Veolia contribution to the Call for contributions regarding the EU Competition Policy supporting the Green Deal

answer to Competition Policy

Veolia group is the global leader in optimized resource management. With nearly 178,780 employees worldwide, the Group designs and provides water, waste and energy management solutions that contribute to the sustainable development of communities and industries. Through its three complementary business activities, Veolia helps to develop access to resources, preserve available resources, and to replenish them.

In 2019, the Veolia group supplied 98 million people with drinking water and 67 million people with wastewater service, produced nearly 45 million megawatt hours of energy and converted 50 million metric tons of waste. Veolia Environnement (listed on Paris Euronext: VIE) recorded consolidated revenue of €27.189 billion in 2019 (USD 29.9 billion).

Veolia welcomes the Commission's initiative to update the competition policies so that they aim to transform the EU into a fair and prosperous society. Indeed, the competition policy, if well designed and implemented, has the greatest potential to deliver the most efficient outcomes to the benefit of consumers. It can be a powerful tool to accelerate the transition, promote innovation and bring down the cost of new technologies.

One of the key elements of the EU competition policy is its state aid framework and in particular the

Energy and Environmental Aid Guidelines (EEAG) and General Block Exemption Rules (GBER). In order to become the first climate neutral continent by 2050, these state aid rules will need to be revised and aligned with the priorities and objectives of the Green Deal, to enable the maximum number of sustainable projects to be deployed. The aim is to simplify the rules, correct ineffective ones and make them more ambitious where possible. The revision process ensures that competitive markets support the transition and that there is sufficient public capital backing it.

We would like to focus our contribution on this specific aspect and tackle 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.

Overall, we find the existing framework applying to energy and environmental projects is fit for purpose. Hence, the overall approach of the current framework should be maintained. In particular, the essential rule that state aid should be granted at the minimum level necessary to address market failures and trigger investment decisions should be preserved to ensure that market distortions are minimized. For the next period (between 2021 and 2030) we would like to propose for consideration the following improvements:

- *Revised state rules should abide by the principle of "Energy Efficiency First"*

This is because the best energy is the one you do not need neither to produce nor use. Energy efficiency should be the first fuel of our economy, and EEF a driving principle of all EU policies, including energy, climate, circular economy and competition policy.

In the field of energy, energy efficiency actions are often, if not always, a crucial prerequisite for actions to switch from fossil fuels to renewable energy. By reducing the energy demand, EEF also helps evaluate the need for investment in generation capacity and optimise the size of infrastructure needed and the resulting size of the investment. By doing so, the application of EEF allows to avoid future stranded assets and suboptimal use of public funds.

- *The need for simplification of the state aid regime for energy and environmental purposes*

For the purpose of this consultation, we have carried out extensive interviews with our business unit across the European Union. What appears to be a significant issue in some countries of Central Europe, in particular Bulgaria and Poland, is the perceived complexity of existing state aid rules which end up by blocking the development of potentially virtuous projects. One example that was provided to us was the waste to energy plant in construction in Sofia since 2015 which has been stalled because of main uncertainty regarding the way the state aid rules should be applied to it. Public authorities also struggle with understanding and deploying the rules. The call for greater simplification, clarity and transparency was hence formulated, and the need for assistance towards local and national administration from the EU in this particular area. This need is also identified in the Fitness Check of the State aid architecture according to which "certain specific rules may need revision and/or update, including clarifications,

further streamlining and simplification".

- *The existing differentiation in aid intensities between small, medium and large companies might be outdated and deliver suboptimal results in terms of the Green Deal objectives*

The existing Energy and Environmental Aid Guidelines (EEAG) introduce clear differentiation in aid intensitive depending on the size of a receiving entity and given activity (see annex I). As much as this rule can be justified by the fact that bigger companies have a facilitated access to financing resources and thus less need for public support, there are two reasons this rule might need to be reconsidered and relaxed:

- In the current context of Covid 19 crisis, all companies are similarly affected by the economic downturns and will therefore have difficulties accessing financing, in particular for deployment of very much needed green projects;
- As we could see it in countries such as Romania and Bulgaria, faced with enormous problems of absorbing existing funding sources from the EU, large companies have the capacity to deploy a significant share of viable projects helping absorption rate of those remaining funds;
- Large companies are capable of delivering large scale projects which will have the greatest impact in terms of scale, pollution reduction, and creating local employment.

Therefore, reducing the differences between aid intensities for small, medium and large companies would be a step in the right direction, as well as making sure the latter still can have access to grant-based mechanisms, especially in the current post COVID 19 context. This recommendation reflects the fact that economic and environmental parameters of the project depend largely on the quality of the project and not on the size of the enterprise and its capacity to access finance.

- *The role of energy services should be better recognised in the revised SA framework*

The role of energy services, and more specifically of performance-based contracts, need to be better recognised in the State Aid rules, as they are already in the Energy Efficiency Directive and the Energy Performance of Buildings Directive as well as in the EU Renovation Wave. The main benefits of those Energy Performance Contracts (EnPCs) are: contractually guaranteed results, actual and verified energy savings/performance energy management over time to keep energy performance and savings. Their status in the energy efficiency section should be clearly established and rules applied to support of this type of investment well defined.

- *The framework should be adjusted to better support investments in District Heating Networks*

The Green Deal will call for more active policies to deploy the use of renewable and waste heat to substitute the outdated direct use of fossil fuels. In line with the 55% objective of CO2 reduction by 2030, the Commission's Renovation Wave initiative estimates that the share of RES/Waste heat should reach 38-42% by 2030 – against 21% today. This will mean strengthened efforts for heating and cooling sector decarbonisation, which represents today close to 50% of energy consumption.

District Heating Networks have a particularly important role to play in the process of the heating sector decarbonisation. They allow us to mobilise energy efficient solutions, in particular with regard to the

recovery of waste heat, and locally available renewable energies. They are, by far, the first renewable energy vector for heating and cooling.

Efficient DHC that will need to be further deployed in the future to shift the heating market towards the use of renewable sources, waste heat and high efficiency CHP. The Commission Communication on system integration (July 2020) highlighted the critical role of heating infrastructure to support cross-sector integration and participate in the decarbonization of the energy system; it also refers to the need to provide financing for flagship projects.

- In light of the above, there might be a need to reconsider whether **current aid intensities are set at a level suitable to support the transition towards a sustainable heating and cooling sector in line with the objectives of the Green deal**. Indeed, current aid intensities might become insufficient, in case gas prices in the residential sector continue to decrease, there is still no EU-wide CO2 taxation for fossil fuels used in individual heating, and fossil fuels subsidies in some member states are still in place. The maximum intensity for DHC should be set at a level that give Member States the possibility to adapt the degree of support needed for their development and further greening, making them attractive against other solutions that are not as efficient or virtuous, taking into account the fact that a number of positive externalities are not factored in their price. This level should allow Member State to adjust the support mechanism with the reactivity needed in a context of rapidly changing energy prices.
- The same applies to **the potential review of notification threshold set at €20 million in GBER article 4 (w).** Given increased inflation rates since when this threshold was defined (in 2013) and the more capital-intensive nature of the new generation of District Heating and Cooling networks, higher investments will be necessary as densification of networks is always more costly than early-stage deployment and focus on areas more difficult to reach with typically a higher number of smaller customers. Hence, the threshold should be adjusted upwards to facilitate deployment of projects without the need of going through the notification procedure.
- Not only the modernization or greening of DHC networks needs public support, but also their development: creation, extension and increased density. In addition, State Aid rules should continue to support projects aiming District Heating and Cooling (DHC) networks to become efficient, under the EED definition, provided that there is a clear 5-year trajectory to implement the project's commitment and foreseen final result.

- *In-house undertaking managed by public authorities should not perceive state aid that would provide them a competitive advantage as compared to private companies*

We have identified the risk of distorting competition on the market stemming from the fact that in some cases in-house undertakings attached to municipalities (in France, it is the case of Entreprises Publiques Locales, and Stardwerke in Germany) and which provide public services (in the field of water, heating and/or waste collection) sometimes benefit from the status of SMEs. Given that, they can claim higher state aid intensities than their direct competitors.

In addition, when those in-house undertakings offer services outside of their scope of activity and to

other municipalities, they can benefit from contract attribution without a due competitive bidding process that is required for any other entity. If such undertaking benefits from some form of state aid, it strongly distorts the competition.

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?

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 would like to propose several options for defining potential bonus or easier access to aid, depending on the following criteria or types of activities

- *Given numerous advantages of Energy Performance Contracting, there should be a bonus defined in the State Aid rules for the energy efficiency projects based on an energy guaranteed performance*

That would be consistent with EU regulatory provisions recognising the benefits of such contractual guarantee. As an example, the Directive 2018/844 on Energy Performance in Buildings exempts, in its article 14.2, from certain obligations the "technical building systems that are 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, or that are operated by a utility or network operator and therefore subject to performance monitoring measures on the system side". This bonus could be under the form of an increased aid intensity. That would be fully in line with the Energy Efficiency First principle. The criterion to define this green bonus should be the guarantee of the savings/performance, measured and verified, over time.

- *Bonus for projects with significant benefits beyond economic and environmental aspects*

Projects which in addition to result in significant CO2 reduction potential, also benefit the community in terms of proven job creation potential as well as positive externalities such as contribution to decreased energy poverty should be subject to bonification/easier access to funds. This will reflect the need to change the competition rules to align them with the imperative of economic recovery that must be inclusive and target the most vulnerable stakeholders.

Last but not least, additional criteria to be taken into account for increased aid intensity should include the capacity of a given project to contribute to the smart sector integration process at the level of a territory or at national level. This would include projects in the field of efficient district heating, and especially those using waste heat. We identified a need to provide incentives for development of waste heat projects that go beyond the existing framework (that is if the by-product would go wasted unless reused: the eligible cost is the extra investment necessary to use the by-product, for instance a heat exchanger in the case of waste heat).

- *Bonuses for projects developed in the framework of a district approach*

The reference to district approach was first introduced in the revised Energy Performance of Building Directive, in article 19 and became an integral part of the EU energy vernacular with the publication of the Renovation Wave. One of the sections of the strategy is indeed devoted to "Placing an integrated, participatory and neighbourhood based approach at the heart of the renovation wave" and described various advantages of proceeding through a local/district/neighborhood approach when planning for ambitious renovation efforts. Yet, this approach should be streamling and not limited to renovation only, but to energy planning in general. By doing so, we have an opportunity to best match optimized energy needs (achieved through renovation of buildings and increased energy efficiency in local industries) with better tailored energy supply (locally produced renewable electricity and low-temperature low carbon heat and cooling). Projects developed in the framework of district plans should therefore benefit from increased aid intensities in the form of a bonus.

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?

The reference to the EU taxonomy might be useful in case we want to define increased aid intensities in the form of a specific bonus. The revised state aid guidelines and rules should above all be coherent with the existing EU legislation and the legislation that will be adopted as part of the Green Deal, while any additional environmental criteria to be met should be the basis for defining an extra state aid regime.

The taxonomy indeed traces a path towards 2050 climate neutral Europe but is not well fitted to tackle current transition challenges across Member States. The recent National Energy and Climate plans have displayed the different pathways that Member States will take to realize the energy transition. Some member states and regions are still highly dependent on coal and will have to go through different stages of transformation to decarbonize their energy systems. Those NECPs as well as the compliance of the projects with objectives set in them, in addition to the most recent EU energy and environmental legislation should be the basis for evaluating the appropriateness of state aid granted to specific projects.

In addition, the EU taxonomy and resulting criteria have not been developed for assessment of projects, while the assessment of State aid cases is always focusing on individual projects and how they can help deliver a higher environmental protection considering national market conditions and energy mix, which differ across Europe. The EU taxonomy considers above all types of technologies and activities and this is because it has been initially developed as a classification tool aimed at investors, companies and financial institutions to define environmental performance of economic activities across a wide range of industries.

Last but not least, the taxonomy screening criteria for the two first objectives (climate mitigation and climate adaptation are still under discussion and have not yet been tested). The further four objectives (sustainable use and protection of water and marine resources; transition to a circular economy; pollution prevention control; and protection and restoration of biodiversity and ecosystems) will only be discussed

and elaborated next year. For those, the establishment of unambiguous quantified criteria is likely to be quite complex (unlike for climate related activities). This might lead to the definition of composite indicators that are much more difficult to operate, potentially complicating the rules applied to state aid. This goes against the genuine need for simplicity and clarity to guarantee a more strategic pragmatism in the application of state aid rules.