Uniper SE, Holzstraße 6, 40221 Düsseldorf

Directorate-General for Competition (DG COMP)
H2 Unit
European Commission
Place Madou 1
BE-1210 Saint-Josse-ten-Noode
Ref.: HT.4892

Uniper SE
Global Positioning
Holzstraße 6
40221 Düsseldorf
www.uniper.energy

Kavita Ahluwalia
Corporate Communication &
Governmental Relations
M +49 15 15-5 04 91 26
kavita.ahluwalia@uniper.energy

Call for feedback on the review of the communication on important projects of common European interest (IPCEI)
April 20, 2021

Dear Sir/Madam,

Reference is made to the call for feedback from the European Commission on the on the review of the communication on important projects of common European interest (IPCEI).

Uniper welcomes the review of this communication and the opportunity to contribute to the update of the definition of IPCEIs and their compatibility criteria with the EU's State Aid rules. The hydrogen IPCEIs are a key landing point for us and will help a large number of projects to get off the ground and reach scale. As such, we follow closely the hydrogen IPCEI process and have already answered national calls for interest in Germany, the Netherlands and Sweden.

As the review of the IPCEI Communication will have a direct impact on the ongoing hydrogen IPCEIs building process, a fit-for-purpose framework is crucial to facilitate the development of large integrated hydrogen projects and to allow hydrogen to deploy its full potential in the context of the European Green Deal and of the EU Recovery Plan.

Uniper supports the general objectives of this revision which aims among other things to clarify and provide further guidance on various notions and criteria set out in the communication, but also to further enhance the open character of IPCEIs and their consistency with EU policies. However, to further encourage and facilitate the role of IPCEIs as a key industrial policy tool, we invite the European Commission to:

- Consider some adjustments to the proposed changes, and
- Enhance the scope and ambition level of the communication.

❖ **Adjustments proposed to the changes introduced in the IPCEI Communication**

We would like to draw the attention of the European Commission to several proposals that could translate into a more restrictive approach which could have potential a negative impact on the building of hydrogen IPCEIs. These mainly relate to the definition of the IPCEIs (number of required Members States to launch an IPCEI, general positive indicators and definition of first industrial deployment), the level of co-financing, the compatibility criteria and the retroactive application of the communication.

- ***Point 17: Involvement of at least 4 Member States, unless a smaller number is justified (ex: TEN-T projects)***

  This requirement might exclude the adoption of (first) hydrogen IPCEIs which could however provide an important contribution in terms of sustainable economic growth, jobs and competitiveness for industry and the economy.
  As the number of involved countries does not seem to justify the relevance of certain projects, we support the deletion of this threshold in line with the current framework, or at least the reduction of the number of Members States required.

- ***Point 22.f: The Commission will take a more favourable approach where the project takes into account the Taxonomy Regulation***

  We support the EU's climate goals to achieve climate neutrality by 2050 and have pledged to turn our European generation portfolio carbon neutral even earlier: by 2035. The transition towards renewable hydrogen will require low-carbon hydrogen in the interim, as highlighted in the EU Hydrogen Strategy and recent EU Council Conclusions on hydrogen.
  Given the urgent need to decarbonise existing hydrogen production, we invite the European Commission to recognise the importance of low-carbon hydrogen projects which can offer an immediate contribution to decarbonisation and a subsequent increase in hydrogen volumes available, thereby enhancing the European hydrogen strategic value chain.

- ***Point 25: First industrial deployment (FID) means the upscaling of pilot facilities, demonstration plants or of the first-in-kind equipment and facilities covering the steps subsequent to the pilot line including the testing phase, but neither mass production nor commercial activities***

  This definition does not take into consideration the specificities of some sectors in the hydrogen value chain where the costs of a first innovative large-scale prototype cannot be absorbed by a large serial production or subsequent mass production.

  a) There are cases where disruptive innovations can only be tested at small scale in laboratories first, and applied on the first industrial prototype, which is inevitably sold to the client later, thus implying commercial activity.
     When it is not possible to decouple the FID from implementation, we support the alignment of the FID definition with that of "experimental development" included in the Commission Communication

2014/C 198/01 'Framework for State aid for research and development and innovation": *"the development of a commercially usable prototype or pilot which is necessarily the final commercial product and which is too expensive to produce for it to be used only for demonstration and validation purposes."*

b) Similarly, for FIDs with a certain installation, the use of that certain installation should not be excluded for subsequent mass production if significant process improvements or process modifications were taken out during FID phase.

- ***Point 20: The project must involve significant co-financing by the beneficiary***

  The proposed addition of "significant" to the co-financing provided by the beneficiary brings additional uncertainty on the funding intensity during the preparation of the Project Portfolio thus discouraging, for instance, ambitious capital intensive projects. We therefore ask upon the European Commission to clarify in the text that the State Aid may cover up to 100% of the funding gap, in presence of a co-financing from the beneficiary.

- ***Point 37: The Commission may request the notifying Member State to implement a claw-back mechanism***

  Whilst we recognise that the excessive funding might be an issue, we are not favourable to the introduction of a claw back mechanism and propose to delete this suggestion as it could act as a deterrent .

- ***Point 47: Projects involving the construction of an infrastructure must comply with principles of open and non-discriminatory access to the infrastructure and non-discriminatory pricing and network operation, including those laid down in EU law***

  We propose to add further specifications to this requirement in relation with certain hydrogen infrastructures. For example, in case of liquid organic hydrogen carriers (LOHC) infrastructure a non-discriminatory and open access to this infrastructure should refer to the possible integration of various hydrogen sources and various hydrogen users. Different LOHC media cannot be processed within one hydrogenation and dehydrogenation plant installation since this is a very specific process tailored to a single compound.

- ***Point 56: The Commission will apply this Communication to all notified aid projects, even where the projects were notified prior to its application date***

  We understand the need to provide as much predictability and legal certainty as possible during the revision process but consider that the retroactive application should not apply to the provisions of the communication that introduce a more restrictive approach and could negatively impact the IPCEIs under preparation that could be notified before the end of the year.

❖ **Raising the scope and ambition level of the IPCEI Communication**

The current revision of the IPCEI Communication should also urgently address two issues extremely relevant for the development of the hydrogen sector:

a) **the interpretation of Point 26 concerning the projects of great importance**, to provide guidance on how they can relate to large scale demonstration and ramp up projects,

b) **the eligibility of additional OPEX in the FID as well as in the projects of great importance**, to compensate the higher cost of renewable and low carbon hydrogen production, as well as end-users' higher costs due to the change to renewable hydrogen and to transforming industrial technologies and processes to hydrogen.

In addition to this and for consistency reasons, we would appreciate that **Point 36** which refers to the cumulation of aid, states clearly that public funding of OPEX costs that are non-eligible under IPCEI do not count with respect to the "most favorable funding rate".

This document is non-confidential.

Uniper SE