

Policy and Communications

Directorate-General for Competition – Unit A3

E-mail: COMP-A3-PUBLIC-CONSULTATION@ec.europa.eu

## Comments to the review of the General Block Exemption Regulation (GBER)

### About Swedenergy

Swedenergy is a Swedish association for about 400 energy companies producing, distributing, selling and storing energy. Our aim is from knowledge, a holistic approach on the energy system and in collaboration with our surrounding environment develop the energy sector – to the benefit for all.

Swedenergy would like to comment the draft guidelines on General Block Exemption Regulation (GBER).

### *Introduction*

Swedenergy basically believes that it is important to revise the general Block Exemption Regulation (GBER) in order to facilitate the adjustment in order to meet the climate goals and to facilitate the implementation of the EU's Green Deal. We affirm Sweden's and the EU's long-term focus on reducing climate impact, more efficient use of resources, an increased share of renewable energy and the circular economy and the decided energy and climate policy goals for the years 2030-2045.

In this context, the state aid guidelines play a central role in creating the conditions for both a rapid energy transition while maintaining well-functioning competitive conditions in the energy markets.

Overall, policy instruments and subsidies must have a stated and specific purpose for it to be possible to determine whether the support has been effective, and to be able to decide when and at what pace the support should be phased out. Aid and subsidies may be justified for unestablished technology in a market introduction phase, but these need to be designed on the basis of actual support needs that are regularly monitored.

In an open and integrated market, it is important that all players can operate on equal terms. It is important that taxes and support do not contribute to a distortion between different actors and production methods, that new investments are not hampered and that affirm the demand side's contribution.

The EU Emissions Trading Scheme (ETS) should be the primary instrument for reducing CO2 emissions in the trading sector as it is a cost-effective and market-based emission reduction scheme. Other instruments to tackle emissions should focus primarily on the non-trading sector.

**Article 2, Definition of "low-carbon hydrogen"**

In p. 102e) it is proposed that in the definition of "low-carbon hydrogen" that *"The carbon content of electricity-based hydrogen shall be determined by the marginal generation unit in the bidding zone where the electrolyser is located in the imbalance settlement periods when the electrolyser consumes electricity from the grid;"*. We consider that this part of the definition is problematic for several reasons as it raises many questions as to how it can be applied in practice.

We consider that it is unclear how the "marginal power plant" should be interpreted in this writing. Is the pricing power plant in the day-ahead market? Or is it the last trade on the Intra-day market, or is it accepted bids of regulatory power? In the first two cases, the bidding is anonymous, and it is not facility-specific bids either, but players bid MWh per electricity area. Regulatory power is easier to identify, but in such a case it is unclear whether it is down-regulation that sets the price and in that case how to handle different types of power and e.g. hydrogen-based electricity production or battery storage. It also does not appear to be well thought out in the event that the owner of the electrolyser is in balance in the operation and why he should then be burdened with someone else's "imbalance value". Another ambiguity is how PPA agreements with e.g. wind or solar power must be handled in this context. Against this background, we propose that the last sentence in the definition of low-carbon hydrogen to be deleted.

**Article 36 Investment aid for environmental protection, including climate protection**

Paragraph 6a proposes that for investments relating to the capture, storage and use of carbon dioxide, the aid intensity may not exceed 20%. We consider this to be a very low support intensity given that many CCUS technologies today are far from established and cannot cope on market grounds but will be dependent on significant support at least in perspective until 2040. For example, the establishment of large-scale bio-CCS be completely dependent on state operating support to be able to establish the technology on the market to be able to switch to a more market-driven demand in the longer term.

We are also asking why the support intensity is proposed to be so low for CCUS technologies, which we believe will be very important that they are developed and introduced to the market to meet the climate goals. We believe that there will be major initial technology risks in establishing large-scale facilities for various types of CCUS technologies where there is a need for major risk mitigation in the early stages of introduction. We propose that the support intensity may be increased up to at least 100% to enable a faster introduction of CCUS technologies of biogenic carbon dioxide on the market, but with an ambition to be able to gradually reduce the support intensity in the future when more market-driven demand is established. One reason for a higher aid intensity for bio-CCS is that this technology benefits society in a way that fossil-based CCS does not where the polluter should basically pay for its emissions.

**Article 36a Investment aid for publicly available infrastructure for charging or refuelling of emission-free and low-emission road vehicles**

We support the proposed expanded opportunities to support the expansion of charging infrastructure. We believe that in some cases it can be justified with as high a support intensity as 100% to enable the expansion of charging infrastructure in sparsely populated areas, such as parts of northern Sweden.

***Article 38 Investment aid for energy efficiency measures***

P. 2b. We generally consider that support for established technology should be limited as far as possible. However, we see risks in stating that energy efficiency support may not include support for district heating and district cooling, as connection to district heating and district cooling should be considered equivalent to using individual heating or cooling solutions with e.g. a heat pump in a building. It is important that there are technology-neutral conditions in the heating and cooling markets and that support for energy efficiency does not disadvantage the choice of district heating or district cooling. On this basis, we reject p. 2 b that support should not be provided for connection of district heating or district cooling.

Also in point 3a, we believe that it is important that there are technology-neutral conditions in the choice of heating form that do not disadvantage the choice of district heating or district cooling as heating or cooling forms. It also needs to be considered that support based on the definition of nearly-zero-energy buildings is designed in a technology-neutral manner when it is proposed that a building should have 10 percent better energy performance than what follows from national nearly-zero-energy building rules.

P. 3d. We consider that there is no need to enable support for fossil-based gas heating and believe that any support should focus on heating based on renewable energy sources or waste energy sources.

***Article 39 Investment support for energy efficiency projects in buildings in the form of financial instruments***

P. 2a, a) We consider that it is important that there are technology-neutral conditions in the choice of form of heating that do not disadvantage the choice of district heating or district cooling as sustainable forms of heating or cooling. The proposal unilaterally favours individual forms of heating "on the spot". We believe that additions need to be made so that connections to common forms of heating such as district heating may also be eligible if support is nevertheless introduced, which also includes heating solutions. We believe that it is also important that the utilization of waste heat from industrial processes, computer halls and other activities may be included. We propose the following additions in order to give the rules a more technology-neutral design:

*"Installation of integrated renewable energy installations on site, or nearby, which produce electricity, heat or cooling, or for the recovery of waste heat."*

***Article 41 Investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration***

We are generally positive that support for hydrogen and storage technologies may be eligible, where support measures may be justified during a market introduction phase.

P. 9. We question the concept of "green" cogeneration and consider that it is better to use the term "renewable" cogeneration (also with reference to the proposed definition in p. 108b).

***Article 42 Operating aid for the promotion of electricity from renewable energy sources***

We support the proposed approach that any aid should be designed through a competitive bidding process based on clear, transparent, non-discriminatory and objective criteria.

***Article 43 Operating aid for the promotion of energy from renewable energy sources and renewable hydrogen in small-scale installations and for the promotion of local energy communities***

P. 2.b) We believe that for administrative reasons it may be justified to have power limits for small facilities where e.g. a power limit of 400 kW is proposed, which is in line with e.g. EU Electricity Market Regulation (2019/943).

P. 2a. We believe that the same effect limits should apply to energy communities as to other actors in order to maintain actor- and competition-neutral conditions. We propose a reduced power limit from 1 MW to 400 kW.

***Article 44 Aid in the form of reductions in environmental taxes under Directive 2003/96/EC***

*P. 44.5 on energy tax reductions for energy-intensive industry, etc.*

We reject the proposal to set requirements for the implementation of energy efficiency measures that have been developed in an energy audit and that have a shorter repayment period than 3 years, in order to reduce energy tax on e.g. electricity. We believe that energy audits are a good instrument for stimulating regular work to develop energy efficiency measures. However, we question whether proposals for measures in an energy audit can constitute a sufficient basis for making investment decisions on actual implementation. The quality of an energy audit can also be questioned. Normally, further investigations are required before implementing decisions on such measures can be made.

We also question how the practical application of the proposal to "invest a significant proportion of at least 50% of the reduction in projects that lead to significant reductions in the plant's greenhouse gas emissions" will take place. We also consider that this additional requirement risks becoming very cumbersome and basically consider that emissions trading should be a sufficient instrument to give price signals to phase out fossil fuels.

From the energy companies' side, we also see that the handling of those who will receive energy tax reductions will be administratively cumbersome for the electricity network companies' part that handles the collection of energy tax on electricity. We are questioning how the assessment of whether a manufacturing industry has implemented energy efficiency measures based on an energy audit should be carried out. We also do not see the alternative of "transferring" tax cuts introduced with the application of GBER to the forthcoming CEEAG state aid guidelines as a desirable alternative as it will lead to time-consuming recurring state aid trials that create both additional administrative work and risk becoming more cumbersome to handle.

Åsa Pettersson  
CEO, Swedenergy

Erik Thornström  
Senior Advisor