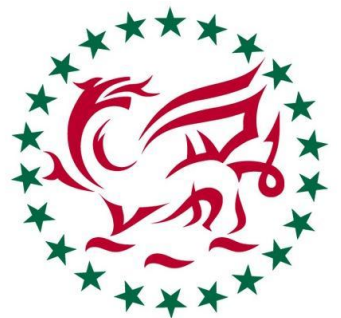


European Commission: Draft General Block exemption Regulation

31st May 2007



WLGA • CLILC

INTRODUCTION

Introduction

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.

Background

3. Welsh Local government has extensive practical experience in the management and delivery of state aids policy in Wales. As a result the WLGA wishes to see local government, due to its local democratic accountability, being a key stakeholder in the future, with regards to state aid practises and procedures.
4. The WLGA welcomes the Commission's draft publication on the General Block exemption Regulation (GBER). Local government is a key stakeholder in the delivery of economic development and regeneration in Wales and therefore welcomes the opportunity to respond to this consultation.
5. The WLGA responded to the Commission's road map for state aid reform 2005-2009, agreeing with the main principles of less and better targeted state aid and that any new state aids regime needs to be more aligned with the Lisbon Strategy and the Third Cohesion report, as state aid control plays an important role in the contribution of both these policies throughout Europe.
6. The WLGA sees the draft GBER resulting from the Commissions need to reform the State Aid regime and believes it will assist in delivering better targeted state aid across Europe.

7. Overall, state aid regulations need to be far more proportionate, streamlined, and clearer across the whole EU than the current position. We believe that the GBER does deliver in general terms a simplification of the current regulations.
8. However, WLGA would like to make a number of comments at this stage:

General feedback

9. The Association believes that DG Competition should administer all State aid rules and apply State aid rules in a **consistent manner** through out Europe. The draft GBER does allow for a more harmonised system and a simplification of the application of the state aid rules that are to be applied across the European Union. This is welcomed by the Association.
10. Where competition is not or is hardly distorted there should be a **lower burden of state aid administration** – for the Commission, Member States, regional government and local government. We therefore welcome the aim of the GBER which on one hand to simplify and consolidate into one text five existing block exemptions as well as including three new types of aid to be covered for the first time in a block exemption, namely; environmental aid, aid in the form of risk capital and research and development for large enterprises.
11. In addition we agree with the GBER that 'due to the higher risk of distortion of competition, **larger amounts** of aid should continue to be assessed by the Commission on an individual basis'.

However,

12. From a practical perspective the GBER may be considered to be **difficult to communicate** to authorities who need to implement the new rules.
13. Only simple awards of state aid are covered by the new GBER, with more **complex** awards (which are deemed difficult to determine) **requiring notification**. These in turn will be assessed through the relevant guidelines. Therefore the GBER will work in

conjunction with the existing separate guidelines which are still required to judge more complex cases, rather than replacing the guidelines.

14. The WLGA would therefore suggest the following:
 - i. As part of the next stage in the consultation the Commission **provides an overview** of all the changes between the current position of the block exemptions and the proposed changes as outlined within the draft GBER;
 - ii. The Commission re-drafts and amends the recently published '**Vademecum of EU rules on State aid**' in order to cover the application the new GBER for administrators within Member States;
 - iii. The Commission explains in practical terms **the difference between** the GBER and the Guidelines and how as state aid regimes work together.

Common provisions – Article 7 Cumulation

15. With regards to Article 7 'Cumulation' it is our understanding that this Article does provide clarity that aid exempted under the GBER **can be cumulated** with any other aid exempted under the GBER, as long as the aid awarded covers different identifiable costs.
16. However, the WLGA believes that in practical terms it can often be **difficult to account** for different forms of aid awarded to the same undertaking due to the fact that the aid may come from different levels of government and through different schemes. As a result often the undertaking and the state aid awarding authority will not be aware of a potential cumulation issue.
17. In addition, although it is not possible to use the same set of eligible costs twice to grant different forms of aid this becomes an issue due to the **inclusion of 'de minimis' aid**.
18. It seems that Article 7 in the GBER is actually devaluing the 'de minimis' regulation, which 'exempts small subsidies, aid of up to €200,000, granted over any period of three years from the obligation to notify in advance for clearance by the Commission'.

As a result 'de minimis' is **not considered as state aid**. However, due to the fact that 'de minimis' aid will now need to be considered as part of Article 7 of the draft GBER the Commission is deeming 'de minimis' to be aid. This dichotomy only causes confusion not only for the undertaking but also for the awarding authority. The WLGA urges the Commission to provide clear guidance on this issue.

19. Moreover, due to the inclusion of 'de minimis' in Article 7 the GBER is advocating the need to **keep records** regarding the use of 'de minimis' aid. The WLGA does not see this as lowering the burden of state aid administration. Again, clear guidance is needed on this issue, due to the fact that the current draft GBER is supporting additional administrative burdens which will be born by aid providers in this area.
20. The WLGA would urge the Commission to provide guidance concerning **precise definitions for applying cumulation**. The WLGA suggests that either a reasonable time period for the purposes of accounting cumulation of aid should be agreed, for example three fiscal years, (that is, the same as the three year period in the de minimis regulation) or that it is stipulated that cumulation is applied per project.

Common provisions – Article 8 Incentive effect

21. The WLGA would agree with the Commission that **SMEs will not have** to provide information verifying the incentive effect. This is important when dealing at a practical level with fairly small amounts of aid – there is a danger that the application requirements can be disproportionate to the aid.
22. With regards to large enterprises Member States need to verify the aid has an incentive effect **before** granting the individual aid. This will add the extra layer of bureaucracy within the Member State, due to the fact that the administrative burden of keeping records of company business plans for aid providers. We would like the Commission to provide guidance and clarification on the criteria deemed necessary to verify the aid.

23. WLGA however are concerned with the issue of '**subsidy shopping**', as the state aid regime in general terms seems to be focused on attracting new growth rather than trying to safeguard investments in certain localities. Unless there is a stipulated requirement for an aid beneficiary to stay in a locality they are likely to leave the area to benefit from grants in a new area. The state aid regime does make a difference, therefore demonstrating an 'incentive effect' to aid beneficiaries, especially SMEs, however, as the incentive effect decreases in one location (once the grant to the beneficiary has come to an end) the incentive effect increases in another. The WLGA asks the Commission to consider this issue in order to keep existing companies within a locality.

Common Provisions– Article 9 Transparency and monitoring

24. With respect of Article 9.1, the WLGA notes with caution the new administrative requirement the Commission is proposing to introduce, that is, Member States must forward a summary of the information regarding aid **at the latest 10 working days before** the entry into force of an aid scheme.
25. This will certainly **increase the administrative burden** at the local level, regional level and Member State level, due to the fact that in order for the Commission to have the information 'at the latest 10 working days before the entry into force of an aid' the Member State would have to receive the information days before this. As a result the 10 days timescale would at a practical level be translated to 20 days for local government. This is therefore an additional burden for aid providers.
26. The WLGA do not foresee any additional administrative burden in relation to publishing the full text of the aid scheme once it enters into force as outlined in Article 9.2, however, the Association questions the need for the **full text to be made available** and believes that a summary text, including certain agreed criteria should suffice.
27. In addition, the WLGA believes that a website developed at a Member State level, which provides the summary text would make the schemes more transparent for both aid providers and aid beneficiaries.

Specific provisions for the different categories of aid

Regional investment and employment aid

28. The WLGA endorses the integration of the provision of the recently adopted block exemption for regional investment aid into the GBER, and moreover, notes that it is only this aid that will maintain the regional 'top up system' linked to assisted area status.
29. In addition we note that the '**incentive effect**' applies to regional aid as specified in Article 8 of the GBER.
30. In line with our comment in 14.i. we ask the Commission to provide an **overview of all the changes** between the current position of the block exemptions and the proposed changes as outlined within the draft GBER. This is due to the fact that the WLGA understanding is that 'Employment aid' (which is currently a separate aid scheme) will be superseded by this new proposed regime - where this aid has been divided between regional investment and SME investment. We seek clarification from the Commission whether this is the case and the reasons behind these changes.

SME investment and employment aid

31. In line with our comment in 14.i. we ask the Commission to provide an **overview of all the changes** between the current position and the proposed changes as outlined within the draft GBER. As outlined in point 30 above we seek clarification from the Commission whether the employment aid is now integrated with regional investment and SME investment rather than being a stand alone tool.
32. The WLGA notes **with caution** that there are no longer any regional bonuses attached to the 'SME investment and employment aid'. Under the current 'SME Block Exemption' it is possible to go up to 50% in 87(3) (a) areas.

33. However, our understanding within WLGA is that the new GBER arrangements will direct local government to use the 'Regional investment and employment aid' as the **appropriate channel** for SME development within our region.
34. This issue stems from the fact that in the new Regional Aid Guidelines (RAGs), represent a changed approach to SME bonuses - with higher bonuses given to small companies than medium-sized ones. On the other hand the SME regulation grants the same bonus to all SMEs, depending on the area in which they are located. This has causes confusion for aid providers – as two systems have coexisted. With the new GBER in place all schemes either one complies with the RAGs or the SME successor regulation. We would urge the Commission to communicate this change in a user friendly format.
35. WLGA welcomes the **new aid intensities** proposed for small enterprises and medium enterprises which will increase from 15% to 20% and from 7.5% to 10% respectively.

Aid for environmental protection

36. The WLGA **welcomes** the addition of 'Aid for environmental protection' exempting it from prior notification under the GBER.
37. However, the WLGA is awaiting the new 'Environmental Aid Guidelines', and would like to note that it is unfortunate that the Guidelines have not been made available before this GBER consultation. The Association will **revisit** the issue of the GBER aid for environmental protection following consultation on the new Guidelines, in order to provide the Commission with a fuller response.
38. The WLGA expects that the GBER will need to **reflect any changes** to the overall Guidelines and awaits the new publication of Guidelines - expected in June 2007.
39. The Association hopes that due to the fact that the GBER in its current form does not cover waste management the new Guidelines will contain revised, higher provisions on **waste management**.

40. Many local authorities believe that the current environmental aid Guidelines are **too limited in scope** and would like to see this addressed in the future Guidelines on environment aid. In addition to addressing the challenges and opportunities set out in the Lisbon Agenda and the Environmental Technologies Action Plan, the WLGA urges the Commission to take the Gothenburg conclusions into consideration.

Aid for consultancy and SME participation in fairs

41. WLGA **welcomes** the 'Aid for consultancy and SME participation in fairs' to be included into the GBER, however, the Association would like some clarification on why this is now a separate issue and not within the 'SME investment and employment aid' – see point 14.i.

Aid in the form of risk capital

42. WLGA **welcomes** the inclusion of 'Aid in the form of risk capital' into the GBER, however, the Association notes that the definition of risk capital allowable under the GBER is narrower than under the general Guidelines.

Aid for research and development

43. The WLGA welcomed the Commissions' decision to publish a Communication on state aid and innovation, and supports the creation of a Framework of R&D and innovation, where the Commission established clear compatibility criteria that will exempt certain aid measures from the obligation to notify the Commission. As a result the Association **welcomes** the Commission's block exemption to cover some R&D as part of this GBER.

44. However, the WLGA is concerned that **innovation is not covered in any capacity** in the GBER. In Wales an entrepreneurial spirit has been encouraged and the development of small, R&D/technology/innovative knowledge based companies has been supported. Here the risk to competitive markets is very small, however the benefit to region and the EU's knowledge economy – as acknowledged in the 2005 Spring European Council - is potentially great.

45. As a result of the GBER not covering any innovation related activities the GBER is considered to be hindering and delaying innovative / creative projects which carry **little risk to competitive markets**. Additionally in a number of cases it is difficult to split the R&D dimension from the innovation dimension, therefore the WLGA welcomes more guidance from the Commission on how this will work at a practical level.

Training aid

46. WLGA **welcomes** the inclusion of 'Training aid' into the context of the GBER. The Association believes this is in line with both the European Employment Strategy and the Lisbon Agenda at a policy level and the need for simplified procedures which take into consideration flexibility.

47. The WLGA finds it regrettable that there are **no more regional bonuses** in the GBER for Training aid, as West Wales and the Valleys have been able to use this in the past to provide an economic leverage for investment in the region.

48. However, we endorse the **increased aid intensity** for 'general training' from 50% to 60% and the inclusion in Article 30.4 of 'general indirect costs'.

49. In addition we note the **increased criteria** for meeting the definition of 'general training'.

Aid for disadvantaged and disabled workers

50. The WLGA welcomes the additional of aid for disadvantaged and disabled workers to the GBER, however, the Association asks the Commission to clarify why they have taken this out of, and dissolved 'Employment aid' as a separate aid scheme.

Additional comments

51. The WLGA suggests that once adopted, this Regulation is reviewed in 2010 in order to take into consideration changes over the first 2 - 3 years of implementation and

potentially extend some of the GBER provisions to include for example small scale innovation, as well as culture and heritage schemes.

52. The Association would urge the European Commission, in the context of the Ongoing Systematic dialogue with national local government associations, to ensure that local government continues to play a pivotal role in state aid policy, through continued consultation and increased transparency.

53. The WLGA looks forward to providing further details on these issues when the Commission consults wider on the GBER in the autumn.

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