NEWS LEXTTER

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EU AND COMPETITION LAW

EDITORIAL

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EDITORIAL CONTENTS

THE MOST RECENT NEWS IN THE EU AND COMPETITION LAW

PLMJ's Practice Area of EU and Competition Law opens, with this Newsletter, a new "communication line" with all those interested in knowing the most important and recent developments in the fields of Competition Law, EU Law, International Law and of the European Convention on Human Rights.

First, it aims to transmit, not only on an informative base, but also in a commented and critical way, the evolution of competition policy in Portugal, in the European Union and other jurisdictions, namely in the United States. The goal is, by one hand, to enable the reader to keep track of the more significant changes which are operating in the definition and implementation of this important branch of economic policy and its expression in terms of legislation and administrative guidelines. Moreover, it intends to consider these changes in terms of their economic and legal reasoning and contribute, at the same time, with suggestions and proposals for its improvement.

One must not forget that the Portuguese Competition Authority (PCA) has been repeatedly announcing the submission of a proposal for a global review of competition legislation. We have been fighting for such review to be made with the benefit of consultation and contribution of its main recipients – the companies - as well as the field academics and those who, by their professional duties as lawyers, accompany their daily application.

Furthermore, this state of global crisis of economies has led to increased concerns about the sustainability of companies. The situation can only advise much sense in applying the rules, as has been the most recent practice of the Commission on State Aid, in particular to the banking sector.

We shall closely follow the competent authorities' decisions - in particular the PCA and the European Commission – as well as for the jurisprudence of the courts, either of our Court of Commerce and the EC courts. In addition, we shall seek to contribute, in a sense of competition advocacy, with critics and suggestions aimed at improving public administration's legislation and practices.

We also want to accompany the evolution of EU Law in other areas than Competition Law, whether material EU Law - free movement of persons, goods and capital, right of establishment and services rendering, EU policies - or the institutional law - reform of treaties, jurisdictional protection and fundamental rights.

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The other texts hereinafter divulged cover a wide range of subjects in the framework of competition law: merger control, regulation and state aid, agreements between undertakings, abusive practices, relationships between competition and intellectual property rights. We face, in some cases, questions of transversal nature and, in other cases, of interest to various sectors of the economy: electronic payment cards, internet, notary, SME's.

Other topics shall further be addressed in the light of the general interest and timeliness of the subjects. We invite all our readers to comment on what we publish and to contribute to its improvement.

Enjoy the reading!

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I. Portuguese Competition Law

1. Concentration between undertakings

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The New Merger Notification Form

On 17 March 2009, Regulation n.º 120/2009 on the new merger notification form ("Regulation"), issued by the Board of the Portuguese Competition Authority (PCA), was published. This Regulation entered in force on 22 March 2009.

The adoption of the Regulation provided an answer to the long-felt need of reformulation of the previous merger notification form foreseen by Regulation n.º2/E/2003.

One of the significant improvements brought by the Regulation is the possibility of delivering the notification through electronic means, provided the e-mails bear a digital certificate and that, within three days, the original notification is delivered together with one hard copy and one digital copy. This new delivery option allows, to some extent, to limit the problems arising in those cases where parts of the information necessary to the preparation of the notification becomes available shortly before the time-limit for submitting the notification to the PCA. In this regard, we remind that the notification of a merger shall, under the terms of Article 9(2) of the Competition Act, be filed with the PCA "within seven working days of conclusion of the agreement or, where relevant, of the publication date of the preliminary announcement of a takeover bid, an exchange offer or a bid to acquire a controlling interest in a company which shares are traded on a stock exchange", taking into account that said notification must be delivered during the PCA's opening hours, i.e., until 5.30 p.m. of the deadline date for notification.

The Regulation further clarifies that the non-confidential version of the notification may as well be filed within three days of the notification's submission. This rule puts an end to the former doubts regarding the obligation to submit such version together with the integral version of the notification, which, for the reasons explained in the previous paragraph, would be difficult to comply with in some cases.

As regards its structure, the new form presents, undoubtedly, clear improvements. However, it is more complex in its contents, foreseeing a significant set of new data to be made available by the companies, in particular regarding the functioning of the relevant markets. According to the preamble of the Regulation, the main objective of the new

form lies on the intention to adapt the requested information to the complexity of the operation at stake, avoiding additional information requests with suspensory effects and achieving celerity in the proceedings.

Although those goals are positive, and notwithstanding the fact that a relevant number of the new data requests foreseen in the Regulation may benefit from a waiver by the PCA, there will always be more complex operations regarding which the possibility of benefiting from a waiver is more doubtful and the companies prefer, for cautiousness reasons, to provide all the information requested in the form. In those cases, besides the surcharge in collecting such an ambitious data set – of maybe doubtful need -, the companies will face the obstacle arising from the requirement to collect all information within the above mentioned deadline of seven working days.

Finally, we believe that the publishing of the Regulation could have been an excellent opportunity to create a simplified form for the mergers that are unlikely to raise competition concerns, as is generally the case when no horizontal overlaps or vertical relationships exist between the parties' activities. A simplified form, similar to the one foreseen for notifications to be submitted to the European Commission, would allow debureaucratizing and speeding up proceedings in cases of simpler mergers, which would be in line with the celerity goal mentioned in the Regulation's preamble.

2. Competition, Regulation and State Aid

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Government and Notaries: closing the door after opening a window

In 2004 the Government created the Portuguese Association of Notaries and approved its Statutes[1], in the framework of a legislative reform that incorporated the system of the Latin notary, i.e., a system in which the notary has the double capacity of "trustee of the public faith delegated by the State" and "liberal professional liberal who carries out his activity in and independent context". In other words, in 2004 it was enacted a process of liberalization or privatization of the Portuguese notaries system.

Only three years later, it was settled a kind of counter-reform, which transferred to the Public Institute of Registral and Notarial Services (IRN) competences previously allocated to the notaries on a exclusive basis, and conferred the external services of IRN[2] exclusive competences or competences shared with the notaries.

That counter-reform consisted on the adoption of several laws and administrative acts related to the services included in the so-called "Simplex" Program, namely the following: (i) a Commercial bureau ("Empresa na Hora")[3] ; (ii) creation of undertakings online (constituição de empresas *online*)[4]; (v) Associations bureau ("Associação na Hora")[5] ; Real Estate Desk ("Casa Pronta")[6]; Integrated succession and inheritance service ("Balcão Integrado Sucessão e Herança")[7].

The content of the adopted legislation gave rise to an intervention by the Portuguese Competition Authority (PCA), that, in the framework of its regulation powers, issued a recommendation to the Government in order to solve some competition problems – Recommendation 1/2007 about "reform measures in the notaries legal framework in order to promote competition in the notarial services" [8].

AdC had a meritorious intention of "*(…) safeguarding that the rules imposed to notaries only violate the rules on competition, insofar as any restrictions are adequate, necessary and proportionate to the defense of the public interest subjacent to the regulation.*"[9] Essentially, AdC wanted to fight against the "*distortion of competition among the notarial services' providers*", i.e, "*(…) not only competition between notaries but also competition between them and other professionals legally qualified to provide services of identical nature*" [10].

In this context, AdC proposed the adoption of the following measures: (i) to eliminate the principle of numerus clausus; (ii) to eliminate the territorial competence; (iii) to eliminate the notary's offices' licensing system; (iv) to eliminate the prohibition of collaboration between notaries and the possibility of a single professional to manage more than one notary office; (v) to modify the rules related to advertising;

1 Cf. Decree-Laws no. 26/2004 and no. 27/2004, of 4 February.
2 Notary's Offices; Automobile Registry Premises; Civil Registry Premises; Real State Registry Premises; Commercial Registry Premises; National Registry of Partnerships and Companies.
3 It is a particular immediate creation of companies through an integrated service provided in the Commercial Public Registries, approved by Decree-Law no. 111/2005, of 8 de July.
4 Cf. Decree-Law no 125/2006, of 29 June.
5 Specific regimen of immediate creation of associations without legal personality with or without the simultaneously acquisition by the associations, created by the Law 40/2007.
6 It is a specific procedure of transmission, burden and immediate registry of the town property in a single balcony, created by the Decree-Law no. 263-A/2007, of 23 July.
7 Pursuant to the Decree-Law no. 324/2007, of 28 September, acts and formalities related with the hereditary succession can be accomplished in a single balcony provided in the Civil Registry Premises.
8 Cf. http://www.concorrencia.pt/recomendacoes.asp.
9 Cf. § 133.
10 Cf. § 48.

(vi) to liberalize the price of the services provided by the private notaries; (vi) to eliminate the Compensation Fund; (vii) to adopt the principle of cost orientation for the price fixing costs of the registry acts included in the material scope of the notary's competences which are adopted by the notary's officers.

However, the Recommendation did not cover the total universe of infringements of national and EU competition rules. Some of those infringements emerged from legislation approved afterwards, so that an analysis of the PCA remains to be done.

AdC did not assess the fact that IRN is a public[11] undertaking[12] to which the legislation approved by the Portuguese State granted special or exclusive rights[13] and which was entrusted with the operation of services of general economic interest[14]. Thus, AdC did not take into consideration the Portuguese State obligation not to enact or maintain in force any measure related to the activity of the IRN that exclude their parties from the market, namely the notaries.[15]

AdC did not focus too on the abuse of dominant position of IRN in the relevant markets - notarial and registry services[16]. In fact, IRN takes advantage of his monopolist position in the first market in order to extend its dominant position to the related second market, by offering bundled packages of services as well as by fixing lower prices to the package services (integrated or combined) when compared with each service provided individually.[17] In practice, due to a cross subsidisation or cross compensation, IRN is able to practice predatory prices[18], with no correspondence between the price of the service and the cost supported by the State[19]. Bearing in mind the constants case law and decision practice, there is also an abuse of dominant position by IRN that drifts from the fact that IRN simultaneously performs the role of regulator and have commercial or profit aims (conflict of interest's doctrine).

Additionally, AdC did not consider the fact that the legislative and administrate measures of the Portuguese State are illegal state aids. On the one hand, we would like to underline the fact that contrary to the case of the notaries, IRN does not have to pay TVA, which reduces the public tax revenues[20] and onerates IRN competitors. On the other hand, we must allude to the possibility conferred to IRN, but not to the notaries, of having free access to the Ministry of Justice's registry database network (systems of communication, treatment and storage of information), in benefit of some competitors and to the detriment of the remaining ones. [21]

In practice, the result is the following: the legislative and administrative measures adopted by the Portuguese State turn IRN able to provide notarial services in more favourable conditions than notaries, maxime lower prices. Thus, in its capacity of legislator, the Portuguese State distorts competition and drives notaries out of the market.

Therefore, in our opinion it is urgent to revocate or modify the legislative and administrative acts that lead to the infringements of national and EU law[22]. If not, the Portuguese state will continue to (literally) close the doors of the notaries, after having opened a window in 2004.

We will finish this article by quoting once again the above mentioned AdC Recommendation: "taking into account the social role of this profession [notary] it is indispensable not to difficult notaries the economic viability and the continuing of the provision of their services".

In practice, the result is the following: the legislative and administrative measures adopted by the Portuguese State turn IRN able to provide notarial services in more favourable conditions than notaries, maxime lower prices. Thus, in its capacity of legislator, the Portuguese State distorts competition and drives notaries out of the market.

11 IRN is a public body integrated in the indirect administration of the Portuguese State under the guardianship and superintendence of the Minister of Justice.

12 IRN is an "undertaking" within the meaning of article 2 of the Law no. 18/2003, of 11 de June (Competition Act) and of article 81. CE, taking into account the permanent notarial and registry services provided both separately and jointly, against remuneration. The economic nature of the activities carried on by the notaries is still demonstrable by the several instruments of publicity of the services provided by the IRN external services such as: offer of merchandising; publicity on the local and national press and radio; co-organization and co-financing of conferences; organization of training sessions; promotion by the Town-Halls and Finance services, letters promoting the service "Casa Pronta" addressed by IRN to real estate agencies, banks and funeral agencies.

13 Portuguese law confers IRN the exclusive right to provide registry services and the exclusive right to provide bundled notarial and registry services.

14 IRN checks the legality of several kinds of acts, confers public faith and recognizes the authenticity of documents.

15 Cf. article 3 combined with article 6 of the Competition Act and the combination of articles 3 (1) (g), 10 and 86 EC.

16 Cf. article 6 of the Competition Act and article 82 CE.

17 Analogically, a citizen pays more for a single orange than for a package with an orange, a pine-apple and an apple. For instance, in the framework of the service "Casa Pronta", a citizen pays € 350 for the special procedure of transmission, burden and registry of real state in case of a registry of a single fact, except those from which depend the verification of the requirements; however, if the citizen opts for the bundled package service the cost will be €475 only for the registry.

18 The State charges for the service a price considerably lower than the amount needed to cover the costs.

19 This is a reiterated practice which is only possible due to the legislation which is in force. A striking example can be the following: the registry of a building permit with 2000 plots cots €156; a registry of a town property with 3000 fractions costs € 250; the registry of a purchase of a loan guaranteed with mortgage costs €500.

20 The notary services included in the entire public packages are exempted from the payment of TVA taxes, which violates article 2 (2) of the Portuguese TVA Code. This is a clear comparative advantage for the IRN in prejudice of the notaries, whose clients have to pay 20% of TVA for the services, which are already more expensive in result of the legislative and administrative measures of the Portuguese State.

21 Cf. article 13. of the Competition Act and article 87 CE.

22 We sustain that AdC should order the adoption of the necessary measures in view to identify and investigate the illegal practices of the Portuguese State that contravene national and EU competition law, in accordance to articles 14 (2), 22 (1) and 24 of the Competition Act as well as articles 7 (2) (a) and 17 81) (d) of the AdC's Bye-Laws, approved by the Decree-Law no. 10/2003, of 18 January.

II. EU Competition Law

1. Restrictive practices

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MasterCard's Multilateral Interchange Fees

MasterCard's Multilateral Interchange Fees ("MIF") constitute a mechanism that determines a minimum price merchants must pay for accepting the organisation's payment cards. This fee is retained by the customer's bank (the "issuing bank") and charged to the merchant's bank (the "acquiring bank"), which then takes this cost element on board in setting its prices to merchants on each payment made by consumers at a merchant outlet.
The Commission reported that this charge ranges between 0.4% of the transaction value increased by €0.05 and 1.05% increased by €0.05 for payments with Maestro debit cards, and between 0.80% and 1.20% for transactions with MasterCard consumer credit cards.

According to the Commission, MasterCard's MIF applies to virtually all cross-border card payments in the European Economic Area ("EEA") and to domestic card payments in Belgium, Ireland, Italy, the Czech Republic, Latvia, Luxemburg, Malta and Greece. Approximately 45% of all payment cards in the EEA either bear a MasterCard or a Maestro logo and MasterCard cards are accepted at some 85% of businesses accepting debit cards in the EEA.

In December 2007, the Commission decided that the MIF established by MasterCard for cross-border transactions made with MasterCard and Maestro branded debit and consumer credit cards in the EEA, did not comply with EC Treaty rules on restrictive business practices (Article 81).

The Commission prohibited MasterCard's MIF because, in its view, it inflates the base on which acquiring banks charge prices to merchants for accepting payment cards, as the MIF accounts for a large part of the final price businesses pay for accepting MasterCard's payment cards. This restriction of price competition, the Commission said, harms businesses and their customers and during four years of investigation MasterCard failed to submit the required empirical evidence to demonstrate any positive effects on innovation and efficiency which would allow passing on a fair share of the MIF benefits to consumers. The Commission therefore concluded that MasterCard's MIF does not lead to objective efficiencies that could balance the negative effects on price competition between its member banks.

According to the announcement of the Commission of 1 April 2009, MasterCard has now given three undertakings:

- First, MasterCard will, as of July 2009, calculate the cross-border MIF according to a methodology which will lead to a substantially reduced maximum weighted average MIF level: 0.30% per transaction for consumer credit cards and 0.20% per transaction for consumer debit cards.

- Second, MasterCard will, as of July 2009, repeal the scheme fee increases it announced in October 2008.

- Third, MasterCard will, as of July 2009, adopt certain measures enhancing the transparency of its scheme which will allow consumers and merchants to make better informed choices about the means of payment they use and accept (for example, MasterCard's rules will be changed so that merchants are offered and invoiced distinct rates according to the type of card that is used).

In view of the changes to be made by MasterCard to its MIFs, its agreement to repeal the scheme fee increases and on the basis of the information currently available about these markets, Commissioner Kroes has now announced that she does not intend to propose to the Commission to pursue MasterCard either for non-compliance with the Commission's 2007 decision, or for infringing the antitrust rules by increasing its scheme fees or by reintroducing a cross-border MIF.

On the other hand, following the expiry of the Visa exemption decision of 2002 at the end of 2007, the Commission announced sending to Visa, on 3 April 2009, a Statement of Objections ("SO") concerning all MIFs set directly by Visa in the EEA for transactions with consumer payment cards, as well as to domestic transactions in 9 EU Member States.

The Commission's SO outlines its preliminary view that, like in the case of MasterCard's MIFs, Visa's MIFs harm competition between acquiring banks, inflate the cost of payment card acceptance for merchants and ultimately increase consumer prices, thereby infringing Article 81 of the EC Treaty.

The Commission therefore concluded that MasterCard's MIF does not lead to objective efficiencies that could balance the negative effects on price competition between its member banks.

The SO also concerns other rules and practices of the Visa system such as the "honour all cards rule", "no surcharge rule" and blending of merchants fees, in so far as the Commission considers that they hinder the merchants' ability to manage their payment costs and thereby increase the restrictive effects of the MIFs.

Visa's credit and debit cards represent approximately 36% of all payment cards issued in the EEA. Visa has the largest acceptance network within the EEA with over 5 million merchants accepting its payment cards. In 2006 a total of 27 billion card payments were made in the EEA, with a total value of €1600 billion.

Visa now has two months to reply to the Commission's SO. Should the Commission consider that, despite Visa's reply, its conduct is not compatible with European antitrust rules, it may come to adopt a final infringement decision.

Visa's credit and debit cards represent approximately 36% of all payment cards issued in the EEA.

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Microsoft and its Internet Explorer are under close scrutiny of the European Commission

Following a complaint filed in December 2007 by Opera Software, the European Commission opened investigation proceedings against Microsoft, to assess if the Internet Explorer in the Windows PC operating system would be an abuse of dominant position.

The Web Browser is a gateway to the internet and a critical platform for application development itself.

On January 15th 2009, the European Commission sent a Statement of Objections to Microsoft and accused it of violating article 82 of the EC Treaty. This Authority outlined in its preliminary conclusions that Microsoft, by offering the Internet Explorer within Windows operating system, took advantage of its quasi monopoly position and harmed competition. On the Commission's point of view, through this behaviour Microsoft assured that the Internet Explorer was available on around 90% of the world's PC's.

The European Commission considered that by giving away the Internet Explorer on the Windows operating system, Microsoft was harming competition between web browsers. By doing so, Microsoft allegedly excluded competitors from the market and therefore gained a comparative advantage over its competitors not based on the merits, undermined product innovation and created an environment which was detrimental to the quality of products which consumers ultimately obtain.

The European Commission is also concerned that the ubiquity of Internet Explorer may create artificial incentives for content providers and software developers to design websites or software primarily for Internet Explorer which risks undermining competition and innovation in the provision of serviced to consumers. For the Commission, Microsoft's policy may also endanger the consumer since less Web Browsers will be offered in the market and there will be a decrease on the quality of the competitors' Web Browsers.

The Commission's Statement of Objections is based on the legal and economic framework established on the Commission's decision of March 2004 and in the judgement of the Court of First Instance of September 17th 2007. In both decisions the Commission and the Court found that Microsoft had abused its dominant position in the PC operating system market by tying Windows Media Player to its Windows PC operating system. At that time, the Commission and the Court considered that Microsoft hindered competition and reduced consumer choice.

The Statement of Objections is a formal step in the Commission antitrust investigations in which the Commission informs the parties concerned in writing of the objections raised against them. Microsoft can reply in writing to the Statement of Objections, setting out all facts known to it which are relevant to its position against the objections raised by the Commission and therefore exercising its right of defence. The Commission may then take a decision on whether the conduct addressed in the Statement of Objections is compatible or not with the EC Treaty antitrust rules. Sending a Statement of Objections does not prejudice the final outcome of the decision.

If the preliminary views expressed in the Statement of Objections are confirmed, the Commission may impose a fine on Microsoft, require it to cease the alleged infringement and impose a remedy that would restore genuine consumer choice

The Web Browser is a gateway to the internet and a critical platform for application development itself.

and enable competition on the merits. It is however expected that the Commission will follow the same rationale of the 2004 Decision, and order Microsoft to offer its Windows client PC operating system without the Internet Explorer. Nevertheless, Microsoft may retain the right to also offer a Windows version with the Internet Explorer.

It is still to find out whether the selling of Windows client PC operating system without the Internet Explorer will effectively increase the level of consumer satisfaction. It is important to take into account that the combined distribution of a Windows client PC operating system with a Web Browser included may increase cost saving to Microsoft and also reduce the risk of software incompatibility with the operating system.

Only the future will tell whether consumers will be better off with the above mentioned solution, therefore obliging them to buy the Web Browser separately in order to complete the operating system, or if competition rules were once again used to protect smaller players in the market against dominant undertakings.

2. Competition, Regulation and State Aid

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Temporary state aid measures

On 25 February 2009, the European Commission adopted the handbook on community state aid rules for SMEs. This Handbook aims at giving a concise overview of the aid possibilities for the SMEs as allowed by the Community State aid rules, including technical adjustments on the temporary framework for State aid measures to support access to finance in the current financial and economic crisis, of 17 December 2008 ("Framework").

By introducing a number of temporary measures allowing Member States to address the exceptional difficulties of companies, and in particular of SMEs, to obtain finance, this Framework provides Member States with additional possibilities in the State aid area to tackle the effects of the credit squeeze on the real economy. These temporary measures are based on the Article 87(3)(b) of the Treaty which allows the Commission to declare compatible with the common market aid "to remedy a serious disturbance in the economy of a Member State". Member States have to notify the schemes containing these measures, and once the scheme is approved, they can grant individual aid immediately without notification.

Among the new measures and temporary modifications of existing instruments, the following are noteworthy:

• A lump slum of aid up to EUR 500 000 per company for the next 2 years (01.01.2008-31.12.2010), to relieve them from current difficulties: the present aid measure can only be applicable to aid schemes. Firms in fisheries sectors and in primary production of agricultural products are not eligible for this aid as well as export aid. If the undertaking has already received de minimis aid prior to the entry into force of this temporary framework, the sum of the aid received under this measure and the de minimis aid received must not exceed EUR 500,000 between 01.01.2008 until 31.12.2010.

• State guarantees for loans in the form of a reduction of the premium to be paid: SMEs can benefit from a reduction of up to 25% of the annual premium to be paid for new guarantees during 2 years following the granting of the guarantee. In addition, these companies can apply a premium fixed in the communication for other eight years. The maximum loan amount must not exceed the total annual wage bill of the beneficiary undertaking. The guarantee may not exceed 90% of the loan and may cover both investment and working capital loans.

• Aid in the form of subsidised interest rates applicable to all types of loans: the Commission accepts that public or private loans are granted at an interest rate which is at least equal to the central bank overnight rate plus a premium equal to the difference between the average one year interbank rate and the average of the central bank overnight rate over the period 1/1/2007 to 30/06/2008, plus the credit risk premium corresponding to the risk profile of the recipient, as stipulated by the Commission communication on the method for setting the reference and discount rate. This method can apply to all contracts concluded until 31 December 2010 and may cover loans of any duration. The reduced interest rates may be applied for interest payments before 31 December 2012.

• Aid in the form of an interest-rate reduction for investment loans related to products which significantly improve environmental protection: SMEs can benefit from an interest-rate reduction of 50%. The subsidised interest rate is applicable during a period of maximum 2 years following the granting of loan. The aid may be granted for production of products involving early adaptation to or going beyond future Community product standards which increase the

The temporary aid measures may be cumulated with other compatible aid or with other forms of Community financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block exemptions Regulations are respected.

level of environmental protection and are not yet in force.

• A temporary derogation from the 2006 Risk capital guidelines, corresponding to an increase of the tranche of finance per target SME from EUR 1.5 million to EUR 2.5 Million and a reduction of the minimum level of private participation from 50% to 30% (in and outside assisted areas).

• Simplification of the requirements of the export credit Communication to use the exemption that allows non-marketable risks to be covered by the State.

Moreover, the condition to the application of such measures should be highlighted. Firstly, the measures only apply to firms which were not in difficulty on 1 July 2008. They may apply to firms that were not in difficulty at that date but entered in difficulty thereafter as a result of the global financial and economic crisis. Secondly, these temporary measures may not be cumulated with de minimis aid for the same eligible costs. The amount of de minimis aid received after 01.01.2008 shall be deducted from the amount of compatible aid granted for the same purpose under this framework. The temporary aid measures may be cumulated with other compatible aid or with other forms of Community financing provided that the maximum aid intensities indicated in the relevant Guidelines or Block exemptions Regulations are respected. Finally, these measures can be applied until 31 December 2010.

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