

15 April 2008

## **STATE AID**

### **Second draft revised Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees**

#### **1. INTRODUCTION**

BUSINESSEUROPE welcomes the possibility of expressing comments on the second draft of Commission Notice on the application of Articles 87 and 88 of the EC Treaty to State aid in the form of guarantees. The second draft presents some important developments, but unfortunately there are still points which in BUSINESSEUROPE's view would improve the Notice if they were to be adopted. These points are set out below.

#### **2. SECOND DRAFT REVISED COMMISSION'S GUARANTEES NOTICE**

##### **SCOPE**

The new version of para 1.4 correctly states that the draft Notice will not apply to export credit guarantees. In fact, this type of guarantee is already subject to a complex system of regulation at both European and international level and its inclusion into the scope of the Notice would have several undesired effects. In addition, the previous formulation in the Notice would have created uncertainty and confusion about the rules applicable to export credit guarantees.

For the above stated reasons, BUSINESSEUROPE strongly welcomes this change.

##### **SPECIFIC PROVISIONS**

BUSINESSEUROPE welcomes the clarification under para 3.2a that start-ups of less than three years existence will not be considered as being businesses in financial difficulty.

With regard to the situation where a private mutual guarantee scheme is counter-guaranteed by public funds, BUSINESSEUROPE suggests that it is clarified – as a general point – that the provisions of the Notice should only apply to the effective part of the counter-guarantee and not to the whole guarantee.

#### *Individual guarantees for SMEs*

BUSINESSEUROPE welcomes the reduction of the levels of the safe harbour premiums in para 3.3 as compared to the previous proposal.

BUSINESSEUROPE also welcomes the possibility for start-ups to benefit from the simplified methodology. Nevertheless, the premium of 3,8% appears to be too high and it might be counterproductive when it comes to facilitating the access to finance of such newly established undertakings.

#### *Guarantee schemes*

In para 3.4, BUSINESSEUROPE welcomes the new wording of the condition described under point (e), specifying that the review of the adequacy of the premiums should be based on the effective loss rate of the scheme “over an economically reasonable time horizon”. This adjustment will allow avoiding discrepancies due to short-term fluctuations of the economic cycle.

### **BETTER REGULATION**

Finally, and as previously stated in other BUSINESSEUROPE’s comments on the Second Strategic Review of Better Regulation, BUSINESSEUROPE agrees with the Commission that impact assessments should be conducted on the most important proposals and on those having the most far-reaching impacts, irrespective of whether they are included in the Commission Legislative and Work Programme, and especially – among others – notices and guidelines.

BUSINESSEUROPE therefore suggests that the Commission considers the possibility of carrying out an impact assessment, which could also provide valuable insights into the practical functioning of the Notice.