

COMP A3 PUBLIC CONSULTATION

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To: COMP A3 PUBLIC CONSULTATION
Cc: COMP STATE AID GREFFE
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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

FVB Sverige ab, energy consultants within the area of biogas, have the following reviews to give:

FVB Sverige ab – has taken part in the above proposal. We thank you for the opportunity to contribute comments, and 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.

The Swedish Gas Association highlights several important points in our response below, but wish to particular emphasise that the proposed Article 43 must be amended to permit support for the production, upgrading (biomethane) and liquefaction of biogas and other renewable gases without limitation to small production plants. More detailed comments on Article 43 can be found below.

Article 2(102c)

This article proposes that renewable hydrogen be defined as “hydrogen produced using only renewable sources of energy, in accordance with [Reference to delegated act by DG ENER pursuant to Article 28 of the RED II]”.

The Swedish Gas Association notes that the delegated act to which the definition refers has not yet been decided by the Commission. Many investments are planned in the production, distribution and use of hydrogen both in Sweden and across the rest of the EU over the coming years. Clear definitions and the likelihood of receiving support during construction are of great importance in terms of reaching the goals of the EU's hydrogen strategy^[1]. It is therefore remarkable that the Commission, in such an important definition, refers to a regulatory framework that has yet not been decided.

Article 2(102e)

This article proposes that low-carbon hydrogen should be defined as “fossil-based hydrogen with carbon capture and storage or electricity-based hydrogen, where that hydrogen achieves life-cycle greenhouse gas emissions savings of at least [73.4 %] [resulting in life-cycle greenhouse gas emissions below 3 tCO₂eq/tH₂] relative to a fossil fuel comparator of [94g CO₂e/MJ (2.256 tCO₂eq/tH₂)]. 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”.

The Swedish Gas Association believes that this definition should also include hydrogen with carbon capture capture and utilization (CCU). In this proposal, the Commission has introduced definitions of both carbon capture and storage (CCS) (Article 2(131a)) and carbon capture and utilization (CCU) (Article 2(131b)). Both these new definitions should be included in the definition of low-carbon hydrogen.

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.

The Swedish Gas Association opposes the proposal to formulate maximum CO₂ emissions purely on the basis of local emissions from vehicles and ships (that is, tailpipe emissions). The Swedish Gas Association believes that both European and Swedish legislation should instead be based on a research-based WTW^[2] – or LCA^[3] – approach to climate emissions. The outdated tailpipe perspective does not take into account whether electricity is derived from fossil or renewable origin. It is not technology neutral and it hinders the use of biogas and other sustainable renewable biofuels. The tailpipe perspective in EU regulations makes the task of mitigating climate change more difficult.

Article 2(130)

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

The Swedish Energy Association 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 the Swedish Gas Association's comments above). The changes to Article 36a and the new Article 36b are limited almost exclusively to electrical and hydrogen technologies. Biogas (bio methane) refuelling infrastructure is not included here at all, and in most cases neither are vehicles or ships powered by biogas (bio methane) (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.

The Swedish Gas Association believes that the regulation should include support for refuelling infrastructure for biogas (bio methane), and for vehicles and ships powered by biogas (bio methane), as is the case for electricity and hydrogen. Biogas generally provides as great climate benefit as renewable electricity and renewable hydrogen, as well as delivering several other societal benefits such as the recycling of plant nutrients, reduced eutrophication and improved biodiversity and soil quality. The production of biogas and biofertilizer also provides increased security of supply, rural development, jobs, regional business development and innovation, and new export opportunities.

We 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.

Article 41

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

The Swedish Gas Association believes that the condition which states that investment aid for the production of biofuels, bioliquids, biogas and biomass fuels 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^[4] 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, the Swedish Gas Association 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.

The Swedish Gas Association opposes the proposal that operating aid for renewable gas production is to be limited to projects below 400 kW installed capacity. The current version of the General Block Exemption Regulation^[5] (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. This measure is very important to the introduction of a production support scheme to biogas, as proposed in the Swedish budget bill to be introduced in Sweden in 2022.

Furthermore, the Swedish Gas Association 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 Directive^[6] 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 saving criteria in the Renewable Energy Directive and are made from the feedstock listed in Part A of Annex IX to that directive.

The Swedish Gas Association 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.

Thank you.

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Prenumerera gärna på [FVB-Nytt](#)

^[1] A hydrogen strategy for a climate-neutral Europe, COM(2020) 301 final (July 2020)

^[2] WTW = Well-to-wheel

^[3] LCA = Life-cycle analysis

^[4] 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.

^[5] 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

^[6] COUNCIL DIRECTIVE 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity