NHO
Næringslivets Hovedorganisasjon
Confederation of Norwegian Enterprise

DG Competition
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Competition Policy supporting Green Deal

1. Introduction

Confederation of Norwegian Enterprise (NHO) would like to thank the European Commission for the opportunity to comment on the consultation on the Commission Policy supporting the Green Deal.

NHO is Norway´s largest organisation for employers. Our current membership of 28.500+ companies ranges from small family-owned businesses to multinational companies in most sectors. Our main objective is to create and sustain conditions that safeguard the competitiveness and profitability of economic growth and sustainable development. NHO is made up of 16 Sectoral Federations and 10 Regional Offices around Norway. While NHO has a cross-sectoral responsibility for the members´ interest, each sectoral federation covers industry-specific issues.

NHO would like to underline that reaching climate neutrality, net zero 2050, will require huge transformative investments by both the public and private sectors. European businesses should be incentivised and supported in their transformation towards climate neutrality, sustainable growth, job creation and prosperity and competition policy have an important role to play in achieving this.

The existing legislative framework regarding competition and the existing body of case law and practice, gives the Commission significant discretion to protect effective competition in markets and ensure efficiency and innovation allowing companies to reach Green Deal objectives. However, there is a need for more guidance and clarity to encourage companies to pursue sustainability objectives.

2. State Aid

EU State aid rules should support good aid, such as aid to reach Green Deal objectives, whilst fundamentally safeguarding a market driven European economy. The State aid rules give the Member States considerable opportunity to support projects that contribute to the Green Deal and it is important that any distortive effects of the subsidies are limited.

Overall, we need more coherent application of the EU State aid rules at national level. Member States need to improve their adherence to the rules and the Commission should support their efforts by providing clear guidance and active monitoring.

In general, the Energy and Environmental Aid Guidelines have promoted coherence and clarity at EU level. The amount of granted aid in the energy and environmental field has risen over the last years, often in the form of tax reductions or exemptions. This is at least partly due to more ambitious targets in this area. Existing exemptions in the Guidelines relating to environmental taxes, energy taxation, and the funding of support for energy from renewable sources, but also from cost pass-through of renewable technologies, should be preserved if correctly notified to provide the right framework for European companies to be competitive vis-à-vis their main global competitors. However, we question that the current EEAG regime only allow capex and not opex support. Introducing new green solutions and technologies in the market often require stamina and hence, continuous support necessary to bridge the "valley of death" for new undertakings.

NHO would like to emphasise that Environmental agreements between industrial organisations and the governments within the framework of EEAG could be important measures to help achieve the goals of the Green Deal. These agreements encourage and inspire companies to go green by adapting measures that help them stay competitive. We`re seeing that businesses are increasingly prepared for delivering more sustainable society. We welcome this and would like to see an expanding scope for such measures also within other relevant framework.

One well-functioning effective environmental agreement NHO has initiated is the NOx-agreement. The Agreement is a notified tax scheme pursuant to the Guidelines on state aid for environmental protection and energy. The current NOx Agreement 2018–2025, between 15 business organisations representing undertakings emitting NOx and the Norwegian Government, contributes to Norway fulfilling its international commitments pursuant to the Gothenburg Protocol and the NEC Directive, and it aims at reducing annual emissions of NOx. The environmental agreement allows undertakings to obtain a full exemption from NOx tax if they commit to collectively reduce the total NOx emission substantially. Hence, the agreement replaces a governmental fee on emissions with a shared fund that reinvests in fiscal contributions into developing and phasing-in of new low emissions technologies. These measures help fulfilling an agreed emission-reduction ceiling.

In several industries, especially those with high NOx intensity and weak economy, the fiscal tax reduced the enterprises financial ability to implement measures. Fiscal tax alone therefore contributed to a small extent to measures to reduce NOx emissions. Consequently, this did not provide any basis for development and phasing-in of new technology.

An important motivation for entering into the agreements is to develop new and improved solutions for environmental technology in e.g. shipping and fishing, as well as to ensure implementation of the solutions in the market. Electrification of maritime activity using battery technology, LNG operation of ships and NOx cleaning with catalysts are examples of technologies with high volume triggered by the NOx Fund's support. Norwegian enterprises are today the world's leading suppliers and users of such technologies.

The Norwegian authorities issued two reports commissioned by the NOx Fund on the economic effects of the NOx tax. The main conclusion is that the NOx Agreement provides significant financial savings to the affiliated undertakings that were utilised for investments in emission reduction technologies, which would not have taken place without the state financial support (e.g. ship fuel conversion from diesel to liquefied natural gas (LNG)). In addition, technology standards have been developed based on the market generated by the NOx-Agreement.

This shared fund has delivered results for more than twelve years, implementing more than one thousand new NOx measures in member companies.

You can read more about the NOx Agreement here: https://www.nho.no/samarbeid/nox-fondet/the-nox-fund/

Other examples of areas where these kinds of agreements could contribute towards the goals of the Green Deal are single use plastic, packaging, etc.

Such agreements should in the view of NHO be encouraged to a larger extent where relevant. The Commission should address this more actively both within and outside the State aid framework. Alternative approaches to fulfilling the goals of new relevant legislation within the ambit of Green Deal should be explored. The method used in the Single Use Plastics Directive Article 17 paragraph 3 can serve as one example for such agreements, to encourage higher environmental output from the economic sectors.

3. Incentives for competition

Cost of greener production and practices have to come down as the risk of production relocation from Europe into other parts of the world ("carbon leakage"), as well as the threat of companies deciding to gradually shift more investments outside of the EU ('investment leakage'), is real as long as global actions are not aligned and will impact the European economy and the labour market.

In order to avoid this scenario, it is crucial to maintain well-working flanking measures like the EU Emissions Trading System (EU ETS) with its system of free allowances and indirect compensation to minimise the risk of carbon/investment leakage and protect competitiveness.

Moreover, environmental standards, product declarations, labelling and life-cycle assessment schemes must not be underestimated as major tools of competitiveness keeping production in Europe while improving sustainable consumption. The disclosure of production processes underlines and supports Europe's green competitive edge and lower imports of competing goods with more environmental footprint.

Both procurers in private and public sector have a critical role in demanding more sustainable products and services. EU legislation demands contracts to weight environmental parameters, but few seem to comply as price tend to triumph. The Norwegian experience is that lack of competence is a major obstacle, particularly in the public sector. Hence, a public-private partnership was established to help with the problem and have been quite successful. You can read more about this here:

https://innovativeanskaffelser.no/about/

Public tenders for transport or buildings with low or zero-emission terms, have proven successful in attracting forward leaning companies to compete in delivering new solutions such as electric or hydrogen ferries, buses, and non-emitting construction sites. Contracts for Difference can also be used to trigger competition among suppliers or entrepreneurs.

3.1 Net-zero by 2050

Competitiveness and climate ambition go hand in hand. Firstly, only competitive companies will have the necessary resources to invest in future solutions. Secondly, companies that develop and export competitive low-emission products will contribute globally to tackle climate change, while competitiveness is strengthened. To lift far-reaching new carbon-neutral solutions, the rules should allow for subsidies up to 100% for a limited period. These types of extensive activities can never be financed by private industry alone and need governmental help in order to run-through during the first years. Massive investments in infrastructure for emission free energy carriers, both electrons and gas molecules, are needed in order to get to the low-emission society necessary to limit global warming by 1,5 degrees or less than 2 degrees as stated in the Paris accord.

The EU offshore wind strategy requires 800 billion Euro in investments of which 2/3 is grid and interconnectors. Carbon capture for use or storage is equally important according to the EU 2050 vision, IPCC and IEA. CCS technology and CO_2 transport infrastructure have long investments horizons and needs both far higher CO_2 prices as well as a negative or removal premium to be profitable. No company will invest in such undertakings without the risk-sharing and the market making capabilities of governments. Given the climate and circular economy objectives, zero and negative emissions by carbon capture for storage or reuse is unavoidable and may have to be regarded as a public good like water or waste handling.

4. Antitrust

EU antitrust rules allow companies to contribute to the Green Deal by joining efforts to go beyond binding standards and conclude agreements to pursue sustainability objectives. However, there is a risk that companies will refrain from cooperating if they fear that they could be infringing competition rules considering that normally it will be for the parties themselves to assess whether collaboration is compatible with competition laws. To avoid such uncertainty - and a potential underinvestment in a sustainable project - the Commission should give general guidance in relevant notices or guidelines when, and under what conditions, cooperation for sustainability reasons is acceptable. Existing policy should improve and provide more legal certainty for companies that want to develop new projects.

Thus, more clarity and opportunities for companies to make sustainability agreements, bearing in mind the principles of proportionality and subsidiarity, lightens the burden of the *first mover disadvantage* and thus makes accomplishing climate goals easier for companies and therewith for the EU as a whole.

In addition, the Commission and national competition authorities should be willing to provide specific guidance regarding concrete projects to companies if they wish. Companies need clarity and legal certainty to pursue sustainable initiatives given that often such projects involve significant investments.

Yours sincerely,

Per Øyvind Langeland
Director, Industrial Affairs

Confederation of Norwegian Enterprise (NHO)