



*Employers entrusted to deliver
Sustainability Growth Innovation*

Position Paper

Revision of the Guidelines on State aid
for climate, environmental protection and energy 2022

2 August 2021

Brussels, 2 August 2021

General remarks

As an employers' organisation and a recognised European social partner, we represent **our members active in services of general interest**. Our members are active in sectors such as energy, healthcare, telecommunications, waste management, water sector etc. Whilst on the one hand these sectors **contribute to the society as a whole and facilitate development of less privileged areas and play an indispensable role in inclusion of the less privileged people**, on the other hand, they **also face the greatest challenges in the twin transition**. The latter will be a success only if it at the same time proves to be socially just and leaving no one behind. Services of general interest can play a great role in achieving smart, sustainable, and inclusive growth.

SGI Europe welcomes the opportunity to answer the consultation on CEEAG. We understand that CEEAG is a vital part of the twin, green and digital, transition. The importance of the respective Guidelines also corresponds to the number of the approved State Aid measures and schemes, since in 2019, more than half (51%) of all spending, i.e., EUR 69.1 billion corresponding to 0.42% of EU 28 GDP, was allocated to environmental protection and energy savings.

The importance of the Guidelines is reflected also in the fact that only 22% of the measures dedicated to environmental protection and energy savings were granted under block exemption regulation. The other 78% of the cases were subject of notification procedure and assessed under the EEAG.¹ These figures draw on the substantial role of the present Guidelines and consequently the importance of this public consultation.

SGI Europe, as an advocate for the employers active in the area of services of general interest, generally welcomes the revision of EEAG, now called CEEAG. We explicitly welcome inclusion of some of the new categories of aid measures, such as Aid for mobility and hydrogen, in the CEEAG. Expanding the scope of the CEEAG, overall improves legal certainty and predictability for the investors. However, SGI Europe would like to point out some of the improvements and make aware of the possible shortcomings regarding the scope and definitions, compatibility assessment and different categories of aid.

¹ Accessible here: https://ec.europa.eu/competition-policy/state-aid/scoreboard_en

Scope and definitions

Ensure that local public enterprises qualify as SMEs

The current definition of micro, small and medium enterprises, as included in Recommendation 2003/361/EC², does not consider enterprises that are owned by the public bodies. As it follows from the Annex Art. 3 Paragraph 4 of the 2003 Recommendation, enterprises that are owned at least 25% by the public authorities/bodies, do not qualify as SMEs and consequently, despite their small size and similar limitations that they are facing as the SMEs, **local public enterprises cannot benefit the bureaucratic leniency or access less strict funding rules**. In other words, local public enterprises must comply with often very burdensome obligations that do not correspond to their capacities and often despite their undeniable positive and indispensable role in providing services of general interest. This is to the detriment of the provision of services of general interest that these local public enterprises provide. SGI Europe **calls here for consideration of also publicly owned enterprises as SMEs**.

Definition of energy infrastructure

SGI Europe appreciates the explicit mentioning of smart grids in electricity, gas sector and hydrogen in the guidelines. We believe that these categories will play a significant role in achieving the green transition goals.

Incentive effect in the context of mobility

Since the **public transport and sub-urban railways are substantial in decarbonisation and e-mobility strategy for cities**, we would like to highlight that these sectors suffered severely during the COVID-19 pandemic through a decline in passenger volumes entailing high losses in revenues. Consequently, this resulted in scarce investments in the high-quality and cleaner public transport. Therefore, we believe that for achieving the 2030 climate targets **more funding in public transport and regional railway services is necessary** and must be ensured in the state aid guidelines.

However, the present draft of the revised guidelines continues pursuing the unsuitable rationale that support shall not be granted where investments are made to ensure that undertakings comply with Union standards already adopted. The rule that only aid that goes beyond Union standards already in force can have an incentive effect and thus be found compatible, is in our opinion, highly problematic. Such aid questions the rightfulness of receiving aid also for some activities, where up to date applicable EU rules set already very high standards. Just to name one example, the Clean Vehicles Directive (EU 2019/1161)³, hereinafter CVD, prescribes high targets for the purchase of zero emission vehicles in public procurement. Public transport operators that fall within the scope of the CVD and are obliged to purchase zero emission vehicles will not be allowed to receive funding for purchasing cleaner vehicles. This is in particular unbalanced, since only certain companies are subject to these EU-rules and not all. As it stands now, the CEEAG could be detrimental in particular to the public transport operators and their efforts in attracting additional investments incurred by the introduction of green alternatives in public transport (e.g. replacement of diesel busses for hydrogen or electric busses).

Our concern is that public transport operators will face immense difficulties in complying with the definition of the incentive effect, as described above and will thus risk of being deprived of state aid measures. This is in particular worrying, since the Commission itself admits that the existing EU policies, supporting the green

² COMMISSION RECOMMENDATION of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises, accessible here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32003H0361&from=EN>

³ DIRECTIVE (EU) 2019/1161 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 June 2019 amending Directive 2009/33/EC on the promotion of clean and energy-efficient road transport vehicles, accessible here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32019L1161&from=EN>

transition, will not be sufficient on their own to address certain market barriers and market failures, **including the affordability of clean transport vehicles compared to conventional vehicles [...]** and that “member states may therefore provide aid to address those residual market failures and support the development of the clean mobility sector”. If the public transport operators will neither be eligible to benefit under the CEEAG, nor the existing EU funding schemes will be sufficient to address all market failures, such an improper access to funding will result in failing to achieve the EU Green policies.

Therefore, we strongly encourage the Commission to accordingly adapt the wording of the **incentive effect**.

Compatibility assessment under Article 107(3), point (c) of TFEU

Inappropriateness of the referral to the Taxonomy regulation (2020/852/EU)

We want to highlight the **inappropriateness of the referral to the Taxonomy regulation (2020/852/EU)**⁴ in the assessment of compatibility of aid with the internal market. When weighting the positive and negative effects, we believe that it is inadmissible to use the Taxonomy Regulation as a standard to evaluate the appropriateness of the effects, since the Taxonomy Regulation was not adopted for these reasons. Furthermore, we believe that delegated acts **do not ensure the legal certainty**, since several of the delegated acts will not be published before mid-2022. Moreover, the **several of the screening technical criteria for the “do not significant harm” criteria are disproportionately stringent and the details for transitional technologies are not yet clarified**.

Assessment of the negative condition (the aid measure must not unduly affect trading conditions to an extent contrary to the common interest)

When assessing proportionality of aid, it must be established that the minimum amount of aid was granted for carrying out the activity. This minimum of aid corresponds to the net extra cost (funding gap) necessary to meet the objective of the aid measure, compared to the counterfactual scenario in the absence of aid. However, an assessment of net extra cost is not required if the aid amounts are determined through the competitive bidding procedures. In this regard, SGI Europe would like to highlight that this approach is **not suitable for all technologies, notably for sustainable investments in cogeneration or clean vehicles, where mandatory bidding could lead to contra productive effects**.

Furthermore, we call for reconsideration of provisions that regulate changing the process at the short notice. In case that in the bidding process not enough offers were received to fulfill the requirement of competitiveness, **the consequence should not be reducing the tendered quantities**, which would impede the willingness to invest. In securing the latter, **predictability of the bidding parameters plays a crucial role**. To address the issue of ensuring the competitiveness whilst preserving the predictability of future investments, SGI Europe calls for eliminating the causes of bidding restraints in the next bidding process. For example, in the area of wind energy, unsuccessful bidding process can be a result of bureaucratic obstacles, such as granting permits.

Avoidance of individual notification obligation

SGI Europe calls for **general avoidance of obligation of individual notification if possible**. The recital 72b obliges Member States to individually notify “projects of certain size” if state aid is to be granted without bidding procedure. In other words, SGI Europe understands that member states can provide support via a

⁴ REGULATION (EU) 2020/852 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088, accessible here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32020R0852&from=EN>

fixed market premium to projects of certain sizes, which are determined by the member state, if those projects are also notified to the Commission.

SGI Europe fears that this **would risk causing more individual notifications, contrary to the Commission's intention as stated in the explanatory notes.**

Categories of aid

Aid for the reduction and removal of greenhouse gas emissions including support for renewable energy

Prioritization of CCU over the CCS

We believe that **the Carbon capture and utilization (CCU) should be favoured in comparison to Carbon capture and storage (CCS).** This is in particular relevant for ensuring the public drinking water supply by prioritizing the preservation of groundwater and the surface water. Additionally, also other green alternatives should be facilitated in contrast to the CCS, which through the possibility of leakages brings risks to the environment and to be even more concrete, it endangers groundwater and the surface water.

Monitoring obligations

Second, we call for further clarification that the state aid measures, **once being awarded** for a determined period of time, **will not be a subject to the retroactive adjustments or withdrawal** under the obligation of Member States to review all measures that were granted for more than one year. **The obligation of continuous monitoring with obligation of adjustments can lead to uncertainty for investors and reluctance to invest.** This is especially decisive since the investments are made according to long term plans.

Cogeneration as a technology specific aid

Thirdly, we advocate **for keeping support for cogeneration as a technology specific aid.** While we welcome the Commission's approach to assess the compatibility of the state aid measures for climate, environmental protection, and energy with the internal market not only on the basis of the used technologies, but also on the basis of infrastructure. The CO₂ intensity is primarily determined on the basis of energy or heat source. Both, **the cogeneration plant as well as heating network (pipes for hot water) are not per se "fossil" and can be operated by climate neutral energy sources or carriers.** Consequently, should also state aid measures be assessed according to the type of energy carrier/source or what kind of CO₂ emissions emerge.

Therefore, we welcome that **the highly efficient cogeneration is recognized as a technology to reduce greenhouse gas.** Cogeneration plants can produce simultaneously highly efficient and resources saving process, energy, and heat. Their contribution to climate protection is twofold, through the provisioning of energy and district heating and cooling. **Providing energy and heat results in bigger independency of providers and thus increased reliability.** The cogeneration plants have to comply with stricter requirements than the heating and thus contribute to keeping air in the cities clean. Furthermore, the cogeneration plants can also be linked with the renewable energy sources and indeed be beneficial to the climate objectives. Therefore, it is important that its funding stays recognized as technology specific funding.

The obligation of public consultations

Further, **we call for more clarity on the obligations to conduct consultations**. While we generally do welcome introduction of obligation of consulting, at the same time we also call for a fast and unbureaucratic procedure to avoid further delays in granting of aid. **The requirement of conducting the consultation should be fulfilled already in the context of the legislative process**. As the climate goals are set to be achieved by 2030 and 2050, swift solutions in granting aid must be found.

Promotion of cogeneration via fixed surcharge rates/ renunciation of tendering

SGI Europe regarding **cogeneration aid further calls that it should be granted without prior tendering procedure**, since it is not the most suitable way of purchasing because such projects happen to be subject of tendering only occasionally and there are correspondingly less actors competing. Similarly, also due to the less frequent number of projects, such projects are difficult to frame into a tender.

Not only the difficulty of designing the tender procedure plays a detrimental role to the overall performance, but moreover, tenders are also inadequate tool for achieving goals of greenhouse gas reduction which by definition require large-scale public supply projects and thus planning security, which tenders do not provide and can thus have a contra-productive effect.

A way to alleviate this could be **a promotion of cogeneration plants with an electrical output of less than 1 MW by considering them as “small projects”** and **introduction of explicit exemption for cogeneration plants** with an electrical output of more than 50 MW.

Not stopping the aid in case of negative prices

The Guidelines should furthermore **ensure that granting of aid would not be stopped in case of negative prices**. Instead of that, the Member States should weight the positive and negative effects of such measures and find a differentiated control. In case of negative prices and consequently pausing the support for renewables, that could be backfired in increase of usage of fossil fuels.

The use of the cogeneration funding should be exceptionally possible despite at the same time ongoing displacement of renewable energy and biomass energy, especially if the heat supply of connected customers is otherwise endangered. As it stands now, the CEEAG would, in recital 107, prevent investments in biomass energy (such as waste wood, etc.) from being promoted and would thus endanger the supply.

In order to ensure the security of supply with heat from cogeneration-based heating network systems, it is inevitable to sometimes deviate from renewables. The economic and ecological value of the highly efficient cogeneration heat should also be taken into account accordingly.

Aid for the improvement of the energy and environmental performance of buildings

SGI Europe calls for **enlarging the scope of the activities that can be granted under the aid for the improvement of the energy and environmental performance of buildings**. The Guidelines should include:

- Eligibility of systems that supply buildings in a spatial context (district) with heat (district heating) via local heating networks or with electricity (tenant electricity) without power transmission through the network,
- Connection to district and local heating networks, i.e., investments, installation and commissioning of the house transfer station and pipe network on the property of the supplied building,
- Energy efficient ventilation with heat recovery,
- Measures for summer heat protection,
- Sustainable and best of all renewable insulation and building materials and generally new, innovative building materials,
- New and innovative construction and renovation methods,
- Energy advice, development of energy concepts, individual renovation schedules,
- Facade greening,
- Measures for energy efficiency in the building.

It should be made clear that the recital 116 (a) “*the installation of integrated on-site renewable energy installations generating electricity, heat or cold;*” also includes investments in buildings that are located in districts and supply them with heat (district heating) via local heating networks or with electricity (tenant electricity) without a grid connection. In addition, the regulation should also apply to cogeneration systems, regardless of whether they use renewable energy sources or temporarily natural gas.

The connection to district and local heating networks, i.e., investments, installation and commissioning of the house transfer station and pipe network on the property of the supplied building, should be funded in the same amount as the installation of building-specific heating systems.

The energetic renovation of existing buildings in the EU is a key to achieving the EU climate targets. They are mostly very investment-intensive and therefore often cannot be implemented without additional subsidies. The aid should therefore be **extended to innovative and future-oriented products and energy services, such as energy-efficient ventilation systems with heat recovery or new construction and renovation methods.**

Consulting on energy, developing the energy concepts and individual renovation programs represent an important basis for decision-making for the implementation of energetic renovation measures. Real estate owners can only successfully implement an energetic refurbishment if they know which measures are being carried out and in what chronological order. In this way, lock-in effects can be avoided, and so-called “deep renovation” stimulated. It should therefore **be possible to combine aid to improve the energy efficiency of buildings with aid for energy advice, the development of energy concepts and individual renovation roadmaps.** However, housing companies always set up a renovation plan of 10-15 years for their housing stock and **a detailed renovation concept is first needed** when the concerned building is to be renovated.

In addition, similarly as green roofs, also facade greening demonstrably supports the climate and energy balance of buildings and can also have a positive effect on the urban water balance.

The measures listed should also apply to new buildings (except for renovation measures).

Funding without requiring the evidence of primary energy savings (recital 118)

With regard to the requirement that the investments in both existing and new buildings must lead to the primary energy savings, exceptions should be made. **We suggest the following investments to be eligible even without proof of primary energy savings:**

- Energy efficient ventilation with heat recovery,
- Measures for summer heat protection,
- Energy advice, renovation plans and development of energy concepts,
- Roof and facade greening,
- Sustainable and best of all renewable insulation and building materials and generally new, innovative building materials,
- New and innovative construction and renovation methods,
- Decentralized energy production and consumption in the district.

Not every efficiency measure can reduce the primary energy requirement by at least 10% compared to a threshold value (for new buildings) or 20% compared to the situation before the renovation (for renovated buildings). Nevertheless, the listed measures make a significant contribution to lowering the primary energy requirement and thus improving the overall efficiency of the building. Therefore, exceptions to the planned regulation should be created. Furthermore, it should be recognized that not every aid alone contributes to a significant reduction in primary energy consumption, but rather various measures taken together lead to the wanted effect.

Enable funding for all companies (recital 119)

SGI Europe is once again forced to point out the **unsuitability of the SME definition**, which **continues to be a burden for many SGI Europe members all across Europe**. As it stands now, by applying the EU's definition of SMEs (2003/361/ EC), In particular, **a large number of local public enterprises would be excluded from this future-oriented energy reorganization**.

We plead that aid to improve the overall energy efficiency of buildings should be granted to all companies that take measures aimed at improving the overall energy efficiency to promote energy performance contracts (energy saving contracting) within the meaning of Article 2 number 27 of Directive 2012/27/ EU. **We do not see a reason not to increase both energy and cost efficiency in energy generation for larger residential buildings as well as in all companies, regardless of their ownership**. Excluding local public enterprises from funding and thus disabling their participation in green transition involuntarily leads to slowing down achieving the climate targets.

Incentive effect despite the mere adaptation to union standards (recital 122)

A major challenge on the way to climate neutrality **is the energetic renovation of buildings**. Therefore, we **plead for recognition of the incentive effect also when the investment is needed to only adapt to the already applicable EU Standards (and not only for the standards that have not yet entered in force)**. In 2050, 85-95% of today's buildings will be still standing, and these buildings will need to be renovated. Depending on the condition of the building, energetic renovations can be very expensive and therefore exceed the financial limits of many property owners. It is therefore important that despite any EU requirements, such as the "Minimum Requirements for Overall Energy Efficiency (MEPS)" discussed in view of the upcoming amendment to the EU Building Energy Efficiency Directive⁵, measures to achieve these regulatory

⁵ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on energy efficiency (recast) of 14 July 2021, accessible here: https://ec.europa.eu/info/files/proposal-directive-energy-efficiency-recast_en

requirements are also implemented may be funded through EU or national programs. Otherwise, there could also be a risk that these properties would have to be sold and / or demolished and rebuilt again. This in turn would create so-called "gray energy".

Eligible costs should facilitate achievement of energy / CO₂ savings (recital 125)

The eligible costs should also be based on the achievement of energy and CO₂ savings through the funding measure. The standard **"the higher the savings, the higher the funding"**, should apply.

According to the previous regulation, the eligible costs should be based exclusively on the investment costs that are directly connected with the achievement of a higher energy or environmental performance. The aim of the aid, namely, **to improve the overall efficiency of the building, should be a benchmark for determining the eligible costs.** The aid granted should also be based on the savings to be achieved in primary energy requirements and CO₂ emissions. By linking the funding amount and primary energy consumption / CO₂ savings, it could be achieved that houses can be energetically renovated in accordance with their structural requirements. Higher primary energy consumption savings and CO₂ savings should be supported by higher funding rates.

However, an **increase of the overall renovation rate of the building and housing stock until 2030 and 2050 needs at least an incentive of 50% subsidies for the energy renovation if the cost for tenants in the social and affordable housing stock shall not increase.**

Aid for clean mobility

SGI Europe welcomes that the revised Guidelines specifically included aid for clean mobility. As it was not included in the previous EEAG, that created legal uncertainty and we are delighted to see that the Commission decided to approach the clean mobility more ambitiously.

As already mentioned in the section on Scope and Definitions, “incentive effect” regarding the mobility should be accordingly adapted in order to ensure that also public transport operators, which are subject to strict EU Standards, will be eligible to benefit under the Guidelines.

In addition to that, we would like to further we would like to draw attention to some of the instruments in the Section on aid for clean mobility.

Aid for the deployment of recharging or refuelling infrastructure

We regret that the CEEAG, in chapter 4.3.2., does not distinguish between the funding of recharging or refuelling infrastructure for the use of third parties or for the (internal) use of the infrastructure for fuelling public transport (e-/H2-busses). Such a distinction is necessary since not all requirements for publicly accessible e-charging infrastructure are necessary or suitable for the construction of charging stations for public transport operators. For instance, **a compulsory public consultation and competitive bidding procedure seem negligible for funding the recharging/refuelling stations which are meant for the internal use of public transport operators.** A distinction has to be made here.

Avoidance of undue negative effects on competition and trade and balancing (Recital 165)

The CEEAG obliges rail operators to make zero-emission rolling stock (that is no longer used) available to the market during a minimum period of three months. We call for further clarification regarding the **scrapping of the rolling stock in case that no seller was found.**

Clarification of the scope in relation to the guidelines on State aid for railway undertakings

Contrary to the EEAG, the CEEAG does not at any point mention the guidelines on State aid for railway undertakings (2008/C 184/07)⁶, which creates some unclarity regarding the distinction of the scope. **Since the referral to the guidelines on State aid for railway undertakings (2008/C 184/07), was already part of the EEAG, we call for keeping it, in order to ensure legal certainty.**

Aid in the form of reductions in taxes or parafiscal levies

When assessing the necessity of aid in form of reductions in taxes or parafiscal levies, the notion of “Production costs” is too narrow. Instead of production costs, **we call for using only the term costs, since that change would enable also providers of services of general interest to benefit under the environmental tax refunds and reductions, such as dispose of wastewater and waste. We would like to emphasize that not only production companies should benefit under this aid measure, but also other companies should be eligible to receive state aid in the form of reductions and exemptions from environmental taxes.**

The requirement in recital 264c is imprecise and has twofold implications. First, it is not sufficiently clear what is meant under the term “significant sales reductions”. Second, the criterion that taxes cannot be passed on to customers is not suitable for assessing the need for aid. The mere statement that higher taxes can be passed on to customers without any problems by levying cost-covering local taxes and fees does not go far enough in

⁶ Communication from the Commission Community guidelines on State aid for railway undertakings (2008/C 184/07), accessible here: https://ec.europa.eu/smart-regulation/impact/ia_carried_out/docs/ia_2008/c_2008_c_184_07.pdf

practice, since the taxes can often be passed on to the customers as costs. This is important since citizens only understand, accept and even perceive increasing costs as the right away if they can be justified.

Overstretching the legal possibility of passing on costs, however, would mean losing political acceptance among citizens. In Germany, for example, the population was burdened through an increasing levy under the Renewable Energy Sources Act (EEG)⁷ and was heavily subjected to criticism by many citizens and companies.

In particular this applies to cost increases in wastewater disposal and waste treatment due to higher taxes, which in practice cannot be enforced solely on the basis of restrictive state aid requirements. Corresponding pay increases are not differentiated by the citizens according to their cause. As a result, higher costs due to tax increases inevitably compete with other measures and requirements and affect, for example, long-term investment requirements such as maintaining infrastructure.

When assessing the proportionality of aid, we suggest the condition of aid beneficiaries to pay at least 20 % of the national environmental tax or parafiscal levy to be deleted. The rationale behind this is, that only aid measures in the form of environmental tax reductions will have to be notified only if the company has to pay at least 20% of the national environmental tax. This contradicts other European legislation such as Art. 15 of the Directive 2003/96/EC, under which, the member states have an option of granting restricted or unrestricted tax exemptions or tax reductions. This possibility of granting full tax exemptions should not be restricted by the application of Art. 107 TFEU.

⁷ Erneuerbare-Energien-Gesetz vom 21. Juli 2014 (BGBl. I S. 1066), accessible here: https://www.gesetze-im-internet.de/eeg_2014/EEG_2021.pdf

Aid for district heating or cooling

We welcome that district heating and district cooling are included as a separate aid category.

In contrast to electricity and gas networks (which are dealt with in Section 4.9. "Energy Infrastructures"), heating networks are local or regional systems with a defined number of customers. A spatial distribution of heat is therefore only possible in the respective network concerned and, due to network losses, it is only efficient over a distance of a few kilometers. In a heating network, the relation between heat demand and heat generation must be fine-tuned and it is to be noted that procurement of short-term equilibrium heat, e.g., via a trade such as in the electricity and gas sector is not possible. In other words, the heat cannot simply be sold to a new customer - which is possible across Europe for electricity and gas.

Due to these characteristics of heating networks, it is beneficial that the generation, storage, and distribution of heat and cooling systems can be promoted (Recital 341). It is crucial that not only investments, but also operational aid could be granted, in particular concerning large-scale heat pumps and geothermal and solar thermal plants. The production costs of the district heating produced with different "green" technologies are currently more than twice as high as the costs of fossil fuels. Despite the envisaged measures aiming at reducing the use of fossil fuels, it is foreseen that in 2030, the costs of fossil fuels will still be lower than other prices. Therefore, operating aid is needed to foster greener energy.

Furthermore, the connection to district and local heating networks, i.e., investments, installation and commissioning of the house transfer station and pipe network on the property of the supplied building as well as the modernization of the existing house transfer station, should also be eligible for funding in this section or in section 4.2.

In addition, it is to be welcomed that a large number of producers - from renewable heat to unavoidable waste heat to cogeneration systems - can be subsidized (Recital 342).

With regard to the multifunctionality of district heating cogeneration systems, it is necessary to clarify whether the funding option under Section 4.10 in the case of cogeneration systems only relates to heat generation or also to electricity generation. If the section 4.10. will refer exclusively to heat generation when subsidizing cogeneration systems, **a clarification whether electricity generation can benefit under the section 4.1. is required.** In such case, the cogeneration investment has to be split up for a separate state aid assessment. In addition to the climate protection effect of the cogeneration through the highly efficient generation of electricity and heat, the contribution of district heating cogeneration systems to the security of supply of electricity and heat should also be taken into account.

We especially **welcome the inclusion of waste heat as a supported activity by the Commission.**

Proportionality of the aid measure

The draft CEEAG uses the "funding gap principle" as a methodology to assess the proportionality of the measure (see recital 345) compared to a counterfactual scenario assuming the situation in which the project would not take place. When assessing the principle of proportionality, SGI Europe calls for further clarifications how the calculation is made and what assumptions are taken into account, in order to ensure the fastest procedure and avoid the lengthy approval procedures.

No equal status between CCU and CCS in the context of the balancing test (recital 348)

It must be made clear that **the security of the public drinking water supply and the necessary groundwater and resource protection must have absolute priority over CO₂ storage**. Therefore, CCU is preferable to CCS and green alternatives are more favored than CCS.

No general obligation for individual assessment for aid for district heating and district cooling systems (recital 349)

SGI Europe calls **for lifting up the Commission's intention to carry out a case-by-case assessment** when analyzing the effects of state aid for district heating and district cooling systems on competition and when weighing the economic activity that is supported, in which it wants to assess the advantages of the project in terms of energy efficiency and weighing sustainability against the negative effects on competition and in particular the possible negative effects on alternative technologies or providers of heating and cooling services and networks.

The current EEAG set a notification threshold of EUR 50 million for energy infrastructure and for investment aid of EUR 15 million. In our opinion, these thresholds are already significantly too low in view of the billions in investments that are required for a successful transition towards greener energy.

The intention to require case-by-case assessments for all investments in heating network systems will impose a major burden, delays, and uncertainty for investors. Moreover, we believe that this requirement is in direct contrast to the declared goals of the Commission to reduce CO₂ emissions in the building sector. **Therefore, we advise against general individual notification.**

Aid for the removal of coal, peat, and oil shale

In light of the induced coal phase-out measures, SGI Europe welcomes the fact that the EU Commission is laying down a framework that enables the member states to compensate the operators of coal-fired power plants whose plants are to be shut down before the end of their economic life.

However, since the premature closures significantly infringe the property rights of the operating companies concerned and must be appropriately compensated, we call for the requirements for the compatibility of aid for the compensation of premature coal-fired power plant closures must take into account the aspect of premature value adjustments and make it possible to avoid them in the long term. This would restore the as well the legal as also the investment certainty.