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Revision of the Energy and Environmental State Aid Guidelines Commission Consultation

Introduction

BusinessEurope is committed to making the Green Deal a success. Reaching climate neutrality by around mid-century will require huge transformative investments by both the public and private sectors. European businesses should be supported in their transformation towards climate neutrality, sustainable growth, job creation and prosperity and the Energy and Environmental State Aid Guidelines (EEAG) have an important role to play in achieving this.

Competition and State aid policy should ensure effective competition between companies. As such it contributes to efficient markets, investments, and innovation, also to develop market-based sustainable solutions and technologies to reach Green Deal objectives. Competition is the driving force of achieving results also when it comes to sustainability and the environment considering that companies' primary driving force is to be competitive and achieve results in the most efficient manner. As such, competition and State aid policy complements specific legislative actions to reach Green Deal objectives. It is important that subsidies address market failures (only when the market does not remunerate the investor for the investment) and that any distortive effects of the subsidies are proportionate and limited. In this context, large aid schemes should continue to be the subject of an individual examination by the Commission to ensure that these principles are followed and that the aid beneficiaries obtain the necessary legal certainty to carry out the project. In addition, Member States should consider adjusting their tax systems to support the green transition and minimise the use of State aid.

Overall, the EEAG have promoted coherence and clarity at EU level. The amount of granted aid in the energy and environmental field has risen over the last years, often in the form of tax reductions or exemptions. It is set out in the 2019 State aid Scoreboard that aid spending has been increasing since 2014 and that a large part of the increase is due to a sharp increase in spending for environmental protection and energy savings (State aid spending for environmental and energy aid corresponded to 55% (66.5 billion EUR) of total State aid spending in 2018). This is at least partly due to more ambitious targets in this area. Existing exemptions in the Guidelines relating to environmental taxes, energy taxation, and the funding of support for energy from renewable sources, but also from cost pass-through of renewable technologies, are important to provide the right framework for European companies, especially energy intensive ones, to remain competitive vis-à-vis their main global competitors.

Hereunder, we set out these points in more detail.

Funding for low-carbon and renewable technologies

The green transition requires deployment of new technologies and infrastructures (e.g., recharging alternative fuels), building low-carbon production facilities, roll-out of



decarbonisation technologies (hydrogen amongst others) and promoting new circular economy projects (e.g., circular economy innovations for waste), etc. which will require increased investments and additional (operating) costs for industries in Europe. Many of the technologies/solutions required to achieve the climate transition already exist and cost are going down in many cases (e.g., renewable electricity). Others are still currently at the prototype phase or not yet commercially deployed on a mass-market scale as set out in the International Energy Agency (IEA) 2020 Clean Energy Innovation report (<https://www.iea.org/reports/clean-energy-innovation>). When technologies *are not yet mature and/or competitive, European businesses are still struggling to implement solutions to achieve the climate transition as sustainable/low-carbon investments tend to be more expensive than 'conventional' alternatives. Therefore, it is difficult to proceed with these low-carbon investments while still maintaining competitiveness.

EU industry, which competes globally with companies that are not facing a similar carbon cost, will not be able to bear all the costs related to the transition in the absence of a global level playing field regarding climate change obligations and subsidy control. The EEAG, therefore, need to be revised to reflect this global reality by maintaining exemptions supporting competitive energy costs and by increasing support to "green projects".

The updated EEAG should:

- allow for additional reductions from the future extra costs resulting from financing the EU Green Deal and the higher climate ambition. Such costs are for example related to direct funding support for additional infrastructure and storage that enables the targeted renewable electricity uptake in the power mix. Furthermore, reductions in capacity mechanisms surcharges, system balancing costs and extra network investments should also be allowed. After electricity production and storage reach an economically mature level, there is no need for further support.
- ensure increased flexibility in the granting of investment and operating aid as individual categories of State aid as well as in the combination of both types of aid when awarding State aid for projects. Introducing new green solutions and technologies in the market often requires continuous support necessary to bridge the so called "valley of death" for new undertakings. Support for the additional costs (CAPEX + OPEX) that low-carbon investments tend to entail would enable European businesses to decarbonize their processes while maintaining their competitiveness. This rationale is already applied in Section 3.6 of the EEAG, which foresees the possibility for 100% compensation for the additional costs that implementing Carbon Capture Utilisation and Storage (CCUS) entails. In this context, a modification of EEAG, ANNEX 1 (Aid intensities for investment aid as a part of the eligible costs) should also be considered so that CCU is treated the same way as CCS in the table, i.e. 100%. However, CCUS is just one of the technologies in which investment is necessary to achieve the climate transition and therefore the same possibility should be foreseen for all the solutions that will be required to decarbonize industry (e.g., consumption of decarbonised fuels, hydrogen, or consumption of renewable energy, storage, electrification).
- explicitly clarify that projects can accumulate funding tools, such as the EU Innovation Fund and national funding, to cover the eligible funding gap up to 100%. The size of the Innovation Fund is still too small (\$10 billion over the period 2021-2030) to cover the full range of investments that will be required for the



transition, and the fund only covers 60% of the eligible costs (which still leaves a sizeable funding gap).

- ensure that reductions on the cost of renewable energy technologies are reflected in the maximum aid allowed in relation to Member States' choices regarding the renewable support schemes architecture. Designed schemes can be a barrier to a more cost-effective competitive deployment of solutions, such as renewable electricity. The EU should therefore provide guidance on how well-designed national policies, such as the use of revenue stabilization mechanisms, should work and monitor the implementation of such guidance.

Case study: hydrogen and low-carbon gases

A specific chapter or section on hydrogen and low-carbon gases should be incorporated in the revised EEAG. Renewable and low-carbon hydrogen and its derivatives will play an important role for many energy intensive sectors to further decarbonise their operations and products but such new solutions will come at considerably higher costs. The current rules are not sufficiently tailored to meet the infrastructure needs of large-scale low-carbon projects including for hydrogen. Guidance on hydrogen and low-carbon gases will prove to be important to further enable the granting of proportional State aid directed to large-scale hydrogen projects and to channel the necessary support towards infrastructure needs. Carbon Contracts for Difference as a means for providing OPEX support for hydrogen or Power-to-X production will be particularly important.

To lower the cost gap with the status quo and to support the market uptake of low-carbon solutions, it is also paramount that the EEAG allow for the exemption of electro-intensive operations, such as electrolysis, from paying electricity surcharges, such as renewable energy levies.

Surcharge reduction

As mentioned, the revised EEAG should continue to support low-carbon and energy-efficient technologies while also preserving the global competitiveness of Europe's energy-intensive industries. This will enable these industries to continue 'greening' their production, while also effectively contributing to emission reductions on both European and global level.

In this regard, the possibility of aid in the form of reductions in the renewable energy resources (RES) surcharges paid by energy-intensive electricity consumers as foreseen in section 3.7.2 of the EEAG played an important role in limiting carbon leakage and maintaining EU competitiveness vis-a-vis global competitors who do not face the same charges. The possibility and eligibility for such reductions should therefore be maintained and considered to be enlarged also in view of the likelihood that these surcharges will increase over the next decade due to the EU's increased climate ambitions. RES charge reductions are necessary to reduce distortions between EU and non-EU producers who do not face comparable costs. In such sectors, which are exposed to global competition, cost increases cannot be passed on to consumers without losing significant market share to non-EU producers that do not face the same costs.

Furthermore, the Guidelines should clarify that in the case of an integrated undertaking with activities in various sectors, the gross value added (GVA) should be calculated at the sub-undertaking level to ensure the accuracy of GVA calculations, since using the



GVA of the undertaking as a whole (instead of the specific sub-undertaking's GVA) would artificially inflate the GVA, leading to disproportionate aid amounts or an erroneous understatement of the electro-intensity.

Section 3.7.2 of the EEAG only covers RES surcharges, but electricity and gas bills in Europe also include many other regulatory charges (e.g., support for high-efficiency cogeneration, funding for capacity mechanisms, public service obligations). The Commission has already approved reductions to these surcharges in many Member States by applying Section 3.7.2 by analogy. This case law should be confirmed by explicitly foreseeing the possibility for such surcharge reductions (beyond just the RES surcharge) in the EEAG itself.

Environmental agreements

Environmental agreements between industrial organisations and the governments within the framework of the EEAG could also be important measures to help achieve the goals of the Green Deal. These agreements encourage and inspire companies to go green by adapting measures that help them to stay competitive. The Commission should address this more actively both within and outside the State aid framework. Alternative approaches to fulfilling the goals of new relevant legislation following the Green Deal should be explored.
