

23 June 2006

**Maastricht Forum on State Aid  
Discussions on Proposed Refined Economic Analysis**

The Forum took place in the context of the Advanced Seminar on State Aid organised by EIPA on 22-23 June 2006 in Maastricht.

The seminar participants were civil servants and practitioners from fourteen Member States and a number of the Institutions of the European Union. They were divided into seven working groups and considered a number of questions concerning the refined economic analysis of state aid, as proposed by the European Commission. Working groups reported the outcome of their deliberations in a plenary session.

This report of the main points of the discussion in the plenary session has been prepared by EIPA on its own responsibility and does not necessarily represent the views of any participant.

Is more rigorous economic assessment of state aid necessary? If so, why?

All groups agreed that, more rigorous economic assessment would improve the effectiveness of state aid. It would also ensure a level playing field across the European Union, which cannot be achieved through rigid rules. In addition, it would reduce the discretion of the Commission, which in itself would make the application of the system of state aid control more predictable.

It was felt, however, that a more rigorous economic assessment would lead to a trade-off between improved targeting of aid and legal certainty. This would have to be addressed with more guidance to national authorities.

Moreover, economic assessment should be applied to state aid that has the potential to distort competition. More thresholds should be developed and be used to identify aid that poses no or little threat to competition and therefore could be exempted from full economic analysis.

There was also concern about the potential cost, in terms of financial and human resources and time needed, of any rigorous economic assessment.

An additional risk was highlighted; a too detailed assessment may lead to a loss of regional variation of state aid.

Lastly, some groups also favoured ex post assessment of state aid.

What criteria should such an economic assessment include?

In general there seemed to be a consensus that, at least for the moment, the criteria laid down in the R&D&I framework and the guidelines on risk capital seem to be sensible elements of an assessment, and that more experience would make them easier to apply in the future.

However, there was concern that there should be no exclusive use of quantitative criteria at the expense of qualitative criteria.

Taking into account the criteria of the balancing approach proposed in the draft R&D&I Framework, should there be explicit weights attached to each criterion?

This question was answered in the negative. Weighting of criteria was considered to be a “straight jacket”, since the precise weight of each criterion varies from case to case.

More importance was attached to clear statements and guidance on how the Commission will apply the various criteria in different cases.

Should economic assessment be applied to all forms of state aid or should it be limited to certain kinds of state aid? Please specify [you may distinguish between horizontal aid, sectoral aid, aid outside guideline or aid that exceeds certain thresholds].

It was argued that applying economic analysis to the assessment of state aid is a good thing but that it has its costs – administrative as well as opportunity costs for the beneficiary (e.g. delays, uncertainty, etc.).

The participants also seemed to agree that there should be some “cut-off” point below which a thorough investigation was not necessary and that everything should depend on how distortive the aid in question is. If it is less distortive, less economic scrutiny is necessary.

The threshold of EUR 5 million which is proposed in the draft R&D&I Framework was considered to be too low and that it bore no direct relationship with the level of aid intensity.

In general, all groups agreed that no particular sector should be excluded from proper economic assessment. However, it was thought difficult to apply an economic test to services of general economic interest.

At the same time, there was support for more intense scrutiny of ad-hoc state aid or aid granted to particular sectors.

Could economic assessment have any undesirable consequences? Taking into account the criteria of the balancing approach proposed in the draft R&D&I Framework, which criteria may be circumvented or exploited by national authorities?

Three consequences were mentioned in particular:

1. Costs and workload of the assessment: a detailed economic assessment may put a heavy burden on small administrations. They might not be able to carry in-depth economic assessment and the time and costs involved might, therefore, be disproportional. More consideration should be given to making the test proportional to the size or administrative level of the granting authority.
2. Limitation: Economic assessment may not necessarily be the instrument to assess whether state aid is the right instrument at all.
3. Uncertainty:
  - The economic assessment constitutes an additional factor that can cause potentially significant delays in the approval of aid. This might cause economic activities to be driven away from Europe. Particularly in high-tech sectors where time scales can be short and where there is always a risk that a competitor comes up with the same idea while one is waiting for the aid to be approved.
  - There might be a risk that, after the introduction of the new system, Member States will notify everything because of the lack of legal certainty. This puts a heavy burden on the Commission which might lead to delays in the examination of schemes. Maybe, a trial period should be introduced in which the results of the economic test are not yet binding but which constitutes a period in which experience can be gained regarding the application and balancing of the criteria.

According to one group, Member States might be able to circumvent the criteria when it comes to market definition, the assessment of a given market, the existence of market failure and the level of aid intensity.

Which national authorities should bear responsibility for carrying out economic assessment of state aid? Should small or autonomous regional public authorities be allowed to carry out simplified economic assessment of state aid?

There may be a risk that the carrying out of economic assessment by sub-national authorities will lead to tension between the central government and regional authorities granting aid. On the other hand, the advantage would be that regional authorities would have better argumentation to support the aid they wish to grant.

Another consideration in favour of carrying out the test by all authorities is that it would provide a sense of “ownership” of projects.

Nonetheless, views diverged on whether national and/or regional authorities should perform economic tests.

It was also argued that the assessment should be carried out at the level of the European Union.

Taking into account the criteria of the balancing approach proposed in the draft R&D&I Framework, what would such a simplified assessment include or exclude?

The assessing authority should only deal with the core elements of the test. The most important test is whether the aid creates the right incentives. This requires a focus on whether other dynamic incentives already exist on the local market and whether the new measure will have an impact on that market.