.

- Very limited use by Member States due to its far-reaching transparency obligations as regards publication of summaries of notifications on the Commission website.
- Lack of legal certainty to stakeholders and Member States as regards the procedures now applicable to the categories of State aid measures described in Section 2 of the Simplified procedure Notice.

Who will be affected by it?

- Public authorities (e.g., Member States and all their administrative entities - regions, cities and municipalities) financing aid measures falling into certain categories of State aid described in Section 2 of the Simplified procedure Notice.
- Industry stakeholders at large (in particular potential or actual recipients of State aid and their competitors).

Is EU action justified on grounds of subsidiarity? Why can Member States not achieve the objectives of the proposed action sufficiently by themselves? Can the EU achieve the objectives better?

(i) The definition and application of State aid rules fall within the exclusive competence of the Commission. Therefore, EU action is justified. (ii) and (iii) As indicated above, State aid control falls under the competence of the Commission, ensuring equal treatment for the assessment of aid granted by Member States.

B. Objectives of the initiative

What are the main policy objectives?

- Coordination and streamlining of procedures (i.e., notification requirement and assessment by the Commission) as regards certain categories of State aid measures described in Section 2 of the Simplified procedure Notice (i.e., aid measures falling under the 'standard assessment' sections of existing frameworks or guidelines, measures corresponding to well-established Commission decision-making practice, prolongation or extension of existing schemes) further to the amendment of the GBER and Commission Guidelines.
- Considering the review of the State aid framework, eliminating duplication and inconsistency of rules and procedures (the same types of cases are now covered both by the GBER and by the Notice that still foresees a notification obligation). Simplifying and streamlining the body of soft law governing procedures in State aids
- Providing legal certainty to stakeholders as regards the procedures applicable to the categories of State aid measures described in Section 2 of the Simplified procedure Notice.
- Increasing the efficiency of State aid control by providing for clear and simple rules that are easy to apply.

Do the objectives imply developing EU policy in new areas?

No. The control of State aid, including coordination and streamlining of State aid procedures, is a well-defined and well-established policy.

C. Options

- (1) What are the policy options (including exemptions/adapted regimes e.g. for SMEs) being considered?
- (2) What legislative or 'soft law' instruments could be considered?
- (3) How do the options respect the proportionality principle?

(1) Broad policy options considered, in the context of the intended review:

- Option 1) Amend the Simplified procedure Notice to take account of the revision of the State aid framework (in particular of the GBER) as well as of the experience gained with the application of the Simplified procedure Notice by (possibly) adding new categories of State aid measures to be subject to a simplified notification procedure;
- Option 2) Amend the Simplified procedure Notice to take account of the revision of the State aid framework (in particular the GBER) as well as of the experience gained with the application of the Simplified procedure Notice and condense or simplify the existing categories by eliminating all categories where there is an overlap with the cases covered by GBER.
- Option 3) Repeal the Simplified procedure Notice, to take account of the revision of the State aid framework (in particular the GBER) as well as of the very limited application of the Simplified procedure

Notice.

(2) The modification of the Simplified procedure Notice would be carried out by way of a Communication from the Commission.

(3)

- Option 1) if the results of the Commission analysis, across a number of state aid fields, show that the instrument has been used and it is useful for Member States, the option to add new categories could be explored with the Member States and stakeholders; This option would not go beyond the procedural powers of the Commission in setting practical working arrangements in consultation with Member States.
- Option 2) If the results of the Commission analysis show that the instrument has been used and it is useful for Member States, the option to revise the scope of the Notice in order to remove inconsistencies with more recent legislation adopted during the SAM becomes necessary. This option would not go beyond the procedural powers of the Commission in setting practical working arrangements in consultation with Member States and is proportional to the objective of removing any inconsistencies in State aid procedures.
- Option 3) If the results of the Commission analysis show that the instrument has been used very little by Member States, the repeal the Simplified procedure Notice shall be proportional to the objective of simplification of the existing body of procedural legislation in State aids also in view of the enlarged scope of the GBER.

D. Initial assessment of impacts

What are the benefits and costs of each of the policy options?

A reviewed Simplified procedure Notice could, together with a targeted GBER, lead to the reduction of the administrative burden for stakeholders, as well as legal certainty as regards the applicable State aid procedures. The Commission must however balance the need for simplification for the least distortive cases with the closer scrutiny of cases falling outside the GBER.

Could any or all of the options have significant impacts on (i) simplification, (ii) administrative burden and (iii) on relations with other countries, (iv) implementation arrangements? And (v) could any be difficult to transpose for certain Member States?

(i) Simplification and (ii) reduction of administrative burden are very important considerations for the Simplified procedure Notice and the main justification for its existence. (iii) They will have no impact on relations with third countries. As regards (iv) implementation arrangements and (v) transposition by Member States, the Simplified procedure Notice sets out the conditions under which the Commission will usually adopt short-form decisions declaring certain types of State support measures compatible with the common market; the guidance provided in the Simplified procedure Notice does not have to be transposed into national law.

(1) Will an IA be carried out for this initiative and/or possible follow-up initiatives?

(2) When will the IA work start?

(3) When will you set up the IA Steering Group and how often will it meet?

(4) What DGs will be invited?

(1) No. The Notice is a technical document referring to the internal procedures of the Commission. There are no social, environmental or economic implications.

(2) Not applicable.

(3) Not applicable.

(4) Not applicable.

(1) Is any option likely to have impacts on the EU budget above €5m?

(2) If so, will this IA serve also as an ex-ante evaluation, as required by the Financial Regulation? If not, provide information about the timing of the ex-ante evaluation.

(1) No.

(2) Not applicable.

E. Evidence base, planning of further work and consultation

- (1) What information and data are already available? Will existing IA and evaluation work be used?
- (2) What further information needs to be gathered, how will this be done (e.g. internally or by an external contractor), and by when?
- (3) What is the timing for the procurement process & the contract for any external contracts that you are planning (e.g. for analytical studies, information gathering, etc.)?
- (4) Is any particular communication or information activity foreseen? If so, what, and by when?

(1) Experience gained from case-handling over the past 4 years of operation of the Simplified procedure Notice; collection of practical questions and issues regarding the use of the Simplified procedure Notice by Member States.

(2) Information from the Member States on the application of the Simplified procedure Notice. Public consultation intended to be launched by DG Competition in the fourth quarter of 2015 both on the uptake of the Simplified procedure Notice by Member States as well as on technical questions about the usefulness of the categories and appropriate design.

(3) Not applicable.

(4) Member States and stakeholders would be consulted via a public consultation. Should the Commission decide to renew the Simplified procedure Notice. Member States will also be consulted in the context of an Advisory Committee meeting.

Which stakeholders & experts have been or will be consulted, how, and at what stage?

Member States and other stakeholders would be able to provide their input through a public consultation, to be launched in the fourth quarter of 2015. In particular, Member States would be consulted during an Advisory Committee meeting if the Commission decides to renew the Notice.