

# UK State Aid Law Association

**8 March 2016**

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State aid law in Wales

Aidan Robertson QC

Brick Court Chambers

8<sup>th</sup> March 2016

# Introduction to State aid: What is an aid?

# The Treaty rules on State aid

- State aid rules – Articles 107 & 108 TFEU (*ex* 87 & 88 EC, 92 & 93 EEC)
- Art 107(1)
  - “Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.”
- Article 107(2)/(3) – aid which is/may be compatible
- Article 108 – European Commission’s powers of review

# State aid – overview

- aid in the sense of a benefit or advantage
- granted by the State or through State resources
- favours certain undertakings or the production of certain goods – selectivity
- liable to distort competition
- liable to affect trade between EU Member States

# Aid in the sense of a benefit or advantage

- The concept of aid embraces not only positive benefits, but also measures which, in various forms, mitigate the charges that are normally included in the budget of an undertaking and which, without therefore being subsidies in the strict meaning of the word, are similar in character and have the same effect
- But not:
  - Investments on terms that would be made by a market economy investor
  - Compensation for carrying out public service obligations – Case C-280/00 *Altmark* [2003] ECR I-7747
    - Clearly defined obligations
    - Compensation calculated in advance by objective and transparent criteria
    - No more than necessary for an efficient operator (including a reasonable profit)

# Granted by the State or through State resources

- Advantage imputable to the State i.e. central, regional, local government and all public bodies
- Granted, directly or indirectly, through State resources
- Case C-379/98 *PreussenElektra* [2001] ECR I-2099 – State requirement on private electricity companies to purchase electricity from more expensive renewable sources not aid from State resources
- Grant does not require transfer – could be forgoing State revenue collection

# Selectivity

- A measure is selective if:
  - it is such as to favour certain undertakings or the production of certain goods in comparison with other undertakings which are in a legal and factual situation that is comparable in the light of the objective pursued by the measure in question
  - it is not justified by the nature or general scheme of the system in question
- *CEMEX v DEFRA* [2006] EWHC 3207 (Admin) differential allocation of emissions allowances for cement plants – justified by environmental regulation
- *R (GNER) v Office of Rail Regulation* [2006] EWHC 1942 (Admin) open access rail operators not charged franchise fees unlike franchised operators – justified by open access rail regulation

# Selectivity

- Higher rate IPT: an aid to lower rate payers? – or measure to plug VAT loophole?
- *R v CCE ex p Lunn Poly* [1999] STC 350 – 5 Div Ct & CA judges: State aid
- C-308/01 *GIL Insurance v CCE* [2004] ECR I-4777 – 4 English judges: State aid
- ECJ [78] – even on assumption an advantage, HR IPT not aid because “justified by the nature and general scheme of the national system of taxation of insurance”
- C-518/13 *Eventech v Parking Adjudicator*, 15<sup>th</sup> January 2015 – Addison Lee claimed restricting London bus lanes to black cabs = State aid
- ECJ [63] objective of legislation “a safe and efficient transport system”

# Liable to distort competition

- Liable to distort competition, not actual distortion
- No appreciability threshold
- Where financial aid granted by a State strengthens the position of an undertaking compared with other undertakings competing in inter-State trade, competition must be regarded as distorted
- *Eventech v Parking Adjudicator* - [27] Black cabs able to use bus lane distorted competition with minicabs

# Liabile to affect trade between EU States

- No *de minimis* appreciable effect threshold – unlike EU competition law
- *Peninsula Securities* [1998] EuLR 699 – Foyleside shopping centre aid: no effect
- *Eventech v Parking Adjudicator*, [70] “conceivable” minicab services from other States less attractive as a result of the measure
- Commission Press Release IP/15/4889 – public support to purely local operations
- No – or most marginal – foreseeable effects on cross-border investments

Thank you

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# Devolution, tax and State aid

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# Overview

- Is a devolved territory (such as Wales) subject to the normal application of the State aid rules?
- When is a regional tax measure not selective?
- Wales and devolved tax powers

# Application of the State aid rules to devolved regions

- How taxation (or other) powers are devolved to regional authorities in a Member State is exclusively an issue for the constitutional arrangements within each State: Case C-428/07 *Horvath*, §49.
- BUT region exercising devolved powers must still comply with EU law, including the State aid rules.
- Measures adopted by regional/local government entities fall under the State aid rules in the same way as measures taken by the central Member State authority: Case 248/84 *Germany v Commission*, §17; Cases T-92 and 103/00 *Alava*, §57.
- Local government resources therefore constitute State resources: Decision 2011/529/EU *Componenta*, §27.

# The catch is ...

- State aid investigation procedure remains a procedure between the Commission and the Member State.
- So even if aid granted directly by a regional or local authority (including government of autonomous region of a Member State), granting body only considered to be an interested party in the Commission's investigation, with more limited rights than the Member State itself: Case C-106-107/09 P *Gibraltar*, §181; T-267 and 279/08 *Region Nord-Pas-de-Calais*, §§87–8.

# But is there aid at all?

## The thorny issue of tax differentiation

- Suppose that Wales sets a lower rate for a specific tax than the rate applicable in England. Whether that is a State aid will turn on regional selectivity (assuming no material selectivity).
- Where regional authority has sufficient fiscal autonomy, the fact that its tax rate is lower than that of another region of the same Member State will not necessarily mean that there is a selective State aid.

# Depends on the ‘normal’ tax rate

- Key question is whether the regional tax measure is selective by reference to the ‘normal’ rate of taxation in the relevant geographic area.
- So what is the relevant area? The region itself? Or the Member State as a whole?
- Case C-88/03 *Portugal* (Azores), Cases C-428-434/06 *UGT-Rioja* (Basque Country), and Cases T-211 and 215/04 *Gibraltar* distinguish between three regional taxation situations ...

# (1) Central fiscal competence

- Central government unilaterally decides that tax rate should be reduced in certain region.
- Reference geographic area = whole of Member State.
- Measure is likely to be selective (at least *prima facie*).

## (2) Distributed fiscal competence

- All local authorities at the same level have autonomous power to decide the tax rate applicable in their territory.
- Reference geographic area = area controlled by each local authority.
- No single normal rate, so variations are not regionally selective.

### (3) Asymmetric devolution

- Specific competences devolved to some, but not all regions → the UK model.
- Reference geographic area = region itself if the relevant authority is institutionally, procedurally and economically autonomous:
  - *Institutional autonomy*: local authority has political and administrative status separate from central government
  - *Procedural autonomy*: measure adopted without central government intervention
  - *Economic autonomy*: financial consequences of reduced tax rate in region not offset by subsidies from other regions or central government
- If these conditions met then reduced tax is not regionally selective.

# Devolved taxes in Wales

- Some tax raising powers devolved under Wales Act 2014 (eg Stamp Duty Land Tax, Landfill Tax).
- Lower rates set under those powers not likely to be regionally selective, provided not offset by central government payments.
- Possible devolution of air passenger duty?

Thank you

Kelyn Bacon QC

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**George Peretz**

# Introduction to State aid: Consequences of Aid

## UKSALA seminar, Cardiff

8 March 2016

George Peretz QC

Monckton Chambers

# Basic Features of the regime

- Pre-notification of new aids and standstill prior to clearance - Art. 107(3) (ex 87(3))
- Unlawful to proceed with new aid until cleared by Commission
- Unless exempted

# De Minimis Exemption (Reg.1407/2013)

- maximum limit €200,000 over three years to a single undertaking;
- Cumulative;
- Must be “transparent” aid (i.e. where is it possible precisely to calculate the gross grant equivalent);
- grantor must inform recipient of the gross grant equivalent, refer to the regulation, and get a declaration from the undertaking about any other aid it has received under the regulation in the last two fiscal years; and
- export-related aid, and aid conditional on the use of domestic goods, are excluded.

# GBER

- General BER (adopted 21/5/14)
  - General scope (exceptions for agriculture/coal/certain regional aid and export-related aid and aid preferring use of domestic goods)
  - Aid should be transparent and should create correct incentives
  - Maximum “aid intensity” and maximum amounts

# Types of exempted aid under the GBER

- SMEs
- Research and innovation
- Regional development
- Training
- Employment
- Risk capital
- Environmental
- Entrepreneurship
- Innovation clusters
- Natural disasters
- Social aid for transport residents of remote regions
- broadband infrastructure
- culture and heritage conservation, including aid schemes for audio-visual works
- sport and multifunctional recreational infrastructures
- investment aid for local infrastructure.

# Notified aid - types of compatible aid

- Automatic under Art 107(2) TFEU – very limited  
(disasters/division of Germany/aid to individual consumers)
- Discretionary under Art 107(3)
- Art.106(2)

# Art 107(3)

- Cohesion aid (exceptional underdevelopment)
- Important projects and to remedy serious disturbances
- Regional/sectoral aid
- Culture and heritage conservation
  - Last 3 must be compatible with common EU interest

# Article 106(2) (SGEI)

- Services of general economic interest
- Wide scope – payment for services with public benefit
- Aid where benefit sticks/likely to stick to undertaking involved
- If aid, in principle must be notified to the Commission unless
  - De minimis Reg 360/2012 (€500,000 over 3 years)
  - Or in scope of Commission Decision
  - Or *Altmark*
- Commission SGEI Framework sets out issues
  - Entrustment; non-discrimination; compliance with procurement rules; no overcompensation

# Commission SGEI Decision

- Applies to
  - <€100m annual average turnover in last 2 years, and compensation less than €30m over 5 years or contract period or
  - Social housing or hospitals (including emergency services and ancillary research) or
  - Air or maritime links to islands with <300,000 passengers or
  - Airports or ports with <1m/300,000 passengers
- Must be “entrustment” (Art.4)
- Member State must prevent or claw back overcompensation: i.e. compensation larger than costs of operating SGEI (including contribution to common costs) – revenue + reasonable profit

# Procedural issues

- New aid: must be notified to Commission for clearance (unless exempt)
- Existing aid: lawful until Commission acts

# What is “existing aid”?

- Aid granted before accession
  - But note special provisions for 2004 and 2007 accessions
- Aid granted under approved aid scheme
- Approved aid
- Aid not an aid at time of grant but became an aid later as a result of changes to the common market
- Aid subject to 10 year limitation period

# What about changes in an existing aid?

- *Namur-Les Assurances* (C-44/93)
- Question is whether the rules governing the aid have changed
- If rules the same, irrelevant that aid now worth more or has more of a distorting effect
- Commission may review an existing aid which is now more damaging than it first thought
  - But until it acts (after Art.108(2) procedure), implementation remains lawful

# New aid: notification

- Who can notify?

 RBS



# Why notify?

- Unlawful to implement new aid (unless exempt) until
  - Notified; and
  - Declared compatible
- Problem: Commission delay
  - Must open a file if complainant has standing and call for comments if doubts on compatibility
- Problem: Risk of appeal to General Court against favourable Commission decision (Case C-442/03P *P&O*)

# Notification: procedure

- Notification must contain all information necessary for assessment (pre-notification discussion useful and in practice always done)
- Commission has 2 months from complete notification
- Deemed approval if no decision (can be implemented after 15 days notice)
- Sometimes simplified procedure (2009 notice): 20 day decision
- First decision:
  - Not aid;
  - No objection (authorised); or
  - Serious doubts (Art.108(2) Notice)

# Complaints: procedure

- Complaint form on DC Comp website
- Must have a sufficient interest (e.g. competitor)
- Will be told in 2 months if a priority
- Indicative 12 month timetable
  - Decision in priority cases: rejection/Art.108(2) opening (appealable if rejection)
  - Informal statement of position in others

# Art. 108(2) investigation

- Notice in OJ setting out serious doubts
- Interested parties (including recipient) have one month to comment
- Commission must conduct diligent and impartial investigation
- Has powers to obtain information from Member States and (now) third parties
- But recipient and complainant have limited procedural rights other than to comment in the one month window
- Member States have rights of defence
- 18 month time limit unless Member State agrees
- Must end in a decision (either way)
- Positive decision can be conditional

# Challenging Commission decisions on State aid - recipient

- Recipient (?aid scheme) or Member State can challenge negative decision
- 2 month + time limit from notification of decision
- Complexities where challenging a climb-down by a Member State during notification procedure

# Challenging Commission decisions on State aid - complainant

- Complainant can challenge authorisation decision in General Court as long as it has standing
  - Affected competitor(s), possibly trade unions
  - Have to plead carefully if challenging no opening decision
  - No standing: try national court + Art.269 reference
- Can ask for interim measures suspending clearance decision (but if decision annulled, implementation is (retrospectively) unlawful: and no “legitimate expectation” defence: *CELF I* (C-199/06))
- 2 month time limit – but from publication

# Consequences of unlawful aid (1)

- Commission
  - Suspension injunctions (Art. 11 of Reg 659/99)
  - Must examine complaints and give reasoned response and investigate if “serious doubts” (Art. 108(2) Notice)
  - Order recovery of aid if incompatible
  - Beneficiary of aid a “third party” to the procedure

# Recovery order

- (Almost) inevitable result if Commission finds unlawful and incompatible aid
  - Compound interest at rates fixed by Commission
  - 10 year limitation period (but easily interrupted – Case C-276/03P *Scott* )
  - No legitimate expectation defence unless misled by the Commission
  - State must recover unless impossible (and can't rely on procedural difficulties in national law – C-119/05 *Lucchini (res judicata)*)
  - Pineapples in Shetland – windfall for the State?
  - But see T-473/12 *Aer Lingus*

# Consequences of unlawful aid (2) – High Court orders

- Injunction
- Declaration
- order recovery
  - not if Commission has declared compatible (*CELF I* - interest only)
  - But otherwise must suspend/ order recovery (without waiting for Commission decision unless not clear is aid) Case C-1/09 *CELF II*
- ? extend aid to disadvantaged competitor – but see C-368/04 *Transalpine Ölleitung* – not allowed to make aid problem worse by adding to list of recipients
- Commission may help (information/observations on merits) (Commission 2009 Enforcement Notice)
- High Court may allow public authorities a wide margin of judgment – *Sky Blue v Coventry CC* [2014] EWHC 2089 (on appeal)

# Consequences of unlawful aid (3) – Damages

- Against MS granting aid – *Betws Anthracite v DSK Anthrazit* [2004] 1 CMLR 12
  - In UK law: if aid granted by WG, WG (not BIS) is defendant
- No EU remedy against recipient
- *Betws* shows it can be done (if you choose the right target)
- Can the beneficiary sue the grantor?

**Thank You**

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**Matthew O'Regan**



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# State aid and public procurement

**Matthew O'Regan**

**UKSALA: State aid law in Wales  
Cardiff, 8 March 2016**

# Public procurement law (1)



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- EU directives
  - Concessions Directive (2014/23/EU)
  - Public Procurement Directive (2014/24/EU)
  - Utilities Procurement Directive (2014/25/EU)
- UK implementation
  - Public Contracts Regulations 2015
  - (draft) Concessions Contracts Regulations 2016
  - (draft) Utilities Contracts Regulations 2016

# Public procurement law (2)



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- general principles of EU law
  - equal treatment
  - transparency
  - non-discrimination
  - mutual recognition
  - proportionality
  - free movement of goods
  - freedom to provide services
  - right of establishment
- applicable if Procurement Directives do not apply

# Public procurement procedures

- open procedure
- restricted procedure
- competitive procedure with negotiation
- competitive dialogue
- innovation partnership
- negotiated procedure without prior publication



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# ESI Funds funded projects



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- beneficiary must comply with EU law
  - Public Procurement Directive (if beneficiary a contracting authority and thresholds met)
  - general Treaty principles (if thresholds not met or beneficiary not a contracting authority)
  - State aid (ESI Fund funds are State resources)
- if Public Procurement Directive not applicable
  - transparency, equal treatment, non-discrimination
  - sufficient advertising of contract
  - cannot contact suppliers direct and then short-list *unless* no cross-border interest in contract
- financial corrections for failure to procure in accordance with EU principles: *Mansfield v SoS CLG*

# Services of general economic interest



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- compensation for public service obligations
- *Altmark Trans* [93] - fourth criterion – use procurement procedure to select tenderer that can provide services at least cost to community
- SGEI Communication [63] to [68] – open, transparent and non-discriminatory procedure
- SGEI Framework [19] – aid compatible if inter alia compliance with public procurement rules
- Broadband Communication [78] – if broadband an SGEI, must use competitive selection on basis of most economically advantageous tender (lowest aid) for aid to be compatible

# Other uses of procurement in State aid context



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- Regulation 1370/2007, Art. 5 (public transport): competitive tendering
- sales of land etc - use open, transparent, non-discriminatory, unconditional and competitive procurement
  - Commission Communication on sales of land
  - Commission draft Notice on notion of aid [91] to [99]
  - *Konsum Nord* [72] to [76]: competing offers must be comparable and credible
  - *Land Burgenland* [69], [70], [89]: sale to highest offer, if credible
- selection of beneficiaries without aid: *German Incubators*
- land remediation without aid: *GRW Land Development Scheme*

# GBER: use of selection procedures



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- regional urban development aid (Art. 16)
- risk finance (Art. 21)
- investment aid for energy efficient projects in buildings (Art. 39)
- operating aid for the promotion of electricity from renewable sources (Art. 42)
- aid for broadband infrastructures (Art. 52)
- aid for sport and multi-functional recreational infrastructures (Art. 55)
- aid for local infrastructures (Art. 56)

# What procedure should be used to ensure State aid compliance?



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- must be either
  - open procedure
  - restricted procedure (provided operators not excluded from tendering)
- cannot use other procedures in Public Procurement Directive
- procedure must be:
  - open
  - transparent
  - well publicised
  - transparent
  - non-discriminatory
  - unconditional
- lowest price or 'most economically advantageous' tender
- procedure must be competitive – several bids



**Jorren Knibbe**

# State aid and modifying public contracts

Jorren Knibbe

8 March 2016

# Issue

- Awarding a public contract by means of a tender process complying with the Public Contracts Regulations 2015 will generally preclude “overpayment aid” (e.g. T-116/01 *P&O* at 118)
- If the public contract is subsequently modified in accordance with r. 72 PCR15, might the modification give rise to aid?

## r. 72(1)(e) – *insubstantial* modifications

- Changes which do not meet any of the definitions of *substantial* change contained in r. 72(8) – which mirrors the CJEU’s previous case law on what amounts to a *material* change (e.g. C-454/06 *Pressetext* at 34-37)
- A modification will be *substantial* if it “changes the economic balance of the contract [...] in favour of the contractor in a manner which was not provided for in the initial contract” (r. 72(8)(c))
- A test of whether the contractor derives *financial advantage*? *Edenred v HM Treasury* [2015] EWHC 90 (QB) at 139 (Andrews J)

## r. 72(1)(a) – using a review clause

- “where the modifications, irrespective of their monetary value, have been provided for in the initial procurement documents in clear, precise and unequivocal review clauses [which] state the scope and nature of possible modifications [...] as well as the conditions under which they may be used, and do not provide for modifications [...] that would alter the overall nature of the contract”
- Changes must be “provided for” in the initial procurement, so that tenderers are “on an equal footing when formulating their [...] tenders”: *C-496/99 CAS Succhi di Frutta* at 118
- Tenderers must have enough information to “assess the potential scope for variations when tendering”: *R (Gottlieb) v Winchester CC* [2015] EWHC 231 (Admin) at 124 (Lang J)

# Other provisions

- r. 72(1)(f) and 72(5) – *de minimis* additions (with a value below threshold and below a given percentage of the original contract value)
- r. 72(1)(b) – additions of up to 50% of the original contract value where the contractor cannot be changed
- r. 72(1)(c) – additions of up to 50% of the original contract value in response to unforeseeable circumstances

# Solution?

- Ensure that there is a contemporaneous valuation, by means of a “generally accepted standard assessment methodology”? See the Commission’s Notice on the notion of aid at 82, 104; C-124/10 *EDF* at 84, 105

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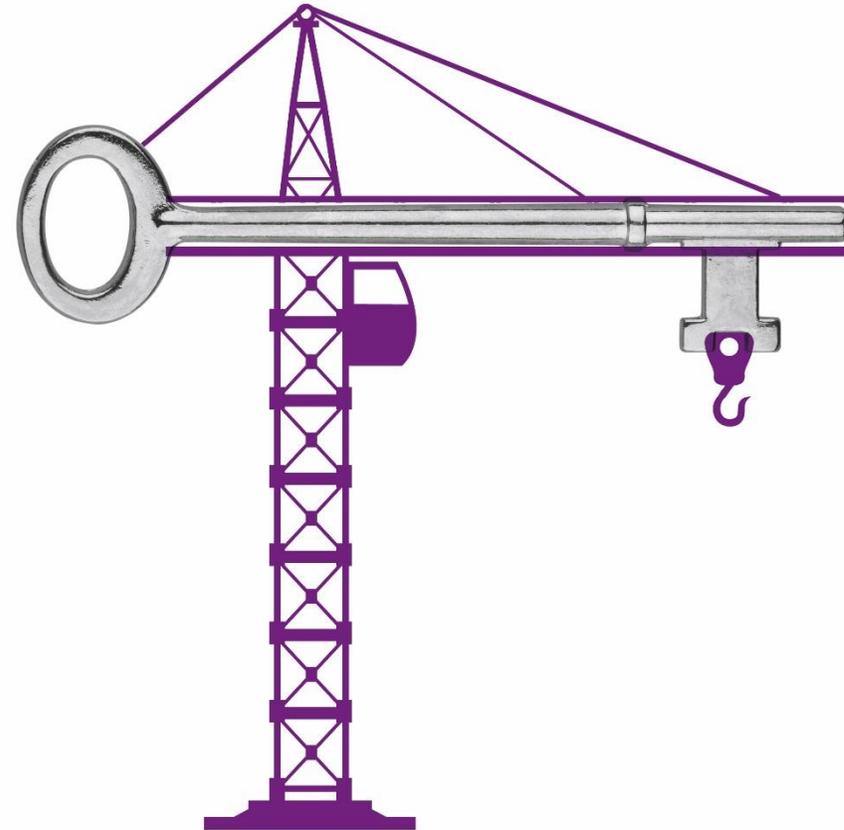
**Tim London**

## STATE AID AND INFRASTRUCTURE

**8<sup>th</sup> March 2018 of presentation**

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Principal Associate

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## Pre-Leipzig/Halle

Approach was very much that State aid not an issue as responsibly of the State and a non economic public function of the State. Direct development common place



## Pre-Leipzig/Halle

- Traditional approach typified by the following:
- “[t]he construction [or] enlargement of infrastructure projects (such as airports, motorways, bridges, etc.) represents a general measure of economic policy which cannot be controlled by the Commission under the Treaty rules on State aids”

(Commission’s Communication on the Aviation Sector  
OJ 1994 C 350, p. 5)

- Always the question of selective benefit versus benefit to all? Propapier (SA.36147) and Parc Terra Mitica (C42/2001)
- Impact of planning obligations on no aid arguments

## Case C-288/11 P Leipzig/Halle

- A transfer of state resources to any public sector organisation operating within a commercial market is subject to the State aid test
- The construction of infrastructure with a view to its **subsequent commercial use** is an economic activity and prima facie State aid.
- Result - many projects sprung a funding leak.



## Commission's interpretation of Leipzig/Halle

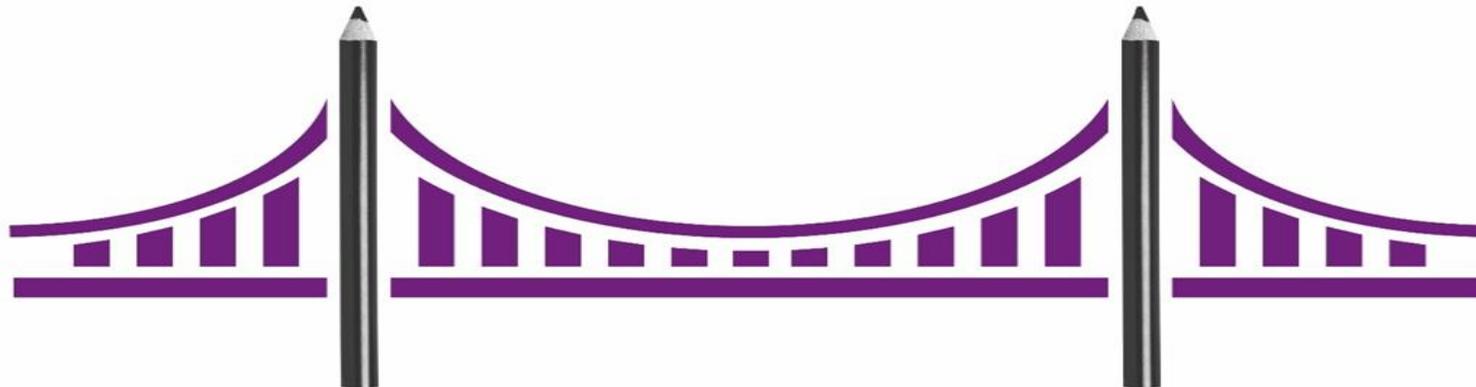
- Commission Note to DG Regio, 2011
- Draft Commission Notice on the notion of State aid pursuant to Article 107(1) TFEU, 2014
- Analytical Grids on the application of State aid rules to the financing of infrastructure projects – latest version: September 2015

## Difficult issues

- Association/dissociation between operation and construction (SA 34056 United kingdom - Cable Car for London, 15 October 2014 , para 36)
- Mixed economic and non economic use infrastructure – cost and revenue separation
- Change of use at later date from non economic to economic

## Ways of bridging the gap

- Determining whether the principal activity is economic – ancillary economic usage only. EC draft Notice on Notion of State aid – paragraph 40
- Where is line drawn between economic and non economic activity performed by the State? German GRW land development decision (SA.36346), Research infrastructure.



# MEOP

- If the investment in infrastructure is under the same terms and conditions as would be acceptable to a private investor operating under normal market conditions the investment will be free from aid
- Commission “Analytical Grids” suggest demonstrate MEOP by:
  - Private co-investors participating on equivalent terms (pari passu)
  - Ex ante business plan showing a commercial rate of return
  - Easier said than done



# Project Structure

- Assess aid at levels of owner, operator and end user
- German Incubators, 3<sup>rd</sup> May 2005 OJ 2005 L295/44
- Project to construct centres for use by SMEs:
  - **Owner:** constructed centres, handed over to operator for 15 years. Mechanism to ensure no profit. ***No economic advantage.***
  - **Operator:** received only market remuneration for operation, appointed by tender. ***No economic advantage.***
  - **End user:** only economic advantage the difference between actual rent and market rent (de minimis).
- Paragraph 22 of R&DI State aid framework, however, suggests are limitations to this. Need quantifiable subsidy at end user level **and** intermediary to be procured or funding available to all entities that satisfy necessary objective criteria.

## GBER II

### New exemptions for infrastructure

- Article 26: investment aid for research infrastructures (if economic)
- Article 48: investment aid for energy infrastructure
- Article 52: aid for broadband infrastructures
- Article 53 – aid for culture and heritage conservation
- Article 55: aid for sport and multifunctional recreational infrastructures
- Article 56: aid for local infrastructures

## Article 56 Local Infrastructures

- Infrastructure that contributes at a local level to improving the business and consumer environment and modernising and developing the industrial base
- Access to the infrastructure on non-discriminatory basis and at market rates
- Concession to operate the infrastructure required to be assigned on an open and transparent basis
- Only applicable to non dedicated infrastructure - what does that mean?
- Not applicable if costs covered by other measures (e.g. incubators, energy, R&DI or sports/cultural infrastructure measures in GBER)
- The aid amount shall not exceed the difference between the investment costs and the operating profit of the investment
- Value threshold: Funding capped at €10m and total costs capped at €20m for the same infrastructure.

**Thank you for listening**

Any questions?

**Sian Brown**



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# **State aid – A Welsh perspective**

**March 2016**

**Sian Brown – Welsh Government**



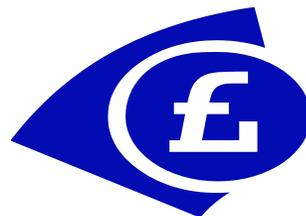
# Presentation Overview

- GBER – a new culture
- Complaints
- Transparency



# What is State aid?

State aid is an EC term for any public resource given selectively to an undertaking that could potentially affect competition and Intra-community trade





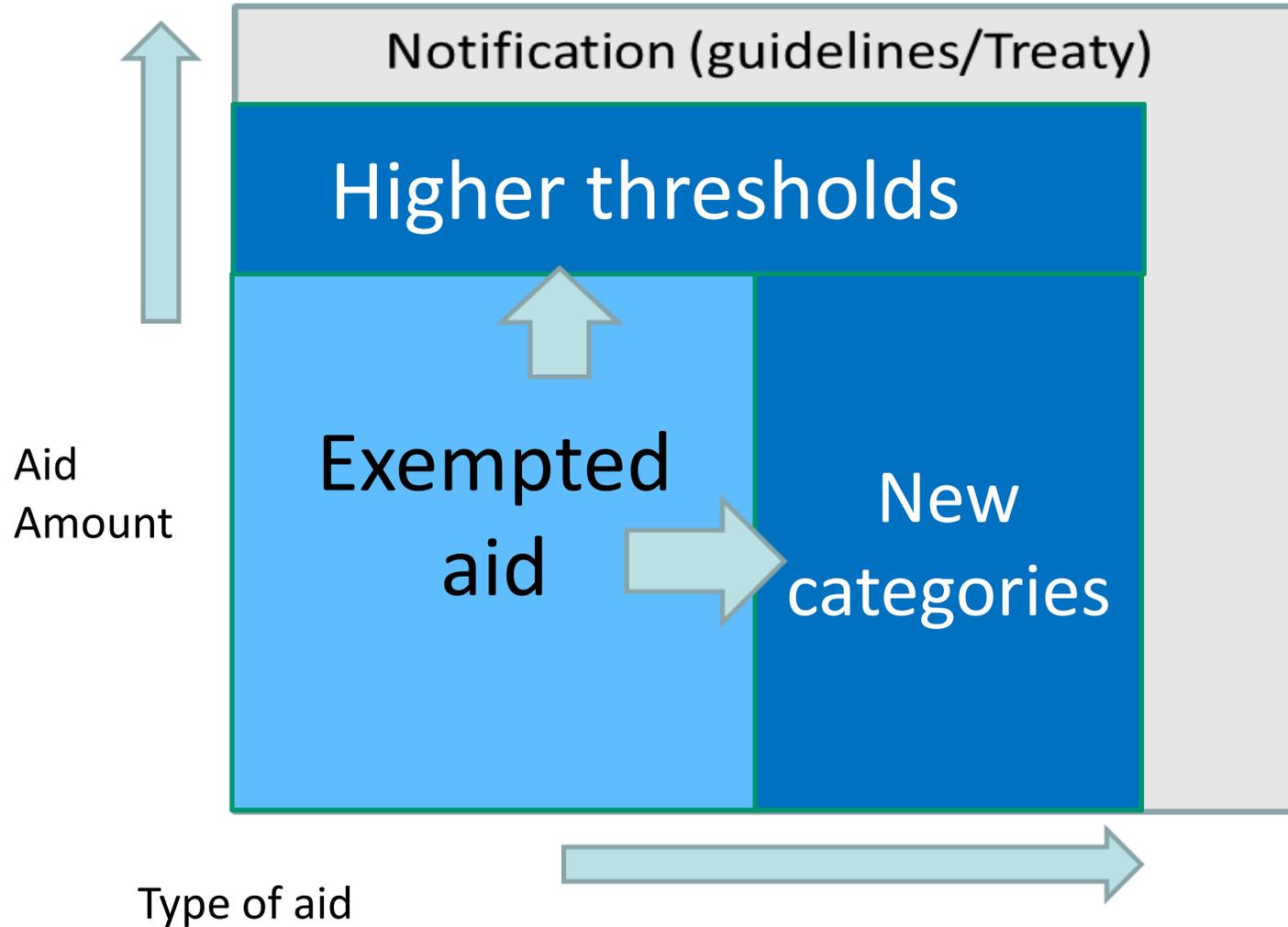
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# GBER – A new culture



# Big ambitions...



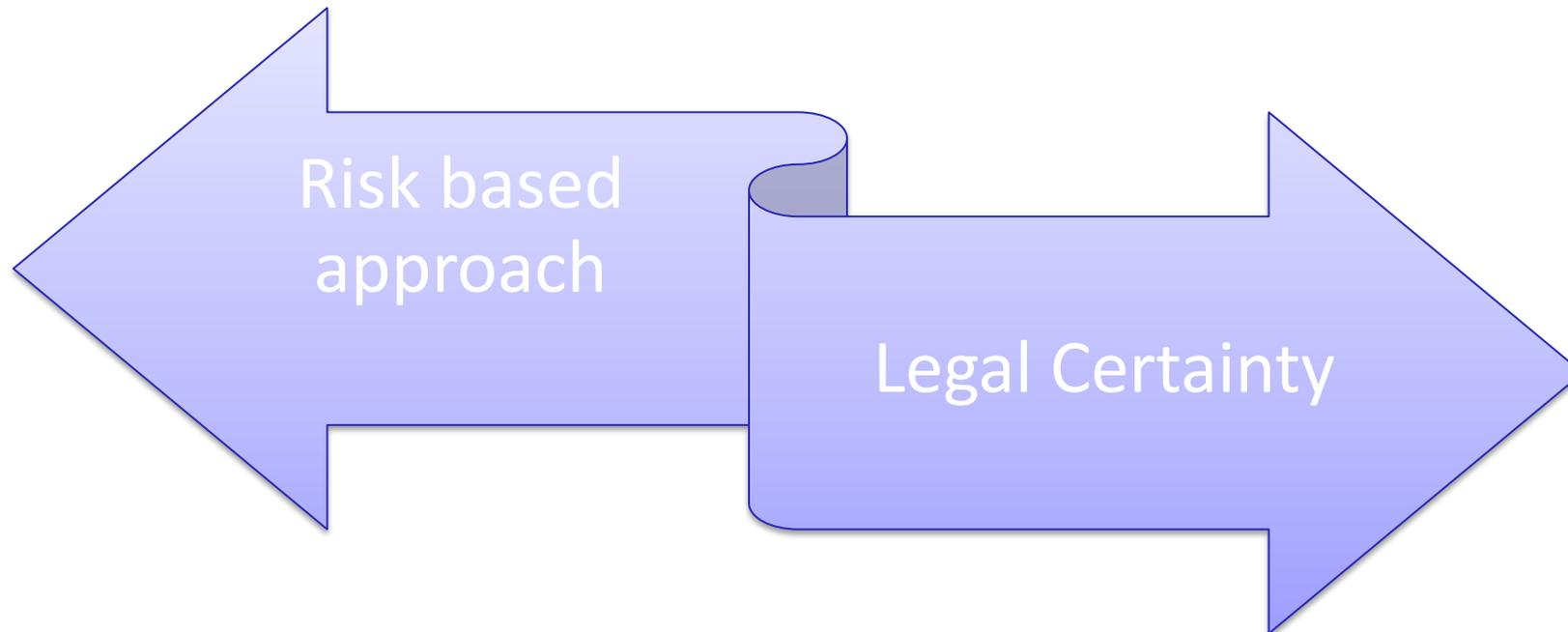
# What you can use GBER for...



# What you can use GBER for...



# Change of approach





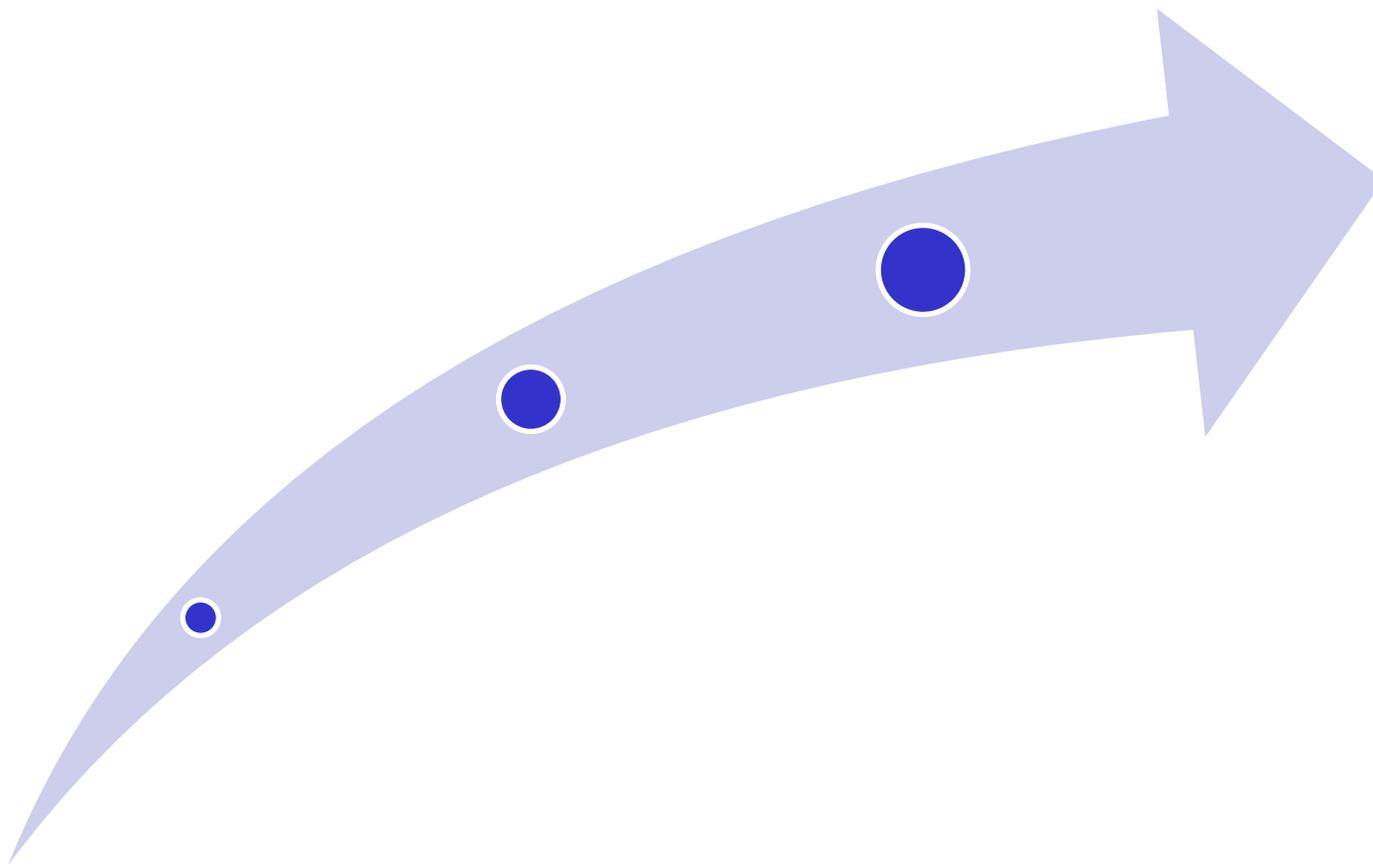
Llywodraeth Cymru  
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[www.cymru.gov.uk](http://www.cymru.gov.uk)

# Complaints



A rising trend



# High Profile cases

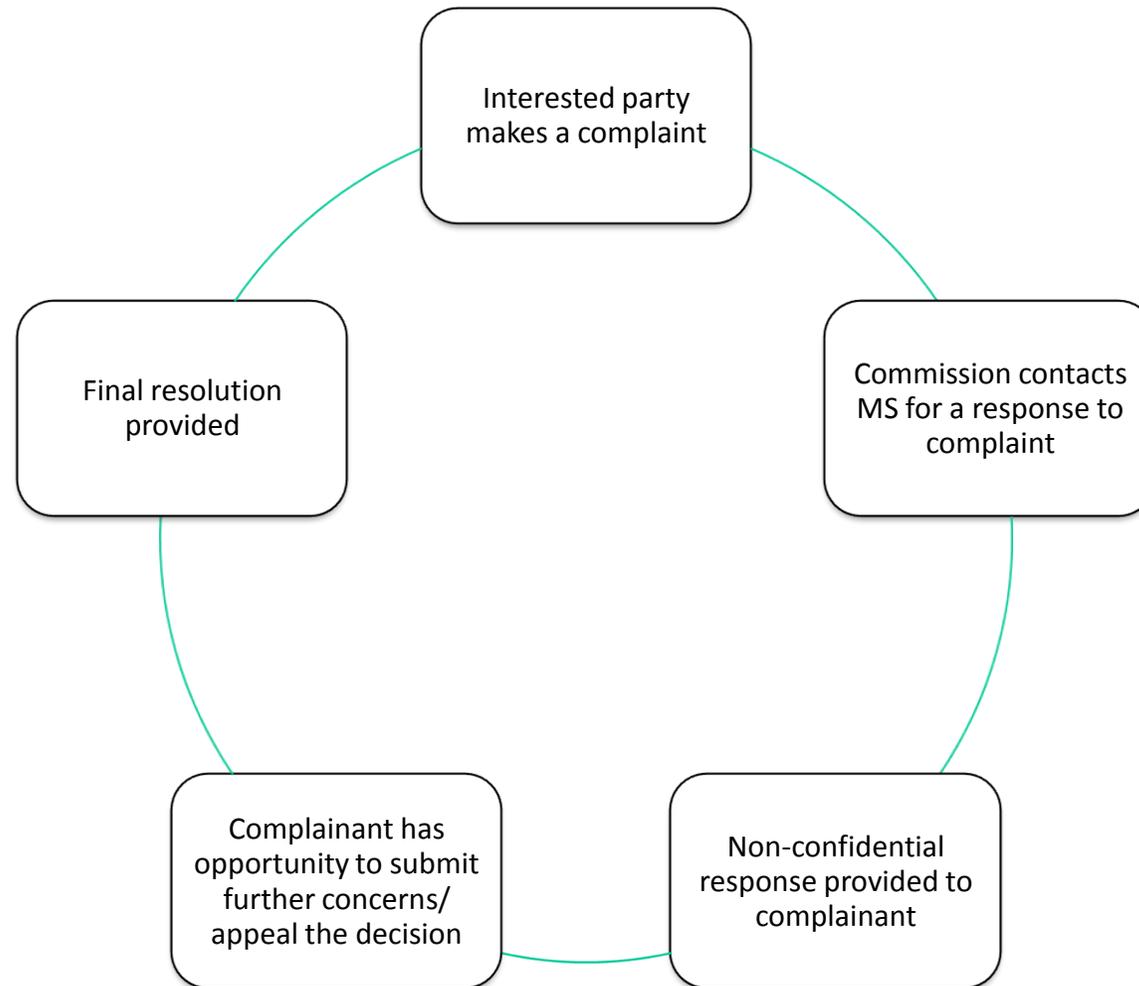


Welsh ones too...

**Liberty Stadium**

**Parc Y Scarlets**

# What does the complaint process look like?





Llywodraeth Cymru  
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[www.cymru.gov.uk](http://www.cymru.gov.uk)

# Transparency



# Transparency

- New GBER requires ALL aid awards over €500,000 be published on database
- Database will be open to the public and searchable by company/area
- Details MUST be published within six months of award;
- Non-compliance punishable by removal of GBER
- Commission will use information, or lack of it, as basis for more intensive and targeted investigations

# Transparency

- Name of the beneficiary
- Beneficiary's identifier
- Type of enterprise (SME/large) at the time of granting
- Region in which the beneficiary is located, at NUTS level II
- Sector of activity at NACE group level
- Aid element, expressed as full amount in national currency
- Aid instrument (Grant/Interest rate subsidy, Loan/Repayable advances/Reimbursable grant, Guarantee, Tax advantage or tax exemption, Risk finance, Other (please specify))
- Date of granting
- Objective of the aid
- Granting authority
- For schemes under Articles 16 and 21, name of the entrusted entity, and the names of the selected financial intermediaries
- Reference of the aid measure

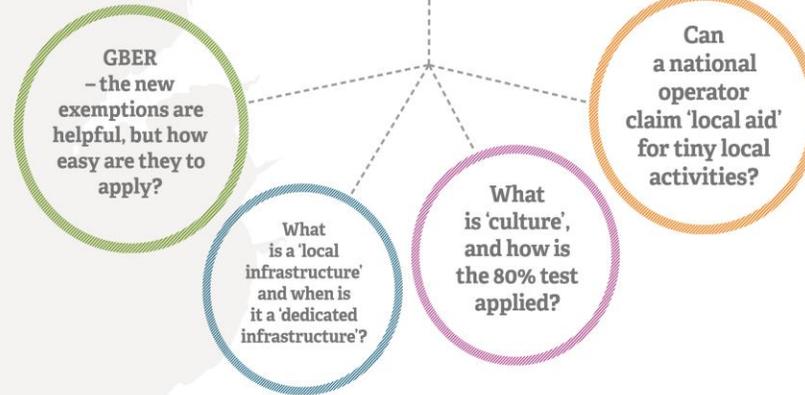
Thank you  
Any Questions?

State Aid Unit, Welsh Government

**Bethan Lloyd**

# Geldards' State Aid Team

## State Aid in Wales: Things to Consider



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**“ Rather than just pointing out the problems, they don't stop until you're satisfied with their solutions. ”**

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