MARIA VELENTZA

Director Financial Services, DG Competition, European Commission

Developments in the state aid and banking crisis management framework

Since the beginning of the financial crisis in 2008, the European Commission has exercised its duties as competition enforcer by assessing the compatibility of support from the public budget to the financial sector with the State aid provisions enshrined in the EU Treaty. Specific guidelines (a series of "communications") were adopted establishing minimum criteria for this compatibility assessment. Through state aid control the Commission has contributed to safeguarding financial stability by facilitating the orderly market exit of unviable banks and preventing the disorderly failure of otherwise viable entities. This has contributed to a more robust EU banking sector by fostering deep restructuring.

The 2013 Banking Communication, which is the latest revision of the financial-sector State aid guidelines, has been a stable guide as to the Commission's exercise of State aid control in that sector. Until the introduction of the EU bank resolution framework in 2015, financial-sector State aid control de facto served as the Union's bank resolution regime, ensuring a level playing field at a time when many Member States mobilised their public budgets to support their banks. It is worth noting that these guidelines introduced loss-sharing by the shareholders and subordinated creditors of aided banks. And, finally, they supported fair competition by requiring aid beneficiaries to make efforts to mitigate competition distortions.

Since 2015, State aid control in the financial sector has fulfilled these roles in complementarity with the new EU bank resolution and deposit insurance rules. For instance, the Bank Recovery and Resolution Directive explicitly recognises the applicability of the State aid framework in the context of precautionary recapitalisation or resolution; in its State aid decisions, the Commission has consistently taken into account the new regulatory setting.

The EU bank crisis management framework has also entailed the creation of new actors, attributing the role of bank supervisor to the European Central Bank within the Single Supervisory Mechanism, and the Single Resolution Board as central resolution authority within the Single Resolution Mechanism. However, the Commission's role as competition authority – contained to assessing the compatibility of State aid measures – has remained unaltered.

Six years after the entry into force of this new regulatory setting, the EU banking sector is in general more resilient, but some pockets of vulnerability remain – and the effects of the COVID crisis are still unknown. The implementation of the bank resolution framework is still ongoing, in particular with respect to banks' compliance with the minimum requirements for own funds and eligible liabilities, which serve as a bail-inable buffer to protect taxpayers and depositors in case of a bank failure. Further revisions of the crisis management framework are ongoing or being discussed, including as part of a public consultation; the economic effects of the COVID-19 pandemic - which represent a serious disturbance in the Member State economies - further underline the need to proceed thoughtfully.

The Commission is now set to review the State aid rules for banks in the context of a broader review of the EU bank crisis management framework which is to be completed by 2023. While financial sector State aid guidelines and the EU bank resolution and deposit insurance regime each follow their own logic, these frameworks are highly interdependent, and so are the decisions of the various public actors involved.

Given these interdependencies, a holistic approach towards the review of State aid rules for banks and the EU bank crisis management framework is the best way to ensure a coherent set of rules in both frameworks in the future. A holistic analysis and revision of all the pieces of the crisis framework "puzzle" will support consistent and predictable outcomes which safeguard fair competition, promote financial stability, protect taxpayers and set appropriate incentives for banks and their shareholders and creditors.