

bbs response to the public consultation on the draft Climate, Energy and Environmental Aid Guidelines (CEEAG)

The German Building Materials Association (bbs) represents the business and industrial interests of 16 sub-sectors and around 6,000 companies with a total of 150,000 employees. The German building materials industry generates an annual turnover of about 35 billion Euros. With its modern production processes and products, this industry makes a significant contribution to a sustainable economic development. To protect jobs, the building materials industry needs a competitive business environment. This includes secure access to domestic raw materials as well as future-oriented environmental, climate and energy policies. Furthermore, bbs advocates the development of infrastructure in line with actual needs as well as better investment incentives in the housing construction sector and for energy-saving restoration. Against this background we welcome the new focus of the draft CEEAG on funding and supporting the decarbonisation of the industry sector.

However, we note with great concern that the Commission plans to remove several sectors of the building materials industry from the list of eligible sectors for aid in the form of reductions from electricity levies for energy-intensive users (Chapter 4.11, Annex 1 of draft CEEAG). In our membership this affects the sectors bricks and tiles (NACE 2332), cement (2351), lime and plaster (2352), mineral wool (2399) (annex 3 of current EEAG) as well as the sectors gravel, sand, clay and kaolin (0812), plaster products (2362), other articles of concrete, plaster and cement (2369) and cutting, shaping and finishing of stone (2370) (annex 5 of current EEAG).

For these sectors in Germany alone this would mean a drastic increase in electricity costs by more than 300 million Euros which is about 5 % of the Gross Value Added (GVA) of these sectors. For individual sectors like the cement industry this price increase goes as far as 20 % of their GVA, effectively putting these sectors at an enormous competitive disadvantage both on the EU market and vis-à-vis third countries. For other sectors like the mineral wool industry significant inter-sector distortions would arise because mineral wool as a product is directly competing with glass wool which justifiably remains covered by the proposed sector list. Under these circumstances, investments into additional electro-intensive processes for decarbonizing the industry will effectively be stalled in the sectors falling off the list. This comes at a crucial point in time where both private and public investment is urgently needed to foster CO₂ mitigation throughout Europe. We do not understand the Commission's motivation to increase electricity prices for a vast number of industrial sectors throughout Europe when electricity is the main transformation energy on our way to carbon neutrality. **We therefore call on the Commission to reconsider its draft guidelines and the methodology used and to keep the sectors included in the current annex 3 and 5 of the EEAG on the sec-**

tor list in annex 1 of the CEEAG. In the following, please find our position on the individual chapters of the draft CEEAG in more detail.

Chapter 4.11 Aid in the form of reductions from electricity levies for energy-intensive users

Germany features among the highest electricity prices in the EU which are mainly driven by national levies on electricity due to the energy transition (Energiewende). Reductions from these levies for energy intensive producers are a precondition for competitiveness on the internal market and vis-à-vis third countries. Among those levies the main cost driver for electricity prices in Germany has been the EEG-Umlage which is currently at 65 Euro/MWh. The reduction of the EEG-Umlage for energy intensive industries is based on the current EEAG (recently approved by the Commission under SA.57779). The reduction of other electricity levies (KWKG-Umlage, Offshore-Netzumlage) is also bound to the EEG reduction. In total, withdrawing these vital reductions in electricity prices for many sectors of the building materials industry would severely distort competition with third countries, with other EU member states as well as between different building products. Furthermore, in [paragraph 355](#) the Commission states that member states should “include all [...] reductions in a single scheme”. This could result in an additional cost burden when further reductions (e.g. § 19 StromNEV-Umlage, which is currently not linked to the EEG-Umlage reduction) are also linked to the sector list in annex 1 of the CEEAG.

4.11.1 / 4.11.3.1 Methodology used to determine the list of eligible sectors

In total, the Commission plans to shorten the list of eligible sectors by 77 % in terms of the number of sectors (from 220 to only 51) .¹ Of the 68 sectors currently included in annex 3 of the EEAG, i.e. the sectors most exposed to electricity induced costs and to trade, the Commission plans remove about one third (22 sectors).

[Paragraph 351](#) identifies the main risks associated with the additional burden of electricity levies:

- “risk of activities [...] moving outside the European Union to locations where environmental disciplines are absent or less ambitious”
- “increase [in] the cost of electricity compared to the cost of direct emissions and [discouragement of] the electrification of production processes, which is central to the successful decarbonisation of the Union economy”

In our view, this covers only part of the actual risk to be addressed by the CEEAG:

¹ Taking into account both annex 3 and annex 5 of the current EEAG.

First, the CEEAG should not only address the risk of carbon leakage (i.e. relocation of industry to countries with less stringent environmental standards) but also the risk of de-industrialisation of the EU (i.e. relocation of industry to any third countries).²

Second, the CEEAG should not only address the risk of competition distortions between the EU and third countries but also aim to avoid competition distortions within the EU internal market – both between the EU member states and between different sectors. Breaking up existing local industrial value chains cannot be in the interest of the European Commission. In fact, rather than only considering the distortive effect of state aid the Commission should also take into account the distortive effect of the state-imposed cost burdens that create the need for state aid in the first place. For energy-intensive industry, levies on electricity can significantly impact competitiveness between the EU member states if not reduced. In this context, the Commission should pay particular attention to member states with a cumulative state-induced cost burden on electricity above the EU average.

Third, it is true that any increase in electricity cost will discourage investment in electro-intensive decarbonisation technologies. However, unlike stated in [paragraph 353](#) the Commission has not addressed this risk appropriately by the criteria described in [paragraph 357](#) because they are disproportionately focussed on trade intensity instead of electro-intensity. It is important to note in this context, that electro-intensive decarbonisation technologies cover a very broad field of technological options to reduce CO₂ emissions. While in many sectors the direct electrification of combustion processes plays an important role, particularly in those industries with a high share of process emissions like cement or lime, electrification of the furnace has only a limited CO₂ mitigation potential. Additional (and electro-intensive) facilities for the capture of CO₂ are more promising here. Furthermore, other decarbonisation options also go along with higher electricity demand (e.g. using alternative raw materials that come at a lower CO₂ footprint but require more electricity for grinding). Such further increases in electro-intensity in the future have not been addressed at all in chapter 4.11 of the draft CEEAG. In fact, the set of criteria proposed by the Commission will exactly lead to a discouragement of investments into electro-intensive decarbonisation technologies in the building materials industry and many other sectors. As it stands the CEEAG would make electricity more expensive for industry and not less expensive – as would be required for a successful transformation.

[Paragraph 357](#) provides two sets of criteria for sectors to be eligible for the list in annex 1:

- 20 % trade intensity and 10 % electro-intensity
- 80 % trade intensity and 7 % electro-intensity
- The additional criterion of 4 % trade intensity and 20 % electro-intensity under the current EEAG has been omitted, therefore putting emphasis only on trade intensity.

² Compare COM(2020) 102: „A New Industrial Strategy for Europe“.

This excludes sectors in which a particularly high exposure to electricity cost outweighs less trade intensity.

In our view, the disproportionate emphasis on trade intensity is not justified:

First, the measure of trade intensity in itself is not fit to identify sectors at risk of carbon leakage or relocation / disinvestment. The trade intensity formula cannot effectively detect actual carbon leak-age: When domestic production costs increase, exports will decline as they are not competitive on foreign markets. At the same time imports will increase as they can compete with domestic production despite transport costs. This is the most threatening form of carbon leakage risk. However, trade intensity would hardly change because according to the formula increasing imports are counteracted by decreasing exports. It is therefore not a valid criterion to measure carbon leakage risk.

Second, historical data on trade intensity cannot account for future shifts in trade patterns. In fact, the Commission has used outdated 2013-2015 data in order to determine the carbon leakage risk for the period 2022 to at least 2030, which is very questionable from a methodological viewpoint. Carbon leakage is a mere function of domestic production costs vs. transport costs for imports. Data obtained in years with a functioning carbon leakage protection in place cannot give any indication on what trade patterns will look like once this carbon leakage protection is withdrawn.

Third, the Commission has provided no justification for increasing the threshold for trade intensity from 10 % in the current EEAG to 20 % in the draft CEEAG. Short of a reason why the current criteria apparently do not measure relocation risk adequately, the increase seems arbitrary. In addition, with the Brexit there is now a competing third country just outside the EU with very intense trade flows to member countries and a government that has just recently announced to foster its economy by state aid. This new situation cannot be ignored by simply applying a higher threshold on trade intensity.

For all these reasons, the criteria that the Commission has applied are not appropriate to identify sectors at risk of relocation (as suggested in [paragraph 353](#)).

We ask the Commission to reconsider the methodology used for determining the sectors eligible under chapter 4.11. In order to avoid an increase in electricity prices for industry and to foster decarbonisation measures, the sectors included in the existing annex 3 and 5 of the EEAG should continue to be eligible for electricity levy reductions under chapter 4.11 of the CEEAG.

In addition, for several sectors, the assessment at NACE 4 level is not appropriate. Even though those sectors meet the requirements for state aid when assessed individually at PRODCOM level or via qualitative assessment, they are still not on the list of eligible sectors

because the average electricity and trade intensities of their corresponding NACE 4 codes are too low. Often it is due to the wide heterogeneity of the sector found under the NACE code. In our view, the purely statistical NACE classification of a sector must not decide whether or not its relocation risk is assessed correctly.

We therefore ask the Commission to allow for a disaggregated level assessment, whenever appropriate using an accurate representation of the subsector's data so as to avoid a discriminatory distinction between sectors and subsectors: both are in comparable situations regarding the risk of carbon leakage.

4.11.2 Scope: Levies from which reductions can be granted

Paragraph 354 of the draft CEEAG specifically excludes network charges from the scope of chapter 4.11. This falls short on visible developments on the electricity market in Germany during the past years. Given the advanced transition from both coal and nuclear power plants to fluctuating renewables like wind and solar energy, the need for both active grid management and grid expansion continuously increases. Transmission system operators (TSOs) already pass on these additional costs to electricity consumers and will continue to do so. Network charges therefore threaten to become the “new major cost burden associated with renewable energies” and in that respect seamlessly take over from the levies financing the direct funding of renewables. This development is already foreseeable today and will likely be shared in many other EU member states as soon as fluctuating renewable energies provide a major share of electricity. In view of the long-term applicability of the CEEAG for the upcoming years, this issue should be addressed – either in chapter 4.11 or in chapter 4.9 (aid for energy infrastructure). However, in the draft CEEAG paragraph 334 of chapter 4.9 also excludes indirect relief of electricity users by way of infrastructure funding.

We therefore ask the Commission to explicitly allow for reductions in network charges for energy-intensive users in order to mitigate the risk of relocation stemming from this growing cost burden.

Paragraph 355 of the draft CEEAG asks member states to include all levies on electricity into a single relief scheme. Generally, we support this approach of the Commission since the cost burden on energy-intensive industries has to be assessed cumulatively in order to provide a meaningful estimate for the risk of relocation. In fact, the cost burden should ideally be examined even across different policy areas. The minimum threshold proposed in paragraph 356, however, is not a sensible approach in our view because it only focusses on the absolute amount of levies – not taking into account varying electricity price levels across the EU and relative price differences (intra- and extra EU). Also, in case a member state was to reduce levies on electricity in order to support decarbonisation this effect could be counteracted by the threshold.

In order to create an actual level playing field for energy-intensive industry sectors across the EU and in order to support the electrification and decarbonisation of industrial processes the cumulative cost burden on electricity should be taken into account. We do not support the proposed absolute minimum threshold as a precondition for introducing relief schemes.

4.11.3.2 Maximum reduction of electricity levies

Paragraph 359 proposes to decrease aid intensity from 85 % to 75 %. Paragraph 360 proposes to increase the maximum burden from 0.5 % of GVA under the current EEAG to 1.5 % of GVA. The reasoning behind this significant increase again is not comprehensible. Electro-intensity of the industry will increase over the coming years as decarbonisation technologies are installed. Increasing the electricity cost burden for energy-intensive industries discourages investments into these electro-intensive technologies. Since electricity is the main transformation energy on our way to carbon neutrality the aim of CEEAG should be to decrease its price and not to increase it.

We therefore ask the Commission again to reconsider its plans to increase the electricity cost burden on energy-intensive industries and to maintain the current level of aid intensity.

4.11.3.4 State induced investment requirements

Paragraph 365 proposes that undertakings be obliged to invest into certain publically determined objectives, stipulating a pay-back period of 3 years for energy efficiency measures, setting a target of 30 % green electricity consumption and directing at least 50 % of “aid” into decarbonisation measures. We strongly object to this kind of public investment control as it significantly curtails entrepreneurial independence. The aid under chapter 4.11 is not to be confused with investment funding. Instead it must offset state induced cost disadvantages vis-à-vis competitors inside and outside the EU. Offsetting cost disadvantages implies that EU undertakings are free in their investment decisions in the same way as their competitors. Otherwise, aid provided under chapter 4.11 does not actually create a level playing field (which should be the aim).

We therefore ask the Commission to delete paragraph 365 and to not condition safeguards for the competitiveness of the European industry on certain investment objectives.

Chapter 2.4 Definitions

Paragraph 18 (13) and (14): Carbon Capture and Storage / Carbon Capture and Use

The formulation “industrial plants based on fossil fuels or biomass, including power plants and waste-to-energy plants” is ambiguous. It can be read as if only fuel emissions were meant by these two definitions. It should be clarified that CCS and CCU also involve CO₂ emissions from industrial processes.³

We appreciate the explicit mentioning of CO₂ transport between its source and the sink, because this step is currently a major hurdle for CCUS demonstration projects and must not be neglected. However, the CCU definition might be too much focused on constellations where CO₂ has to be transported from one site (the source) to a specific “CO₂ consumption or utilisation site”. There might be constellations where the CO₂ utilisation takes place at the same site as the CO₂ capture. It should be made clear that such constellations are not excluded.

Paragraph 18 (16): CO₂ removal

Materials based on calcium oxide offer significant recarbonation potentials during their lifetime and therefore could be classified as CO₂ sinks. This process either happens naturally or forcibly (e.g. active recarbonation of fresh concrete, currently under development). The Commission should make sure that the definition of CO₂ removal is sufficiently broad to encompass the huge variety of different CO₂ sinks and, amongst others, recarbonation.

Paragraph 18 (24): Demonstration project

In our view, the definition of demonstration project might be too stringent by only referring to “technology as a first of its kind in the Union”. It should be clarified that more than one demonstration project per technology can be eligible for funding because they usually work differently under different conditions. A single demonstration project in the EU will not be enough to actually demonstrate the full operational applicability of such technologies.

Paragraph 18 (35) (d): Energy infrastructure – CO₂ infrastructure

We welcome the inclusion of CO₂ pipelines, CO₂ liquefaction and buffer storage facilities as well as geological CO₂ storage facilities and any support equipment needed as part of the definition on energy infrastructure. Lacking CO₂ infrastructure today is one of the most pressing impediments to starting carbon capture projects and therefore needs swift and non-bureaucratic support. However, the definition states that only “Assets [...], which are subject to third party access qualify as energy infrastructure”. Also the definition states that “Assets [...] which are built for one or a small group of ex ante identified users and tailored to their needs (‘dedicated infrastructure’) do not qualify as energy infrastructure.” We take a critical view of these restrictions as they might severely slow down or even inhibit the build-up of a

³ The formulation in the definition of energy infrastructures in paragraph 18 (35) (d) (i) is better suited to cover also process emissions: „industrial installations (including power plants) that produce carbon dioxide gas from combustion or other chemical reactions involving fossil or non-fossil carbon-containing compounds”.

usable CO₂ infrastructure. In particular during the very first stage of CO₂ infrastructure development, private projects (e.g. a private pipeline connecting a cement plant and a chemical plant; or a private pipeline connection between a cement plant and a (public) backbone CO₂ pipeline) might play an important role. “Dedicated CO₂ infrastructure” should therefore have an own definition under chapter 2.4 and be eligible for funding under the CEEAG in the same way as pipelines offering third-party access.

Furthermore, a focus on only pipelines for CO₂ transport is not sufficient. In the beginning it is likely that CO₂ transport will take place by other means such as ships, trains, trucks or similar. The CEEAG should take this into account in order to effectively support new CCUS value chains.

The definitions of CCS, CCU and energy infrastructures for CO₂ should be aligned in their wording in order to prevent ambiguities.

Chapter 3.2.2 Avoidance of undue negative effects on competition and trade

Paragraph 62 states that “By its very nature, any aid measure will generate distortions of competition and have an effect on trade between Member States as it reinforces the competitive position of the beneficiaries”. We strongly oppose this statement. Aid measures are often introduced only to alleviate nationally introduced cost burdens that competitors in other EU member states do not have to bear. In such cases, the aid measure actually contributes to the restoration of a level playing field that would otherwise not exist. In particular with a view to electricity levies and chapter 4.11 we ask the Commission to consider a paradigm shift in this very much simplified assessment of the nature of state aid. In the same way the Commission makes sure aid does not result in any negative effect on competition and trade, it should also prevent competition distortions within the EU single market due to the absence of aid.

Chapter 3.3 Weighing the positive effects of the aid against the negative effects on competition and trade

Paragraph 68 makes reference to the European Climate Law against which state aid decisions have to be benchmarked. Similarly, we ask the Commission to also refer to the EU industrial strategy which is also part of the Green Deal. Meaningful climate protection can only succeed if at the same time industrial production is kept inside the EU and functioning local industrial value chains are not disrupted.

Paragraph 69 makes reference to the recently introduced EU taxonomy on economic activities. We are concerned that this taxonomy reduces very complex industrial processes and

value chains to only a few selected technical screening criteria. In establishing these criteria industrial expertise has deliberately been taken into account only to a limited extent. Instead, the taxonomy is a project mainly driven by financial institutions. Various industry sectors are affected by this new regulation, yet they are not represented in the EU platform on sustainable finance. The significance of the technical screening criteria for the actual environmental performance of economic activities therefore is very limited from our perspective.

Chapter 4.1 Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy

We welcome the focus of chapter 4.1 on decarbonisation technologies, including (amongst others) carbon capture, storage and use ([paragraph 74](#)) and dedicated infrastructure for CO₂ transport ([paragraph 75](#)). Also, we welcome the proposed higher degree of flexibility given to member states in demonstrating the necessity and appropriateness of aid for decarbonisation (chapters 4.1.3.1 and 4.1.3.2). Regarding [paragraph 85](#), however, it should be made clear that any estimates of costs per ton of CO₂ avoided will be provisional at the time of the public consultation. In general, we ask the Commission to treat the results from such public consultations with prudence. We are committed to an open and constructive dialogue with society on the necessity, costs, opportunities and risks of decarbonisation technologies. Practical experience e.g. from the expansion of renewable energy has, however, shown that there are often societal reservations against new technologies or infrastructures.

[Paragraph 89](#) states that aid “should in general be granted through a competitive bidding process”. While this requirement is understandable from a cost efficiency perspective it might not be suited for the selection of breakthrough demonstration projects – in particular not at the beginning of a funding programme. First, different technologies in different sectors have different CO₂ abatement costs. A cross-sector cross-technology bidding process for funding might result in the most cost-efficient technology being awarded the funding. However, we do not have the time to develop decarbonisation technologies one at a time – they need to be developed in parallel and as soon as possible. Therefore, technology- and sector-specific bidding processes are more reasonable – even though they might be less competitive. Second, the very nature of breakthrough technologies means that many of the potential caveats and defining criteria for such projects cannot be known ex ante. Therefore, the CEEAG should allow for a pilot phase of individual project-specific public-private funding contracts enabling the necessary flexibility. Based on the experience gathered from this pilot phase, a transition to tenders might be possible.

We consider the rules for dedicated infrastructures in [paragraphs 105 and 106](#) reasonable in that they allow for CO₂ infrastructures to be developed exclusively in the beginning with a view to opening them up to third parties in the long run. As said before on the definition of

energy infrastructures: Exclusive CO₂ infrastructure, that does not allow third party access, must still be eligible for funding – at least in the ramp-up phase of such infrastructure – in order not to stall private initiatives.

“Dedicated infrastructure” is not clearly defined under chapter 2.4 in the draft CEEAG. In our view, this should include all means of transport for CO₂, including pipelines, trucks, trains and ships. The latter transport modes might play an important role in developing CCUS value chains especially in the next ten years. The build-up of a CO₂ pipeline network is expected to be the second step once the CO₂ sources and sinks are better known.

In general, chapter 4.1 is not clear on which costs of projects are eligible for funding. In our view, it is indispensable that both capital expenditure (CAPEX) and operating costs (OPEX) of decarbonisation projects can be funded under chapter 4.1. This should be clarified.

Chapter 4.2 Aid for the improvement of the energy and environmental performance of buildings

National or regional funding measures to improve the energy efficiency of buildings are funding measures that – as long as they are technology-neutral – do not affect interstate trade and thus do not affect competition on the European internal market. It is therefore questionable if they should be classified as state aid in the meaning of Article 107 (1) of the Treaty on the Functioning of the European Union (TFEU). Should the EU Commission consider it appropriate to formulate EU-wide guidelines for the promotion of energy efficiency in the building sector, these should be laid down in the corresponding regulations, namely the EPBD.

4.2.2 Scope and supported activities

Fundamentally, we welcome the approach of the EU Commission to support the energy efficiency of buildings and to promote “Efficiency First” as the guiding principle for eligibility ([paragraph 115](#)). Raising awareness about how to design programs, excluded from State Aid, will simplify and accelerate the implementation of energy efficient projects as described in the renovation wave. This is particularly needed in the case of complex ownership and contracting models that involve professional landlords, commercial real estate owners, and ESCOs. Being proactive in providing clear and practical guidance on how to develop compliant State Aid schemes will help Member States seize the potential of the new mechanisms and rules, and efficiently steer funds towards the intended objectives.

It is also correct and important to generally give preference to comprehensive renovations, however single renovation measures and step by step renovations are currently the most important tool in the improvement of energy efficiency and should not be disincentivized, but which would likely be the result of the proposal in [paragraph 118 \(a\)](#).

In our view the Commission should adopt practical-oriented official guidance, backed by concrete examples (i.e., as done for the guiding template for energy efficiency in buildings linked to the Recovery and Resilience Facility). These guidelines should draw examples from existing and validated schemes, such as the German support scheme (BEG) and serve as practical support for other national governments. For instance, the BEG fulfilled the non-selective criteria by being open to all kinds of building owners, types and providing a comparable level of support to all applicants and was therefore excluded from State Aid rules.

Paragraph 118 (a): Compared to comprehensive, deep renovations, single renovation measures and step-by-step renovations are the preferred approach to energy efficiency improvements for many owners – e.g. due to limited financial options (despite funding) or minimizing restrictions on habitability in construction measures in apartment buildings. Funded individual measures accounted for 91 % of the measures of energy efficient building renovation and were thus responsible for the majority of the approximately 1,440 GW/year of final energy and 480 kt CO₂/a savings in Germany in 2017.⁴

The proposed minimum threshold for the 20 % reduction of primary energy would rule too many of these individual renovation measures out of eligibility, including individual measures on the building envelope that are necessary and important for achieving energy efficiency of the total building and climate protection goals. These include, for example, the basement ceiling insulation or window replacement, as these usually do not account for > 20 % of energy loss and thus do not result in energy savings of at least 20 %, although they can nevertheless contribute to considerable energy savings. Should these measures be excluded from eligibility, the consequence could lead to a wait-and-see attitude and the desired doubling of the renovation rate would be considerably jeopardized.

The Commission should therefore keep single renovation measures eligible to state funding by either reducing the 20% threshold or by clarifying, that that 20% threshold is applied, in case of single renovation measures, to the reduction of energy losses of the renovated building part.

Furthermore, Step-by-step renovations offer advantages. They usually allow landlords to carry out renovations, while keeping buildings inhabited – which is extremely important in areas of housing shortages - and take into account the limited financial possibilities of landlords who are willing to renovate, which regularly leads over time to comprehensive, deep renovations of a building. In particular, the individual renovation schedule used in Germany significantly contributes to more full renovations being carried out. Yet, these successes are jeopardized through the specifications in paragraph 118 (a) and the demand for a reduction in energy consumption of at least 30 % over a maximum of 3 years. The Commission would,

⁴ KfW 2017 Monitoring der KfW-Programme „Energieeffizient Sanieren“ und „Energieeffizient Bauen“ 2017.

however, like to double the renovation rate and is also relying on socially acceptable measures. The proposed rule in paragraph 118 (a) will be counterproductive, as this regulation fails to recognize that there is an economical and sensible timing of measures in a renovation cycle of components and systems. The regulation in paragraph 118 thus also misses the practical circumstances of building renovation and could have a negative impact on renovation rates.

We therefore propose the deletion of the 3-year period for step-by-step renovations or the extension of that period to 15 years, if energy-related renovation measures are implemented step-by-step as part of an individual renovation schedule, as included in the German guidelines for federal aid for efficient buildings (BEG), residential buildings and single measures.⁵

Paragraph 118 (b): While with the proposed threshold in paragraph 118 (a) energy saving potentials are hindered, they may not be used sufficiently for new constructions with the proposed 10 % improvement threshold compared to the NZEB, since structural and technical measures to increase energy efficiency can be implemented much more easily and cost-effectively in the new construction rather than in the renovation area. However, such requirement steps in new constructions only make sense if the member state defined the NZEB based on the cost-optimal level. However, since there is no clear definition for NZEB, but rather the member states determine this level at their own discretion (including some member states with NZEB definitions that go well beyond the cost-optimal level), the NZEB level cannot be the basis for threshold values. Instead, the cost-optimal level should be used as the baseline for threshold values for aid for new constructions.

Germany has had good experience with the requirements for additional funding for new buildings of 20 % or 25 % for primary energy requirements, based on a cost optimal definition of NZEP. The Commission should use these as a guide as well.

Paragraph 116: In addition to the previously mentioned points, we suggest to widen the scope of chapter 4.2 and include a reference to thermal mass as part of paragraph 116. Structural thermal energy storage elements have a positive effect on the energy consumption of the built environment and therefore respective projects should be added as beneficiaries (e.g. Thermally Activated Building Structures TABS). The thermal storage capacity offered by concrete structures provides flexibility in energy grids and can boost the uptake of renewable energy.⁶

⁵ Compare German funding guidelines for federal funding for efficient buildings (BEG), residential buildings and individual measures.

⁶ Compare <https://www.theconcreteinitiative.eu/images/TheConcreteInitiative - Draft - PositionPaper - 3E - 2016-10-25.pdf>

4.2.4.2 Proportionality

The proposed specifications in section 4.2.4.2 show that the aid criteria usually applied to companies are not expedient or meaningful for the energy efficiency of buildings.

Paragraph 125: The definition of the eligible costs of energy efficiency investments in the building sector should not be defined only as the costs, directly linked to achieve a higher level of energy or environmental performance. In particular for energy-related renovation measures in existing buildings, the total costs of the renovation measure must be defined as eligible costs, but not only additional costs that “correspond exclusively to the investment costs directly linked to the achievement of a higher level of energy or environmental performance”. The basic scenario, which must be compared against, always consists of “no renovation measure”, since it can usually be assumed that energy improvement renovations would not be attempted without funding. It would also be methodologically complex to separate parts of an investment that do not improve energy efficiency in themselves, but are a necessary part of such investments.

We therefore propose to define eligible costs for building renovations as total costs of investment.

Paragraph 126: The majority of building owners are small landlords and owner-occupiers. There is enormous potential for efficiency here, which must be raised to allow the building sector to reach climate neutrality and achieve the goals of the renovation wave. The proposed basic aid intensity of up to 30 % of the eligible costs in paragraph 126 could be too small, to achieve these goals. Due to the – especially for buildings – relatively short term till 2050, in which the climate goals have to be achieved, most renovations have to be performed prior to their natural refurbishment cycle, meaning buildings and building parts, which will not have reached their usual lifespan. To activate landlords and owners prematurely for such renovations, the proposed maximum 30% aid intensity is probably not sufficient to cover the financing gap.

We therefore propose to increase the basic aid intensity up to 40% for building renovations.

Chapter 4.4 Aid for resource efficiency and for supporting the transition towards a circular economy

Paragraphs 192, 193 and 216 only refer the scope of this chapter to recycled materials. However, the use of (e.g. industrial) by-products can also contribute to a resource efficient economy and should be mentioned explicitly.

In paragraph 204 reference is made to “economically profitable or established commercial practices”. This reference should be shortened to include only economically profitable commercial practices, because whether they are established or not does not give an indication as to their profitability.

In order to assess the eligible cost differential for state aid, paragraph 208 describes different counter-factual scenarios that can be taken into account, including “less resource efficiency”. However, there are no established indicators for differentiating levels of resource efficiency. Therefore, such a counterfactual can be hard to describe in practice.

Chapter 4.7 Aid in the form of reductions in taxes of parafiscal levies

Since 1 January 2021, Germany has introduced a new separate emissions trading scheme for the sectors not covered by the EU ETS – much in the same way as proposed by the European Commission in its “Fit for 55” package. The system applies a CO₂ price on fuels. Given the upstream nature of the system, obligated parties under this new ETS (e.g. refineries, fuel importers) will pass on CO₂ prices to their customers, resulting in additional indirect CO₂ costs both for installations covered by the EU ETS and for industrial installations not covered by the EU ETS.

Therefore, there is a significant risk that installations falling under the scope of the EU ETS will pay a CO₂ price twice – once under the “fuel ETS” when they buy fuels and then again under the EU ETS when the fuels are used and the CO₂ is emitted. To avoid this double-payment, state aid guidelines should allow for a full compensation of the CO₂ price passed on in fuel prices for installations within the scope of the EU ETS.

Furthermore, since the national “fuel ETS” also covers industrial installations outside the scope of the EU ETS, these installations require a separate carbon leakage protection (as the Commission has acknowledged in its proposal for an EU-wide “fuel ETS”). The CEEAG should enable this carbon leakage protection.

Chapter 4.9 Aid for energy infrastructure

Paragraph 354 of the draft CEEAG specifically excludes network charges from the scope of chapter 4.11. This falls short on visible developments on the electricity market in Germany during the past years. Given the advanced transition from both coal and nuclear power plants to fluctuating renewables like wind and solar energy, the need for both active grid management and grid expansion continuously increases. Transmission system operators (TSOs) already pass on these additional costs to electricity consumers and will continue to do so. Network charges therefore threaten to become the “new major cost burden associated with renewable energies” and in that respect seamlessly take over from the levies financing the direct funding of renewables. This development is already foreseeable today and will likely be shared in many other EU member states as soon as fluctuating renewable energies provide a major share of electricity. In view of the long-term applicability of the CEEAG for the upcoming years, this issue should be addressed – either in chapter 4.11 or in chapter 4.9. However, in the draft CEEAG paragraph 334 of chapter 4.9 also excludes indirect relief of electricity users by way of infrastructure funding. We ask the Commission to include a reduction in network charges for energy-intensive industries in either chapter 4.11 or chapter 4.9.

We welcome the consideration of CO₂ pipelines in the context of energy infrastructure. However, we reiterate our concern with regard to third-party access mentioned above in relation to the definition of energy infrastructure as well as in relation to dedicated infrastructure in chapter 4.1.

Berlin, 2nd August 2021