



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES  
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE  
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES  
UNIONE EUROPEA DELL'ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

## Comments on the Consultation Document on State aid in form of guarantees (1 October 2007)

UEAPME, the European Association of Crafts and SMEs, represents around 11 million Enterprises (with more than 50 million employees) from all European Countries (both Member States and Candidate Countries).

UEAPME welcomes the public consultation by the European Commission on this important issue and asks the European Commission to take the consolidated views of our member organisations into consideration for the next steps on this dossier.

### **General Comments**

UEAPME welcomes the new approach DG Competitions has put forward in its consultation document on State aid in form of guarantees. Guarantees are a very efficient form to provide State aid, because they are less distortive for competition and relatively inexpensive compared to other forms of State aid. Therefore, different forms of guarantees are more and more used and the new approach proposed by DG Competition respects this development by widening the scope of guarantees covered by the Commission Notice.

Furthermore, the draft Commission Notice defines in a clear and coherent manner the rules that the Commission wants to use to declare guarantees as “non-aid” or “aid”, and in the latter case, how the Commission will calculate the amount of State aid involved, which makes guarantees transparent as regards aid content and aid intensity. Both are important preconditions for providers of State aid to use guarantees as aid instrument, because only “transparent” forms of State aid can profit from block exemption regulations and simplified notification procedures, both of which are highly relevant for the SME sector.

The provision of a wider range of risk classes and the definition of “safe harbour premiums” for such guarantees will allow in the future the use of guarantees also in the case of less secured loans (junior loans) and other forms of “quasi-debt” mezzanine finance, which plays more and more an important role to finance “riskier” projects for SMEs, such as start-ups, innovation, expansion and the transfer of a business.

Nevertheless, the presented draft Commission Notice needs, at least from UEAPME’s point of view, some further clarifications which should be considered by the EC in finalising the document.

## Specific comments on the text of the draft Commission Notice

### Art.1.4: Other types of guarantees – treatment of export guarantees

UEAPME welcomes the reference to export guarantees, which cover the economic risk of SMEs exporting in non-EU countries (FN 3), but asks the EC to exclude also export guarantees for the political risk of doing exports to non-EU countries (OECD framework).

### Art.3.2.a: Individual guarantees – borrowers in difficulties

The definition of borrowers in difficulties provided in Art.3.2 may also include start-ups, whose business plans may foresee losses in the first year of their existence. UEAPME asks the EC to reconsider its approach, which would exclude such start-ups from the benefit of the methods laid down in part 3.

### Art.3.2.d: Individual guarantees – market price

The draft states “... normally be remunerated at market price.” UEAPME does not understand the sense of the notation “normally” and asks either for a clarification or for a deletion.

### Art.3.3: Valuation of individual guarantees for SMEs – annual safe harbour premium

Some of our member organisations and guarantee providers complain that the proposed “annual safe harbour premiums” are in certain cases higher than market prices for guarantees in their countries (i.e. Finland, Germany, Austria). This would create more additional administrative work for notification. Therefore, UEAPME asks the EC to investigate, if there are different market prices for guarantees in different Member States and to consider, if such differentiations are justified.

### Art.3.3: Valuation of individual guarantees for SMEs – none rated SMEs

Art.3.2, but also the simplified procedure in Art.3.3, demands a rating for each SME in order to classify it under the right risk category. In reality there are two categories of SMEs for which such individual ratings do not exist.

1. If the amount of a loan is below 1 Million Euro, the CDR allows banks to put it into the so-called retail portfolio, which does not demand individual ratings, but for which the banks have to provide a rating for the whole “retail-portfolio” consisting of a large number of small loans. Furthermore, it cannot be assumed that all of them are covered automatically by the de minimis regulation or are subject to the provisions in Art. 4.5, paragraph 2 of the Commission Notice. Therefore, UEAPME proposes to use the risk classification use by such “retail portfolio” in order to categorise guarantees for these SME loans (below 1 Million Euro).
2. Start-up companies have by nature no credit history and therefore normally no individual rating. At the same time, guarantee providers for start-ups apply feasibility checks for such business projects in order to reduce their risks. Also in these cases, it can not be assumed that all guarantees for SME start-ups are covered by the de minimis regulation or Art.4.5, paragraph 2 of the Commission Notice. Therefore, UEAPME asks the EC to consider whether start-ups which are pre-assessed (feasibility study or peer review) by the guarantor, can be put at least in the highest available risk category.

### **Art.3.3: Valuation of individual guarantees for SMEs – treatment of private guarantee schemes with counter guarantees**

DG Competition is using two different theoretical concepts in analysing the potential aid content in a guarantee provided to an enterprise. Art.2.2 in connection with Art.4.1 defines State aid as the difference between an appropriate market price and the actual price being paid for a guarantee. At the same time, State aid per definition, and as used in the provisions in Art.3.2 and Art.4.2 of this draft notice, must be linked to the use of State resources.

In the case of private guarantee schemes or private guarantee providers, which provide guarantees supported by own funds, organised for example by business associations and supported by counter guarantees by the State, the applicable rule is not clearly defined.

Assuming that a private scheme provides a guarantee of 80% to an enterprise with a 50% counter guarantee from the State, the calculation method for the non-aid premium provided by Art.3.2 and Art.4.2 is based only on the contribution from State resources. It states that the premium must include a fair remuneration for the contribution the State is providing and demands only self-financing for the private scheme, which can also be achieved with lower premiums, if for example the capital is donated by a foundation.

In contrast to Art.3.2 and Art.4.2, Art.3.3 and Art.4.3 provide a calculation method based on the difference between an appropriate market price and the premium a company has to pay, regardless of whether the guarantee is provided by a public or a private organisation. In our example from above, where only 50% of a guarantee is counter guaranteed, the method in Art.4.3 would clearly overestimate the amount of State aid involved, because it defines also the 50% coming from private sources as State aid.

UEAPME asks the EC to clarify this contradiction, which would create serious insecurity for private guarantee providers and their clients if unsolved.

### **Art.4.4: Aid element in guarantee schemes**

The draft relates to the conditions laid down in Art.3.3; UEAPME wonders whether the reference should not be Art.3.4, which deals with such guarantee schemes.

### **Art.4.5: Special rules for SMEs**

The draft provides in Art.3.5 special rules for guarantees for SMEs below a threshold of 1.5 Million Euro, while in Art.4.5, it relates to “1.5 Million Euro of guaranteed loans”. UEAPME considers this as a contradiction, also compared to the de minimis regulation, and asks the EC to relate the threshold in Art.4.5 to guarantees and not to loans.

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