BUSINESSEUROPE

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BUSINESSEUROPE VIEWS ON THE INITIATIVES RELATED TO THE AMENDMENT OF THE TEMPORARY FRAMEWORK FOR STATE AID

BUSINESSEUROPE is very supportive of the measures taken by the European Commission to adapt its policy to the financial and economic crisis.

We welcome the Commission's public consultation on the drafts aimed at amending the temporary framework for State aid measures to support access to finance in the financial and economic crisis and other related instruments.

1. INTRODUCTION

We appreciate that, since the very beginning of the crisis, the Commission has recognised the need for urgent action to counterbalance the effects of the crisis and has adopted the State aid temporary framework to give guidance to Member States for a correct application of State aid rules in exceptional circumstances.

The time has come now to see how Europe can emerge from the crisis stronger and more competitive.

BUSINESSEUROPE strongly believes that EU state aid rules play a fundamental role in the regulation of the Single Market. We acknowledge that the crisis has led to serious disturbances in the economy and that flexibility in applying state aid rules can be, in certain situations, a useful tool to counterbalance these effects.

2. KEY PRINCIPLES TO BE APPLIED IN PHASING OUT THE TEMPORARY FRAMEWORK

But state aid is not the solution to all problems. BUSINESSEUROPE believes that a phasing out from the temporary framework should start at its expiry date at the end of 2010. The principles that BUSINESSEUROPE believes should be applied to the phasing out are set out below.

- **Efficient State aid control**

State aid control is the result of the need to maintain a level playing field for all undertakings in the European Single market, no matter in which Member State they are established. The importance of an efficient state aid control is even more vital in the light of the financial and economic crisis.

We trust the Commission to ensure fair competition between Member States irrespective of their budgetary resources and their different traditions for state intervention. BUSINESSEUROPE considers it imperative that both Commission and Member States continue to focus on less and better targeted aid – an objective which has been highlighted by several European Councils and which played a central role in the Commission's state aid action plan 2005-2009.

- **Phasing out the temporary framework**

In most Member States there are concerns that while individual aid measures put in place do not seem to cause problems, the cumulative effect of aid can have a considerable distortive effect on competition in the Single Market.

In general terms, it is clear that the risk for distortions of competition increases the longer the temporary framework is applied. Therefore, BUSINESSEUROPE does not believe that a possible general prolongation of the temporary measures after 2010 would be beneficial.

A rapid return to the normal state aid regime is vital, and in particular exceptional measures like the special terms for credits and the exemptions from liability for banks should expire as soon as possible.

- **Providing support to companies without distorting competition**

However, the recovery in the economy is still fragile and should not be put at risk by withdrawing the framework too abruptly.

In several member States, European companies are still having difficulties in obtaining funding by the banks, which still seem to be reluctant to take risks. In particular, specific challenges could be tackled by a prolongation after 2010 of those schemes and policies where there seems to be little or no distortion of competition, and in particular:

- assistance to access to finance for SMEs, and
- support for short term export credit schemes

Particularly the demand for short term export credit insurance seems to be still increasing and there have so far not been losses by governments, showing that risks covered are not too great. This also confirms that in the case of short term export credit insurance, there is still a market failure and the end of 2010 might be too early to close down these particular schemes. Companies in many Member States are looking for new customers and new markets. In this situation short term export credit insurance is very important, and closing down the schemes at a time when the private credit insurers are still not meeting the demand could potentially set back these efforts enormously. This would be problematic for European exports and job creation.

BUSINESSEUROPE therefore supports the Commission's proposals to extend until December 2011 the provisions relating to subsidised loan guarantees and to subsidised interest rates, with favourable treatment accorded to SMEs; and to extend and simplify the temporary relaxation in the rules relating to short term export credit insurance. However, the current proposal extends the "escape clause" foreseen in the temporary framework until December 2011 and the Communication on short-term export credit insurance until December 2012. We believe that both instruments should expire at the same time in December 2011 and the Commission should re-evaluate market conditions at that time.

Finally BUSINESSEUROPE stresses that the use of article 107 (3)(b) as legal basis to remedy the crisis raises some challenges. The use of article 107 (3)(b) is exceptional and should not alter the requirements that have to be fulfilled when the Commissions approves aid in accordance with article 107(3)(c). In this context, it is important that the exceptional situation does not lead to non-application of well-established state aid principles. This is particularly the case for the "Deggendorf" principle. In its judgment on the Deggendorf case, the Court held that the Commission has the power to order a Member State to suspend the payment of new compatible aid to an undertaking that has not yet reimbursed an unlawful aid previously received. BUSINESSEUROPE therefore welcomes explicit reference in the draft Communication to application of the Deggendorf principle.

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