



ROYAL NORWEGIAN MINISTRY OF
TRADE, INDUSTRY AND FISHERIES

European Commission
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Comments from the Norwegian government on the draft new General Block Exemption Regulation replacing Regulation (EU) No 651/2014

1. Introductory remarks

Reference is made to the public consultation launched by the European Commission on 25 February 2026 on the draft for a new General Block Exemption Regulation, where the Commission is seeking stakeholder views on the draft of the new Regulation by 23 April 2026.

The Norwegian government would like to thank the European Commission for the opportunity to provide some comments on the draft Regulation. In general, the Norwegian government welcomes the Commission's efforts to simplify and streamline the GBER, as well as the inclusion of a guidance document which will be a useful tool for the application of the Regulation. There are, however, some aspects of the draft Regulation that should be reviewed and adjusted to ensure an efficient use of resources which is commented on in this letter.

Our comments should be read in light of the previous comments of the Norwegian government during the public consultation on Regulation (EU) No 651/2014 launched by the European Commission on 14 July 2025.

Postal address
Postboks 8090 Dep
0032 Oslo
postmottak@nfd.dep.no

Office address
Einar Gerhardsens
plass 1
regjeringen.no/nfd

Telephone
+47 22 24 90 90
Org. nr.
912 660 680

Department
Department of
Competition Policy,
Company Law and
Economic Analysis

Reference
Magnus Nyborg
+47 22 24 65 63

2. Aid to undertakings in difficulty

The prohibition on providing aid to undertakings in difficulty under the draft Regulation Article 1 no. 5 and Article 2 no. 32 could use some broader exemptions. Although the Norwegian government supports a main rule that the GBER is not applicable to undertakings in difficulties, we are concerned that the rule may be too strict and cover situations which would not be detrimental to the internal market.

With particular regard to newly established SMEs, which often find themselves to be undertakings in difficulty within the definitions of the GBER, the Norwegian government would support an opening-up of Article 1 no. 5 (a) or an exemption of Article 2 no. 32 which would make it easier for newly established SMEs to receive State aid. Such SMEs often fall within the definition of ‘undertaking in difficulty’, and it is not uncommon that newly established SMEs need more time to become profitable than the three years allowed by the GBER. We urge the Commission to revisit these provisions, keeping in mind the economic benefits of supporting SMEs during their early years.

Although the Norwegian government supports the suggestion that innovative enterprises are exempt from the rule on undertakings in difficulty in Article 1 no. 5 (g) when receiving R&D&I aid, we do not support the requirement that the innovative enterprise must have been operating for less than ten years to be eligible for aid. The cutoff rule deters the provision of aid to important and long-lasting research, which weakens the position of European research capabilities. As the exemption already is narrow without the ten-year cutoff, the additional requirement seems arbitrary and contrary to the interests of the EEA. Thus, we ask the Commission to reconsider the requirement that the innovative enterprise must have been operating for less than ten years to apply the Regulation.

Compared to today’s Article 1 no. 4 (c), the first sentence of draft Article 1 no. 5 does not make it immediately clear that there are exceptions to the rule on undertakings in difficulty. The wording may be confusing to granters of state aid that are not familiar with the rule, and the Commission should consider rephrasing to underline the possibility of exemption.

3. Aid to SME and SMC

Regarding the definitions of SME and SMC, we note that these categories are separated between Annex I and Annex IV to the Regulation. In our view, the definitions are not different enough to justify two different annexes, and we believe that the suggested approach will lead to an increased administrative burden. By adding SMC as a fourth category under Article 2 of Annex I, and making other necessary adjustments, the definitions could become easier and less resource intensive to interpret and apply. We therefore suggest that the Commission combines Annex I and Annex IV.

When it comes to Article 24, on aid in the form of favourable treatment of remuneration in the form of share options and warrants, there is a need for some clarification. The reference to “annual” relief in Article 24 no. 3 seems to refer to an ongoing taxation, which does not seem

to reflect the fact that share options is typically taxed at fixed events such as the award and realisation of the options, and the Commission should therefore consider reformulating this provision. Furthermore, with reference to Article 24 no. 6, the Commission should clarify in the Regulation or the guidance documents whether the term “receive remuneration” refers to salary in cash and how large the remuneration must be relative to the value of the option. It should also be clarified who is covered by the term “family members”.

4. Research and development and innovation

In general, the Norwegian government supports the proposed amendments to the provision of aid to research and development and innovation. The proposed amendments simplify the provision of aid to important projects and opens the door to support applied research further than the current GBER. There are, however, some aspects of the new R&D&I rules in the draft GBER which should be amended or reconsidered.

We have received feedback from government bodies that the lack of a definition of “R&D project” in GBER sometimes makes it difficult to assess whether an undertaking is eligible for aid. The lack of an easily available definition may give rise to uncertainty among granters of state aid, who may not always be familiar with the GBER R&D&I rules, and exposes them to pressure from applicants who do not necessarily fit in the traditional understanding of the term. Thus, we suggest that “R&D project” is given an unambiguous definition in the new GBER.

In the draft GBER, Article 2 no. 98, the definition of “research and knowledge-dissemination organisation” has undergone a small change which needs clarification. In accordance with the current GBER Article 2 no. 83, the term refers to entities “whose primary goal is to independently conduct fundamental research, industrial research or experimental development or to widely disseminate the results of such activities.” In the new definition, the word “or” regarding dissemination activities is replaced with an “and”, which implies that technology transfer agencies are no longer covered by the definition as these organisations usually do not conduct research themselves. The meaning of this change should either be clarified in the Regulation or in the guidance document.

For aid to research and development projects in draft Article 32, we welcome the possibility for increased aid intensity for smaller projects below EUR 1.2 million to generate volume in the market. However, we are concerned that allowing large enterprises to benefit from this change may have negative consequences to the EEA, as it is unclear why the levels of aid already available to large enterprises in the current GBER are not sufficient to have a material incentive effect. Thus, we urge the Commission to reconsider the opening-up of increased aid intensities for large undertakings with particular regard to research and development aid. When it comes to experimental development and applied research within the field of climate and energy, on the other hand, we suggest that the aid intensity is increased, as there is a need for acceleration within these fields which may not be sufficiently met within the draft new GBER.

On aid for co-funded research and development projects etc., found in today's Article 25c and draft Article 35, there are some ambiguities which make it difficult to utilize the provision giving rise to vastly different interpretations on the Article. Notably, there have been questions on whether aid to third parties is considered union funds or State resources and how the Article is to interact with the Financial Regulation 2024/2509 and the Horizon Europe programme. We invite the Commission to clarify draft Article 35 with regards to its scope of application, as well as the precise contents of the term "Horizon Europe Programme rules".

The Norwegian government further has comments relating to aid to innovation clusters. The provision of operating aid for innovation clusters is an important tool to ensure that innovation clusters may pursue their mission without sacrificing their efficiency for profitability. With this in mind, the Norwegian government is not convinced that the restriction on 10+10 years of operating aid in draft GBER Article 39 no. 8 is a suitable measure to restrict the amount of aid given. The restriction comes with an implicit expectation that innovation clusters should be self-sufficient by 20 years, which is not realistic for many clusters. Although it must be acknowledged that operating aid is generally more damaging than other forms of aid, we have not found reason to believe that operating aid to innovation clusters in particular gives grounds for concern. It therefore seems that draft Article 39 no. 8 is arbitrary and contrary to the goals of typical innovation clusters. If there is a need to restrict the amount of operating aid given to innovation clusters, it should not be based on a temporal limitation. Thus, we suggest that the requirement that aid is not granted for more than 10+10 years is removed.

With regards to aid to research activities in space facilities, such facilities are often used for projects under the European Space Agency and commercial missions in addition to research activities, which sometimes makes it difficult to distinguish between economic and non-economic activities. The Commission should consider providing guidance on distinguishing between these types of activities, and to clarify how Member States can ensure correct cumulation between GBER aid, ESA funds and EU funds.

5. Environmental protection

5.1 Introduction

The Norwegian government is in general positive to the revision of the provisions on environmental protection and is mainly concerned with the details and operationalisation of specific provisions in the draft GBER. In that regard, there are some Articles that we would like to highlight.

Seeing as we have received many comments on the GBER provisions on environmental protection, we have sorted the comments among the relevant Articles in the following.

5.2 Definitions

For the most part, we find the definitions in Article 2 related to environmental protection to be sufficient. We do however have a couple of comments relating to the definitions of certain terms.

In our view, there should be a definition of low-carbon hydrogen in Article 2 of the new GBER. The draft Regulation is inconsistent on whether it is only referred to as low-carbon hydrogen or with a reference to Directive (EU) 2024/1788 and its implementing or delegated acts. Having low-carbon hydrogen defined more precisely in the GBER would simplify the granting of aid for environmental protection and would thus be in line with the purpose of the revision.

Article 2 no. 122 introduces a definition of heat pump and renewable energy which results in very limited flexibility for the utilization of waste heat with heat pumps. As we understand the regulation, the only possibility is to use Article 55, provided that the company itself uses recovered energy. However, this Article does not apply if the measure reduces the consumption of a fossil energy carrier. It is possible to find a legal basis under Article 64 if heat is delivered to multiple recipients, but there is no option for an operator to deliver heat to only one end-user.

Further, Article 2 no. 140 defines “waste heat” by referring to Article 2, point (9), of Directive (EU) 2018/2001 (RED II), which defines “waste heat and cold” as unavoidable heat or cold generated as a by-product in industrial or power-generation installations, or in the tertiary sector, which would be wasted in air or water if not used in a district heating/cooling system, or where cogeneration is not feasible.

The definitions in paragraphs 122 and 140 thus seem inconsistent. Heat pumps are well suited to raising the temperature of surplus energy, for example from industrial processes to levels appropriate for local or district heating. Limiting eligible heat-pump applications to only extracting heat from natural surroundings such as air, water or ground, unnecessarily restricts access to thermal resources.

Additionally, the latest versions of both the Renewable Energy Directive and the Energy Efficiency Directive emphasize the need to facilitate increased utilization of waste heat. Heat pumps based on surplus heat can more efficiently raise temperatures to higher levels than heat pumps using ambient heat, enabling the delivery of a heat product that is highly attractive for industrial applications.

5.3 Investment aid for climate protection

For Article 51 no. 4, on investment aid for climate protection, the aided investment must either concern the decarbonisation of an existing installation of the beneficiary or reduce or capture the direct greenhouse gas emissions from the beneficiary. For CCS/CCU projects, it may be reasonable that a company other than the one that owns the emissions invests in the CCS facility. This could e.g. be where one company invests in a CO₂ capture and conditioning facility that receives CO₂ from several actors (for example as a shared infrastructure in an industrial park), or where one company offers “CCS as a service”, specializing in investing in CO₂ capture and handling facilities for CO₂ from an industrial

actor, and where the business case for CCS as a service builds on either a fee from the industrial actor emitting the CO₂, sale of biogenic emission credits in the voluntary market for negative emissions, or a combination thereof.

There are some aspects of Article 51 that should be clarified in the Regulation or commented upon in the guidance document. First, it is unclear whether the Article should be interpreted to mean that only the company that owns the emissions can apply for and receive aid under the article, and whether costs associated with purchasing CCS as a service will be eligible for aid. Second, we are under the assumption that emission-free construction machinery can be supported under Article 51, such as road vehicles that are not used for transport purposes (wheel loaders, dumpers, etc.) as well as excavators and others and would expect a clarification if this is not the case. Third, seeing as leasing is the most common way to finance investments in the sector, we are uncertain whether the cost of leasing no longer will qualify as eligible costs. We hope the Commission will provide insight into how the GBER should be interpreted in this regard.

5.4 Investment aid for recharging or refuelling infrastructure

On investment aid for recharging or refuelling infrastructure, we note that the restriction in the current Article 36a, which excludes aid for charging infrastructure in ports, has been removed in the draft Article 53. We assume that the draft GBER will make it possible to support both dedicated and publicly available charging or refuelling facilities for vessels in a port (typically in an industrial port). However, the relation to aid for publicly available charging/refuelling infrastructure under Article 80 is not clear.

Most charging facilities rely on electricity from the grid in Norway. To ensure an efficient energy system and effective use of energy, load balancing is an important measure. Draft Article 53 no. 9 (b) can be understood as only covering battery storage of on-site production of electricity in connection with the recharging facility, and Article 80 does not mention storage at all. We recommend that it is clarified that intermediate storage in batteries can be used not only for on-site power production but also when using electricity from the grid. The storage capacity may be restricted to what is necessary to provide the installed charging capacity.

As a general comment to Articles 53 and 80, we consider it restrictive that charging infrastructure cannot be assessed together with the surrounding areas. This may lead to suboptimal solutions and likely also unnecessary grid investments, since it is not possible to incentivise shared solutions. In our view, shared solutions within a defined area are important for ensuring flexibility in a broader sense as well. Electricity from the grid can be used in a more optimal way between several actors, to reduce strain on the grid and overall consumption in an area. It is, however, unclear whether aid is applicable for semi-dedicated infrastructure where the charging infrastructure is not accessible to the public, but for a number of other users other than the beneficiaries, or how aid schemes for flexibility projects, e.g. combining electricity storage from the grid with charging infrastructure or shared

solutions between actors in a small/defined area, can be introduced under this article and/or in relation to the new Article 58.

5.5 Investment aid for the acquisition of clean vehicles or zero-emission vehicles and for the retrofitting of vehicles

Our interpretation is that the proposed Article 54 allows aid for all technologies that enable reduced emissions from vessels, as long as the vessel falls under the definition of clean or zero emission vehicle in Article 54 no. 3 (a) (i) or (ii). Hence, we assume that on-board CO₂ capture, where the CO₂ is later either permanently stored or is transported to a CO₂-consumption or utilisation site (CCU), may qualify for aid under the article. We also understand that energy efficiency measures on board vessels are eligible for aid as long as the vessel qualifies as a clean or zero emission vessel. If this is not a correct understanding of the provision, we request that the Commission clarifies this in the Regulation or in the guidance document.

Another aspect which should be clarified by the Commission, is the meaning of the term “reporting period”. Should the beneficiaries report their emissions for the lifetime of the vessel in line with the requirements listed in Article 54 no. 3 (a) (i) or (ii)? This will be challenging, seeing as the lifetime of a vessel could be 20 years or more.

5.6 Investment aid for energy performance measures in buildings

We appreciate the simplification of Article 56. Our understanding is that all measures leading to increased energy performance of the building qualifies for aid under the article as long as they reach the minimum requirements set out in Article 56 no. 7 and 8. We assume that all measures improving the building envelope (insulation, doors, windows, roof) and technical equipment, including on-site production of renewable energy (heat pumps, solar panels etc.) could qualify for aid. Further, we understand that the improvement should be measured in primary energy, meaning a reduction in the buildings’ need for delivered energy.

When it comes to Article 56 no. 8, it is clear that the aid may be granted to the building owner(s) or the tenant(s). Our understanding is that in the case of a third party installing and operating for instance heat pumps, and delivers energy as a service to the building owner, this would not be covered by article 56. This should be clarified. It should further be clarified in the Regulation or in the guidance document whether such an investment could be covered by Article 58, as promotion of renewable energy or Article 60. 3. a) production of heat from renewable sources.

5.7 Aid to facilitate energy performance contracting

It is somewhat unclear who can receive aid under Article 57. As we interpret it, only the provider of the service would be eligible for loans or guarantees. We miss the inclusion of Energy- and Heat-as-a-Service models. Promoting these types of services would help

increase the adoption of such solutions. Article 29 of the Energy Efficiency Directive clarifies that Member States shall promote the energy services market, and the concept itself is defined in Article 2 point (11) of the EED.

The model where aid is granted in the form of loans or guarantees is too complex for the simplest form of energy service, such as the case where a third party installs a heat or energy production unit in a building or industry facility owned by someone else. It should be clarified if this model could be supported under Article 58 or 60.

5.8 Investment aid for the promotion of energy from renewable sources and high-efficiency cogeneration

It is very positive that Article 58 includes a wide range of measures such, energy production, demand-response, storage, as well as dedicated infrastructure related to these. The relation between Articles 58 and 60 might however need some clarification in either the Regulation or the guidance document.

5.9 Investment aid for district heating and/or cooling

With regards to Article 64, the definition of “district” heating refers to Article 2 point (19) of Directive 2010/31/EU. It is stated that it needs to be through a network of “multiple buildings or site”. It is unclear whether aid for sharing between two parties is sufficient to be covered by Article 64.

5.10 Investment aid for resource efficiency and for supporting the transition towards a circular economy

It is unclear whether Article 65 would be applicable for the reuse of building materials in the building sector, such as the reuse of windows, doors and other materials. Increased use of recycled materials in the building and construction sector is an important factor to reduce emissions and increase resource efficiency in the sector. Construction and buildings are also one of the key value chains in the EU Circular Economy Action plan.

The barriers towards reusing building materials are among others the additional costs, a lack of knowledge and experience among relevant market players and a lack of infrastructure to facilitate supply and demand.

The alternative for the companies investing in new buildings or upgrading existing buildings would be use of new materials. The additional cost of using recycled building materials compared to new materials is related to the costs of demolition, transportation, storage, preparation and reassembling. The beneficiary in this case would be the company investing in the building/construction project, and the effect would be a reduction in resources used in the construction of a given building/construction project.

We suggest that aid for the reuse of building materials, including the costs of demolition, transportation, storage, preparation and reassembling, is specified in Article 65 no. 5.

5.11 Aid for energy infrastructure

We understand that aid for CO₂ infrastructure is covered by Article 66, regardless of the origin of the CO₂ (fossil or biogenic). If this understanding is not correct, it should be clarified in the Regulation.

5.12 Aid for studies and consultancy services on environmental protection and energy matters

We notice that it is specified that the eligible costs shall be the costs of studies or consultancy services provided by external consultants. We assume that this is not meant to be a limitation, but only to clarify the difference between internal studies and external consultancy services.

6. Aid to make good the damages caused by certain natural events

Reference is made to the feedback from the Norwegian government on the Commission call for evidence on GBER in 2025, in which the insufficiencies of current GBER Article 50 on aid to make good the damage caused by certain natural disasters was pointed out. We note that the suggestion of broadening the Article to cover natural events as well as disasters was not accepted. Seeing as the current Article 50 has been insufficient to handle certain natural events in Norway, and this does not seem to be changed in the draft GBER, we kindly ask the Commission to consider revising the draft Article 68.

The Norwegian government would like to propose an amendment to the provision under GBER Article 68, which will make it more fit to cover the economic impact suffered by economic operators by a wider range of natural events than natural disasters, when such events have similar economic impact as natural disasters. This proposal will make it possible for Member States to provide recovery rapidly in situations which are ever more likely to occur due to climatic change and more irregular, extreme and unpredictable weather conditions. The proposal will make the provision more fit for purpose and ensure possible recovery from the economic effects of a wider range of force majeure-like natural occurrences.

Several natural events during the later years have shown that climate change has already enlarged the risk for economic operators, inter alia in the transport sector, that sudden events may interrupt the normal functions of civil society, such as transport infrastructure and other basic societal functions. In our view, the current exemption related to compensation for natural disasters under the GBER Article 68 is overly restrictive. In recent years, Norway has experienced several significant natural events that have severely impacted the railway system, with substantial consequences for train operators, passengers, and freight transport. However, these events have not been officially declared as natural disasters by Norwegian government, thereby excluding them from the scope of the current exemption. It appears that

the notion of “natural disasters” under Article 68 covers a range of events with a larger societal impact, according to practice from the Commission and the ECJ.

We propose that the exemption be revised to focus more on the consequences of the event rather than its formal classification. For example, the exemption could be redefined to cover natural events with significant consequences for economic operators using basic societal functions, such as transport infrastructure, to perform their services or sell their products.

The Norwegian Ministry of Transport has on several occasions in recent years, established extraordinary compensation schemes to address the losses incurred by freight companies due to prolonged railway closures caused by natural events.

Several long-term disruptions have occurred due to such events, including:

- The collapse of Randklev Bridge on the Dovre Line between Oslo and Trondheim due to flooding. 14.08.2023
- The closure of Otta Bridge, also on the Dovre Line, due to high water and ice formation. 21.01.2025
- A major landslide on the Rauma Line, which connects the Dovre Line to Åndalsnes in Western Norway. 19.07.2025
- A “quick clay” landslide at Leikanger on the Nordland Line between Trondheim and Bodø. 30.08.2025

Following the first two of these incidents, compensation schemes were established to cover for the losses of freight train operators, after a notification procedure with the EFTA surveillance Authority (ESA). The collapse of Ranklev Bridge was due to extreme weather and classified as a natural disaster. The closure of Otta Bridge was not classified as a natural disaster, despite having nearly identical consequences for railway operations. In this incident, the aid scheme was established under Article 61 no. 3c.

The European rail system consists of several natural rail networks which vary widely with regard to line density, line capacity, sustainability and other parameters affecting the resilience and possibilities to provide alternative routes in case of disturbances to the infrastructure. Using the Norwegian railway system as an example of a vulnerable rail system for operators, it is structured with Oslo as a central hub, with several lines converging into the capital. Most lines are single-track with limited alternative routes. The transport links between the southern and the northernmost part of the rail network even need to transit the Swedish rail network. This means that any infrastructure disruption typically results in a complete halt of freight transport on the affected line. When such disruptions are categorized as force majeure, companies currently receive no compensation for lost revenue. Such losses are the result of disturbances to the rail infrastructure for which there is no other means of compensation for damages from the Infrastructure Manager, as they are considered force majeure under the contracts with the railway undertakings stating the conditions for access to the rail network.

The notification and application process with the competent authorities to establish a compensation scheme is time-consuming, resulting in significant delays between the occurrence of an event and the disbursement of compensation. Furthermore, freight companies often require considerable time to recover their revenue following a prolonged disruption. This creates severe liquidity challenges. The frequency of such events in Norway in recent years has also undermined trust in the railway system and risks a modal shift in freight transport from rail to road. A revised provision in the GBER would ensure rapid procedures and disbursements of compensation, making the provision more fit for purpose and suited to maintain normal market conditions for the economic operators even when their operations are affected by natural events occurring suddenly, but more often and abruptly than before.

We therefore urge the Commission to consider revising the relevant exemption to better reflect the operational realities and consequences of natural events on transport infrastructure. We have drafted a proposal for a revised provision, in order to cover a wider range of natural events having similar effect on economic operators as natural disasters, in particular with regard to events affecting the operations on transport infrastructure.

SECTION 7

AID TO MAKE GOOD THE DAMAGE CAUSED BY CERTAIN EVENTS ~~DISASTERS~~

Article 68

Aid schemes to make good the damage caused by certain natural events ~~disasters~~

1. Aid schemes to make good the damage caused by earthquakes, avalanches, landslides, floods, tornadoes, hurricanes, volcanic eruptions and wild fires of natural origin shall be compatible with the internal market within the meaning of Article 107(2), point (b), of the Treaty and exempted from the notification requirement of Article 108(3) of the Treaty, if the conditions set out in this Article and Chapter I are met.
2. Aid shall be granted subject to the following conditions:
 - (a) the competent public authorities of a Member State have formally recognised the character of the event as a natural disaster or the entity providing infrastructure or functions necessary for economic operators to perform their services are unable to deliver the service or function in question due to an abnormal natural event; and
 - (b) there is a direct causal link between the natural disaster or event and the damages suffered by the affected undertaking.
3. Aid schemes related to a specific natural disaster or event shall be introduced within three years of the occurrence of the event ~~disaster~~. Aid on the basis of such schemes shall be granted within four years of the occurrence of the occurrence ~~disaster~~.
4. The costs arising from the damage incurred as a direct consequence of the natural disaster or event, as assessed by an independent expert recognised by the competent national authority

or by an insurance undertaking, shall be eligible costs. Such damage may include loss of income due to the full or partial suspension of activity for a period not exceeding six months from the occurrence of the disaster or event. The calculation of the material damage shall be based on the cost of repairing or the fair market value of the affected asset before the disaster or event. It shall not exceed the cost of repairing the affected asset or the decrease in its fair market value caused by the disaster or event, that is to say the difference between the affected assets fair market value immediately before and immediately after the disaster or event. Loss of income shall be calculated on the basis of the financial data of the affected undertaking and by reference to a comparable past period.

5. The aid and any other payments received to compensate for the damage, including payments under insurance policies, shall not exceed 100 % of the eligible costs.

7. Culture and heritage conservation

With regards to the draft new Article 70 on aid schemes for audiovisual works, the Norwegian government welcomes the proposed addition of videogames in the GBER and finds the wording of the provision to be appropriate. We urge the Commission to adopt the provision as it is worded in the current draft.

8. Infrastructure aid

Regarding draft Article 80 on aid for ports, we refer to Chapter 2.5 of the new EU Ports Strategy, where it is stated that the Commission will “assess whether changing thresholds is necessary and provide further guidance, giving examples and interpretive clarifications of GBER rules, including for port infrastructure investments.” The EU Ports Strategy aims to find ways to tackle the challenges facing the European ports sector related to competitiveness, green transition, resilience, digitalisation and security. There is also an EU proposal for a Regulation on military mobility.

When investing in the upgrading of dual-use port infrastructure, financing will be needed. Member States are bound by the state aid rules when supporting necessary infrastructure projects in their own countries. Some types of projects would not fall under scope of the General Block Exemption Regulation. The current proposal does not seem to contain any changes that fully take the challenges mentioned in the EU Ports Strategy into account, and it is unclear whether it has been considered. We ask that the European Commission to clarify the GBER rules for port infrastructure, to accommodate the need for better military mobility, resilience, security and digitalisation as laid down in the EU Ports Strategy.

Further, we have a comment regarding Article 80 no. 5 (b) where it is stated that the Article shall not apply to dedicated infrastructure. In our view, this rule may be too restrictive and gives rise to uncertainty. According to the definition in draft Article 2 no. 35, “dedicated infrastructure” means infrastructure built for one or a small group of ex ante identifiable users and tailored to their needs. For instance, many Norwegian ports are small and may have only

a few, regular customers. The infrastructure in the ports may therefore be tailored to the needs of those few regular customers even if it is open to all interested users on an equal and non-discriminatory basis on market terms. We believe that the condition that the infrastructure is made available to interested users on an equal and non-discriminatory basis on market terms is sufficient. We therefore suggest that “dedicated infrastructure” is deleted from Article 80 no. 5 (b).

Please also see section 5.4 of this document for further comments on the interpretation of draft Article 80 with regards to recharging or refuelling infrastructure.

9. Small amounts of aid for certain projects and activities

There are several areas in Norway where the number of inhabitants is too low for grocery stores to operate profitably. As a result, economic operators are unwilling to establish themselves in these areas to provide essential services. To ensure access to necessary goods in sparsely populated areas, particularly food, the Norwegian government operates an investment aid scheme for local grocery stores. However, because aid is aggregated across the different stores within a single undertaking, the possibility of granting aid to each individual store depends on the structure of the retail chain. This, combined with the fact that the support is granted as investment aid, makes it challenging to make effective use of the de minimis Regulation and the General Block Exemption Regulation (GBER) under the scheme.

In our view, the Commission suggesting new rules on small amounts of aid for certain projects and activities, also applying to large undertakings, could provide improved opportunities to secure and facilitate the provision of groceries through local, unprofitable grocery stores in sparsely populated areas. However, we cannot find that the draft GBER contains rules on small amounts of aid for regional aid or other forms of aid relevant for the scheme in question. The Commission should consider revising the GBER to allow for schemes such as the ones mentioned above.

It has generally been difficult to identify the conditions governing small amounts of aid for certain projects and activities as discussed in the Explanatory Memorandum. We would therefore welcome further clarification of these conditions, as this would enable stakeholders to provide informed and constructive feedback.

10. Miscellaneous

When it comes to the guidance document for the new GBER, we note that the European Commission has underlined that the document will not be legally binding but will give high legal certainty. Although we understand that only the Regulation will be legally binding, it is likely that many public bodies within the EEA will view the guidance document as an intrinsic part of the legislation, as the difference between binding and high legal certainty may not be easy to understand.

Thus, we urge the Commission not to underestimate the practical importance and the potential administrative benefits of the guidance document, and we hope the Commission does not shy away from providing in-depth commentary on the various provisions of the Regulation.

Yours sincerely

Marie Wiersholm
Deputy Director General

Magnus Nyborg
Senior Adviser

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