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State Aids: from Germany to Gibraltar

Two reports in this issue concern state aids and illustrate well the different types of state aid which the Commission has to identify and, according to the circumstances, approve or condemn. In Germany, the problem was the familiar one of public guarantees to banks and other credit institutions. Bankers from other Member States have long been unhappy with the guarantees offered by the state, the provinces and the municipalities to German banks, which have derived a competitive advantage over financial institutions without similar cushions to their commercial activities. It now seems that that the main problems have been resolved, though on the face of of it some hard bargaining on the German side has led to substantial concessions by the Commission.

From financial guarantees to tax exemptions may appear to be a long stride; but the Commission is challenging the practices of a number of Member States which allow various kinds of company tax exemptions, every bit as valuable in commercial terms as guarantees and potentially just as harmful to free competition. However, the Gibraltar company tax scheme was partly upheld and partly condemned in a judgment of the Court of First Instance, acting by way of an expedited procedure.

State Aids: Research and Development

There is one area in which state aids are generally approved; and the Commission has recently decided to prolong the existing State Aid framework for Research and Development without any modification until the end of 2005. The current rules distinguish between three different levels of research and development activity: fundamental research designed to broaden scientific and technical knowledge not linked to industrial or commercial activities may receive aid of up to 100% of eligible costs; industrial research is eligible for a basic rate of aid of up to 50% of eligible costs; pre-competitive development activities are eligible for a basic rate of aid of 25% of eligible costs. These basic rates of 50% and 25% may be increased by a series of bonuses of up to a further 25% of eligible costs if the research and development activities are undertaken by SMEs, or in assisted areas, or further the objectives of the Community's own R&D programmes or promote effective cross-border collaboration. Higher rates also apply for feasibility studies.

The Commission considers that the current framework has worked well and is also suitable for supporting the objective adopted by the Barcelona European Council, which is to increase investment in research and development in Europe by 3% of the GDP by 2010. This objective should in the first place be achieved by efforts coming from the private sector directly. State aid for research and development is only one instrument among others to achieve the objective. ■