



EDF POSITION – Competition Policy supporting the Green Deal- Call for contributions

As input to the debate on how State aid control and environmental and climate policies work together – and how they could do that even better, please consider the following questions:

1. *What are the main changes you would like to see in the current State aid rulebook to make sure it fully supports the Green Deal? Where possible, please provide examples where you consider that current State aid rules do not sufficiently support the greening of the economy and/or where current State aid rules enable support that runs counter to environmental objectives.*

1. **Objective of common interest**

In order to be on line with the European green Deal, the revised EEAG must identify the overarching **objective of common interest** as “**make the European economy sustainable by transforming the climate and environmental challenges into opportunities in all the fields of action while guaranteeing a fair and inclusive transition for all**”, thus going beyond the mere 2030 targets and the further decarbonisation of the economy by 2050. In fact, the revised EEAG scope should also allow for aids for the deployment of technologies which contribute to the development and more efficient utilisation of decarbonised energy.

Moreover, in the wake of the lessons from the recent traumatic events and effects of the COVID-19 pandemic, the objectives of supporting the EU economic recovery post pandemic and ultimately enhancing resilience and supply independence should also be reckoned as objectives of common interest also in the revised EEAG. In particular, it is recommended that, in line with the European Commission’s White Paper on the Review of Foreign Subsidies, it is essential to ensure that future State aid be absorbed at EU level in a lasting fashion – i.e. to develop the competences, technologies (i.e. the patents and IP rights), jobs and value-added – to enable the EU industry to be resilient on the global market and avoid that public EU funds actually end up favouring productions located outside the EU. This objective should be reiterated in the preamble of each section of the EEAG as it must be the yardstick against which all aid measures should be ultimately gauged.
2. **Fundamental general principles**

To provide further clarity and certainty, the revised EEAG should reassert the essential principles, that will guide the assessment of the proposed aid measures including *inter alia*:

 - i. **Technological neutrality**: In light of Member States’ prerogatives to define their energy mixes, the EEAG should:
 - a. Recognise that Member States can support all the technologies that can contribute to the attainment of the targeted objective of common interest
 - b. Shift approach and rather than require by default the holding of market wide auctions, the **EEAG should in fact reckon that technology specific auctions are warranted as the default option to determine the bespoke support levels needed by the different technologies in light of their specificities and scalability**. This would give Member States and eligible technologies the required flexibility to diversify the energy mix, ensure security of supply while maintaining a competitive drive to lower costs per technology.
 - c. Reckon that auctions supporting the investment in new assets independent of their nature favour only the most competitive technologies thereby crowding out alternative ones. Hence, in the absence of alternative technologies with comparable costs, such a crowding-out outcome runs counter to the

technological neutrality principle and to Member States' prerogative to define their energy mixes. Hence, the EEAG should factor the fact that technology-neutral auctions to support new assets should be the exception and used in the feasible marginal cases. In fact, Member States should be able to set targets by type of technology. Moreover, such an approach would enable Member states to achieve positive externalities which are not duly factored by market wide competition, notably in terms of energy independence, security of the system, local jobs and economic resilience of Member States.

- ii. **Member States' prerogative to define their Energy mix pursuant to Article 194(2) TFEU and subsidiarity:** The revised EEAG should recall that in devising their measures to attain the objective of common interest, Member States retain the aforementioned prerogative conferred by the Treaty. **Subsidiarity:** In line with Member States prerogatives to define their energy mixes, by extension to the former principle as well as pursuant to the subsidiarity principle set forth in Article 5 TEU, they are also responsible to define and measure the adequacy and security of energy supply based on their own appreciation of scenarios and risks. Moreover, whereas the Clean Energy Package provides for a coordinated adequacy assessment at EU level, it is noted that in line with EU case law **Member States should remain free to have more stringent requirements than those set at EU level, which should act as minimum requirements.** Such a principle is all the more important in view of the increased variability of supply and flexibility of demand that will unfold in the future alongside the economic and investment uncertainty that will have national and infra-national specificities.
- iii. **Carbon neutrality and affordability:** These two principles, which are also at the heart of the EU objectives, require that the actions and measures that will be deployed by the EU and Member States to attain the objective of common interest are sustainable. **This sustainability** does not only concern public finances **but the EU and Member states must create a virtuous framework in which consumers pay a reasonable price for the decarbonised services while undertakings earn a profit commensurate to the risks and associated long-term needs to maintain the investments in viable conditions to support the security of supply requirements. This holistic sustainable approach is crucial to obtain the much-needed investments and the associated investor confidence.**
- iv. **Feasibility:** In order to limit the "bargain" or "band wagon" effects (and their consequent unwarranted inflationary effects) and to catalyse the much-needed investments to meet the complex and formidable challenges associated to the overarching EU decarbonisation objectives *lato sensu*, the revised EEAG should:
 - a. Facilitate the reliance on Public Private Partnerships, Private Partnerships that authorize to share the risk and then to decrease the cost of capital which is the most crucial parameter for ensuring a cost optimised decarbonisation regarding the capital-intensive immobilisation from up to downstream that will be needed for decarbonizing the economies.
 - b. Allow, in line with the Clean Energy Package, the utilisation of long-term Purchase Power agreements (PPA)
 - c. Where possible, facilitate the streamlining of permitting processes at national level to increase the number of sites availability to undertake the required projects
- v. **Short-term efficiency:** subsidy schemes should be designed so that they do not incentivize inefficient dispatch decisions. In particular, future subsidy schemes to generation units should be withheld when energy prices are lower than the variable costs of the units (e.g. in case of negative prices for RES generation).

2. If you consider that lower levels of State aid, or fewer State aid measures, should be approved for activities with a negative environmental impact, what are your ideas for how that should be done?

- a. For projects that have a negative environmental impact, what ways are there for Member States or the beneficiary to mitigate the negative effects? (For instance: if a broadband/railway investment could impact biodiversity, how could it be ensured that such biodiversity is preserved during the works; or if a hydro power plant would put fish populations at risk, how could fish be protected?)*

EDF considers that state aids should be proportionate to the targeted objective of common interest. Any reduction of a state aid in this regard would lead to missing out the objective. In case of externalities, EDF considers they should be addressed with an independent adhoc measure that accurately reflects their impact.

3. If you consider that more State aid to support environmental objectives should be allowed, what are your ideas on how that should be done?

- a. Should this take the form of allowing more aid (or aid on easier terms) for environmentally beneficial projects than for comparable projects which do not bring the same benefits ("green bonus")? If so, how should this green bonus be defined?*

EDF considers that state aids should be proportionate to the targeted objective of common interest. Any increase of a state aid in this regard would lead to overshooting the objective. This would be an issue as many other mechanisms (or investment decisions, e.g. in network development) are based on scenarios featuring the achievement of the objective but no overshoot. A bonus could therefore trigger significant additional costs.

- b. Which criteria should inform the assessment of a green bonus? Could you give concrete examples where, in your view, a green bonus would be justified, compared to examples where it would not be justified? Please provide reasons explaining your choice.*

We do not support the introduction of a green bonus or a brown malus in the state aid guidelines. The assessment of the objective of common interest, i.e. the Green Deal should be the core principle and should guide the Commission in its authorisation process. By introducing a bonus/malus system, there is a high risk of implementing bureaucratic or arbitrary assessment schemes leading to substantial market distortions.

The revised EEAG should rather explicitly build on the following principles and integrate them in the preamble and EEAG text:

- i. **Common interest objective:** The revised EEAG underline that proposed aid measures should contribute to the

attainment of the redefined objective of common interest referring to the Green deal 2, which must have a wider scope than merely increasing renewable energy generation and consumption since this narrow definition would not only be in contradiction with the European Green Deal but it would also fail to include in the EEAG scope the additional means to enable member States and the EU to attain the overarching decarbonisation objective of common interest. **Accordingly, the revised EEAG should have a broader scope to cover all the eligible projects and technologies that contribute to the effective and efficient decarbonisation of the EU economies - from decarbonised and efficient energy generation, to supply flexibility and adequacy solutions (energy storage solutions, carbon capture storage), to energy integration, to demand optimisation solutions across sectors (ground/air/maritime mobility, heating and cooling) – also through the adoption of ICT/AI technologies that enhance the efficient utilisation of decarbonised energy.**

- ii. **Necessity of the aid:** In line with the European Commission’s general approach the **necessity for State intervention also arises when market failures are identifiable**. Contextually, it is underlined that the market failure notion must have a wider definition. In fact, it is common ground that Member States should be able to support projects which would be considered as having a lower investment attractiveness/potential for investors but which would in fact enable Member States to attain their carbon neutrality objectives while at the same time catering for the diversification and security of supply. This wider approach would enable Member States and the EU at large to reduce the costs of alternative projects to make them attractive, rather than putting all the resources on the most cost effective/mature projects. In turn, this will widen the scope of decarbonisation projects being implemented, thereby absorption of funds by EU projects promoted by EU companies, but it will also catalyse the substantial amount of investments needed for the EU economic recovery and resilience.
- iii. **Incentive effect:** In line with EU case law and with the current EEAG, this condition should continue to be considered as being met when it can be documented that the granting of State aid changes the beneficiary’s behaviour.
- iv. **Aid instruments:** In line with its decision-making practice, validated by EU case law, the revised EEAG should not limit the admissible aid instruments that could be devised to support the projects contributing to the realisation of the identified common objective. In fact, by way of illustration, experience has shown that the European Commission accepted *ex post facto* to move from the initially devised Feed-In Tariffs subsequently to Feed-In Premiums and lastly to variable feed-In Premiums in the form of Contracts-for-Difference. **Accordingly, the revised EEAG should not be restricting the potential aid instruments, in order to allow for the use of innovative and cost-effective instruments to be devised. The revised EEAG should explicitly foresee the possibility for Member States to propose novel instruments which allow for an adequate allocation of costs and risks between beneficiaries and Member States while meeting the proportionality requirements.** The state aid guidelines should not introduce rigidity by defining state aids through stiff categories such as investment or operating costs. Such an approach is also warranted in order to allow Member States to give investors the required visibility on risk, costs and revenues allocation in order to rebuild the required short/medium/long-term incentives and ability to price the flexible and sustainable energy in a competitively effective way.
- v. **Proportionality:** In line with its practice in other sectors, such as the postal sector, the European Commission revised EEAG should limit the proportionality assessment based on the LCOE only. In fact, it is common knowledge that the LCOE does not capture all of the factors that contribute to actual investment decisions, making the direct comparison of LCOE across technologies problematic and misleading as a method to assess the economic competitiveness of various investment alternatives, not only in generation. Therefore, **the revised EEAG should allow for the use of avoided costs methodologies and full systems costs factoring methodologies to better assess the proportionality of State interventions.** By way of reference, the types of Cost Benefit Analysis utilised in connection with Projects of Common Interest (“PCI”) under the TEN-E programme offer an interesting reference point for the revision of the EEAG. Ultimately, the factoring of all the relevant costs will enable Member States to support projects the projects, not only that have the lowest costs, but more importantly decide to support also other projects that contribute to carbon neutrality objectives while addressing the security and diversification of energy supply. Such an approach will also play an important role to boost EU recovery and resilience.

- vi. **Flexibility:** The revised EEAG should have an embedded flexibility in order to enable Member States to swiftly introduce changes to measures in case these should become counterproductive to the member State's efforts to attain the EU's climate change objectives. For example, it is noted that the applicable ceilings for renewable heat projects have become detrimental on account of the substantial decrease of fossil energy prices, as these ceilings prevent the renewable heat projects from attaining the minimum competitiveness levels when gauged against alternative options (gas heaters).

Further more, the General Block Exemption Regulation (GBER) has been playing a key role in supporting the transition towards a low-carbon economy. We nonetheless consider that its revision could allow to better support the greening of the economy by implementing the following changes:

- **Aid Intensity for Research and Innovation:** Regarding the support to research and innovation projects (GBER, Article 25), the aid intensity is limited to 25% under the "experimental development" category, a very low rate when compared to the aid intensities defined by European funding programmes for activities at similar technology readiness levels (70% in H2020 for Innovative Actions, 50% in CEF for pilots, 60% in Innovation Fund, 55% in LIFE). We consider that this aid intensity should be increased to at least 50% to foster the implementation of demonstration or pilot projects in real environment. Such projects need financial support to bridge the gap between earlier stages (low CAPEX, in simulated environment) and latest stages of technology development (high CAPEX, in real operating conditions), helping to derisk promising innovative solutions.
- **Eligible costs:** We consider that costs considered as eligible by the GBER should not only cover capital expenditures but also operational expenditures, as projects also face major technical risks during their operation phase.
- **Thematic scope:** Regarding the scope of the GBER, we consider that the topics defined (local infrastructures, environmental protection, etc.) should be reviewed to better take into account new activities that emerged together with the evolution of the energy markets, such as storage, hydrogen, aggregation, flexibility. Such activities are not directly addressed by the current GBER architecture, creating uncertainties for beneficiaries. Besides, support to energy recovery (including fatal energy from residual waste) should be reinforced and aligned with the mechanisms related to renewable energy.

4. How should we define positive environmental benefits?

- a. *Should it be by reference to the EU taxonomy³ and, if yes, should it be by reference to all sustainability criteria of the EU taxonomy? Or would any kind of environmental benefit be sufficient?*

We do not support the alignment of state aid guidelines with the taxonomy as the state aid should be assessed case by case taking into consideration the common interest objective. A mechanic link to the taxonomy should be avoided.