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Per Email: COMP-CEEAG-CONSULTATION@ec.europa.eu  
Ref.: HT.5371\_Reply\_from\_an\_association\_or\_organisation

Re: Public consultation on the revised Climate, Energy and Environmental Aid Guidelines  
Date: 30<sup>th</sup> of July 2021

LS,

After taking careful consideration of the draft revised Guidelines on State aid for environmental protection and energy 2014-2020, I am pleased to provide you with the input of the Dutch Marine Energy Centre (DMEC). The input starts with a brief introduction to our organization and how we contribute to decarbonization, a general response to the draft guidelines and more specific suggestions for improvement.

**About DMEC**

DMEC is a not-for-profit accelerator for marine energy solutions. We believe that the enormous amount of energy stored in our oceans, seas and rivers will be a crucial driver to realize our global energy transition and foster sustainable growth. By advancing innovation, mobilizing capital, and shaping policies, we create multipurpose energy solutions for a wide variety of markets. As policy frameworks make or break innovation, we support various government entities in their pursuit of a favorable environment for marine energy innovation.

To share knowledge, support cross sectoral collaboration and strengthen the voice of the marine energy sector, DMEC initiated the Marine Energy Community. Marine energy technology developers, research- and test facilities, businesses in the offshore, maritime, and delta-tech sectors joined forces within this community to coordinate sector-relevant input to the Dutch Roadmap for Marine Energy and position the Dutch infrastructure within the European Strategy Forum on Research Infrastructures (ESFRI) Roadmap 2021. Moreover, through DMEC the community provides up to date input on projects and activities to international relevant initiatives such as Ocean Energy Systems (OES) and the International Renewable Energy Agency (IRENA).

**Response to the consultation**

We consider that the provisions in the draft Guidelines for renewable energy generation are generally positive:

- The replacement of the ‘aid intensities’ system with a new ‘funding gap’ approach is an important means of simplifying the framework while still protecting competition.
- The renewable-specific criteria to assess key principles<sup>1</sup> is welcome and is generally fit-for-purpose.
- The preservation of tech-specific auctions will be key to developing new sources of renewable energy and ensuring a more efficient and coordinated system with lower overall costs. The Guidelines need to rule in this option more explicitly.

However, the draft Guidelines use a ‘one size fits all’ approach and were clearly written with large-scale mature renewables in mind.

Emerging renewables like wave and tidal energy are currently far too small to impact competition. Typical ocean energy demonstration projects will be circa 10MW on average<sup>2</sup>. Requiring such projects to undergo the same process as GW-scale mature technology projects creates a strong disincentive to Member States to undertake these projects.

The Guidelines already include a legal definition of ‘demonstration projects’ (demo projects). A streamlined treatment of demo projects will allow the Guidelines to work for both emerging and mature renewables. This will help the Commission meet its Offshore Strategy targets (100MW of ocean energy by 2025). It will help Europe develop the renewable technologies needed to reach Net Zero by 2050.

### **Issues specific to emerging renewables**

#### ***Demo projects should not be crowded out of the State Aid process***

Demo projects are bespoke and often not suited to schemes. This means that they often need to be individually notified. But demo projects are by their nature very small.

The Guidelines should allow notified demo projects – if accepted by the Commission as genuine demo projects – to be subject to reduced requirements. If the Commission does not consider a notified project to be a ‘demonstration project’ then that project must meet all the standard requirements of a normal renewable energy project.

This will allow the Commission to concentrate its resources on those larger projects which require more consideration. It will avoid undermining Member States’ incentive to innovate and bring new technologies to market.

It is already extremely challenging to deploy demo projects. They are higher-risk and so it is more challenging to secure financing. It is much harder to deploy new technologies which do not readily fit within existing planning and legal frameworks.

New energy technologies will be critical if Europe is to decarbonize. The new Guidelines can facilitate the scale-up of these new technologies, without undermining wider competition.

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<sup>1</sup> ‘Necessity’, ‘appropriateness’, ‘avoidance of undue negative effects’ and ‘positive versus negative effect’

<sup>2</sup> [‘The clock is ticking to deliver Europe’s 100 MW ocean energy target’](#) Ocean Energy Europe, 22 June 2021

#### Solution – 1 new Paragraph in Sec 4.1.2

'For activities, which are notified and accepted by the Commission as satisfying the definition of a 'demonstration project', the Commission will, in principle, presume:

- (i) the activities satisfy the requirements for the 'Appropriateness' and 'Necessity' principles;
- (ii) that it is an economic activity with positive effect for society which is relevant for specific Union policies;
- (iii) there are no undue negative effects on competition and trade and balancing.

These activities will be assessed on whether they satisfy the definition of 'demonstration project' and are in line with the criteria for the 'proportionality' and 'incentive effect' principles'

#### ***The requirement to undertake a public consultation need not apply to demo projects***

Section 4.1.3.4 requires a public consultation on competition impacts prior to notification of renewable energy projects.

Demo projects are very small and will never have more than a negligible impact on competition. If the Commission accepts a notified project as being a demo project, then there should be no need to undertake a public consultation.

It is already extremely challenging to deploy demo projects. They are higher-risk and so it is more difficult to secure financing. It is much harder to deploy new technologies which do not readily fit within existing planning and legal frameworks. Any extra regulatory requirements should be avoided unless they have a clear and relevant rationale.

#### Solution – add addition to Paragraph 86

'No public consultation is required for measures falling under point 85(b) where the aid is notified and accepted by the Commission as supporting a demonstration project or where competitive bidding processes are used and the measure does not support investments in fossil-fuel based energy generation or industrial production'

#### ***The new Guidelines unnecessarily increase the risk facing demo projects***

The 2014-2020 Guidelines exempt demo projects from:

- the requirement that aid be a premium on wholesale prices;
- standard balancing responsibilities; and
- the requirement that there be no incentive to generate during negative prices.

This was not preserved in the new Guidelines.

It is already extremely challenging to deploy demo projects. They are higher-risk and so it is more difficult to secure financing. In practice, additional regulatory risk will translate into a great cost

for the public – either via grants or via the higher return than private investors will require to participate in the project.

In line with the Innovation Principle, the new Guidelines should avoid imposing additional risks on demo projects.

#### Solution – New Paragraph in Section 4.1.4

'The conditions established in Paragraph 104 do not apply to aid for projects which the Commission has accepted are demonstration projects'

### Issues common to all renewables

#### ***Public consultations should be evidence-based and focused exclusively on competition-related issues***

Section 4.1.3.4 requires a public consultation for renewable energy projects requesting annual aid >€150m covering six points listed under Paragraph 85(a). Renewable projects already must undergo significant due process and consultation before deployment. This requirement risks slowing down the deployment of renewables, by allowing opponents an additional channel to block and delay projects.

To avoid this the Guidelines should make clear that the consultation is exclusively focused on competition issues and is to gather evidence – and primarily quantitative evidence – on competition impacts.

Subjective and unsubstantiated views should not receive undue weight. Submissions advocating a certain approach should be assessed on the quality of their evidence, not on the number of submissions received. Feedback concerning non-competition related issues should be disregarded. Member States should be free to integrate the questions into existing consultation processes.

#### Solution – 2 new Paragraphs in Section 4.1.3.4

'Member States are required only to address submissions which are directly related to competition issues. Member State responses should focus on material arguments which are substantiated by evidence. The volume of supportive or opposed responses is secondary to the weight of evidence and persuasiveness of the concerns raised'

'Member States may undertake a dedicated public consultation exercise, or integrate the criteria of Paragraph 85 (a) or (b) into a wider consultation exercise, so long as this exercise meets the requirements of Section 4.1.3.4'

***The Guidelines must cater for pre-project development work which are standard in renewable energy projects***

Paragraphs 28 and 30 indicate that the 'incentive effect' principle will be in doubt if work takes place prior to a written aid application by the beneficiary to national authorities.

However, it is normal for project development activities to take place, prior to the application for support for a renewable energy project. Examples of such activities include site surveys, environmental impact studies, Front End Engineering Design studies, or engagement with grid operator.

Often this work is a necessary pre-condition to apply for funding. For example, the Commission's Innovation Fund considers prior work in these activities when assessing a project's maturity. Project developers do this work at their own risk - and are compensated via margins on successful projects. Such work is not an indication that a project would have happened in the absence of aid.

**Solution - New Paragraph 30 (d)**

*'The activities undertaken are a pre-requirement which beneficiaries must complete before being eligible to apply for aid, or the activities are small relative to the overall costs of the overall activity – e.g., the development costs associated with renewable energy projects, such as site surveys, securing grid connection, Environmental Impacts Assessments'.*

We are confident that this input will help the Commission to meet its Offshore Strategy targets (100MW of ocean energy by 2025) while helping Europe develop the renewable technologies needed to reach Net Zero by 2050.

Kind regards,



Britta Schaffmeister  
CEO DMEC