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State aid and COVID-19 outbreak

The global and the European economy face an unprecedented crisis due to the COVID-19 outbreak. The European Commission responding in a record-breaking timeframe adopted on 13 March 2020, [the Communication on a Coordinated economic response to the COVID-19 outbreak](#) by which it set out possibilities for Member States to adopt supportive to the society and economy measures such differentiation of taxes or subsidising short-time work across sector. Such measures fall out of the State aid rules scope.

European Commission's urgent response

Complementary to this Communication, on 19 March the Commission adopted a [State Aid Temporary Framework](#) in order to allow Member States to remedy any serious disturbances caused due to the COVID-19 pandemic.

Already in the 2008 financial crisis, the European Union (EU) used the State aid toolbox in order to prevent Member States economies from collapsing by allowing support to financial institutions through approved guarantee measures for loans as well as recapitalisation measures.

This is the second time the European Commission mobilises its State aid policy to ensure that sufficient liquidity remains available to businesses of all types and to preserve the continuity of economic activity during and after the COVID-19 outbreak and ensuring a level playing field between member States.

In particular, the Temporary Framework envisages a range of measures from direct grants, selective tax advantages and advance payments up to 800,000 EUR per company to subsidised public loans with favourable interest rates to companies suffering damages due to the ongoing crisis. Whether it is an individual measure or a scheme, the Commission will proceed with its assessment under Article 107(3) of the Treaty of the Functioning of the EU (TFEU). These measures privilege SMEs and are meant to allow business to overcome the temporary liquidity crisis. Member States can also make use of the Article 107(2) (b) TFEU on the application of exceptional circumstance (force majeure) and notify measure directed to sectors that have been suffered damages (such as hospitality, tourism, transport).

Already a number of measures to several Member States such as [France](#), [Italy](#), [Denmark](#), [Spain](#), has been rapidly approved.

The Commission is now consulting Member States in order to extend the application of the temporary Framework and cover supportive measures related to research and development (R&D), the construction and upgrading of testing facilities or targeted support in the form of wage subsidies for employees. Member States must publish relevant information on each individual aid granted under the Temporary Framework on the comprehensive State aid website within 12 months from the moment of granting. In addition, by 31 December 2020, Member States must provide the Commission with a list of measures put in place on the basis of schemes in this regard.

What's next? Ensure a level playing field

The European Commission's toolkit provides with an exceptional opportunity for companies to gain support from their national governments and addresses any possible failure due to the pandemic outbreak. National schemes have a pre-defined budget. This means that companies interested in benefiting from their State's support, need to actively engage with their national authorities. Larger companies in need of more complex support will have to engage with national authorities to quantify the damages they suffered and agree on the most appropriate measure. However, it will remain critical for the European Commission to ensure a level playing field between Member States, such that the design of particularly generous state aid schemes does not lead to distortion of competition in the internal market. Having said that, national schemes must observe the principle of not discriminating between competitors, and not providing unjustified advantages only to some.

Our competition and COVID-19 dedicated team is ready to answer your questions on how to engage with your Government and the European Commission. Please contact us:

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Key Contacts



Alberta Laschena

Partner, Competition

t.: +32 495259646

e.: alberta.laschena@kreab.com



Theodoros Birmoutsoukis

Associate Director

t.: +32 499920649

e.: theodoros.birmoutsoukis@kreab.com