WORKING TRANSLATION OF THE ORIGINAL CONTRIBUTION IN GERMAN LANGUAGE

Contribution to the consultation on the revised EU State Aid Guidelines on Climate, Environmental and Energy Aid 2022 (CEEAG)

We comment as follows on the European Commission's proposed new Guidelines on State Aid for Climate, Environmental and Energy Protection 2022 (CEEAG) in the context of the public consultation (link): The European Single Market is at the heart of European integration and the EU's greatest achievement to date. Protecting it is the fundamental objective of EU competition rules, including state aid control. Although the single market is far from complete, it is the basis for economic growth, stability and prosperity in the EU Member States. The single market is also the prerequisite for achieving the ambitious climate goals of the *Green Deal* with the help of investment and innovation. For only the internal market offers companies, especially SMEs, the chance to generate the costs for the planned transformation towards a climate-neutral economy.

The EU State Aid Guidelines, together with the General Block Exemption Regulation, play an important role in preventing distortions of competition in the internal market, for example through the support of certain companies or sectors by individual Member States. It has been generally accepted that certain state subsidies, such as reductions in electricity price levies for electricity-intensive companies, are necessary to maintain the competitiveness of these companies and to avoid "*carbon leakage*".

The Commission proposal now adds the achievement of the stricter EU climate targets of the *Green Deal* as a new, overriding objective of the state aid guidelines. According to the proposal, the resulting conflict of objectives is to be resolved at the expense of the competitiveness of companies and the protection against *carbon leakage.* Specifically, the Commission proposes that, for example, existing reductions in electricity levies for energy-intensive companies in Germany should be drastically restricted or made subject to much stricter conditions (see section 4.11 of the proposal).

We reject the proposed far-reaching changes to EU state aid control with regard to reductions for energy-intensive companies of electricity levies (section 4.11) for ecological and economic reasons. In particular, in our view, the proposals do not represent a reasonable balance between the goals of climate protection and maintaining the competitiveness of energy-intensive companies. Instead, the Commission is trying to achieve the CO_2 reduction targets it has set itself with the help of state aid control and, in doing so, is accepting that the economic sectors affected will cease operations in Germany and/or migrate to countries outside the EU (carbon leakage). In this way, the EU would possibly achieve its own reduction targets, but it would not make a contribution to global climate protection and in the process would destroy its industrial base.

We comment on the proposals in detail as follows:

I. Massive restrictions for the plastics converting industry and plastics recyclers
The Commission proposes a massive tightening of the criteria for sectors eligible for aid compared to the current guidelines ("*Guidelines on State Aid for Environmental Protection and Energy 2014-2020*", ref. 2014/C 200/01): According to these guidelines, only those sectors are to be eligible for aid which

- have a trade intensity of at least 20 % and an electro-intensity of at least 10 %, both at EU level, or alternatively
- have a trade intensity of at least 80 % and an electro-intensity of at least 7 %, both at the EU level.

Due to this tightening, 170 of the 221 economic sectors previously eligible for aid are to be deleted from the positive list in the annex to the guideline. This also affects

- the manufacture of plastic packaging (NACE code 22.22),
- the manufacture of plastic building materials (22.23),
- the manufacture of other plastic products (22.29) and
- the recycling of plastics (38.32).

The new guidelines are to enter into force on 1 January 2022 and provide for a transitional period for amending existing environmental protection and energy aid schemes of the Member States until 31 December 2023. For the affected economic sectors, this would mean that from 2024 onwards, for example, the special equalisation scheme for the German EEG levy ("*Besondere Ausgleichsregelung*") would cease to apply, as would the associated capping of the KWK levy ("*KWK-Umlage*") and the offshore network levy ("*Offshore-Netzumlage*").

1. *More carbon leakage protection necessary to achieve climate protection goals and a circular economy for plastics*

Reductions for electricity-intensive companies, such as the *special equalisation scheme* for the EEG levy in Germany, were and are the prerequisite for these companies to be able to compete globally and not have to relocate their production to countries outside the EU (*carbon leakage protection*). Many of the plastics converting companies and plastics recyclers are urgently dependent on the EEG levy limitation. As surveys among our members show, without this limit, **production in Germany would no longer be profitable** for many companies which would therefore either be discontinued or relocated abroad – a loss of thousands of jobs in Germany would be the result.

Overall, the proposal fails to recognise that due to the EU's tightened climate protection targets, not less but **more carbon leakage protection for companies in the EU is necessary** in the medium term. This protection must apply until comparable measures have been introduced in other regions that are in economic competition with the EU. Otherwise, the EU may achieve the goals it has set itself, but it will not contribute to global climate protection and will destroy its industrial base in the process.

Yet plastic products and plastic recyclates are urgently needed to achieve the ambitious climate protection goals: compared to other materials, plastics have a relatively low melting temperature during processing and a significantly lower weight during transport. These factors alone contribute to the fact that CO_2 emissions can be reduced by up to two thirds through the use of plastics, depending on the area of application.

The use of recyclates in plastic products makes an important contribution to achieving the EU climate protection targets and to the circular economy. It reduces dependence on fossil raw materials and CO_2 emissions in the manufacturing process. Under the conditions of climate neutrality, which the EU is aiming for in 2050, high-quality recyclates will make a significant contribution to securing the supply of raw materials for the plastics industry. German plastics recyclers generate around 2.0 million tonnes of recyclates annually for the raw material supply for the manufacture of plastic products. However, these recyclates can only be produced in a cost-covering manner if the EEG levy reductions for production continue to take place.

Also, should plastics converting companies and plastics recyclers no longer be able to produce profitably in Germany, the ambitious goals of a **circular economy** for plastics would also become illusory. This is because in order to achieve these goals, companies need to invest in recycling-friendly product design, increase the share of recycled material and massively expand the collection and recycling infrastructure. For many companies, the Commission's proposal for new state aid guidelines means considerable legal and planning uncertainty because it would significantly change their cost structure.

The plans for a circular economy are based on the ability of the plastics converting industry and plastics recyclers to make the transformation from a linear to an increasingly circular economy. In this major transition phase, the industry is dependent on supportive policy measures to maintain international competitiveness. The proposal to remove these industries from the list of sectors eligible for aid contradicts this.

The Commission itself points to the risk of carbon leakage in its proposal (para. 351): *"For certain economic sectors which are particularly exposed to international trade and rely heavily on electricity for their value creation, the obligation to pay the full amount of such levies can create a **significant additional burden**. This burden can heighten a **risk of activities in these sectors moving outside the European Union** to locations where environmental disciplines are absent or less ambitious."*

Furthermore, the Commission points out that reductions for energy-intensive enterprises are also necessary for their comprehensive electrification (recital 351): "*In addition, such levies increase the cost of electricity compared to the cost of direct emissions and can therefore **discourage the electrification of production processes**, which is central to the successful decarbonisation of the Union economy. To mitigate those risks, Member States can grant reductions from such levies for companies active in the economic sectors concerned*."

Unfortunately, the Commission fails to take these aspects into account when proposing the criteria for sectors eligible for aid.

We believe that a revision of the proposals is urgently needed to prevent the migration of energy-intensive companies in the plastics industry to countries outside the EU. First of all, it should be made clear in the guidelines that the EU's tightened climate protection targets require an expansion - and not a dismantling - of carbon leakage protection. Approvals already granted for aid in the form of reductions in electricity levies for energy-intensive companies should be grandfathered on the basis of the existing state aid guidelines. This should be explicitly clarified in the new guidelines in order to give companies legal and planning certainty.

2. Lack of basis for proposals and lack of impact assessment

In addition, the Commission has so far presented **neither a justification** for the tightened thresholds for trade and electricity intensity nor for the massive reductions in the economic sectors eligible for aid in the positive list. In this respect, there is the impression that these criteria were set arbitrarily. An **impact assessment is also completely missing**. In view of the considerable economic impact on the affected companies, we call on the Commission to first present a justification of its proposals regarding new thresholds for trade and electricity intensity as well as the associated reduction of the list according to Annex I to the EEAG. Furthermore, the Commission should carry out a comprehensive impact assessment of the proposals.

In addition, the international competitive pressure on energy-intensive companies is only incompletely reflected by the criterion of trade intensity. This is because it lacks consideration of industry- and product-specific characteristics, such as the transportability and interchangeability of a product together with the associated price sensitivity of the market. These aspects are absolutely necessary for a correct representation of the competitive intensity of an industry.

Plastic products and recyclates are to a large extent interchangeable and very transportable due to their low weight. Therefore, the price sensitivity of the market for plastic products and recyclates is usually very high. Competitors with production sites outside the EU are therefore very easily able to compete with companies within the EU on the internal market. Our member companies are confronted with this kind of competition on the domestic market on a daily basis. The competitive disadvantage of European plastics converters and recyclers due to the increase in electricity costs is clearly underestimated in the proposed guidelines. Import competition is insufficiently taken into account by the measure of trade intensity, as the price sensitivity of the market is not taken into account. A tightening of the trade intensity criterion will therefore have a much stronger negative impact on the industry than anticipated.

In addition, if recyclers were to move to countries outside the EU, control over high-quality waste processing would be lost, to the point that it would not be possible to reliably prove how much plastic waste is actually contained in the recyclates imported from outside the EU. It could also be the case that the necessary capacities for plastic waste processing are not made available, because the business model would then no longer be viable.

We consider it imperative that the Commission puts its proposals on a scientific basis, provides a justification for the changes and presents a comprehensive impact assessment. The energy-intensive economic sectors of the plastics industry with NACE codes 22.22, 22.23, 22.29 and 38.32 should definitely be included in the list according to Annex I of the CEEAG. Furthermore, industry- and product-specific characteristics of the respective sectors should be taken into account in the eligibility criteria.

II. Additional burdens and eligibility requirements

Plastic processing companies, which according to the proposal should continue to be eligible for aid, such as manufacturers of *plastic plates, sheets, tubes and profiles* (NACE code 22.21), are also significantly affected by the Commission's proposals: In particular, the increase of the future deductible from 15% to 25% of the costs from electricity levies combined with the capping of costs at 1.5% of gross value added (instead of 0.5%; so-called "*cap*") **significantly weakens carbon leakage protection** for the affected companies instead of strengthening it. The additional financial burdens associated with the proposals are in clear contradiction to the objectives of the EU Commission's "*Fit for 55*" package of measures and the CEEAG itself, according to which the "electrification of production processes" is expressly to be of central importance (cf. recital 351 of the CEEAG; in this respect also: Communication of the EU Commission of 14 July 2021, "*Fit for 55": towards climate neutrality - implementing the EU climate target for 2030*", COM(2021) 550 final).

In addition, the now clearly limited relief options according to section 4.11.3.4 are linked to considerable counter-performance by the company entitled to the aid, which further increases the administrative burden and thus jeopardises the maintenance of competitiveness: The beneficiary of a corresponding aid should not only carry out an energy audit within the meaning of Article 8 of Directive 2012/27/EU, but the beneficiary companies should also implement one of the following requirements in the course of this (cf. para. 365):

1. Implementation of all recommendations of an energy audit, as long as the payback period for the relevant investments does not exceed 3 years and the costs for their investments are reasonable,
2. Reducing the "carbon footprint of electricity consumption" so that at least 30% of own electricity demand is covered by CO2-free energy sources, or
3. Investment in '*significant*' proportion of at least 50 % of the aid amount in projects that lead to a significant reduction of greenhouse gas emissions from the installation; where applicable, this investment should lead to reductions well below the relevant benchmark used for free allocation in the Union emissions trading scheme.

We reject the proposals to limit the reductions in electricity levies and to earmark the reductions because these reductions are urgently needed to maintain the competitiveness of energy-intensive companies.

28 July 2021

The **bvse - Bundesverband Sekundärrohstoffe und Entsorgung e.V. (Federal Association for Secondary Raw Materials and Waste Disposal)** represents the interests of about 950 waste disposal and recycling companies, which employ about 50,000 people and generate a total annual turnover of € 10 billion. All specialist sectors of the recycling and disposal industry are represented in the bvse.

The **GKV - Gesamtverband Kunststoffverarbeitende Industrie e. V. - is** the umbrella organisation of the German plastics processing industry**.** As an umbrella organisation, it bundles and represents the common interests of its member associations and acts as a mouthpiece towards politics and the public. With an annual turnover of around € 61.5 billion and 322,000 employees in over 3,037 companies, the plastics processing industry is one of the most important economic sectors in Germany.

PlasticsEurope Deutschland e. V. is the association of plastics producers in Germany. We are a trade association of the German Chemical Industry Association (VCI) and part of the European PlasticsEurope network with representation in Brussels and the European economic centres and capitals. We represent more than 1.5 million people in about 55,000 companies across the EU.

The **VDMA - German Plastics and Rubber Machinery Association** is the interest group of more than 200 European manufacturers of plastics and rubber machinery. It represents over 90 percent of the industry companies in Germany. Ten percent of our members come from Austria, Switzerland and France. The German member companies represent a turnover of 7 billion euros in core machinery manufacturing and 10 billion euros including peripheral technology.