

## EUROHEAT & POWER RESPONSE TO THE PUBLIC CONSULTATION - TARGETED REVIEW OF THE GENERAL BLOCK EXEMPTION REGULATION: REVISED RULES FOR STATE AID PROMOTING THE GREEN AND DIGITAL TRANSITION

Final 8/12/2021

### DEFINITIONS

- Article 2(19) of Directive 2018/2001/EU provides a more recent definition<sup>1</sup> of district heating including decentralized sources.
- We suggest using the term 'final user'<sup>2</sup> as defined in Directive 2012/27/EU article 2(23), instead of the undefined and potentially misleading term 'consumers'.
- GBER should refer to the definition of waste heat as defined in article 2(9) of Directive 2018/2001/EU to cover heat from industrial installations, including from the tertiary sector (e.g. waste heat from data centers).
- The terms 'Zero or low carbon heat' should be clearly defined by referring to energy from renewable sources and waste heat or cold. The definition of waste heat or cold as set out in Directive 2018/2001/EU should be used. Its scope is broader than residual heat from industrial installations and covers data centers and tertiary sector as well.

(as) points (124a) and (124b):

"(124a) 'district heating' and/or 'district cooling' means district heating or district cooling as defined in Article 2, point (19), of Directive ~~2010/31/EU~~ **2018/2001/EU** of the European Parliament and of the Council\*;

(124b) 'district heating and cooling systems', consist of heat generation facilities (heating/cooling production plants), the heating/cooling storage and distribution network (both 'primary'- or transmission- and 'secondary' network of pipelines to supply heat to ~~consumers~~ **final users**). Reference to district heating is to be interpreted as district heating and/or cooling systems (DH/CS), depending on whether the networks supply heat or cooling jointly or separately;

(130) (e) infrastructure used for transmission or distribution of heat/steam from multiple producers or users, based on use of ~~zero or low carbon heat, steam or residual heat from industrial applications or from production processes (waste heat)~~ **energy from renewable sources including green cogeneration or waste heat and cold;**

~~Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJ L 153, 18.6.2010, p. 13).";~~

***Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82–209).";***

***(new) 'waste heat and cold' means waste heat and cold as defined in article 2 point (9) of the directive 2018/2001/EU.***

<sup>1</sup>District heating' or 'district cooling' means the distribution of thermal energy in the form of steam, hot water or chilled liquids, from central **or decentralised sources** of production through a network to multiple buildings or sites, for the use of space or process heating or cooling;

<sup>2</sup>Final customer' means a natural or legal person who purchases energy for own end use;

## NEW NOTIFICATION THRESHOLD VALUE (€ 50 MILLION)

- Euroheat & Power supports the proposed new value applying to investment aid for DHC systems. Together with the higher aid intensities, this value will provide quicker access to aid for large projects and support Member States in developing suitable schemes to transform the heat market, in line with the Green Deal objectives.

## ENERGY PERFORMANCE OF BUILDINGS

- Euroheat & Power supports the exclusion from the scope of the GBER of any aid for the use of fossil fuels in buildings – aid for the installation of oil-fired, coal-fired, or gas fired boilers; we also support that aid for the installation of energy efficient gas must be restricted to cases where it replaces coal and oil and under strict conditions that it is phased out by 2050 at the latest.
- While welcoming the new provisions on buildings, we believe they should also cover aid for costs related to the connection of buildings to DHC as well as the optimization of building performance in cases such investments are needed to support a better functioning of the district heating and cooling network.
- As a general rule, any aid to increase buildings performance should consider equally efficiency measures, on-site generation of energy from renewable sources and connection to Efficient DHC.

Article 1 (25) (f) 3d. Aid may also be granted for the improvement of the energy efficiency of the heating or cooling equipment inside the building. ***Aid for heating or cooling equipment directly connected to district heating and cooling systems will be assessed under the conditions applicable to aid for district heating and cooling as set out in Article 46.*** Aid for the installation of oil-fired, coal-fired or gas-fired energy equipment shall not be exempted under this Article from the notification requirement of Article 108(3) of the Treaty. Aid may be granted for the installation of more energy-efficient gas-fired energy equipment provided that it replaces oil-fired or coal-fired energy equipment and that it is ensured that the gas-fired energy equipment is replaced by equipment using renewable fuels by 2050 at the latest;

Article 1 (26) - (e) 11. Aid may also be granted for the improvement of the energy efficiency of the heating or cooling equipment inside the building. ***Aid for heating or cooling equipment directly connected to district heating and cooling systems will be assessed under the conditions applicable to aid for district heating and cooling as set out in Article 46.***

## ENSURING DELIVERY OF THE “GREEN BONUS” IN THE BUILDING SECTOR

- Provisions on buildings refer to more aid provided for projects achieving a higher level of energy savings. In this case, the provisions should refer to ‘certified or guaranteed’ savings to ensure that public money goes to those projects managed by professionals with a focus on real operational savings on the long-term.

Article 1(25) - article 38 (d) 3.a and (e) 6.a

Provided that the aid induces a ***certified or guaranteed*** reduction in primary energy demand of at least 20% compared to the situation prior to the investment in the renovation of existing buildings and primary

energy savings of 10% compared to the threshold set for the nearly zero-energy building requirement (..)

**INVESTMENT AID – modernisation of non-efficient DHC, calculations of aid intensity, ensuring compliance and Energy-Efficiency First principle (waste heat)**

- The proposed enlarged scope to aid for non-efficient systems will open up possibilities for Member States to develop schemes aiming at the modernisation of networks.
- A reference should be made to the definition of 'Efficient DH' (EED article 2(41)) instead of an uncertain reference to '*standard of energy efficiency*'. A reference is made to potential national metric for District Cooling that may be used following the Delegated Act to implement article 7 (RED) - not yet finalized at the time this paper was prepared.
- According to CEEAG where a Member State invests in the upgrade of a district heating and cooling system without meeting the standard of energy efficiency, it needs to commit to start the works to reach that standard within three years following the upgrade works. The same requirement exists under RRF. The same principles should apply under GBER. It should be noted that works to upgrade a District Heating network typically take 2 to 3 years as project development will occur out of the heating season. Investment into fulfilling the Efficient DH level would therefore need to start simultaneously with the district heating network upgrade, which is unrealistic and could block large share of planned district heating refurbishment.
- The alternative aid intensity of 30 % in paragraph 3 is insufficient in case of refurbishment of district heating networks or construction of new networks. District heating networks are highly capital-intensive, and a higher aid intensity is typically required to trigger the necessary investment.
- While supporting the funding-gap approach – and the confirmation of its application to both network investment and production, we underline that this method may not lead to the level of predictability required by operators. Therefore while keeping the option of the funding-gap approach (art. 46(5)), a reference to a (higher) level of aid intensity under paragraph 3 will also be useful to provide necessary certainty for investors and therefore open more possibilities for funding of new projects. In case when heat prices are regulated by a regulatory authority based on eligible cost and reasonable profit and it follows from regulatory rules applied that any investment aid has to be effectively passed on to customers connected to DH, any aid intensity is compatible with the funding gap approach. This leads to confusion as to the level of aid intensity that should be set.
- We suggest ensuring compliance with the 2030 goals and the Green Deal climate-neutrality objective by referring to measures set out in the National Energy and Climate Plans.
- Waste heat projects should be covered under article 46(4), as they can provide greater environmental benefits than renewable energy sources. It is also not realistic to expect in the 2030 perspective that district heating systems will use only renewable energy sources or waste heat. In line with the Energy Efficiency First principle, projects with a very high share of renewable energy or waste heat should be entitled for the green bonus.
- Paragraph 1c. refers to storage and distribution networks that transmit heating and cooling generated based on fossil fuels. Point (c) in paragraph 1c. should therefore also refer to fossil fuels in general and not specifically to natural gas.

Article 1 (33) – article 46

1a. Aid shall only be granted for the construction or upgrade of district heating and cooling systems which are or are to become energy efficient. Where the system does not yet become energy efficient as

a result of the supported works, the further upgrades required to ***fulfil the definition of Efficient DHC or equivalent national metric to define RES cooling*** ~~reach the standard of energy efficiency~~ shall commence within three years ~~from following the start completion~~ of the supported works.

1b. Aid shall not be granted for the construction or upgrade of fossil fuel-based generation facilities, except for natural gas. Aid for the construction or upgrade of natural gas-based generation may be granted only where compliance with the 2030 and 2050 ***Union's*** climate targets is ensured ***via measures set out in the national climate and energy plan.***

1c. Aid for upgrades of storage and distribution networks that transmit heating and cooling generated based on fossil fuels may only be granted where all of the following conditions are met:

(a) the distribution network is or becomes suitable for the transmission of heating or cooling generated from renewable energy sources, ***waste heat or carbon neutral sources;***

(b) the upgrade does not result in an increased generation of energy from fossil fuels except for natural gas;

(c) in case of an upgrade to the storage or network distributing heating and cooling generated from ~~natural-gas fossil fuels~~ compliance with the 2030 and 2050 ***Union's*** climate targets is ensured ***via measures set out in the national energy and climate plan.***

...

3. The aid intensity shall not exceed 30 % of the eligible costs ***for production plants and 60 % for the network.*** The aid intensity may be increased by 20 percentage points for aid granted to small undertakings and by 10 percentage points for aid granted to medium-sized undertakings.

4. The aid intensity may be increased by 15 percentage points for investments ***using only at least [60 %]*** renewable energy sources, including green cogeneration, ***waste heat or carbon neutral sources or combination thereof.***

#### **AID FOR CHP**

The current threshold of € 15 million should be doubled in order to support the achievement of climate and energy targets. It should also apply to operating aid for high-efficiency cogeneration as under (new) article 42a and article 43.

(e) point (v) is replaced by the following:

“(v) for operating aid for the promotion of electricity from renewable sources, as referred to in Article 42, ***operating aid for high efficiency cogeneration, as referred to in Article 42a*** and operating aid for the promotion of energy from renewable sources, ***high efficiency cogeneration*** and renewable hydrogen in small scale installations and for the promotion of renewable energy communities, as referred to in Article 43: EUR ~~20~~ ***30*** million per undertaking per project;”

- The current threshold of € 150 million should be doubled in order to support the achievement of climate and energy targets. It should also apply to operating aid for high-efficiency cogeneration as under (new) article 42a and article 43.

#### **Article 1 (28) (d)**

(d) the following paragraph 4a is inserted:

“4a. Investment aid for high-efficiency cogeneration shall be exempted from the notification requirement of Article 108(3) of the Treaty only if it is not for fossil fuel fired cogeneration installations, with the exception of natural gas where compliance with ***national climate and energy plan in view of*** the 2030 and 2050 ***Union’s*** climate targets is ensured.”;

Compliance with 2030 and 2050 climate targets cannot be verified on project level (beneficiary of aid). Compliance of the investment with the national energy and climate plan which provides for concrete measures to reach climate and energy targets on national level can be ensured.

(f) the following point (va) is inserted:

“(va) for operating aid for the promotion of energy from renewable sources, ***high efficiency cogeneration*** and renewable hydrogen in small scale installations and for the promotion of renewable energy communities, as referred to in Article 43, and for operating aid for the promotion of electricity from renewable sources, as referred to in Article 42 ***and for operating aid for the promotion of high efficiency cogeneration in Article 42a*** : EUR ~~250~~ 300 million per year taking into account the combined budget of all schemes falling under the respective Article;”;

- Operating aid for the promotion of high-efficiency CHP will play a role in some Member states to fulfil climate and energy objectives. Providing aid to such a solution via the means of competitive bidding processes has limited impact on internal market and should be envisaged under the GBER.

*(29a) the following Article 42a is inserted:*

*“Article 42a*

*Operating aid for the promotion of electricity from high-efficiency cogeneration*

- 1. Operating aid for the promotion of electricity from high-efficiency cogeneration shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.*
- 2. High-efficiency cogeneration shall not use fossil fuels with the exception of natural gas where compliance with national climate and energy plan in view of compliance with the 2030 and 2050 Union’s climate targets is ensured.*
- 3. Aid shall be granted in a competitive bidding process on the basis of clear, transparent, non-discriminatory and objective criteria, defined ex ante in accordance with the objective of the measure and minimising the risk of strategic bidding. Those criteria shall be published at least 6 weeks in advance of the deadline for submitting applications, to enable effective competition. The competitive bidding process shall fulfil all of the following criteria:*

*(i) the budget or volume related to the bidding process shall be a binding constraint in that it can be expected that not all bidders would receive aid;*

*(ii) the expected number of bidders shall be sufficient to ensure effective competition;*

*(iii) the design of undersubscribed bidding processes during the implementation of a scheme shall be corrected to restore effective competition in the subsequent bidding processes or as soon as possible;*

*(iv) ex post adjustments to the bidding process outcome (such as subsequent negotiations on bid results or rationing) shall be avoided as they may undermine the efficiency of the process’s outcome.*

4. *The bidding process can be limited to specific technologies where a process open to all generators would lead to a suboptimal result.*
5. *Aid shall be granted as a premium in addition to the market price whereby the generators sell their electricity directly in the market.*
6. *Aid beneficiaries shall be subject to standard balancing responsibilities. Beneficiaries may outsource balancing responsibilities to other undertakings on their behalf, such as aggregators.*
7. *Aid shall not be paid for any periods where prices are negative. For the avoidance of doubt, this applies as of the moment when prices turn negative.*
8. *Aid shall only be granted until the plant generating the electricity from high-efficiency cogeneration has been fully depreciated in accordance with generally accepted accounting principles. Any investment aid received shall be deducted from the operating aid.”;*

- Article 43 should apply also to small-scale high-efficiency cogeneration installations which are important solutions for achieving the EU climate and energy targets.
- The suggested threshold of 400 kW for heat generation is very low and would hamper the necessary transformation we need to see on the heat market. We refer here to the 1 MW threshold suggested in the draft EEAG. The same threshold should apply to all projects, irrespectively of the size of the undertaking recipient of the aid.

*“Article 43*

Operating aid for the promotion of energy from renewable sources, **high efficiency cogeneration** and renewable hydrogen in small scale installations and for the promotion of renewable energy communities

1. Operating aid for the promotion of energy from renewable sources, **high-efficiency cogeneration** and renewable hydrogen in small scale installations and for the promotion of renewable energy communities shall be compatible with the internal market within the meaning of Article 107(3) of the Treaty and shall be exempted from the notification requirement of Article 108(3) of the Treaty, provided that the conditions laid down in this Article and in Chapter I are fulfilled.

2. Operating aid for small-scale installations shall be exempted from the notification requirement of Article 108(3) of the Treaty only up to the following size thresholds:

(a) for electricity generation or storage projects: projects below the applicable threshold set out in Article 5 of Regulation (EU) 2019/943;

(b) for heat generation and renewable gas production technologies: projects below ~~400 kW~~ **1 MW** installed capacity.

For the purpose of calculating those maximum capacities, small scale installations with a common connection point to the electricity grid shall be considered as one installation.”;

- We do not see a rational for different rules to apply to renewable energy communities. In order to maintain the integrity of the market, the same rules and level of aid intensity should apply to all projects serving the same purpose regardless of the kind of ownership.
- Article 43 should apply also to small-scale high-efficiency cogeneration installations which will play a role to achieve the EU climate and energy targets. High-efficiency cogeneration installations should not use fossil fuels other than natural gas where compliance with national climate and energy plan is ensured.



#### Article (1) (30) (b)

(b) the following paragraphs 2a and 2b are inserted:

~~**“2a. Aid to renewable energy communities shall be exempted from the notification requirement of Article 108(3) of the Treaty only for projects with an installed capacity of less than 1 MW undertaken by entities falling with the definition of renewable energy community.**~~

**“2a. Operating aid to high efficiency cogeneration shall be exempted from the notification requirement of Article 108(3) of the Treaty only if it is not for fossil fuel fired cogeneration installations, with the exception of natural gas where compliance with national climate and energy plan in view of the 2030 and 2050 Union’s climate targets is ensured.**

**2b. Operating aid for the production of hydrogen shall be exempted from the notification requirement of Article 108(3) of the Treaty only for installations producing exclusively renewable hydrogen.”;**

#### BIOENERGIES

- Annex IX to the Directive 2018/2001 applies to feedstocks for the production of biogas for transport and advanced biofuels, the contribution of which towards the minimum shares referred to in the first and fourth subparagraphs of Article 25(1) may be considered to be twice their energy content and hence is completely irrelevant for heat and electricity production from biomass fuels and article 41 of GBER which does not apply to fuels used in transport.

Article 1(28)(c) paragraphs 2, 3 and 4 are replaced by the following:

**“2. Investment aid for the production of biofuels, bioliquids, biogas and biomass fuels shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that the aided fuels are compliant with the sustainability and greenhouse gases emissions saving criteria of Directive (EU) 2018/2001 and its implementing or delegated acts ~~and are made from the feedstock listed in Part A of Annex IX to that Directive.~~**

Article 1(37)(a)

(a) in paragraph 4, point (b), point (iv) is replaced by the following:

**“(iv) in case of installations producing biofuels, aid shall only be granted for installations producing biofuels compliant with the sustainability and greenhouse gases emissions saving criteria referred to in article 29 of Directive (EU) 2018/2001 and its implementing or delegated acts ~~and are made from the feedstock listed in Part A of Annex IX to that Directive.~~”;**

#### ON INVESTMENT AID FOR CCUS

- We welcome the enlarged focus to CCUS projects. There is an increasing interest on some markets to realise such projects. These emerging projects will be successful if they are supported at an adequate level.

In the light of the need to attract more private investments into these projects, we would support an increased level of aid intensities of 40% aligned with the value applying to Hydrogen projects. As an alternative, the funding gap could apply to ensure that the level of aid is commensurate with local conditions.

Article 1 (21) – article 36 6a. In case of investments relating to CCUS, the aid intensity shall not exceed ~~20~~ 40%, *or the funding gap approach should determine the level of aid.*