

AGFW-Contribution

EU GUIDELINES ON STATE AID FOR ENVIRONMENTAL PROTECTION AND ENERGY (EEAG)

Public consultation

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General Remarks

AGFW, the German association for district heating and cooling and CHP (Combined Heat and Power), welcomes the possibility to voice its opinion on the revision of Guidelines on State aid for environmental protection and energy (EEAG). AGFW is convinced that the EEAG revision process poses a unique opportunity to develop a suitable framework to align the need for public support to implement the European Green Deal with the structural necessities of the European Single Market.

Overall, the EEAG revision process should be guided by the underlining premise that the comprehensive transition of the energy sector to meet the common 2030 climate targets will require the immediate implementation of comprehensive climate neutral and increasingly renewable based investments that depend on substantial public support. To advance the accessibility of public funding, existing bottlenecks in the current European State aid framework hindering private investment should be removed by simplifying EEAG provisions and improving their ex ante procedural predictability. Given the tight timeframe for 2030, the applicability of GBER as the primary tool to accommodate public Green Deal investments with the internal market should furthermore be strengthened to facilitate State aid procedures.

Adapting the EEAG-framework to the Green Deal objectives

AGFW suggests several adjustments to the current EEAG-framework to enhance its capacities as a steering tool for public support that provides the right incentives for Member States to invest towards our common Green Deal objectives. Accordingly, EEAG provisions should be modernized to sufficiently address technological development. Their future scope should thus include provisions covering sector integration technologies such as thermal storage and power-to-X. Here, the definition of energy storage, as set out in Directive (EU) 2019/944 on common rules for the internal market for electricity, would serve as a suitable benchmark. In general, the focus should less be on stipulating requirements for individual technologies, but instead considering the overall contribution of respective aid schemes on decarbonisation. This should for example be reflected in the future appreciation of sustainable bioenergy sources in recital 113 especially with regard to RME (rapeseed methyl esters), by enabling Member States to fully exempt the use of biofuels for heating from energy tax levies. Moreover, the coherence with existing European climate and energy policy objectives should be evaluated and EEAG provisions should be firmly aligned with the *Energy Efficiency First*-principle. For example, where the actual use of waste heat through DHC is expected to be more cost-efficient than preventive measures, the application of the waste hierarchy as stipulated in recital 118

should be regarded as counterintuitive in line with the *Energy Efficiency First*-principle. Previous experience with the existing provisions has shown, that due to the frequent lack of participation, public tendering for CHP has not proven to be a feasible safeguard against further market distortion and should hence be reconsidered. As recent studies have exemplified, public tendering for CHP has oftentimes led to detrimental market conditions for smaller competitors and not least for consumers, even resulting in the abortion of several projects.

Considerable augmentation of present GBER notification thresholds consistent with the EEAG revision process

AGFW emphasizes that the revision of EEAG provisions will only succeed in facilitating the swift implementation of the Green Deal if it coincides with a similar modernization of the GBER framework and a considerable raise of the current notification thresholds. AGFW therefore strongly urges to review the present GBER framework especially with regard to low carbon technologies such as DHC and CHP. Augmenting the present thresholds would provide Member States with the necessary regulatory flexibility to implement aid measures faster and improve the legal certainty and reliability for respective recipients, while strengthening the coherence between the State aid assessment framework and our climate policy objectives.

Concurrently, GBER Art. 43 as well as Art. 4 (1) (v) should in addition be extended as to also cover renewable heat. Here, a simple amendment of the paragraphs narrow terminology from “electricity” to “energy” would serve as a quick fix to further technological neutrality. Increasing the present threshold on operating aid for CHP within EEAG paragraph 20 (d) from 300 MW to 450 MW would subsequently avoid discrimination of large-scale CHP, with inherent efficiency advantages. The inclusion of sector-integration technologies would also demand a significant increase of the permissible aid intensities within Art. 41 (7) GBER. Especially with respect to the development of green hydrogen technologies, a considerable raise of aid intensities for R&D within Art. 25 GBER, in particular regarding industrial research (section 5. (b)) and experimental development (section 5. (c)), will be required.

Enshrining private Investment security as the centerpiece of European State aid reform

Meeting our common climate targets is going to require significant large scale private investment along the entire value chain of the energy sector. However, not least due to an insufficient carbon pricing, those private investments are depending upon likewise comprehensive public

support to overcome existing market failures. The primary purpose of the current EEAG revision process should thus be to establish a reliable and secure regulatory environment that incentivizes private investment by improving the predictability and transparency of the European State aid assessment formula.

Comment on the implementation of a green bonus-concept as envisioned in the earlier published Call for Contributions

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? A targeted raise of particular aid ceilings would not only constitute the most effective way to promote our climate ambitions, but would moreover be a very transparent and swiftly implementable measure. Based on this, the Commission should identify specific sectors and measures where State aid ceilings within the GBER should be raised to support environmental and climate objectives.

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.

When applying the green bonus-concept, the Renewable Energy Directive (RED) as well as the Energy Efficiency Directive (EED) set suitable criteria to define the conceptual baseline for a green bonus. Both Directives define clear targets with respect to the increase of renewables and the improvement of energy efficiency to achieve the 2030 targets.

To provide a concrete example with respect to the heating and cooling sector the Energy Efficiency Directive clearly stipulates the need to promote efficiency in the heating and cooling sector (see: Art. 14 EED) especially when operated in conjunction with high efficient CHP plants (see: Art. 2 (41) EED), the Renewable Energy Directive underscores this, by explicitly identifying DHC as a key technology to increase competitiveness and efficiency in a decarbonising heating and cooling sector (see: recital (49) RED). Applying the concept of a green bonus could thus help to further promote the implementation of common energy policy objectives in a market based manner.

4. How should we define positive environmental benefits? a. 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 European State aid framework should be adaptive to future technological developments and thus provide Member States with the necessary regulatory flexibility within their State aid policies. Consequently, such an adaptive set of regulations that would allow for the indispensable adjustability to new market developments should not be bound to a static normative framework like the taxonomy regulation, which scope is unable to fully encompass the course of future innovation. Instead, what is needed is a flexible conceptual baseline that is likewise adaptive to the ongoing transformation of the sector. Hence, when it comes to assessing the environmental benefits of State aid schemes, the EU's existing climate and energy policy framework, which already sets out suitable standards for future decarbonisation pathways, should form the primary benchmark of the Commission's assessment in this regard.

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