The reform of state aid 2005-2009

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PURPOSE : to present the State Aid Action Plan, a consultation document regarding a roadmap for state aid reform 2005–2009

CONTENT : State aid control comes from the need to maintain a level playing fieldfor all undertakings active in the Single European Market, no matter in which Member State they are established. There is a particular need to be concerned with those state aid measures, which provide unwarranted selective advantages to some firms, preventing or delaying the market forces from rewarding the most competitive firms. As a result of such distortions of competition, customers may be faced with higher prices, lower quality goods and less innovation.

There are new challenges facing state aid policy at this moment, which call for action:

-There is a need for renewed impetus to the Lisbon Strategy. There must be reduction in the general level of state aid, accompanied by a redeployment of aid in favour of support for certain horizontal objectives such as research and innovation and the optimisation of human capital. The reform of regional aid should also foster a high level of investment and ensure a reduction in disparities in accordance with the Lisbon objectives.

-The enlargementin 2004 was unprecedented in size, underlining the need for adaptations of state aid policy and for better governance to ensure an effective control in the enlarged Union.

-The increasing complexity and number of documentsadopted by the Commission have created a need to streamline state aid policy, and minimise legal uncertainty and the administrative burden both for the Commission and for Member States.

-There is also a need to strengthen the commitment of Member States to their obligation to enforce state aid rules.

To face the new challenges requires a thorough modification of the existing state aid rules, as regards both substance and procedures. Any effective assessment of the allocation or distribution effects of State aid must take into account their actual contribution to commonly agreed, politically desirable objectives. The aim is to present a comprehensive and consistent reform package based on the following elements:

– less and better targeted state aid;

– a refined economic approach;

– more effective procedures, better enforcement, higher predictability and enhanced

transparency;

– a shared responsibility between the Commission and Member States: the Commission cannot improve state aid rules and practice without the effective support of Member States and their full commitment to comply with their obligations to notify any envisaged aid and to enforce the rules properly.

The Commission discusses the substantive reforms needed to state aid policy: economic and legal analyses are used to fulfil the Commission’s obligations under the Treaty, in some cases to determine

when a measure is state aid (e.g. application of the market investor principle or evaluation of the justification of certain measures by the nature or general scheme of the fiscal system) and in particular to determine when state aid can be declared compatible with the Treaty. In assessing whether an aid measure can be deemed compatible with the common market, the Commission balances the positive impact of the aid measure (reaching an objective of common interest) against its potentially negative side effects (distortions of trade and competition). It is for Member States to provide the necessary evidence in this respect, prior to any implementation of the envisaged measure. To best contribute to the re-launched Lisbon Strategy for growth and jobs, the Commission will, when relevant, strengthen its economic approach to State aid analysis. An economic approach will better focus and target certain state aid towards the objectives of the re-launched Lisbon Strategy. One key element in that respect is the analysis of market failures.

The Commission identifies certain key priorities:

-**targeting innovation and R&D to strengthen the knowledge society:** a number of possibilities already exist to grant aid to target the market failures which are hampering innovation activities, but that the rules could nevertheless be improved. Additional possibilities will be analysed to cover measures which can boost innovation in the common interest.

-**investing in human capital:** state aid could be justified when it is necessary to provide the right incentives for employers to engage more workers, particularly those who have difficulties to access and remain on the labour market, and to provide appropriate training for workers.

-**high quality services of general economic interest:** Member States enjoy a wide margin of discretion when deciding whether and in what way to finance the provision of services of general economic interest. However, to avoid distortion of competition the compensations granted should make the performing of public service missions feasible without leading to overcompensation and undue distortions of competition. The Commission will adopt a Decision and guidelines to specify under which conditions public service compensations which constitute state aid are compatible with the Treaty.

-**better prioritization through simplification and consolidation:** the Commission will issue a general block exemption regulation to exempt certain categories of aid from the obligation to notify to the

Commission. It intends to simplify and consolidate the existing block exemptions (training, SME and employment) and integrate a broader range of exemptions, notably as regards aid to support SMEs and R&D. The Commission will also consider integrating some categories of aid, such as regional and environmental state aid and rescue aid for SMEs while addressing the problems raised by cumulation of different types of aids. It will also consider exempting larger amounts of aid than presently, on the basis of economic analysis and experience. However, this will be made on the condition of greater responsibility by Member States in complying with the rules and criteria set by the block exemptions.

-**A focused regional aid policy:** Regional aid must be seen in the context of the possibilities for granting aid for horizontal purposes, in particular for aid measures more directly linked to the pursuit of the Lisbon agenda. It will be necessary to examine whether and to which extent regional bonuses present in current horizontal texts should be maintained. The Commission will also examine what levels of aid can be justified outside the least-developed regions, what the aid differentials should be, what categories of undertaking should benefit and for which categories of aid.

The Commission goes on to discuss modernising the practices and procedures of state aid: where possible within the scope of the current procedural regulations, the Commission will improve its internal practice and administration, and increase efficiency, enforcement and monitoring. It will also consider issuing best practices guidelines after consulting Member States. The Commission also discusses less bureaucracy and better targeted enforcement and monitoring and adapting procedural rules to an enlarged European Union