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NOTE

From: Trio Presidency
To: High Level Working Group on Competitiveness and Growth
Subject: Modernisation of EU State aid policy

Ensuring free competition in the European Union is one of the key objectives of internal market policy. This includes EU State aid law as part of EU competition law, which is intended to protect the European internal market from distortions of competition caused by illegal State aid to individual companies or sectors of the economy aiming at a level playing field in the internal market. The current crisis poses an enormous challenge to EU State aid law. At the same time, it is an opportunity to update it. The European Commission is in the process of reviewing a large part of its State aid Guidelines, specifically with a view to ensuring that these Guidelines remain fit for purpose and take account of developments in the markets they cover. The purpose of the discussion in this forum is to contribute to the Commission's ongoing work.

I. FLEXIBILITY OF STATE AID LAW TO OVERCOME THE COVID-19 CRISIS

In recent months, the European Commission has made an important contribution to addressing the crisis by designing the Temporary Framework for State aid in support of the economy in the light of the current outbreak of COVID-19. Based on data of 30 June, the Commission has taken 187 decisions approving 233 national measures notified by 27 Member States and the UK to support companies in the context of the COVID-19 outbreak. These measures have mobilised in total around €2.30 trillion, corresponding to 14.1% of total combined EU plus UK GDP in State aid.

As the rules have been developed to cater for an emergency situation and have led to extraordinary financial commitments, they should – in principle – be discontinued as soon as possible. At the same time however, it will be necessary to observe the pandemic situation and its economic impacts further and to decide in a careful analysis whether specific rules need to be prolonged, streamlined or even made permanent. The State aid framework will play an important role for a sustainable and lasting recovery of the EU. The aim must be to enable Member States to adopt necessary measures to support and revitalise the European economy quickly and effectively, while ensuring that the level playing field in the internal market is maintained.

II. STATE AID POLICY TO STRENGTHEN INNOVATION AND COMPETITIVENESS IN THE SINGLE MARKET

The functioning of the Single Market depends on a level playing field for economic operators and Member States. Effective State aid control by the European Commission is therefore essential.

The State aid rules provide for a common framework for State aid measures that are good for Europe as a whole. For instance, the IPCEIs (on Microelectronics and the Battery value chain), show that State aid policy can also make a significant contribution to incentivise significant cross-country public and private investments in risky **innovative projects** of European companies while ensuring that any potential distortions to competition are minimised. Positive spill-over effects are an important characteristic of IPCEIs ensuring that the benefit of a project is not limited to the undertakings, sectors or Member States which are direct participants. In order to fully exploit the potential of this instrument we need to ensure that notification procedures for IPCEIs can be brought to a successful conclusion within a fairly short period of time – despite the complex nature of the projects and the large number of players involved in different Member States.

The Strategic Forum on IPCEI has identified a number of strategic value chains for potential IPCEIs. Particularly noteworthy is the “Hydrogen technologies and systems” value chain, which is already in the early planning stage and is an important step towards providing incentives for investments in this area. Participation is open to all interested Member States and industry.

It is important to build on this experience: The State aid framework allows Member States to support risky and ground-breaking EU-wide and integrated projects in line with the digital and green transition objectives while contributing towards the recovery of the EU economy following the downturn caused by the COVID-19 outbreak.

At the same time, the European economy is facing severe challenges given the growing number of State-owned and State-subsidised enterprises from third countries operating in the internal market. Therefore, the WTO rules on state subsidies should be strengthened in order to ensure a level playing field at international level. Instruments with regard to foreign subsidies as proposed in the corresponding White Paper by the European Commission are of crucial importance vis-à-vis the objective of an international level playing field.

III. FURTHER DEVELOP AND ENHANCE STATE AID GUIDELINES IN THE CONTEXT OF GREEN AND DIGITAL TRANSITION

State aid policy must also address and accompany the challenges of green and digital transitions.

State aid policy should help Member States to support the market-driven transition to an ambitious **energy, environment and climate policy**. It is important to lay the foundations for transformation incentives that are already necessary today in order to achieve the EU climate and energy goals by 2030 and the long-term goal of climate neutrality by 2050. This was already our concern – also with a view to the Green Deal – before the COVID-19 outbreak and is now all the more important in order to align the urgently needed investments with our common future tasks. The current revision of the Environmental and Energy State Aid Guidelines (EEAG) will be important in this respect.

It is particularly important here to facilitate the overall phase-out of fossil fuels and to support the decarbonisation of the European economy in the light of the significant investments required. For this to succeed, it is essential that public support is cost-effective and does not endanger the integrity of the internal market. It is also important to open up new and sustainable economic perspectives for the regions whose economic structure is highly dependent on the extraction and conversion of fossil fuels into electricity. The Just Transition Fund can play an important role in this regard.

The existence of an efficient broadband infrastructure is also crucial for the desired **digital transformation** of the European economy. The European Commission has announced that it will evaluate the current Broadband Guidelines from 2013 and examine to what extent the current regulations meet the technological and socio-economic needs and are appropriate to achieve the strategic goals of the European Union regarding connectivity and digital transformation. This process should be pursued as a priority with the a view to creating a legal framework which allows the rollout of gigabit-capable networks in underserved areas.

Questions for discussion:

- 1. Which conditions are relevant to consider the extension or reactivation of the Temporary Framework for State aid?*
- 2. How do we ensure that the State aid framework reflects the great political challenges that we want to tackle – the green and the digital transformations and Recovery above all – and give the right kind of leeway to the Member States without distorting the market and whilst taking into account international competitiveness?*