

essenscia response to draft Climate Energy and Environment Aid Guidelines (CEEAG) – 20/7/21

essenscia welcomes the opportunity to give input on the draft CEEAG and appreciates the action of the European Commission (EC) to provide for a framework for state aid aimed at helping the unprecedented shift deriving from the Green Deal. It is more than necessary to speed-up the aid for the transition and avoid hurdles while still promoting competitive markets deriving the necessary innovation for consumers and citizen at large. Therefore, it is good that the EC has expanded the draft CEEAG to aid to most decarbonization technologies, as well as new areas. essenscia welcomes the broader scope, as these new areas represent additional opportunities for industrial decarbonization. However, it is important that support to new areas should not be passed on into additional charges to industrial energy-intensive consumers, facing international competition and carbon and investment leakage. As long as state aid is no obligation at EU level, it can in no means be regarded as EU wide carbon leakage protection.

1. General comments

Need for long-term legal and regulatory certainty

The chemical and life sciences industry is a driving player in climate solutions and is already supplying the essential materials and technologies for going clean, circular, digitalized and low carbon. But more is to be done, and the EU strength for innovation and investments needs to be guaranteed by ensuring global competitiveness, given that global action on climate change remains fragmented. A clear and predictable strategy to safeguard industries competitiveness is a must to accompany the groundbreaking industrial package. Companies need a predictable framework and a long term vision on European rules related to support and exemptions schemes. Hence, essenscia is concerned about the fact that the draft CEEAG sets 31/12/2023 as deadline to eventually adjust existing aid and exemptions schemes. Essenscia emphasizes the need to take into account existing rules and schemes in the new CEEAG and to give more time to Member States to align with the new rules.

Avoid linkage with the taxonomy

essenscia is concerned about the link with legislative instruments which are still under development, especially in relation to taxonomy. Para 69 of the draft CEEAG, for instance, stipulates that *“the Commission will pay particular attention to Article 3 of the Regulation (EU) 2020/852 [...], including the ‘do no significant harm’ principle, or other comparable methodologies”*. Such linkage should be avoided as the taxonomy has another aim since it consists of a voluntary classification system aiming at greater transparency for investors with a time view of 2050 whilst state aid rules determine the investment framework for the next decade.

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2. Aid in the form of reductions from electricity levies for energy-intensive users

Essenscia emphasizes the need of this section. However, we identified some important changes with a negative impact on industries competitiveness vis-à-vis the current rules without a real justification.

Decrease of the exemptions level

The minimum level of contribution at sector level has been increased from 15% to 25% (point 359) while the “supercap” will be set at 1.5% (instead of 0,5%) of the gross value added (point 360), referring to the fact that “*if the reductions are too high or awarded to too many electricity consumers, the overall funding of support to energy from renewable sources might be threatened and distortions of competition and trade may be particularly high.*”. However, there is no impact assessment confirming this statement by comparing electricity costs of EU installations with their competitors in other regions, or evolutions of trading flows in and out the EU. Therefore, the levels under the current EEAG should be maintained.

Decrease of the eligible sectors

State aid rules are in se economic measures aimed at protecting exposed sectors. The EU level playing field must be maintained for all comparable activities and member states. They also have to take into account the EU’s global competitiveness when determining the level of cost that can be borne by industry rather than be limited to level playing field within the EU. Therefore, eligibility should reflect real exposure to carbon leakage.

If we compare the new draft list with the current one, we noted that the industrial gases (NACE 20.11) are no longer included in the draft list. Such approach would distort the level playing field for producers of those products: depending on whether these gases are produced off-site or on-site. Secondly, the carbon leakage risk needs to be considered more broadly taking into account the value chain effects, including companies active in intermediate elements of the manufacturing value chains.

Additional conditions for eligibility

Next to some new precise clauses regarding energy efficiency for beneficiaries to comply with, the draft CEEAG introduce a new threshold to be eligible for aid: Member States may only grant reductions where the overall cumulative effects of all eligible levies is at least X EUR/MWh. In the consultation, the EC asks stakeholders to determine the minimum cumulative level per MWh. Essenscia believes that this condition should be eliminated or at least set at the lowest possible level.



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3. Aid for the security of electricity supply (section 4.8)

Point 324 of the draft CEEAG stipulates the following: “[...] *the costs of a security of supply measure should be borne by the market participant who contribute to the need for the measure. [...]*”. This sentence shows that the EC aims to specify how the aid must be financed and thus limits the freedom of choice of the Member State as regards the cost pass through of such measure, surpassing the subsidiarity principle anchored in EU law.

We suggest to amend this sentence as follows: “[...] *the costs of a security of supply measure should **in principle and to the extent that the costs of financing security of supply measures are recovered from market participants** be borne by the market participant who contribute to the need for the measure. [...]*”.

4. General comments on the definitions (section 2.4)

We have concerns with the definition of “**demonstration project**”, i.e. “*a project demonstrating a technology as a first of its kind in the Union and representing a significant innovation that goes well beyond the commercial state of the art*”. A strict interpretation of the term "first of its kind" would mean that only one project per technology to be scaled up could be recognized as a demonstration project.

Secondly, we see some risks with the definition of “**eco-innovation**”, i.e. “*all forms of innovative activities, including new production processes, new products or services, and new management and business methods, resulting in or aimed at significantly improving environmental protection and significantly reducing the environmental impacts of pollution. For the purposes of this definition, the following are not considered innovations: [...]*”. The cumulative condition of (i) improvement of environmental protection and (ii) impact on pollution leads to a very narrow definition. As a result, much of what is currently considered as “eco-innovation” would no longer qualify. Reducing the environmental impact as such should be sufficient. Moreover, environmental impact should be interpreted sufficiently broad (e.g. CO₂ emissions reduction and avoidance, resource efficiency, sustainable products with reduced impact on people and environment, etc.)



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