



**Zlín Region In Brussels**  
Region of Opportunities

**Special Report  
on the Competition Policy**

**Definition and Discipline  
of the State Aids to Firms**

**English version  
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The Treaty of the European Union has a basic principle establishing that State aids which distort or threaten to distort free competition are incompatible with the Common market.

The main way by which subsidies can damage the free competition is that if one firm or the goods that it produces obtain a subsidy and another does not, then the former will retain business, or take business from the latter, that would have served more efficiently the market if competition had not been distorted. Inefficient though the assisted firm may be, the unassisted does not get a fair opportunity to enter or to grow in the marketplace. Inefficiency is perpetuated, dynamism, productivity and competitiveness are lost, the economy is poorer and the consumers are worse off.

But this is not enough.

When governments are seen to be interested to play the subsidy game, it makes commercial sense for businesses to divert some effort and resources away from competing for delivering what people are keen to buy, towards competing for getting subsidies from the public administration. This distortion of competitive incentives away from satisfying consumers towards influencing public officials may well be interesting for the relevant bureaucrats, but for the economy as a whole the subsidy-seeking game is costly without being at all productive. Unfortunately the costs – e.g. lost productivity – are often not well visible. Yet, it is an inescapable truth that every subsidy entails more tax, or less resources to spend in other crucial sectors, beginning with public health and education. There is no such a public-resource-consumer as a free subsidy.

From the distortion and weakening of competitive incentives, and encouragement of socially unproductive subsidy-seeking by vested interests, come two rationales for the Community policy of State aid by Member States.

The first is to stop countries tilting the competitive playing field to favour their own producers at the expenses of those in other countries and of overall efficiency and productivity – and hence of consumers in aggregate.

The second rationale is that EU common policing might help bolster Member State resistance to subsidy-seeking vested interests.

Nevertheless, not all subsidies to firms are bad.

There are numbers of situations in which unassisted market forces can lead to undersupply of important activities or services, and in some of those circumstances appropriately designed subsidy schemes might well contribute to general interests. Because subsidies can be good, a total ban - "*per se*" prohibition in antitrust language - would be wrong. Instead, as elsewhere in competition policy, criteria for intervention against competition-distorting subsidies have to be introduced, and on wider policy grounds principles of good subsidy design need to be developed.

Within the EU Member States, subsidy schemes should therefore be tested by routinely asking the commonsense question whether they are the best way to promote the public interest goals they are meant to advance. Thus, besides the requirements of EC State aid law, it would seem desirable on policy grounds, at national as well as Community level, to show not only that a subsidy is not competition-distorting, but also that it is indispensable and proportionate to its aims.

For example, a subsidy scheme aimed at job-creation would not be good policy if other measures (such as the removal of job-inhibiting regulations) could better achieve the aim, or if the same aim could be achieved at less cost, or more fully for the same cost. Naturally, cost should include indirect costs – e.g. from competition-distortion – as well as direct financial cost.

Where a subsidy is justified, moreover, its efficient design and application will often take advantage of competition rather than distort it. For example, if policy intervention is required to secure delivery of some public good or service that would otherwise go unsupplied or undersupplied, then competitive tendering to secure its supply will often be better than subsidising whoever has supplied it in the past.

Given these premises, it is natural that the European Union has defined an articulated legal framework to discipline Member States' actions in the field of public subsidies to the private sector.

Funded on the provisions of the Treaty, establishing the above mentioned general principles, the frame has been integrated by a number of rules, formalised in EC Decisions and Regulations, Guidelines and Recommendations, that constitute now the Common discipline of State aid to businesses for all the Member countries of the European Union.

This Report has been prepared to provide a general overview of the EU discipline concerning State aid, even if it does not aim to provide an exhaustive description of the present rules.

Considering the importance of the Cohesion policy measures in supporting the private firms, it focuses on the issues that are most relevant having direct regard to the Structural Fund programmes.

The Report considers the following points:

- . Definition of measures that are covered by EU State aid rules
- . Notification and authorisation procedures
- . Conditions under which State aid measures can be acceptable under EU legislation
- . Determination of assisted Regions within the EU Member states
- . Fact-sheets on State aid issues relevant for the Structural Funds
- . Principles of the under-going reform of the EU discipline in the sector

The application of the rules is responsibility of the European Commission.

But the exam of conformity to the EU law begins at home and the role of competent national authorities is essential to enhance the efficiency of subsidy measures and to avoid sanctions from Brussels.

That's the reason why a correct understanding of national subsidies under the State aid rules is of great importance for European competitiveness, together with the European Commission's plans to enhance the focus, effectiveness and transparency of State aid policies and procedures.

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