

State aid – rules on substance (III): General Block Exemption Regulation (GBER)

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These slides accompany the explanation of the acquis to Albania and North Macedonia and can only be used for that purpose. Their content is subject to further development of the acquis and interpretation by the Court of Justice of the European Union.

Legal Bases

- Commission Regulation (EU) N. 651/2014 of 17 June 2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty
- Commission Regulation (EU) 2017/1084 of 14 June 2017 amending Regulation (EU) No 651/2014 as regards aid for port and airport infrastructure, notification thresholds for aid for culture and heritage conservation and for aid for sport and multifunctional recreational infrastructures, and regional operating aid schemes for outermost regions and amending Regulation (EU) No 702/2014 as regards the calculation of eligible costs.

General principles

- The GBER 2014-2020 is a set of exemptions that can be used to provide effective and compliant State aid.
- In the EU:
 - 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.
- For Candidate countries:
 - Compatibility criteria of the GBER can be applied
BUT
 - All measures **must be notified** (no block exemption)



General Provisions (Articles 1-12 and 57-58)



Chapter 1 – Common provisions

- Scope (Art 1): certain types of aid **excluded**, 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
- Definitions (Art 2) – very extensive (need for clarity in application)
- Notification thresholds for each sector (Art 4)
- Provisions on transparency of aid (Art 5) – issue of "transparency of aid" (it is possible to calculate precisely the GGE of the aid ex ante)
- Incentive effect (Art 6)
- Aid intensities and eligible costs (Art 7)
- Cumulation (Art 8)
- Publication and information (Art 9)

Firms in difficulty - Art. 2(18)

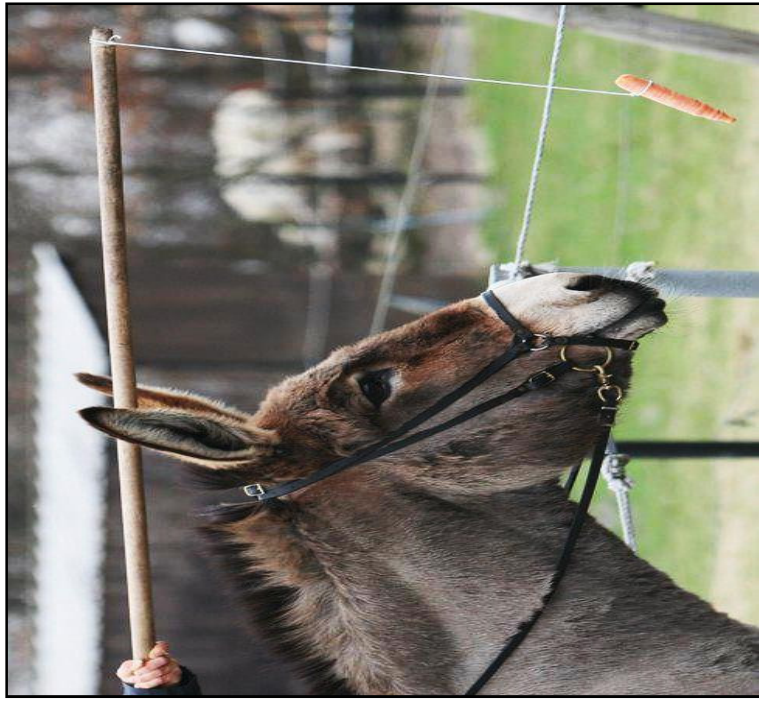
- Conditions of the R&R Guidelines apply
- 3 hard criteria (a, b and e) and two soft criteria (c, d)
- The definition of a firm in difficulty (a) require that half of the subscribed share capital of a LLC has disappeared, regardless of when the losses were incurred. **It would, therefore, be incorrect to take into account only a net loss for the last accounting period.**
- Debt = book value of interest-bearing short-term and long-term financial liabilities

Transparency of aid

- Aid shall be transparent as long as the GGE can be calculated ex ante:
 - Loans: aid calculated based on the reference rate
 - Guarantees: (i) GGE calculated based on the Guarantees Notice or (ii) methodology notified and approved by the Commission (can be in the context of a specific aid.
 - Tax advantages: cap has to be set ex-ante to make sure that the notification threshold is not exceeded
- Aid intensity shall be calculated as the proportion of aid to the eligible cost of the project (defined in each article)
- Infrastructures: total investment costs minus operating profits are the eligible costs – intensity usually 100%

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.



Cumulation of aid

- Public funding = EU centrally managed (i.e. COSME, Horizon) + State aid
- Structural funds pass through national budget => considered State aid
- Cumulation rules apply to State aid (including structural funds):
 - Free cumulation if concerning different identifiable eligible cost;
 - If concerning the same eligible cost, only up to the highest intensity under GBER



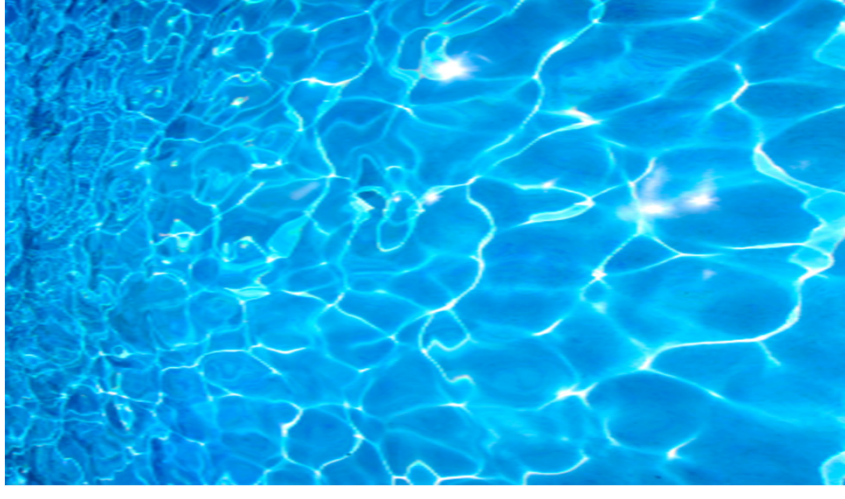


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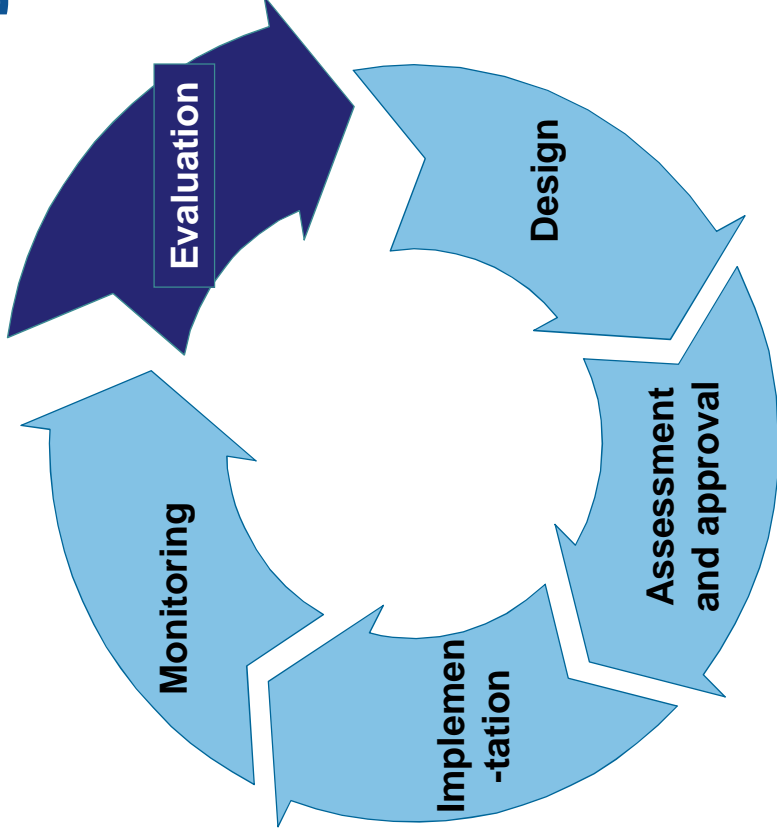
Transparency

Member States are required to:

- establish comprehensive State aid websites, at regional or national level
- publish Legal basis of the measure and summary information sheet (under the GBER)
- publish information on individual awards above EUR 500.000
- 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: 'Closing' the State aid cycle



Objectives of State aid evaluation:

- Assessing whether the scheme was effective in achieving the direct objective for which it was introduced, (i.e. did it change the behaviour of the beneficiary, and to which extent?)
- Detecting possible indirect effects of the scheme (e.g. spill-over effects on the activity of other firms)
- Addressing the issues of proportionality and appropriateness of the chosen aid instrument.

In the GBER:

- Concerns aid schemes in some aid categories (regional, SMEs, R&D&I, environment and broadband), with an average annual budget (not expenditure) over €150 million.
- Based on approved evaluation plan.

Specific Provisions (Articles 13-56)



Regional Aid

- Aim: to encourage investment into Assisted Areas (as listed in the national Regional Aid map)

Regional Investment Aid (Article 14)

- Most common form of aid under GBER
- Allows for State aid to cover the costs of
 - (i) investments in assets and
 - (ii) wages for newly created jobs



Regional Aid

Regional Operating Aid (Article 15)

- Available in outermost and sparsely populated areas, as set out in national Regional Aid map
- Compensates for:
 - additional transport costs of goods (Article 15 (2) a))
 - additional operating costs other than transport costs for outermost regions (Article 15 (2) (b))
- Up to 100% of additional costs (subject to annual cap at Article 15(2)(b))



Regional Aid

Regional urban development aid (Article 16)

Aid for urban development projects in assisted regions when:

- implemented via urban development funds
- co-financed by the European Structural and Investment Funds
- Based on an 'integrated sustainable urban development strategy
- Total investment below EUR 20 million per project



Aid to SMEs

- Investment Aid
 - EUR 7.5 million per undertaking per project
 - aid intensity: 20% for SEs and 10% for Mes
 - eligible costs cover costs of investment in tangible and intangible assets and estimated wage costs of employment created directly by the investment for two years
- Aid for consultancy in favour of SMEs
 - up to EUR 2 million per undertaking per project; intensity 50%
- Aid for Participation in Fairs
 - up to EUR 2 million per undertaking per year with aid intensity of 50%



Aid to SMEs' cooperation costs linked to ETC projects

- Eligible costs include
 - costs of organisational cooperation
 - of advisory and support services
 - of travel expenses
 - costs of equipment and investment expenditure directly related to the project
 - depreciation of tools and equipment
 - the costs of advisory and support services delivered by external consultants that are not a periodic activity
- up to EUR 2 million per undertaking per project
- 50% aid intensity



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Risk finance

- Aim: attracting and channelling private funding to unlisted SMEs to foster growth and job creation, while maintaining profit-driven financing decisions
- Forms of aid: equity or quasi-equity, loans, guarantees. Tax incentives to independent private investors that are natural persons are also covered
- Scope of eligible undertakings: SMEs from seed/start up and expansion stages but also SMEs in later growth stages
- Total investment cap on the risk finance funding that an eligible undertaking can receive: EUR 15 million
- Include schemes that are *de minimis* at the level of the final beneficiary



Aid to Start-ups

- Eligible undertakings shall be unlisted small enterprises up to five years following their registration
- The guarantee shall not exceed 80% of the underlying loan
- Aid can be granted several times as long as the maximum amount is respected
- Allowed for start-up companies (small, less than 5 years old) that are technically "companies in difficulty"
- The beneficiary can receive support through a mix of instruments



Aid to Start-ups

Instruments:

- Loans with a maximum duration of 10 years and up to a maximum nominal amount from EUR 1 million to EUR 2 million depending on the region. Higher amounts possible for loans of shorter duration
- Guarantees with a duration of 10 years and up to maximum of EUR 1.5 million to EUR 3 million of amount guaranteed, or EUR 2.25 million depending on the region. Higher amounts possible for guarantees of shorter duration
- Grants with a maximum amount from EUR 0.4 million to EUR 0.8 million depending on the region

Aid for R&D&I projects

- **3 research categories:**
 - [EUR 40 M] **Fundamental research:** TRL 1 (100%)
 - [EUR 20 M] **Industrial research:** TRL 2-4 (50% + SME + collaboration/dissemination bonus)
 - [EUR 15 M] **Experimental development:** TRL 5-8 (25% + SME + collaboration/dissemination bonus)

Since 2014:

- Industrial research including laboratory-scale prototypes and small scale pilot lines
- *Ex-post* deduction of commercial revenues generated by prototypes and pilots from eligible costs no longer applicable
- Notification thresholds doubled (if repayable advance: increased by 50%)

Aid for Research Infrastructure

- Public financing for **economic activities**
- **Investment aid** for **construction** and **upgrade**
- Open, transparent and non-discriminatory access at market terms
- Preferential access for large private investors (>10%/per undertaking): proportional and transparent
- Aid intensity: up to 50% of eligible investment costs (tangible and intangible assets)
- **Above EUR 20 M of aid per infrastructure** → notification and assessment under the RDI Framework: public funds may cover all the "net extra costs" up to 60%

Innovation Cluster

- Aid can be granted only to the **legal entity operating** the cluster organisation
- **Open, transparent and non-discriminatory access at market terms**; preferential access for private investors (contributions >10%, proportional, transparent)
- **Investment aid @ 50%** (plus regional bonuses) of eligible costs: tangible and tangible assets
- **Operating aid @ 50%** for max 10Y: costs for animation, marketing and management of the cluster
- **Notification** threshold: **7.5 million EUR/cluster**



Innovation aid for SMEs

- **Innovation advisory services** - consultancy, assistance and training in fields like knowledge transfer, IPR management, use of standards and regulations
- **Innovation support services** - provision of office space, data banks, libraries, market research, laboratories, quality labelling, testing and certification for the purposes of developing new products/services or processes
- **Obtaining validating and defending IPRs**
- **Secondment of highly qualified personnel** - from ROs or a large Enterprise - working on RDI activities in a newly created function
- **Aid intensity @ 50%**
- **Notification threshold: 5 million EUR/undertaking/project**



Aid for process and organisation innovation

- **New organisation method** in an undertakings' business practice
- **New or significantly improved production or delivery** method (incl. significant changes in techniques, equipment and software)
- **Eligible costs:** similar as for RDI projects
- **Aid intensity:** 50% for SMEs
- **Aid to Large enterprises:** 15% of aid intensity - only if effective collaboration with SMEs which incur min. 30% of total eligible costs
- **Notification threshold:** **EUR 7.5 million** per project/per undertaking

Training aid

- Aid intensity: basic intensity 50% + bonuses – up to 70%:
 - 10% for training to workers with disabilities or disadvantaged workers
 - 20% for small enterprises
 - 10% for medium-sized enterprises
- Notification threshold: EUR 2 mil per training project
- Eligible costs include:
 - trainers' personnel costs
 - trainers' and trainees' operating costs relating to the training project (e.g. travel expenses and equipment)
 - costs of advisory services linked to the project
 - trainees' personnel costs and general indirect costs



Recruitment of disadvantaged workers

- Aid for the recruitment of disadvantaged workers
 - 'disadvantaged worker' (includes young people between 15- 24 yrs, people without regular paid employment in the previous 6 months, over the age of 50, etc.)
 - 'severely disadvantaged' (includes unemployed for at least 24 months and unemployed for at least 12 months and having one of other disadvantages)
- Notification threshold: EUR 5 million per undertaking per year
- Maximum aid intensity - 50%



Employment of workers with disabilities

- Notification threshold: EUR 10 mil per undertaking per year
- Aid intensity up to 75% of eligible costs

Aid for compensating the additional costs of employing workers with disabilities

- Eligible costs:
 - training staff to assist workers with disabilities
 - transport to and from working place
 - wage costs for time spent on rehabilitation by a worker with disabilities
- Maximum aid intensity – 100%



Measures supporting the disadvantaged worker's autonomy and adaptation to the work environment

- Notification threshold: EUR 5 mil per undertaking per year
- Maximum aid intensity – 50%



Energy & Environment: aims



In line with Europe 2020 targets

- increase to environmental protection (beyond Union standards)
- more energy savings through energy efficiency measures
- leverage for the funds of public authorities (e.g. in energy efficiency projects related to buildings)
- promotion of renewable energy technologies



Aid for environmental Protection: Guidelines and GBER

Types of measures	
EEAG only	<ul style="list-style-type: none"> • Reductions in funding support for electricity from renewable sources • Generation adequacy • Tradable permit schemes • Relocation of undertakings • Carbon capture and storage
EEAG + GBER	<ul style="list-style-type: none"> • Cogeneration & district heating and cooling • Early adaptation to/going beyond EU standards, or for higher environmental protection in their absence (incl. new transport vehicles). • Energy infrastructure • Energy saving • Environmental studies • Reductions/exemptions from environmental taxes • Remediation of contaminated sites • Renewable energy sources • Waste management and resource efficiency • Energy efficiency projects in buildings



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Investment aid for energy efficiency measures (art. 38)

E.g. improving insulation in a furnace

- enables undertakings to achieve energy efficiency and to save costs
- aid intensities will not exceed 30% of eligible costs (plus bonus of 20% for aid to SEs and 10% to MEs)

Notification threshold: EUR 15 million per undertaking per investment project



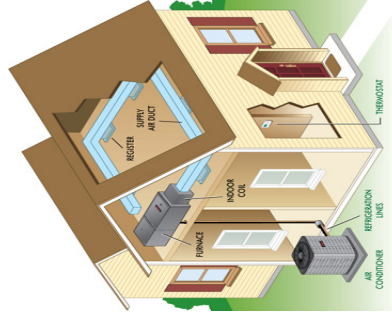
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Aid for energy efficiency projects relating to buildings

[Europe 2020 priority]

E.g. for improving the insulation of a building

- aid shall leverage additional private investments reaching at minimum 30% of the total financing provided to an energy efficiency project
- the aid granted can take the form of loans or guarantees
- the nominal value of the loan, at project level, shall not exceed EUR 10 million and the guarantee should not exceed 80% of the underlying loan

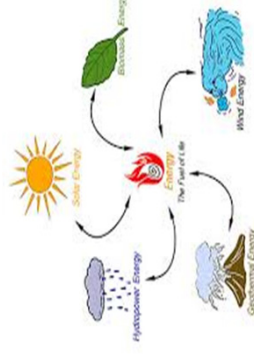


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Investment aid for promotion of renewable energy sources (article 41)

e.g. investment for production of sustainable biofuels

- investment to be granted to new installations only
- eligible costs will be the extra investment costs necessary to promote the production of energy from renewable sources
- aid intensity varies between 30-45% + bonuses
- Aid can go to 100% intensity if granted in an open bidding procedure.



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Operating aid for the promotion of electricity from renewable sources (article 42)

- aid granted in a competitive bidding process based on clear and transparent criteria;

Exemptions from technology neutrality are applicable as in EEAG

Operating aid for the promotion of energy from renewable sources in small scale installations (article 43)

e.g. rooftop solar installations

- granted only to installations with a capacity of less than 500kW for the production of energy from all renewable sources (for wind energy less than 3MW)
- granted only to installations producing sustainable biofuels other than food-based biofuels

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Remediation of contaminated sites (article 45)

e.g. undertaking that repairs the environmental damage (for instance to soil or water) caused by someone else

- aid covers cases where the polluter cannot be identified
- eligible costs will be those incurred for the remediation to the environmental damage minus the increase in value of the land
- aid intensity can reach 100% of eligible costs

Notification Threshold:

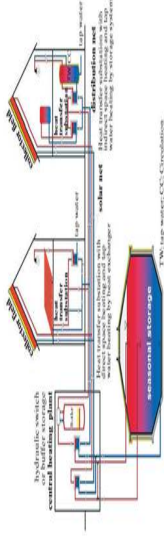
- EUR 20 million per undertaking per project



Energy & Environment

Support for district heating and cooling

e.g. for urban supply



- to incentivise undertakings to achieve a higher level of environmental protection than required by EU standards
- to facilitate early adaptation to future EU standards for SMEs

Eligible costs: extra costs needed for the construction, expansion and refurbishment of one or more generation units to operate as an energy efficient district heating and cooling system

Aid intensity: up to 45% plus bonuses

Notification threshold: EUR 20 million for the distribution network and EUR 15 million for the production plant



Energy & Environment

Investment aid for waste recycling and re-utilisation (art. 47)

E.g. waste-recycling plant

- aid granted for recycling/re-utilisation of waste generated by other undertakings
- investment must go beyond the state of the art
- aid intensity up to 35% plus possible bonuses for small undertakings or investments in assisted areas



Energy & Environment

Investment aid for energy infrastructure (art. 48)

E.g. gas pipelines, ducts etc.

- for energy infrastructure located in assisted areas
- eligible costs shall be investment costs

Notification threshold: EUR 50 mil per undertaking per project

Aid for environmental studies (art. 49)

E.g. prior to the designing of a new kind of powerstation, a grant is given to the owner to commission a study reviewing environmentally friendly options

- eligible costs are the cost for the studies
- aid intensity up to 50% plus possible bonuses

Aid for natural disasters

- Main conditions:
 - earthquakes, avalanches, landslides, floods, tornados, hurricanes, volcanic eruptions and wild fires of natural origin - have to be formally recognised by MS authorities as natural disasters
 - existence of a direct causal link between the natural disaster and the damages suffered by the undertaking
 - specific schemes to be introduced within 3 years + aid granted within 4 years

- Eligible costs include:
 - material damage and loss of income due to the full or partial suspension of activity for a period not exceeding six months from the occurrence of the disaster
- Maximum aid intensity: 100%, ensuring that there is no over-compensation through deduction of insurance payments



Social aid for passenger transport

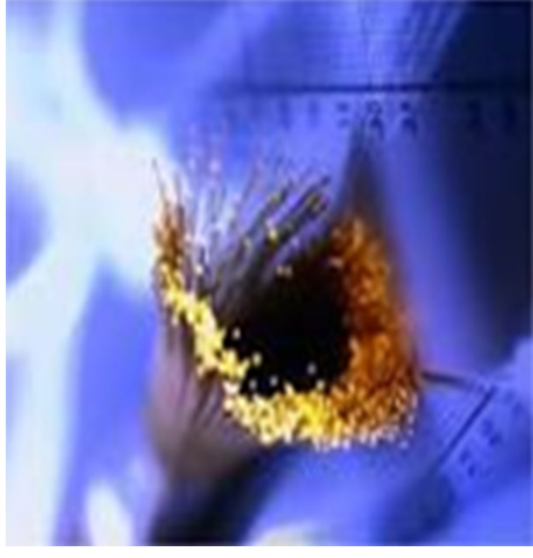
- Form of aid: ticket subsidies for a route linking an airport or port in a remote region with another airport or port within the EEA
- Main conditions:
 - benefit to final consumer who is resident in a remote region (including outermost regions, islands, sparsely populated areas)
 - granted for air and maritime transport without discrimination as to the identity of the carrier, type of service and precise route
 - eligible costs are the price of a return ticket from or to the remote region, including all taxes and charges invoiced by the carrier



- Maximum aid intensity:
 - 100% of eligible costs

Aid for broadband infrastructures

- Aid to “white” and “white NGA” (next generation access) areas (areas, where no relevant broadband operator exists or is likely to invest in the next three years)
- Eligible costs: costs for deployment of passive infrastructure, for broadband-related civil engineering works, for deployment of basic broadband networks and NGA networks
- Notification threshold: EUR 70 million total costs per project



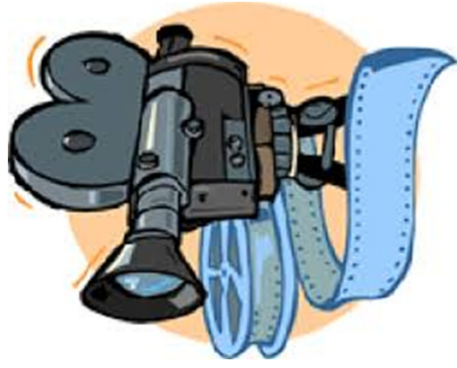
Aid for culture and heritage conservation

- Broad list of block exempted cultural purposes/activities
- Form of aid:
 - (a) investment aid, including aid for construction or upgrade of culture infrastructure
 - (b) operating aid
- Notification threshold:
 - Investment aid: EUR 150 million per project
 - Operating aid: EUR 75 million per undertaking per year
- Deduction of operating profits
- Maximum aid intensity:
 - Small aid (up to 2 million): alternative: 80% aid intensity
 - Publishing of music and literature: funding gap or 70% of the eligible costs



Aid for audio-visual works

- Aid shall support a cultural product
- Coverage of aid to:
 - Production of audio-visual works
 - Pre-production
 - Distribution
- Also includes aid with territoriality restrictions
- Notification threshold : EUR 50 million per scheme per year



Sport and multifunctional recreational infrastructures

- Sport infrastructure may not be used by a single professional user
- Access open to several users and granted on transparent and non-discriminatory basis
- Preferential treatment may be given to undertakings that financed at least 30% of investment costs
- Aid may take the form of investment or operating aid
- Notification threshold: EUR 30 million or the total costs exceeding EUR 100 million per project
- Deduction of operating profits
- Alternative for small aid (up to 2 million): 80% aid intensity



Local Infrastructures

- Contributes at improving the business and consumer environment and modernising and developing the industrial base
- Does not apply to dedicated infrastructures, to other types of infrastructure covered by other sections, nor to airport/port infrastructure
- Concession or other entrustment to operate are assigned on an open, transparent and non-discriminatory basis
- Notification threshold: EUR 10 mil or the total costs exceeding EUR 20 mil for the same infrastructure



2017 revision



Maritime ports

- **Notification threshold:** eligible costs of EUR 130 million/project (150 million for TEN-T core network corridor ports)
- **Aid intensities** from 60% to 100% depending on size of project + top-up for ports in assisted areas
- Aid limited to what is needed to cover the operating losses and a reasonable profit ("**funding gap**")
- Contracts for the **operation** of the infrastructure must be awarded through a **competitive selection procedure**
- Open access to the port for **users** on non-discriminatory conditions
- **Simplified approach for small aid amounts** (below EUR 5 million)
- N.B. Aid for **dredging allowed**, both investment and maintenance



Inland ports

Same rules as for maritime ports, except:

- **Notification threshold:** eligible costs of EUR 40 million (EUR 50 million for TEN-T core network corridor ports)
- **Aid intensities** of up to 100% (capped by funding gap and notification threshold)
- **Simplified approach for small aid amounts** (below EUR 2 million)

Regional airports

- **Investment aid** for airports with **passenger traffic <3 million/year and freight traffic <200 000 t/year**
 - Around 420 airports = 82% of EU airports = 13% of the traffic
- Simplified criteria for investment aid and operating aid for "very small airports" (passenger traffic <200 000/year)
 - almost half of EU airports but <1% of traffic
- Compatibility criteria essentially drawn from the Aviation Guidelines

Regional airports - investment aid

Main compatibility criteria

- No airport with scheduled traffic within 100 km or 60 minutes ("catchment area") *Exception for very small airports*
- Investment does not exceed what is **necessary to accommodate expected traffic** *Exception for very small airports*
- Airport **open to all potential users** and not dedicated to one specific user
- **Aid amount:** not to exceed the **funding gap** of the project + **maximum aid intensities** as a max % of eligible investment costs
One or the other for very small airports



Regional airports - operating aid

Main compatibility criteria

- For airports with passenger traffic **<200 000/year**
- Airport **open to all potential users** and not dedicated to one specific user
- **Aid amount:** 100% of operating losses calculated ex-ante or ex-post + reasonable profit
- No pass-through to airlines





Thank you for your attention!

