LEADER Programme State Aid Guidance[1]

A. *Assessing Applications*

1. The starting presumption for all LEADER funding in Ireland is that it involves state aid and the *de minimis* rules apply – see section 11.1 and 11.2 of the LEADER Operating Rules.

2. State aid and the *de minimis* provisions apply in all cases where LEADER funding is provided to private promoters (i.e. promoters that don't meet the definition of community applicants in Section 9.2 of the LEADER Operating Rules).

3. LEADER funding provided to community applicants (as defined in Section 9.2 of the LEADER Operating Rules) is deemed to be state aid and subject to *de minimis* **unless** the LAG determines that it is not state aid in accordance with Section 11.3 of the LEADER Operating Rules. This must be decided on a case by case basis, and should be documented in section 10 of the Standard Project Assessment Report.

4. In general, state aid (& *de minimis*) does not apply for many LEADER projects undertaken by community applicants as:

   a. the applicant is not involved in economic activity (offering goods and services in a given market) and/or
   b. the project does not pass all of the state aid checks as outlined in Section 11.3 of the LEADER Operating Rules.

   However, this consideration must always be undertaken on a case by case basis.

   Other issues such as deadweight and displacement must also be considered but these are separate to the state aid decision.

5. It should be noted that funding for one project undertaken by a community group (e.g. a community park) may not be considered to be state aid whereas another project undertaken by the same group may be state aid and subject to *de minimis* (e.g. enterprise activity) i.e. it is important to look at the activity being funded.

6. It is irrelevant, for the purposes of determining if state aid rules apply, whether a community group has a charitable status, how it is financed or whether it has a not for profit orientation. The focus should be on the activity/project being supported rather than the status of the community group.

B. *Applying the €200,000 de minimis requirement i.e. the approach to take where LEADER funding constitutes state aid*

[1] To be read in conjunction with the requirements set out in Section 11 of the LEADER Operating Rules

7. When it is established (as per 1-5 above) that the LEADER Funding is <u>not</u> state aid then no further action is required and points 8-15 below <u>do not</u> apply.

8. When it is established (as per 1-5 above) that the LEADER Funding is state aid and subject to *de minimis,* the €200,000 threshold for all funding received must be applied as per points 9-15 below.

9. Applicants cannot receive more than €200,000 in state aid (*de minimis* funding*)* from all sources combined over a three year period.

10. Section 11.1 of the Operating Rules explains the 3 year requirement and provides examples as to how this is calculated.

11. This €200,000 calculation and associated checks are <u>**only applicable where the LEADER funding is considered to be state aid**</u> as per points 1-5 above. No check is required where the LEADER funding is not considered to be state aid.

12. LAGs/IPs must check all of the other funding received by the applicant. This is identified by the applicant under Question 46 of the Standard Application Form. This check requires the LAG/IP to verify if the other funding received is considered to be state aid and should be included in the €200,000 state aid/*de minimis* calculation. Other funders are obliged to identify and record if the funding they provided is state aid and calculable for *de minimis,* and to supply this information upon request.

13. The correspondence from the other funders should explicitly state that state aid (and *de minimis*) applies or does not apply to the other/previous funding received. The applicant or the IP/LAG may already have directly received correspondence from the other funder indicating whether *de minimis* applies or not to particular categories of funding, and this is also acceptable.

14. The correspondence and the calculation must be referenced in Section 10 of the Standard Project Assessment Report.

15. It cannot be assumed that funding from a Local Authority is not state aid on the basis that it is derived from the own resources of the Local Authority. The Local Authority must explicitly state whether or not the funding constituted state aid and whether it should be included in the *de minimis* calculation

C. *Income associated with LEADER funded projects (e.g. community facilities) which are not considered to be state aid and not included under* de minimis

16. Points 17-19 only apply in respect of projects from community applicants

17. A nominal charge can be applied for the use of the infrastructure (e.g. community centre) funded by LEADER, which is not considered to be state aid, to cover costs associated with the provision of associated services (e.g. for heat, light, consumables). However no net revenue should be generated from such charges i.e. the principle is that these facilities must be made

freely available to the public but a small charge can apply to cover the cost of providing the facilities, ongoing maintenance etc.

18. Income can also be earned from fundraising events such as cake sales, bingo, concerts etc. used to support the ongoing development of the facility/organisation.

19. LEADER funded infrastructure projects may also be used for small scale local activities or services (such as a crèche or a small shop selling food during events) without the project coming under the state aid rules. This is on the basis that these activities have **a purely local impact.**

    However, the issue of displacement may be particularly relevant in such cases and must be given careful consideration during the LAG evaluation.

D. State Aid and Maximum LEADER funding levels

20. The decision as to whether a project can receive more than €200,000 in LEADER funding is completely separate to the state aid check noted in points 1-15 above. State aid is only one element of the decision to award more than €200,000

21. A €200,00 funding limit applies to all applicants unless they satisfy the criteria outlined in Section 9.2 of the Operating Rules which include:

    a. Community applicant and project that does not involve economic activity – no state aid implications
    b. Projects fit typology outlined in Section 9.2 e.g. culture and leisure facilities or projects that enhance the attractiveness of a village.
    c. Must be open to all
    d. Nominal charge can apply but no net revenue can be generated from such charges i.e. the principle is that these facilities must be made freely available to the public but a small charge can apply to cover the cost of providing the facilities (not for generating profit)

    Please refer to Section 9.2 of the Operating Rules for exact details.