

European Commission consultation on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG)



EFET response – 2 August 2021

The European Federation of Energy Traders (EFET¹) welcomes the opportunity to provide comments on the European Commission's consultation on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG) that will apply from 2022.

The revision of the Guidelines should help achieving the European Green Deal objectives and Europe's net zero target cost-efficiently, by way of ensuring that market-based signals at the European level steer the deployment of the most cost-effective decarbonisation solutions in the most cost-effective locations.

The draft Communication text contains several positive elements:

- There is a general consistency and alignment between the revised Guidelines and the provisions on financial support mechanisms set out in the Clean Energy Package (CEP), as well as the commitment to market-based support mechanisms such as competitive bidding².
- The Commission acknowledges the potential effectiveness of a reinforced and expanded EU ETS. EFET believes the ETS and potential interim EU carbon pricing schemes for new end-use sectors should be the key instrument for achieving the European 2030 and 2050 climate objectives cost-effectively.
- The draft proposal foresees that RES-E generators should receive no incentive to generate energy in times of negative wholesale prices.
- The draft proposal introduces a public consultation requirement under certain circumstances to enhance transparency, ensure extra flexibility is not abused and incentivize stakeholders' participation in the design of support measures.

However, we see also some worrying aspects in the proposed Guidelines:

- We urge the Commission to introduce safeguards against a prolongation of competition distortions. All support schemes for renewable energy sources and decarbonisation solutions, which cover operating costs and/ or investment expenses on a per unit output or annual basis, must be subject to clear sunset provisions.
- For novel technologies, aid should only be considered at early stages of development and where there is a realistic prospect of that technology becoming economically competitive on a standalone basis.
- We regret that compulsion progressively to open national financial support schemes to exports of renewable power and of renewable or low carbon gases from other Member

¹ The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org

² See [EFET response to the Commission consultation on EEAG revision](#) and our [press release](#) in January 2021.

States is omitted from the draft Guidelines. Existing provisions in the EEAG and RED II have proved insufficient to induce Member States to cooperate and combine their national financial support schemes. The eligibility of exporters of power to claim financial support is especially important, given that generation output will continue to be used as a proxy for the fulfilment of EU RES-E consumption targets.

- The scope of the guidelines is extended to new infrastructure categories, which have become more prominent since the current EEAG were introduced, as well as to additional new infrastructure categories which may emerge over the next years. Yet we are surprised that, despite the Commission having adopted a dedicated strategy on hydrogen and a strategy on energy system integration, there is no specific chapter for hydrogen, nor for renewable and low carbon gases. In addition, little consideration seems to have been given in the drafting of the revised Guidelines to possible national projects for natural gas infrastructure decommissioning as a consequence of the energy transition.
- As a matter of principle, we ask the Commission to bear in mind that state aid law should not be applied in relation to decarbonisation of EU energy systems in a manner which causes a decoupling of those systems from third countries. For example, some generation and production installations in third countries have historically been connected across borders to their primary consumption locations inside the EU, or vice versa. So, application of these Guidelines should proceed objectively, and involve no discrimination against owners or operators in third countries on a pretext of pursuit of reciprocity.

You will find below our proposed amendments to specific paragraphs of the CEEAG text set out in the Draft Communication³:

In paragraph 15 (i) and (l), the words “electricity” should be changed to “energy”. This can help the CEEAG to be fit for sector integration and different renewable and low carbon energy carriers.

In paragraph 18.35 (b) and (c), the energy infrastructure for gas and hydrogen categories seem not to include low-carbon blends and depleted fields for underground gas and hydrogen storage. We suggest adding them.

In paragraph 18.41, we see the definition for “generator” but we suggest dealing also with the terms “producer” and “electrolyser”.

In paragraph 33, we propose simplifying the explanations: *The proposed State aid measure must be targeted towards a material outcome which the market alone cannot deliver.*

In paragraph 39, we suggest adding as examples GoOs and GoOs plus instruments. It is important that all EU Member State governments be obliged to issue GoOs or GoO plus instruments as appropriate upon request of producers of renewable and low carbon energy, whether or not financial support or a long term PPA (or gas purchase agreement) is in place. Cancellation of GoOs and “GoO plus” instruments must be organised, validated and recorded by issuing bodies according to arrangements recognised throughout the EU, irrespective of the countries in which production and consumption occur.

In paragraph 43, we propose to add as other examples “... direct grants as capital sums in place of per MWh produced operating aid over a prolonged period ...”, and “... operating aid in the form of per MWh payments which vary so as to leave the recipient exposed in

³ https://ec.europa.eu/competition-policy/system/files/2021-06/CEEAG_Draft_communication_EN.pdf

part to wholesale energy market prices, rather than immunising the recipient completely from variations in such prices ..."

We welcome paragraph 48 and the introduction of competitive bidding as the default mechanism for awarding aid. This should be expanded as much as possible.

In paragraph 67, there should be an additional paragraph on the desirability of cross-border eligibility for aid, in the case of investments in RES power or RES or low carbon gas production projects, where part of the output is expected to flow naturally to, or be commercially exported to, a neighbouring or nearby Member State.

According to footnote 53 in paragraph 82: "The Commission will not generally require measures to be opened across borders, although this can help alleviate competition concerns." Where the decarbonisation measures are open to cross-border cooperation, this should include market participants and assets located in very well interconnected third countries, which are both part of the European gas grid or of the synchronous grid of Continental Europe and have a strong regulatory convergence with the EU's overall climate and energy objectives or have reciprocity clauses with the EU.

We welcome paragraph 85 and the introduction of a public consultation requirement prior to the notification of aid under certain circumstances. This should be expanded as much as possible.

In paragraph 96, there should be further explanation on cross-border eligibility.

We welcome paragraph 99 and that "*short and long term interactions with any other relevant policies or measures, including the Union's ETS, should be considered.*"

In paragraph 104, we fully support the opening statement: "*The aid must be designed to prevent any undue distortion to the efficient functioning of markets and, in particular, preserve efficient operating incentives and price signals. For instance, beneficiaries should remain exposed to price variation and market risk, unless this undermines the attainment of the objective of the aid. In particular, beneficiaries should not be incentivised to offer their output below their marginal costs and must not receive aid for production in any periods in which the market value of that production is negative.*"

We only request further explanation in the last statement of "*... any period in which ...*"

In paragraphs 284-327 on aid for the security of electricity supply, there should be further consideration given to gases and hydrogen. (And hydrogen merits a separate section dealing not only with security matters.)

In paragraph 305, we stress that generation capacity remuneration mechanisms must not create unnecessary distortions in the wholesale electricity market and capacity providers should be selected through transparent, non-discriminatory and competitive processes, regardless of their location, according to Regulation 2019/943 and be subject to the same obligations. Furthermore measures for security of electricity supply must be open to direct cross-border participation of capacity providers located in other interconnected third countries which are both part of the synchronous grid of Continental Europe and have a strong regulatory convergence with the EU's overall climate and energy objectives or have reciprocity clauses with the EU.

In paragraph 357, we support the provision stating that "*The aid under this Section should be limited to sectors that are at a significant competitive disadvantage and risk of relocation outside the Union because of the eligible levies. The risk of relocation depends on the*

electro-intensity of the sector in question and its exposure to international trade.” However, we believe that awarding the same level of exemption for all EIUs across sectors, without distinguishing between individual performance, could potentially place more resilient and ambitious EIUs at a disadvantage, and thereby distort competition.

When granting exemptions to levies, Member States should therefore be encouraged to make use of a competitive, market-based system that awards the amount of levy exemption (in terms of EUR/MWh) to an individual EIU based on factors such as its international competitiveness or its ambitions for decarbonization.

In paragraphs 367-392 on aid for coal, peat and oil shale closure, there should be further consideration to decommissioning of gas infrastructure.