

Revision of the rescue and restructuring State aid guidelines

The Confederation of Swedish Enterprise welcomes the Commission's review of the Rescue and restructuring guidelines for state aid. In summary, we would like to highlight the following recommendations:

1. **We recommend that the steel sector continues to be excluded from the guidelines.**
2. **We welcome a review of the concept of an undertaking in difficulty in order to better enable support for small, newly established innovative companies.** In this regard, the Commission may consider changes to
 - a. the period during which a company is classified as a newly established undertaking,
 - b. whether any of the parameters listed in point 20 (a–d) should be adjusted, or
 - c. whether additional exemption criteria could be introduced to capture the type of newly established, innovative companies that should not fall within the definition.
3. **We welcome the Commission's efforts to update the guidelines to provide greater clarity and a regulatory framework that reflects current case law.**

About the consultation

The European Commission has launched a Call for Evidence and a public consultation to seek input on the scope and content of its revision of the Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty ('Rescue and Restructuring Guidelines')

The proposed revision considers:

- expanding the scope of the Rescue and Restructuring Guidelines to include the steel sector, which is currently excluded;
- amending the "undertaking in difficulty" definition regarding certain types of innovative start-ups that have a specific growth model, which allows them to be eligible for aid under other State aid instruments;
- clarifying certain parts of the undertaking in difficulty definition, in particular the concept of "own funds" and its relationship with the equity and solvency of UiDs;
- making technical changes following several EU Courts judgments.

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On expanding the scope

It is reasonable that there should be scope, in exceptional cases, to grant rescue and restructuring aid to undertakings, particularly those that are critical to society, and especially in situations involving extraordinary circumstances not caused by normal market conditions. In such cases, the guidelines provide valuable direction regarding the conditions that must be met and the criteria that apply.

However, the Confederation of Swedish Enterprise is critical of the use of such aid except in exceptional circumstances. In general, rescuing insolvent companies is not something that public authorities should engage in. It risks undermining the market dynamics that ultimately lead to increased productivity and competitiveness, as efficient companies succeed and grow, while less efficient ones are phased out. There is also a risk that the mere possibility of receiving this type of aid increases risk-taking among certain companies, leading them to act recklessly in the knowledge that they may be bailed out by the state — a phenomenon known as moral hazard. Therefore, the use of such aid should be strictly limited.

This is also why we oppose extending the scope of application to include the steel industry. On balance, we consider that the risks of such aid being used to rescue non-competitive companies outweigh the benefits of being able to support individual firms under specific circumstances.

As the Commission rightly points out, the European steel industry is facing intense global competition. However, including the steel industry in the rescue and restructuring guidelines does not enhance its competitiveness. Instead, other measures are needed to strengthen its ability to compete.

Any unfair practices in third countries that result in an uneven playing field and/or overproduction should be addressed through other instruments, not through state aid rules.

In this context, we wish to emphasise the importance of improving the conditions for the steel industry, as well as other industrial sectors, to remain competitive in Europe. This includes continuing reform efforts aimed at more efficient permitting processes and ensuring low and stable electricity prices. It is also essential that the commitments made by the EU regarding emission targets and the emissions trading system remain in place, in order to provide stable conditions for investment.

Other suggested revisions

Regarding the concept of an undertaking in difficulty, we agree with the Commission's problem analysis. It has long been recognised that there is a challenge in, on the one hand, excluding companies that are not viable and are either insolvent or on the verge of insolvency from receiving state aid — as there is a significant risk that the aid will be ineffective and fail to achieve its intended purpose, or alternatively, support a business that is not competitive and should be phased out in favour of more efficient competitors — and, on the other hand, including relatively newly established, often innovative, companies that have not yet scaled up their operations or built a revenue base.

Revisions to the existing concept should be based on a thorough analysis of what adjustments can be made to better include such companies. A new definition should then apply generally within the EU's state aid framework, including the General Block Exemption Regulation.

In this context, the Commission should consider whether it would be effective to extend the period during which a company is classified as a newly established undertaking, whether any of the parameters listed in point 20 (a–d) should be adjusted, or whether additional exemption criteria could be introduced to capture the type of newly established, innovative companies that should not fall within the definition of an undertaking in difficulty.

Finally, regarding the Commission's proposal to *clarify certain parts of the UiD definition* and to *make technical changes following several EU Court judgments*, we have no specific comments other than to welcome the Commission's efforts to provide greater clarity and a regulatory framework that reflects current case law.

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