

BEE Position

on the proposed Climate, Energy and Environmental State
aid Guidelines (CEEAG)

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Preface

The European Union's commitment to meeting the Paris climate targets and achieving climate neutrality by 2050 will have to lead to major policy adjustments in the next years. In line with the revision of key framework legislation in the Fit for 55 Package, the State Aid Guidelines for Environmental Protection and Energy (EEAG) are in dire need of an overhaul in order to accommodate for the flexibility required in expanding renewable energies that will curb EU emissions. The decision to reduce GHG emissions by at least 55 percent by 2030 demonstrates the imperative to increase our efforts and requires further adaptation of legislation inter alia on Renewable Energy, Energy Efficiency, Energy Performance of Buildings, clean mobility, and Emissions Trading. We therefore welcome that DG Competition proposes an update of the EEAG under the name Climate, Energy and Environmental State aid guidelines (CEEAG).

Renewable energy deployment must be at the heart of this energy transition and requires serious on-going, flexible, smart and effective strategic support. Therefore, the new CEEAG must not become an obstacle to our common ambition. To reach our common climate goals EU member states need to significantly accelerate and increase the volume of the uptake of all available renewable energies and realise a truly integrated energy transition, which includes all sectors. State Aid rules should not hinder them to choose the most appropriate policies and measures to the end. The response to the Covid-19 pandemic has shown that the EU can act quickly and efficiently. Targeted and speedy action is not only necessary to mitigate the impacts of the pandemic, but also pave the way towards successfully mitigating the climate crisis and achieving carbon neutrality by 2050 the very latest, but also for growing the EU's competitiveness and thus wealth creation for citizens and businesses. Building and growing renewable energy industries and installations requires enabling frameworks and supportive mechanisms.

Moreover, it is very important that the renewable energy sector and independent renewable energy producers as well as citizens, SMEs, renewable energy communities and prosumers can rely on a stable legal and regulatory frameworks and clear, robust national support schemes in all EU Member States. The following is a set of recommendations for the proposed Climate, Energy and Environmental State aid Guidelines, to accelerate the rapid uptake of renewables in all Member States.

General recommendations

(ref. to chapter 4. of the draft new Guidelines)

The targeted decarbonization of the European continent by 2050 requires an appropriate framework for innovation and implementation towards climate protection and resource efficiency. The European Green Deal offers tremendous opportunities for Europe's economy through sustainable economic growth, more and better jobs and greater social cohesion.

Considering investment cycles and the intended period of validity of the new CEEAG, it is key to prevent long-term lock-in effects of technologies based on fossil fuels that counteract the modernisation of our economic structure in the long term. Technologies that may or may not become available in the future must not lead to slowing down the further development and deployment of proven and mature renewable energy and efficiency-based technologies. So-called low-carbon gases, CCS/CCU and hydrogen from non-renewable sources should not be accepted under the CEEAG, if we are to reach our net zero GHG emissions target by 2050. Cost benefit analysis is always in favour of renewables if we consider environmental costs and abatement of residual CO₂ for “low carbon” solutions. Therefore, we strongly advise to anchor specific measures and further strengthen those already included in the draft CEEAG that prevent lock-in of fossil technologies and to make an unambiguous qualitative distinction between the promotion of renewable energies and the reduction of GHG emissions.

The inclusion of renewables in a broad chapter “Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy” seems to suggest that a one-size fits all approach to decarbonising the EU economy is fit-for-purpose and decarbonising the power sector and promoting renewables is a secondary objective.

From our point of view, given the urgency of mitigating the climate crisis in line with the Paris Agreement, the construction of renewable energy facilities and projects and support mechanisms should be reflected in a dedicated section for the promotion of renewable energies under the new State Aid Guidelines. In this context carbon removal concepts cannot be an alternative to carbon free technologies but should only be considered in connection with bioenergy carbon capture and storage (BECCS).

To achieve the European climate targets, an energy supply based on renewable energies is fundamental for transforming the economy and decarbonizing all sectors. The transformation can only succeed if the industrial sector and society are adequately supplied with electricity through direct use of green electricity or applications and technologies of sector coupling based on renewable energies. For this reason, relieving renewable energy projects from too stringent and inflexible state aid scrutiny should be a major objective for the revision of the state aid guidelines. In addition, from our point of view it makes sense to set a validity date until 2030 in congruence with the EU climate targets to ensure security for planning and investment activities.

Adapt definitions to the requirements of the future energy system

(ref. to Chapter 2.4 of the draft new Guidelines)

Stored electricity from storage facilities is no longer green electricity according to the definitions of the draft aid guidelines. This is because the draft defines renewable energy in Chap. 2.4. no. 34 as “energy from renewable sources means energy produced by plants using only renewable energy sources (...) and includes renewable electricity used for filling storage systems connected behind-the-meter (jointly installed or as an add-on to the renewable installation), but excludes electricity produced as a result of storage systems“.

This is not in line with the EU's principle of promoting prosumers and the definition of energy storage in the common rules for the internal market for electricity (Directive (EU) 2019/944 Art. 2, Para. 59). This directive defines energy storage as (...) “deferring the final use of electricity to a moment later than when it was generated, or the conversion of electrical energy into a form of energy which can be stored, the storing of such energy, and the subsequent reconversion of such energy into electrical energy or use as another energy carrier“. According to this definition, only the final use of the energy is postponed, but the quality or properties of the electricity do not change. The loss of the status as “green” electricity for stored electricity, as provided in the draft aid guidelines, would lead to legal uncertainty for all EU member states. Furthermore, it makes it more difficult to promote prosuming and bring storage technologies to market readiness. Therefore, we suggest the following to be in line with existing regulatory requirements and the aim of the EU Green Deal:

(34) ‘energy from renewable sources’ means energy produced by plants using only renewable energy sources as defined in Article 2, point (1), of Directive (EU) 2018/2001 of the European Parliament and of the Council³¹, as well as the share in terms of calorific value of energy produced from renewable energy sources in hybrid plants which also use conventional energy sources and includes renewable electricity used for filling storage systems connected behind-the-meter (jointly installed or as an add-on to the renewable installation) **and the deferral of the final use of this renewable electricity to a moment later than when it was generated,** ~~but excludes electricity produced as a result of storage systems;~~

Enabling the ramp-up of a renewable hydrogen economy

(ref. to chapter 4.1/4.9 of the draft new Guidelines)

The development of a European hydrogen economy, as envisaged by the Commission, is in our view very important to decarbonise all end-use-sectors. However, renewable hydrogen in terms of costs cannot compete with other forms of hydrogen, such as blue or grey hydrogen, which are more CO₂ intensive. It is therefore important that the new state aid guidelines allow the financial support that is necessary to achieve the goals of the EU hydrogen strategy and are thus coherent with the revision of the entire subsidy regime under the Green Deal.

In our view, it is therefore unacceptable that support for the ramp-up of a renewable hydrogen economy is not explicitly considered in chapter 4.1. To avoid that very cost-intensive projects to

produce renewable hydrogen cannot receive the necessary financial support under the guidelines, measures that will help to achieve the EU targets expressed in the hydrogen strategy and other regulatory framework regarding renewable hydrogen should therefore be explicitly excluded from the basic requirement of technology neutrality.

We also propose a clear definition of requirements for renewable hydrogen projects from water electrolysis which can receive state aid under the guidelines. To ensure that hydrogen production is compatible with the aims of the energy system and the energy transition in general, state aid guidelines should especially define rules for the geographical links between electricity and hydrogen production via electrolysis. From our point of view recital 90 of RED II already rightly requires that renewable electricity generation and electrolysis take place on the same side of grid congestion, because even within a bidding zone, large electrolyzers can exacerbate grid congestion if they are unfavorably located. For this reason, the state aid guidelines should define that renewable electricity generation and electrolysis must take place on the same side of grid congestion to be granted state aid. Otherwise, these projects will not have a positive impact on the grid efficiency of hydrogen production. Instead, the transmission of electricity for electrolysis will exacerbate critical grid situations, require more redispatch, and increase the need for grid expansion. In addition, the increase in redispatch measures and grid congestion results in poorer CO₂ figures and will lead to enormous economic costs in the electricity sector. Consequently, only with a clear definition the EU can ensure that hydrogen contributes significantly to CO₂ reduction, strengthen the development of a European hydrogen market, and avoid unnecessary lock-in effects of fossil gases. This also applies to the European gas infrastructure, which must be redesigned for accommodating 100% renewable gases and should be as hydrogen-ready as possible in order to be prepared for this transformation.

The European definition criteria for renewable hydrogen will have a decisive impact on the role of hydrogen in the overall energy system. Renewable hydrogen is necessary for the full integration of renewables into the energy system. Only under the right conditions can renewable hydrogen contribute to the decarbonization of the overall system, relieve the electricity system from fluctuations, and make renewable energy storable as well as available on demand. Judicious adjustments to the criteria in the current draft of the state aid guidelines are therefore necessary.

Adapt the threshold for tenders to the needs of different actors

(ref. to recital 92 of the draft new Guidelines)

Fast-track action in the context of the Green Deal is necessary to enable both large companies as well as small and medium-sized enterprises to contribute to and benefit from green economic growth and sustainable value creation. Therefore, small and medium-sized energy producers, Cooperatives and Energy Communities need appropriate regulation and support. Local opposition to RES projects has a serious impact on RES development. The encouragement of citizen participation in and ownership of renewable energy projects is crucial, as it will lead to an overall increase in public support for these projects. The draft contradicts the objective of the Commission to grant access to all European Citizens to self-consumption (Directive EU 2018/2001). As long as member states are allowed to forbid self-consumption in tenders the expansion of

tenders lead directly to a reduction of self-consumption. Therefore, barriers such as the inadequate design of the de minimis regulation for mandatory auctioning under Paragraph 92 of the draft new guidelines should be revised.

Renewable Energy projects are often (upfront) very capital intensive, the project cost of capital is a very significant parameter in auction competition. Small and medium-sized enterprises (SME) do not have the same access to capital financing as big companies. A typical rooftop PV investor for example is usually a private consumer or a SME that would not participate in tenders because they are afraid of the additional risks and upfront costs associated with a PV investment and - unlike many solar farm developers - do not see it primarily as a business investment in their core business. The bureaucratic burden associated with tenders would be disproportionately high, especially for investors that only invest one time and SMEs. It would not be in any reasonable proportion to the expected savings or returns. The average project size of the photovoltaic projects awarded a market premium in the most recent auction in Germany was 1.3 MW. This trend shows that auctions are not a viable option for small installations.

In particular investments in the market segment of rooftop PV systems are characterised by very different framework conditions e.g. with regard to electricity tariffs, user behaviour and structural characteristics. Comparable and fair competitive conditions cannot be created within the framework of an auction procedure with reasonable effort. Financing institutions and the solar industry consider financing problems to be a serious hurdle to the introduction of auction models for PV-systems in the building segment. During renovation, construction and planning of larger buildings, rooftop photovoltaic systems now play an important role in the early construction phase. Building technology is based on concrete energy concepts already during the planning phase. The risks associated with an auction procedure would be a massive planning uncertainty. In consequence this will likely prevent the consideration of PV-systems in the early time of the planning process and will make it impossible to integrate. The energy standard of a building is already determined in the short time window of signing the construction contract. The statics cannot be upgraded later with reasonable effort. However, this does not only apply to photovoltaic, but also to all other renewable energy technologies. To strengthen fast installations of renewables technology-specific tenders for example for very large PV systems on buildings or ground mounted PV System must be possible. The criteria of a cost difference of 15 % as described in footnote 59 is too high as practical examples of tenders demonstrate. It should be set to 5 %.

Therefore, auctions – at least if they do not include specific measures/rules/safeguards for Energy Communities and SMEs – are a market distortion between competitors. From our point of view access to finance for SMEs and Energy Communities could be greatly enhanced with a chapter specifically on the types of aid for SMEs and Energy Communities. This would be in line with one of the central aims of the Clean Energy Package to put citizens at the heart of the energy transition. To further specify the need for SMEs and Energy Communities to be granted a clear, transparent and enabling framework, aid for Cooperatives, as well as Citizens should be at least adjusted in the following way:

- **Provisions under recital 92 should be specified for photovoltaic systems:** A mandatory auction process for PV-installations with a capacity of 400kW and above, and from 2026 onwards for installations with a capacity of 200kW and above, is strictly rejected. The new CEEAG should allow that aid can be granted without prior auctioning for installations up to a capacity of 2MW. PV-Installations in the building sector should

generally be exempt from the mandatory auctioning. Member states are not allowed to forbid self-consumption in tenders.

- **Provisions under recital 92 should be specified for wind energy:** The new CEEAG should allow that wind energy developments of up to six generation units with a combined capacity of at least 18 MW (in order to reflect technological progress, we strongly suggest considering that the size and capacity of wind turbines will continue to increase in the coming years) that are in majority ownership of community groups are exempt from mandatory auctioning. This has been the case in the expiring EEAG and should be maintained in the CEEAG to allow for MS to set up enabling legislation without excessive and time-consuming state aid scrutiny.
- **Provisions under recital 92 should be specified for biogas:** The new CEEAG should not use “installed electric capacity” as unit but “average electric capacity” due to the fact that in Germany biogas plants have to install at least 2,5 - 5 times the electric capacity in order to be able to produce electricity flexibly. The average capacity however reflects the real energy production per year.

Incentivise flexibility options to counteract negative electricity prices

(ref. to recital 104 of the draft new Guidelines)

The emergence of negative prices on the electricity market follows the principle of supply and demand. The emergence of this time window due to an oversupply from inflexible fossil and nuclear power capacity on the electricity market, lack of interconnection or storage as well as inflexible market design and outdated grid codes is not to blame on variable feed-in of renewable energies. The currently installed capacities do not generate more electricity than demand. State aid guidelines that influence the production and feed-in behaviour of system operators due to developments in the electricity market such as recital 104 must take this into account. Negative prices are a clear reflection of the lack of flexibility in the energy system. Provisions should specify that MS have the flexibility to determine that the production of renewable electricity may continue as long as no electricity is used in a way that is distortive to market price dynamics. Instead, diversion into storage technologies or to other purposes such as the production of green hydrogen should be allowed and even explicitly supported. At the same time, the obligation to sell electricity directly in the market under all conditions should be reconsidered. Member states should have more flexibility to create a regulatory framework for other forms of consumption and marketing of green electricity.

Giving producers more leeway under specific circumstances such as negative electricity prices would ease the pressure on markets and be a crucial step towards a level playing field for all kinds of electricity. The emergence of negative electricity prices is not only attributable to renewable energies, but primarily to widely inflexible fossil fuel power plants that feed into the grid in these time slots, because they are not or cannot technically be ramped down to avoid oversupply. The new guidelines should explicitly allow that measures are taken to enable production of RES energy at times when fossil production would not be necessary to meet electricity demand or other obligations fossil capacity has committed to. Overall, an EU-wide regulatory framework should be developed that mitigates the risks for renewables related to negative energy prices, while considering the different national circumstances. It should at least be possible to maintain the so-called "four-hour-rule" under the Renewable Energies Act in Germany. The new guidelines should also allow renewable energies to fully participate in the market for system services while incentivising the use of demand-side response and other flexibility options in the system.

Do not arbitrarily reduce the auctioned volume when auctions are undersubscribed

(ref. to recital 48 of the draft new Guidelines)

Competitive bidding processes can deliver more renewables at the lowest cost for citizens if sufficient projects can participate. But this is only possible if the market is healthy and does not suffer from administrative or regulatory barriers. Permitting of renewable energy projects is the key such bottleneck in the German market. Burdensome and lengthy permitting procedures, lack of sites due to e.g. unnecessarily strict set-back distance rules or tip/hub height restrictions,

often result in undersubscribed auctions. Those barriers decrease the level of confidence in project realisation leading to lower project development pipelines.

Competition in auctions cannot be increased by decreasing the auctioned volumes as this further exacerbates investors' confidence and decreases visibility on auction rounds. Competition should rather be increased by removing all existing regulatory barriers to renewable energy deployment (such as administrative delays and regulations preventing fast & efficient permitting).

If tenders are undersubscribed, the non-awarded volumes should be incorporated into later auctions so that the projected deployment path could still trigger investment decisions.

Clarify the requirements for determining the amount of aid

(ref. to recital 50/54 of the draft new Guidelines)

The calculation methods for the amount of aid are set out in recital 46 and following of the draft new guidelines. Recital 50 lists, inter alia, the following criterion for determining the amount of aid necessary to carry out the aided activity or project:

“To determine the funding gap [...], the Member State must submit a quantification, for the factual scenario and a credible counterfactual scenario, of all main costs and revenues, the estimated weighted average cost of capital (WACC) of the beneficiaries to discount future cash flows, as well as the net present value (NPV) for the factual and counterfactual scenarios, over the project lifetime.”

Due to the use of the term "main" in reference to costs and revenues, it is not entirely clear whether the revenues from the sale of guarantees of origin are to be taken into account or not. In line with the approach of Article 19(2) of the RED II, the second sentence of recital 2 of the draft new guidelines should clarify that the market value of the guarantee of origin is to be taken into account when determining the amount of aid. This could be achieved with the following addition:

“To determine the funding gap [...], the Member State must submit a quantification, for the factual scenario and a credible counterfactual scenario, of all main costs and revenues, **including the revenues generated through the sale of guarantees of origin**, the estimated weighted average cost of capital (WACC) of the beneficiaries to discount future cash flows, as well as the net present value (NPV) for the factual and counterfactual scenarios, over the project lifetime.”

Furthermore Recital 123 of Directive (EU) 2018/2001 explicitly states that in view of the increasing cross-border trade of renewable gases, both the European Commission and the Member States must ensure the proper accounting of energy from renewable sources and prevent double incentives resulting from different support schemes in the individual Member States. If an aid scheme for renewable gases allows cumulation with aid from other Member States, both the Member States and the European Commission are obliged to consider support schemes of other Member States and to align the aid scheme with them to exclude a restriction of competition contrary to state aid law and to uphold the principle of equal treatment. But recital 54 of the draft new guidelines only contains a reference to avoiding double incentives. From our point of view, it is not clear whether recital 54 of the draft new guidelines refers only to the cumulation

of multiple subsidies granted by one EU Member State or whether it also addresses the issue of double subsidies granted by different EU Member States. This should be clarified with the following addition:

“Aid may be awarded concurrently under several aid schemes **of one or different Member States** or cumulated with ad hoc or de minimis aid in relation to the same eligible costs, provided that the total amount of aid for an activity or project does not lead to overcompensation or exceed the maximum aid amount allowed under these guidelines. If the Member State allows aid under one measure to be cumulated with aid under other measures, then it must specify, for each measure, the method used for ensuring compliance with the conditions set out in this point.”

Consider sustainable bioenergy as an essential tool to reduce GHG Emissions

(ref. to recital 30/77/96/107/161/162 of the draft new Guidelines)

Sustainable biomass currently plays a critical role in decarbonisation and will continue to be necessary for the EU to meet its climate targets in 2030 and beyond. A JRC report from earlier this year (“Towards net-zero emissions in the EU energy system by 2050”)¹ on the EU energy mix indicated that an increase in biomass usage from current levels will be needed to achieve net-zero by 2050. Further, in the recently published 2030 Climate Target Plan’s impact assessment, bioenergy remains the largest renewable resource across multiple scenarios, with further growth projected between now and 2050. Globally, the IEA’s net Zero Report confirms these assumptions.

Sustainable biomass is part of the biogenic carbon cycle, whereby the carbon absorbed and stored in wood over its lifetime is released when burned for energy, and that same carbon is reabsorbed and stored by growing forests. As a result, on a life-cycle basis using biomass instead of coal to produce electricity reduces carbon emissions by more than 85%, and just over 70% compared to fossil gas. Its dispatchability supports the system integration of wind and solar by providing renewable balancing power for variable supply and demand. It is a readily available and low-cost alternative to fossil fuels in Combined Heat and Power. It can displace coal in producing high-temperature heat for industrial users and provides the most realistic pathway to negative emissions. Therefore, we strongly advise to adjust several provisions for Bioenergy:

- Recital 30: The "incentive effect" should include a counter-analysis with the aim that the absence of operating aid would lead to the choice of less environmentally friendly solutions. The existing EEAG framework provides for the possibility for Member States to grant operating aid to existing biomass installations after depreciation (EEAG section 3.3.2.3). It should be ensured that, in justified cases, aid can be granted to depreciated bioenergy installations to ensure their continued operation. The need for this arises from the continuously accruing operating and biomass costs and the risk of energy supply reverting to fossil fuels. We recommend that existing, depreciated plants can also

¹ <https://publications.jrc.ec.europa.eu/repository/handle/JRC118592>

continue to receive operating aid, provided that their operators can prove that these plants could be replaced by less environmentally friendly plants without support. We recommend the following adjustment:

“In certain exceptional cases aid can have an incentive effect even for projects which started before the aid application. In particular, aid is considered to have an incentive effect in the following situations: (...)

c) operating aid granted to existing installations for environmentally friendly production where there is no ‘start of works’ because there is no significant new investment. In these cases, the incentive effect can be demonstrated by a change to operate the installation in an environmentally friendly way rather than an alternative cheaper mode of operation that is less environmentally friendly **or based on the counterfactual analysis, that lack of such aid would result in less environmentally friendly choices of operators.**”

- Recital 77: Directive (EU) 2018/2001 defines strong sustainability standards for bioenergy production that have already been in place for biofuels since directive 2009/27/EC. In order to avoid possible negative impacts due to indirect Land Use Change (iLUC) the commission has defined biofuels associated with a high risk of indirect land use change (iLUC). According to Art. 26 (2) of regulation EU 2018/2001 the eligibility of biofuels with a high risk of iLUC will be phased out by 31. December 2030 the latest, starting on 1.1.2024. Therefore, delegated regulation (EU) 2019/807 specifies which biofuels are associated with a high-risk of iLUC by defining certain thresholds. All other biofuels have to be considered low-risk of iLUC. Thus, the conclusion in paragraph 77 “*that support for biofuels, bioliquids, biogas and biomass fuels exceeding the caps defining their eligibility (...) do not produce positive effects which outweigh the negative effects of the measure*” is misleading and only true for high iLUC risk biofuels. Therefore, it should be amended such that only biofuels with a high iLUC risk according to delegated regulation (EU) 2019/807 should be considered to produce negative impacts that outweigh the positive impacts.

In addition, the requirement to avoid distortions on the commodity markets should be deleted, as market events are too complex to be able to draw single-factor conclusions on the support of bioenergy. The requirement bears the risk that simplified and wrong conclusions are drawn to the detriment of bioenergy or that support programmes are set up too hesitantly despite the massive investments required. In addition, already existing support must not be jeopardised. We recommend the following adjustment:

“Indirect land-use change (ILUC) occurs when the cultivation of crops for biofuels, bioliquids and biomass fuels displaces production of crops for food and feed purposes, **as specified in delegated act (EU) 2019/807**. Such additional demand increases the pressure on land and can lead to the extension of agricultural land into areas with high-carbon stock, such as forests, wetlands and peatland, **where no national legislation is in place or its enforcement is weak**, causing additional greenhouse gas emissions. This is why Directive (EU) 2018/2001 limits food and feed crops-based biofuels, bioliquids and biomass fuels **and (EU) 2019/807 provides safeguards**. The Commission considers that certain aid measures can aggravate indirect negative externalities. The Commission will therefore, in principle, consider that support for biofuels, bioliquids, biogas and biomass fuels exceeding the caps defining their eligibility for the calculation of

the gross final consumption of energy from renewable sources in the Member State concerned in accordance with Article 26 of that Directive and **exceeding the respective thresholds in (EU) 2019/807**, do not produce positive effects which outweigh the negative effects of the measure. ~~Furthermore, the Commission will verify whether Member States took into account in the design of their support mechanisms the need to avoid distortions on the raw material markets from biomass support, in particular for forest biomass.~~"

- Recital 96: The prohibition of aid which may lead to overcompensation only for bioenergy in this paragraph is not justified. The overcompensation assessment for biofuels is not envisaged for other aid categories, such as e-mobility, and thus puts biofuels at a disadvantage. In the sense of equal treatment, a negative unique selling point must not be created here. In addition, the overcompensation calculation, which would have to be based on assumptions of production costs or even company profits, would represent a regulation which is not court-proof. Planning certainty for investments and amortisation periods would be negatively impacted due to tax rates that have to be adjusted annually - based on past market data that fluctuate strongly over the course of the year. Given the expected practical problems, the overcompensation assessment must therefore also be dropped for biofuels.
- Recital 107: This article wants to avoid undermining the EU environmental protection objectives by not promoting the generation of energy that would displace less polluting forms of energy. As stated before, using biomass on a life-cycle basis in place of coal to produce electricity reduces carbon emissions by more than 85%. Directive 2018/2001 provides a definition of renewable energy sources (RES), that includes energy from biomass and does not create any additional differentiation among RES technologies and logically does not derive any legal consequences from such differentiation. Biomass must additionally comply with 'sustainability and the greenhouse gas emissions saving criteria' provided by Art. 29 to be qualified as a renewable source of energy. In this regard, bioenergy is the only renewable source of energy which complies with additional criteria including life cycle GHG saving assessment. Therefore, it is unacceptable that the CEEAG creates a new category of renewable energy, namely 'zero air pollution renewable energy sources' and *de facto* equalises biomass with non-renewable energy. This approach is not coherent with the existing block of EU law and discriminates against the use of bioenergy which is the main renewable technology in the heating sector. Moreover, it is worth underlining that sustainable biomass is - based on EU law - a carbon neutral source of energy, complying with the EU decarbonisation vision. Furthermore, air emissions from bioenergy installations are regulated under appropriate EU legislation, e.g. Ecodesign Regulation, Medium Combustion Plant Directive, Industrial Emissions Directive. Installations must comply with these requirements, regardless of whether they receive state aid or not. Against this background it is incomprehensible why bioenergy is equated with fossil fuels in terms of combined heat and power plants. We strongly call for the deletion of the references to biomass and 'zero air emission renewables' and recommend the following adjustment:

"To avoid undermining the objective of the measure or other Union environmental protection objectives, incentives must not be provided for the generation of energy that would displace less polluting forms of energy. For example, where cogeneration based on non-renewable sources is supported, ~~or where biomass is supported~~, they must

not receive incentives to generate electricity or heat at times when ~~this would mean zero air pollution~~ renewable energy sources would be curtailed.”

- Recital 161/162: We strongly support the long-term approach that fossil-based gaseous fuels in the transport sector should not be used anymore. Dedicated support schemes should consider that the direct use of renewable electricity in those applications where it is possible is the most efficient way to decarbonise the transport sector and that renewable gases will remain a scarce resource. However, aviation, long-distance shipping and heavy-duty road transport, will still have to rely on non-fossil gases. Therefore, there is no reason to forbid the investment in new gas mobility in general. This should be designed in such a way that it only affects fossil gas technologies. The aim is to decarbonize the whole energy system as quickly as possible. Gas vehicles can also be used with biogas or other renewable gases. The technology is there and readily available and helps to decarbonize the system as soon as possible. There is no competition between the different renewable technologies yet. Even if gas infrastructure may be more useful for heavy or maritime transport is it vital to have a certain infrastructure in place. The approach should leave room for a variety of alternative renewable fuels for aviation, long-distance shipping and heavy-duty road transport.

Do not extend consultation requirements

(ref. to recital 306 of the draft new Guidelines)

Consultation processes are very important to involve all relevant stakeholders in the legislative process. In our view, however, a duration of 4 or 8 weeks is not necessary. Such long periods would in some cases lead to a loss of political flexibility, which, as the past has shown, is necessary for changes to be introduced at short notice. We therefore recommend a deadline of 2 weeks in the State Aid Guidelines.

Grant long transition periods

Given that accelerated renewable installations need planning security to avoid higher costs there should be granted sufficient transition periods.

As German umbrella association for the renewable energy sector, the German Renewable Energy Federation (BEE) bundles the interests of 45 specialised associations and companies. We connect the wind, bio, solar, geothermal and hydropower sector. We represent 30,000 individual members, among them more than 5,000 companies, 316,000 jobs and more than 3 million power plant operators.

Our goal: 100 percent renewable energy in electricity, heating and transport.

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