

## EStAL Seminar 2018

# Mapping the Boundaries of the Market

Notion of Aid – Economic Activity – State Resources – Advantage

12–14 April 2018 | Rome, Italy

Discuss crucial elements  
of the Notion of Aid with  
leading State aid experts!

### EXPERT PANEL:



**Leo FLYNN**

*Legal Service,  
European Commission,  
Brussels*

**Economic and Non-Economic  
Activities**



**Adina CLAICI**

*Copenhagen Economics, Brussels;  
College of Europe, Bruges*

**State Resources and Imputability**



**Alessandra FRANCHI**

*DG Competition,  
European Commission, Brussels*

**Advantage & Market Economic  
Operator Test**



**Antonis METAXAS**

*Metaxas & Associates Law Firm,  
Athens; University of Athens*

**No Advantage & Services of General  
Economic Interest (SGEI)**



**Phedon NICOLAIDES**

*College of Europe, Bruges;  
University of Maastricht*

**Problem-Solving Session, Practical  
Cases & Final Discussion Round**

# STRUCTURE & PARTICIPANTS

## OVERVIEW

The European Commission's Notice on the Notion of State Aid aims to contribute to a consistent application of the concept of aid and particularly to identify when public investments do not contain State aid in the light of Article 107(1) TFEU. As such, it provides guidance on the main principles of the notion of undertaking, the presence of an economic activity, financing through State resources and the presence of an economic advantage for the beneficiary. In practice, it remains challenging to find the dividing lines between economic and non-economic activities, between State and private resources as well as between advantage and non-advantage.

To understand the Commission's approach and practice regarding State aid, this intensive seminar will discuss various elements of the Notice on the Notion of Aid taking into consideration latest rulings of the courts and Commission decisions. Under discussion will be the concepts of economic activity, State resources and imputability as well as advantage, among others, in relation to crucial areas such as Services of General Economic Interest (SGEI), infrastructure funding, public utilities and networks, social services, culture and sports.



## PARTICIPANTS

The seminar will bring together State aid experts from European and national institutions, industry, legal practice and academia. As such, the seminar is targeted to:



## OBJECTIVES



The EStAL Seminar offers a unique experience to thoroughly examine State aid issues in an intensive, small-group atmosphere allowing for in-depth interaction among the participating experts. The diverse professional background of the faculty and the small circle of participants sharing a high level of expertise and experience will guarantee a lively and insightful debate.

## METHODOLOGY



During the two and a half-day programme you will have ample room to profoundly look into the diverse aspects of the issue thanks to a high variety of dense and topical presentations, case studies, brainstorming rounds and in-depth discussions. As the seminar will be held under the *Chatham House Rule*, your questions will be discussed in full confidentiality.

# PROGRAMME

12-14 APRIL 2018

## FACULTY

All speakers are planned to stay along for the whole seminar and participate in the sessions, discussions and social activities.



**Leo FLYNN (Chair)**

*Legal Advisor, Legal Service, European Commission, Brussels*



**Adina CLAICI**

*Director, Copenhagen Economics, Brussels; College of Europe, Bruges*



**Alessandra FRANCHI**

*Case Handler – State Aid, Unit ‘State Aid Case Support’, DG Competition, European Commission, Brussels*



**Antonis METAXAS**

*Managing Partner, Metaxas & Associates Law Firm, Athens; Ass. Professor of European Law, University of Athens*



**Phedon NICOLAIDES**

*Professor at the College of Europe, Bruges; Professor at the University of Maastricht; Academic director of lexcion training*

## BENEFITS OF ATTENDING

Receive first-hand information from experts of the European Commission

Discuss crucial elements of the Notion of Aid and its practical implications

Participate in small group exercises, various case studies and discuss your individual cases and questions in full confidentiality

Enjoy the great networking opportunities and (informal) exchange with State aid experts in the beautiful city of Rome.

Programme might be subject to minor changes.

## Thursday, 12 April

8:30 – ca. 22:30 (incl. Coffee Breaks, Lunch & Evening Excursion)

### Morning Session (9:00–12:30): Economic and Non-Economic Activities

- Defining economic activity, undertaking and market
- Relevant case law pertaining to economic activities
- Discussion of practical cases in different sectors: Where is the boundary between economic and non-economic activity?

#### Speakers:

**Alessandra FRANCHI**

*Case Handler – State Aid, Unit ‘State Aid Case Support’, DG Competition, European Commission, Brussels*

**Leo FLYNN**

*Legal Advisor, Legal Service, European Commission, Brussels*

### Afternoon Session (13:30–17:00): State Resources and Imputability

- State vs. private resources
- State resources: origin, State control and State involvement
- Indicators for imputability
- How to treat and separate between commercial and non-commercial activities of public entities?
- Imputability, State resources and State aid in the energy sector

#### Speakers:

**Antonis METAXAS**

*Managing Partner, Metaxas & Associates Law Firm, Athens; Ass. Professor of European Law, University of Athens*

**Alessandra FRANCHI**

*Case Handler – State Aid, Unit ‘State Aid Case Support’, DG Competition, European Commission, Brussels*

**Evening: Excursion with all speakers and participants & Dinner**

## Friday, 13 April

9:00 – 17:00 (incl. Coffee Breaks & Lunch)

### Morning Session (9:00–12:30): Advantage & Market Economy Operator Test

- Why, when and how to apply the MEO test?
- Assessment of existence of aid and how to quantify it
- Proof of investment rationality: market price, benchmarks, business plans and indicators
- MEIP in tax cases and the arm’s length principle – The Commission’s approach
- Does compliance with public procurement law preclude State aid?

#### Speaker:

**Adina CLAICI**

*Director, Copenhagen Economics, Brussels; College of Europe, Bruges*

### Afternoon Session (13:30–17:00): No Advantage & Services of General Economic Interest

- Altmark criteria and requirements of Article 106(2) TFEU
- Manifest error in defining a genuine service of general interest
- Financing infrastructure as SGEI in transport, broadband and broadcasting sectors; interplay with sectoral guidelines
- Practical cases from the health and social sectors, sports and culture

#### Speaker:

**Phedon NICOLAIDES**

*Professor at the College of Europe, Bruges, Professor at the University of Maastricht; Academic director of lexcion training*

## Saturday, 14 April

9:00 – 14:00 (incl. Coffee Break & Lunch)

### Morning Session: Practical Case Study & Final Discussion Round

- General wrap-up of the two days’ debates
- Discussion of remaining questions
- Interactive group work based on cases (brought by participants and/or speakers)
- Analysing your cases and discussion of your individual questions

#### Speaker:

**Leo FLYNN**

*Legal Adviser, Legal Service, European Commission, Brussels*

**Participants are welcome to send us topics and/or individual questions beforehand.**

