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Sustainability Growth Innovation

Position Paper

SGI Europe response to the public consultation on the draft revised General Block Exemption Regulation (GBER)

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Introduction

SGI Europe welcomes the European Commission's initiative to revise the GBER with the aim of simplifying it and eliminating overly complicated conditions. This is particularly important to ensure that aid measures with a limited risk of distorting competition and trade in the internal market are granted smoothly, allowing the European Commission to focus its limited resources on the control of the most potentially distortive State aid. The revised GBER should provide a clear, proportionate, and workable framework that enables efficient public investment.

As the cross-sectoral social partner representing providers of Services of General Interest from a broad range of sectors, SGI Europe's contribution reflects shared views from multiple stakeholders.

Simplification and streamlining the GBER

SGI Europe welcomes the streamlined structure of the draft GBER. Following multiple revisions in recent years, the current framework has become fragmented and less consistent and coherent. This has added complexity to an already voluminous text and resulted in an increased burden on authorities and enterprises that must comply with it.

Regrouping aid categories based on their theme offers a much more coherent text and significantly improves clarity and usability, avoiding the need for authorities and beneficiaries to navigate dispersed provisions throughout the text to identify all applicable conditions and requirements for a single aid measure. The separation of the rules that refer to different types of aid will greatly improve both the readability and application of the rules. Avoiding duplication and limiting cross-references are also essential steps toward a more accessible framework. The revision should aim to harmonise terminology for conditions or concepts that are essentially the same but referred to differently in the text.

Additionally, the extension of the use of simplified cost options to all aid categories for calculating aid intensity and eligible costs is a positive development. The possibility of using different methodologies alongside traditional funding-gap approaches represents an important step towards simplification and the reduction of administrative burden for beneficiaries and granting authorities, recognising that eligible costs cannot always be accurately and easily estimated.

Greater flexibility for public authorities in designing support measures is equally important, as it allows them to adapt aid schemes to national and local realities. However, the administrative burden related to documentation and reporting requirements remains significant. Further simplification in this area would be desirable, in particular for investments linked to services of general interest.

At the same time, other changes in the GBER risk increasing the administrative burden. A clear example of this relates to the publication and information requirements. While the current GBER determines that the information in Annex III will need to be published for individual aid awards that exceed EUR 500,000, the draft GBER reduces this threshold to EUR 100,000, which will extend this obligation to a significantly higher number of aid measures, without clear added value.

Guidance and interpretation

The separation of non-binding conditions and examples in the GBER into a dedicated guidance document is a welcome step, as it clarifies which provisions are legally binding. This is particularly important for an instrument like the GBER, which is very extensive and often difficult to navigate. However, this guidance document should not be limited to existing non-binding provisions but rather should also provide further assistance on how to interpret and apply other GBER rules.

This will make the GBER easier to interpret, thereby increasing legal certainty and avoiding the approval of illegal aid due to misinterpretations or lack of sufficient guidance.

It is also essential that this guidance document be adopted simultaneously with, or shortly after, the revised GBER to ensure the consistent application of the rules from the outset.

The e-State aid wiki is also a useful platform to offer guidance to State aid coordinators in Member States regarding interpretation questions related to State aid rules, and particularly the GBER. However, this has proven to be insufficient and hinders the work of regional and local authorities, who must often rely on access to guidance through their respective national authorities, causing unnecessary delays and legal uncertainty.

To be effective, guidance should be publicly available to public authorities at all levels, enterprises and stakeholders across all Member States.

Facilitation of combined EU and national funding

The Commission's intention to further revise the GBER in alignment with the upcoming Multiannual Financial Framework (2028–2034) is seen as a positive development. Better alignment between EU and national funding rules will facilitate the combination of different funding sources, which is essential for large-scale projects, particularly in infrastructure and climate-related investments.

This combination should be further simplified, including in situations in which the GBER is applied regarding InvestEU when State aid is involved. In this case, the exclusion of the full nominal amount of the loan from eligible costs artificially inflates the perceived aid intensity. This limits the possibility of cumulating the loan with other public funding sources.

Clear guidance and practical examples from the Commission will be key to making this combination of national and EU funds effective in practice.

Infrastructure procurement and concessions

The draft GBER establishes in its Article 3(2)(c) that concessions or other entrustments related to aided infrastructure shall be assigned in a competitive, transparent, non-discriminatory and unconditional manner. This drafting is missing the safeguard included in the current Articles 55 and 56 of the GBER on sport and local infrastructures, which contain the obligation to have due regard to the applicable public procurement rules.

This omission creates legal uncertainty, and it could result in a limitation of in-house awards, which are permitted under the EU public procurement directives, as confirmed and clarified by the European Court of Justice.

To ensure consistency with the broader EU legal framework, in particular public procurement rules, and to preserve legal certainty and flexibility for contracting authorities, the new GBER should explicitly reintroduce the safeguard related to compliance with applicable public procurement rules.

Definition of small and medium enterprises

The current definition of small and medium enterprises, as included in the GBER, excludes enterprises that are owned by public bodies. As follows from Article 3, paragraph 4 of Annex I to the current GBER, enterprises that are owned by at least in 25% by public bodies or authorities, either directly or indirectly, do not qualify as SMEs. This means that those enterprises cannot benefit from the simpler norms, reduced bureaucracy and less strict funding rules that are intended for companies of their size.

Instead, local public enterprises must comply with burdensome obligations that do not correspond to their size, resources and capabilities, to the detriment of the services of general interest that they provide. Aside from the difficulties in accessing national aid, the SME definition also has a direct impact on their access to EU funding, since it is systematically used by national authorities when deploying EU programs.

Therefore, SGI Europe calls for an amendment of the SME definition in Annex I of the GBER, to allow for publicly owned enterprises to qualify as SMEs. This would be in line with previous Commission practice, which has used different criteria than those established in the GBER Annex I to define SMEs in other legislative proposals.

While the draft GBER offers opportunities to block-exempt some aid to SMEs, the reality is that publicly owned SMEs will not be able to benefit from them, despite the fact that they comply with the staff headcount and financial thresholds, which undermines fairness, legal clarity and access to support.

Aid for environmental protection: specific considerations

The extension of exemptions for climate-related investments is strongly supported. In particular, the introduction of the concept of climate resilience is highly relevant and in line with the substantial investments that will be needed for adaptation and anticipation measures in the coming years.

Higher aid intensities, including support of up to €1.5 million, are especially important for enabling large-scale projects. Such levels of support help bridge the significant funding gap associated with the deployment of measures related to the green and energy transition, and reduce the financial risk for local enterprises, creating the conditions needed to accelerate investment and deployment.

Simplified conditions for smaller aid amounts are also welcome, as they facilitate access to funding for smaller actors and projects.

Nonetheless, the simplification of the aid for environmental protection should go further than what is envisioned in the draft GBER. This section refers to numerous EU environmental acts, creating difficulties in navigating and interpreting all the relevant provisions. This problem is exacerbated in the case of SMEs, who often lack

the internal capacity and expertise to deal with the excessive complexity of environmental rules. An annex providing a compilation of all the existing legislation and its national transposition would make this easier.

Additionally, compatibility conditions of the GBER should be simplified to reduce the administrative burden on public authorities and make sure they can implement them easily. Notably, the condition to have to compare eligible costs to a counterfactual scenario in the absence of aid can be too complex. Member States should have the possibility of granting the aid without making a reference to a counterfactual scenario, based on aid intensities that already take the counterfactual into account. Potential beneficiaries also have difficulties in elaborating such a detailed justification and often lack the necessary supporting documentation.

Housing

The inclusion of housing in the GBER is a positive development, as it enables more effective support for social and affordable housing. However, the framework must adequately reflect the diversity of housing systems across Member States.

It is important to ensure coherence with the SGEI framework, in particular the SGEI Decision, which already provides a well-established legal basis with specific safeguards and conditions. The GBER rules on the matter should avoid overlaps and inconsistencies and ensure legal certainty. The GBER should also provide a flexible approach, in order to accommodate different policy frameworks and ensure continued access to high-quality, affordable housing.

The definition of social and affordable housing under draft Article 56(2) appears overly restrictive, as it limits the concept to socially disadvantaged households and conditions intervention on the existence of market failures. Social and affordable housing do not constitute a homogeneous category across Member States. In this context, rigid or overly prescriptive EU-level definitions risk undermining well-functioning national systems and failing to capture local and regional housing realities.

Additionally, the fact that Member States would have to ensure that energy performance investments do not involve any additional financial burden for tenants can be particularly difficult to apply in practice.

Clean and zero-emission vehicles

The revision of Article 36b of the current GBER on investment aid for clean and zero-emission rail vehicles is crucial for decarbonising rail freight and maintaining the competitiveness of the sector.

Shunting locomotives play a vital role in rail freight operations but remain mainly diesel-powered due to the lack of electrification on last-mile sections and an aging fleet. While it is positive that electric and bimodal locomotives can qualify as clean vehicles, the proposed framework may have a limited impact because restricting eligible costs to additional costs adds complexity and lowers the amount of effective aid.

Furthermore, reduced aid intensities will likely not be enough to drive the necessary large-scale fleet renewal. A more effective approach would allow full acquisition costs to be eligible and significantly increase aid intensities.

Further simplification of State aid control: the de minimis register

In the context of broader simplification efforts for the State aid policy, including the revision of the GBER, the mandatory registry for de minimis aid that is in place from the beginning of 2026 raises concerns.

Measures that do not fulfil the conditions set out in Article 107(1) TFEU are not State aid and, therefore, fall outside the competence of EU State aid authorities. This is precisely the logic behind the De minimis Regulation, which presumes that aid measures below a certain threshold do not have an impact on competition and trade in the single market.

The introduction of a mandatory registry for de minimis aid offers little benefit in comparison with the significant administrative burden it creates, which does not align with current efforts by the EU to cut red tape and simplify. National authorities will have to incur significant costs in preparing and maintaining the necessary systems. The Commission should therefore reconsider the necessity and proportionality of this measure.

Conclusion

The draft revised GBER represents a meaningful step towards a more flexible, accessible and future-oriented State aid framework. The proposed simplifications and increased support are particularly welcome.

However, important challenges remain. Further efforts are needed to reduce administrative burdens, improve legal certainty, and ensure that the framework is fully accessible to local authorities and providers of services of general interest. This includes clearer guidance, more proportionate reporting obligations, better alignment with other EU rules, and targeted adjustments such as a revised SME definition and more effective support mechanisms for key sectors.

Addressing these issues will be essential to ensure that the GBER can effectively support public investment, facilitate the green transition, and enable the delivery of essential services across the European Union.