**2014-2020 Regional Aid Guidelines. Clarification Questions from Ireland**

**Questions on New/Initial Activities:**

1. Under the Draft GBER, ‘aid to large enterprises shall only be granted for “initial investment in favour of new activity”, within the meaning of this Regulation, in the area concerned’.

In the Draft GBER this is defined as either (i) setting up a new establishment in a different NUTS 3 region from any existing operations of the firm; or (ii) diversifying the activity of an establishment to one that is ‘not the same or similar’ to that previously performed.

The ‘same or similar activity’ means one falling within the same four-digit NACE code of economic activities. Broadly, this appears to mean that in order to escape notification, aid to large firms must either involve a new investment in a different NUTS 3 region or a different activity in the same region. Can you please clarify?

1. Under the definition ‘initial investment in favour of new economic activity’; does the investment have to be in a new NUTS 3 region if a company already has a plant in a certain Member State? Or can it be a new building in the same Region?
2. Can a similar manufacturer who is new to a country use an empty facility previously used in the same sector e.g. previously used for yogurt, now to be used for cheese?
3. Will both categories ( A and B) under (h) ‘initial investment’ always have to be notified?
4. Will both categories ( A and B) under (i) ‘initial investment in favour of new economic activity’ always have to be notified?
5. What is a new economic activity in context of definition ((i) and how does it relate to diversification as per paragraph [15].?
6. Will notified individual aid criteria (3.2.2) apply to all expansions (new products and new process innovations)? How long is it expected to take to get a Commission response on this? Will the Commission commit to responding within a certain amount of days? Will the Commission provide examples of best practice on notified individual aid for expansions as we do not have previous experience in doing this? It would also help to understand what can and cannot be included.
7. How is new process innovations (1.1 (15)) defined for the purposes of Regional Aid; is it the same as for R&D in the GBER?

**NACE code questions:**

1. The use of Nace 4 digit codes in the recently adopted Regional Aid Guidelines is far too stringent and will prevent, for example, any grant aid for the development of new agri-food products within the same processing sector.

By way of example, within the agri-food sector, innovation and development usually takes place within the same sector e.g. companies with expertise in the dairy business usually continue to expand and develop this rather than get into a different sector such as meat. Therefore new products would invariably still be classified in the same Nace classification.

Will there be some room for pragmatism and flexibility in this area when a company is clearly moving into new product areas?

**Agriculture and Fisheries Related Questions:**

Application of the RAGs to the processing and marketing of agricultural products

1. The Regional Aid Guidelines (RAGs) state at 1.1.10 of the Scope and Definitions section: “the Commission will apply the principles set out in these guidelines to regional aid in all sectors of economic activity apart from the fisheries and aquaculture, agricultural and transport sector which are subject to special rules laid down by specific legal instruments which might derogate partially or totally from these guidelines. The Commission will apply these guidelines for processing and marketing of agricultural production into non- agricultural products.”

Footnote 11 states: “State aid for the primary production, processing and marketing of agricultural products resulting in agricultural products listed in Annex 1 to the Treaty and forestry is subject to rules laid down in the Guidelines for State aid in the agricultural sector.”

Ireland considers that state aid for secondary processing and marketing of agricultural products which may result in products listed outside Annex 1, or products within Annex 1 are both subject to the Regional Aid Guidelines, and associated de minimus and GBER regimes (currently Regn (EU) 800/2008, Regn (EU) 1998/2006). This has been the position from 2007 – 2013 and Ireland would appreciate clarification on this point.

Application of the RAGs to the Fisheries Sector

1. Scope and Definitions

1.1.10 “the Commission will apply the principles set out in these guidelines to regional aid in all sectors of economic activity apart from the fisheries and aquaculture, agricultural and transport sector which are subject to special rules laid down by specific legal instruments which might derogate partially or totally from these guidelines. “

Footnote 18 refers to fisheries products as defined by Regn (EC) No 104/2000.

Ireland has received clarification from the Commission that secondary processing of fish resulting in value added consumer products which are outside the CN codes listing in Regn (EC) No 104/2000 are currently covered under Commission Block Exemption Regulation 800/2008 and the general de minimus Regulation 1998/2006.  We would appreciate clarification that this remains the case in the upcoming RAGs.

**Extension of current RAGS**

1. The Commission has stated that it will apply the existing rules to regional aid granted or intended to be granted before 1 July 2014 and the new rules to aid granted or intended to be granted after 30 June 2014.

The Irish Authorities understand that the aid is considered to be granted when the Member State takes a legally binding commitment to award it. Therefore, the relevant moment to establish what rules to apply is the moment of granting the aid and not the disbursement (payment) of it.

However, would the legal documents have to be actually signed by both parties in order for the above to apply, or is it the case that if the decision is made by the granting authority, and transmitted to the beneficiary?

**Questions on Definitions:**

1. What will be required by the Commission to prove that an area is “undergoing major structural change/ in serious relative decline” (para 168e of text).

**Broadband:**

1. Could the Commission prepare some kind a summary of what are the impacts / implications of the RAGs are for the funding of broadband infrastructure related projects?

**Data to be used.**

1. Regarding GDP to be used, footnote 57 on GDP reads: The data cover the period 2008-2010. In all subsequent references to GDP per capita in relation the EU- 27 average, data are based on the average of Eurostat regional data for 2008-2010.

Therefore we understand that all the data re GDP is available at the time of publication of the 2014-2020 RAGs. **Could you please clarify that is the case?**

1. Regarding **unemployment** , given that all of Irelands regions will be non predefined ‘C’ areas, we understand that the **relevant footnote is 68**: For unemployment, calculations should be based on regional data **published by the national statistical office,** using the average of the last three years for which such data are available (**at the moment of the notification of the regional aid map**). Except as otherwise indicated in these guidelines, the unemployment rate in relation to the national average is calculated on this basis.

**Could you please clarify** if ‘the last three years’ means the last three full calendar years for which there is unemployment data at the **moment of the notification of the regional aid map** or does it mean the last 36 quarters that are available at the **moment of the notification of the regional aid map**