

July 22, 2021

Subject: Public consultation on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG)

Plastics Recyclers Europe (PRE) welcomes the European Commission (EC) Proposal for a revised Climate, Energy and Environmental Aid Guidelines (CEAAG).

Our association represents plastic recyclers operating at the European level, with an installed capacity of 8.3 million tonnes (Mt) to recycle each year plastic waste generated in the EU into high quality materials destined for a variety of end-applications. **This well-established industry, operating at commercial level, fully embraces the objectives of the Green Deal and the CEAP policies.**

We welcome the inclusion of a new category for State Aid dedicated to the Circular Economy (section 4.4), as the relevant approach **to support innovation for an industry that made of the transition towards the circular economy for plastics its own business model.**

Nevertheless, **PRE stresses the necessity to support the existing market that relies on EU level State Aids implemented in the short past by the Member States (MS) national legislations.** Excluding energy subsidies to plastic recycling means jeopardizing the circular business model of existing industries, and preferring the production of virgin plastics.

The proposed CEEAG risks undermining the objectives of the Green Deal and of the CEAP, reshuffling how MS can finance their transition towards a circular economy for plastics.

1. Plastic recycling as a waste management operation

The plastic recycling industry currently benefits from State aids directed towards energy-intensive industrial practices, regardless of the output. Owing to this support by EU MS, the industry remained competitive to reprocess plastic waste into output materials, e.g., flakes or pellets depending on the recycling process. These represents the “recyclates”¹ or outputs of a recycling operation, which will be bought by converters to place on the market final products (objects and packaging) made with recycled content.

¹ To be used as recycled content, the plastic converting industry buys from recyclers either flakes for moulding operations or extruded pellets.

Unfortunately, **not all EU MS have the same end-of-waste criteria for the output of plastic recyclers, as no harmonised criteria has been established at the EU level.**

Hence, for some MS the output of a plastic recycler is considered as a waste (falling under the definition of a waste management (or proposed aid 4.4) whereas in other MS the same output material is treated as a product (output of manufacturing operation, or proposed aid 4.11). The impacts of this market distortion can better be understood by looking also at how the market for recyclates functions today in the EU. The industry of plastic recycling in Europe is deeply rooted on cross-border shipments of plastic waste, and actors of the value-chain (waste collectors, sorters, recyclers, and converters) do not operate always within the same MS boundaries.

The proposed CEAAG could in this sense create a market distortion whereby in some MS the industry is financially supported in energy-related aids, whereas in other not. In those MS, given the current existence of mechanical recycling at commercial scale, these industries will also not benefit from aids derived from Section 4.4.

2. Plastic recycling as manufacturing of plastics

Mechanical recycling as a manufacturing operation to produce plastics is recognised under NACE Rev. 2 and under the EU Taxonomy Regulation.

Under NACE Rev. 2 “Statistical classification of economic activities in the European Community”, Section 22.2 “Manufacture of plastics products” states that: *“This group comprises processing new or spent (i.e., recycled) plastics resins into intermediate or final products, using such processes as compression moulding; extrusion moulding; injection moulding; blow moulding; and casting. For most of these, the production process is such that a wide variety of products can be made.”* (NACE Rev. 2 – Statistical classification of economic activities in the European Community, p. 147). The manufacture of products using plastics recyclates is thus classified under the manufacture of plastics products.

Under the EU Taxonomy Regulation, the manufacturing of plastics in primary forms from recyclates has been recognised as a sustainable manufacturing operation. In Annex 2, chapter 3.17,² **manufacturing of plastics that undergo a mechanical recycling process fits within the scope of the Regulation.** Following this structure, mechanical recycling of plastic waste, if not considered as an industrial activity *per se*, **should be part of a manufacturing operation that produces plastics.** Nevertheless, the proposed

² C(2021) 2800 final

CEEAG separates the two industries and does not recognize this double role of waste management and plastic manufacturing.

The concepts of economic similarity and economic substitutability have been partially covered by the 2020 Technical Annex of the Taxonomy Report, together with the rationale to link NACE Code 20.16 (Manufacture of plastics in primary forms) to NACE Code 22.2 (Manufacture of plastics products) explained in Chapter 3.9 (p. 200-204).³ For the scope of the EU Taxonomy Regulation, both manufacturing of plastics in primary forms or in plastic products are deemed sustainable if they involve the outputs of mechanical recycling operations.

The proposed CEEAG does not seem to recognize this link. By incentivising either virgin manufacturing of plastics (4.11) or innovative recycling technologies (4.4), it also sets an additional economic burden on existing recycling technologies that produce secondary raw materials at scale, as these will not receive any financial support on their energy bills.

In fact, under Section 4.4, **only innovations in recycling technologies can justify aids, despite the existing recycling infrastructure being the only capable of satisfying at scale condition ii of Section 4.4.2 (a).**

The interpretation provided in the proposed CEEAG, which considers NACE Section C to exclude recyclates from ‘manufacturing’ operations, might create a market distortion within the value-chain, as recyclates will only be considered under manufacturing operations when used to produce plastic products (objects and packaging). In other words, recyclers will not benefit from 4.11 measures while other actors down the plastics value-chain, such as the converting industry, will benefit from this aid. **Depending on the process, the use of energy today sits on average at the top-three of a plastic recycling production costs, meaning that without subsidies the industry will be heavily impacted.**

In addition, a favourable condition for the manufacturing of virgin plastics (NACE 22.2) would entail **an additional economic market disadvantage for the production of plastic recyclates compared to virgin materials**, challenging the objectives and scopes of existing and planned EU policies.

- **For this purpose, PRE calls on the EC to treat the plastic recycling industry both as a waste management system and a manufacturing process, hence bridging sections 4.4 and 4.11. In this sense:**
 - a. **NACE codes 22.21 to 22.29 have to be read as including recyclates (= product manufacturing from waste), thus specifically including plastic**

³ https://ec.europa.eu/info/sites/default/files/business_economy_euro/banking_and_finance/documents/200309-sustainable-finance-teg-final-report-taxonomy-annexes_en.pdf

recyclers not only under Section 4.4 but also under Section 4.11 (e.g., a footnote, or a new 2016-1 ‘Manufacturing of plastics from secondary raw materials’ of the Guidelines on State aid for environmental protection and energy 2014-2020).

b. NACE code 38.32 is restated as economic activity under 4.11.

The recycling of plastic waste has been recognised as an energy-intensive industrial activity falling under NACE Code 38.32 (Recovery of sorted materials), hence within Section 3.7.2. “Aid in the form of reductions in the funding of support for energy from renewable sources” by the current State Aid Guidelines. The EU MS have setup systems of financial benefits, as with the case of Germany, where the legislator adopted law *BGBI. I S. 1066 Erneuerbare-Energien-Gesetz - EEG 2021*, which covers 38.32 in Annex 4 and provides for a special compensation scheme for plastics recyclers. Since then, the German plastic recyclers, and as a matter of fact all EU plastic recyclers, rely on these kinds of laws to exist. Hence, withdrawing this aid and thereby the related MS laws will negatively impact the plastics recycling industry.

Accordingly, **manufacturing and waste management, if belonging to separate categories within the proposed CEAAG where one will benefit from energy-deductions and not the other, will amplify the unlevelled waste management across the EU, across the different value-chain industries, and further postpone the achievements listed within the Green Deal and CEAP.**

- Current EU level State Aid, **by harmonizing and diminishing the economic burdens in operating a plastic recycling facility at the EU level, creates a level-playing field across the different MS.**

3. Addenda

In addition, PRE would like to provide comments on note 81 and 84.

- **Note 81:** “Other products, materials or substances may include **by-products** (as referred to in Article 5 of Directive 2008/98/EC), agricultural and forestry residues, wastewater, rainwater and runoff water, minerals, nutrients, residual gases from production processes, redundant products, parts and materials, etc. Redundant products, parts and materials are products, parts or materials that are no longer needed by or useful for its holder but are suitable for re-use.”
 - **For plastics**, PRE strongly believe that there should not be an aid on circular economy of by-products, since they constitute non-waste materials already re-introduced with a process normally used by the industry and economically profitable.

- **Note 84:** *“From a technological perspective, it may for instance be appropriate to verify whether the planned investment would lead to a higher degree of recyclability or to a higher quality of the recycled material as compared to normal practice.”*
 - **For plastics**, the higher degree of recyclability should be decoupled from the recycling technology and only linked to design for recycling principles, harmonized separate collection systems, and quality sorting of plastic waste. The higher quality of the recycled materials shall be assessed against the reprocessing of waste materials into other chemicals and substances that are not plastics (high-quality recycling shall be read as closed-loop recycling). Any process that transforms plastic waste into fuels or other means to generate energy shall be excluded from Section E (according to para. 192).

To conclude, PRE calls on the EC to reconsider how the objectives of the Green Deal and CEAP can be supported by State Aids, and in view of advancing on the circularity of plastics in the European Union.

PRE remains at your disposal to further discuss the topics tackled in this document.

About Plastics Recyclers Europe

Plastics Recyclers Europe (PRE) is an organization representing the voice of the European plastics recyclers who reprocess plastic waste into high quality material destined for production of new articles. Recyclers are important facilitators of the circularity of plastics and the transition towards the circular economy. Plastics recycling in Europe is a rapidly growing sector representing €3bn in turnover.
www.plasticsrecyclers.eu