Competition policy and the Green Deal

Consultation response

November 2020

EUROPEAN ALUMINIUM

European Aluminium welcomes DG COMPETITION's Public Consultation on how EU competition rules and sustainability policies can better work together to achieve the European Green Deal. For this exercise, it will be crucial to balance the competitiveness and trade challenges we face across our value chain, both within Europe and globally. In this document, we provide answers primarily to the questions on state aid policy and environmental impact.

State Aid control

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.)*

- State aid rules are crucial to support the industry's competitiveness and enable industrial transformation, necessary to achieve a climate-neutral economy. Electrointensive sectors such as aluminium are dependent on a fully functioning and robust framework which allows to contribute to the objectives of the green transition while remaining competitive on the global scale.
- Global warming is not an EU internal-market problem, it is an international one. The greening of EU competition policy must thus consider the global competitiveness of European industry, not only internal market competition. Through its energy and climate policy, Europe is leading on international climate action, but its effort will have limited effect if not corresponded by an equivalent effort by other large nations or regions.
- By acting alone, European industry is suffering from added costs compared with its international competitors. Until a global level playing field is established, European industrial competitiveness needs to be safeguarded also via competition policy. In today's carbon constrained world, many fully globally competing industries, as aluminium, are exposed to market distortion due to different non-reciprocal climate policies worldwide. Therefore, it is of outmost importance that competition policy and state aid enforcement address international competition.
- **As a consequence, protecting the competitiveness of strategic industrial sectors for the achievement of the EU's climate and broader sustainability agenda should be clearly recognised as an objective of European common interest:** Aluminium is a key enabler of the transition, but a climate neutral economy requires enormous investments to develop, upscale and implement new technology in existing or new plants. These investment costs cannot be borne solely by the aluminium industry and must be proportionate given the high level of global competition we face. **A revised state aid framework is extremely important to provide producers with the much-needed financial support and long-term regulatory certainty.**
- The main barrier in our sector for delivering on the EU's envisaged higher climate ambition are costs. These relate to both accessing and consuming low carbon electricity at globally competitive prices (especially in the primary production process) as well as for financing those breakthrough and already available technologies needed to decarbonise the different industrial processes across our value chain.
- The Greening of EU Competition policy should allow for reduction in or exemption from the future extra costs resulting from financing the EU Green Deal and higher climate ambition, which are not faced by international competitors. These costs include direct funding support for additional infrastructure as well as storage that enables the targeted renewable electricity uptake in the power mix. Further, reductions in

capacity mechanisms surcharges, system balancing costs and extra network investments should also be allowed.

- The ongoing **revision of the EU State Aid Guidelines for Environmental protection and Energy post 2020 (EEAG)** are crucial initiative for updating the EU competition rulebook to accelerate the green transition in our sector. In particular, we call upon the Commission to consider the following elements (further details are here):
    - Preserve the approach adopted in paragraphs 188 and 189 of the current EEAG, wherein relief granted is proportionate to the specific exposure of each sector at the level of undertaking/activity. In particular, the reduction of RES surcharges has been vital for preserving competitiveness and preventing carbon leakage in our industry. The reduction of RES surcharges by 85% for industry, with the possibility of limiting the costs to 0.5% of GVA for the most electro-intensive undertakings, must be maintained.
    - The Guidelines should also specify that in the case of an integrated undertaking with activities in numerous sectors, the GVA should be calculated at the sub-undertaking level.
    - Maintain the principles embedded in EEAG that aid to renewables must be granted in a cost-effective manner based on competitive bidding.
    - Extend the EEAG's scope to reflect recent case law on existing surcharges related to the energy transition. This must carefully consider all future costs as a result of the path towards higher emission reduction targets for 2030 and the 2050 climate neutrality objective.
    - The new EEAG must provide long-term certainty on regulatory costs related to electricity consumption, so that solutions such as long-term low carbon Power Purchase Agreements (PPAs) can become more attractive. This should include financial support for long-term Renewable Energy Supply (RES) via EU or national public guarantees or funding mechanisms.
    - Important Projects of Common European Interest (IPCEI) and breakthrough innovation: The Commission IPCEI criteria should be amended to allow funding for the operational costs incurred by the use of low carbon production processes.
    - Support for circular value chains and sorting infrastructure: The current Guidelines do not reflect the higher ambition for climate and circularity under the Green Deal and recently released Circular Economy 2 Action Plan. Aid should go beyond waste management systems and focus higher up the waste hierarchy to support innovative circular solutions.
    - Operating aid is not the only measure that can ensure the deployment of renewables: Investment aid can be a more viable option that offers certainty to investors.
    - The new state aid framework should provide long-term certainty on regulatory costs so that green investments are more attractive. Current state aid rules have proved insufficient to support the greening of the economy when it comes to the duration of the guidelines. Current EEAG, for instance, have a time span that is much shorter than a renewable PPA or the payback period of an investment. This limits companies' willingness to enter green projects. Therefore, more long-term guidance in relation to regulated components of electricity costs would increase the effectiveness of the rules.
- Furthermore:
    - The Approval of Renewable energy/CCS/hydrogen etc. support schemes must be conditioned on the inclusion of an impact assessment study, prepared by a neutral party, that would analyse the costs

incurred by the support measure on other market participants and/or consumers. Such a study would ensure social acceptance of the support measure and it is a tool specific to good governance.

- In general, support schemes with a negative impact on energy-intensive consumers must include exempting measures for energy-intensive industry. More than often, there is a significant delay of even few years between the approval and implementation of the state aid scheme for RES (for example) and the approval and implementation of the exemption scheme for energy-intensive industry. During this time, the competitiveness and financial health of EU industry is heavily affected, therefore such incoherent policymaking must be avoided.
- Carbon Contracts for Difference (CfD) could support climate neutral projects by covering the incremental costs of breakthrough low-carbon investments and create a business case for very risky first movers in such technologies. The idea would be to provide a cash payment to top-up the market price of conventional products based on the carbon price differential. While it cannot cover all the sites in Europe, it could ensure a certain share of the market going green. Such a measure could be more useful together with the other tools like the Innovation Fund.
- CfDs could also be used to promote the procurement of green electricity. Here the purchaser (i.e. Aluminium primary producers) would agree to buy renewable electricity at an agreed strike price (This price would include balancing costs). Like this, the purchases would have greater certainty of the electricity price and the seller would have certainty that it's electricity would be purchased thus facilitating renewable PPAs.

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? - *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?)*

- Member States are, in principle, in the position to evaluate a project's negative effects in relevant concession approvals, where the project will have to meet requirements for environmental protection/impact within available methodologies and technology. In fact, state aid should tangibly encourage the transition of activities with a negative environmental impact towards more sustainable ways of production etc. Blacklisting entire sectors by defining negative environmental impacts would result in excluding mitigation projects from state aid. This would actually compromise the transition.

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?

- The success of the Green Deal relies partly on the development of and scaling new technologies such as batteries and green hydrogen into cost competitive components in the climate neutral economy. Such development at sufficient speed will likely to require public support schemes beyond current programs and allowing also for scaling of proven technologies. This is limited in current EU state aid rules. As long as European companies compete with international peers, access to similar level and duration of public support will be required. The state aid rules should allow for full compensation of additional costs, but at the same time make sure aid doesn't go beyond the amount that is really needed. IPCEIs allow for higher maximum state aid, but the processes are complicated and lengthy. Measures to simplify should be considered.
- Support for circular value chains and sorting infrastructure: The current EEAG Guidelines do not reflect the higher ambition for circularity under the Green Deal and the recently released Circular Economy Action Plan. Aid should go beyond waste management systems and focus higher up the waste hierarchy to support

innovative circular solutions, high quality and innovative recycling facilities and resource efficient industrial production processes. Further down the waste hierarchy, flexibility should be allowed for aid targeting innovative collection and sorting infrastructure and investments in high quality recycling facilities. Such measures would generate benefits in terms of resource efficiency, energy consumption and carbon emissions, thus in line with the EU Green Deal Objectives.

- For industry, new state aid measures that ensure long-term predictability of support for both investments and operating costs should be explored to de-risk investments and make low-carbon products competitive with carbon intensive ones.

4) How should we define positive environmental benefits? - *Should it be by reference to the EU taxonomy 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 EU Taxonomy Regulation and the more detailed rules necessary for the full application of the framework are still under development. Reference to the EU Taxonomy should be considered under EU and national state aid decisions only if the technical criteria are realistic, achievable and embed all environmental, social and governance (ESG) dimensions of sustainability.
- The Taxonomy Regulation is addressed to financial market participants and was originally conceived by EU policymakers to be a transparency tool to facilitate the disclosure of sustainability information by companies. Its scope is not to restrict or condition access to financing, but to set up certain criteria to be taken into consideration when an investment can be labelled sustainable. Therefore, **state aid does not fall under the scope of the Taxonomy Regulation and it should not be used as a tool for deciding when and if to grant aid. Competition policy should focus on facilitating access to affordable finance for European industry's decarbonization projects where the market itself cannot deliver. Consequently, we would not recommend a reference to the taxonomy.**
- Specifically, for aluminium, we strongly oppose the use of the ETS benchmark methodology as a criteria to define the climate mitigation and adaptation thresholds on the carbon content of the consumed electricity of the power grid and direct emissions. A threshold based on the ASI-methodology[1] would best reflect the carbon footprint of European smelters compared to the aluminium industry globally.
- The lack of access to decarbonised electricity in certain countries/regions may be in fact a "limiting factor" to aluminium smelters achieving the taxonomy thresholds, thus creating a distortion in competition between producers within Europe. This is a function of the smelter's location and the local availability of carbon-free electricity. Most smelters have very little or even no control over it. European producers already perform well significantly below the world average CO2-emissions. Implementing such criteria could therefore be counterproductive, i.e. penalising aluminium producers with a below average carbon footprint and leading to a displacement of their production by more carbon-intensive producers operating in third countries (carbon leakage).
- Finally, the EU Taxonomy Regulation does not cover all sectors, and also only partly covers the sectors that are eligible within its scope. Therefore, restricting the definition of positive environmental benefits to EU taxonomy alone would be too narrow. The following items could also be taken into consideration:
    - Reducing environmental /climate impact compared to existing production technology;

[1] As explained in our consultation response to the draft Sustainable Finance Taxonomy Technical Report, June 2019: "ASI has taken 7 years to build a standard based on consensus among all constituencies and covering a holistic approach to governance, social and environmental performance. This is the most robust and recent set of requirements for the aluminium industry and therefore should be used as guidance: A threshold of 8 CO2e/ton of Al including scope 1 and 2 emissions, to be met for new smelters from 2020, and by 2030 or earlier for existing smelters". For further information, see ASI's website and proposed methodology here

  - Reducing environmental/climate impact to e.g. BAT level, industry standards, best practice;
  - Carbon footprint in production;
  - Carbon footprint according to full life cycle assessment (LCA) including use phase benefits;
  - Recyclability, re-use and end-of life treatment of products;
  - Impact on environmental performance in other sectors;
  - Contribution to increased circular economy;
  - Energy efficiency.
- For further information on our views on the EU taxonomy, see here.

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