

Draft Provision	Proposed Amendment	Rationale
<p>3.2 Negative condition: the aid measure must not unduly affect trading conditions to an extent contrary to the common interest Minimisation of distortions of competition and trade</p> <p>3.2.1. Minimisation of distortions of competition and trade</p> <p>3.2.1.1. Necessity of the Aid</p>		
<p>33. The proposed State aid measure must be targeted towards a situation where it can bring about a material development that the market alone cannot deliver, for example by remedying market failures in relation to the projects or activities for which the aid is awarded. Whilst it is generally accepted that competitive markets tend to bring about efficient results in terms of development of economic activities, prices, output and use of resources, in the presence of market failures, public intervention in the form of State aid may improve the efficient functioning of markets and thereby contribute to the development of an economic activity to the extent that the market on its own fails to deliver an efficient outcome. The Member State should identify the market failures preventing a sufficient level of environmental protection from being achieved or preventing an efficient internal energy market. The main market failures related to environmental protection and energy which can prevent the optimal outcome and can lead to an inefficient outcome are:</p>		
<p>(a) Negative externalities: they are most common for environmental aid measures and arise when pollution is not adequately priced, that is to say, the undertaking concerned does not face the full cost of pollution. In this case, undertakings acting in their own interest may have insufficient incentives to take the negative externalities arising from their economic activity into account</p>	<p>Negative externalities: they are most common for environmental and energy aid measures and arise when pollution and other social impacts are is not adequately priced, that is to say, the undertaking concerned does not face the full cost of pollution or other negative impacts. In this case, undertakings acting in their own interest may have insufficient incentives to take the negative externalities arising</p>	<p><i>Negative externalities do not only have to do with the environment or polluting activities. Energy projects, in particular production and infrastructure, have significant social impacts in the local communities where they are sited. Often times, undertakings have little incentive to</i></p>

Draft Provision	Proposed Amendment	Rationale
<p>either when they choose a particular technology or when they decide on the output level. In other words, the costs that are borne by the undertaking do not fully reflect the costs borne by consumers and society at large. Therefore undertakings typically have insufficient incentive to reduce their level of pollution or to take individual measures to protect the environment.</p>	<p>from their economic activity into account either when they choose a particular technology or when they decide on the output level. In other words, the costs that are borne by the undertaking do not fully reflect the costs borne by <u>local communities</u>, consumers and <u>/or</u> society at large. Therefore undertakings typically have insufficient incentive to reduce their level of pollution, or to take individual measures to protect the environment, <u>or to address other negative socio-economic impacts</u>.</p>	<p><i>mitigate these impacts. This results in the privatization of profits derived from projects, while communities are left to deal with any negative impacts that the project might have. In particular, it is the lack of local acceptance of new renewable energy production installations, among other things, that caused the EU Commission to support the introduction of renewable energy communities into the Renewables Directive.</i></p>
<p>(b) Positive externalities: the fact that part of the benefit from an investment will accrue to market participants other than the investor, may lead undertakings to underinvest. Positive externalities may occur for instance in the case of investments in eco-innovation, system stability, new and innovative renewable technologies and innovative demand-response measures or in the case of energy infrastructures or security of electricity supply measures that benefit many Member States or a wider number of consumers.</p>	<p>Positive externalities: the fact that part of the benefit from an investment will accrue to market participants other than the investor, may lead undertakings to underinvest. Positive externalities may occur for instance in the case of investments in eco-innovation, system stability, new and innovative renewable technologies, <u>particularly those that focus on citizen and community involvement</u>, and innovative demand-response measures or in the case of energy infrastructures or security of electricity supply measures that benefit many Member States or a wider number of consumers.</p>	<p><i>Renewable Energy Communities, and other commercial renewable energy production projects that allow for citizen participation, are a way to ensure that local citizens impacted by nearby installations are also able to enjoy the financial benefits derived from such projects. Such schemes have proven to improve local acceptance, which is acknowledged by the Renewables Directive. As such, they should be acknowledged in the CEEAG.</i></p>
<p>(c) Asymmetric information: this typically arises in markets where there is a discrepancy between the information available to one side of the market and the information available to the other side of the market. This could, for instance, occur where external financial investors have a</p>	<p>Asymmetric information: this typically arises in markets where there is a discrepancy between the information available to one side of the market and the information available to the other side of the market. This could, for instance, occur where external financial investors have a lack of information about</p>	<p><i>Asymmetric information can also exist between different market actors competing for support, in particular between RECs and other commercial market actors. REC's have unique characteristics due to</i></p>

Draft Provision	Proposed Amendment	Rationale
<p>lack of information about the likely returns and risks of a project. It may also come up in cross-border infrastructure collaboration where one party has an information disadvantage compared to the other party. Although risk or uncertainty do not in themselves lead to the presence of a market failure, the problem of asymmetric information is linked to the degree of such risk and uncertainty. Both tend to be higher for environmental investments with a typically longer amortisation period, reinforcing a focus on a short-term horizon that could be aggravated by financing conditions for such investments in particular for SMEs.</p>	<p>the likely returns and risks of a project. It may also come up in cross-border infrastructure collaboration where one party has an information disadvantage compared to the other party. Furthermore, it may be present in the context of support for renewable energy production where there is a significant discrepancy between the size, ability to spread risk, (non)commercial aims, and level of professionalization of different market participants participating in a competitive bidding process. Although risk or uncertainty do not in themselves lead to the presence of a market failure, the problem of asymmetric information is linked to the degree of such risk and uncertainty. Both tend to be higher for environmental investments with a typically longer amortisation period, reinforcing a focus on a short-term horizon that could be aggravated by financing conditions for such investments in particular for SMEs.</p>	<p><i>their ownership, governance, size, and financing structure. As RECs are mainly composed of non-professionals who may be participating in their first project, if forced to compete against large commercial market actors they are at a significant disadvantage. Furthermore, due to their legal structure and internal governance, RECs often experience difficulty in obtaining finance necessary to meet prequalification criteria necessary to participate in the tender.</i></p>
<p>3.2.1.3 Proportionality</p>		
<p>49. The selection criteria in the competitive bidding process should as a general rule be based on the aid amount requested by the applicant put in direct or indirect relation to the contribution to the objective of the measure (for example in terms of unit of environmental protection or unit of energy). In a few exceptional cases, it may be appropriate to include other non-price selection criteria (for instance additional environmental, technological or social criteria). In such cases, such other criteria must account for not more than 25 % of the weighting of all the selection criteria. The Member State must provide reasons for the proposed</p>	<p>The selection criteria in the competitive bidding process should as a general rule be based on the aid amount requested by the applicant put in direct or indirect relation to the contribution to the objective of the measure (for example in terms of unit of environmental protection or unit of energy). In certain a few exceptional cases, in particular for renewables production, it may be appropriate to include other non-price selection criteria (for instance additional environmental, technological or social criteria). In such cases, such other criteria must account proportionately to the objective it aims to achieve when weighed against other selection criteria and</p>	<p><i>The draft CEEAG prescribe an overly narrow scope for the use of social criteria in competitive bidding. Given the implied social impacts of renewables production installations on communities, such criteria should be encouraged. Furthermore, there is no need to prescribe a limit on the use of social criteria. We do not even know a case where social criteria account for 25% of all criteria applied. As such, ensuring</i></p>

Draft Provision	Proposed Amendment	Rationale
approach and ensure it is appropriate to the objective pursued.	<p>the need to ensure competition for not more than 25 % of the weighting of all the selection criteria. The Member State must provide reasons for the proposed approach and ensure it is appropriate and proportionate to the objective pursued.</p>	<p><i>proportionality is more appropriate standard.</i></p>
<p>50. Where the aid is not granted under a competitive bidding process, the net extra cost must be determined by comparing the profitability of the factual and counterfactual scenarios. To determine the funding gap in such cases, 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. The Member State must provide reasons for the assumptions used for each aspect of the quantification, and explain and justify any methodologies applied. The typical net extra cost can be estimated as the difference between the NPV for the factual scenario and for the counterfactual scenario over the reference project lifetime. For cases of individual aid, these calculations need to be presented at the level of the detailed project business plan, and for aid schemes on the basis of one or more reference projects.</p>		
<p>51. A counterfactual scenario may sometimes occur where the beneficiary is not carrying out an activity or investment, or continuing its business without changes. Where evidence supports that this is the most likely counterfactual, the net extra cost may be approximated by the negative NPV of the project in the factual scenario</p>	<p>A counterfactual scenario may sometimes occur where the beneficiary is not carrying out an activity or investment, or continuing its business without changes. Where evidence supports that this is the most likely counterfactual, the net extra cost may be approximated by the negative NPV of the project in</p>	<p><i>As renewable energy communities are new in many Member States, it is very likely that there will be few or no existing renewable energy communities at the time a support scheme is set up to promote their</i></p>

Draft Provision	Proposed Amendment	Rationale
without aid over the project lifetime (hence, implicitly assuming that the NPV of the counterfactual is zero). In particular, this can be the case for infrastructure projects.	the factual scenario without aid over the project lifetime (hence, implicitly assuming that the NPV of the counterfactual is zero). In particular, this can be the case for infrastructure projects and for aid targeted towards renewable energy communities.	<i>development. As such, renewable energy communities need to be acknowledged in this provision as the counterfactual scenario in such cases is likely to have a NPV of zero.</i>
52. In certain circumstances, it may be difficult to fully identify the benefits and costs to the beneficiary and hence to quantify the NPV in the factual and counterfactual scenarios. Alternative approaches for those cases may be applied, as detailed in Chapter 4 for specific types of aid, for example by allowing aid only for a limited amount of the eligible cost, that is to say aid intensities.	In certain circumstances, particularly where a sector is in its infancy or has yet to emerge , it may be difficult to fully identify the benefits and costs to the beneficiary and hence to quantify the NPV in the factual and counterfactual scenarios. Alternative approaches for those cases may be applied, as detailed in Chapter 4 for specific types of aid, for example by allowing aid only for a limited amount of the eligible cost, that is to say aid intensities.	<i>As renewable energy communities are new in many Member States, it is very likely that there will be few or no existing renewable energy communities at the time a support scheme is set up to promote their development. As such, it may be difficult to fully identify benefits and costs due to lack of data.</i>
53. Where a competitive bidding process is not used and future developments in costs and revenues are surrounded by a high degree of uncertainty and there is a strong asymmetry of information, the Member State may be required to introduce compensation models that are not entirely ex ante. Instead, these models are a mix of ex ante and ex post or introduce ex post claw-back or cost monitoring mechanisms, while keeping incentives for the beneficiaries to minimise their costs and develop their business in an efficient manner over time.	Where a competitive bidding process is not used and future developments in costs and revenues are surrounded by a high degree of uncertainty and there is a strong asymmetry of information, the Member State may be required to introduce compensation models that are not entirely ex ante. Instead, these models are a mix of ex ante and ex post or introduce ex post claw-back or cost monitoring mechanisms, while keeping incentives for the beneficiaries to minimise their costs and develop their business in an efficient manner over time. Such mechanisms should maintain investor certainty and reasonable expectations of returns.	<i>It is important to ensure that any safeguards put in place do not compromise investor certainty or trust.</i>
3.2.2 Avoidance of undue negative effects on competition and trade		
66. Aid may also distort competition by strengthening or maintaining substantial market power of the beneficiary. Even where aid does not strengthen substantial market power directly, it may do so indirectly, by discouraging	Aid may also distort competition by strengthening or maintaining substantial market power of the beneficiary. Even where aid does not strengthen substantial market power directly, it may do so	<i>Moves to competitive bidding for allocating support for renewable energy production has resulted in renewable energy communities</i>

Draft Provision	Proposed Amendment	Rationale
<p>the expansion of existing competitors or inducing their exit or discouraging the entry of new competitors. This needs to be taken into account, in particular where the support measure is targeted at a limited number of specific beneficiaries or where incumbents gained market power prior to market liberalisation, as is for instance sometimes the case in energy markets. This is also relevant in competitive bidding processes in nascent markets, when there is a risk that a player with a strong market position succeeds in most bids and prevents significant new entry.</p>	<p>indirectly, by discouraging the expansion of existing competitors or inducing their exit or discouraging the entry of new competitors, <u>such as smaller and non-commercial undertakings</u>. This needs to be taken into account, in particular where the support measure is targeted at a limited number of specific beneficiaries, <u>where larger undertakings are likely to be in a better position to compete for aid compared to smaller and non-commercial undertakings</u>, or where incumbents gained market power prior to market liberalisation, as is for instance sometimes the case in energy markets. This is also relevant in competitive bidding processes in nascent <u>and existing</u> markets, when there is a risk that a player with a strong market position succeeds in most bids and prevents significant new entry, <u>particularly by smaller and non-commercial undertakings</u>.</p>	<p><i>being pushed out of the market. This is particularly noticeable in Germany, where auctions have been introduced steadily since 2016. It is important to keep in mind that allocation of support through competitive bidding can, and does, solidify the market position of larger and professional market actors at the expense of smaller, less professional ones – not just in nascent markets but also in existing ones. Again, this is exemplified by the relatively strong market position of renewable energy communities before competitive bidding was introduced, after which the sector has shrunk significantly.</i></p>
<p>4.1 Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy 4.1.2. Scope and supported activities</p>		
<p>74. This Section lays down the compatibility rules for aid measures primarily aimed at reducing greenhouse gas emissions, including aid for the production of renewable and low carbon energy, aid for energy efficiency including high-efficiency cogeneration, aid for carbon capture, storage and use, and aid for the reduction or avoidance of emissions resulting from industrial processes. It also covers support for the removal of greenhouse gases from the environment. This Section does not apply to measures whose primary objective is not the reduction or removal of greenhouse gas emission. Where a</p>	<p>This Section lays down the compatibility rules for aid measures primarily aimed at reducing greenhouse gas emissions, including aid for the production of renewable and low carbon energy, <u>including by renewable energy communities</u>, aid for energy efficiency including high-efficiency cogeneration, aid for carbon capture, storage and use, and aid for the reduction or avoidance of emissions resulting from industrial processes. It also covers support for the removal of greenhouse gases from the environment. This Section does not apply to measures whose</p>	<p><i>In order to align properly with the Clean Energy Package, and the Renewable Energy Directive in particular, the CEEAG need to acknowledge renewable energy communities.</i></p>

Draft Provision	Proposed Amendment	Rationale
<p>measure contributes to both the reduction of greenhouse gas emissions and the prevention or reduction of pollution other than from greenhouse gas emissions, the compatibility of the measure will be assessed on the basis of this Section or Section 4.5, depending on which of the two objectives is predominant.</p>	<p>primary objective is not the reduction or removal of greenhouse gas emission. Where a measure contributes to both the reduction of greenhouse gas emissions and the prevention or reduction of pollution other than from greenhouse gas emissions, the compatibility of the measure will be assessed on the basis of this Section or Section 4.5, depending on which of the two objectives is predominant.</p>	
<p>4.1.3. Minimisation of distortions of competition and trade 4.1.3.3 Eligibility</p>		
<p>82. Decarbonisation measures targeting specific activities which compete with other unsubsidised activities can be expected to lead to greater distortions of competition, compared to measures open to all competing activities. Therefore, Member States should give reasons for measures which do not include all technologies and projects that are in competition – for example all projects operating in the electricity market, or all undertakings producing substitutable products and which are technically capable of contributing efficiently to greenhouse gas emissions reductions⁵³. These reasons should be based on objective considerations linked, for example, to efficiency or costs or other relevant circumstances. Such reasons may draw on evidence gathered in the public consultation pursuant to Section 4.1.3.4 where applicable.</p>	<p>Decarbonisation measures targeting specific activities which compete with other unsubsidised activities can be expected to lead to greater distortions of competition, compared to measures open to all competing activities. Therefore, Member States should give reasons for measures which do not include all technologies and projects that are in competition – for example all projects operating in the electricity market, or all undertakings producing substitutable products and which are technically capable of contributing efficiently to greenhouse gas emissions reductions⁵³. These reasons should be based on objective considerations linked, for example, to efficiency or costs or other relevant circumstances. Such reasons may draw on evidence gathered in the public consultation pursuant to Section 4.1.3.4 where applicable</p>	<p><i>Provisions giving MS discretion to commingle different technological approaches together in similar support schemes must be deleted. Commingling renewables with other low carbon solutions will just create excuses for MS to continue supporting fossil fuels at the expense of renewables. Renewables must continue to have a separate, dedicated section or sub-section. Furthermore, Overgeneralization of different ‘low-carbon’ approaches will compound the existing barriers to accessing support that RECs already experience. RECs already have an extraordinarily difficult time competing against commercial market actors in competitive bidding procedures for renewables support. Having to compete against other</i></p>

Draft Provision	Proposed Amendment	Rationale
		<p><i>technologies such as hydrogen and CCS/CCU would bury RECs.</i></p>
<p>83. The Commission will assess the reasons given as justification and will, for instance, consider that a more limited eligibility does not unduly distort competition where:</p> <p>(a) a measure targets a specific sectoral or technology based target established in Union law, such as a renewable energy or energy efficiency scheme⁵⁴;</p> <p>(b) a measure aims specifically to support demonstration projects;</p> <p>(c) a measure aims to address not only decarbonisation but also air quality or other pollution;</p> <p>(d) a Member State provides evidence that eligible sectors or innovative technologies have the potential to make an important contribution to environmental protection and deep decarbonisation in the longer term, particularly in terms of cost effectiveness;</p> <p>(e) a measure is required to achieve diversification necessary to avoid exacerbating issues related to network stability⁵⁵;</p> <p>(f) a more selective approach can be expected to lead to lower costs of achieving environmental protection (for example through reduced grid integration costs), and/or result in less distortion of competition.</p>	<p>The Commission will assess the reasons given as justification and will, for instance, consider that a more limited eligibility does not unduly distort competition where:</p> <p>(a) a measure targets a specific sectoral or technology based target established in Union law, such as a renewable energy or energy efficiency scheme⁵⁴;</p> <p>(b) a measure aims specifically to support demonstration projects;</p> <p>(c) a measure aims to address not only decarbonisation but also air quality or other pollution;</p> <p>(d) a Member State provides evidence that eligible sectors, or innovative technologies, <u>or inclusive and participative strategies, for example promotion of renewable energy communities,</u> have the potential to make an important contribution to environmental protection and deep decarbonisation in the longer term, particularly in terms of cost effectiveness <u>and other socio-economic objectives such as inclusiveness, public acceptance and promotion of social innovation;</u></p> <p>(e) a measure is required to achieve diversification necessary to avoid exacerbating issues related to network stability⁵⁵;</p> <p>(f) a more selective approach can be expected to lead to lower costs of achieving environmental protection (for example through reduced grid integration costs), and/or result in less distortion of competition;⁵⁷</p>	<p><i>The CEEAG must acknowledge the long-term potential of citizen involvement and ownership in the energy transition to help contribute towards the achievement of national and EU climate and energy objectives, including the renewable energy targets.</i></p> <p><i>Furthermore, the Renewables Directive requires the Commission to monitor diversity of market actor activity with regard to renewables support. The CEEAG must support this aim.</i></p>

Draft Provision	Proposed Amendment	Rationale
	<p><u>(g) the measure aims to ensure diversity in terms of geographic distribution of renewable energy production, as well as the number and size of market actors based on their different factual and legal situations.</u></p>	
<p>4.1.3.4 Public Consultation</p>		
<p>85. Prior to the notification of aid, other than in duly justified exceptional circumstances, Member States must consult publicly on measures to be notified under this Section. The obligation to consult does not apply in respect of amendments to already approved measures that do not alter their scope or eligibility, and the cases referred to in point 86. To determine whether a measure is justified, bearing in mind the criteria in these guidelines, the following public consultation is required:</p>	<p>85. Prior to the notification of aid, other than in duly justified exceptional circumstances, Member States must consult publicly on measures to be notified under this Section. The obligation to consult does not apply in respect of amendments to already approved measures that do not alter their scope or eligibility, and the cases referred to in point 86. To determine whether a measure is justified, bearing in mind the criteria in these guidelines, the following public consultation is required:</p>	<p><i>Under the Renewables Directive Article 22(7), Member States are required to take the specificities of renewable energy communities into account when designing their renewables support schemes so that renewable energy communities can compete for support on a level playing field with other market actors. This provision includes both a procedural requirement to account for renewable energy communities in the design process, as well as a substantive requirement to make sure renewable energy communities have access to support. Therefore, the decision by a Member State not to account for renewable energy communities has a direct impact on them. Therefore, all amendments, at least to competitive bidding procedures for renewables support should be subject to a consultation requirement.</i></p>

Draft Provision	Proposed Amendment	Rationale
<p>86. No public consultation is required for measures falling under point 85(b) where competitive bidding processes are used and the measure does not support investments in fossil-fuel based energy generation or industrial production.</p>	<p>86. No public consultation is required for measures falling under point 85(b) where competitive bidding processes are used and the measure does not support investments in fossil-fuel based energy generation or industrial production.</p>	<p><i>The decision by a Member State not to account for renewable energy communities in their support scheme has a direct impact on them. Therefore, all amendments, at least to competitive bidding procedures for renewables support should be subject to a consultation requirement.</i></p>
<p>4.1.3.5 Proportionality</p>		
<p>89. Aid for reducing greenhouse gas emissions should in general be granted through a competitive bidding process as described in points 48 and 49.</p> <p>90. The bidding process should, in principle, be open to all eligible beneficiaries to enable a cost effective allocation of aid and reduce competition distortions. However, the bidding process can be limited to one or more specific categories of beneficiary where evidence, including any relevant evidence gathered in the public consultation, is provided, showing for example that:</p> <p>(a) a single process open to all eligible beneficiaries would lead to a suboptimal result or not allow the achievement of the objectives of the measure; that justification may refer to the criteria in point 83;</p> <p>(b) the level of support that different categories of beneficiary are expected to require deviates significantly⁵⁹; in that case, separate competitive bidding processes may be used so that categories of beneficiary with similar costs compete against each other.</p>	<p>The bidding process should, in principle, be open to all eligible beneficiaries to enable a cost effective allocation of aid and reduce competition distortions. However, the bidding process can be limited to one or more specific categories of beneficiary where evidence, including any relevant evidence gathered in the public consultation, is provided, showing for example that:</p> <p>b. The level of support that different categories of beneficiary are expected to require deviates significantly^[1]; in that case, separate competitive bidding processes may be used so that categories of beneficiary with similar costs <u>and characteristics</u> compete against each other.</p>	<p><i>REC's have unique characteristics due to their ownership, governance, size, and financing structure. These characteristics should be taken into account from the Member States when designing their support schemes, as prescribed in article 22(7) of the RED II. Also, due to their unique characteristics, RECs cannot compete with larger market actors. Therefore, their characteristics should be taken into consideration in case of designing separate competitive bidding processes for specific categories of beneficiaries.</i></p>

Draft Provision	Proposed Amendment	Rationale
<p>91. Where multiple categories of beneficiary expected to require a level of support that deviates significantly are put into a single competitive bidding process, Member States should consider the potential for overcompensation of cheaper technologies. This will also be taken into account by the Commission in its assessment. Where appropriate, bid caps may be required to limit the maximum bid from individual bidders in particular categories. Any bid caps should be justified with reference to the quantification for reference projects referred to in points 50 and 51.</p>		
<p>92. Exceptions from the requirement to allocate aid and determine the aid level through a competitive bidding process can be justified where evidence, including that gathered in the public consultation, is provided that one of the following applies:</p> <p>(a) there is insufficient potential supply to ensure competition; in that case, the Member State must demonstrate that it is not possible to increase competition by reducing the budget or expanding the eligibility of the scheme;</p> <p>(b) beneficiaries are small projects, defined as follows:</p> <p>(i) for electricity generation or storage projects – projects below the threshold in Article 5 of Regulation (EU) 2019/943;</p> <p>(ii) for electricity consumption – projects with a maximum demand less than 400kW;</p> <p>(iii) for heat generation and gas production technologies – projects below 400kW installed capacity.</p>	<p>Option 1:</p> <p>92. Exceptions from the requirement to allocate aid and determine the aid level through a competitive bidding process can be justified where evidence, including that gathered in the public consultation, is provided that one of the following applies:</p> <p>(a) there is insufficient potential supply to ensure competition; in that case, the Member State must demonstrate that it is not possible to increase competition by reducing the budget or expanding the eligibility of the scheme;</p> <p>(b) beneficiaries are small projects, defined as follows:</p> <p>(i) for electricity generation or storage projects – projects below the threshold in Article 5 of Regulation (EU) 2019/943 installations with an installed capacity of less than 5 MW, except for wind energy, for projects with a total installed capacity of up to 36 MW;</p>	<p><i>There is substantial evidence through literature, and through the experience of subjecting renewable energy communities to tenders in Germany, that competitive bidding usually tends to push renewable energy communities out of the market. This is due to their unique legal, organizational and financial characteristics compared to other undertakings. As small market actors, renewable energy communities are unable to take advantage of economies of scale, are less efficient in decision making and in obtaining finance. Therefore, their project costs are often significantly higher than those of other participants in the competitive bidding procedure. These differences are enough to place renewable</i></p>

Draft Provision	Proposed Amendment	Rationale
	<p>(ii) for electricity consumption – projects with a maximum demand less than 400kW; (iii) for heat generation and gas production technologies – projects below 400kW installed capacity</p> <p>Option 2: 92. Exceptions from the requirement to allocate aid and determine the aid level through a competitive bidding process can be justified where evidence, including that gathered in the public consultation, is provided that one of the following applies:</p> <p>(a) there is insufficient potential supply to ensure competition; in that case, the Member State must demonstrate that it is not possible to increase competition by reducing the budget or expanding the eligibility of the scheme;</p> <p>(b) beneficiaries are small projects, defined as follows:</p> <p>(i) for electricity generation or storage projects – projects below the threshold in Article 5 of Regulation (EU) 2019/943; (ii) for electricity consumption – projects with a maximum demand less than 400kW; (iii) for heat generation and gas production technologies – projects below 400kW installed capacity</p> <p>(c) beneficiaries are renewable energy communities, and the following requirements are met:</p>	<p><i>energy communities and other small market actors in a different factual and legal situation. In order to ensure equality in the internal energy market, and the achievement of EU and national renewable energy targets, renewable energy communities need to be given the space to receive support outside of competitive bidding so that the sector can emerge and grow. While the aim is professionalization of energy communities, this cannot be done overnight. Therefore, an exemption from competitive bidding for renewable energy communities is needed.</i></p> <p><i>Likewise, smaller undertakings are often unable to compete with larger players. As such, existing thresholds for small installations need to be maintained. It does not make sense to link requirements to participate in competitive bidding to balancing responsibility thresholds, as these are two completely different constructs. Balancing responsibility contributes towards maintaining system balance. Only its application towards different undertakings has market implications. Competitive</i></p>

Draft Provision	Proposed Amendment	Rationale
	<p><u>(i) the Member State has demonstrated through an assessment that the achievement of its objectives justified in point 83 cannot reasonably be met through a competitive bidding procedure that requires renewable energy communities to compete alongside other undertakings, due to their dissimilar factual and legal situation;</u></p> <p><u>(ii) for electricity generation, support is limited to installations below 5 MW installed capacity for all technologies, except for wind energy, which must be below an installed capacity of 36; and</u></p> <p><u>(iii) the overall scope of the support does not exceed 10% of the overall allocated budget of the Member State's overall support scheme for renewables;</u></p> <p><u>(iv) the Member State has assigned responsibility to an appropriate authority to ensure compliance with renewable energy community definition contained in Article 2(16) of Directive (EU) 2018/2001.</u></p>	<p><i>bidding procedures, on the other hand, is a legal fiction created in the name of the market. As such, there is little, if any comparison between these two standards.</i></p>
<p>95. Member States may also design support schemes targeting decarbonisation in the form of reductions in taxes or parafiscal levies. The application of a competitive bidding process is not obligatory for such schemes. However, such aid must be granted, in principle, in the same way for all eligible undertakings operating in the same sector of economic activity that are in the same or similar factual situation in respect of the aims or objectives of the aid measure. The notifying Member State must put in place an annual monitoring mechanism to verify that the measure is still necessary.</p>		
<p>4.1.4. Avoidance of undue negative effects on competition and trade and balancing</p>		

Draft Provision	Proposed Amendment	Rationale
<p>101. To avoid a budget being allocated to projects that are not realised, potentially blocking new market entry, Member States must demonstrate that reasonable measures will be taken to ensure that projects granted aid will actually be developed, for example setting clear deadlines for project delivery, checking project feasibility as part of prequalification for receiving aid, requiring collateral to be paid by participants, or monitoring project development and construction.</p>	<p>101. To avoid a budget being allocated to projects that are not realised, potentially blocking new market entry, Member States must demonstrate that reasonable measures will be taken to ensure that projects granted aid will actually be developed, for example setting clear deadlines for project delivery, checking project feasibility as part of prequalification for receiving aid, requiring collateral to be paid by participants, or monitoring project development and construction. <u>Where such requirements would have the unintended consequence of preventing market entry, Member States should relax, or dispense with, such requirements for renewable energy communities.</u></p>	<p><i>Due to the way that RECs raise finance from their members, it is often difficult for them to raise sufficient capital in order to finance prequalification requirements. To preserve a level playing field, these requirements should be lifted for renewable energy communities.</i></p>
<p>112. For individual aid measures or schemes benefitting a particularly limited number of beneficiaries or an incumbent beneficiary, Member States should, in addition, demonstrate that the proposed aid measure will not lead to increased market power.</p>	<p>112. For individual aid measures or schemes benefitting a particularly limited number of beneficiaries or an incumbent beneficiary, Member States should, in addition, demonstrate that the proposed aid measure will not lead to increased market power. <u>This provision does not apply to aid measures intended to initiate the growth of renewable energy communities in line with Article 22 of Directive (EU) 2018/2001, which has the express aim of promoting the development of renewable energy communities at the national level.</u></p>	<p><i>Support schemes and other measures developed under enabling frameworks for renewable energy communities aim to facilitate the growth of renewable energy communities at the national level. As such, their implied goal is to increase market power, albeit from a non-existent or negligible number. As such, this provision should not inhibit Member States' ability to comply with their EU legal obligations under the Renewables Directive.</i></p>

Draft Provision	Proposed Amendment	Rationale