



Local & Regional  
Europe

# *De minimis* state aid

## Less bureaucracy for small scale financial aid

CEMR response to the consultation on the *de minimis* regulation

June 2013

## Introduction

1. The Council of European Municipalities and Regions (CEMR) is the European umbrella and largest organisation of local and regional governments in Europe; its members are over 50 national associations of towns, municipalities and regions from 40 countries. Together, these associations represent some 150.000 local and regional authorities in Europe.
2. We welcome the opportunity to contribute to this consultation on the *de minimis* regulation. This builds up on earlier contributions that CEMR has made in previous Commission's proposals on state aid and draws on our positions agreed earlier.
3. CEMR wants to highlight that the Treaty of the Functioning of the European Union recognises regional and local self-government as part of the fundamental political and constitutional structure of the Member States (Article 4), which is an essential cornerstone of the European multi-level system of democracy and governance, complementing the principles of subsidiarity and proportionality (Article 5) and the Protocol on SGIs, which provides wide discretion to national, regional and local authorities as regards how they commission and organise their services of general economic interest.

## Specific comments

### Threshold level

4. CEMR takes note that the Commission does not raise the current ceiling of the *de minimis* threshold, but maintains it at €200,000. We believe that this does not match the Commission's stated goals of streamlining the state aids framework and mainly concentrating on larger awards of aid. Increasing the de-minimis threshold would be the most evident and effective way to reach the Commission's goals.
5. As expressed in our earlier position, we stress the need to raise the *de minimis* threshold from €200,000 to €500,000 over three years. Such low levels of aid spread out over three years do not pose an unacceptable threat to fair competition in the internal market, but allow important local projects to be supported by public funds.
6. The current *de minimis* threshold of €200, 000 has already been in place for seven years and will apply until 2020. A substantial increase is therefore necessary to account for inflation.
7. The amount of €500,000 as allowed by the Commission under the temporary state aids framework as a measure to support economic recovery, has proved to be a workable solution without leading to undue distortive effects in the Internal Market.
8. Different *de minimis* exemptions at different levels – such as the €500,000 de minimis exemption in the state aid to SGEI rules – have already been accepted by the Commission as justified. It would simplify the state aids framework to bring the general *de minimis* level up to the level of the SGEI *de minimis* level.
9. Furthermore, and in consideration of a higher threshold for *de minimis* aid, the *de-minimis* threshold for SGEI, taking into account their specificities, should be raised from €500,000 to €1m.
10. Easy and clear accumulation rules are necessary.
11. Finally, we believe that considering the current situation, it is not the appropriate time to limit public authorities' possibility to grant aid to create and safeguard jobs, and to tackle the ongoing effects of the economic crisis at local and regional level.

### State aid in the form of guarantees

12. A considerable proportion of aid is awarded by local and regional governments in the form of guarantees which have a lower potential for market distortion than grants or loans. In the light of a more flexible treatment CEMR regrets that the Commission proposal still sticks to the burdensome requirement of drafting a scheme as a kind of legal basis before being allowed to award guarantees. We instead believe that the public decision-making processes in local and regional parliaments and assemblies regarding ad-hoc guarantees already ensure a sufficient degree of transparency and democratic responsibility.
13. According to the request to increase the *de minimis* threshold to €500.000 the specific maximum amount for state aids in the form of guarantees, loans and grants should also be increased. We propose a global increase from €1,5 million to €3,75 million. A lighter regime in this sector is particularly helpful taking into account the fact that guarantees and public loans have a lower potential for market distortion.

## Monitoring and reporting

14. The introduction of a mandatory central register appears to be an unnecessary burden, creating new reporting obligations for awarding authorities to record entries into a central database. This is particularly unnecessary in the field of *de minimis* aid which is by definition not considered as state aid.
15. We understand that it might be useful for the public interest to keep a record of all aid given and of the beneficiaries; however, we believe that this should be done by optimising existing arrangements in place, rather than creating a new database.
16. The principle should remain that the aid beneficiary, rather than the local authority, is best placed to know what awards of *de minimis* aid it has received. The beneficiary should therefore be the one to keep record of received *de minimis* aid.
17. In principle, any new administrative burdens upon local and regional authorities should be kept to a minimum.

## New definition of an undertaking

18. Recital 4 introduces a new definition of an undertaking for the purposes of the rules on competition. While we understand the logic behind it, we believe that it will be very difficult to apply, since it would require the public authority to investigate inside the structure of an undertaking and to find out whether the beneficiary is a part of “a company or a group of companies or an association, which can be considered to constitute one undertaking”.

## Assistance for practitioners at local and regional level

19. The different state aid rules are still very complex and CEMR believes that the major challenge of a modernisation of the state aid regime would be simplification. However, we are afraid that this objective will not be achieved with the proposed texts.
20. There remains a relatively high level of uncertainty among practitioners in particular about the interaction of the different regulations and guidelines for specific sectors. It would be useful to provide an online web tool to help public authorities and to give guidance on the application of the different rules. A web tool where users could introduce the local area, the amount of the aid, the duration, and the type of aid and then receive an indication of the appropriate regulation, decision, guideline, framework, scheme, or other guidance materials would be very useful.

## Further comments

21. We understand the Commission’s role as guardian of the EU Single Market to prevent distortion of competition with protectionist measures such as, in the field of state aid to SGEIs, undue compensation or overcompensation to private operators for the provision of a local service. We also acknowledge that there are large private operators providing such services across the whole of the EU.
22. However, while we agree with the European Commission that there are still gaps as to the legal certainty of local public service compensation, we believe that the Commission proposals in the field of state aid to SGEIs excessively interfere in local government decision making.

23. We note that the Commission is trying to provide further clarification on when local services are concerned by EU state aid rules and the thresholds under which local services are exempted; but it basically remains an ad hoc approach, with the burden of proof sitting on the local and regional authorities themselves.
24. CEMR remains convinced that it should be the other way around; local services should be in general exempt from EU rules unless the Commission is able to prove that a local service has an impact on the intra-EU trade. We consider the existing distinction between Services of General Interest and Services of General Economic interest to be too restrictive and excessively skewed towards considering most services as being 'economic' and thus covered by EU rules.

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## About CEMR

The Council of European Municipalities and Regions (CEMR) is the broadest organisation of local and regional authorities in Europe. Its members are over 50 national associations of municipalities and regions from 41 European countries. Together these associations represent some 150 000 local and regional authorities.

CEMR's objectives are twofold: to influence European legislation on behalf of local and regional authorities and to provide a platform for exchange between its member associations and their elected officials and experts.

Moreover, CEMR is the European section of United Cities and Local Governments (UCLG), the worldwide organisation of local government.

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