DUH response to the consultation on the targeted review of the GBER

Environmental Action Germany (*Deutsche Umwelthilfe*, DUH) welcomes the opportunity to participate in the consultation on the General Block Exemption Regulation ("GBER"). The GBER defines ex ante compatibility conditions for state aid, exempting certain activities from the requirement of prior notification and Commission approval. As such, the GBER is influential in creating a framework for public investment in Europe. While it has been instrumental in channeling public investments into sustainable projects, it has also served to enable unsustainable activities, such as investments into fossil gas infrastructure, forest biomass and cogeneration of heat and power (CHP).

In the future, the state aid regime should not be allowed to undermine the achievement of the EU climate targets and the Green Deal, including the commitment to achieve climate neutrality by 2050. DUH therefore calls for an explicit inclusion of the "do no significant harm" principle in Chapter I of the GBER. As a matter of principle, state aid measures should only be exempt from notification if they respect the "do no significant harm" principle as defined in EU Regulation 2020/852. Any state aid to fossil fuels including natural gas, whether for electricity or heat generation or for any other purpose (e.g. refueling infrastructure), violates this principle and should be excluded from the GBER.

DUH is generally concerned about new exemptions being introduced for non-renewable hydrogen projects. Blue hydrogen, produced by steam reforming natural gas, has an even worse climate balance than the direct combustion of natural gas, according to new findings. [1] Hydrogen produced by electrolysis on the basis of an electricity mix including fossil power plants likewise leads to increasing CO2 emissions.[2] While non-renewable hydrogen might play a role in the initial development of hydrogen markets, only green hydrogen projects should be eligible for state aid.

DUH criticizes in particular:

- Article 36 "investment aid for environmental protection" makes no distinction between renewable and low-carbon hydrogen. Only renewable hydrogen produced in accordance with RED provisions should be included here, since the environmental protection benefit of various forms of "low carbon" hydrogen is highly dubious. The wording of the article should also be clarified to stress that it only applies to industrial installations, not power plants. Funding of fossil-gas-based machinery should be excluded as no fossil energy carrier should receive state aid.

[1] Howarth, R., Jacobson, M., 2021, „How green is blue hydrogen?", https://onlinelibrary.wiley.com/doi/10.1002/ese3.956
[2] Bellona, 2021, "Cannibalising the Energiewende? 27 Shades of Green hydrogen", https://bellona.org/publication/will-hydrogen-cannibalise-the-energiewende

- Article 36 a and 36 b: “Investment aid for refueling infrastructure” runs the risk of funding a network of hydrogen refueling stations for a quantity of hydrogen vehicles that will never come. It is highly probable that renewable hydrogen will only be available in limited quantities, at what price is unknown. These limited quantities will have to cover industrial demand, aviation and shipping as a priority – not road transport. Decarbonisation of railway transport should prioritize the electrification of all railway networks. Therefore, refueling infrastructure for road or railway vehicles fueled with hydrogen or low-carbon cases should not receive public funding. In addition, the differentiation between “clean” and “zero-emission” vehicles is unclear. Only renewable hydrogen, not low-carbon hydrogen, should be funded when fueling vehicles for inland waterway and maritime transport.
- Article 38 should exclude aid for natural gas-fired heating or cooling equipment, as no fossil energy carrier should be eligible for state aid.
- Article 41 “Investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration”: State aid for fossil combined heat and power generation (CHP) constitutes a fossil fuel subsidy that runs counter to the EU’s climate targets and the “do no significant harm” principle. It creates a competitive advantage for fossil gas and thus hinders the switch to renewable heating alternatives. The reference to the definition of high efficiency cogeneration in EU Directive 2012/27, Annex 2, points a and f (1), is out of date, as the primary energy saving of 10% is only related to the same fuel. Much higher primary energy savings can be achieved by renewables-based systems such as heat pumps, however. Allowing CHP to use up still permissible CO2 emissions in the respective NECP fails to recognize that there are other sectors (e.g. industry) that are much more difficult and expensive to decarbonize than heating and power generation. The promotion of fossil CHP should therefore be terminated immediately and definitely not be considered exempt from notification.
- The proposal to revise article 46 " Investment aid for energy efficient district heating and cooling” is a step backwards, as it exempts state aid for the modernization of inefficient grids from notification and allows the subsidisation of fossil grids. The exemption made for natural gas runs the risk of a fossil gas lock-in. Instead, the transformation towards renewable district heating and cooling must become priority. Only aid to district heating systems run 100% on renewable energy should be covered by the GBER. Aid to district heating systems not meeting this condition should be assessed by the Commission on a case by case basis. The GBER should set up a framework for channeling public investment into upgrading or constructing new renewables-based district heating systems, excluding forest biomass and biofuels.
- Article 48 “investment aid for energy infrastructure” allows an exemption for gas infrastructure “dedicated to the use of hydrogen and/or renewable gases”, or “mainly used” for the transport of these gases. This would allow investment aid to any type of hydrogen infrastructure – the wording does not even require it to be for “low carbon” hydrogen, much less “renewable hydrogen”. A general exemption should only be made for renewable hydrogen infrastructure, for the reasons explained above. The GBER should furthermore clarify with quantitative thresholds what is meant by “dedicated” and “main” use of infrastructure, to make sure that any hydrogen blending projects are excluded here.