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Answer to the review of the General Block Exemption Regulation (State aid): revised rules for State aid promoting the green and digital transition

Biogas Academy is a non-profit, non governmental organisation founded by Dr Jan Rapp, MD. Biogas Academy helps policy makers and businesses to realize the multiple benefits of a swift implementation of biogas/biomethane infrastructure in both urban and rural waste handling. Through Energigas Sverige, (the business organisation for energy gases in Sweden) we have taken part of the above proposal.

We hereby present our opinion in accordance with the consultation about the targeted review of the General Block Exemption Regulation (State aid): revised rules for State aid promoting the green and digital transition, published the 06.10-21.

Biogas Academy highlight several important points in our response below, but wish to particular emphasise that the proposed Article 43 must be amended to permit support of

***production of biogas
upgrading of biogas to biomethane
liquefaction of biogas/biomethane***

without limitation to small production plants.

More detailed comments on Article 43 can be found below.

Article 2(102f-g)

This article proposes definitions of “clean vehicle and “zero-emission vehicle”. The requirements for maximum CO₂ emissions are made according to CO₂ emissions in vehicles’ exhaust gases (tailpipe emissions of CO₂), even in those cases where the proposal refers to definitions in other regulations.

Biogas Academy opposes the proposal to formulate CO₂ emissions standards/limits based on local (= tailpipe) emissions from vehicles and ships. Biogas Academy believes that both European and Swedish legislation should be based on a research-based WTW¹ – or LCA² – approach to climate emissions. The outdated tailpipe perspective is misleading as it does not take into account whether electricity is derived from fossil or renewable origin. Keeping the tailpipe perspective in EU regulations will make the task of mitigating climate change more difficult, unnecessarily costly, slower and considerably less safe due to redundancy problems with the electrical transmission

¹ WTW = Well-to-wheel

² LCA = Life-cycle analysis

capacity and distribution being the only accepted power source for all road vehicles, both public and private.

Article 2(130)

This article introduces a new definition of “energy infrastructure” concerning gas, and a new definition of “energy infrastructure” concerning hydrogen.

Biogas Academy believes that it is important that “energy infrastructure” for gas and hydrogen are not limited to pipelines for the distribution and transmission of gas. In Sweden and other Member States that do not have a well-developed national gas grid, gas is mainly distributed in liquid form via infrastructure other than gas networks.

Article 36

The changes proposed in Article 36 need to be read alongside the changes proposed in Article 2, (102f-g, see above). The changes to Article 36a and the new Article 36b are limited almost exclusively to electrical and hydrogen technologies. Biomethane refuelling infrastructure is not included here at all, and in most cases neither are vehicles or ships powered by biomethane (due to the unfortunate tailpipe perspective adopted in Article 2(102 f-g)). We are concerned that these biogas technologies will not be covered by other parts of Article 36, or by other parts of the regulation, as the proposal currently stands.

Biogas Academy believes that the regulation should include support for refuelling infrastructure for biomethane, and for vehicles and ships powered by biomethane, as is the case for electricity and hydrogen. Biomethane (produced from waste) provides great climate benefit in the same way renewable electricity and renewable hydrogen does. With a coming European obligation to separate food waste, the sooner recycling of all organic waste (solid and fluid) to biogas and fertilizer is introduced large scale in all EU member states the better. Creating large and small scale production of non fossil methane brings considerable advantages as it reduces dependency on both fossil energy and of imported energy. Simultaneously it safeguards energy supply and distribution since production runs 24/7 independently of weather, rain, shine, night or day. To get Fit for 55 using biogas, all you need is waste. Something every EU member state, region and city has a lot of.

Biogas Academy are very concerned that the proposal presented in Article 36, in combination with the proposed changes in Article 2(102f-g), could hinder Sweden's^{°°} ability to support biogas investments through different investment support programmes. If this is indeed the consequence of the Commission's proposed changes to Article 36, we oppose the proposed changes.

^{°°}The Swedish biomethane model has been copied by California, where the share of biomethane at fuelling station has ***in eight years*** increased from 10% in 2013 to 92% 2021. According to the California Air Resources Board climate indexing of fuels this creates a situation where the net fossil carbon emissions from methane fuelled trucks in California today is less than zero. We propose the EU does everything in its power to copy this development. The Fit for 55 time frame runs from now until 2030 = ***eight years from now.....***

Article 41

This article concerns investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration.

Biogas Academy believes that the condition which states that investment aid for the production biogas should be exempted from the notification requirement if the fuel derives from the feedstock listed in Part A of Annex IX to the Renewable Energy Directive should be changed, so that the condition refers instead to the entirety of Annex IX to that directive.

There are demarcation problems between Part A and B, in that Part B includes certain waste products that could be advantageously co-processed into biogas with other waste products mentioned in Part A. Excluding Part B from the proposed amendment would lead to unnecessary administrative costs and inhibit, among other things, biogas production from waste. We also see a clear risk that the Commission's ongoing revision of Annex IX (done through the delegated act detailed in the

Renewable Energy Directive) could alter the negotiated distribution between Parts A and B, and thus damaging the conditions for biogas production in general and from certain residues and waste products in particular. Therefore, the condition should refer to the whole of Annex IX.

Furthermore, Biogas Academy believes that the conditions outlined in the proposed Article 41(3) should apply to low-carbon hydrogen rather than exclusively to renewable hydrogen.

Article 43

This article concerns operating aid for the promotion of energy from renewable sources and renewable hydrogen in small scale installations, and for the promotion of renewable energy communities.

Biogas Academy strongly opposes the proposal that operating aid for renewable gas production be limited to projects below 400 kW installed capacity. The current version of the General Block Exemption Regulation³ (GBER) permits operating aid for biofuel production plants with an installed capacity of less than 50,000 tonnes per year. This provision should remain in place for the production of biogas and other renewable gases, and be extended to apply to all its uses, rather than exclusively to fuel. As we see it, introducing smart recycling of organic waste such as urban sewage, runoff water from paper mills, waste from food industry, straw and manure from farms benefits and safeguards the transition to a more circular, non – fossil society. In small **and large** scale.

Large production facilities will make it possible to supply both large fleets of heavy duty trucks or ships, both being end uses where methane (fossil methane, “natural gas”) is already being distributed and used while electrical infrastructure and vessels still don’t exist.

Furthermore, Biogas Academy believes that the proposed paragraph 2b should be changed so that operating aid for the low-carbon hydrogen is exempted from the notification requirement, rather than exclusively renewable hydrogen as stated in the current proposal.

Finally, point 3 should be changed so that the opportunity to provide operating aid is not limited to installations that use fuel derived from the feedstock listed in Part A of Annex IX to the Renewable Energy Directive, but instead extended to the entirety of Annex IX to the same directive. The reasons for this are outlined in the comments on Article 41, above.

Article 44

Article 44(4) states that tax reductions for the products defined in Article 16(1) of the Energy Tax Directive⁴ shall be exempted from the notification requirement of Article 108(3) of the Treaty only to the extent that they are compliant with the sustainability and greenhouse gases emissions

¹ 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.

¹ COMMISSION REGULATION (EU) No 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty

¹ COUNCIL DIRECTIVE 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity

saving criteria in the Renewable Energy Directive and are made from the feedstock listed in Part A of Annex IX to that directive.

Biogas Academy believes that this condition should not be limited to fuels from feedstock listed in Part A of Annex IX to the Renewable Energy Directive, but should instead be broadened to apply to the entirety of Annex IX to that directive. The reasons for this are outlined in the comments on Article 41, above.

For a realistic Fit for 55-package and the best chances for fighting climate change,

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