

5 March 2012

## STATE AID FRAMEWORK FOR RESEARCH, DEVELOPMENT AND INNOVATION

### KEY MESSAGES

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- 1** Innovation is crucial to maintaining and strengthening Europe's global competitiveness. R&D and innovation (RDI) activities are a case where market failures apply and government support is needed.
- 2** We support an economic assessment of state aid in this area, but this should not lead to excessive administrative burden for Member States wanting to stimulate companies to carry out more RDI activities.
- 3** The current requirements in relation to the incentive effect could put a break on RDI to the detriment of European competitiveness. It is very difficult to prove that RDI aid has a clear incentive effect and the uncertainty in the evaluation process' outcome can discourage companies investments.

### WHAT DOES BUSINESSEUROPE AIM FOR?

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- The state aid framework for RDI needs to be updated to reflect today's concurrent and interactive industrial innovation process with constant market feedback.
- The criteria regarding collaborations between companies and publicly funded research organisations should be revised to lead to more collaborative RDI projects and avoid industry's hesitation to cooperate with research organisations.
- The role of innovation clusters is essential in drawing closer SMEs and public research. If Europe wants to accelerate transformation through innovation, it has to be ensured that costs of clusters do not deter businesses from joining them.



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## STATE AID FRAMEWORK FOR RESEARCH, DEVELOPMENT AND INNOVATION

### INTRODUCTION

BUSINESSEUROPE welcomes the Commission initiative to consult stakeholders and evaluate the application of the current Community framework for state aid for research and development and innovation (**RDI**).

We fully agree with the importance of improving financing for research and innovation and ensure that innovative ideas can be turned into products and services that create growth and jobs. Innovation is crucial to maintaining and strengthening Europe's global competitiveness.

We refer to "[BUSINESSEUROPE's views on Horizon 2020](#)"<sup>1</sup> for more extensive comments on the importance of streamlining of the EU research and innovation funding instruments.

As regards the concrete application of the State aid guidelines for RDI, BUSINESSEUROPE would like to present the comments below, referring to some of the questions put forward by the Commission's consultation.

### BUSINESSEUROPE'S OBSERVATIONS

- **Need of State aid for RDI – economic assessment (see question 20)**

BUSINESSEUROPE believes that support for RDI should be considered as a general case where market failures apply and a role for government intervention exists.

We endorse the use of economic analysis to determine whether a measure is state aid which can be declared compatible because the positive impact of the aid outbalances possible negative effects. However, the economic approach should not increase legal uncertainty or administrative burdens in the approval of state aid schemes. We recall that one of the aims of the State Aid Action Plan was to reducing burdens and increasing legal certainty to encourage companies to carry out activities contributing directly to the achievement of EU objectives, such as promotion of RDI.

The concrete implementation of the economic approach however has not seemed to have reduced burdens and lead to more RDI. On the contrary, it may discourage Member States from devising specific RDI aid schemes given the daunting prospect of having to submit very comprehensive economic information for each notification. The required information is often difficult and costly to obtain and, if at all available, likely to be based on numerous speculative assumptions. The detailed assessment currently prescribed for a large number of individual notifications may increase legal uncertainty, boost costs and administrative burdens significantly, and ultimately discourage Member States from stimulating companies to carry out more RDI activities.

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<sup>1</sup> <http://62.102.106.140/Common/GetFile.asp?docID=29848&logonname=quest&mfd=off>



- **Effectiveness of RDI State aid (questions 15 and 17)**

As a preliminary comment, BUSINESSEUROPE notes that – contrary to the expectations when the guidance were adopted in 2006 - the state aid framework has not resolved current underinvestment in R&D.

The consultation is asking stakeholders to identify the most appropriate types of State aid instruments to promote effectively RDI (e.g. direct grants, guarantees, loans, etc. – see question 17). We believe that a broad policy mix is needed for promoting private RDI, including the State aid instruments mentioned in this questions, as well as a wide range of other policy measures (see Commission’s Communication on the Innovation Union). Among the State aid instruments in such a policy mix, direct grants for collaborative R&D&I are the most effective, as these have the most direct positive impact on the size and speed of projects and the amount and scope of RDI activities within the company.

- **Incentive effect (questions 19 and 21)**

According to the Framework, State aid for RDI must induce undertakings to pursue research that they would not otherwise have pursued (incentive effect). BUSINESSEUROPE notes that in practice it is very difficult to prove that aid for RDI has a clear incentive effect. The investment decision of an R&D project is based on multiple factors that can hardly be distinguished from each other. In addition, the subsidy alone often does not lead to a decision by itself, but reduces risks, increases speed, stimulates collaboration with for instance SME’s etc.

At the same, Member States must provide a substantial amount of quantitative information regarding the changes in RDI spending and other changes related to the aid’s recipient. The very specific and detailed quantitative information which the current rules require does not make it easier to demonstrate that the aid significantly increased its RDI activity.

Fulfilling this requirement can be extremely difficult and burdensome for companies and Member States, when, for example, multiple R&D projects run simultaneously or the firm’s contribution to a single project is relatively small compared to the firm’s overall R&D budget.

We suggest the Framework should indicate less strict criteria on evidence related to the requirement that certain RDI activities are carried out in addition to normal day-to-day operations. This is particularly relevant in view of the fact that a strict interpretation would put European companies at a competitive disadvantage vis-à-vis their competitors located outside the EU, which do not suffer from comparable constraints.

The current requirements in relation to the incentive effect could put a break on RDI to the detriment of European competitiveness. Also, the uncertainty in relation to the outcome of the evaluation process can discourage companies to invest in RDI.



- **Innovation processes and need of further support beyond the current RDI framework provisions (question 39)**

Nowadays innovation is an interactive, multi-disciplinary and non-linear process. The complexity of (societal) challenges and the enormous speed of technological developments at a global scale strengthen this.

The distinction between fundamental research, industrial research and experimental development reflects the obsolete linear innovation model. This is conceptually incorrect. One of the main reasons for modernising the RDI framework is the scrapping of obsolete categories and the updating of rules to reflect the realities of the modern innovation process. We suggest the framework is updated to reflect today's concurrent and interactive industrial innovation process with constant market feedback. This could avoid the risk that Member States adopt different interpretations with respect to hypothetical categories bearing no relation to reality.

As regards the Commission's question on the need for public intervention to support innovation beyond the current RDI framework, we underline the Innovation Union flagship initiative conclusion that there is need for more support for innovation and also different forms of innovation (non technological, services and social innovation). We support this conclusion and believe that the range of innovation activities eligible for State aid should be consequently extended, provided that these activities are properly defined.

- **Collaboration between research organisations and business (question 31)**

One of the general criteria for identifying State aid is that it provides an economic advantage that the undertaking would not have received in the normal course of business. This implies that a collaboration benefiting from public funding for its R&D activities can only involve indirect aid if the terms of collaboration for the business are more favourable than in comparable collaborations with other undertakings.

BUSINESSEUROPE notes that the current rules can lead to situations where undertakings partnering with research organisations not only do not get an advantage that is prohibited by the State aid rules, but also have a disadvantage compared to commercial collaborations, and even with respect to undertakings that do not participate in the collaboration with the research organisation. In particular:

- It is often the case that industry is asked to pay for using results from collaboration with research organizations, whereas in comparable collaboration projects between companies no payment would be requested.
- In addition, certain parts of the guidance and criteria lead to the situation that third parties that have not participated in the collaboration (e.g. a potential competitor) can get access to IPRs generated by the research organisation in the collaboration on the same conditions as the collaborating company. This means that such third parties could have the same rights against the same conditions, but without investing in the project that generates the IPRs.



As a result of the above, there can be hesitation on the part of industry to cooperate with research organizations, which leads to less collaborative RDI projects, which is certainly not the intended result.

We therefore suggest that the criteria of the current Framework regarding collaborations between companies and publicly funded research organizations should be revised, especially to ensure clarity on the fact that a collaboration benefiting from public funding for its R&D activities can only involve indirect State aid if the terms of collaboration for the business concerned are more favourable than in comparable collaborations with other undertakings. For concrete guidance, we refer to Chapter 7 of the “Responsible Partnering Handbook”<sup>2</sup>, developed in dialogue with the European Commission.

- **Aid to innovation clusters (question 43)**

The role of innovation clusters is essential in drawing closer actors who would not otherwise do that sufficiently, and in particular SMEs and public research. If we want to accelerate our transformation through innovation in reaching the EU 2020 criteria – which are essential to competitiveness – we have to ensure that costs of clusters do not deter businesses from joining them.

In this context, it particularly important to:

- Consider duration: clusters mostly generate effects in the long term and therefore require public support for a longer time. This should be matched with objective assessments of the results of the cluster.
- Consider sectors and companies involved: the aid should be adapted to encourage the use of clusters by SMEs in particular, as an effective tool to enable them to adapt and evolve.
- Take the global situation into account: by looking at very supportive cluster policies in other regions of the world, like United States, India and China.

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<sup>2</sup> Responsible Partnering Handbook, chapter 7, 2009, <http://www.eirma.org/doc/pubs/briefs/rp-2009-v11.pdf>