

**COMMISSION COMMUNICATION CONCERNING THE REVIEW OF THE COMMUNITY  
FRAMEWORK FOR STATE AID FOR RESEARCH AND DEVELOPMENT**

## UNICE COMMENTS

### 1. INTRODUCTION

The Commission is currently reviewing the Community framework for state aid for research and development (R&D) and UNICE welcomes the Commission's initiative to consult widely on the issue. UNICE appreciates being given the opportunity to exchange views with the Commission as regards issues to be taken into consideration during the review.

UNICE has consistently held that strict control of state aid, on the basis of clearly defined criteria, is necessary to prevent distortions of competition in the internal market and has repeatedly called on the Commission to define these criteria through guidelines and block exemption regulations, while at the same time urging the Commission to ensure that any new specific block exemption regulations do not undermine the efficiency of state aid controls. Decentralisation of state aid control by means of block exemption regulations, which rely heavily on self-assessment by companies and monitoring by the Member States themselves, should not detract from the uniform application of Community law.

Investment in R&D is essential for economic development in the European Union and the Community framework for state aid for R&D is therefore of great importance to improving European competitiveness. As a general point, UNICE notes that current rules on state aid for R&D are often complex and unclear resulting in Member States adopting different interpretations, legal uncertainty for companies and procedural delays. Also, when assessing R&D aid, the Commission's definition of permissible R&D aid is often too narrow. This hampers the effectiveness of Member States' measures to encourage R&D. The Commission should therefore improve and simplify current rules.

In addition, the Commission should ensure that European companies are not suffering from a competitive disadvantage vis-à-vis their competitors located outside the EU who are not (or less) affected by R&D subsidies control. The Commission should seek to establish a global level playing field for R&D subsidies through the WTO.

UNICE also encourages the Commission to grant more often derogation for important projects of common European interest (Article 87 (3) (b) of the Treaty) for international R&D projects in the context of intergovernmental programmes or of national programmes fully open to participation from other Member States. This would also be in line with the Commission's Communication on "The Competitiveness of European Enterprises in the face of Globalisation" (COM(1998)718). In addition, the Commission should encourage the creation or maintenance of a research infrastructure, e.g. building a new laboratory or research institution or creating an information network. Aid to independent institutions should be treated favourably, e.g. no limit on the number of years that the running costs of an institute (as opposed to investment costs) can be subsidised.

UNICE will elaborate further on these and other issues below.

## 2. THE FRAMEWORK

### *Fundamental research, industrial research and precompetitive activities*

In order to determine the proximity to the market of aided R&D, the Commission makes a distinction between fundamental research, industrial research and precompetitive activity. Fundamental research and industrial research may qualify for higher levels of aid than precompetitive development activities, which are closer to the market.

In UNICE's view the Commission should abolish the distinction between industrial research and precompetitive development activity and develop a single category "industrial R&D". In practice, the shaping of the results of industrial research into a plan or design for new products and the industrial research are often carried out concurrently, with close interaction between knowledge creation and application. At present, markets are increasingly global, dynamic and competitive; speed is therefore essential for obtaining new products, processes and services and for introducing these rapidly and successfully to the market. The current framework for assessing R&D projects, with its lengthy procedures, is incompatible with strict time-to-market requirements and should therefore be updated to the current industrial situation.

As a general rule, the gross aid intensity for all "industrial R&D" should not exceed 50% of the eligible costs of the project. The new category "industrial R&D" should also include prototypes (as long as the primary objective is to make further improvements) and computer software (if its completion depends on the development of a scientific and/or technical advance and its aim is the resolution of a scientific and/or technological uncertainty on a systematic basis). Development of products and services, on the other hand, should be excluded. This would also be in line with the broader definition of R&D as provided in the Commission Regulation on the application of Article 81 (3) EC to categories of research and development agreements, and the OECD's guidelines for the classification of scientific and technical activities (Frascati Manual). UNICE suggest that the Commission investigates whether these broader definitions could be used for distinguishing between industrial activities qualifying for R&D aid and industrial activities which are not.

### *Incentive effect of R&D aid*

Current rules on state aid for R&D stipulate that aid for R&D has a clear incentive effect and leads to R&D activities in addition to firm's normal day-to-day operations.

UNICE considers that the Commission's interpretation of this requirement should not put European companies at a competitive disadvantage vis-à-vis their competitors located outside the EU who are not suffering from comparable constraints. In practice, it is very difficult to prove that certain R&D activities are carried out in addition to normal day-to-day operations. The Commission should not *a priori* disqualify aid for R&D projects that fall within a firm's core business or which have clear market potential.

## 3. OPTIONS FOR A FUTURE TEXT CONCERNING STATE AID FOR R&D

The Commission has the option either to adopt a block exemption regulation for R&D aid or to adopt revised rules.

As stated above, UNICE has always argued that decentralisation of state aid control by means of block exemption regulations, which rely heavily on self-assessment by companies and monitoring by the Member States themselves, should not detract from the uniform application of Community law. Decentralisation clearly amplifies the risk of inconsistencies within the system.

Consequently, and considering the complexity of R&D aid schemes, UNICE believes that the Member States should continue being compelled to notify their R&D aid measures to the Commission.

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