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Comments on the low-carbon hydrogen delegated act

Current signals throughout the EU are showing that the ramp-up of the European hydrogen market is lagging behind expectations. Only a small fraction of the low-carbon and renewable supply planned by 2030 has passed the final investment decision (FID) stage or become operational[1]. Meanwhile, foreign competitors are making progress, supported by ambitious measures and considerable financial support from their governments in favor of clean technologies.

It is important to adjust to these realities and finalise an EU framework that facilitates the production, consumption and import of renewable and low-carbon hydrogen and contributes to the European leadership in clean technologies[2].

We welcome the objectives of the delegated act, which is to bring clarity, stability and visibility to investors in the hydrogen value chain and to contribute to both the uptake of the European hydrogen market and to a competitive acceleration of decarbonisation in Europe.

As they stand, however, the proposed requirements for low-carbon fuels are disproportionate and create significant barriers for hydrogen project deployment. Moreover, some rules will further evolve (such as on methane intensity), and decisions on some critical parameters and criteria are postponed until 2028, preventing the much-needed clarity for investors.

The proposal thereby entails significant challenges that are likely to further delay the essential scale-up of the hydrogen economy. Hence, **the draft delegated act should be revised to ensure that the criteria for low-carbon hydrogen production and deployment are achievable without imposing overly complex or unrealistic hurdles while striving for a harmonised treatment of all technologies**.

General recommendation:

- We share the consideration of rules set out without prejudice to Articles 107 and 108 of the Treaty on the Functioning of the European Union and support the need to ensure that state aid does not unduly distort competition.

- Nevertheless, according to recital (2) of the draft delegated act, **the unexplained additional safeguards could provide uncertainties to low-carbon fuels projects**. The example mentioned in the recital of potential time limitations to the use of electricity in certain production processes needs to be

[1] See ERCST: 2024 State of the European Hydrogen Market Report, pp. 24. (based on BloombergNEF's hydrogen project database).
[2] For further recommendations on securing hydrogen value chain in Europe, see BusinessEurope policy recommendations for a competitive energy and climate transition.

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clarified because of its significant impact on economic viability of low-carbon fuels production projects.

Recommendations on molecular input:

- **Project-specific values for the upstream emission intensity of natural gas should be accepted** to demonstrate better performance alongside realistic default values as a fallback option. Relying solely on default values risks misrepresenting the actual carbon intensity of low-carbon hydrogen, potentially disqualifying suppliers who could otherwise meet the 70% GHG emissions reduction threshold.

- Although the draft generally requires data reported under the Methane Regulation, it mandates the use of a default value with a 40% surcharge if no methane intensity value is available. In cases where methane intensity data is unobtainable, applying a 40% surcharge would likely exclude imports of low-carbon hydrogen and its derivatives from third countries as the 70% GHG reduction target can hardly be met under these conditions. While we recognize the need for a precautionary principle, **the 40% surcharge on standard values does not seem to be based on any scientific or rigorous approach at this stage**.

Recommendations on electricity input:

- As currently proposed, the Delegated Act would hinder the implementation of national projects across several Member States. This is concerning given the importance of ensuring a secure supply of both renewable and low-carbon fuels throughout the EU.

- **For electricity procurement along the low carbon value chain**, including the electricity usage for processes not adding to the energy content of the hydrogen (CCS, synthesis and cracking, transport, conditioning and liquefaction), it is important to account for **the use of Power Purchase Agreements (PPAs) for any type of low-carbon electricity** in the methodology for calculating carbon footprint. It should also be possible to **use project specific electricity CO2 values** that might contain a combination from grid-mix electricity as well as partial PPAs.

- **Hourly averages for the grid's emission intensity** should be allowed. Methodology based on real-hourly emission data would enable electrolyser operators to take early advantage of advancements in national grid decarbonisation and encourage Member States to accelerate their decarbonisation efforts.

- Waiting until July 2028 for a dedicated review of sourcing low carbon electricity from nuclear power plants and considering hourly averages for the grid's emission intensity, as currently proposed in Article 3, is far too late and would likely further delay much needed investments. It is necessary to provide as soon as possible a long-term signal on the production of low-carbon fuels.

- Finally, the emission intensity of generated electricity in Member States set out in part C of the Annex (Table 6) should be more accurate, based directly on Eurostat data or official national statistics.

Recommendations on geological storage:

- We welcome the recognition of geological storage in third countries. While several jurisdictions have implemented regulations that are broadly equivalent to those in the EU CCS Directive, there are differences in scope and level of detail. The text should further clarify **how equivalence with the provisions applicable in the Union can established** to make recognition of geological storage in third countries more workable.