

European Commission Directorate-General for Competition

State aid Registry, Unit A3

1049 Bruxelles/Brussel

Submitted by email:

Re: Public Consultation on the Draft General Block Exemption Regulation

Reference: HT.6365

1. About This Submission

NEG8 Carbon Limited is an Irish deep-tech company developing patented technology for Direct Air Capture (DAC) of CO₂. We submit this response as a directly affected company whose access to Member State grant and innovation funding has been materially constrained by the current definition of an Undertaking in Difficulty (UID) under Article 2(18) of Regulation (EU) No 651/2014.

This submission responds directly to the draft revised GBER and its accompanying Explanatory Memorandum (February 2026), with reference to the Commission's stated intention to introduce a new UID exemption for innovative start-ups eligible for R&D&I aid. We welcome that commitment and write to address some specific questions the draft leaves open.

2. The Commission's Acknowledgement

The Explanatory Memorandum explicitly recognises that, under the current definition, some innovative start-ups qualify as undertakings in difficulty even if they have growth potential and are viable in the longer term. This is an important and accurate diagnosis. Pre-revenue deep-tech companies operating in capital-intensive sectors including direct air capture, green hydrogen, and novel battery chemistries will, by design, produce the balance-sheet profile that triggers UID classification during their R&D phase. Accumulated losses arising from legitimate technology development are not evidence of financial distress; they are the ordinary financial trajectory of innovation prior to first commercial revenue.

The Commission's decision to introduce a corrective exemption for innovative start-ups is the right response to this structural problem and we commend it. The two points that follow are intended to assist the Commission in calibrating that exemption so that it delivers its intended effect. We observe that every month the current definition remains in force is a month in which viable European deep-tech companies are denied access to the instruments the Clean Industrial Deal was designed to deploy. This is a direct contradiction of the CID's stated objective of making

decarbonisation a driver of industrial growth, and one that cedes ground to non-EU jurisdictions whose support frameworks carry no equivalent eligibility barrier.

3. NEG8 Carbon Recommendations

3.1 The definition of ‘innovative start-up’ must be grounded in objective technical criteria

The Memorandum leaves the definition of innovative enterprises and start-ups open for development. Age alone is an inadequate criterion: it will exclude deep-tech companies whose extended pre-revenue cycle reflects technological complexity, not commercial failure. The definition must be anchored in objectively verifiable evidence of innovation activity.

We propose that the definition of an innovative start-up, for the purpose of the UID exemption, should require satisfaction of at least one of the following:

- A filed patent in a technology domain aligned with the Clean Industrial Deal, the Net-Zero Industry Act, or the EU Critical Raw Materials Act; or
- A verified Technology Readiness Level (TRL) of 5 or above, as assessed by a competent national authority or recognised third-party body; or
- Selection as a project of common interest, strategic project, or equivalent under a centrally managed EU funding instrument.

These criteria are objective, verifiable, and consistent with criteria already used in adjacent EU instruments. They would ensure the exemption reaches companies genuinely advancing deep-tech innovation rather than companies that are merely young.

3.2 The definition of UID must become less restrictive

The UID definition cannot distinguish between a pre-revenue innovative company that is building deep technology while incurring losses and an operational revenue-generating company that is loss-making. A pre-revenue deep-tech company will trigger the capital erosion test by design — R&D spend produces losses before revenue arrives. The result is that a company with a valid patent, a functioning pilot, and signed commercial agreements is classified alongside insolvent businesses and denied the same public funding. Essentially the UID criteria needs to be broadened.

4. Conclusion

NEG8 Carbon welcomes the Commission’s acknowledgement that the current UID definition produces outcomes inconsistent with the innovation objectives of EU industrial policy. The two

Capturing CO₂ from the
air to reach net-zero



points above are intended to ensure that the corrective exemption introduced in the 2027 GBER is calibrated to deliver its stated purpose: enabling viable, innovation-stage companies to access the State aid instruments that exist to support them.

We remain available to provide further evidence or to participate in any technical working group convened to provide input on this matter.

NEG8 Carbon Limited

Unit 24-26, IDA Business Park, Cork Road, Waterford, X91 DC96, Ireland

www.neg8carbon.com