July 27, 2021

RESPONSE TO PUBLIC CONSULTATION ON CEEAG

AICEP welcomes the draft CEEAG and the intent to review the State aid rules in order to support the fulfilling of the Green Deal policy objectives for a cost-effective and just transition to climate neutrality while at the same time ensuring a level-playing field in the internal market.

AICEP underlines the need to keep consistency with all EU Green Deal legislation and policies including the oncoming Fit For 55 package.

Eu Commission and Parliament stated the relevance of industry in the transition towards 2030 and 2050 targets and the need to support this role:

- *Industry has a leading role to play in what is the greatest challenge and opportunity of our times. All industrial value chains, including energy-intensive sectors, will have a key role to play*[1]
- *The European Parliament underlines the key role that European industry can play in actively engaging in favour of ambitious environmental, social and economic objectives*[2]
- *The revision of the environmental and energy State aid rules will better enable Member States to support business to de-carbonise their production processes and adopt greener technologies*[3]

In this consideration, to play its role industry needs *predictability and a real business case, with a coherent and stable regulatory framework*[4] while maintaining its competitiveness which is essential for the future economic and social EU development.

Furthermore, European Energy Intensive Industries (EIIs) are enablers of the green and digital transition envisioned by the EU Green Deal being solutions providers close to the base of long value chains that provide products, materials and technologies which enable emissions reductions in other sectors of the economy. At the same time, *they are particularly vulnerable to carbon leakage and loss of competitiveness in case of differences in level of ambition between the EU and other global players.*[5]

[1] COM(2020) 102 final – A new Industrial Strategy for Europe – Point 2.2
[2] European Parliament resolution of 25 November 2020 on a New Industrial Strategy for Europe – Point 9
[3] COM(2021) 350 final – Updating the 2020 New Industrial Strategy – Section 5
[4] COM(2021) 350 final – Updating the 2020 New Industrial Strategy – Section 5
[5] Annual Single Market Report 2021 – Section 7 Energy Intensive Industries Ecosystem

Taking in consideration this reference context, as response to the Public Consultation, we would like to bring to attention some general aspects and specific elements related to Section 4.11 on *Aid in the form of reductions from electricity levies for energy-intensive users.*

General aspects

- AICEP welcomes the broader scope of CEEAG with the identification of a number of categories of environmental protection and energy measures for which State aid may be compatible that can provide more opportunities for industrial decarbonisation. In this respect we consider very interesting the opening up of aid for reduction and removal of greenhouse gas emissions and aid for resource efficiency and circular economy.
- However, in order to address international competition issues and carbon and investment leakage risks, it is important that aid to new areas should not lead extra cost for energy intensive industrial consumers.
- Industries need predictability and a long term stable regulatory framework to lower investment risks and to plan transition toward decarbonisation; this is essential if Europe is to remain an attractive economic area for industrial investments. Current EEAG provisions run until 31 December 2021 and some Member States aid schemes actually in force provide for several more years of validity. The draft CEEAG (point 414) requests for amending, where necessary, the existing environmental protection and energy aid schemes in order to bring them into line with new guidelines no later than 31 December 2023. The deadline is too short, does not lead to investment security and could create a breach in legal certainty.
  AICEP requests the maintenance of the current schemes until the end of their period of validity and, in any case, the possibility of adopting transition periods for the progressive adaptation to the new rules.
- When compatibility of aid measures is assessed, due consideration must be given to the fact that *the EIIs will need a substantial amount of decarbonised energy at an internationally competitive price*[6]. Abundant, affordable and decarbonised electricity is needed to promote electrification of industrial processes as a major lever to decarbonize the industrial system.
- Any reference to legislative instruments still under development could create concerns and risks of regulatory uncertainty. Paragraph 69 in the draft CEEAG refers to the use of the EU Taxonomy Regulation 2020/852 article 3 and 'Do No Significant Harm' (DNSH) criteria for balancing the weighing effects on trade and competition. Such linkage should be avoided as the Taxonomy Regulation is a voluntary classification system establishing which activities are defined as environmentally sustainable. The intention is to create greater transparency for investors. If the taxonomy criteria will be used as a condition for State Aid, it would expand the application of this instrument beyond its original intention.

[6] Annual Single Market Report 2021 – Section 7 Energy Intensive Industries Ecosystem

Section 4.11

AICEP welcomes that the draft CEEAG continues to consider aid in the form of reductions from electricity levies for energy-intensive users as measures compatibles with the internal market under certain conditions. This is particularly important in consideration of the likely future increasing of the levies directly and indirectly connected to the growth of RES generation. In this regards AICEP believes that the levies for which reductions may be allowed should also include cost related to capacity mechanisms founding and any other system cost related to the RES development.

4.11.3.1 Eligibility

- In the CEEAG draft the list of eligible sectors is dramatically reduced from more than 200 to around 50.
- We understand the need for a review of eligible sectors to better target aid, but the overall level of support needed to preserve the competitiveness of EIIs should not be reduced.
- Moreover, the very different level of electricity levies between Member States could, in the absence of aid in form of reduction, lead to strong distortion in the internal market level playing fields.
- The CEEAG draft provides for granting aid only to undertakings belong to a sector facing a trade intensity (TI) >20% at Union level and an electro intensity (EI) >10% at Union level, with a possible exception only for sectors with TI >80% and EI >7%. These criteria seem too much restrictive to select sectors subject to competitive disadvantage and risk of relocation:
    - A single level of exposure to international trade may not select adequately sectors and undertakings subject to a genuine risk.
    - For sectors with a very high EI, cost of electricity largely represents the main cost factor and competitiveness driver; even if they are exposed to a lower TI, they risk an unbearable loss of competitiveness.

  That is why AICEP support the confirmation of the current eligibility criterion based on TI >4% and EI >20%.
  Alternatively, we propose the introduction of a criterion based on ratio (TI x EI) so that both factors are taken into account.

- Furthermore, the definition of the criteria and their assessment should be reviewed in order to consider more appropriately the real level of exposure of each sector:
    - TI and risk of relocation should be assessed in a perspective view and not on historical data; global flows of goods and products can change very quickly when significant competitive gaps arise boosting the emergence of new logistics and transport models. Furthermore, competitive gaps, although they may not have immediate effects on the localisation of production capacities, will certainly have on investment decisions for the renewed capacity at the end of the technical life of existing production facilities. This is particularly

important in view of the very high level of investment that EU industries will need to make to meet decarbonisation targets.
   - Carbon and investment leakage risks should be assessed by taking in consideration impacts on the whole value chains: sectors active in intermediate products could, even if not directly exposed to international trade, transfer the indirect risk to downstream sectors along the value chain.
   - Exclusion of certain sectors could create distortion in the level playing field between different business model (in-house or outsourcing, i.e. industrial gases) when the final users is eligible and the specialised producer not.
   - Some sectors with a global TI<20% have subsectors or prod-com essential to their value chain with a higher ratio (i.e. Clinker for Cement sector).
   - Some Member States are more exposed to international trade, thus TI should be evaluated at National level to avoid distortions in the internal market level playing field.

4.11.3.2 Proportionality of the aid measure

CEEAG draft provides for the increasing of the minimum level of contribution from the current 15% to 25% of the eligible electricity levies.
Also the floor for additional costs resulting from the electricity levies borne by undertakings particularly exposed, is expected to increase from 0,5% to 1,5% of the GVA.
These new limits would have a very negative effect on the costs of EIIs.
As already mentioned above, any reduction in aid intensity compared to the current system will impact on the EII competitiveness considering the huge increase in RES generation envisioned by the EU Green Deal and the Fit for 55 Package from now until 2030. Lower aid intensity could be counterproductive with respect to the objectives of the green and digital transitions for industry, where the electrification of industrial production processes represents one of the main levers.

In this respect AICEP calls to maintain current limit for the proportionality of the aid measure, namely a contribution of at least 15% of the cost generated by the electricity levies which a Member State includes in its scheme or 0,5% of GVA.

4.11.3.4 Energy Audits and Management Systems

CEEAG draft provides for some conditionalities for aid beneficiaries to comply with.

First of all, it is important to underline that EIIs have always been very committed to energy efficiency and consumption reduction processes as these are key elements for their competitive success. Incentives, targets and obligations are already established by specific rules in other parts of the legislation. The Fit For 55 package currently being developed introduces additional limits and targets in several areas that directly affect the activities of EIIs.
AICEP therefore understands the need to set ambitious targets, but believes that it is ineffective to introduce them as conditionality for the recognition of aid intended to preserve competitiveness and mitigate the risk of carbon and investment leakage.

AICEP strongly believes that any overlap between different policies and directives risks undermine the legal certainty and the visibility and predictability of strategies over the long term.

In this specific case, with reference to energy efficiency, the CEEAG draft seems to go beyond what is provided for in Article 8 of the EED by introducing additional obligations whose impacts and implications on the concerned undertakings are difficult to assess.
Also with regards to reduction of greenhouse gas emissions, this is already addressed by the ETS Directive with very stringent target further increased in the Fit For 55 proposals. Provide to go "*well below the relevant benchmark*" seems to be unrealistic and not consistent with the declared scope of the CEEAG.

It should also be borne in mind that for industrial activities the timing of the implementation of technological and structural changes and of investments execution are strictly conditioned by the technical life of the plants currently in operation and by the availability of new economically sustainable technological solutions.

About AICEP

AICEP, Associazione Italiana Consumatori Energia di Processo, groups together large industrial companies that consume electricity in production processes characterised by high regularity, continuity and quality of withdrawals from the electricity grid and in which the cost of electricity is a critical strategic factor. Associated companies operate mainly in the sectors of Chemistry, Technical Gases, Metals, Glass, Cement, Building materials and represent a significant share of industrial electricity consumption in Italy.
Active for over 40 years, one of its priority objectives since its establishment is to promote the most efficient solutions for the rational use of electricity, addressing all technical and economic issues that directly or indirectly affect their withdrawals from the grid.
AICEP has always supported policies aimed at the energy efficiency of industrial processes and measures that, within a framework of cost efficiency and maintaining the competitiveness of Italian and European industry, allow the pursuit of the ambitious environmental objectives set out in EU policy.
AICEP is in turn associated with IFIEC Europe, International Federation of Industrial Energy Consumers, which brings together national energy consumer associations of Energy Intensive Industries in Europe.

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