



Att: Commissioner Magrethe Vestager
European Commission
Rue de la Loi / Wetstraat 200
1049 Brussels

**MINISTER FOR BUSINESS AND
GROWTH**

23rd June 2016

Dear Commissioner Magrethe Vestager

**MINISTRY OF
BUSINESS AND GROWTH**

Per Your request following the meeting of 20th May 2016 with the Ministry of Foreign Affairs the Danish government would like to thank You for the opportunity to further elaborate on the issue of aid in connection to relocation of undertakings and jobs in light of the proposed revision of the GBER. We sincerely hope that the Commission will take onboard the following concerns of the Danish government and that we can continue communication on this issue until a satisfactory solution has been reached.

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On behalf of the Danish government I must relay our strong dissatisfaction with the proposed insertion in the GBER of a compatibility criterion of “unsubstantial” job losses resulting from a regional investment aid beneficiary’s relocation. The Danish Government cannot accept the current drafting of the Commission’s proposal in point 61a of the GBER to include regional investment aid for the relocation of undertakings and workforce which defines “Closure” to mean losses of at least a 100 jobs or at least 50 % the workforce.

The provision should be rephrased to only include the first sentence; “*Closure of the same or similar activity’ means full closures and also partial closures..*” and exclude any type of threshold. If a threshold is inevitable, which the Danish government regrets, the number of 100 jobs should be set significantly lower to accommodate the distortive effects, that will surely come from unfair competition of state budgets, especially in countries where the work force is mostly engaged in SMEs.

To further outline this rationale one must look at the proposed new provision in connection to the existing regional aid guidelines (RAG) for 2014-2020, which defines such moving around of jobs as a manifestly negative effect (recital 121, 126), unlikely to be balanced by any positive elements - of course, provided that that there is a causal link between the aid and

the relocation. The RAG also explicitly states that such 'relocation aid' granted under a notified scheme remains subject to the same notification obligation as the scheme.

This leads to some unintended drafting implications from the interplay between the RAG and the proposed new definition in the GBER article 2 (61a), which relates to GBER article 13, which defines the exemption of relocation aid in the GBER.

It does so by referring to "closure of same or similar activity" elsewhere in the EU within a certain time frame. The proposed new article 2 (61a) defines "Closure" to mean losses of at least a 100 jobs or at least 50 % the workforce. This significantly limits the exemption in the GBER laid down in Article 13 and provide Member States with a legal guarantee that aid, to relocation of undertakings below losses of 100 jobs or below 50 pct. of the workforce is automatic compatible with the single market. This stands in contrast with the presumption of incompatibility for this type of aid in the RAG, which makes such aid subject to notification. The Commission should not underestimate the deterrent effect of keeping such a notification requirement and the corollary risk of exposure to illegal aid and recovery.

The clear message from the Commission must be that there is no European value added, if regional investment aid is allowed to move jobs around Europe with tax payers' money - be it national state aid or EU structural funds. The aim must be to create more innovation, economic growth and jobs - not to move them around Europe with public money

I hope that these arguments have persuaded the Commission to reassess the current proposed wording of point 61a and I would urge the Commissioner to feel free to contact me for any further discussion on this issue.

Yours sincerely,



Troels Lund Poulsen