Draft Guidelines on State aid for climate, environmental protection, and energy (CEEAG)

In order to meet the goals under the Green Deal, the competition rulebook of the European Commission must be modernised and adapted so that investment into the green energy transition is facilitated and granted with greater flexibility. The Guidelines on State aid for climate, environmental protection, and energy (CEEAG) are one of the tools at our disposal to achieve this. It is crucial that these guidelines are in line with European Directives, especially the RED II and upcoming RED III, and the overall objectives of the Green Deal. The new rules must allow governments to support companies and societies that are decarbonising and moving towards a more sustainable future, and the guidance must be clear and effective in supporting green investment.

With the 2030 target of -55% GHG emissions less than 9 years away, we need to adopt and implement the most effective and robust policy instruments. Aligning our climate and energy targets with the Paris Agreement is a legal and moral obligation and battling to keep our planet inhabitable for the generations to come requires rapid action, putting forward ambitious policies and legal initiatives. While EREF supports the overall ambition of the Commission to enlarge the scope of the guidelines to new areas and technologies and to allow greater flexibility of the compatibility rules, there are several recommendations we would like to make in order to achieve these goals without frustrating the ambitions of the Green Deal.

Promotion of Renewables

While EREF understands the Commission's reasoning behind creating the category of aid "for the reduction and removal of greenhouse gas emissions including through support of renewable energy" in order to make the guidelines "future proof" and flexible for possible new technologies over the next few years, we think it is vitally important for there to be a separate aid category solely for renewables. This would recognise their crucial role in the energy transition and allow for more flexible support to achieve the rapid growth of renewables. Therefore, EREF would suggest keeping the aid category "for the reduction and removal of greenhouse gas emissions", in order to provide flexibility for new technologies that may emerge on to the market. However, a separate category of aid should be added specifically for support to renewable energy. Within this new chapter, special rules should apply in order to promote the rapid deployment of renewables.

The following paragraphs contain EREF's suggestions for the category of aid supporting renewable energy.

a. Phasing out of mandatory bidding process

Results from auctioning have shown low realisation rates due to various reasons, including but not limited to, strategic/under-bidding and limited development of less mature technologies with Solar PV winning out in most technology-neutral auctions due to its low generation costs. However, Solar PV would not have become one of the cheapest energy forms if technology neutral auctions had been introduced 10 years earlier. Solar PV also received considerable support through market development, in particular with the German feed in tariff system.

To reach the renewable energy targets, every renewable energy project, with the requisite permission, will have to be utilised and developed. Therefore, there is a high risk that there are not enough projects to create the necessary competition for a cost-efficient auction. Alternatively, by creating an artificial shortening of the auctioned amount of MW to obtain enough competition, the fulfilment of the targets is endangered.[1]

Therefore, Member States should be free to decide, just like in other policy areas, through which system they grant support in order to find the most efficient pathway to achieve the European renewable targets by 2030 and not be obliged to use an auctioning system.

If, however a Member State decides that auctioning is the most efficient and effective way to reach the targets for their country, the bidding process has to be designed carefully.

It has become clear that the outcome of the auction depends heavily on the prevailing framework conditions such as the national renewables market, economic growth perspectives, and the existence of additional administrative and grid-related barriers. Auction design should be required to take these barriers and challenges into consideration in order to allow for the development of more innovative technologies with the potential for future cost reductions.

b. Technology-specific aid must be the rule, not the exception

Insisting that state aid be granted, as a rule, on a technology-neutral basis has had, in many Member States, the effect of funnelling support to projects that are advantaged in presenting winning bids. These projects, however, may not be the best adapted to the territory or to the

[1] See a detailed analysis of existing auctioning systems: https://www.renewablescongress.org/2020/12/study-on-re-auctions-the-case-for-a-wider-energy-policy-mix-in-line-with-the-objectives-of-the-paris-agreement/

specific system change needs of a specific locality and region. Each Member State has an energy mix, a specific grid and balancing situation, specific renewable energy roll-out and pathways, geographic and meteorological conditions, political and societal considerations and markets and regulatory frameworks which are unique to it. The design of support schemes and regulatory frameworks must take these into account in order for each Member State to be able to play to its renewable strengths, including the option of close regional and/or transnational cooperation. A balanced deployment of renewables because of technology-specific support schemes may, for many Member States, in fact be more cost effective. Technology-specific auctions and targeted tools like minimum prices, contracts-for-difference, feed-in-premiums or -tariffs etc. for distributed and community-based installations can adapt more easily to the specific needs and the actual costs of the technologies in the specific regions. Member States should be free to choose appropriate technology specific remuneration mechanisms at their own discretion in order to accelerate the deployment of their preferred mix of renewables in all sectors. Each technology has its own characteristic in terms of performance for the power system beyond the criteria of energy as system services and capacity guarantee. Technology neutral tenders are not able to deal with these requirements for power system stability.

c. Raising the exemption threshold

Where a bidding process is chosen by the Member State, EREF is asking for the exemption threshold to be raised. In the past, (including in the EEAG 2014-2020) a capacity of 1 MW for most renewable technologies seemed to be a reasonable approximation, with the exemption of wind power, where 6 turbines of an average capacity (at that time 3 MW) were considered appropriate by EC/DG COMP. Due to the climate urgency and to the development of the technologies, these thresholds should be raised to 10 MW for most renewable technologies and for wind energy 10 turbines with a capacity of 6 MW each. This 6 MW size per turbine will be the standard within the period of the next 5 years. These projects are within the possible limit that medium sized companies can realise.

An alternative to raising the exemption thresholds could be a specific auction design for energy communities or other small and medium sized installations could be for Members States to have the right to grant direct support (e.g. guaranteed minimum prices) to community based and/or (partly) locally owned installations, up to a clearly defined capacity, covering small and medium sized projects in general.

d. No additional public consultations

There should be no additional public consultations imposed on renewables that are not already in place and provided for under national legislation. For example, there are already public consultations in place for permitting processes or emission certificates. Any additional public consultations will be an unnecessary burden that will delay the rollout of renewable energy projects considerably.

There should also be no reference to permitting issues in the State aid guidelines. These are regulated under specific EU and national legislation such as the Habitats Directive, Water Framework Directive, etc. These should not be dealt with by DG Competition.

e. Bioenergy

Bioenergy is the largest source of renewable energy in the EU. Overall, it provides 10% of the gross final energy consumption and it accounts for more than half of the entire consumption of renewable energy in the EU. With the direct and indirect employment of approximately 71 000 jobs, investment in bioenergy creates an incentive effect for other economic activities and provides additional streams of revenues supporting the objective of cohesive regional development of the EU.

The analysis of the main documents submitted by the Member States (Integrated National Energy and Climate Plans), and by the European Commission (Communication on 2030 Climate Target) demonstrates the increasing role of bioenergy in the EU energy mix by 2030 and 2050. Similarly, according to the recent report of the International Energy Agency 'Net Zero by 2050' the modern and sustainable bioenergy share, taking into account assumption of lower supply of sustainable bioenergy, the total energy supply will rise from 6.6% in 2020 to 18.7% in 2050.

The future of the bioenergy industry will depend on its sustainability performance. In this regard, the sector is in the process of implementing sustainability criteria. Subsequently, bioenergy use will be based on the improved traceability and transparency of the value chain and the environmental impact of forest management that is necessary for climate change adaptation.

In this context, public investments and support facilitate meeting both sustainability requirements and increasing the contribution of bioenergy in the energy mix, providing dispatchable generation capacities that are complementary with the increasing shares of variable renewables, and helping to decarbonise sectors like heating, transport, and industry.

Strict exclusion of all fossil fuels and nuclear

There can be no further support allowed for fossil fuels or nuclear. Under the current draft CEEAG, there are several loopholes which would allow these polluting energy sources to continue to benefit from state aid over the coming years. In particular, the inclusion of "low carbon technologies", a term which has not been defined in the guidelines and so leaves a huge amount of discretion as to what exactly it encompasses.

There is also no clear definition provided for Hydrogen in the draft CEEAG, therefore it is unclear what type of hydrogen, whether from fossil fuels, nuclear or renewable sources, will be supported under the guidelines. Green, renewable sourced hydrogen production has the possibility of complementing renewable deployment in the energy transition. Because of its versatility, it can be used in a variety of sectors that may be typically unsuitable for direct electrification. It is in these "hard-to-abate" sectors where green hydrogen is most useful in achieving the decarbonisation goals. Green hydrogen can also play a limited role in providing storage solutions to balance variable renewable energy flows. In addition to existing storage solutions, grid flexibility as well as demand response, this in turn should help phase out and eventually remove fossil based backup capacities, while also providing millions of green jobs throughout the EU. It is vital that the EU supports and develops renewable hydrogen only, ensuring that it comes from all available sustainable renewable sources, be it wind, sun, hydro, biogas, etc. EREF realises the potential use of green hydrogen in industry, air transport and shipping. Albeit, there should be a focus on a domestic and regional green production and consumption pathway. There should be no long-distance shipment of hydrogen from outside the EU, in particular from the shale gas production fields in the United States. Imports of renewable hydrogen should be an exception rather than the rule.

With regards to compensation for fossil fuel plants, there should not be any compensation unless the investments were made before the 2020 package was passed which set out the EU's climate and energy targets for the year 2020. The targets were set by EU leaders in 2007 and enacted in legislation in 2009. The fossil fuel industry was therefore aware that the EU would be moving away from fossil fuels towards clean, renewable energy. Therefore, any investments made after this time should be seen as taken at their own risk and no compensation should be awarded and accepted as permissible state aid.

Strong support for small market players and energy communities

Europe's Green Deal aims to put citizens at the heart of the energy transition by ensuring fairness and inclusiveness. This follows the Clean Energy for All Europeans legislative package (CEP), which acknowledges 'active customers', 'renewables self-consumers', 'renewable energy communities' (RECs), and 'citizens energy communities' (CECs) as distinct

market actors in the energy transition. In addition to promoting equality and a level playing field in the Internal Energy Market (IEM), competition policy and State aid rules in particular need to contribute towards the delivery of the Green Deal, as well as guide Member States so they can comply with their legal requirements under the CEP.

The existing 2014 Guidelines on State aid for Environmental Protection and Energy (EEAG) have contributed towards a number of barriers to the development of RECs. Specifically, the EEAG have caused an uneven and implicitly discriminatory playing field for RECs with its emphasis on competitive bidding for renewables support and its insufficient recognition of the different factual and legal situation of smaller and non-commercial market actors.

The CEEAG needs to provide clear and positive guidance, so that Member States are able to innovate in designing renewables support schemes that can help jump-start community ownership of renewables production in their energy markets.

Article 22(7) of the RED II guarantees a level playing field for RECs in national renewables support schemes. It requires Member States to "take into account specificities of [RECs] when designing support schemes in order to allow them to compete for support on an equal footing with other market participants." First, this amounts to a procedural requirement for Member States to take into account specific challenges RECs might experience in competing for support when they are developing or amending their renewables support schemes. Second, there is a substantive requirement to take measures in order to correct for any distinct challenges RECs face.

The RED II does not prescribe how Member States must ensure equal footing for RECs, leaving it to their discretion. Nevertheless, the recitals provide some guidance:

> "*Member States should be allowed to take measures, such as providing information, providing technical and financial support, reducing administrative requirements, including community focused bidding criteria, creating tailored bidding windows for renewable energy communities, or allowing renewable energy communities to be remunerated through direct support where they comply with requirements of small installations*."

There should be a specific chapter/sub-chapter on energy communities included in the CEEAG, in order to provide much needed guidance on how Member States can provide direct support to energy communities, outside of the boundaries of the auction scheme. This chapter/sub-chapter will need to include provisions acknowledging the unique market position and challenges of RECs, provide clear guidance on how to develop and justify supportive measures for RECs in compliance with their RED II (and also III, after the ongoing revision) obligations, simplify the process for Member States to innovate new renewables support mechanisms for RECs and acknowledge the social impacts of renewables projects in

local communities and provide stronger recognition of socio-economic objectives in the design of renewables support schemes.

Under the current draft CEEAG, energy communities are now competing not only against bigger renewables projects/players, but also against "low-carbon" technologies, CCS/CCU, hydrogen etc. This creates considerable obstacles for the development of energy communities. Member States should be allowed to provide support for local and community ownership of renewables in a manner that they believe is most appropriate and free from interference from state aid rules. The European Commission must allow Member States to make nationally appropriate decisions on which sectors, territories and technologies they choose to support. This will also have the knock on effect of ensuring that there is no undue market concentration of larger players.

Draft CEEAG

EREF's suggested amendments

2nd of August 2021

EREF proposals for text amendments are marked in red and in text stroke through. The third column includes EREF's reasons for each amendment proposal.

Draft text from Commission (7 June 2021)	Suggested amendments	Reasoning
Introduction 4. Competition policy, and State aid rules in particular, has an important role to play in enabling and supporting the Union in fulfilling its Green Deal policy objectives. The Green Deal Communication specifically sets out that the State aid rules will be revised to reflect those policy objectives, to support a cost-effective and just transition to climate neutrality, and to facilitate the phasing out of fossil fuels, in particular those that are most polluting, while at the same time ensuring a level-playing field in the internal market. These guidelines are the result of that revision.	Introduction 4. Competition policy, and State aid rules in particular, has an important role to play in enabling and supporting the Union in fulfilling its Green Deal policy objectives. The Green Deal Communication specifically sets out that the State aid rules will be revised to reflect those policy objectives, to support a cost-effective and just transition to sustainability and climate neutrality with clear subscription to the do-no-significant-harm principle, and to facilitate the phasing out of fossil, nuclear and other non-sustainable fuels~~, in particular those that are most polluting,~~ while at the same time ensuring a level-playing field in the internal market. These guidelines are the result of that revision.	All fossil fuels must be phased out, with no further allowances made. Sustainability and Taxonomy reasoning should be included
30. In certain exceptional cases aid can have an incentive effect even for projects which started before the aid application. In particular, aid is considered to have an incentive effect in the following situations:	30. In certain exceptional cases aid can have an incentive effect even for projects which started before the aid application. In particular, aid is considered to have an incentive effect in the following situations:	The 'incentive effect' should entail the counterfactual analysis leading to conclusion that the lack of operational aid would result in the choice of less environmentally

(…) c) operating aid granted to existing installations for environmentally friendly production where there is no 'start of works' because there is no significant new investment. In these cases, the incentive effect can be demonstrated by a change to operate the installation in an environmentally friendly way rather than an alternative cheaper mode of operation that is less environmentally friendly.	(…) c) operating aid granted to existing installations for environmentally friendly production where there is no 'start of works' because there is no significant new investment. In these cases, the incentive effect can be demonstrated by a change to operate the installation in an environmentally friendly way rather than an alternative cheaper mode of operation that is less environmentally friendly or based on the counterfactual analysis, that lack of such aid would result in less environmentally friendly choices of operators.	friendly solutions. Depreciated bioenergy plants could be taken as an example to illustrate this situation . The existing EEAG framework provides the possibility for Member States to grant operating aid for existing biomass installations after depreciation (EEAG section 3.3.2.3). It should be guaranteed that in justified cases such installations could be granted aid to maintain their capacity for the future use in a way that avoid distortion in the energy market. Market dynamics in several Member States justify the need of operational support for existing biopower and CHP plants. The lack of uniform carbon pricing across the entire economy, the persistence of fossil fuels subsidies, and low wholesale energy prices, marked by the phenomenon of negative prices, do not allow certain plants to be profitable. Moreover, the necessity to purchase the sustainable fuel increases the expenses of operating such plants, compared to

		other renewable energy resources. The installations may provide also additional environmental services creating an incentive effect (e.g. the valorisation of material that would otherwise have been disposed, burned on the field, etc.). We recommend that existing, depreciated assets should still be eligible to receive operational aid provided that their operators can prove that such plants without support could be substituted by less environmentally friendly assets. Otherwise, the possibility of lock in the fuels arises.
48. (d) the expected number of bidders is sufficient to ensure effective competition; the design of undersubscribed bidding processes during the implementation of a scheme is corrected to restore effective competition in the subsequent bidding processes or as soon as possible;	48. ~~(d) the expected number of bidders is sufficient to ensure effective competition; the design of undersubscribed bidding processes during the implementation of a scheme is corrected to restore effective competition in the subsequent bidding processes or as soon as possible;~~	Extremely dangerous - cf. German EEG and reduction of auction volumes if undersubscribed. This is another strong point against auctions as the rule. Should only be exception for large projects (and maybe for very specialised applications like storage and system services).
(35) 'energy infrastructure' (b) concerning gas: (i) transmission and distribution pipelines for the transport of natural gas, bio	(35) 'energy infrastructure' (b) concerning gas: (i) transmission and distribution pipelines for the	Separate renewable gases from low-carbon gases.

gas and renewable gases of non-biological origin that form part of a network, excluding high-pressure pipelines used for upstream distribution of natural gas; (ii) underground storage facilities connected to the high-pressure gas pipelines mentioned in point (i); (iii) reception, storage and regasification or decompression facilities for liquefied natural gas (LNG) or compressed natural gas (CNG); (iv) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations; (v) smart gas grids, which means any of the following equipment or installation aiming at enabling and facilitating the integration of renewable and low-carbon gases (including biomethane or hydrogen) into the network: digital systems and components integrating information and communication technologies, control systems and sensor technologies to enable the interactive and intelligent monitoring, metering, quality control and management of gas production, transmission, distribution and consumption within a gas network. Furthermore, smart grids may also include equipment to enable reverse flows from the	transport of natural gas, bio gas and renewable gases of non-biological origin that form part of a network, excluding high-pressure pipelines used for upstream distribution of natural gas; (ii) underground storage facilities connected to the high-pressure gas pipelines mentioned in point (i); (iii) reception, storage and regasification or decompression facilities for liquefied natural gas (LNG) or compressed natural gas (CNG); (iv) any equipment or installation essential for the system to operate safely, securely and efficiently or to enable bi-directional capacity, including compressor stations; (v) smart gas grids, which means any of the following equipment or installation aiming at enabling and facilitating the integration of renewable gases into the network: digital systems and components integrating information and communication technologies, control systems and sensor technologies to enable the interactive and intelligent monitoring, metering, quality control and management of gas production, transmission, distribution and consumption within a gas network. Furthermore, smart grids may also include equipment to	

distribution to the transmission level and related necessary upgrades to the existing network;	enable reverse flows from the distribution to the transmission level and related necessary upgrades to the existing network; (vi) low-carbon gases (including biomethane or hydrogen from renewable sources) into the network: digital systems and components integrating information and communication technologies, control systems and sensor technologies to enable the interactive and intelligent monitoring, metering, quality control and management of gas production, transmission, distribution and consumption within a renewable gas network. Furthermore, smart grids may also include equipment to enable reverse flows from the distribution to the transmission level and related necessary upgrades to the existing network;	
4. Categories of aid 4.1 Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy	4. Categories of aid 4.1 Aid for energy from renewable sources 4.1.1 Aid for energy communities 4.2 Aid for the reduction and removal of greenhouse gas emissions ~~including through support for renewable energy~~	Separate chapter on renewable energy. 1st chapter on aid for energy from renewable sources. 2nd chapter on reduction of GHG emissions is what is left of the chapter minus renewables. Neither of these chapters should include

		low carbon, CCS/CCU or fossil fuels. Sub-chapter within 4.1 should focus on aid for energy communities and acknowledge their special status. The new guidelines are intended to supplement EU legislation on energy communities, which aims to ensure that citizens, local authorities and small businesses can participate and take ownership in Europe's energy transition. EU rules require Member States to take specificities of renewable energy communities into account when designing their support schemes so that they have fair access to financial support for renewable energy projects. The EU rules also require Member States to set up supportive enabling frameworks, including measures to ensure energy communities have access to finance and expertise, so that they can develop at national level. The fact that we are no longer talking explicitly about renewable energies but about

		decarbonisation can create risks (a breach for pro-nuclear and pro-gas power to stop all public support for renewable energies, while at the same time opening the door to all "low-carbon" technologies). Renewables should be separated from low carbon, energy efficiency, CCS/CCU, hydrogen, et al technologies (contrary to #4.1.2, pages 26 and 27).
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 measure contributes to both the reduction of greenhouse gas	74. This Section lays down the compatibility rules for aid measures primarily aimed at ~~reducing~~ eliminating greenhouse gas emissions, including aid for the production of renewable ~~and low carbon energy~~, aid for energy efficiency including high-efficiency cogeneration exclusively from renewable sources, ~~aid for carbon capture, storage and use,~~ and aid for the elimination ~~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 measure	Remove all reference to low carbon energy, as this will be used by nuclear and fossil fuels to gain a foothold in the CEEAG. Co-generation based on non-renewable sources must not be granted any aid. Removal of GHG from the environment does not fit in the renewables chapter. This should be in a separate chapter on elimination of GHGs.

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.	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.	
75. This Section also covers dedicated infrastructure projects (including for hydrogen and other low-carbon gases, and as well as CCS/CCU) that do not fall under the definition of energy infrastructure. (Page 36)	75. This Section also covers dedicated infrastructure projects (including for hydrogen from renewable sources ~~and other low-carbon gases, and as well as CCS/CCU~~) that do not fall under the definition of energy infrastructure.	CCS/CCU, low carbon gases and hydrogen from non-renewable sources should not be accepted under the EEAG if we are to reach our net zero GHG emissions target by 2050
77. Indirect land-use change (ILUC) occurs when the cultivation of crops for biofuels, bioliquids and biomass fuels displaces production of crops for food and feed purposes. Such additional demand increases the pressure on land and can lead to the extension of agricultural land into areas with high-carbon stock, such as forests, wetlands and peatland, causing additional greenhouse gas emissions. This is why Directive (EU) 2018/2001 limits food and feed crops-based biofuels, bioliquids and biomass fuels. The Commission considers that certain aid measures can aggravate indirect negative externalities. The Commission will therefore, in principle, consider that support for	77. Indirect land-use change (ILUC) occurs when the cultivation of crops for biofuels, bioliquids and biomass fuels displaces production of crops for food and feed purposes. Such additional demand increases the pressure on land and can lead to the extension of agricultural land into areas with high-carbon stock, such as forests, wetlands and peatland, causing additional greenhouse gas emissions. This is why Directive (EU) 2018/2001 limits food and feed crops-based biofuels, bioliquids and biomass fuels. The Commission considers that certain aid measures can aggravate indirect negative externalities. ~~The Commission will therefore, in principle, consider that support for~~	The European Biogas Association is against the proposal to link the state aid to article 26 of RED II. Such article caps the consumption of bioenergy from food and feed crops, not the production. In other words, a member state could always export the surplus bioenergy. The state aid of point 77, on the contrary is on the production of bioenergy, not on the consumption. The state aid to production of bioenergy from food and feed crops should not be allocated to match the national production with the capped national

biofuels, bioliquids, biogas and biomass fuels exceeding the caps defining their eligibility for the calculation of the gross final consumption of energy from renewable sources in the Member State concerned in accordance with Article 26 of that Directive, do not produce positive effects which outweigh the negative effects of the measure. Furthermore, the Commission will verify whether Member States took into account in the design of their support mechanisms the need to avoid distortions on the raw material markets from biomass support, in particular for forest biomass.	~~biofuels, bioliquids, biogas and biomass fuels exceeding the caps defining their eligibility for the calculation of the gross final consumption of energy from renewable sources in the Member State concerned in accordance with Article 26 of that Directive, do not produce positive effects which outweigh the negative effects of the measure.~~ Furthermore, the Commission will verify whether Member States took into account in the design of their support mechanisms the need to avoid distortions on the raw material markets from biomass support, in particular for forest biomass.	consumption under RED II. In addition, there is no legal foundation for such a proposal. A cap on food and feed crops is only foreseen in RED II for the transport sector and cannot be extended by the guidelines. The sustainability criteria and the GHG emission reductions requests guarantee already a sustainable production thus there is no need to introduce further restrictions.
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	~~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~~	Technology specific schemes should be preferred over technology neutral one. Technology neutral schemes including auctions should be required to provide special reasoning for necessity/positive impact. Technology specific schemes should be the rule and not the exception.

be based on objective considerations linked, for example, to efficiency or costs or other relevant circumstances. Such reasons maydraw on evidence gathered in the public consultation pursuant to Section 4.1.3.4 where applicable	~~be based on objective considerations linked, for example, to efficiency or costs or other relevant circumstances. Such reasons maydraw on evidence gathered in the public consultation pursuant to Section 4.1.3.4 where applicable~~	
Public consultation process – starting page 38	ADD: No additional public consultation other than those already in place [as of today], as required by national law is required for [renewable energy projects],.	We should remove permitting issues from the state aid guidelines. They are regulated under specific EU and national legislation and have to comply with legislations such as the Habitats Directive and the Water Framework Directive, etc. DG Competition should not be involved with the permitting issues. Public consultation can be an extra burden and an obstacle. We may presuppose that public support is in favour of RE. We do not want to impose additional public consultations on RE that are not already in place. For example: permitting process or emission certificate where public consultations are already in place.
89. Aid for reducing greenhouse gas emissions should in general be granted through a	89. ~~Aid for reducing greenhouse gas emissions~~ aid for energy from renewable	To reach the renewable energy targets every renewable energy project, with the

competitive bidding process as described in points 48 and 49.	sources should in general be granted through ~~a competitive bidding process as described in points 48 and 49.~~ technology specific mechanisms, at the discretion of Member States, to accelerate the deployment of their preferred mix of renewables in all sectors, or suit the national market needs	requisite permission, will have to be utilised and developed. Therefore, there is a high risk that there are not enough projects to create the necessary competition for a cost-efficient auction. Therefore, Member States should be free to decide, just like many other policy areas, through which system they grant support in order to find the most efficient pathway to achieve the European renewable targets by 2030 and not be obliged to use an auctioning system. A formulation that Member States can individually decide on which support scheme mechanism suits them most according to the overall climate targets and the Green Deal.
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,	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,~~	Technology specific schemes should be the rule and not the exception. Insisting that state aid be granted, as a rule, on a technology-neutral basis has had, in many Member States, the effect of funnelling support to projects that are advantaged in presenting winning bids. These projects, however, may not be

showing for example that:	~~showing for example that:~~ However, the bidding process can be open to all eligible beneficiaries where evidence, including any relevant evidence gathered in a public consultation, is provided, showing for example that:... the national climate action plan is at risk of falling short of publicly declared targets.	the best adapted to the territory or to the specific system change needs of a specific locality and region. Each Member State has an energy mix, a specific grid and balancing situation, specific renewable energy roll-out and pathways, geographic and meteorological conditions, political and societal considerations and markets and regulatory frameworks which are unique to it. The design of support schemes and regulatory frameworks must take these into account in order for each Member State to be able to play to its renewable strengths, including the option of close regional and/or transnational cooperation. A balanced deployment of renewables because of technology-specific support schemes may, for many Member States, in fact be more cost efficient.
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	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 question of the exemption thresholds for calls for tenders is set at 400 KW against 1 MW today. This is questioning the 500 kw threshold as planned by the future solar PV tariff decree in France.

the public consultation, is provided that one of the following applies: (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; (b) beneficiaries are small projects, defined as follows: (i) for electricity generation or storage projects – projects below the threshold in Article 5 of Regulation (EU) 2019/943; 59 Generally, this would be the case where costs differ by more than 15 %. 41 (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.	the public consultation, is provided that one of the following applies: (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; (b) beneficiaries are small projects, defined as follows: ~~(i) for electricity generation or storage projects – projects below the threshold in Article 5 of Regulation (EU) 2019/943; Generally, this would be the case where costs differ by more than 15 %.~~ ~~(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.~~ (i) 10 turbines with a capacity of 6 MW each for wind energy (ii) 10 MW for all other renewable energy technologies (iii) for heat generation and gas production technologies - projects below 400 kW average electric capacity.	This contradicts the Green Deal and net zero ambitions. This includes energy communities (more or less) irrespective of installed capacity (or high de minimis). For heat generation and gas production, we urgently need to refer to the average instead of the installed capacity. For Germany, this will mean only 80-200 kW installed electric capacity due to national legislation that requests at least 2,5 – 5 times more installed electric capacity in order to produce electricity flexibly. Even if at the moment national legislation does not allow FiTs for biogas plants over 150 kW average electric

		capacity, we would like to keep things open in case there may be a change in legislation.
104. The aid must be designed to prevent any undue distortion to the efficient functioning of markets and, in particular, preserve efficient operating incentives and price signals. For instance, beneficiaries should remain exposed to price variation and market risk, unless this undermines the attainment of the objective of the aid. In particular, beneficiaries should not be incentivised to offer their output below their marginal costs and must not receive aid for production in any periods in which the market value of that production is negative62.	~~104. The aid must be designed to prevent any undue distortion to the efficient functioning of markets and, in particular, preserve efficient operating incentives and price signals. For instance, beneficiaries should remain exposed to price variation and market risk, unless this undermines the attainment of the objective of the aid. In particular, beneficiaries should not be incentivised to offer their output below their marginal costs and must not receive aid for production in any periods in which the market value of that production is negative62.~~	
107. To avoid undermining the objective of the measure or other Union environmental protection objectives, incentives must not be provided for the generation of energy that would displace less polluting forms of energy. For example, where cogeneration based on non-renewable sources is supported, or where biomass is supported, they must not receive incentives to generate electricity or heat at times when this would mean zero air pollution renewable energy sources would be curtailed	107. To avoid undermining the objective of the measure or other Union environmental protection objectives, incentives must not be provided for the generation of energy that would displace less polluting forms of energy. For example, where cogeneration based on non-renewable sources is supported, ~~or where biomass is supported~~, they must not receive incentives to generate electricity or heat at times when this would ~~mean zero air pollution~~ renewable energy sources would be curtailed.	The EU law based on the Directive 2018/2001 provides a definition of the renewable energy (RES), namely: (*1) 'energy from renewable sources' or 'renewable energy' means energy from renewable non-fossil sources, namely wind, solar (solar thermal and solar photovoltaic) and geothermal energy, ambient energy, tide, wave and other ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas, and biogas;.* This legal act does not create any additional

		differentiation among RES technologies and logically does not derive any legal consequences from such differentiation. Biomass must additionally comply with 'sustainability and the greenhouse gas emissions saving criteria' provided by Art. 29 to be qualified as a renewable source of energy. In this regard, bioenergy is the only renewable source of energy which complies with additional criteria including life cycle GHG saving assessment. Therefore, it is unacceptable that the CEEAG creates a new category of renewable energy, namely 'zero air pollution renewable energy sources' and de facto equalises biomass with non-renewable energy. This approach is not coherent with the existing block of EU law and discriminates the use of bioenergy which is the main renewable technology in the heating sector.
108. Aid for decarbonisation may unduly distort competition where it displaces investments into cleaner alternatives that are already available on the market, or where it locks in	108. Aid for decarbonisation may unduly distort competition where it displaces investments into cleaner alternatives that are already available on the market, or where it locks in certain	Member States cannot be expected to explain this.

certain technologies, hampering the wider development of a market for and the use of cleaner solutions. The Commission will therefore also verify that the aid measure does not stimulate or prolong the consumption of fossil-based fuels and energy63, thereby hampering the development of cleaner alternatives and significantly reducing the overall environmental benefit of the investment. Member States should explain how they intend to avoid that risk, including by way of binding commitments to use mainly renewable or low carbon fuels or phase out fossil fuel sources.	technologies, hampering the wider development of a market for and the use of cleaner solutions. The Commission will therefore also verify that the aid measure does not stimulate or prolong the consumption of fossil-based fuels and energy63, thereby hampering the development of cleaner alternatives and significantly reducing the overall environmental benefit of the investment. Such aid measures are not permitted. ~~Member States should explain how they intend to avoid that risk, including by way of binding commitments to use mainly renewable or low carbon fuels or phase out fossil fuel sources.~~	
110. Similarly, measures that incentivise new investments in energy or industrial production based on natural gas may reduce greenhouse gas emissions and other pollutants in the short term but aggravate negative environmental externalities in the longer term, compared to alternative investments. For investments in natural gas to be seen as having positive environmental effects, Member States must explain how they will ensure that the investment contributes to achieving the Union's 2030 climate target and 2050	110. Similarly, measures that incentivise new investments in energy or industrial production based on natural gas may reduce greenhouse gas emissions and other pollutants in the short term but aggravate negative environmental externalities in the longer term, compared to alternative investments. Such aid measures are not permitted. ~~For investments in natural gas to be seen as having positive environmental effects, Member States must explain how they will ensure that the investment contributes to achieving the Union's 2030 climate target and 2050~~	Full of backdoors: CCS, CCU, low carbon, gas.

climate neutrality target. In particular, the Member States should explain how a lock in of this gas-fired energy generation or gas-fired production equipment will be avoided. For example, this may include binding commitments by the beneficiary to implement decarbonisation technologies such as CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets64	~~climate neutrality target. In particular, the Member States should explain how a lock in of this gas-fired energy generation or gas-fired production equipment will be avoided.~~ ~~For example, this may include binding commitments by the beneficiary to implement decarbonisation technologies such as CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets64~~	
117. Aid may also be granted for the improvement of the energy efficiency of the heating or cooling equipment inside the building. Aid for the improvement of the energy efficiency of production processes and for energy-generating equipment used to power machinery is not covered by this Section but may be covered by Section 4.1. Aid for heating or cooling equipment related to district heating systems is covered by Section 4.10.	117. Aid may also be granted for the improvement of the energy efficiency of the heating or cooling equipment inside the building. Aid may also be granted for the replacement of heating or cooling equipment in favour of renewable heating and cooling equipment inside the building and/or when necessary for the supply of renewable energy to the building Aid may also be granted for the control of renewable heating and cooling equipment inside the building and/or when necessary for the supply of renewable energy to the building. Aid for the improvement of the energy efficiency of production processes and for energy-generating equipment used to power machinery is not covered by this Section but may be covered by Section 4.1. Aid for heating or cooling	

	equipment related to district heating systems is covered by Section 4.10.	
134. Measures that incentivise new investments in natural gas-fired equipment aimed at improving the energy efficiency of buildings may lead to a reduction in energy demand in the short run but aggravate negative environmental externalities in the longer run, compared to alternative investments. Moreover, aid for the installation of natural gas-fired equipment may unduly distort competition where it displaces investments into cleaner alternatives that are already available on the market, or where it locks in certain technologies, hampering the wider development of a market for and the use of cleaner technologies. The Commission considers that the positive effects of measures that create such a lock-in effect are unlikely to outweigh their negative effects. As part of its assessment, the Commission will consider whether the natural gas-fired equipment replaces energy equipment using the most polluting fossil fuels, such as oil and coal.	134. Measures that incentivise new investments in natural gas-fired equipment aimed at improving the energy efficiency of buildings may lead to a reduction in energy demand in the short run but aggravate negative environmental externalities in the longer run, compared to alternative investments. Moreover, aid for the installation of natural gas-fired equipment may unduly distort competition where it displaces investments into cleaner alternatives that are already available on the market, or where it locks in certain technologies, hampering the wider development of a market for and the use of cleaner technologies. The Commission considers that the positive effects of measures that create such a lock-in effect are unlikely to outweigh their negative effects. ~~As part of its assessment, the Commission will consider whether the natural gas-fired equipment replaces energy equipment using the most polluting fossil fuels, such as oil and coal.~~	This would be part of the other chapter on reduction of GHG emissions. State aid for gas fired should be excluded, should not be eligible.
162. Aid for the acquisition or leasing of CNG and LNG vehicles may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the	162. Aid for the acquisition or leasing of CNG and LNG vehicles may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment	No aid should be given to fossil fuels, under any circumstances. This would lead to a lock in.

moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term71. The aid may also be regarded as not having lock-in effects or displacing investments into cleaner technologies where the Member State commits to ensure that those vehicles would be operated using blending of biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).	when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not ~~readily~~ available on the market ~~and are not expected to be available in the short term71~~. The aid may also be regarded as not having lock-in effects or displacing investments into cleaner technologies where the Member State ~~commits to~~ ensures that those vehicles ~~would be~~ are operated ~~using blending of~~ by biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%) only.	MS should have to make sure this is not the case. Requirement for MS to transform within 5 years to the use of biogas or other renewable fuels. The operation of vehicles should be renewable only.
185. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not readily available on the market and are not expected to be available in the short term75. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may also be regarded as not creating long-term lock-in effects where the	185. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may be regarded as not creating long-term lock-in effects and not displacing investments into cleaner technologies if, at the moment when the Member State notifies the Commission of its plans to implement the aid measure or when the aid measure is implemented, the Member State demonstrates that cleaner alternatives are not ~~readily~~ available on the market and are not expected to be available in the short term75. Aid for the deployment or upgrade of CNG and LNG refuelling infrastructure may also be regarded as not creating long-term lock-in effects where the Member	No aid should be given to fossil fuels, under any circumstances. This could be included in the other chapter on reduction of GHG emissions, with quick conversion pathway.

Member State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).	State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).	
186. Alternatives to fossil-based fuels are already available on the market for use in the road transport, inland and sea and coastal water transport, and railway transport sectors. Therefore, aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen is not considered to yield the same positive effects as aid for the deployment of refuelling infrastructure supplying non-fossil-based fuels. Firstly, the improvement in terms of CO_2 emission reductions achieved in the transport sector is likely counterbalanced by the continuation of carbon emissions linked to the production and use of fossil-based fuels. Secondly, in the absence of a commitment from the Member State that the refuelling infrastructure will supply renewable or at least low-carbon hydrogen, the granting of aid for deploying hydrogen refuelling infrastructure may entail a risk of locking in the production of carbon-intensive hydrogen, thereby displacing investments into cleaner alternatives by shifting demand away from non-fossil-based production	186. Alternatives to fossil-based fuels are already available on the market for use in the road transport, inland and sea and coastal water transport, and railway transport sectors. Therefore, aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen is not considered to yield the same positive effects as aid for the deployment of refuelling infrastructure supplying non-fossil-based fuels. Firstly, the improvement in terms of CO_2 emission reductions achieved in the transport sector is likely counterbalanced by the continuation of carbon emissions linked to the production and use of fossil-based fuels. Secondly, in the absence of a commitment from the Member State that the refuelling infrastructure will supply renewable ~~or at least low-carbon~~ hydrogen, the granting of aid for deploying hydrogen refuelling infrastructure may entail a risk of locking in the production of carbon-intensive hydrogen, thereby displacing investments into cleaner alternatives by shifting demand away from non-fossil-based production processes.	Only renewable hydrogen should be included, no allowances for low carbon as this will allow nuclear and fossil fuels to gain a foothold in the CEEAG. How come this statement is not applied to electricity or heating and cooling?

processes. This would also discourage the further development of the market for clean, future-proof non-fossil-based technologies for zero emission mobility, and for the production of non-fossil fuels and energy. The Commission therefore considers it generally unlikely that the negative effects on competition of aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen will be offset.	This would also discourage the further development of the market for clean, future-proof non-fossil-based technologies for zero emission mobility, and for the production of non-fossil fuels and energy. The Commission therefore considers it generally unlikely that the negative effects on competition of aid for the deployment or upgrade of refuelling infrastructure supplying fossil-based fuels such as carbon-intensive hydrogen will be offset.	
194. Aid relating to the recovery of residual heat from production processes or aid relating to CCU will be assessed under the conditions applicable to aid for the reduction of greenhouse gas emissions set out in Section 4.1.	194. Aid relating to the recovery of residual heat from production processes ~~or aid relating to CCU~~ will be assessed under the conditions applicable to aid for the reduction of greenhouse gas emissions set out in Section 4.1.	No aid to CCS and CCU
286. Such measures may also be designed to support environmental protection objectives, for example through the exclusion of more polluting capacity or measures to give more environmentally beneficial capacity an advantage in the selection process.	286. Such measures may also be designed to support environmental protection objectives, for example through the exclusion of ~~more~~ polluting capacity or measures to give more environmentally beneficial capacity an advantage in the selection process.	
304. Member States are encouraged to introduce additional criteria or features in their security of supply measures to promote the participation of greener technologies (or reduce the participation of polluting technologies) necessary to support the delivery of the	304. Member States are encouraged to introduce additional criteria or features in their security of supply measures to promote the participation of green~~er~~ technologies (or reduce the participation of polluting technologies) necessary to support the delivery of the	Green not greener, as this could once again be used by nuclear and fossil fuels to gain a foothold.

Union's environmental protection objectives. Such additional criteria or features must be objective, transparent and non-discriminatory in relation to clearly identified environmental protection objectives, and must not result in the overcompensation of beneficiaries.	Union's environmental protection objectives. Such additional criteria or features must be objective, transparent and non-discriminatory in relation to clearly identified environmental protection objectives, and must not result in the overcompensation of beneficiaries.	
306. 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 307. To determine whether a measure is justified, bearing in mind the criteria in these guidelines, the following public consultation is required: a) for measures where the estimated average annual aid to be granted is ≥ EUR 100 million per year, a public consultation of at least 8 weeks' duration, covering: (i) eligibility; (ii) proposed use and scope of competitive bidding processes and any proposed exceptions; (iii) main parameters for the aid allocation process108 including for enabling	306. 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 307. To determine whether a measure is justified, bearing in mind the criteria in these guidelines, the following public consultation is required: a) for measures where the estimated average annual aid to be granted is ≥ EUR 100 million per year, a public consultation of at least 8 weeks' duration, covering: (i) eligibility; (ii) proposed use and scope of competitive bidding processes and any proposed exceptions; (iii) main parameters for the aid allocation process108 including for enabling competition between different types of beneficiary109;	No support for fossil gas.

competition between different types of beneficiary109; (iv) if a competitive bidding process is not used, the assumptions and data informing the quantification used to demonstrate the proportionality of the aid, including costs, revenues, operating assumptions and lifetime, and WACC; and (v) where new investments in natural gas based generation may be supported, proposed safeguards to ensure consistency with the Union's climate targets. (b) (iii) where new investments in natural gas based generation may be supported, proposed safeguards to ensure consistency with the Union's climate targets	(iv) if a competitive bidding process is not used, the assumptions and data informing the quantification used to demonstrate the proportionality of the aid, including costs, revenues, operating assumptions and lifetime, avoided costs of incumbent polluting and unsustainable technologies and WACC; and ~~(v) where new investments in natural gas based generation may be supported, proposed safeguards to ensure consistency with the Union's climate targets.~~ ~~(b)~~ ~~(iii) where new investments in natural gas based generation may be supported, proposed safeguards to ensure consistency with the Union's climate targets.~~	This is taking into account subsidies for fossil fuel.
326. Measures that incentivise new investments in energy generation based on natural gas may support security of electricity supply but aggravate negative environmental externalities in the longer term, compared to alternative investments in non-emitting technologies. To enable the Commission to verify that the negative effects of such measures can be offset by positive effects in the balancing test, Member States should explain how they will ensure that such investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target. In	326. Measures that incentivise new investments in energy generation based on natural gas may support security of electricity supply but aggravate negative environmental externalities in the longer term, compared to alternative investments in non-emitting technologies. Such aid measures are not permitted. ~~To enable the Commission to verify that the negative effects of such measures can be offset by positive effects in the balancing test, Member States should explain how they will ensure that such investment contributes to achieving the Union's 2030 climate target~~	No aid to fossil fuels, CCS/CCU, low carbon etc.

particular, the Member States should explain how a lock-in of this gas-fired energy generation will be avoided. For example, this may include binding commitments by the beneficiary to implement decarbonisation technologies such as CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets.	~~and 2050 climate neutrality target. In particular, the Member States should explain how a lock-in of this gas-fired energy generation will be avoided. For example, this may include binding commitments by the beneficiary to implement decarbonisation technologies such as CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets.~~	
339. (c) In addition to the approach above outlined, the Commission considers that for natural gas infrastructure investments, the positive effects on competition manifestly outweigh its negative effects on competition where the resulting infrastructure is fit for use for hydrogen and renewable gases or fuels of non-biological origin. Where this is not the case, in order to off-set the negative effects on competition, the Member State concerned needs to demonstrate the following: (i) why it is not possible to design the project so that it is fit for use for hydrogen and renewable gases or fuel of non-biological origin; (ii) why the project does not create a lock-in effect for the use of natural gas; and (iii) how the investment contributes to achieving the Union's 2030	339. (c) In addition to the approach above outlined, the Commission considers that for natural gas infrastructure investments, the positive effects on competition manifestly outweigh its negative effects on competition where the resulting infrastructure is fit for use for hydrogen from renewable sources and renewable gases or fuels of non-biological origin. Where this is not the case, in order to off-set the negative effects on competition, the Member State concerned needs to demonstrate the following: (i) why it is not possible to design the project so that it is fit for use for hydrogen from renewable sources and renewable gases or fuel of non-biological origin; (ii) why the project does not create a lock-in effect for the use of natural gas; and (iii) how the investment contributes to	Renewable sourced hydrogen production has the possibility of complementing renewable deployment in the energy transition. It is vital that the EU supports and develops hydrogen from renewable sources only, ensuring that it comes from all available sustainable renewable sources, be it wind, sun, hydro, biogas, etc. All other non-renewable hydrogen should be abandoned, as these unsustainable sources would divert essential financial aid from the renewable and efficiency sector for the benefit of the incumbent energy sector, and to the detriment of the transformation towards a carbon neutral

climate target and 2050 climate neutrality target.	achieving the Union's 2030 climate target and 2050 climate neutrality target.	economy, thus creating a vicious circle at an EU-wide and global level, while the climate crisis is worsening.
339. (c) In addition to the approach above outlined, the Commission considers that for natural gas infrastructure investments, the positive effects on competition manifestly outweigh its negative effects on competition where the resulting infrastructure is fit for use for hydrogen and renewable gases or fuels of non-biological origin. Where this is not the case, in order to off-set the negative effects on competition, the Member State concerned needs to demonstrate the following: (i) why it is not possible to design the project so that it is fit for use for hydrogen and renewable gases or fuel of non-biological origin; (ii) why the project does not create a lock-in effect for the use of natural gas; and (iii) how the investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target.	339. (c) In addition to the approach above outlined, the Commission considers that for natural gas infrastructure investments, the positive effects on competition manifestly outweigh its negative effects on competition where the resulting infrastructure is ~~fit for use~~ transformed for the exclusive use ~~for~~ of hydrogen from renewable sources and renewable gases or fuels of non-biological origin. Where this is not the case, in order to off-set the negative effects on competition, the Member State concerned needs to demonstrate the following: (i) why it is not possible to design the project so that it is fit for use for hydrogen from renewable sources and renewable gases or fuel of non-biological origin; (ii) why the project does not create a lock-in effect for the use of natural gas; and (iii) how the investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target.	Fit for use→ is planned to be transformed to the use within a designated timeframe (max 10 yrs? To be discussed) Positive effects of a gas that is more expensive than renewables. Where is the statement if all subsides from fossil fuel were removed there would be a positive effect on competition?
342. Such aid measures typically cover the construction or upgrade of the generation unit to use renewable energy, waste heat, or highly-efficient cogeneration including	342. Such aid measures typically cover the construction or upgrade of the generation unit to use renewable energy, waste heat, or highly-efficient cogeneration from renewable	Co-generation based on non-renewable sources must not be granted any aid.

thermal storage solutions, or the upgrade of the distribution network to reduce losses and increase efficiency, including through smart and digital solutions.	sources including thermal storage solutions, or the upgrade of the distribution network to reduce losses and increase efficiency, including through smart and digital solutions.	
347. Section 3.2.2. does not apply to aid for district heating or cooling. The Commission considers that the upgrade or construction of district heating and cooling systems which rely on the most polluting fossil fuels such as coal, lignite, oil and diesel, have negative consequences on competition and trade which are unlikely to be offset unless the following cumulative conditions are fulfilled: (a) the support is limited to the upgrade of the distribution network; (b) the distribution network is or becomes fit for the transport of heat or cooling generated from renewable energy sources; (c) the investment does not result in increased generation of energy from the most polluting fossil fuels (for example, by connecting additional customers); (d) there is a clear timeline involving firm commitments for transitioning away from the most polluting fossil fuels, compatible with the Union's 2030 climate target and the 2050 climate neutrality target. (can we introduce a year when)	347. Section 3.2.2. does not apply to aid for district heating or cooling. The Commission considers that the upgrade or construction of district heating and cooling systems which rely on the most polluting fossil fuels such as coal, lignite, oil and diesel, have negative consequences on competition and trade which are unlikely to be offset unless the following cumulative conditions are fulfilled: (a) the support is limited to the upgrade of the distribution network; (b) the distribution network is ~~or becomes fit~~ transformed for the exclusive use of renewables for the transport of heat or cooling generated from renewable energy sources; (c) the investment does not result in increased generation of energy from the most polluting fossil fuels (for example, by connecting additional customers); (d) there is a clear timeline involving firm commitments for transitioning away from the most polluting fossil fuels, compatible with the Union's 2030 climate target and the 2050 climate neutrality target. (can we introduce a year when)	Same as above

348. As regards the construction or upgrade of district heating generation installations, measures that incentivise new investments in energy based on natural gas may reduce greenhouse gas emissions in the short run but aggravate negative environmental externalities in the longer run, compared to alternative investments. For those investments in natural gas to be seen as having positive environmental effects, Member States must explain how they will ensure that the investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target and, in particular, how a lock-in of the gas-fired energy generation or gas-fired production equipment will be avoided. For example, this may include binding commitments by/from the beneficiary to implement CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets.	348. As regards the construction or upgrade of district heating generation installations, measures that incentivise new investments in energy based on natural gas may reduce greenhouse gas emissions in the short run but aggravate negative environmental externalities in the longer run, compared to alternative investments. Such aid measures are not permitted. ~~For those investments in natural gas to be seen as having positive environmental effects, Member States must explain how they will ensure that the investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target and, in particular, how a lock-in of the gas-fired energy generation or gas-fired production equipment will be avoided. For example, this may include binding commitments by/from the beneficiary to implement CCS/CCU or substitute natural gas by renewable or low carbon gas or to close the plant on a timeline consistent with the Union's climate targets.~~	No aid to fossil fuels, CCS/CCU, low carbon, etc.
374. Compensation for such foregone profit resulting from the early closure of profitable coal, peat and oil shale activities often helps to avoid legal disputes with the operators and ensures legal certainty and predictability. Compensation for lost profits		Where investments were made after 2007 RES Directive came into force no compensation will be made for loss of profit. Exception if the asset had at the request of a regulator been asked to

decided by a national court in line with rules of domestic law applicable to any litigant in a similar situation is likely, because of its nature, to fall outside the scope of State aid control. The same rule does not apply for compensation decided on by the Member State authorities or agreed with the undertakings. In such cases, the Commission cannot exclude that these forms of compensation involve State aid, as the Commission cannot verify whether the compensation granted is equal to the compensation that would have been awarded under national law.		be maintained for back up capacity.