



Climate Action Network (CAN) Europe is Europe's leading NGO coalition fighting dangerous climate change. With over 170 member organisations from 38 European countries, representing over 1.500 NGOs and more than 47 million citizens, CAN Europe promotes sustainable climate, energy and development policies throughout Europe.

CAN Europe feedback to the Commission's call for contributions

Competition Policy supporting the Green Deal

Submission by CAN Europe, November 2020

To ensure the Competition Policy's alignment with the European Green Deal, the state aid regime must be revised, taking the Union's 2050 climate neutrality and new 2030 GreenHouse Gas (GHG) emission reduction targets, as well as zero pollution and circular economy strategies into account. The Green Deal alignment should be reflected on all state aid regulations and not only on those for environmental protection and energy. Current state aid regime contradicts with the European Green Deal objectives primarily through its link with the EU ETS free allocation and indirect cost compensation mechanisms; by neglecting to factor in external costs such as climate, pollution, environment and health; by providing subsidies to unprofitable fossil fuel companies to continue operating until their business-as-usual closure dates. Although there are other aspects of the Competition Policy that can align better with the European Green Deal, this feedback focuses on the three above-mentioned aspects of the current state aid regime, with some supportive examples.

1) The revised state aid regime must align the mechanisms linked to the EU ETS with the European Green Deal objectives.

There are two main state aid mechanisms linked to the EU ETS: free allocation and indirect cost compensation. There is a need to revise these state aid mechanisms as supporting major polluters contradicts with the climate neutrality and zero pollution objectives of the European Green Deal. The current practice of insufficiently targeted and overgenerous handout of free pollution permits mainly to industrial installations mitigates urgently needed decarbonisation incentives and is a major obstacle on industry's path towards climate neutrality. In a recent report, the EU Court of Auditors¹ has recommended a more targeted distribution of free allowances in order to address

¹ ECA (2020). Special Report. The EU's Emissions Trading System: free allocation of allowances needed better targeting. https://www.eca.europa.eu/Lists/ECADocuments/SR20_18/SR_EU-ETS_EN.pdf

the risk of carbon leakage, while benefiting decarbonisation, reducing windfall profits, and (by increasing the share of allowances auctioned) improving public finances.

The 2020 guidelines for compensating for indirect costs are also problematic: overly generously subsidizing energy inefficient producers (including over producers of more energy-efficient substitutes), without meaningful conditions to ensure the subsidies have climate co-benefits. These state aid schemes clearly do not comply with the stated goal of EU competition rules to 'encourage firms to produce at the lowest cost, to invest efficiently and to innovate and adopt more energy-efficient technologies". Indirect cost compensation even causes an equity and cohesion concern by distorting the internal market - and does not have any incentive effect. Some cases, including a compensation recently approved by the Commission in Czechia², need to be further monitored as updated rules will come into effect.

2) Any state aid for coal phase out shall be in line with the EU's climate neutrality and zero pollution objectives.

The ongoing assessment of the state aid scheme for Germany's coal operators will set an example for the accelerated coal phase out in the power sector. Whether it will be a good or bad example depends on the decision's level of consideration of the Union's climate neutrality and zero pollution objectives.

Germany's Coal Commission has proposed closing hard coal and lignite power plants by 2038 latest (and by 2035 earliest). It recommends compensating operators of lignite plants that close by the end of 2030. According to contracts for lignite phase-out with the German government, RWE is in line to receive 2.6 billion Euros and LEAG/EPH is to receive 1.75 billion for the closure of units prior to 2030. The calculation methodology has not been made public to this date, despite several inquiries by Civil Society Organizations in Germany. Since the German Constitution is unlikely to require compensation for lignite operators, this is likely to be a State aid. Germany has by far Europe's largest coal fleet – its plants have a total capacity of around 46.5 GW, with Europe's next biggest coal player being Poland at around 29.5 GWe. And it is one of the three EU Member States who have a significant coal capacity in the power sector by and beyond 2030.

The German lignite fired power plants are already unprofitable³. Decrease in the costs of renewables and increase in carbon prices put even more pressure on the profitability of these plants. The non-transparent, flat-rate compensation will promote business as usual for the lignite operators, in some cases it will even cause prolonging operation⁴. Therefore, any state-aid given to these plants to close by 2030 would be a subsidy for coal which would extend the economic lifetimes of the coal plants neglecting the market dynamics, setting a wrong incentive to slow-down coal phase-out in Germany and in other countries.

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https://ec.europa.eu/info/news/state-aid-commission-approves-compensation-energy-intensive-companies-czechia-indirect-emission-costs-2020-nov-10_en

³ Sandbag (2019). The cash cow has stopped giving: Are Germany's lignite plants now worthless? <https://ember-climate.org/wp-content/uploads/2019/07/2019-Cash-Cow-report-1.3.pdf>

⁴ <https://eeb.org/library/letter-to-the-european-commission-on-german-state-aid-for-coal-phase-out/>

The common interest behind the German coal operators' state aid is justified as GHG emissions reductions. However, if the European Commission allows the current state aid scheme for German lignite operators, it will set a bad example by not basing the common interest on the 2030 and 2050 GHG reduction targets of the EU. Utilities in other member states, which are more dependent on coal and less wealthy than Germany, will then demand similar schemes to tap into subsidies for their unprofitable and unsustainable coal infrastructure. This will postpone the EU's coal phase-out beyond 2030 and thus, will be against the EU's commitment to the Paris Agreement's goal to limit global temperature increases at 1.5C degrees. It will also give a wrong signal about the efforts to reach the European Green Deals 2050 climate neutrality target, and new 2030 climate targets as its intermediary step.

New climate targets: The European Commission proposes an EU-wide net greenhouse gas (GHG) emissions reduction target of at least 55% by 2030, compared to 1990 levels. This target puts the EU on a balanced pathway to reaching climate neutrality by 2050⁵. The new climate target will have implications for changes in various pieces of legislation; and there is no reason that the internal market and competition rules would remain as is.

The Paris Agreement: In order for the EU to fulfil its commitment to the Paris Agreement's goal to keep global temperature rises at 1.5C, coal power should be phased out in 2030⁶. Germany, the current president of the European Council, is a wealthy and industrialized country that needs to set a good example for the other Member States.

Zero pollution: The European Green Deal includes a commitment to a zero-pollution ambition for a toxic-free environment. Coal plants are major contributors to toxic pollution by emitting SO₂, NO_x, Mercury and dust. German coal plants to continue polluting as they do now, with high amounts of state aid money, contradicts with the zero pollution goal. Air, water, soil pollution and public health should be taken into account as external costs and required to be included in the calculation of the demanded state aid.

Just transition: The sooner systematic coal phase out plans are put in place, the better for local communities to go through a just transition. Moreover, with the new 2030 emission reduction targets, and the pieces of legislation to make that happen (e.g. higher carbon prices), current national coal phase out plans will either get adjusted, or unprofitable plants and mines will have to shut down earlier than envisaged. If state aid is given for German coal operators, then it needs to ensure supporting an early (not Business as Usual) phase out, the inclusion of negative externalities in the assessment of the amount, and require systematic and inclusive regional just transition plans for a successful, just and fair transition away from coal.

3) **The revised state aid regime must factor in the external costs and the scale of deployment of energy sources.**

⁵ State of the Union (September, 2020).

https://ec.europa.eu/commission/presscorner/detail/en/QANDA_20_1598

⁶ https://climateanalytics.org/media/report_coal_phase_out_2019.pdf

As mentioned earlier, without factoring in climate, pollution, health and environmental impacts as external costs, the state aid regime will lack the fundamentals of alignment with the European Green Deal. State aid schemes for forest biomass is a good example of the potential damaging impacts of extensive support to forest biomass, when given without assessing the external costs and scale of deployment. The revised state aid regime must take into account the European Green Deal's cost-effective transition to climate neutrality by 2050 and a more circular, efficient use of limited natural resources when support to biomass is considered.

The net carbon impact of the use of forest biomass is understood to depend on many factors, including scale of deployment and resulting harvest levels, the type of feedstock used, the efficiency of energy conversion, and counterfactuals, among others. According to the European Environmental Agency, reported emissions from biomass combustion between 2005 and 2016 increased from 352 MtCO₂ to 566 MtCO₂, exceeding emission levels from the agricultural sector⁷. Both under the current framework and the one for the period until 2030, greenhouse gas emissions are not fully internalised by EU policies. At best, this reveals an incoherence between aid to biomass and the rationale for State aid in the area of renewables. At worst, this compromises the objective of common interest and the presumed market failure that aid for biomass attempts to address. Negative externalities of forest biomass use for energy production are closely related to the scale of its deployment.

While renewables overall improved air quality, biomass burning increased pollution since 2005, notably in the heating/cooling plant sector, because of increased levels of NO_x, PM₁₀, PM_{2.5} and VOC emissions⁸. Air pollution is considered the biggest environmental risk to health in the EU.

The main rationale for State aid for renewable energy production is to increase the level of environmental protection by compensating for the benefits of renewable energy for as long as the external costs of energy are not effectively priced in. In the current state aid regime, the scale of biomass deployment and its effect on wider environmental, climate and energy objectives are not considered.

⁷ European Environment Agency (EEA, Report No 15/2019)

⁸ Zuidema, Linde (2020).

https://cadmus.eui.eu/bitstream/handle/1814/68737/LAW_2020_13rev1.pdf?sequence=5&isAllowed=y