

European Commission
Directorate-General for Competition

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The Confederation of Swedish Enterprise's views on the ongoing consultations on roadmap for the revision of the European Commission's Communication on State Aid for Important Projects of Common European Interest (IPCEI).

The Confederation of Swedish Enterprise thanks the European Commission for the opportunity to submit comments on this ongoing consultation. It would like to state the following:

The European Commission has opened a consultation on the roadmap for the revision of the IPCEI Communication. This roadmap provides the starting point for this planned revision. It states that the Communication needs to be revised as a result of newly introduced objectives within the EU, such as the Green Deal, the industrial strategy, the digitalisation strategy and Next Generation EU recovery package.

It further states that the planned revision shall focus on the following:

- Clarifying certain concepts and provide guidance on certain criteria,
- Facilitating the participation of SMEs, and
- Increasing the transparency and alignment of projects with EU objectives.

In order to be able to comment on these starting points, the Confederation of Swedish Enterprise first needs to set out the general view we hold on the IPCEI instrument.

The Communication clarifies an earlier opportunity under the Treaty to grant State Aid for promoting the implementation of important projects of common European interest (Art. 107.3 b). This Communication is therefore important for clarifying the criteria that should apply to any review by the Commission. The Commission has set up a regulatory framework that places high demands on the participating Member States and businesses on the documentation of the projects receiving support. In return, the regulations allow for significantly higher levels of support to be granted than is the case in the general R&D&I Framework, as well as support for activities that are closer to regular production than is normally possible

Against this background, the Confederation believes that the Communication largely achieves its purpose, but it needs to be further developed. IPCEI projects as such may be effective, insofar as they address areas where there has been a real market failure and where other State Aid rules are insufficient. However, for the time being, this instrument should be considered as a specific measure and one that should not be widely applied to a large number of projects. Although the Communication has existed since 2014, there has

been relatively little experience of applying these the rules, much less the results that they lead to. The high levels of support and the opportunity to provide support for a later phase in the commercialisation of research undertaken means that the risk of distortions of competition is significant. It is also a fact that, to date, the regulations have led to long, administratively burdensome and costly approval processes that lack transparency. All this suggests that the use of the regulations should continue to be selective and done so in moderation.

This is also the reason why the Confederation of Swedish Enterprise does not agree that the new objectives mentioned by the Commission do not significantly change the previous need for the regulations, or their focus. As I previously said, the IPCEI communication should only continue to apply to a limited extent and should therefore not form any comprehensive part of the recovery package.

Point 15 of the Communication provides a (non-exhaustive) list of objectives to which the project must contribute in order to be able to apply the relevant provisions. It seems natural that this list should also be supplemented with, for example, the Green Deal or digitisation strategy. This would appear to be a normal and uncontroversial addition.

What is perhaps more interesting is the bullet point where the Commission indicates those focus areas that the revision should concentrate on. The Confederation of Swedish Enterprise agrees that these are important and require further work. When it comes to clarifying certain concepts and criteria, some are particularly important to highlight, namely:

- Paragraph 21 states that "R&D&I projects must be of a highly innovative nature or offer important added value in terms of R&D&I in the light of recent developments in the sector concerned." It is important to clarify what is meant by a "highly innovative character", preferably by including examples. It is important that this creates a basis for selecting projects via an open and apolitical process and one that is not linked to any particular economic sector.
- What, in footnote 1 of the Appendix, is considered to be so-called 'first industrial use'? This states that "first industrial use refers to the extension of pilot plants, first equipment and installations of a kind which include measures after the pilot phase, including the test phase, but neither mass production nor commercial activity." It is important that this be further clarified, as the risk of distortion of competition in granting support to such activities is highly significant.

The Commission also states that it wants to facilitate increased participation for SMEs. This is a welcome ambition, as it can provide greater efficiency, reduce the risk of market distortions or discrimination and potentially improve dissemination of results. Crucial to the success of any ambition of including more SMEs will be to increase the clarity of the regulations (in the Communication as well as possibly introducing a supplementary FAQ), improve the transparency and predictability of the application process, and to introduce some kind of improved legal support for participating companies. The regulations are currently unclear, and companies can incur large costs, both for legal advice as well as for their own working hours. It also runs great risks to companies if the projects cannot be approved in a business-relevant time. A dedicated and designated support function at EU or national level, with practical experience of applying the *acquis*, should be considered.

Last, it is claimed that the transparency of the projects will increase - this is also both welcome and essential. The latest decisions taken by the Commission with reference to the regulations and relating to a research project (in the first so-called 'battery project') were taken on year ago. Despite this, the decisions have not yet been published in the Commission's case database, which is concerning and shows the current lack of transparency. Increased transparency throughout the entire chain is needed, from the selection of projects and the participating companies, through the entire application process to decisions and all the way to how the projects are evaluated.

A review of the Communication is welcome and appropriate, and the points made by the Commission seem to indicate an appropriate direction. However, the Communication still needs to be clarified in many areas. At the same time, it is extremely difficult to draw any other conclusions about support levels, the design and focus of the support and the overall effects of the Communication on the projects where they are being used. As far as the Confederation of Swedish Enterprise is aware, only two projects have been approved by the European Commission with using these rules, one of which – as I have already mentioned – has seen no decisions been published yet. The first project that was approved, in the field of microelectronics, runs for a long time and will not be evaluated for many years. There is thus a lack of information to be able to decide whether this type of State Aid is effective and efficient, which makes it more difficult to revise the regulatory framework.

The Commission has stated that the next step in the process will be to develop a draft of a newly revised regulatory framework. This will be opened up for public consultation, both for Member States and for those interested parties who may be interested in participating in an IPCEI and receiving support. We would like to point out that the consultation should not be limited only to potential beneficiaries, but should also embrace those other stakeholders who may be affected by the regulations, not least the competitors to companies that may participate in IPCEI, as well as business organisations.

With kind regards

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