



UNION EUROPEENNE DE L'ARTISANAT ET DES PETITES ET MOYENNES ENTREPRISES  
EUROPÄISCHE UNION DES HANDWERKS UND DER KLEIN- UND MITTELBETRIEBE  
EUROPEAN ASSOCIATION OF CRAFT, SMALL AND MEDIUM-SIZED ENTERPRISES  
UNIONE EUROPEA DELL'ARTIGIANATO E DELLE PICCOLE E MEDIE IMPRESE

## Comments on the Draft General Block exemption Regulation (2007/C 210/10)

This comments refers to the officially published version on a new “General Block exemption Regulation”, published by the European Commission on 8 September 2007. UEAPME has already sent on 7 June 2007 a first set of comments<sup>1</sup> based on the draft version presented by the Commission on 24 April 2007.

In this second set of comments UEAPME is assessing the changes made by the Commission compared to its first draft and we will restate some of the comments, which are of utmost importance for SMEs and were made already in our first comments, but without a sufficient reaction by the Commission.

### **Specific remarks on the draft GBER – new version**

- **Article 1/6c and consideration 14 – definition of undertaking in difficulty**

The adopted consideration 14 states now that SME start-ups incorporated less than three years and whose business plan foresees losses in those three years, shall not be considered as being in difficulty. UEAPME welcomes this clarification and asks for a similar clarification in Article 1/6c, which still states that undertakings in difficulties are excluded, without any further clarification.

- **Article 2/5 (definition) and Article 5/1b – transparency of guarantees**

Member States are using State aid in form of guarantees increasingly. Therefore, the intended simplification of this GBER will only become reality, if the GBER applies also for State aid provided in form of guarantees, if the aid comprised in such guarantees is calculated in accordance with the provisions provided by the upcoming “Commission Notice on State aid in form of guarantees”. Therefore, UEAPME asks to make a reference in the above mention articles not only a reference to “reference rates” but also to the “notice on guarantees”.

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<sup>1</sup> [http://www.ueapme.com/docs/pos\\_papers/2007/070607\\_BER\\_final.pdf](http://www.ueapme.com/docs/pos_papers/2007/070607_BER_final.pdf)

- **Article 10/1 – investment aid in the case of business transfer**

Article 10/1/b allows aid for the acquisition of capital assets, “*where the establishment has closed or would have closed had it not been purchased*”. However, a very traditional form of “acquisition of capital assets” in the SME sector, which takes place before an establishment has to be closed, is the transfer of the business to the next generation or to former employees of the company. Such transfers have often difficulties in getting financed, especially when the company has already a low equity ratio, because banks assess new ownership with higher risks.

In order to avoid a situation, in which such a company must be closed down before the transfer in order to get access to the needed aid, the transfer of an establishment to a new owner should also constitute a case for investment aid, at least for small enterprises.

- **Section 3 – Aid for Environmental Protection**

UEAPME already argued in its Comments on the draft guidelines for State aid for environmental protection (see [UEAPME position paper](#)<sup>2</sup> from 26 June 2007) that, given the restrictive method for the calculation of eligible costs, the proposed aid intensities are to low to provide any incentive for companies to invest in environment protection above legal standards or in energy saving above profitability. Knowing that the European Commission is working on a new proposal for the environment guidelines and especially on the question of aid intensities and eligible costs, UEAPME does not comment specifically on these questions within this position paper, but will react on the revised draft of the environment guidelines. Consequently, UEAPME expects that section 3 of the GBER will be changed in line with the future changes made for the environment guidelines.

- **Article 15/3 – aid intensity for early adaptation of future Community standards**

Contrary to all other areas of SME aid, the proposal introduces a threshold for aid intensity for these measures of 15% (for SE) and 10% (for ME). These threshold are neither coherent with the rest of the GBER nor with the current proposal for the new “guidelines for environment aid”. In order to make the whole GBER even more harmonised and coherent, UEAPME proposes thresholds of 20% (SE) and 10% (ME) also for these measures or to take over the provisions laid down in the “guidelines for environment aid”.

- **Article 16 – aid for energy saving measures**

If the eligible costs for such an aid has to be calculated on the base of extra investment costs minus any benefits from reduced energy costs (16/3), an aid intensity of 35% (45% ME/55& SE) will be in no way sufficient to compensate for market failure, because a company has to pay the remaining eligible costs only for positive external effects. Within the logic of the chosen economic approach, such a narrow definition of eligible cost demands aid intensity of 100%.

As regards investment aid for environment protection improving on Community standards (Article 14), lower aid intensities, as compared to the “guidelines for environment aid”, seems justified, because the eligible costs in the GBER have to be calculated on the base of extra costs, without a deduction of benefits. As regards energy saving measures (Article

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<sup>2</sup> [http://www.ueapme.com/docs/pos\\_papers/2007/070702\\_pp\\_StateAidEnvironment.pdf](http://www.ueapme.com/docs/pos_papers/2007/070702_pp_StateAidEnvironment.pdf)

16) the definition of eligible costs is narrower, benefits have to be deducted. Therefore, UEAPME asks for higher aid intensities for energy saving measures, which are in line with the provisions in the “guidelines for environment aid” or for a definition of eligible cost as provided in Article 14.

- **Section 6 – Aid for innovation in SMEs**

UEAPME has very much welcomed the new R&D and Innovation Guidelines, adopted last year. The most important elements for SMEs in this guideline are the new introduced support measures for innovation, because most of SME are not able to do their own R&D. Therefore, UEAPME regrets that the European Commission did not include such measures in its proposal for the GBER and urges the European Commission to include at least aid for so-called safe harbour measures, as defined in the R&D&I guidelines, for high-tech start-ups, for process and organisational innovation in services, for innovation advisory and support services and for highly qualified personnel.

- **Article 29 – definition of general training**

The two examples given in Art 29/2 for the definition of training aid do not cover training provided or organised by business association, chambers or social partner (i.e. via specific funds) for their members.

Therefore, UEAPME asks to add a third example, which could be something, like “(c) it is organised by business associations, chamber or social partners for their members and the employees of their members”.

UEAPME

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**For further information on this position paper, contact:**

Gerhard Huemer, Director of Economic and Fiscal Policy,  
UEAPME,  
Rue Jacques de Lalaing, 4,  
B-1040 Brussels.  
Tel: +32 2 2307599  
E-mail: [g.huemer@ueapme.com](mailto:g.huemer@ueapme.com)