



## **Response to the Commission consultation on State Aids – Draft EEAG**

2<sup>nd</sup> of August, 2021

**EFIEES** represents energy service companies (ESCOs) and their national associations in 12 Member States. They represent over 130.000 professionals engaged in the design and implementation of energy-efficiency solutions in buildings and industry. In some countries, they also operate district heating & cooling (DHC) networks.

### **Introductory remarks**

EFIEES welcomes the draft Commission Guidelines for Energy and Environment State Aids, aiming at modernising the existing rules. Indeed, new State Aids rules should take into account stronger policies that will result from the EU Green Deal and the “fit-for-55” package, aiming at deploying energy efficiency projects, together with boosting the switch to renewable sources and waste heat to substitute the direct use of fossil fuels. The 55% objective of CO<sub>2</sub> reduction by 2030, and the recently adopted Renovation Wave, based on an estimated share of RES/Waste heat to reach 38-42% by 2030 (nearly twice as much as today, 21%), call for a well-designed public support regime, together with clear and strong rules for optimizing the use of public funds.

In order to deliver on this enhanced ambition, stronger actions are needed both in the field of energy efficiency, be it for buildings or for industry, and in the field of renewable energy. A particular focus must be put on thermal energy. State Aid guidelines, if based on reviewed and adapted rules, are one of the main tools to allow a progressive shift towards climate neutrality, by improving the economic viability of projects. This is an absolute necessity for green projects to emerge, hence the need for the alignment of State Aids rules with other climate related policies and regulations that reflect higher 2030 targets.

EFIEES deems the general approach governing the draft Commission Energy and Environment Aids Guidelines (CEEAG) as appropriate, as far as energy efficiency, and

District Heating and Cooling (DHC)/Combined Heat and Power are concerned. However, we would like to express the following comments and recommendations:

## 1. Energy Efficiency

In light of the “**Energy efficiency First**” principle, the role of guaranteed energy efficiency gains should be better promoted through the proposed State Aids rules. Simply because the best energy is the one we neither need to produce nor use. Also because energy efficiency actions are often, if not always, a crucial prerequisite for measures enabling the switch from fossil fuels to renewable energy, by reducing the energy demand and thus optimising the size of the investments allowing a greener energy mix.

- Section 4.1 and section 4.2: the section 4.2 currently focusses on energy efficiency in the buildings, whilst energy efficiency actions on “industrial processes” are mentioned in the section 4.1. Energy efficiency on industrial sites should be should be further developed and addressed, taking into consideration all aspects, either in a dedicated point of 4.1 section, or the section 4.2 should be extended to better cover industrial buildings, as evoked in point 117.
- Section 4.2.2, point 115: this section should be mirrored, with the appropriate adaptations to cover industrial sites. In particular, energy efficiency actions supported by EnPCs, should be clearly indicated in this section as a key tool for decarbonising the industry.
- Section 4.2.2, point 119: the aid attributed only to the energy efficiency services providers (ESCOs) that are small or medium-sized companies is a competition distortion against larger companies. There is no evidence that the targeted SMEs/ESCOs suffer from a competitive disadvantage. If they are the only ones to benefit from an aid, this will create adverse effects on the structure of services suppliers, e.g favouring consultancies rather than operational ESCOS, without any concrete justification for it. It should be reminded that the aid granted is designed to ensure the viability of the project and its incentivising effects. In this respect, the aid intensity must take into account the level of savings achieved, the beneficiary of the aid, but not the nature of the provider of services.

## Suggested amendment

*119. Aid for the improvement of the energy performance of buildings may also be granted **to SMEs and small mid-caps** providers of energy performance improvement measures for the facilitation of energy performance contracting within the meaning of Article 2, point (27) of Directive 2012/27/EU, **when investing on behalf of the building owner***

- Section 4.2.2, point 116: the detailed list of supported energy efficiency actions should explicitly cover energy performance actions that contribute to the energy efficiency objective, including non-material investments (e.g. staff training, consumers behaviour, deployment of new software, project costs). As explained before, similar provisions should apply for energy efficiency actions in the industry as well.
- Section 4.2.2., point 118 b: the provision that applies to new buildings, limiting the percentage of improvement for aid eligibility to 10% should also apply to existing high performing buildings above a given EPC level: consideration should be given as well to situations where buildings have a high-level EPC.
- Section 4.2.2, point 124: one of the challenges that energy transition will face is the massive amount of investment needed to keep up with the pace that is defined in the Climate law. Solutions that guarantee that the objective supported by the State aid is effectively met, like EnPCs or more generally performance based contracts, ensure the effectiveness of such support. Hence a bonus in aid intensity should be considered, in case of use of EnPCs.

## Suggested amendment

We suggest adding the following (new):

*127 b: As regards aid granted for improving the energy performance of buildings, the aid intensity may be increased by 10 percentage points where the planned energy performance is explicitly covered by an agreed energy performance criterion or a contractual arrangement specifying an agreed level of energy efficiency improvement, such as energy performance contracting.*

## 2. Decarbonising Heating and Cooling

- Section 4.1.2, point 74: waste heat from different sources (industrial, data centres etc.) in line with circular economy principle should be recovered and thus participate in the decarbonisation of heating sources like district heating networks. Guarantee funds should be available for coordination frameworks between DHC operators, local authorities, and industrial and tertiary actors to facilitate the use of waste heat and cold (as the Article 24 (6) of the future RED III promotes such cooperation networks). Such funds would help to manage the financial risks linked with disappearance of waste heat sources and/or the time needed to assure alternative renewable energy. Guarantee funds for waste heat/cold could be integrated in chapters: 4.1.2 (74) and 4.2.2 (116e or f) 4.10.2 (342)

### Suggested amendments

*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, support or guarantee mechanisms allowing to recover industrial waste heat, 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 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.*

*115. Measures aimed at improving the energy and environmental performance of buildings target negative externalities by creating individual incentives to attain targets for energy savings and for the reduction of greenhouse gas and air pollutant emissions. In addition to the general market failures identified in Chapter 3, specific market failures may arise in the field of energy and environmental performance in buildings. For instance, when renovation works in buildings are considered, the benefits of energy and environmental performance measures do not typically accrue only with the building owner, who generally bears the renovation costs, but also with the tenant. The Commission therefore considers that State aid may be needed to promote investments aimed at improving the energy and environmental performance of buildings, including support or guarantee mechanisms allowing to recover industrial waste heat.*

*116. This aid may be combined with aid for any or all of the following measures:*

*(a) the installation of integrated on-site renewable energy installations generating electricity, heat or cold;*

*(b) the installation of equipment for the storage of the energy generated by on-site renewable energy installations;*

*(c) the construction and installation of recharging infrastructure for use by the building users, and related infrastructure, such as ducting, where the car park is located either inside the building or it is physically adjacent to the building;*

*(d) the installation of equipment for the on-site digitalisation of the building, in particular to increase its smart readiness. Eligible investments may include interventions limited to passive in-house wiring or*



**EFIEES** structured cabling for data networks and, if necessary, the ancillary part of the passive network on the private property outside the building. Wiring or cabling for data networks outside the private property is excluded;

(e) other investments that improve the energy or environmental performance of the building, including investments in green roofs and equipment for the recovery of rain water.

**(f) investments allowing to recover waste heat or cold**

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 thermal storage solutions, or the upgrade of the distribution network to reduce losses and increase efficiency, including through smart and digital solutions. **Guarantee mechanisms allowing to recover waste heat or cold should be considered as eligible support.**

- Section 4.1.2, point 107: with regards to aids that would displace less polluting forms of energy, fossil fuels and biomass should be clearly separated. Having both in the same sentence is misleading, since biomass should not be assimilated in any shape or form with non-renewable sources. Aids to biomass should be viewed positively given its tremendous potential to contribute to decarbonisation of the heating sector and as long as the supported biomass based projects are fulfilling the sustainability criteria provided by the revised Renewable Directive.

### Suggested amendment

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~~ **it** must not receive incentives to generate electricity or heat at times when this would mean zero air pollution renewable energy sources would be curtailed.

- Section 4.10.1, point 340, 34: modernisation and extension of networks should also be covered, in addition to upgrade and construction of District Heating and Cooling (DHC) networks.

### Suggested amendment

340. The construction, ~~or~~ the upgrade, **the modernisation or the extension** of district heating and cooling systems can make a positive contribution to environmental protection by increasing the energy efficiency and sustainability of the supported system. However, the environmental externalities associated with the operation of district heating and cooling can lead to inefficient underinvestment in the construction and

upgrade of district heating and cooling systems. State aid can contribute to addressing this market failure by triggering additional efficient investment.

- Section 4.10.1, point 343: the text should not mention Member States as investing in DHC, as this would not account as State Aid (or if any public authority)

Suggested amendment

343. Where ~~a Member State~~ an investment aims at ~~in the~~ upgrading or modernising of a district heating and cooling system ~~without meeting the standard of energy efficiency~~ which does not meet the criteria of an efficient district heating and cooling system as defined in the Directive 2011/27, ~~it~~ the operator needs to commit to start the works to reach ~~that standard~~ these criteria within three years following the upgrade works.