Applying State aid rules for JTF projects

Webinar on State aid for JTF Projects in the 2021-2027 period
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European Commission – DG COMP
Introduction

• Public authorities using JFT have to design their support measures in compliance with State aid rules, in line with their obligation under CPR.

• Implementation of the Green Deal policy, including the Just Transition is a key priority for the Commission, also reflected in the recent changes in State aid rules; these are now in place and form an available framework for public authorities to design their support schemes when these entail State aid elements.

• In several instances however, support schemes do not entail State aid. It is therefore essential, when designing a scheme to consider if aid is present. To that end, public authorities can rely on:

  • the 2016 Commission Notice on the notion of State aid
  • Commission regulation 1407/2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid
Applying State aid rules for JTF projects

• When designing JTF-related schemes **entailing State aid**, public authorities may make use of different set of rules.

• Different State aid guidelines, recently reviewed could be of relevance for JTF projects; Among them the Regional aid Guidelines (RAG) include an explicit recognition of JTF territories in assisted areas.

• In view of the time constraints linked to Next generation EU budget in JTF programmes, **designing schemes under GBER provisions, therefore exempted from notification, seems the most efficient approach**.

• Our presentation will therefore mostly focus on the GBER provisions that could be used to design JTF-related schemes.
Regional aid

• In State aid “assisted areas”, possible investment aid for productive investments to contribute to the transition by diversification of activities or expansion of existing activities in areas for all companies; in c areas, for SMEs. For large undertakings in c areas initial investment should create a new economic activity (Article 14 GBER)

• More projects can be now be supported under GBER, with the 2023 amendment and new increased notification thresholds (Article 4(1)(a))

• Intensities depending on the regions / maps - Specific bonus JTF +10 bp in a areas embedded in the approved regional aid maps

• Possible exceptional operating aid for undertakings, limited to certain assisted areas, some of which may also be on JTF maps – sparsely and/or very sparsely populated areas (Article 15)
Support for productive investment in JTF areas can also be designed outside GBER

- Under RAG, in assisted areas, through the notification of a scheme or an individual aid (long assessment time to factor in)

- Under TCTF 2.8 beyond assisted areas, and until 31.12.25 for accelerated investments in sectors strategic for the transition towards a net-zero economy (batteries, solar panels, wind turbines, heat-pumps, electrolysers, and equipment for carbon capture usage and storage (CCUS); key components and related critical raw materials; through the notification:
  
  - of an aid scheme (Intensity: 15 % of the eligible costs with max EUR 150 million per undertaking per Member State 20% in c areas with max EUR 200 million per undertaking per Member State; 35% in a areas with max EUR 350 million per undertaking per Member State)
  
  - of an individual aid (long assessment time to factor in)
R&D&I aid

Streamlined and more flexible R&D&I provisions after the 2023 amendment (such as higher notification thresholds, new measure covering support for Testing and Experimentation Infrastructures, simplified costs options for calculating indirect R&D project costs, facilitation for SMEs to access infrastructures for R&D up to TRL8)

**Art 25** *(including new provisions accommodating multi-country projects)* – Support for R&D projects

**Art 26** *(higher aid intensities)* – Investment support for research infrastructures

**Art 26a** *(new)* – Investment support for Testing and experimentation infrastructures

**Art 27** *(clarified provisions)* – Aid for innovation clusters

**Art 28** *(clarifications to further facilitate SMEs R&D&I capacities)* – Innovation aid to SMEs

**Art 29** – Support for process and organizational innovation
Environment and energy aid

Wide range of measures for environmental protection and energy are covered:

- **Investments for environmental protection, including decarbonization** (Art. 36)
- **Investments for clean mobility**: clean/zero-emission vehicles + recharging and refuelling infrastructure (e.g. include hydrogen refuelling stations (if supply RES hydrogen by 2035) (Art. 36a + 36b);
- **Investments for improved energy efficiency** (Art. 38, 38a, 38b);
- **Promotion of energy from renewable sources**: investment aid (Art. 41), operating aid (Art. 42, 43);
- **Energy tax reliefs** below the minima of the ETD Annex (Art. 44) and **Reductions of environmental taxes/levies** (Art. 44a);
- **Remediation/rehabilitation of natural habitats and ecosystems, biodiversity and nature-based solutions for climate change adaptation and mitigation** (Art. 45);
- **Energy efficient district heating and cooling** (Art. 46) and **energy infrastructure** (Art. 48);
- **Resource efficiency and circularity**: investments for the recycling and reuse of waste and other products, materials or substances both from own and third parties’ activities (Art. 47);
- **Studies and consultancy services** on environmental protection and energy matters (Art. 49)
Other GBER provisions

• All GBER articles can be used, for example:
  • SME aid (Article 17 - investment aid - Article 18 - consultancy)
  • Training (Article 31)
  • Local infrastructure (Article 56)

• There is nothing like the “right” provisions to use for JTF purposes, all GBER articles could be of relevance

• Compliance with general conditions of GBER

• Validity until 2026
Integrated project and cumulation

• “Integrated project” and application of the rules: a question of definition

• Member states may design framework schemes, covering independent sub-projects using different provisions of GBER to address different aid objectives, all possibly contributing to the transition of a JTF area.

• They can also support an actual “integrated project” but cannot split a project in a way leading to circumventing the rules (thresholds/ incentive effect)

• Framework aid schemes or “integrated projects” shall however comply, for each type of aid, to the specific conditions provided for in the corresponding GBER article

• All aid shall comply with the general conditions of GBER including cumulation rules under Article 8
Ahead of / while designing support measures

- Contact national State aid experts: During the adoption of the 2021-27 OP, Member states demonstrated that they fulfilled the State aid horizontal enabling condition: identification of local or national expert center that managing authorities could turn to and working arrangements in place.

- JASPERS support

- State aid e-wiki platform, for interpretation questions

- DG REGIO State aid trainings, Peer to peer exchanges

- Make use of existing resources (possibly applicable for JTF - related measures), published on DG COMP website:
  - RRF guiding templates
  - Infrastructure grids
Thank you
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