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**Subject: State aid n° SA. 50776 (2018/N) – Germany
Amendment of Support scheme for the acquisition of electric buses
for urban public transport (ex SA.48190 (2017/N))**

Sir,

1. PROCEDURE

- 1) By electronic notification dated 28 March 2018, registered at the Commission on the same day, the German authorities notified to the Commission, according to Article 108(3) of the Treaty on the Functioning of the European Union (hereafter "TFEU") a budget increase to the measure "Support scheme for the acquisition of electric buses for urban public transport".
- 2) The German authorities initially notified the measure to the Commission on 19 May 2017. The Commission approved it by decision of 26 February 2018 ("the existing decision") under the case SA.48190 (2017/N)¹.
- 3) On 3 May 2018, the German authorities agreed that the present decision would be adopted and notified in English.

2. DESCRIPTION OF THE AUTHORISED AID SCHEME (SA.48190 (2017/N))

- 4) The authorised aid scheme has the objective to increase the number of electric buses in public transport in Germany. In particular, the support is intended to cover the

¹ Commission Decision, case SA.48190 (2017/N) – Support scheme for the acquisition of electric buses for urban public transport, OJ C158, 4.5.2018, p. 1.

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additional costs of acquiring low emission electric buses compared to diesel buses (EURO VI standard) as well supporting the construction of the recharging infrastructure connected with the purchase of these buses.

- 5) The total budget of the authorised aid scheme is EUR 70 million. EUR 35 million will be made available at federal level from the National Climate Initiative ("*Nationale Klimaschutzinitiative*"). In addition, the authorised aid scheme contains a clause under which the German States ("*Länder*") can provide an additional EUR 35 million, if they so wish, by setting up their own schemes in parallel. Any funding that is provided by the *Länder* on this basis will mirror exactly the eligibility conditions and procedures of the aid granted at federal level.
- 6) The maximum aid intensity for the purchase of battery buses is 80% of the eligible additional investment costs of an electric bus compared to a diesel bus. For the purchase of plug-in hybrid buses, the maximum aid intensity is 40% of the additional investment costs. For the construction of recharging infrastructure (only in connection with the purchase of the buses purchased with support from the authorised aid scheme) the maximum aid intensity is 40% of the total investment costs.
- 7) The authorised aid scheme will be in place until the end of 2021.
- 8) In the existing decision, the Commission found that the aid awarded for the purchase of clean buses going beyond EURO VI standards fulfils the conditions set out in the Commission's "Guidelines on State aid for environmental protection and energy"² (hereinafter the "EEAG") and thus is compatible with the internal market.
- 9) In the same way, the Commission concluded that the part of the authorised aid scheme under which aid is awarded for the construction of infrastructure pursues an objective of common interest in a necessary and proportionate way and thus is compatible with the internal market on the basis of Article 107(3) (c) TFEU.

3. THE NOTIFIED MEASURE

- 10) By the notification of 28 March 2018, the German authorities intend to modify the authorised aid scheme by increasing the overall budget made available at federal level to EUR 155 million (from EUR 35 million in the authorised scheme). This modification does not affect the duration of the scheme, which expires on 31 December 2021.
- 11) The German authorities explained that the additional funding at federal level will allow supporting the acquisition of around 500 additional electric buses (compared to 100 to 150 funded by the federal budget under the existing scheme) therefore achieving a significantly larger impact on the environment, with an additional reduction of approximately 35,000 tonnes CO₂ equivalents per year. Under the same conditions provided under the authorised aid scheme, the additional funding will also support the recharging infrastructure for the battery and plug-in hybrid buses purchased with support from the scheme.

² Guidelines on State aid for environmental protection and energy 2014-2020, OJ C 200, 28.6.2014, p. 1-55.

12) The German authorities did not notify any other modifications to the authorised aid scheme.

4. ASSESSMENT

4.1. Existence of the aid

13) A measure constitutes State aid in the meaning of Article 107 (1) TFEU if it is "granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods [...] in so far as it affects trade between Member States."

14) Therefore, in order to determine whether the scheme at stake contains a State aid element within the meaning of Article 107 (1) TFEU, it must be established whether a) the measure confers a selective economic advantage on the undertakings concerned, b) this advantage has been financed through State resources, c) this advantage distorts or threatens to distort competition and, finally, d) the measure affects trade between Member States.

15) In the existing decision, the Commission considered that aid awarded under the authorised aid scheme allows bus operators to be relieved, by means of State resources, of a part of the costs which they would normally have to bear themselves, thereby conferring a selective advantage in comparison to those undertakings which will not be able to benefit from the scheme. Consequently, the aid awarded under the authorised aid scheme strengthens the position of these enterprises in relation to their competitors in the Community and therefore, has potentially distorting effects on competition. In view of the fact that the authorised aid scheme concerns a sector where undertakings from any Member State can operate, the aid is likely to affect trade between Member States.

4.2. Compatibility of the aid

16) The Commission must assess whether the notified modification to the existing aid scheme in the form of a budget increase affects the compatibility assessment carried out by the Commission under point 3.3 of the existing decision.

4.2.1. Aid for the acquisition of electric buses

4.2.1.1. Contribution to an objective of common interest

17) In section 3.4.1 of the existing decision, the Commission concluded that aid granted for the purchase of electric buses will increase the level of environmental protection compared to the level which would be achieved in the absence of aid. The Commission notes that the additional budget of EUR 120 million allocated to the scheme should result in further increases in the level of environmental protection, including an additional reduction of approximately 35,000 tonnes CO₂ equivalents per year (as pointed out in recital (11) above), and therefore the budget amendment does not change the Commission's assessment as laid down in the existing decision.

4.2.1.2. Need for State intervention

18) As indicated in section 3.4.2 of the existing decision, according to the figures presented by the German authorities there are currently around 36,000 public

transport buses in Germany, most of which are equipped with diesel engines. Replacing diesel buses with electric buses would make it possible to significantly reduce greenhouse gas emissions by using electricity from renewable energy sources. Therefore, there is a need for the aid scheme under assessment. The budget amendment covered by this decision, allowing for the acquisition of approximately 500 additional electric buses with the corresponding environmental benefits, does not change the Commission's assessment as laid down in the existing decision.

4.2.1.3. *Appropriateness of the aid measure*

- 19) As concluded in section 3.4.3 of the existing decision, the Commission considered that the type of aid chosen in the form of non-repayable grant, as opposed to a loan or a tax credit, is appropriate to address the observed market failure. Since the form of the aid will remain that of non-repayable grants, the budget amendment covered by this decision does not change the Commission's assessment as laid down in the existing decision.

4.2.1.4. *Incentive effect*

- 20) As concluded in section 3.4.4 of the existing decision, eligible projects cannot start before an application is made and support is granted under the authorised aid scheme. The formal incentive effect criterion is therefore respected. The requirement for applicants to present a non-binding offer ("*unverbindliche Lieferzusage*") for the purchase of the intended number of buses does not change this assessment, as these offers do not directly impose a delivery obligation on the bus manufacturers.
- 21) Moreover, the Commission considered that the incentive effect requirement pursuant to paragraph (54)(a) of the EEAG is fulfilled as the aid is for the purchase of new electric buses which go beyond EURO VI standards.
- 22) On this basis, the Commission concluded that the authorised aid scheme has an incentive effect, as the aid will help to incentivise bus operators to replace their buses with electrical buses providing for better environmental protection than the one resulting from the Union standards. This assessment is not changed by the budget amendment subject to this decision since the increased financing will be notably used for the purchase of additional electric buses ensuring the same environmental standards (going beyond EURO VI standards). .

4.2.1.5. *Proportionality of the aid*

- 23) Under the authorised aid scheme, eligible costs consist of the additional investment costs necessary to achieve a higher level of environmental protection than in the absence of the aid.
- 24) The maximum aid intensity for electric buses is 80% of the eligible additional investment costs. The maximum aid intensity for plug-in hybrid buses is 40% of the eligible additional investment costs. The aid intensities are therefore below the maximum permissible aid intensity of 100%, applicable according to paragraph 80 of the EEAG since the aid is granted through a competitive bidding process.

25) The Commission therefore concluded in section 3.4.5 of the existing decision that, in line with paragraph 70 of the EEAG, the authorised aid scheme will ensure that the aid will be limited to the minimum needed to meet the environmental protection sought. The budget increase covered by this decision does not amend these aid intensities and therefore the Commission's assessment, as laid down in the existing decision, remains valid.

4.2.1.6. Avoidance of undue negative effects on competition and trade

26) The Commission, in section 3.4.6 of the existing decision, concluded that the authorised aid scheme is to operate in a fair, open and transparent way.

27) The distortive effect resulting from the implementation of the aid scheme (a limited number of bus operators eligible for the aid) is outweighed by the positive effects in terms of contribution to environmental protection. As the implementation of the scheme is not amended through the notification on a budget increase, this assessment is not changed by the budget amendment subject to this decision.

4.2.1.7. Transparency

28) As indicated in section 3.4.7 of the existing decision, the legal basis of the authorised aid scheme will notably be published on the central website of the Federal German Gazette (www.bundesanzeiger.de).

29) Further details, including the identity of individual beneficiaries and the aid amounts awarded to them, will be available on the website of DG Competition.³

30) Therefore, the authorised aid scheme meets the applicable transparency criteria as set out in section 3.2.7 of the EEAG.

4.2.2. Aid for Infrastructure

4.2.2.1. Contribution to an objective of common interest

31) As indicated in section 3.5.1 of the existing decision, the funding provided by the authorised aid scheme to support recharging infrastructure for electric buses is in line with Directive 2014/94/EU on the deployment of alternative fuels infrastructure. This directive requires Member States to develop national policy frameworks for the deployment of alternative fuels and their infrastructure. In particular in urban/suburban and other densely populated areas, it entrusts Member States with responsibility to promote the establishment of an appropriate number of publicly accessible charging points by the end of 2020. The budget amendment covered by this decision will support additional investments in recharging infrastructure in connection with the acquisition of additional electric buses in line with the objectives of Directive 2014/94/EU, and therefore does not change the Commission's assessment as laid down in the existing decision.

³ <https://webgate.ec.europa.eu/competition/transparency>

4.2.2.2. *Need for State intervention*

32) As concluded by the Commission in section 3.5.2 of the existing decision, there is a need for State intervention since bus operators would be even less likely to invest in electric buses if they had to finance the recharging infrastructure on their own, as this would constitute an additional cost to them. The same reasoning applies in relation to the budget amendment covered by this decision as the necessary infrastructure will be required for the recharging of the additional buses to be acquired with support from the scheme.

4.2.2.3. *Appropriateness of the aid measure*

33) The Commission concluded in section 3.5.3 of the existing decision that support for the installation of recharging infrastructure is an appropriate instrument to achieve the planned reduction in CO₂ and other pollutant emissions as well as to address the market failure in the sector in question. The budget amendment covered in this decision does not change this conclusion.

4.2.2.4. *Incentive effect*

34) As concluded in section 3.5.4 of the existing decision, the authorised aid scheme incentivises bus operators to invest in the necessary recharging infrastructure, thereby supporting the purchase of electric buses with the aim to achieve the objective of common interest. This assessment is not changed by the budget amendment subject to this decision.

4.2.2.5. *Proportionality of the aid*

35) As concluded in section 3.5.5 of the existing decision, the aid granted for the funding of the supporting infrastructure is proportionate. First, the maximum aid intensity for recharging infrastructure is 40% of the eligible investment costs. Although the present assessment is based on Article 107(3) (c) TFEU, it can be regarded as a strong indication in terms of proportionality that the aid intensity is below the maximum aid intensity which would be applicable on the basis of paragraph 80 EEAG (namely up to 100% as the aid will be granted on the basis of a competitive bidding process).

36) Moreover, the ultimate amount of aid to be granted to each beneficiary will be determined on the basis of the total cost of ownership calculation requested from applicants during the application process. This calculation includes the cost for the recharging infrastructure. This ensures that aid is limited to the minimum necessary in each individual case. The budget amendment covered by this decision does not change the Commission's assessment as laid down in the existing decision since the aid intensity allowed for the investments in the recharging infrastructure connected to the acquisition of electric buses remains unchanged.

4.2.2.6. *Negative effect on competition and trade*

37) The Commission refers to the reasoning provided in relation to the aid for the acquisition of electric buses (see paragraphs (36) and (37) above).

38) On this basis, the measure will not have undue negative effects on competition and trade. This assessment remains valid for the budget amendment covered by this decision.

4.2.2.7. *Transparency*

39) The German authorities confirmed, as indicated in section 3.4.7 of the existing decision, that the authorised aid scheme fully complies with the applicable transparency requirements set out in Section 3.2.7 of the EEAG.

5. CONCLUSION

40) The Commission finds that the budget increase of the aid scheme "Support scheme for the acquisition of electric buses for urban public transport", as approved by the Commission decision in case SA.48190, is compatible with the internal market pursuant to Article 107(3) (c) TFEU.

The Commission notes that the German authorities exceptionally accept the decision to be adopted in the English language.

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Your request should be sent electronically to the following address:

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Yours faithfully
For the Commission

Margrethe VESTAGER
Member of the Commission

