Hellenic State Aid Institute

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Conference on EU State Aid Control on 29-30 September in Sofia

The European State aid regime has been thoroughly modernised, revising fundamental State aid processes and procedures as well as introducing various horizontal and sectoral exemptions. These new rules will have a crucial impact on State Aid control in Member States and will be essential for the preparation of Operational Programmes and the management of ESI Funds.

As such, Lexxion is organizing an upcoming Conference on 29-30 September, in Sofia, Bulgaria, pertaining on the following matters:

- Notion of Aid & State Aid Procedures
- New General Block Exemption Regulation (GBER)
- Recovery of Unlawful Aid
- Rescue & Restructuring
- New Regional Aid Guidelines
- Infrastructure Funding

The conference will bring together high-level representatives from European Institutions, Member States, private legal practitioners, industry and academy, namely, among others: Miek van der Wee, Head of Unit, Regional Aid, DG Competition, Joachim Lücking, Head of Unit, State aids: Industrial restructuring, DG Competition and Petra Nemeckova, Legal Service - State Aid Team, all from the European Commission, as well as Christian Koenig from the Center for European Integration Studies.

Commission approves German renewable energy law EEG 2014

The European Commission has found the new German Renewable Energy Act (EEG 2014) to be in line with EU state aid rules. The EEG 2014 provides support for the production of electricity from renewable energy sources and from mining gas. It also reduces the financial burden on energy-intensive users and certain auto-generators by reducing their level of payment of the EEG-surcharge. Finally, the EEG 2014 provides that the aid will be progressively allocated through tenders which will gradually be opened to operators located in other Member States. The Commission has concluded that the EEG 2014 will further EU environmental and energy objectives without unduly distorting competition in the Single Market.

In April 2014 Germany notified a draft law for supporting renewable energies. The Commission's assessed its compatibility under the provisions of its new Energy and Environmental Aid Guidelines adopted in April 2014 (the Guidelines, see IP/14/400 and MEMO/14/276). The EEG 2014 entered into force on 1 August 2014. The yearly budget for the support of renewable electricity is estimated at around € 20 billion.

Producers of renewable electricity will be obliged to sell on the market. They will obtain support in the form of market premiums paid on top of the market price for electricity. Until 31 December 2016 the market premiums will be determined by reference to administratively set reference values. In the case of solar installations on the ground, a pilot tender will be organised. It will determine the level of the premiums and allocation of the aid between participants to the tender. As of 2017, tenders should be generalised but a new law is required to introduce them. The support to renewable electricity is therefore approved until 31 December 2016.

Small installations (below 100 kW) will continue to benefit from feed-in tariffs and are not obliged to sell on the market. This part of the scheme was approved for 10 years.

The support system under the EEG 2014 is financed from the EEG-surcharge that is to be paid by suppliers in respect of the electricity supplied to end consumers in Germany and by auto-generators (i.e. electricity producers for self-consumption). Reductions are provided for energy-intensive users in sectors which are eligible for such reductions under the Guidelines. These reductions are allowed by the Guidelines on competitiveness grounds, since these sectors are both electro-intensive and exposed to international trade.

Reductions are also granted under the EEG 2014 to certain auto-generators. Reductions for auto-generators using small installations are allowed as they are below the de minimis threshold. Reductions for auto-generators using renewable energy sources are also allowed since they are in line with the logic of the EEG-surcharge system. Reductions for auto-generators which are energy-intensive are also allowed under the Guidelines. For other types of installations, the reductions will need to be reviewed and eventually adapted to the requirements of the Guidelines. Germany has committed to review them in due time and re-notify amendments to the Commission by 2017. On that basis the Commission could also conclude that the exemptions and reductions granted under the EEG 2014 to auto-generators were in line with the Guidelines. The yearly budget of the reductions is estimated at around EUR 5 billion.

Commission authorises UK Capacity Market electricity generation scheme

The European Commission has concluded that the proposed UK Capacity Market is in line with EU state aid rules. The scheme aims to ensure that sufficient electricity supply is available to cover consumption at peak times. The Commission found in particular that the scheme will contribute to ensuring the security of energy supply in the United Kingdom (UK), in line with EU objectives, without distorting competition in the Single Market. This is the **first time** that the Commission has assessed a capacity market under the new provisions on capacity markets in the new Environmental and Energy State Aid Guidelines (see IP/14/400).

Commission Vice-President in charge of competition policy Joaquín Almunia said: "The UK Capacity Market embraces the principles of technology neutrality and competitive bidding to ensure generation adequacy at the lowest possible cost for consumers, in line with EU state aid rules."

Under the Capacity Market, the Great Britain System Operator will organise annual centrally-managed auctions to procure the level of capacity required to ensure generation adequacy. Auctions will be open to existing and new generators, demand side response (DSR) operators and storage operators. The UK has also committed to opening the participation to new interconnectors as of 2015.

The UK has announced its intention to auction a total of 53.3 GW of capacity for the first delivery year in 2018/19, of which 50.8 GW is to be auctioned in December 2014. The balance will be auctioned one year ahead of delivery in 2017. The Government will take decisions on the amount of capacity to procure in future auctions, based on advice from the System Operator. The scheme will run for 10 years.

In return for a steady payment for the duration of the capacity agreement, successful bidders in the auctions will be required to provide capacity at times of stress on the electricity system or face financial penalties. New generators will be eligible for a 15-year capacity agreement. Other capacity providers will be eligible for 1-year capacity agreements (except in the case of existing generators requiring significant refurbishment which are eligible for 3-year capacity agreements).

Aid granted will be paid out as a function of the amount of capacity set out in each provider's capacity agreement. The measure will be financed through a levy on electricity suppliers.

The Commission assessed the measure under its new state aid Guidelines on Energy and Environmental Protection (see IP/14/400). As required by the Guidelines, the UK has only introduced the Capacity Market following a thorough investigation of its necessity and the potential for alternative measures to contribute to ensuring the security of supply objective. Further, as described above, the measure itself will be open to a range of technologies, including demand side response and interconnection. The use of auctions should ensure aid granted is limited to the minimum necessary.

The Capacity Market is part of the comprehensive UK Electricity Market Reform that also includes other support measures, such as the UK compensation to energy intensive users for indirect costs of carbon price floor (see IP/14/577), the Contract for Difference (CfD) scheme (see IP/14/866) and the planned support for the construction and operation of a new nuclear power plant at Hinkley Point in Somerset (see IP/13/1277).

Commission authorises new UK aid package for renewable electricity production

The European Commission has concluded that a UK scheme called "Contracts for Difference" that promotes the generation of electricity from renewable sources is in line with EU state aid rules. In separate investigations, the Commission has also found that public support worth GBP 9.7 billion (around € 12.3 billion) to five offshore wind farms is in line with the state aid rules. The Commission found, in particular that all projects further common EU objectives, such as the promotion of renewable energy and environmental protection, without unduly distorting competition in the Single Market.

Commission Vice-President in charge of competition policy Joaquín Almunia said: "The UK Contracts for Difference encourage all renewable energy technologies producing electricity to compete against each other for support beyond 2016. It is a fine example of how to promote the decarbonisation of the economy with market-based support mechanisms, at the lowest possible cost for consumers".

In June 2014 the UK notified plans to support renewable electricity production through market-based mechanisms. The scheme will run for 10 years starting in April 2015, with a budget of GBP 15 billion (around € 19 billion). Selected individual projects will be able to receive support for up to 15 years.

'Established’ technologies (such as onshore wind, solar photovoltaic, energy from waste with combined heat and power, small hydropower, landfill gas and sewage gas) will compete against each other for support in a common auction.

‘Less established’, new and innovative technologies (such as offshore wind, wave, tidal stream, anaerobic digestion or geothermal energy) will initially benefit from allocated budgets in order to promote their further development but will also be subject to competitive auctions with some degree of cross-technology competition.

Biomass conversion plants will be supported through dedicated tenders up to 2017. After that, the UK will evaluate whether biomass can be included in the common tenders for established technologies.

Aid granted under the scheme will be paid out as a variable premium on top of a reference electricity (wholesale) price, and up to a pre-defined strike price, based on a so-called "Contract for Difference" (CfD). Generators will earn money from selling their electricity into the market as usual. When the average wholesale price of electricity is below the strike price, generators will receive a top-up payment. In case of high wholesale electricity prices, revenues for the generator will be capped at the strike price to ensure that there is no overcompensation. In addition, as of 2016 no support will be paid in case of periods of negative prices longer than six hours.

The payments will be financed through a tax imposed on energy suppliers. To ensure that the tax does not discriminate overseas generators, imported renewable electricity will not be subject to the tax. In the long run overseas generators will be allowed to compete for CfDs on the same terms as national generators.

The Commission assessed the scheme under its new rules on state aid for environmental protection and energy (see IP/14/400). The scheme is in line with the objective to promote renewable energy while avoiding overcompensation and without unduly distorting the internal energy market, given in particular the competitive and non-discriminatory procedures to allocate the aid.

Green light to support five off-shore wind farms

The Commission has also approved today aid for five large off-shore wind projects. Their size ranges from 258 MW to 1 200 MW (totalling around 3.14 GW). The Walney, Dudgeon, Hornsea, Burbo Bank and Beatrice wind farms together will provide 3.3% of the UK electricity generation capacity, which should help the UK to meet its 2020 renewable target and to reduce greenhouse gas emissions.

Support will be based on Contracts for Difference under the CfD scheme approved today. The selection of the projects was done in an open, transparent, competitive and non-discriminatory auction. The process is designed to avoid support in excess of what is really necessary for the investments to be carried out. The projects are therefore in line with the guidelines on state aid for environmental protection and energy.

The non-confidential version of the decisions will be published in the State aid register on the Competition website once any confidentiality issues have been resolved.

Commission approves restructuring aid for National Bank of Greece

The European Commission has found the restructuring plan of the National Bank of Greece (NBG) to be in line with EU state aid rules. The measures already implemented and those envisaged in the future will enable the bank to fully restore its long term viability, while limiting the distortions of competition brought about by the state aid granted.

Commission Vice President in charge of competition policy Joaquín Almunia said: "Through the restructuring plan, NBG will focus its activities on the strong Greek and Turkish banking operations and improve their efficiency. This will ensure that the bank can continue financing the Greek economy on a sustainable basis."

Since 2008, Greece and the Hellenic Financial Stability Fund (HFSF) have granted repeated capital and liquidity support to NBG. The Commission temporarily approved the public support measures in July 2012 and opened an in-depth investigation to assess the compatibility of the measures with EU state aid rules (see IP/12/860). Greece notified the restructuring plan for NBG in June 2014.

NBG has already started to implement significant rationalisation measures such as a voluntary staff retirement scheme, salary cuts, branch closures and further cost cutting initiatives in Greece and South Eastern Europe. The restructuring plan continues this effort. It provides for a further restructuring of international operations and Greek non-core activities and a reinforcement of Greek banking operations, mainly through a rationalisation of operating expenses, a reinforcement of the net interest income and prudent risk management. NBG will decrease its shareholding in its Turkish subsidiary Finansbank, which will strengthen the capital position of NBG, but it will retain a majority shareholding. Finansbank has been steadily profitable over the last years. The implementation of these commitments will be monitored by an independent trustee.

The Commission assessed the plan under its state aid rules for the restructuring of banks during the crisis (see IP/09/1180, IP/10/1636 and IP/11/1488). In its assessment, the Commission has taken into account the fact that most of NBG's difficulties do not come from excessive risk taking but primarily from the sovereign debt crisis and the related exceptionally protracted and deep recession which started in 2008. In view of those exceptional circumstances, the aid is less distortive and creates less moral hazard than large aid for financial institutions which had accumulated excessive risks. The Commission therefore concluded that a relatively limited downsizing of NBG would be sufficient to limit distortions of competition and, in particular, requested no downsizing of the Greek banking activities.

Shareholders and subordinated debt holders have contributed significantly to reducing the amount of capital aid that had to be injected by the state, respectively through their participation in the successive capital increases and in the liability management exercises. Moreover the state aid injected did not bail out historical shareholders who have been almost completely diluted.

The Commission therefore concluded that the restructuring plan was in line with its rules on banking restructuring during the crisis.

Commission approves restructuring aid for Greek Piraeus Bank

The European Commission has found the restructuring plan of Greek bank Piraeus, including the integration of several Greek banks, to be in line with EU state aid rules. The measures already implemented and those planned will enable Piraeus to fully restore its long term viability, while limiting the distortions of competition created by the large amount of state aid granted. Greece has notified a restructuring plan for Piraeus in June 2014.

Since July 2012, Piraeus has acquired several Greek banking activities, which had been resolved (Agricultural Bank of Greece (ATE)) or put to sale by foreign banks (Millennium Bank Greece (MBG), Geniki and the branches of Cypriot banks in Greece. It has integrated these banks within a very short time, has started to rationalise their operations and has already achieved significant synergies. The restructuring plan continues this effort through a reduction of operating expenses, an increasing net interest income and a prudent risk management. The plan also provides for a significant downsizing of Piraeus' international operations, which are loss making. The implementation of these commitments will be monitored by an independent trustee.

The Commission assessed the plan under its state aid rules for the restructuring of banks during the crisis (see IP/09/1180, IP/10/1636 and IP/11/1488). In its assessment, the Commission acknowledged that most of Piraeus' difficulties do not come from excessive risk-taking but from the sovereign debt crisis and the exceptionally protracted and deep recession which started in 2008. In view of those exceptional circumstances, the aid is less distortive and creates less moral hazard than aid for financial institutions which accumulated excessive risks. The Commission therefore concluded that less extensive compensatory measures would be needed to mitigate the distortions of competition brought about by the large state aid, and in particular has not requested any downsizing of Piraeus' Greek banking activities. However, the bank will downsize its foreign activities to ensure (i) that the benefits of the aid are channelled towards the financing of the Greek economy, and (ii) that the aid does not distort competition in foreign markets where Piraeus competes with non-aided banks.

Piraeus received more aid than other large Greek banks, compared to its risk-weighted assets at 31 March 2012. However, Piraeus reduced the amount of aid needed through capital enhancing acquisitions, buy-backs of subordinated debt at significant discounts to par, and capital increases. Indeed, Piraeus regained access to capital markets and raised significant amounts of private money in 2013 and 2014, which allowed it to repay part of the aid received.

The Commission therefore concluded that the restructuring plan was in line with its rules on banking restructuring during the crisis.

For further information you can contact:

154 Asklipiou Str.

114 71 Athens, Greece

Tel.: +30 210 33 90 748

Fax.: +30 210 33 90 749

e-mail: info@stateaid.gr

www.stateaid.gr

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