

Position Paper

UEAPME¹ comments on the “draft Commission Regulation on de-minimis aid”

1. General remarks

UEAPME, the European Association for Crafts and Small and Medium-sized Enterprises representing more than 10 million SMEs at European level, welcomes the opportunity to comment on the “draft Commission Regulation on de-minimis aid”.

The de-minimis Regulation is, for the overwhelming majority of companies of which more than 92% have less than 10 employees, the most important regulation in the area of State aid. Therefore, the regulation has to find the right balance between, on one hand, simplifying administrative procedures for the providers of small amounts of aid and the recipients of such aid and, on the other hand, ensuring fair competition also at regional and local level on the other side. The de-minimis regulation declares State aid to companies below a certain threshold – currently € 200.000 for three years – as “non-aid”, which means that the Commission gives up its competence to assess the impact of de-minimis aid and to declare it as illegal aid, even if it may create distortion of competition in certain cases.

As regards simplification, the de-minimis regulation also has to be seen in relation to the up-coming review of the General Block Exemption Regulation, which also simplifies the procedure for the provision of State aid by exempting aid measures from the need to be notified in advance, but without declaring it as non-aid and without the Commission giving up its right to control and to rule.

Finally, UEAPME wants to underline the importance of fair competition for all companies, which makes effective systems of State aid control necessary and which has to include both clear rules and effective enforcement of these rules.

With this background, UEAPME welcomes the amendments made in the draft regulation to a large extent. Below, please find our comments on the specific articles of the draft regulation.

2. Specific remarks

- **Article 2/d – definition – undertaking in difficulty**

UEAPME welcomes in principle a simplification of the definition of “undertaking in difficulty”. However, we can only comment on its usefulness, when we see the concrete text of the new definition.

¹ UEAPME subscribes to the European Commission’s Register of Interest Representatives and to the related code of conduct as requested by the European Transparency Initiative. Our ID number is [55820581197-35](#).

- **Article 3 - de-minimis aid – ceiling**

The fact that any State aid provided under the de-minimis regulation is per definition “non-aid” and therefore out of control from the European Commission requires a careful risk assessment as regards its potential to distort competition. In order to assess the risk involved, one has to keep in mind that many SMEs do not get any State aid at all and that any State aid provided to a specific company has to be paid by all the others via taxes. Furthermore, in order to attract new investments from SMEs in a region or municipality, State aid can make a difference and risk to start subsidy races also between regions and municipalities. In this context, it has to be recognised that currently more than 95% of all aid provided to SMEs is below the current threshold, in most of the cases even significantly below it.

However, the ceiling for de-minimis aid also has to take into account the reduction of administrative burden for State aid providers and the recipients of the State aid. The current threshold of € 200.000 has been decided in 2006 and it has to be recognised that the real value and the impact of such an amount of aid will decrease until the end of the future regulations in 2020.

Therefore, UEAPME asks the European Commission to increase the current threshold of € 200.000 in line with the inflation rate to ensure that the real value of the threshold also applies in the future.

- **Article 4 – calculation of gross grant equivalent – safe harbour for loans and guarantees**

UEAPME very much welcomes the new provision of a safe harbour threshold for loans (up to € 1 Million) and keeping it for guarantees (up to 1.5 Million). Both highly reflect the reality that State aid to SMEs is provided more and more in the form of guarantees and loans and less in the form of grants.

- **Article 4, Paragraph 5 – calculation of gross grant equivalent for guarantees**

UEAPME is irritated about deleting the currently existing 80% threshold for guarantees of loans as states in Article 2, 4(d) of the current regulation. Guarantees exceeding 80% of a loan risk creating moral hazard by banks.

Therefore, UEAPME asks to reintroduce the provision that guarantees shall not exceed 80% of the underlying loan to ensure that a relevant portion of the risk stays with the bank and provides the necessary incentive to assess the risk properly.

Furthermore, UEAPME does not see any justification for limiting the duration of a loan to five years. Many investment loans provided to SMEs have a maturity of 7 and more years, which is in line with usual deprivation periods and also the average use on an asset (e.g. production machineries).

Therefore, UEAPME asks the Commission to delete the limitation for the duration of a guarantee to avoid a further barrier for SMEs to get access to investment financing.

- **Article 6 – monitoring and reporting**

UEAPME welcomes the proposal for an obligatory central register of de-minimis aid, which will increase transparency and improve the necessary control of de-minimis aid. Furthermore, it will reduce the administrative burden for recipients, which will not have to provide self-declarations, if a register exists. Finally, both will increase legal certainty for providers and recipients.

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