



EUROPEAN COMMISSION

MEMO

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State Aid: Proposed review of Enabling Regulation to allow for exemptions from prior notification of aid to the Commission - frequently asked questions

1. How does the system of block exemptions work in state aid?

Article 108(3) of the Treaty on the Functioning of the European Union (TFEU) requires Member States to notify all state aid projects to the European Commission and implement them only after the Commission has approved them. Following a Commission proposal, the EU Council of Ministers can, however, enable the Commission to exempt from prior notification to the Commission certain categories of aid that have a limited potential to distort competition. To this effect, the Commission adopts Block Exemption Regulations (BERs), defining criteria which ensure that aid is compatible with EU state aid rules. Only aid fulfilling the criteria can be granted without notification.

The Council adopted the current "[Enabling Regulation](#)" in 1998, allowing the Commission to block exempt regional aid, aid for research and development (R&D), etc. A BER is directly applicable in the EU Member States and can therefore be applied by national courts.

2. Why propose to revise the 1998 Enabling Regulation now?

In May 2012, the Commission launched an initiative to modernise and rationalise EU state aid control (see [IP/12/458](#)). One of the objectives is to focus on cases with the biggest impact on the internal market. This implies simplification for cases with limited effect on trade and limited potential to seriously distort competition.

Such simplification can be achieved, in particular, by block-exempting categories of aid from prior Commission scrutiny. Based on the current [Enabling Regulation](#), the Commission did adopt block exemptions for regional aid, SMEs, R&D, employment aid, training aid and environmental aid in the General block exemption Regulation of 2008.

Since the entry into force of the Enabling Regulation, the internal market and case practice have evolved considerably. State Aid Modernisation implies a focus on cases with the biggest impact and the support of growth-enhancing aid. It is therefore necessary to adapt the Regulation to take account of this evolution.

3. What changes are proposed?

The Commission proposes to extend the scope of the Enabling Regulation to the following new categories: aid in favour of

- culture and heritage conservation;
- making good the damage caused by natural disasters;
- making good the damage caused by certain adverse weather conditions in fisheries;
- forestry and the promotion of certain food products;
- conservation of marine biological resources;
- innovation;
- amateur sports;
- residents of remote regions for transport, when such aid has a social character;
- coordination of transport or reimbursement for the discharge of certain obligations inherent in the concept of a public service pursuant to Article 93 TFEU;
- certain broadband infrastructure.

In choosing these categories, the Commission took into account the following factors. Firstly, the proposed categories all have limited potential to seriously distort competition. Secondly, they relate to areas where the Commission has already acquired substantial experience in assessing state aid or is currently developing such experience. This will allow defining clear compatibility conditions which the aid measures have to fulfil to benefit from the exemption. Thirdly, they focus on promoting horizontal aid measures which are in line with the objectives of the state aid modernisation initiative ("good aid").

4. Does the Commission have sufficient experience to justify exemptions for all new categories?

The most important criterion for block exempting a category of aid is the limited risk of serious distortions of competition. This has been the guiding principle in identifying new categories and will also determine the definition of future block exemptions.

The Commission has acquired significant practical experience in recent years with regard to categories such as aid for culture, aid to make good damage caused by natural disasters, innovation aid or certain types of broadband measures.

The adoption of an extended Enabling Regulation does not mean immediate block exemption. Rather, it allows for block exemption once the Commission has sufficient experience to define clear compatibility criteria. Therefore, new BERs may not be introduced all at the same time in a single instrument, but rather step by step.

Such a stepwise approach was also applied under the current Enabling Regulation: the first block exemptions were adopted in 2001 (training aid, aid to SMEs), while other types of aid exemptions were adopted later, once sufficient experience had been acquired (employment aid in 2002, R&D&I in 2004, regional aid in 2006 and environmental aid in 2008 with the GBER).

5. When and how will the amended Enabling Regulation be adopted?

The Commission has made a proposal to amend the Enabling Regulation. This proposal is now sent to the Council and the European Parliament for discussion. Pursuant to Article 109 TFEU, the Council then adopts the new Enabling Regulation, after consultation of the Parliament. While it is not possible to foresee a possible adoption date with precision, we are confident that the Council will be able to reach a timely agreement to allow for an adopted in 2013, together with a series of other projects which are part of the State Aid Modernisation initiative.

6. When will the new block exemptions be in force?

Once the Council has adopted the new Enabling Regulation, the Commission can start determining compatibility criteria for block exemptions of new categories of aid. This can be done by modifying the GBER. Since the GBER is currently being reviewed as part of the State Aid Modernisation initiative, a second review is envisaged after the adoption of the new Enabling Regulation. The adoption of new block exemptions would involve a broad consultation process of Member States and other stakeholders, which would take approximately a year.

As mentioned above, the inclusion of new categories in the Enabling Regulation does not necessarily mean immediate block exemptions for all categories. An exemption requires sufficient experience to define clear and precise conditions of compatibility to limit potential distortions of competition. Therefore, the adoption of new block exemptions may follow a gradual approach.

7. The monitoring of existing block exemptions has revealed serious problems. Would a proposal to introduce more block exemptions not lead to more distortions?

State Aid Modernisation aims at increasing monitoring and enforcement efforts to ensure that all parties comply with the rules. If and when the Commission adopts more block exemptions, it would also expect Member States to take their share of responsibility for ensuring strict compliance.

The Commission has already increased its monitoring and this is producing good results. A considerable number of problems were corrected swiftly as they were often rooted in a lack of knowledge of the rules by local authorities. Where problems persist, the Commission will not hesitate to investigate, and if aid is found incompatible, to order the recovery if this aid from the beneficiaries. Increased monitoring by the Commission together with better control by Member States is a precondition for more block exemptions.

Please see also [MEMO/12/942](#) on the Procedural Regulation.