

Response of the Belgian federal administrations on the state aid guidelines energy, climate and environment

Please note that in when referred to “Belgium” in this document it should be read as “the Belgian federal administrations”. Other contributions will be done on behalf of the regional administrations.

Belgium welcomes the new draft state aid guidelines for climate, environmental protection and energy.

However, Belgium is convinced that in order to achieve the green deal objectives as well as to increase the consistency of the Union policy, it is necessary to further strengthen the alignment with the **Do Not Significant Harm principle**. Furthermore, if any low-carbon based developments are considered to receive state aid, these may never lead to **lock in-effects**, should not impede the development and uptake of cleaner alternatives and should be future proof. The only acceptable exception should be in case of **security of supply** when there is no (green) alternative.

Additionally, Belgium insists on the specific role and importance of **Renewable Energy Communities**

In the text below detailed remarks on the revised guidelines can be found.

2.1 Scope

Belgium welcomes the broadening of the scope of the guidelines. However, more clarity is needed on hydrogen, as fossil fuels often remain the raw material for hydrogen.

2.4 Definitions

Belgium welcomes the definitions and supports references made to the different sectoral legislations, where possible.

However, some remarks concerning the following definitions remain:

(35) energy infrastructure [...]

- Concerning electricity (subpoint (a))
In **subpoint (iv)** concerning SMART electricity grids we think that it would be useful to add the following: "aiming a more secure (in the meaning of self-healing capabilities), efficient and intelligent 2-way electricity transmission"
- Concerning gas (subpoint (b))
 - o we welcome the inclusion of references to renewable gases of non-biological origin, to be fully sustainable all gases should be produced with renewable energy. We welcome the revision of Renewable Energy Directive. Anything said concerning gases in this consultation is with reservations to the final outcome of the revisions of the RED.
 - o for consistency we propose to add the reference to "biogases and renewable gases of non-biological origin" to subpoint (iii) as it is in subpoint (i).

(48) 'nature based solutions'

Belgium would like to insist on adding "ecosystem resilience", as it is an important element in this definition. This makes the guidelines consistent with a resolution that the EU and the MS agreed to propose for UNEA5.

Therefore the proposed modified definition should read as:

'nature-based solution' means an action to protect, sustainably manage and restore natural or modified ecosystems, that addresses societal challenges effectively and adaptively, simultaneously providing human well-being, ecosystem resilience, and biodiversity benefits;

(65) 'restoration'

We propose to slightly modify the definition of restoration in order to

- allow for both restoration of the condition of a still existing ecosystem AND for the restoration of an ecosystem that has been lost. (the proposed "It" can refer to both.)
- To include also the possibility of improved connectivity of ecosystems (important aspect)
- To include in the text that restoration can be both active and passive

Therefore the proposed modified definition would read as:

(65) 'restoration' means the process of assisting the recovery of an ecosystem to a good condition as a means of conserving biodiversity and ecosystem resilience. The restoration of ecosystems includes measures taken for the improvement of the condition of an ecosystem and the re-creation or re-establishment of an ecosystem where ~~that condition~~ it was lost. They also include measures to improve connectivity of ecosystems. Restoration can include both active and passive restoration.

3. [General] compatibility assessment

Alignment with the green deal, the climate law, sustainable finance and the DNSH principles

First of all, a few general comments:

According to the do no significant harm principle, Belgium reiterates that aid to other sectors should not have a negative impact on biodiversity. Where possible, aid should have a positive impact on biodiversity or at least be neutral.

Aid must be maximally efficient and effective, and should lend itself to the realisation of more than one goal. Nature Based solutions are of great importance in this context.

As for the definitions:

- Concerning paragraph 32 ("no breach of any relevant provision of Union Law", chapter 3.1.3)
 - o include in the third dimension of the positive condition of the balancing test, that the provision "no breach of any relevant provision of Union Law" does also include the condition that the supported activities should be in line with the sustainable finance elements and the 'Do No Significant Harm' principle.

Even though the draft guidelines take this element into account in the balancing test (chapter 3.3), this chapter does not apply to some categories of aid. For the sake of EU policy consistency, we propose that the positive provision 'no breach of any relevant Union Law' shall also include Article 3 of Regulation 2020/852 including the 'Do Not Significant Harm' principle, so that this important European general guiding principle is consistently reflected and applied throughout the whole of state aid.

- o we would like to request the Commission, in order to ensure consistency with the green deal, that the compliance of the supported activity with sustainable finance and DSNH principle shall be done in any way possible during the assessment of the aid application.

Paragraph 32 would then read as:

32. If the supported activity or aid measure or the conditions attached to it, including its financing method when it forms an integral part of the measure, entail a violation of relevant Union law, the aid cannot be declared compatible with the internal market. This may be the case, for instance, where the supported activity is not in line with Article 3 of Regulation 2020/852 and/or with the 'Do Not Significant Harm' principle, or for example where the aid is subject to clauses conditioning it directly or indirectly

on the origin of products or equipment, such as requirements for the beneficiary to purchase domestically produced products.

The Commission shall explicitly verify the compliance of the supported activity with the sustainable finance framework and/or the 'Do Not Significant Harm' principle during the assessment of the aid scheme.

- we would like to propose the following modification to paragraph 69 considering compliance with Regulation 2020/852 and the Do not significant harm principle as a necessary precondition in the balancing test.

In that balancing exercise, the Commission shall ensure the compliance of the supported activity with ~~will pay particular attention to~~ Article 3 of Regulation (EU) 2020/852 of the European Parliament and of the Council⁵⁰, including the 'do no significant harm' principle, or other comparable methodologies. Furthermore, as part of the assessment of the negative effects on competition and trade, the Commission ~~may~~ SHALL take into account, where relevant, negative externalities of the aided activity where such externalities adversely affect competition and trade between Member States to an extent contrary to the common interest by creating or aggravating market inefficiencies including in particular those externalities that may hinder the achievement of climate objectives set under EU law.

Low-carbon transition pathways may not impede the development and the uptake of clean alternatives

Belgium proposes to further strengthen the provision in paragraph 65 (negative condition) and paragraph 70 (balancing test) to ensure that if low-carbon gases or other fossil fuel projects are financed by state aid, this can only be done in a context of security of supply, where these must be future proof and may solely be financed if there is no other alternative, including no renewable alternative. It should also be ensured that lock-in effects are avoided and that there are no lock-out effects of cleaner technologies.

Therefore we would like to propose

- That the Commission includes the "do no significant harm" principle in the guidelines in a way that it is respected when granting state aid.
- to adapt paragraph 65 as follows:

65. State aid for environmental and energy objectives may have the unintended effect of undermining market rewards to the most efficient, innovative producers as well as incentives for the least efficient ones to improve, restructure or exit the market. This may also result in inefficient barriers to the entry of more efficient or innovative potential competitors. In the long term, such distortions may stifle innovation, efficiency and the adoption of cleaner technologies. These distortive effects will ~~can~~ be particularly important when the aid is granted to projects that provide a limited transitory benefit but lock out cleaner technologies for a longer term, including those necessary to achieve the medium-term and long-term climate targets enshrined under the European Climate Law. This will ~~can~~, for example, be the case for support to certain activities using fossil fuels that provide an immediate reduction of greenhouse gas emissions, but lead to slower emissions reductions in the long term.

- to adapt paragraph 70 as follows:

70. The Commission will consider an aid measure compatible with the internal market only where the positive effects outweigh the negative effects. In cases where the proposed aid measure does not address a well-identified market failure in an appropriate and proportionate way, for example due to the transitory nature of the benefit and the long term distortions it entails as set out in point 65, the negative distortive effects on competition will ~~tend to~~ outweigh the positive effects of the measure. The Commission will therefore be likely to conclude that the proposed aid measure is incompatible.

4.1 Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy

Need for clear guidance on how Renewable Energy Communities can be supported

Given that Renewable Energy Communities are considered in both the Renewable Energy Directive (2018/2001) and the Electricity Directive (2019/944) as actors that can bring specific positive elements to the market¹ but may also need a specific treatment or accompaniment² in accordance to both directives.

Taking in consideration that the proposal³ for an amendment of the Renewable Energy Directive that the Commission published on July 14th as part of the FitFor55 package calls in article 1(6) that Member States shall introduce measures to substantial increase amongst other renewable energy communities⁴

Considering that the Renewable Energy Directive clearly underlines the importance of Renewable Energy Communities and even stipulates in article 22, point 7 that “Without prejudice to Articles 107 and 108 TFEU, Member States shall take into account specificities of renewable energy communities when designing support schemes in order to allow them to compete for support on an equal footing with other market participants.”

¹ Recital (63) of the Renewable Energy Directive (2018/2001) reads as “When favouring the development of the market for energy from renewable sources, it is necessary to take into account the positive impact on regional and local development opportunities, export prospects, social cohesion and employment opportunities, in particular as concerns SMEs and independent energy producers, including renewables self-consumers and renewable energy communities.”

² For example Recital 46 of the Electricity directive (2019/944) *Citizens energy communities constitute a new type of entity due to their membership structure, governance requirements and purpose.*
Or Renewable Energy Directive (2018/2001), Recital 71: “The specific characteristics of local renewable energy communities in terms of size, ownership structure and the number of projects can hamper their competition on an equal footing with largescale players, namely competitors with larger projects or portfolios.

³ Proposal for a Directive of the European Parliament and of the Council amending Directive (EU) 2018/2001 [...], Document COM(2021) 557 final, published on July 14th 2021

⁴ Article 1 (6) of the Commission proposal, propose the introduction of a new article 15a “Mainstreaming renewable energy in buildings” which reads in the second paragraph: as
Member States shall introduce measures in their building regulations and codes and, where applicable, in their support schemes, to increase the share of electricity and heating and cooling from renewable sources in the building stock, including national measures relating to substantial increases in renewables self-consumption, renewable energy communities and local energy storage, in combination with energy efficiency improvements relating to cogeneration and passive, nearly zero-energy and zero-energy buildings.

Noting that the impact assessment accompanying the Commission's proposal of July 14th to amend the Renewable Energy Directive (as part of the Fitfor55 package) we understand that one of the main elements that was brought forward during the public consultation on the barriers for the update of renewable electricity concerned the need for an increased support for renewable energy communities⁵.

We request the European Commission to include the necessary provisions in these guidelines and to allow and guide member state to develop the necessary support mechanisms to make the uptake of energy communities as foreseen in the existing directive happen.

We would be very happy to discuss this more in detail, but we would amongst suggest

- Clear and concrete guidance to help Member States integrate Renewable Energy Communities into their support schemes consistent with their legal obligations under the RED II;
- Dedicated provisions on Renewable Energy Communities acknowledging their unique market position and challenges as non-commercial market actors;
- Increased thresholds to exempt Renewable Energy Communities and other small renewables production installations from having to participate in competitive bidding procedures;
- Simpler administrative burdens on Member States that want to create dedicated support for Renewable Energy Communities in their national renewables support schemes;
- Acknowledgment of social impacts on local communities from renewable energy projects, along with supportive provisions on the integration of social criteria into competitive bidding procedures for renewables; and

Belgium would like to see these changes reflected in both the GBER and the CEAAG and would like to invite the Commission to also provide necessary guidance.

Alignment with the green deal, the climate law, sustainable finance and the DNSH principles

We understand from paragraph 97 that sections 3.2.2. and 3.3 do not apply to this chapter.

We refer to our general comments on chapter 3 in this respect and would like to request the Commission to actively ensure that all schemes approved under this chapter shall at all times be consistent and aligned with the green deal objectives, the climate law, article 3 of regulation 2020/852 and the Do Not Significant Harm principle.

Therefore we would invite the Commission to modify paragraph 113 in this respect:

113. Provided that all other compatibility conditions are met, the Commission will typically find the balance for decarbonisation measures to be positive (that is to say, distortions to the internal market are outweighed by positive effects) in the light of their contribution to climate change mitigation, which is defined as an environmental objective in Regulation (EU) 2020/852, as long as it is demonstrated that the supported activity is compliant with article 3

⁵ "Concerning measures to tackle the remaining barriers for the uptake of renewable electricity, participants rated streamlining permitting procedures as the most appropriate and urgent, with fostering regional cooperation as the second. Additional comments suggested increased support for renewable energy communities and self-consumption and demand-side management measures"

Impact Assessment, accompanying Proposal for an amendment of the Renewable Energy Directive (2018/2001), SWD(2021) 621 final, page 21

of regulation 2020/852 and ~~there are no obvious indications of non-compliance with the do no significant harm principle.~~

4.1.2. Scope and supported activities

(74) Belgium would like to ask the Commission to further clarify the concept of low carbon energy. Low carbon energy can entail hydrogen made from natural gas. Natural gas as raw material remains a fossil fuel and should be avoided at all times.

(75) the exclusion of fossil fuel driven hydrogen is needed. A definition of low carbon gases is welcome under 2.4.

4.1.3.4. Public consultation

(85 a vi & b iii): new investments in natural gas should be banned from receiving aid.

State aid for any fossil fuels may distort / have a negative effect on the uptake by the market of necessary new clean technologies and do not have positive environmental effect

We would like to invite the EC to ensure that the uptake of new clean technologies that are in line with the green deal objectives, the European Climate Law and the sustainable finance framework can be supported when the energy markets would function improperly.

Therefore we would like to invite the Commission to further strengthen the provisions in paragraph 108 – 110 to bring them in line with paragraph 65 from the general provisions on avoidance of undue negative effects on competition and trade.

We would like to invite the Commission in particular to explicitly complete paragraph 110 with the important concept set out in paragraph 65:

“distortive effects will ~~can~~ be particularly important when the aid is granted to projects that provide a limited transitory benefit but lock out cleaner technologies for a longer term, including those necessary to achieve the medium-term and long-term climate targets enshrined under the European Climate Law. This will ~~can~~, for example, be the case for support to certain activities using fossil fuels that provide an immediate reduction of green house gas emissions, but lead to slower emissions reductions in the long term.”⁶

This because there is always a distortive effect when working with fossil fuels and so it cannot be compliant with the Do No Significant Harm Principle.

Belgium is convinced that no support for new investments in natural gas should be allowed except under the chapter Security of Supply. Therefore we request the EC to further complement paragraph 110 with the last sentences of paragraph 65

“All other things being equal, the closer the aided investment is in time to the relevant target date, the greater the likelihood that its transitory benefits may be outweighed by the possible disincentives for cleaner technologies. The Commission will therefore take into account these possible short and long term negative effects on competition and trade in its assessment”

⁶ Copied from paragraph 65 (chapter 3.2.2 Avoidance of undue negative effects on competition and trade), with the exception that we changed the word “can” in “will”, confer our earlier comments regarding chapter 3

General

As the energy transition also implies the need for the development and the role out of different new technologies that might and/or will enable the necessary transition we consider that some public support might be necessary and opportune for projects surpassing TRL 7.

Therefore we would like to invite the Commission to assess the possibility for the technologies that are necessary to enable the further break through or market uptake of renewable energies.

4.2 Aid for the improvement of the energy and environmental performance of buildings

We applaud the Commission's approach to avoid lock-in with regard to the replacement of fossil fired energy equipment and systems.

We insist that this approach should also count for natural gas, which is a polluting fossil fuel too. State aid should only be possible for clean energy equipment as it reduces the emissions of pollutants, improves health and is the sole solution that contributes to the European 2030 and 2050 objectives

4.3. Aid for clean mobility

General remark: the input provided under 4.3. "Aid for clean mobility" only concerns CNG and LNG and their impact on the climate, based on scientific facts. The input does not provide a complete analysis of the legislative or other initiatives that are ongoing in the transport sector (European or international).

4.3.1.4.1. Appropriateness

(150): Aid for the acquisition and leasing of clean transport vehicles, and for the retrofitting of transport vehicles allowing them to qualify as clean transport vehicles, may be granted in any form, including grants, loans or guarantees. The Member State must justify its choice of aid instrument and explain why less distortive aid instruments would not deliver equally efficient outcomes.

The sustainable finance taxonomy can be used here, on the one hand to ensure the vehicle can be labeled green, and that it does no harm, on the other hand the criteria in the taxonomy can be used as a justification, making sure no polluting activities will be financed with state aid.

4.3.1.5 Avoidance of undue negative effects on competition and trade and balancing

(161, 162, 163): In relation to climate neutrality by 2050, the use of CNG and LNG should be avoided. The most important thing is to avoid support for its infrastructure because of the risk of lock-in.

4.3.2.4 Avoidance of undue negative effects on competition and trade and balancing

(185) Aid for the deployment or upgrade of CNG and LNG refueling infrastructure may also be regarded as not creating long-term lock-in effects where the Member State commits to ensure that the CNG and LNG is blended with biogas or renewable gaseous transport fuels of non-biological origin (minimum 20%).

CNG and LPG do create lock-in effects, it is not because a cleaner alternative might not be available at that moment or in the near future (which is highly unlikely), that is suddenly does not create lock-in effects. Furthermore, e-fuels are very energy intensive. It is much more efficient to electrify transport directly through the use of batteries. Guaranties are needed for the production of e-fuels such as hydrogen and methane. These may only be produced by: 1. direct connection to renewable energy production (sun/wind) or, 2. if it is done via the existing electricity grid, only at times when there is a surplus of renewable energy available and it is disconnected from the grid (curtailment).

4.4. Aid for resource efficiency and for supporting the transition towards a circular economy

It might be useful to highlight investment projects that focus in particular on the way products are designed and also on the substitution of certain chemicals in products that prevent healthy recycling.

4.5. Aid for the prevention or the reduction of pollution other than from greenhouse gases

1. The sources of pollution mentioned are, for example, industrial emissions (environmental permits), but emissions from substances, mixtures and articles placed on the market must also be considered
2. All the activities of an actor have to be considered before giving aid. Even better: grant aid if the whole of the upstream and downstream (life cycle) activities are improved
3. Are the BAT (Best-Available-Techniques) considered to go beyond "Union Standards"? For example, the OSPAR convention sets the legal obligation at the level of the BAT, thus, it being a legal minimum. Aid should not be granted to legal minima, higher standards need to be set.
4. (231) Aid for the adaptation to Union standards adopted but not yet in force will be considered to have an incentive effect if the investment is implemented and finalised at least 18 months before the Union standards enter into force.
As soon as standards are published, even if the entry into force is later, no more aid can be given, otherwise any new standard published will have an effect on the state budget and the community will systematically pay the aid. Change to "no aid as soon as the standards are adopted"
5. Science based criteria for assessing the impact on pollution must guide state aid.

4.7. Aid in the form of reductions in taxes or parafiscal levies

Since state aid to SMEs (EU definition) is less likely to distort competition, it could be explicitly mentioned in 4.7.

The revision of the Energy Taxation Directive should be kept in mind, as well as the coherence with it (revision of de minimis rules, etc.)

No details about reductions of 'parafiscal levies', but they are less relevant in the context of state aid rules than environmental taxes.

4.8 Security of Supply

Incentive Effect

- *Strategic reserves*

The actual EEAG considers that there is an eligible incentive effect when there is either an increase in the level of environmental protection or an improvement of *the functioning of a secure, affordable and sustainable energy market* (EEAG (49)).

When we read the incentive effect in the proposed draft CEEAG we are not sure that the existing practice of the use of Strategic Reserve (in order to guarantee a secure, affordable and sustainable energy market) is still possible.

However we are convinced that in the transition to an energy sector that is compliant with the green deal the necessary aid to guarantee the functioning of a secure, affordable and sustainable energy market should be possible and therefore it should also be possible to use where necessary strategic reserves in the most appropriate form.

Therefore, we would like to propose to modify for example point 288 and 289 in this respect.

- *Link to comply with the Union standards (point 31)*

We are not sure to fully understand how to understand in paragraph 289 that point 31 does also apply to chapter 4.8 security of supply.

Because given the different nature of on the one hand the object security of electricity supply, which is subject to different network effects that may surpass different actors and is fundamental for the whole economy, and on the other hand the consideration in point 31, that we support in principle, that no aid should be given to economic actors to comply with Union standards, we would like to request the Commission to ensure that this reference doesn't complicate the objective to ensure the security of electricity supply.

Avoid that future competitive biddings may be distorted

Paragraph 56b requests that the Member State concerned must ensure the publication of information on each individual aid award granted ad hoc or under an aid scheme approved based on these guidelines and exceeding EUR 100 000.

Even if we support this in principle, we would like to point out that it should be avoided in the light of Security of Supply one may imagine that (e.g. in order to avoid over-allocation) every year or every x-year a competitive bidding process is organised for a certain security of electricity supply guarantee.

We would like to request the Commission to take this possibility in consideration for the Security of Supply chapter and take the necessary provisions in order to avoid that in this specific situation where at different points in time a competitive bidding process is organised for a comparable service (security of electricity supply), that no information has to be published that may distort the competition in future bidding processes.

Paragraph 291

We agree that a proper analysis is necessary, but we would like to propose to make reference to article 25.2 or Regulation 2019/43 which is on the core of the reliability standard instead of whole article 25 of this Regulation.

Avoid uncertainty

Paragraph 72 a and chapter 5

We fully support the idea of fact-based policy making and evaluations, but we would draw the attention to the fact that if ex-post evaluations might lead to a less clear view of the future evolution of the support mechanisms that today's investment under the chapter security of supply in the future may benefit from that this might lead to increased uncertainty and thus might have a negative impact on the price formation in the bidding process.

Therefore we would like the Commission to ensure that when security of supply mechanisms have to be rolled out by the member states, that MS can ensure the necessary stability in order to have the best outcome of the bidding process.

Paragraph 295

We agree the aid should be calibrated on reaching the reliability standard as fixed in the regulation on the internal market for electricity;

But as decisions to ensure the security of supply are made on the basis of best estimates of an uncertain future, it cannot be excluded that notwithstanding the different safeguards, the capacity that is supported following the reliability standard exceeds the capacity that is finally used.

In order to guarantee a stable investment climate for the security of supply we suppose this does not mean that it will be a requirement to seek a reimbursement of the aid of the capacity that was expected to be needed but that didn't need to be used?

Paragraph 306

- Can you please clarify in the guidelines who should exactly be consulted during the public consultation? Does this have to be a Union wide consultation or may member states limit this to national stakeholders and the stakeholders from neighbouring countries to which they have a direct network connection as in article 21 of the regulation 2019/943?
- We welcome every effort for transparency. However, on the one hand, the development of a security of supply schemes might sometimes be necessary in a very tight timeframe, while on the other hand, the tripling of procedures for every modification in scope and eligibility should be avoided.
Therefore, we would like a clearer definition of the terms "scope" and "eligibility".

Paragraph 311 & allocations at different point in time

Paragraph 311 of the draft guidelines says that *“The lead-time between the granting of the aid and the deadline by when projects must be delivered should allow effective competition between the various eligible projects.”*

We would like the Commission to ensure and clarify in the final guidelines that this principle shall not impede that the roll-out or the allocation of Security of Supply can be organised in different time horizons.

For example when one knows that a security of supply measure needs to up-and-running by year x.

As year x is still far away a member state would most probably on the one hand like to be able to take in consideration changes in future demand that may incur in the meantime. But on the other hand the member state will also want to avoid over-allocation, strategic bidding, etc.

To achieve all these objectives a Member state might sometimes choose to deploy a security of supply mechanism in different time frames (for example an first auction organised in year x-4 to be operational in year x and a second auction in x+1 to be operational also in x).

This kind of prudent allocation in different time frames might induce that in the second auction in x-1 certain technologies might de facto be excluded.

Therefore we request the Commission to ensure that it clearly reflected in the guidelines that this kind of two-stage allocations, if done for good reasons, is possible and shall not lead to complaints⁷ and legal uncertainty.

Paragraph 326

Notwithstanding our general proposals regarding paragraph 32, we agree that in the specific situation of a security of supply measure energy generation based on gas must be possible when it is necessary for the security of supply of electricity in the transition to the further deployment of renewable energy. If those are future proof, with no alternative or renewable alternative.

In that particular situation, in addition to the points already mentioned, the expected future operating hours of gas-fired power plants should also be taken into account, as they will decrease as more energy from renewable sources is incorporated into the system, which will (of course) reduce the environmental impact of gas-fired plants.

General

Particular emphasis is placed on demonstrating an adequacy problem before an aid measure can be approved. However in the light of Security of Supply and when the use of a strategic reserve might be relevant, this might proof difficult, because no aid would be granted if an annual evaluation has not identified a gap (contrary to market-wide CRM). However, when the need arises, it then is often too late to have the measure approved.

Therefore it would be interesting and useful if a provisional approval of a measure would be possible, with effective activation only if a gap is identified/necessity confirmed.

⁷ Par example as a market participant considers, based on paragraph 311 of the draft guidelines, that the lead)time in allocation in x-1 was too short.

4.9 Aid for energy infrastructure

We would like to request the Commission to ensure that energy infrastructure that links the Union and its Member State with third countries can also be eligible for aid.

(339 c) the Commission considers that for natural gas infrastructure investments, the positive effects on competition manifestly outweigh its negative effects on competition where the resulting infrastructure is fit for use for hydrogen and renewable gases or fuels of non-biological origin.

Where this is not the case, in order to off-set the negative effects on competition, the Member State concerned needs to demonstrate the following:

(i) why it is not possible to design the project so that it is fit for use for hydrogen and renewable gases or fuel of non-biological origin;

A project that is not future proof has detrimental effects on the Union's objectives should not be financed with state aid.

(ii) why the project does not create a lock-in effect for the use of natural gas;

New fossil fuel infrastructure leads to lock-in effects, therefore a natural gas project can only be financed with state aid when it comes to security of supply, including guaranties that the project is future proof, when it has been demonstrated that there is no alternative, not even a renewable alternative. .

and (iii) how the investment contributes to achieving the Union's 2030 climate target and 2050 climate neutrality target.

See comments above. Belgium urges the Commission to take into account the above requirements concerning the financing of new natural gas-fired power plants with state aid (security of supply, future proof, no alternative, no renewable alternative)

4.11 Aid in the reduction from electricity levies for energy-intensive users

Rail

The actual EEAG are without prejudice to the Community Guidelines on State aid for railway undertakings (cf. footnote 10). Considering on the one hand the electro intensity of railways, the costs that the transition of the energy system might induce, and the importance of railways in achieving the modal shift and the focus of rail (and 2021 as the European year of the rail) in the light of the green deal, it is important to safeguard the relative cost competitiveness of rail compared to other transport modes.

Therefore we would like to Commission to ensure that rail can continue to be exempted from different levies.

Paragraph 354

We do not fully understand why paragraph 354 states that “This Section does not cover levies which reflect part of the cost of providing electricity to the beneficiaries in question. For example, exemptions from network charges or from charges financing capacity mechanisms are not covered by this Section.”

If this would imply that Member states should not be allowed to grant reductions on levies which finance for example capacity mechanisms or allow member states to apply degressive reductions on network charges, then we would like to ask the Commission to reconsider this.

- As long as the internal market for electricity does not function in a perfect way, in some member states capacity mechanisms might be necessary in the light of the energy transition in order to guarantee the security of supply.

Then as long as the internal electricity market of the Union does not function perfectly, it has to be avoided that the costs to guarantee of the security of supply might lead to a distortion of the market at which energy intensive users compete both within or outside the Union.

- In the case where network charges are expressed as a price per unit of electricity, we consider it important that the real marginal cost can be applied.
Therefore we would like to insist that if there are economies of scale in the network deployment, that it should be possible to reflect these in the network charges.

We would like to ask the Commission to ensure that Member States can take the necessary measures to ensure the security of supply of electricity without this heightening a risk of activities in some sectors moving outside the member state.

We would also like to ask the Commission ensure that levies or charges that finance capacity mechanism or that include network charges are also in the scope of chapter 4.11.

Paragraph 355

We fear that the requirement in paragraph 355 to include all such reductions in a single scheme might in some Member States be in practice very complicated and cumbersome not to say impossible to bring in practice.

For Belgium some practical difficulties might for example come up due the fact following the Belgian Constitution different aspects of the development of renewable energy are divided between the federal and the regional governments⁸ and are thus to be decided upon by different parliaments and need to be codified in and executed through different legal instruments.

⁸ Too shortly summarised one can say for example that the development of off-shore renewable energy is a competence of the federal government, whereas the development of on-shore renewable energy belongs to the competence of the different regional governments

In order to keep the goal that the combined effect of all measures has to be assessed together, and to overcome the eventual practical difficulties that might arise in some situations with the actual wording we would like to propose to slightly modify paragraph 355:

The impact of levies from which reductions can be granted on the risk of relocation outside the Union depends on the combined financial effect of all the levies concerned and all reductions from such levies granted to the eligible beneficiaries. Member States wishing to introduce a measure to be assessed under this Section therefore have to include all such reductions in a single scheme and, as part of the notification, have to inform the Commission of the cumulative effect of all eligible levies and all reductions proposed. Should a Member State decide at a later stage to introduce additional reductions on levies covered by this Section, it will have to notify an amendment to the existing scheme.

Paragraphs 357 & 360

We understand from paragraph 357 and 360 that the Commission considers that the aid will be proportionate if the beneficiary pays at least 25% of the costs and that only a more limited list of activities can be considered to be eligible under this chapter.

However it is not fully clear to us what the impact will be on the efficiency of the measure and how this might impact the objectives (cf. paragraph 351) to mitigate the risk of activities relocation outside the Union or not to hamper the electrification of production processes?

Considering that electrification is central to the successful decarbonisation of the Union economy, we would request the Commission to carefully consider and to ensure that this would not hamper the objectives formulated in paragraph 351.

4.12 Aid for coal, peat and oil shale closure

This part can be further improved by providing aid for the closure of all fossil fuel fired plants, including natural gas-fired plants.