

STATE AID NOT AT THE EXPENSE OF PRIVATE HOUSEHOLDS

Position of the Federation of German Consumer Organisations on the revision of the Environmental and Energy State Aid Guidelines 2014-2020 of the European Commission

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Impressum

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I. ABOUT THE FEDERATION OF GERMAN CONSUMER ORGANISATIONS

The Federation of German Consumer Organisations (Verbraucherzentrale Bundesverband e.V. – vzbv; www.vzbv.de) is the umbrella organisation for more than 40 consumer organisations throughout Germany and represents the interests of German consumers vis-à-vis policymakers, the private sector and in public.

II. INTRODUCTION

On 7 June 2021, the European Commission has launched a targeted public consultation inviting all interested parties to comment on the proposed revision of the Guidelines on State aid for environmental protection and energy. The revised guidelines will go under the new name of Climate, Energy and Environmental State aid guidelines (“CEEAG”).

vzbv is convinced that the energy transition could be a driver to increase consumer welfare if it is implemented in a socially just and fair way and if it distributes the costs among all stakeholders.

vzbv believes that the draft CEEAG harm consumer welfare by placing the costs for the energy transition disproportionately on the shoulders of private consumers. While it remains necessary to apply the polluter-pays principle and thus give greenhouse gases emissions and environmental degradation an appropriate price, consumer acceptance fades if the costs are not distributed transparently and fairly among all market participants. In addition, private consumers are largely dependent on choices offered by the market and cannot change the way manufacturers produce with their purchasing decision alone.

The CEEAG should put private consumers’ interests centre stage. A stronger focus on private consumers is a prerequisite to address issues of social justice and public acceptance when it comes to a fair distribution of costs for the energy transition.

III. THE DEMANDS IN DETAIL

1. ENERGY EFFICIENCY FIRST

The draft CEEAG does not mention this principle, which was enshrined in the EU Energy Efficiency Directive. The principle should have become a horizontal assessment criteria to determine whether state aid is necessary in the energy sector, in particular when assessing state aid to resource adequacy and energy infrastructure.

The notification forms with which Member States notify state aid to the Commission should contain a field in which Member States have to explain the conformity of their aid measure with this principle. Hence, Member States would have to consider energy efficiency and/or demand response options when designing a state aid scheme and, in particular, demonstrate clearly the reasons why energy efficiency measures cannot replace in whole or in part the envisaged measure.

2. UNFAIR DISTRIBUTION OF COSTS

2.1 Phase-out of fossil fuel subsidies and exemptions for industry

State aid needs to be an enabler of the energy transition and should not put the financial burden on the consumer. However, the draft CEEAG are focused too much on the notion of “preserving industrial competitiveness”, while neglecting the fair distribution of costs associated with the energy transition. An example of an unfair distribution of costs is the deployment of renewable energy sources (RES) in Germany for which households and small enterprises pay disproportionately more than energy intensive users (EIU). The draft CEEAG include state aid in the form of reductions or exemptions from electricity surcharges to EIUs. This leads to a disproportionate burden on private consumers who have to fill any arising gaps in the financing of public goods.

The unfair distribution of costs under the draft CEEAG jeopardise public support for the energy transition. 75 percent of the German population regard the energy transition as a joint task, to which everyone in society must contribute.¹ About two-thirds of private consumers would accept even higher RES levies if the industry’s exemptions were abolished², indicating that consumers are willing to pay for a public good if the costs are shared equally.

- ❖ Therefore, the CEEAG should phase-out all direct fossil fuel subsidies as well as exemptions for industry. Such an approach would distribute the costs of saving the climate and preserving the environment more equally. The financial burden on private consumers would be reduced.
- ❖ The European Commission should strengthen the principle of a fair distribution of costs between industry, companies and private consumers by developing neutral indicators to determine a risk to the overall solidarity of financing the public good. Such indicators could be derived from a best practice analysis of how Member States implement Article 21 (3) (b) of the Renewable Energy Directive³ where the concept of a “significant disproportionate burden on the long-term financial sustainability of the electric system” is introduced in EU legislation.
- ❖ In case a risk to the overall solidarity of financing a public good like the energy transition is determined, Member States need to take action to ensure a fairer distribution of the costs of saving the climate and preserving the environment.

¹ IASS – Sustainability Barometer for the German Energiewende, 2017: <https://www.iass-potsdam.de/en/news/social-sustainability-barometer-energiewende-shows-broad-support-along-doubts-about>

² RWI – Equity and the willingness to pay for green electricity in Germany, Nature Energy, 2018: <https://www.nature.com/articles/s41560-018-0233-x>

³ Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources. Article 20 (3) (b) allows Member States to introduce charges on RES prosumers “if it is demonstrated, by means of a cost-benefit analysis performed by the national regulatory authority of that Member State, which is conducted by way of an open, transparent and participatory process, that the provision laid down in point (a)(ii) of paragraph 2 either results in a significant disproportionate burden on the long-term financial sustainability of the electric system”. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.328.01.0082.01.ENG&toc=OJ:L:2018:328:TOC ; 23/10/2020

2.2 Strengthen current state aid criteria

Despite having pointed to the absence of evidence of actual risks of carbon leakage for many sectors included in its impact assessment on the ETS State Aid Guidelines⁴, the European Commission maintains in the draft CEEAG that some industrial sectors must be protected against risks of carbon leakage via various exemptions. The European Commission should try to minimise the current burden on households and re-examine the current criteria for state aid approval - exposure to trade and electro-intensity. On the one hand, the level at which the intensities were set are too simple. Not every company that currently benefits from exemptions is likely to move to a third country if exemptions are withdrawn or reduced. On the other hand, not every current beneficiary is threatened to be priced-out of the market if energy prices increase. They might stay competitive despite higher energy prices because they offer high product quality, a renowned brand, high productivity through well-trained workers, benefit from a market with high price elasticity of demand, provide products to niche markets for which a high degree of specialisation is required, or hold exclusive patents.

- ❖ The European Commission should reduce the number of sectors benefiting from exemptions in line with its original proposal on the ETS state aid guidelines.⁵
- ❖ The European Commission should consider strengthening the conditionality surrounding possible state aid for energy intensive industry. These should include cumulative requirements:
 - Compliance with the recommendations resulting from an audit and an updated requirement to implement audit recommendations even if pay back times exceed a certain amount of years.
 - Reduction of the carbon footprint of electricity consumption, for example through installing an on-site renewable energy generation facility.
 - Requirement to invest a significant share of at least 80 percent of the aid amount in projects that lead to substantial reductions of the installation's greenhouse gas emissions.
 - Limitation of offsetting industrial emissions through third party projects as offsetting does not trigger an actual behavioural change by the EIU.
- ❖ The European Commission should consider strengthening the current criteria for industry exemptions, including higher trade and electro-intensities.
- ❖ The European Commission should develop further criteria to take into account the plausibility of companies being priced-out or moving to third countries in order to better target subsidies. Such criteria could include a market analysis that looks at price elasticity or an "easiness to relocate" indicator, as it might be easier for some industries to "leak their carbon" than it is for others, where significant stranded investments would be left behind or significant up front investments would be required to relocate to another country.

2.3 Monitoring and reporting

vzbv insists that monitoring and reporting is a crucial part of the state aid system. Without solid data, it is impossible to verify the effectiveness of state aid measures. Member

⁴ European Commission, Impact Assessment ETS state aid guidelines, SWD (2020)190 final

⁵ https://ec.europa.eu/competition/consultations/2020_ets_stateaid_guidelines/draft_ets_guidelines_en.pdf

States should systematically gather and report data on beneficiaries of state aid who shut down production sites and move their business outside the EU despite receiving subsidies. As carbon leakage is the underlying reason for state aid, it is necessary to monitor such leakages. Without solid evidence that proves the existence of “carbon leakage phenomenon”, the state aid system should not be based on it.

The European Commission should conduct a rigorous qualitative and quantitative assessment of the incentivising effect that exemptions have on a company’s decision on where to locate.

3. STATE AID FOR HYDROGEN

Hydrogen has enjoyed a great deal of attention by public policy makers in recent months. Even though hydrogen plays only a marginal role in today’s energy systems, there is a certain potential for its use, e.g. in the aircraft industry or in the decarbonisation of certain industrial processes, e.g. the steel sector.

However, vzbv does not see hydrogen applications to play a role for households in the short or medium term. The reasons are diverse: first of all, hydrogen should be green, i.e. produced with renewable energy. However, renewable energy is still scarce and should better be used to directly electrify heating and transport than to produce hydrogen which entails a high degree of energy loss when produced.

With regard to state aid for hydrogen production, transport, storage and usage:

- ❖ vzbv points to the aforementioned risks to a fair distribution of costs if private consumers pay for setting up and operating hydrogen value chains.
- ❖ vzbv also points to the user pays principle, which means that those industrial actors who wish to use hydrogen should bear the costs for the production and for the infrastructure necessary to transport and store hydrogen. Those costs, including reductions and exemptions from electricity surcharges as well as cross-financing of hydrogen networks for the supply of industry, should not be offloaded on households.
- ❖ State aid should not be allowed if it is intended to finance fossil-fuel based hydrogen production. It is very regrettable that low-carbon and renewable hydrogen are treated equally in the draft CEEAG. Even carbon-intensive hydrogen is not completely excluded. State aid is thus possible for blue and even grey hydrogen, which could include exemptions from levies or taxes, which would result in a higher burden for private consumers.
- ❖ Using fossil-fuel based hydrogen could create lock-in effects with regard to long-term investments and undermine the objectives of climate neutrality. State aid for fossil gas is thus incompatible with the Green Deal objectives. There is increased risk of stranded assets at private consumers’ expense. If gas installations have to be shut down prematurely by 2050 in order to avoid breaching the climate neutrality obligations this could result in billions of euros in compensation for the operators as witnessed with the nuclear and coal phase out decisions by the German government. Moreover, replacing fossil natural gas by fossil-fuel based hydrogen might cause consumers to lose trust in hydrogen of all colours.
- ❖ Drawing from lessons learned from comparable networked industries (gas, electricity) vzbv demands the complete unbundling of electrolysers and hydrogen network operators and potential hydrogen service providers (such as hydrogen refuelling stations).

- The European Commission should pay special attention to the financing of hydrogen networks (such as dedicated pipelines or industry-centric distribution networks) through general grid charges borne by households. The general grid charges are meant to finance gas and electricity distribution systems. The Commission should prevent cross-subsidisation of a hydrogen infrastructure that is not used by households. In addition, existing gas networks, which have been paid for by consumers through the general network charges should not be misappropriated and transformed into hydrogen networks.
- When the European Commission considers the impact of a state aid mechanism for hydrogen, it should require the Member State to explain why direct electrification would not be a more efficient and resource-appropriate way forward.

4. STATE AID FOR CHARGING STATIONS

vzbv sees the need for state aid for the development of charging infrastructure. This is necessary to ramp-up e-mobility. vzbv demands strong environmental conditionality for state aid. Only charging infrastructure that is powered by electricity generated from renewable sources should be eligible for funding.

In addition, state aid for charging infrastructure must benefit all drivers of e-cars. This means there must be unrestricted access, ease of use and transparent information. This must always be guaranteed before, during and after the charging process.

5. STATE AID FOR IMPROVING THE ENERGY PERFORMANCE OF BUILDINGS

The European Commission considers that state aid may be needed to improve the energy and environmental performance of buildings. The improvement of energy performance includes energy efficiency as well as renewable energy. The basic aid intensity for energy efficiency and renewable energy is limited to the same level of 30 percent.

vzbv welcomes this approach of the European Commission. vzbv also welcomes that self-using house owners and non-commercial landlords, who will improve the energy performance of their buildings, will not be subject to state aid rules.