31 May 2021

Ms. Margarethe Vestager
Executive Vice-President and
Commissioner for Competition
European Commission

A State Aid Framework Fit for the Green Deal

Joint statement with minister endorsement on the inclusion of the Green Deal into the State aid framework

Dear Executive Vice-President,

A fair and efficient State aid framework is necessary in order to maintain fair competition in the internal market and for ensuring European competitiveness overall. With the Green Deal, the energy transition has entered a new phase of ambition for an accelerated decarbonisation of Europe's economy. It is key that the State aid framework follows this development and enables necessary investments to address market failures for the realisation of a climate neutral society and the Paris Agreement.

We have jointly identified the following key factors that we believe are needed to implement the Green Deal into the State aid rules.

The overall goal should be to support an effective and market-based energy transition, while gradually phasing out fossil fuels within an ambitious climate, environmental, and energy policy, in a comprehensive and targeted approach that leaves no sector or region behind. The EU State aid rules need to facilitate the development of new technologies and materials as well as making sure that existing technologies can continue to be put to good use by Member States to reach the climate goals, in a safe and sustainable manner, without leading to greenwashing and lock-in situations that hinder the transition to a climate neutral economy. The transition is a process which will indeed differ in implementation and timing between sectors and Member States. The aim is therefore not to create a permanent fixture of higher aid levels, but rather to create a set of rules which enables Member states to address their different challenges with effective and specific measures while remaining limited in time and scope to the necessary transition. At the same time, maintaining Europe's international competitiveness and ensuring fair competition in the internal market is paramount. To fully ensure that the aims of the reform are upheld, the effects should be monitored closely.

A Coherent Approach

If the revision of the State aid rules are to fully reflect the policy objectives of the Green Deal, supporting a cost- and resource-effective transition to climate neutrality by 2050, it is essential that the State aid rules are not only coordinated with other parts of EU legislation, but also that a coherent approach is taken towards all parts of the State aid framework, prioritizing climate action while acknowledging its role within a common European industrial policy. Adding, for instance, climate aid elements to the EEAG and GBER alone, will not be enough to achieve these goals.

Also, considering recent jurisprudence, an elaboration is needed on how the various parts of the State aid rules will work together and to ensure that various policy objectives are pursued in full coherence and do not counteract each other. This is in particular of importance when discussing State aid measures addressing climate issues, since CO_2-emissions can be a by-product of aid measures with other primary policy objectives. There are also requirements in legal acts based on other primary policy objectives which become relevant to consider when assessing compatibility.

It is necessary to take a broader approach than simply phasing out fossil fuels. A set of different measures is needed. The revised State aid rules should take into account the climate and environmental impact of aid schemes and acknowledge the key role of electrification and transition technologies, including the gradual shift from natural gas to hydrogen, particularly from renewable sources, and sustainable biogas and e-fuels, where gas is not replaced by direct electrification. To achieve this, it is necessary to introduce new measures and incentives in many places, but it is equally important to ensure that any such measures are truly appropriate and proportionate towards their purpose.

In order for the State aid framework to fully implement the Green Deal, relevant parts need to be aligned with the new Common Agricultural Policy as well as the EU 'Farm to Fork'. Another necessary alignment is with the Clean Energy for all Europeans Package to ensure consistency. A coordinated approach should be taken to reviewing the EEAG with the revisions planned by the Commission to the Renewable Energy Directive as well as other legislation in 2021 as part of delivering on the 2030 target of at least 55% reduction in GHG emissions.

The revised State aid rules should contain a clear articulation on how they support the effectiveness and efficiency of the Emissions Trading Scheme in the context of the negotiation of a revised EU ETS directive starting in 2021. In addition, they need to take into account the necessity and importance of effective measures against carbon leakage.

It is also necessary to clarify the rules of compatibility of regulated schemes that involve State aid, and to initiate a reflection on the interaction between regulation and the internal energy market.

The State aid framework should contain explicit rules on aid measures encouraging circular business models reflecting the objectives in the European Circular Economy Action Plan. Transforming waste into new resources – increasing reusing and recycling operations, and prioritizing use over ownership leads to sustainable production and consumption methods. Reduction of energy usage, waste reduction and initiatives that speed up the transition towards a circular economy will greatly contribute to a carbon free economy. The revised State aid rules also need to be simplified regarding aid for nature conservation and biodiversity including natural carbon sinks.

An Inclusive Approach to Regions and Sectors

When implementing the Green Deal, it is necessary that regions and sectors in Europe are not left behind without having the possibility to participate in the necessary transition, enabling cross-border infrastructure and transport. This is particularly true for regions dependent on fossil fuel extraction and its use for electricity and heat generation. This is important for several regions in the EU as they exit from the harvesting and generation of electricity from coal or peat. Attention should also be put on the remote and sparsely populated regions in the EU where the decarbonisation of transport chains poses a particular challenge. The gradual phasing-out of fossil-fuels together with improvements in terms of energy efficiency form an integral part of decarbonisation. In facilitating the decarbonisation of brown industries, the State aid rules must make it possible to facilitate the necessary changes in particularly affected regions. This emphasizes the need for a just transition and that no regions or sectors are left behind while at the same time maintaining fair competition in the internal market.

Competitiveness of European Industry

For the implementation to be successful, the State aid framework (beyond the EEAG, GBER and JTF) must ensure that European industry stays internationally competitive in its transition towards a sustainable and climate-neutral economy. It is of paramount importance, as a matter of political acceptability of the transition and of economic soundness, that companies from third countries do not get a competitive advantage over those in the internal market due to lower climate and environmental standards. Suitable measures to address this should be taken.

The concept of exemptions from levies and taxes needs to be maintained, since, it can be key to secure competitiveness of the industry and a level playing field for companies in the internal market given the different level of ambition and early mover costs induced.

State Aid Rules Facilitating Climate Neutrality

It is essential that the revised State aid rules have a clear impact, enabling Member States to contribute to the decarbonisation of the economy in order to facilitate the necessary rapid development towards a climate-neutral society and the implementation of the targets set by the Green Deal.

In this context, the endorsing Member States urge the European Commission to provide a genuine framework for the decarbonisation of, among others, industrial activities in view of the comprehensive transformation process and the necessary investments and operating costs. In view of this, the State aid rules need to facilitate the development of regional, national or cross-border infrastructure where it contributes to the transition.

A genuine framework should be provided also for aid for micro and SMEs in their transition towards climate neutrality, with the aim of ensuring that SMEs can remain competitive throughout the transition.

Subsidiarity of the Framework

The State aid framework and its application must not go beyond what is justified based on subsidiarity. Its focus should therefore be to enable the green transition and at the same time safeguard against distorted competition and overcompensation. It must also be flexible enough to take into account the different conditions in different Member States. This approach should also facilitate an increased acceptance of the necessary steps and measures to achieve climate neutrality on both local and overall public level.

Increasing Private Investments

The decarbonization of entire industries necessitates sizeable investments in sustainable innovations which often entails new and untested processes and techniques. Such investments therefore often involve a higher operational risk. New innovative environmental technologies also take more time for commercialisation compared to other, already established technologies, which makes the return on investment slower and more uncertain. One of the explicit aims of the revised State aid rules should therefore be to facilitate more environmentally and climate friendly private investments. The rules should allow for the investor risk aversions to be taken more into account than is currently the case.

Aid intensity should sufficiently reflect the need to compensate for economic disadvantages related to innovation and environmental protection. Access to financing is important in this respect, particularly for start-ups. In view of this, it would be welcomed if better adapted compatibility requirements were introduced applicable only to environmentally and climate friendly investments, in order to facilitate more and larger private investments. It could for example allow State aid to environmentally and climate friendly start-ups during an extended time period in cases that are judged to be investments for environmental or climate reasons.

Energy

It is important to ensure that the State aid rules are aligned with the provisions of the Clean Energy for all Europeans Package also taking into account revisions following the fit-for-55-package and that both are consistent and not counteracting. State aid rules should not fall behind the standard reached by the packages for the specific sectors. Amongst others, the Package includes the recast Renewable Energy Directive (EU) 2018/2001 (RED II), the Energy Efficiency Directive (EU) 2018/2002, the

Electricity Regulation (EU) 2019/943 and the Regulation on Risk Preparedness in the Electricity Sector (EU) 2019/941. These Acts contain important rules which entail necessary adjustments to the EU State aid rules, in order to enabling Member States to reach or exceed the climate targets.

For instance, State aid rules need adjusting regarding Member State measures to prevent or mitigate electricity crises. Measures in line with the market principles in the Clean Energy Package or with the specific design principles for support schemes in Art. 4-6 of the RED II need also to be allowed from a State aid perspective in particular regarding the capacity for Member States to implement technology specific aid schemes, as a logical consequence of art. 194 of the TFEU, or regarding regional incentives or flexibility incentives in support schemes. Technology specific support, regional incentives and flexibility incentives in aid schemes should, among others, be consistently reflected in the revised State aid framework.

In some Member States, sustainable food-based biofuels and bioliquids can play an important role in contributing towards achieving EU or more stringent national climate goals. State aid rules should appropriately reflect this when such fuels comply with the existing criteria and objectives as laid out in the directive on renewable energy in its applicable version. In view of this, the Commission is encouraged to assess whether and to what extent it is reasonable to uphold State aid rules that ban aid measures for sustainable food-based biofuels and bioliquids if such aid measures play an important role for some Member States' transition and are in line with the renewable directive.

Also, greater recognition should be given to the whole of long-term system costs for supporting renewable energies. The Green Deal shifts the focus from short-term cost optimisation to realisation challenges, such as public acceptance, limited availability of sites, planning procedures and grid reinforcement. The EEAG need to improve support for developing all RES technologies and all sites in parallel in a regionally diversified and technology specific approach as this is crucial for achieving the new targets while keeping overall system costs under control.

To ensure that tender procedures for renewable energy sources contribute effectively to achieving the ambitious targets of the Green Deal, stability and predictability of tender volumes is key also in times of temporary lack of bids (under-subscription). Higher prices coming from an under-subscription could be needed to set an economic incentive for overcoming realisation obstacles, developing projects, and thus increasing competition in tenders. Indeed, it is necessary to support a broad scope of technologies by allowing Member States to carry out technology specific tenders, because there is a risk that technology neutral tenders lead to an unbalanced development of technologies. However, in any case, a high level of competition in tenders should be maintained and over-compensation should be avoided by applying specific measures (e.g. ceiling price; improve site availability, etc.)

In this context the revised State aid framework should better facilitate support and funding for new technologies; allowing a direct decarbonization (e.g. through energy efficiency or a more efficient usage of raw materials) or indirectly by providing solutions to facilitate the inclusion of, for instance, energy storage technologies including hydrogen, particularly from renewable sources. For some Member States, carbon capture, storage and utilisation technologies may also be of importance.

The EEAG should maintain possibilities for non-market-based support mechanisms (e.g. first-come, first served subsidy schemes). This is specifically important for newer and more innovative technologies as the cheapest projects in the short run do not necessarily provide optimal development in the long run.

The new State aid framework should uphold the opportunity to support high-efficient heat generation and CHP systems that have a positive impact in terms of CO2 reductions in the field of generating district heat, also from renewable sources. Additionally, the State aid framework should also support combinations of such heat generation through CHP with heat storage and other forms of heat generation through renewable electricity using heat pumps, waste heat and power-to-heat installations. Beyond, we encourage the Commission to consider making investments into "H2-readiness" of new installations eligible for additional support as this avoids sunk costs.

Rethinking Eligible Costs

In order to become an enabler of the Green Deal. The new State aid framework need to be simplified and less administrative burdensome. In this context, reconsidering the definitions of eligible costs is an important issue. When doing so it could be examined whether it is appropriate to maintain the investment costs for an alternative, less environmentally friendly technique, as reference for eligible costs regarding for example energy investments. The rational for undertakings to make these kinds of investments may not always be to replace existing technology with the same kind of technology. The rationale is rather solely to increase the undertaking's environmental commitments.

In line with this the Commission should also consider allowing State aid to enable sustainable alternatives to outcompete fossil alternatives in the market under certain circumstances but also to be a tool to ensure fair competition between sustainable alternatives. The Commission should also consider introducing an exemption in the GBER, similar to the existing exemption in the EEAG, for state aid to advanced biofuels, including biogas, which comply with the criteria and objectives as laid out in RED II providing they are too expensive to compete on the market with a supply or blending obligation only. Further, using counterfactual scenarios to prove eligible costs does not necessarily meet the challenges posed by the necessary transition towards a fossil free society; alternative methods would be welcomed where appropriate.

In addition, , it should be possible to award aid for producers of renewable energy even after their initial investment has been fully depreciated, for instance in case operation and maintenance costs represent a significant amount of the overall costs and appropriate incentives are designed to decrease the costs of the targeted technology.

This reasoning is equally valid for State aid in form of tax reductions, more precisely in monitoring and calculating overcompensation of such schemes. If the technology switch leads to a situation where the undertaking creates permanently lower negative externalities (costs not included in price), it may also motivate higher aid levels to create the right and necessary incentives. It is crucial that the special characteristics of environmental taxes are reflected in the revised State aid rules concerning transparency, evaluation, reporting and monitoring requirements. There are requirements and conditions associated with the assessment of compatibility and approval of State aid that are difficult to reconcile with for example generally applicable environmental taxes. For instance, the Commission should consider possibilities to simplifying the counterfactual assessment or prepare alternative methods for the evaluation of State aid schemes.

The Importance of Supporting a Broad Portfolio of Technologies under the State Aid Rules

Achieving climate neutrality by 2050 (or earlier for those Member States with more ambitious national targets) requires State aid rules that cover a broad range of safe and sustainable technologies, allowing diversified and targeted support to truly facilitate a situation where State aid can create the correct incentives at the right moment, thus enabling the new necessary value chains and market structures to evolve. There is no one-fits-all-solution as regards the necessary diversified support measures. The State aid rules should therefore be revised not only with regard to the objectives set by the Green Deal, but also with regard to the economic and technological context of the markets concerned.

It is consequently important to ensure that the EU State aid rules are as flexible, technology diversified and targeted as possible, to allow Member States to create the correct incentive for a specific product, technology or process at the right time, opening the door to deploy a broad range of technologies via targeted and diversified support measures. Emphasis should be put on the extent to which each technology contributes to the EU objectives. This should leave room for the development of new technologies and materials as well as making sure that existing technologies can continue to be put to good use by Member States to reach the climate goals where appropriate, while avoiding stranded assets. The revised State aid rules should also be flexible enough to take new instruments into account (e.g. Contracts for Difference in a way ensuring the cost-effectiveness of this instrument and with safeguards as regards risks for public finances) as well as enable support for new types of investments.

Facilitating Research and Development for Climate Purposes.

In order to attain ambitious energy, climate and environmental goals and achieving the objectives of the Green Deal it is essential that the innovation and technical development of products and industrial processes can continue and even speed up. This applies, for example, to the development of new fuel products falling within the criteria as set out in RED II, but also to the electrification of transport, which will require highly innovative technologies. The revised State aid rules should therefore ensure the best possible conditions for companies to achieve the necessary level and scope of research and development for the successful innovation of new technologies and sustainable solutions.

State aid may in this context help producers overcome market failures and barriers to the deployment of new products and technology. It does not only require State aid for the promotion of research and development for these technologies to enter the market. It is necessary to enhance the possibilities to promote demonstration and application of innovation in order to speed up the process of commercialisation. Using technology infrastructures (test beds), such as facilities, equipment, capabilities and support services where industrial actors can commercialise new products, processes and services, is a useful and effective way to speed up the green transition. It would be welcomed if the Commission would consider an introduction of specific rules in the GBER for State aid to technology infrastructures dedicated to address the challenges of the green transition. In some sectors the demonstrations and application necessary to test functionality and durability will be on a massive level. To make research and development in the energy and environmental fields more flexible it is necessary to consider permitting the combination of different types of aid.

Promoting Sustainable mobility

As the only sector whose emissions have kept rising since 1990, transport represents a substantial part of Europe's greenhouse gas emissions and is the main cause of air pollution in cities. The development of zero-emission propulsion modes, investments in energy storage, including battery performance and sustainability, as well as new fuel products falling within the criteria as set out in of RED II and the promotion of more energy efficient transports in general are crucial, notably through the use of traffic management systems, to attain the goal to decrease transport emissions.

It is, however, important to reiterate the above-mentioned importance of technology diversified State aid rules so that no new or existing technology that can help Member States achieve the ambitious climate goals is set aside. This is particularly true regarding transport. It will be necessary to make good use of a multitude of techniques and sustainable solutions to pave the way for and embrace innovations as they come. Sustainable alternative fuels will also have an important and significant role to play in contributing to reduced emissions.

The revised state aid rules on environment and energy should therefore include a framework of uniform rules in the field of mobility, in particular for sustainable alternative fuels in coherence with the existing regulatory framework. In support of the decarbonisation of transport the revised State aid rules should contain a framework aligned with the RED II, collecting existing rules and taking into account the issues raised above while ensuring diversified technologies.

Peter Altmaier
Minister of Economic Affairs and Energy
Germany

Eamon Ryan
Minister for the Environment, Climate and Communications
Ireland

Kaspars Gerhards
Acting Minister of Economics
Minister of Agriculture
Latvia

Franz Fayot
Minister of the Economy
Luxembourg

Stef Blok
Minister of Economic Affairs and Climate Policy
The Netherlands

Ibrahim Baylan
Minister for Business, Industry and Innovation
Sweden