

REVISION OF THE GENERAL BLOCK EXEMPTION REGULATION (GBER)

Response to the European Commission's Call for
Evidence on the General Revision of GBER
(Regulation (EU) No 651/2014)

10/2025



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1. EXECUTIVE SUMMARY

This submission supports the GBER review to simplify compatibility conditions and reduce administrative burden while preserving competition. DBI proposes eight changes, ordered by DG COMP priorities:

1. Safe harbour for clearly non-economic RD&I activities.
Instrument: Recital + annexed checklist + Commission guidance.
2. Standardised accounting-separation template to avoid cross-subsidy.
Instrument: Commission Staff Working Document / guidance note.
3. Clear paths for national co-funding of EU projects.
Instrument: DG COMP FAQ with model scenarios + optional dedicated GBER category.
4. Recital confirming the activity-based concept of “undertaking”.
Instrument: Recital aligned with the Notice on the notion of State aid and the RDI Framework.
5. Clarify that only economic parts of mixed projects are subject to GBER.
Instrument: Recital + guidance encouraging work-package-level structuring and accounting.
6. Positive and negative examples distinguishing non-economic from economic RD&I.
Instrument: Annex or guidance list incorporated by reference in recitals.
7. Enhanced transparency via a curated public e-State aid Wiki and aligned national FAQs.
Instrument: Commission-hosted portal with anonymised Q&A; Member State FAQ alignment.
8. Recognition of open, non-profit technology infrastructures, including test and demonstration facilities, as primarily non-economic.
Instrument: Recital referencing the 2025 EU Strategy on Research and Technology Infrastructures.

2. INTRODUCTION

DBI (The Danish Institute of Fire and Security Technology) welcomes the European Commission's initiative to simplify and update the General Block Exemption Regulation (GBER) in the field of State aid for research, development, and innovation (RD&I).

This response focuses on RD&I, technology infrastructures, and mixed-project treatment under Articles 107–108 TFEU.

The envisaged revision is intended to “*cut red tape*” and “*make it easier [...] to access support*” for beneficial projects¹, with the Commission expecting adoption of the new GBER by the fourth quarter of 2026².

In this context, we provide feedback to ensure that the revised GBER fully aligns with EU State aid law (Articles 107 and 108 of the Treaty on the Functioning of the European Union – TFEU³, the RDI Framework, etc.), and that it addresses key issues faced by Research and Technology Organisations (RTOs) and similar research entities in Europe.

RTOs are non-profit organizations whose core mission is to generate and disseminate knowledge and technology in collaboration with both industry and the public sector.

While effective State aid control is vital to preserve competition, the current rules – and especially their inconsistent interpretation – create barriers to RTO participation in R&D projects and infrastructure initiatives.

We see a pressing need for improved legal clarity regarding the role of research organizations (and universities) in R&D projects. By their nature, these organizations exist to support enterprises in research, development, and testing of new solutions, without deriving direct profits from such projects.

The GBER revision offers an opportunity to clarify the law and remove needless administrative hurdles, thereby enabling RTOs to contribute more effectively to Europe's innovation and competitiveness goals (as also highlighted in recent strategic reports, e.g. the *Draghi report* on Europe's future competitiveness, and *The European Strategy on Research and Technology Infrastructures*⁴).

¹ [Hengeler, September 2025](#)

² [Hengeler, september 2025](#)

³ [EUR LEX, COMMISSION REGULATION \(EU\) No 651/2014](#)

⁴ [EU, The European Strategy on Research and Technology Infrastructures, 2025](#)

3. RECOMMENDATIONS

DBI proposes eight changes, ordered by DG COMP priorities.

3.1. Safe harbour for clearly non-economic RD&I

Define a checklist that, if met, places activities outside Article 107(1): broad dissemination, no exclusive rights, non-profit operation with reinvestment, academic independence. Use a one-page declaration per project.

Why: Remove ambiguity for benign RD&I.

Impact: Faster decisions and fewer disputes across Member States.

Instrument: Recital + annexed checklist + Commission guidance.

3.2. Standardised accounting separation

Publish a common template to separate economic and non-economic activities and prevent cross-subsidy. Minimum dataset: cost drivers, allocation keys, facility usage logs, IP/licensing register, “commercial use” ratio with audit trail.

Why: Implementation is uneven, and audits are unpredictable.

Impact: Lower admin costs and consistent compliance for RTOs and authorities.

Instrument: Commission Staff Working Document / guidance note.

3.3. National co-funding of EU projects

Provide decision trees and model scenarios:

- a) non-economic RTO/university share → no aid.
- b) company share → GBER.
- c) hybrid → split treatment.

If recurrent hybrids arise, cover the economic share via a targeted GBER category.

Why: Authorities often assume “EU project = no aid,” which is incorrect.

Impact: Clear, quick classifications and fewer notifications or clawbacks.

Instrument: DG COMP FAQ with model scenarios + optional GBER category.

3.4. Embed the Activity-Based Definition of “Undertaking”

State that status depends on activities, not legal form. Do not introduce a new “non-economic undertaking” category.

Why: Align with existing doctrine and avoid re-litigation.

Impact: Legal certainty and uniform treatment for research organisations.

Instrument: Recital.

3.5. Mixed projects: only economic parts are in scope

Confirm that projects may combine economic and non-economic work. Public funding of non-economic parts is not aid; only economic parts must meet GBER. Encourage work-package structuring and cost separation.

Why: Many RD&I projects are mixed in practice.

Impact: Full funding for non-economic tasks and correct aid intensity for the rest.

Instrument: Recital + guidance.

3.6. Positive/negative examples

Provide a non-exhaustive positive list (independent research, open collaboration, broad dissemination, non-profit knowledge transfer) and a negative list (contract research, consultancy on the market, exclusive R&D for one firm).

Why: Case handlers need concrete anchors.

Impact: Fewer clarification rounds and more consistent decisions.

Instrument: Annex or guidance list referenced in recitals.

3.7. Transparency tools

Open a curated public “State aid wiki” with anonymised Q&A and case notes. Align Member State FAQs.

Why: Interpretations are fragmented and opaque.

Impact: Shared, up-to-date guidance and reduced divergence across the EU.

Instrument: Commission-hosted portal + coordinated national FAQs.

3.8. Recognise open, non-profit TIs and T&D as primarily non-economic

Clarify that Technology Infrastructures and Test & Demonstration facilities operated on open access, non-profit pricing, reinvestment, non-exclusive IP, and non-discriminatory terms are primarily non-economic. Apply the same conditions to safety, security, and dual-use testing and demonstration.

Why: These shared facilities are critical enablers for SMEs and scale-ups.

Impact: Unlocks investment and ensures predictable treatment across Member States.

Instrument: Recital referencing the 2025 European Strategy for Research and Technology Infrastructures.

4. ANALYSIS

This Analysis underpins §§3.1–3.8. Each subsection states: claim → legal basis → implementation hook.

4.1. Safe Harbour Rule for Non-Economic RDI Activities → supports §3.1

We commend the Commission’s recognition (in the RDI Framework and elsewhere) that certain research activities, by their nature, do not threaten competition and therefore need not be hemmed in by State aid constraints. To cement this understanding in a user-friendly way, we propose the introduction of a “safe harbor” provision in GBER for non-economic RDI activities.

What would this entail? Essentially, a safe harbour would list a few objective criteria and declare that if a publicly funded R&D project (or a component of a project) meets *all* those criteria, it will be deemed non-economic (hence not subject to State aid limits or notifications).

We suggest a four criteria checklist:

- ☐ *Knowledge dissemination*: the project results (knowledge, data, prototypes) will be made available to the public or at least broadly to industry and academia (for example, through publications, open platforms, or non-exclusive licensing to any interested party on equal terms)⁵.
- ☐ *No exclusive rights*: No single enterprise enjoys exclusive access to the results of the project; any IP arising is either kept by the RTO (with a right to license widely) or shared, or if licensed to a company, it’s either non-exclusive or granted at market price (so no hidden advantage).
- ☐ *Non-profit orientation*: the activity is not oriented toward generating a profit for the research organization; any incidental income must be reinvested in its primary missions⁶.
- ☐ *Independent research*: the RTO or university retains academic freedom to publish and pursue the research objectives (ensuring it’s not simply contract research masquerading as “public” work).

If all criteria are met, presume non-economic; contrary proof allowed. Documentation is a one-page declaration.

These criteria are drawn from the existing rules – for instance, the notion that *independent R&D and wide dissemination* is non-economic is codified in the RDI Framework⁷. The condition that companies shouldn’t enjoy preferential access to results is in GBER’s definition of research organizations⁸. And the idea of reinvesting profits into primary activities comes from the treatment of knowledge transfer as non-economic if structured that way⁹.

By translating those into a safe harbour checklist, the GBER would give a handy tool to practitioners. A national authority could essentially tick off: “Is the RTO disseminating results openly? Yes. Is no company given special rights? Yes. Is the project non-profit? Yes. Then okay – fund it fully, it’s outside State aid.” This could be stated as a presumption in the GBER: *if X, Y, Z conditions are met, the Commission presumes the activity is non-economic*. The burden then shifts to any skeptic to prove otherwise.

⁵ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

⁶ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

⁷ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

⁸ [EUR LEX, COMMISSION REGULATION \(EU\) No 651/2014](#)

⁹ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

One might ask: why do we need this in GBER, since the RDI Framework already says it in narrative form? The reason is accessibility and legal certainty. GBER is a Regulation – directly applicable law – and is frequently consulted by managing authorities, universities, and companies when designing projects. A clear safe harbour in the GBER text (or an annex) would be highly visible and binding. It would reduce the grey area where lawyers need to interpret framework guidance. Moreover, it aligns perfectly with the Commission’s simplification agenda: it would simplify the assessment for at least a subset of projects (the ones that are clearly oriented toward public knowledge and not market competition).

From an advocacy standpoint, we believe this safe harbour would encourage more ambitious collaborative research projects. RTOs and universities would have more confidence to engage in disseminative R&D missions, knowing they can get support without running afoul of State aid rules. Companies, too, would benefit indirectly – they could participate in open research collaborations that expand the knowledge base (which they can later draw on), rather than everything being structured as limited-consortium projects with IP haggling due to State aid concerns.

In implementing this safe harbour, we caution that it should be designed to complement, not replace, existing rules. It should be an opt-in clarity mechanism – meaning if a project doesn’t meet the safe harbour, it’s not automatically disallowed; it just means one then does a normal case-by-case analysis or uses standard GBER aid categories. The safe harbour is there to cover the easy cases where we can be sure no competitive distortion exists.

We urge both the Commission and national authorities (including Erhvervsstyrelsen) to embrace this concept. It would make their own lives easier as well – less time spent scrutinizing or notifying projects that clearly have primarily public-good characteristics.

4.2. Accounting Separation and Avoiding Cross-Subsidization → supports §3.2

The issue of accounting separation is both crucial and notoriously technical. Currently, EU law (both GBER and the RDI Framework) requires that research organizations and research infrastructures that also engage in economic activities must keep separate accounts for the economic and non-economic activities¹⁰. The purpose is to ensure that public funding meant for non-economic research is not indirectly used to subsidize commercial activities (which would give an unfair advantage and violate State aid rules). However, what constitutes adequate separation is often interpreted differently across Member States, and many RTOs struggle with varying accounting standards imposed by different authorities or auditors.

DBI believes that the GBER revision process should address this by calling for greater uniformity and transparency in accounting practices for RTOs. We are not asking for a detailed accounting regulation to be inserted into GBER (which might be too rigid), but rather for the Commission to commit to providing a standard template or guidelines. For example, the Commission could issue a Staff Working Document or a Guidance Note alongside the GBER that sets out a model accounting framework: how to allocate overheads between economic and non-economic streams, how to document the use of facilities, how to treat marginal commercial use of equipment, etc. This document could be developed in consultation with stakeholders (RTOs, auditors, state aid experts) so that it is practical and effective.

¹⁰ [EUR LEX, COMMISSION REGULATION \(EU\) No 651/2014](#)

The benefits of a standardized approach are significant: it levels the playing field (no more arbitrage or forum-shopping for lenient accounting interpretations), and it gives confidence to both RTOs and funders that if they follow the template, they comply. It also eases Commission monitoring – if everyone follows the same template, it's easier to check that public funds aren't leaking into private benefit.

To illustrate the current inconsistency: some Member States may require a very strict full-cost accounting system with detailed time-writing for each researcher to split time between economic and non-economic projects; others might accept a simpler proportional allocation based on, say, annual activity reports. Some authorities might allow an RTO to have a single legal entity with internally separated accounts, while others might push RTOs to set up separate legal subsidiaries for economic activities. This patchwork causes confusion and inefficiencies. We believe a Commission-endorsed template would resolve much of this.

We note that the RDI Framework (point 19) provides a principle: that evidence of due separation “can consist of annual financial statements of the entity” showing proper allocation¹¹. This is helpful but high-level. We envision a more concrete guideline – for instance, a spreadsheet model or a set of definitions for direct vs indirect costs, perhaps even a threshold for what is “ancillary economic” (the Framework suggests economic use < 20% of capacity is ancillary and thus the entity could still be considered almost wholly non-economic)¹². All these elements could be clarified in one place.

In Denmark, the GTS institutes already maintain separate accounts for their commercial services vs. publicly funded activities, but they frequently undergo complex audits to prove no cross-subsidization. A standardized EU approach could simplify these audits and reduce administrative burden. We would welcome the Danish authorities championing this idea, perhaps volunteering to pilot such a template in collaboration with the Commission.

In conclusion, we recommend that the revised GBER explicitly tasks the Commission to produce an accounting separation guideline (if not concurrently, then as a follow-up). This could even be mentioned in a recital or article that Member States “shall ensure compliance with the no-cross-subsidisation principle, for example through the use of a common accounting template developed by the Commission.” The precise format can be left open, but the commitment to harmonize should be made. This is in line with the revision's goal of simplification and harmonization.

4.3. National Co-Funding of EU Projects: Guidance Needed → supports §3.3

Another area of concern is the treatment of national co-financing in EU-funded R&I projects (such as Horizon Europe). Many EU projects require participants (especially from research organizations) to bring in a form of national or own funding to complement EU grants. A question that often arises is: if a Member State provides a grant to an RTO or company to cover that national portion, is this grant automatically considered free of State aid issues because it's part of an EU project? There is a common misconception that it should be automatically exempt, given that EU R&D programs have their own stringent rules and objectives. However, in legal terms, each source of funding must be examined under State aid rules on its own merits.

¹¹ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

¹² [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

Article 107(1) TFEU applies to any aid granted by a Member State or through State resources that favours undertakings and affects trade¹³. Even if the project is endorsed by the EU (e.g. through Horizon Europe), a national subsidy might still meet those criteria. For instance, if Denmark decides to top-up a Horizon grant for a company, that top-up could be State aid unless it fits a block exemption or is notified/approved. On the other hand, if the national funding is going to a university for fundamental research as part of the Horizon project, one could argue it's not aid because the university is not acting as an undertaking in that context.

We believe the Commission should not leave this area in a grey zone. To support the EU's own R&I goals, the Commission should provide clear guidance or even specific GBER provisions for common scenarios of EU project co-funding.

Proposal for Guidance: The Commission could issue a guidance document or FAQ specifically about *"State aid assessment of national co-funding in EU RDI projects."* This would list scenarios such as:

- *Scenario A:* A research organization participates in a Horizon Europe collaborative project. It receives 70% of its costs from the EU and seeks 30% co-funding from national/regional funds. The RTO's activities meet the non-economic criteria (open dissemination, etc.). Guidance: The national 30% grant is not State aid (no advantage to an undertaking) because the RTO is not an undertaking in this activity, provided the RTO follows the rules on open dissemination and no exclusive rights (reference to safe harbour/RDI Framework)¹⁴.
- *Scenario B:* A large company participates in the same project and likewise gets national co-funding for its share. Guidance: The national funding to the company is State aid but can likely be exempted under GBER Article 25 as aid for the R&D project, if within intensity limits combining EU and national aid (or if the EU part is not considered aid, just count the national part).
- *Scenario C:* An RTO participates in an EU project, but part of its role is economic (e.g. it will license exclusively to the consortium leader company). Guidance: The national co-funding for that part should be treated as aid to the RTO (or indirect aid to the company) – and would need to fit a GBER category or be notified.

Possibly, the Commission could consider a new GBER measure to cover such cases explicitly, for example an aid category for "national support for Horizon Europe projects" with conditions.

The above are just examples, but the key point is predictability. Right now, RTOs and national agencies often face uncertainty: they wonder, "Should we notify this scheme for Horizon co-funding? Or is it automatically okay?" This can delay funding decisions or, worse, dissuade countries from providing co-funding at all, fearing legal uncertainty.

We specifically request exploring a new safe-harbour or GBER article for EU project co-funding. Perhaps a rule could be: if a project has passed the EU's excellence-based selection (i.e., it's competitively won an EU R&D grant) and involves research organizations, then national co-funding up to a certain percentage is deemed compatible aid (or no aid if fulfilling non-economic criteria). The Commission would, of course, must ensure this doesn't inadvertently allow subsidies that distort competition, but since Horizon projects

¹³ [EUR LEX, Notion of State aid](#)

¹⁴ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

are typically collaborative pre-competitive research, the risk is low. Aligning national support with EU priorities in this way would strengthen the European Research Area.

From Denmark's viewpoint, our authorities should be at the forefront of advocating this, as Denmark often leverages EU projects for its innovation strategy. A simplified State aid treatment for the national part would be very helpful. We acknowledge that one cannot simply declare all such funding "no aid" (because some could indeed subsidize companies), but with the nuanced approach described, we can cover the beneficial cases while still policing the problematic ones.

In conclusion on this point: do not assume "EU = no State aid" by default; instead, create a framework to handle national co-financing smartly. This could include a combination of the safe harbour for non-economic research (so that in many EU projects the RTO's funding is automatically cleared) and perhaps a dedicated GBER provision for the rest. We stand ready to contribute further ideas or data from the DBI to help design such solutions.

4.4. Activity-Based Classification → supports §3.4

Undertaking status is activity-based; non-economic activities fall outside Art. 107(1). EU Legal Principle – "Undertaking" Depends on Activity: In EU State aid law, the concept of an "undertaking" is fundamentally linked to economic activity, not to an entity's form or title. The Court of Justice and the Commission have consistently defined undertakings as "entities engaged in an economic activity, regardless of their legal form and the way in which they are financed", where "*economic activity*" means offering goods or services on a market¹⁵. This means that an organization (even a non-profit or a public body) is considered an undertaking *only when and to the extent that* it carries out commercial, market-oriented activities. Conversely, when the same entity carries out activities that do not involve offering goods/services on the market (i.e. purely non-economic activities), it is *not* acting as an undertaking in that context¹⁶.

Importantly, this activity-based approach precludes the creation of a special blanket category of "non-economic undertakings." If an entity is entirely non-economic in its function, it simply falls outside the scope of State aid law – there is no aid because there is no undertaking involved. This is a subtle point with major implications for research organizations. RTOs and universities often have dual functions: they engage in economic activities (e.g. contract research, fee-based services for companies) *and* non-economic activities (e.g. fundamental research, open knowledge dissemination). EU law allows such entities to have mixed roles but requires a clear separation of funding and costs for the different activity types¹⁷. The RDI Framework explicitly states that if the same entity performs both economic and non-economic activities, public funding of the non-economic activities will not be considered State aid *so long as* the two types of activities (and their costs and revenues) are clearly accounted for separately, preventing cross-subsidization of the economic side¹⁸. In other words, public money can fund the non-commercial tasks of an RTO without triggering State aid rules, provided any commercial operations of that RTO are self-sustaining and not indirectly subsidized by that public money. In conclusion, RTOs can receive full public funding for non-economic WPs; economic WPs follow GBER.

¹⁵ [EUR LEX, Notion of State aid](#)

¹⁶ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

¹⁷ [COMMISSION REGULATION \(EU\) No 651/2014](#)

¹⁸ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

Implementation can be handled via recital; no new legal category required.

4.5. Implication for GBER → supports §3.4 and §3.5

The current GBER (Regulation 651/2014) by its legal design only applies to aid granted to undertakings (i.e. to economic activities)¹⁹. For instance, Article 25 of GBER (Aid for R&D projects) sets maximum aid intensity rates based on the size of the beneficiary (small, medium, or large enterprise) and the category of research (fundamental, industrial, etc.), and it makes reference to research organizations in the context of collaborative projects (allowing a higher aid intensity if an independent research organization participates and publishes results)²⁰. However, GBER does not establish a separate aid intensity or category specifically for “research organizations” as beneficiaries – because if a research organization is the beneficiary of aid under GBER, it is acting as an undertaking in that case (engaged in an economic activity). In practice, this has led to RTOs often being treated as “large enterprises” for GBER purposes when they apply for or receive aid, given their headcount and resources, even though their mission is not-for-profit. We acknowledge that classifying a subsidized RTO as a *large undertaking* under the current rules is a logical application of criteria (an RTO with 500+ employees is not an SME). Yet, this situation feels unsatisfactory and *misleading* when the RTO’s role in the project may be non-commercial. The solution is not to carve out a new category of “non-economic undertaking” in the GBER (a contradiction in terms), but rather to better spell out in the Regulation that an RTO’s non-profit, knowledge-sharing activities are *not* to be treated as aid to an undertaking at all (thus needing no exemption), whereas any aid the RTO receives for genuine economic services must comply with the normal rules (and usually they will be considered a large enterprise in that scenario).

The revised GBER should reinforce the message – likely in the recitals or guidance notes accompanying it – that classification under State aid rules is activity-specific. We propose that the Commission *explicitly reference* the principles from the RDI Framework and the Notice on the Notion of State Aid regarding the definition of undertaking²¹. This should be coupled with practical examples (as per our next section) to help authorities avoid rote or wrongful classification of RTOs as undertakings in cases where they are merely executing a public research task. By doing so, the Commission will dispel the misconception (held by some grant administrators) that an entity either “is” or “is not” an undertaking in all circumstances. Instead, an RTO can be both – it may act *as an undertaking* in some market-facing projects and *as a non-undertaking* (a purely public research body) in other collaborative or strategic projects. GBER applies only to undertakings; non-economic activity is outside Article 107(1).

For example, a recital could state: “*R&D projects may include economic and non-economic activities. Funding of non-economic activities by research organisations does not constitute aid under Article 107(1); only economic activities are subject to this Regulation.*”

From the Danish perspective, we also address this point to the Danish Business Authority (Erhvervsstyrelsen): we encourage the authority to adopt this refined approach in national guidelines. Danish RTOs should not automatically be lumped into the same category as for-profit companies when assessing State aid for projects. If the activity qualifies as non-economic (e.g. conducting research of general interest with open results), the Danish authority should treat it as falling outside the State aid

¹⁹ [EUR LEX, COMMISSION REGULATION \(EU\) No 651/2014](#)

²⁰ [EUR LEX, COMMISSION REGULATION \(EU\) No 651/2014](#)

²¹ [EUR LEX, Notion of State aid](#)

regime – a stance that would be fully consistent with EU law and would support Denmark’s innovation ecosystem without undermining competition.

4.6. Mixed Projects and Appropriate Aid Treatment → supports §3.5

Only economic parts are aid-relevant; non-economic parts can be funded 100%.

One of the most important clarifications needed – and one that DBI strongly supports – is that R&D projects may contain both non-aid and aid components side by side. The current GBER and RDI Framework allow for this, but it is not always well understood by practitioners. We urge the Commission to state clearly in the revised Regulation or its recitals that a single research project can involve a mix of activities, some of which are not State aid relevant and some of which are.

Consider a collaborative project co-financed by the state: it might include an industry partner developing a commercial application (this partner’s activities are economic, and any subsidy to it must comply with aid rules), and an RTO partner conducting fundamental research or open testing that benefits the project generally (the RTO’s activities here could be non-economic, especially if the results are widely shared). Under EU law, it is entirely permissible that the RTO’s portion of the project is funded 100% by the state (no aid, since the RTO isn’t acting as an undertaking in that portion), while the company’s portion is funded only up to the allowed aid intensity (since the company is an undertaking receiving aid). The same project thus has a *blended nature*: part is outside the scope of Article 107(1), part is inside. We want the GBER recitals to acknowledge this explicitly to guide Member States. Too often, we have seen a tendency to force a *single classification* onto a whole project – sometimes leading authorities to say “if any partner is an undertaking, then the RTO must be treated as an undertaking too” or vice versa. Such oversimplification is not what the law requires.

The RDI Framework (2022) is crystal clear on this point: when an entity like a research organization is involved in both economic and non-economic activities, public funding is only considered State aid to the extent it subsidizes the economic activities²². By the same token, within one project, funding the non-economic tasks of the RTO does not trigger aid, if the accounts are kept straight. To ensure this separation, the Framework requires transparent accounting and avoidance of cross-subsidy²³ – which is why our earlier recommendation on a standard accounting template is crucial. If an RTO’s books clearly show that public money X went into their non-commercial lab research (and any incidental economic use of equipment is minor/ancillary), then money X is not aiding an undertaking.

We therefore recommend that GBER explicitly endorse the concept of “partial” aid in projects. For example, a recital could state: *“R&D projects may involve both economic and non-economic activities. Public funding of non-economic activities by research organisations in such projects does not constitute State aid within the meaning of Article 107(1) TFEU, whereas public funding of economic activities must comply with this Regulation.”*

Moreover, the GBER might encourage project-based differentiation, meaning authorities can design funding schemes that, say, give a higher funding rate to the non-economic work packages of a project (even

²² [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

²³ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

100% for those), and a GBER-compliant aid percentage to the economic work packages. This includes a few steps: Identify WPs → tag economic/non-economic → fund accordingly → keep WP-level accounts.

For the Danish funding context, this clarification would be very valuable. It would empower programs (like Innovation Fund grants or other R&D support initiatives) to confidently fund research institutions' contributions at higher rates than company contributions, without fear of breaking rules – if they document the distinction. It also would address the complaint that “research institutions are treated as large companies with only 50% funding,” which has been a pain point. Under our advocated model, if the RTO is doing non-economic work, it could get, say, 90-100% funding for that work (since it's not aid), whereas a company partner gets 50% for their applied development work. This flexibility is both legally sound and innovation friendly.

In summary, the GBER revision should remove any ambiguity: it should say loud and clear that only the economic parts of an RDI project fall under State aid rules. In practice, this means encouraging Member States to design projects and aid measures such that RTOs' genuine non-profit research tasks are fully funded (no State aid issue), and any aid to companies or to RTOs' market-based tasks are within GBER limits. We believe this approach will greatly enhance RTO participation in national and European missions, without undermining competition.

4.7. Illustrative Guidance: Non-Economic vs. Economic RDI Activities → supports §3.6

To operationalize the above principle, DBI strongly supports the inclusion of illustrative examples in the GBER's explanatory recitals or in an accompanying Commission notice. These examples should delineate common activities of research organizations into those considered non-economic and those considered economic, aligning with the RDI Framework's definitions and real-world scenarios.

Non-Economic RDI Activities – Positive List: We suggest that the GBER recitals enumerate certain primary activities of research and knowledge-dissemination organizations which the Commission regards as generally *non-economic in nature*. According to point 20 of the 2022 RDI Framework, these include, for example: (i) education and training of students and researchers (when part of the national education system) aimed at developing human capital, (ii) independent R&D for knowledge creation (including joint R&D in effective collaboration, where any industry partners do not receive preferential treatment), and (iii) wide dissemination of research results on a non-exclusive, non-discriminatory basis – such as publishing research findings openly, contributing to open databases, offering open access software, or broadly sharing knowledge through conferences and standardization forums²⁴. Additionally, knowledge transfer activities (e.g. licensing IP or spin-off creation) conducted by a research organization can be considered non-economic if any profits are reinvested in the institute's primary non-profit objectives²⁵. In essence, when an RTO is functioning as a knowledge hub – creating and spreading knowledge for the public good – it is not acting as a market actor. Public funding for such activities (grants, subsidies, etc.) is not State aid at all, because it does not confer a selective advantage in a market context^{26, 27}.

²⁴ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

²⁵ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

²⁶ [EUR LEX, State aid framework for research and development and innovation \(RDI framework\)](#)

²⁷ [EUR LEX, State aid framework for research and development and innovation \(RDI framework\)](#)

Economic RDI Activities – Negative List: Conversely, the guidance should flag examples of activities by RTOs that do count as economic. The RDI Framework itself warns that certain services, even if provided by an RTO, are *not* independent research. For instance, contract research or research services performed on behalf of a specific company (usually for remuneration) are economic activities – the RTO in that case is offering a service on the market (competing with other private consultancies or labs)²⁸. Similarly, consultancy or testing services offered by an RTO for a fee, use of research infrastructure by companies for a fee, or development of prototypes with the intention of exclusive commercialization by a partner firm, would all typically be considered economic in nature. In these cases, the RTO is an *undertaking* like any other service provider, and public subsidies to support those activities could constitute State aid if they meet the Article 107(1) criteria.

By providing a non-exhaustive list of such examples (both positive and negative), the Commission will give national funding bodies and RTOs themselves a clearer yardstick. For example, if a Danish RTO is planning a project that involves testing a new technology exclusively for one industrial client (with results not published or shared), both the RTO and the Danish authority would immediately recognize this as an economic venture – meaning any state support might need a GBER exemption or notification. On the other hand, if the RTO is organizing a collaborative research consortium to advance scientific knowledge in a pre-competitive field, with broad dissemination of findings, they could comfortably proceed knowing this is likely outside State aid altogether (or at most, any aid would be to the companies involved, not to the RTO).

In sum, we ask for GBER’s narrative to explicitly incorporate these activity-based examples, drawn from established Commission policy. This will reinforce a common understanding across the EU. It will also prevent the temptation to use shorthand classifications (e.g. treating all RTOs as “undertakings” by default, or conversely assuming all RTO work is non-economic – both would be wrong). The reality is nuanced, and EU law already provides the nuance; it should be mirrored in the GBER’s text and its interpretation by authorities.

4.8. Transparency (public State aid wiki) → supports §3.7

Now, we turn to a broader institutional recommendation: improving the consistency of State aid interpretation across the EU through enhanced transparency. We have mentioned earlier the idea of a public *e-State aid Wiki*.

To elaborate: currently, the European Commission maintains an internal online platform (often dubbed the State Aid Wiki) where Commission staff and Member State authorities discuss and clarify interpretations of state aid rules in concrete situations²⁹. This is an invaluable repository of knowledge – essentially a living manual of how to apply the rules, filled with Q&A, examples, perhaps even informal precedent. However, it is not accessible to those outside the government circle. While some Member States occasionally share snippets or their own guidance derived from it, many stakeholders (including RTOs, companies, lawyers, regional authorities, etc.) remain in the dark about the finer points of rule application.

We strongly urge that this platform, or at least a version of it, be made available to the public. This could be done by curating the content (to remove any confidential case-specific details) and publishing the general Q&As and explanations that have been agreed upon. An alternative approach could be to establish a new

²⁸ [EUR LEX, Framework for State aid for research and development and innovation, 2022/C 414/01](#)

²⁹ [WhatDoTheyKnow, State aid wiki](#)

publicly viewable interpretative portal for State aid, where the Commission regularly posts clarifications on questions that arise frequently, and where stakeholders can see the latest thinking.

Why is this important for the GBER revision? Because even the best-worded regulation will still require interpretation. The GBER is a complex instrument, and national authorities might apply it differently. The Commission's own staff (e.g. in DG Competition or at the State Aid Modernisation helpdesk) often issue clarifications in response to inquiries. If these clarifications are only shared bilaterally or on a hidden wiki, the risk of uneven knowledge persists. Public transparency would pressure all Member States to align with the collective interpretations and would reduce the phenomenon of some countries being more risk-averse than others in approving benign aid measures.

For example, if the Danish Business Authority could see that on the wiki the Commission has answered a question from another country confirming that "Funding X to a research infrastructure for open access is not aid," they can comfortably follow suit. Conversely, if an authority is being too lenient, the public nature of the guidance would allow peer scrutiny.

We see this as analogous to tax rulings or technical standards – transparency brings convergence. It is also a matter of fairness: the rules of the game should be equally known by all players, not just those who have insider access or the resources to hire specialized counsel.

We acknowledge there may be institutional hesitancy to exposing internal discussions. Perhaps the Commission might say the wiki is just informal guidance. Nonetheless, we believe a sanitized, anonymized version could be published without legal risk, clearly labelled as non-binding guidance. The benefit to the innovation community would be significant: fewer inadvertent breaches of rules, fewer notifications (because if one sees a similar case was already green lit under GBER in another country, one can follow that template), and overall, a more harmonized application of GBER across the Union.

We specifically request that the Commission include in its GBER revision follow-up actions a plan to enhance public guidance, potentially by releasing an *Interpretative Communication* or an online database of anonymised Q&A, align national FAQs, and timestamp updates.

This should cover RDI topics among others. National authorities, on their part, should support this move. We call on the Danish authorities to advocate for it in the Advisory Committee on State Aid and other forums. In the interim, we encourage them to publish national guidance notes (as some countries do) on tricky points – for instance, how Denmark interprets the notion of effective collaboration, or how it expects RTOs to demonstrate non-economic activity. Publicly sharing such information (in English as well) would contribute to a pan-European consistency. The success metric is fewer divergent interpretations in Member State decisions.

4.9. Technology Infrastructures and Test & Demonstration → supports §3.8

Clarify that open, non-profit TI/T&D operated on non-discriminatory terms are primarily non-economic. Fund these activities fully. Treat any economic use under GBER with accounting separation. Apply the same activity test to safety and dual-use domains. This delivers simplification, legal certainty, and faster decisions.

Ambiguity around TI/T&D leads to uneven national practice, delays, and unnecessary notifications. A short recital removes doubt at low legal cost and aligns with the review goal to streamline compatibility conditions and reduce administrative burden.

Non-economic by default when all conditions hold:

1. Open and non-discriminatory access.
2. Cost-based or regulated pricing.
3. No exclusive rights or preferential access.
4. Reinvestment of any net revenues in the operator's public-interest mission.
5. Publication of results, protocols, or data when relevant to the activity.

Where a facility offers market-rate services or grants exclusivity, classify those work packages as economic only. Apply GBER to those parts. Do not reclassify the whole facility.

For Dual-use, safety, security, use the same activity test. Publicly disseminated methods, test protocols, and shared validation capacity are non-economic. Customer-specific, exclusive prototype validation is economic. No sectoral carve-out is needed. This avoids overreach, preserves competition, and supports resilience and civil protection objectives.

We recommend a recital referencing the 2025 European Strategy on Research and Technology Infrastructures, plus guidance. Operational tools:

- One-page declaration per facility or work package covering access policy, pricing method, IP policy, reinvestment rule.
- Standard accounting template to separate costs and usage for economic vs non-economic parts.
- Decision tree for authorities: define work packages, tag activity, allocate costs ex ante, record ex post, apply GBER only where economic.

For transparency and monitoring, the commission could require publication of access terms, pricing methodology, IP and licensing policy, and an annual "commercial-use ratio" KPI. These items support the transparency objective, ease audits, and reduce divergence across Member States.

The expected effects will be predictable classification for TI/T&D. Faster award and fewer notifications. Better SME access to shared infrastructures. Consistent treatment across R&I, cohesion, and industrial policies through alignment with the 2025 RTI strategy.

Further, publish the guidance and templates, and instruct national authorities to use the declaration, the decision tree, and the transparency items as standard practice. This is a targeted fix with high payoff for legal certainty and administrative simplicity.

5. CONCLUSION

The GBER review can reduce ambiguity and administrative burden while safeguarding competition.

DBI asks the Commission to confirm activity-based assessment, establish a safe harbour for clearly non-economic RD&I, provide positive/negative examples, recognise open, non-profit TIs and T&D as primarily non-economic, endorse mixed-project treatment, and issue standard tools for accounting separation, national co-funding, and transparency.

Instruments: targeted recitals (activity-based, mixed projects, TI/T&D, safe harbour), an annexed checklist and example list, and a guidance package (accounting template, co-funding FAQ, public Q&A portal).

Owners: DG COMP for recitals and guidance; Member States for scheme design, audits, and publication.

Outcome: faster and more consistent decisions, predictable funding for non-economic work, and improved SME access to shared infrastructures. DBI can provide data and case material to operationalise these measures.