



Brussels,
D(2014)

Opinion

Title **DG COMP - Impact Assessment on a Commission Communication on the Guidelines on Environment and Energy State aid for 2014-2020**

(draft version of 19 February 2014)*

(A) Context

Because of its potential negative impact on competition, State aid is in principle incompatible with the internal market. The EU Treaty however provides (art. 107) for a number of exemptions where State aid can be considered compatible and, therefore, accepted. The objective of the Commission's State aid control is to ensure that government interventions do not unduly distort competition and trade inside the EU. The Commission has adopted horizontal and sectoral Guidelines on the interpretation of art. 107 and, more generally, of State aid rules.

The Environmental Aid Guidelines (EAG) provide the compatibility criteria for environmental aid. Member States can also grant environmental aid under the General Block Exemption Regulation (GBER). This Regulation allows Member States to grant aid without the need to notify the measure in advance. The current EAG will expire at the end of 2014. Their revision aims to address a number of inefficiencies as described in the impact assessment. This review also concerns the environmental section of the GBER.

(B) Overall opinion: POSITIVE

First, the report should describe in more detail, where possible, the magnitude of the identified problems. The baseline scenario needs to be developed by describing in greater detail on-going developments at national level and by indicating how certain technologies might mature. Second, the link between the objectives and the options should be clarified. The content of the options and the design choices need to be better explained (e.g. approach and levels of thresholds). Third, the analysis of the impacts should be developed to cover all relevant impacts and explain more in-depth how the different relevant stakeholders might be affected. In particular, the main benefits (and beneficiaries) of the planned rules need to be clearly described. Fourth, the views of stakeholders need to be presented throughout the report. This should also clarify how their main concerns have been taken into account. Finally, the presentation of the report needs to be considerably streamlined in order to improve its readability.

The Board's opinion takes into account an oral discussion of commercially sensitive evidence relating to the problem and likely impacts.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted

(C) Main recommendations for improvements

(1) Improve the problem definition and provide a more dynamic description of the baseline scenario. The description of the identified problems needs to be backed by further evidence, where possible. The Board acknowledged the existence of additional supporting evidence provided orally during the meeting while recognising its (commercially) sensitive nature. Moreover, available information needs to be better exploited in order to illustrate Member States' different approaches and systems, as well as the magnitude of the problem. Concerning Member States' differences, data from the CEER study mentioned in section 2.2.1 could be provided. Existing energy price differences for (industrial) consumers should also be put forward. Moreover, the baseline scenario should provide a more forward looking description, for example, regarding the expected development of the concerned technologies. Developments at national level should also be described in greater detail.

(2) Better describe the content of the options and explain the rationale of the design choices. The description of the options needs to be enhanced in order to assist the reader in better understanding what they entail and what their main differences are. The different design choices, e.g. regarding the approach and thresholds retained for the identification of the 'exemptions/reductions from RES financing' options need to be better explained and justified. This should also include a discussion of the extent to which cumulative impacts of different policies on electricity prices and thereby on the competitiveness of electro-intensive industries are taken into account by the options and how the option design intends to minimise distortions. In addition, the links between objectives and options need to be more clearly presented. The report should also clarify what are the risks that the options identified to attain a particular objective may be detrimental to the attainment of another, different objective.

(3) Strengthen the assessment of impacts. The report should provide a more in-depth description of the impacts, both in terms of specific impacts but also per stakeholder category. For example, regarding exemptions from RES financing, in addition to the number of sectors that would be covered, the report should explain in greater detail what the impacts of the different options would be (e.g. on employment, production, energy prices, etc.). Concerning the support schemes for biofuels, the report should clarify what the expected impact will be for those industries that use the same raw materials that are needed for biofuels production in their production processes, the likely magnitude of this and whether the options are expected to reduce or increase distortions relative to the baseline. When national schemes are provided as evidence to back the analysis of impacts (e.g. the Dutch case regarding the impact on the technology mix), the report should better explain why those (national) examples are relevant and whether further evidence (e.g. studies, third countries' experiences) is available. The report should also better explain what the potential risks are (e.g. that only the cheapest technology will prevail if competitive bidding is introduced), how they have been taken into account and whether mitigating measures are foreseen. Moreover, the report should better explain what the main benefits of the envisaged rules are and which stakeholders would benefit the most from them. In addition, the preferred option should be more clearly indicated to assist the reader in better understanding the resulting impact.

(4) Better present stakeholders' views. The report should provide a more detailed overview of stakeholders' views throughout and not only in an annex. In particular, stakeholders' opinions need to be put forward when evidence cannot be produced in order to strengthen the analysis (e.g. the problem section should refer to any stakeholder

complaints). The report should also better reflect how stakeholders' main concerns, such as the dichotomy between deployed and non-deployed technologies, have been taken into account.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report

(D) Procedure and presentation.

The readability of the report could be improved by reducing its complexity. In particular, the presentation could be streamlined by describing and analysing the five identified policy areas individually, i.e. with separate problem definition, options and impact sections per policy area. This should then be complemented with a section describing the interactions between areas and the cumulative impacts. Attention should also be paid to spelling out acronyms in full every time they are used for the first time and enhancing the text's consistency (e.g. cross-references).

(E) IAB scrutiny process	
Reference number	2013/COMP/007
External expertise used	No
Date of IAB meeting	12/03/2014