# Guidelines on State aid for climate, environmental protection and energy 2022

Brussels, 27 January 2022

**What are the main changes introduced in the revised Guidelines on State aid for climate, environmental protection and energy ('CEEAG')?**

The new Guidelines provide the framework for public authorities to support the European Green Deal objectives efficiently and with minimum distortions of competition. In particular, the new Guidelines:

- **Broaden the categories of investments and technologies that Member States can support** to cover new areas (e.g. clean mobility infrastructure, resource efficiency, biodiversity) and all technologies that can deliver the Green Deal (e.g. renewable hydrogen, electricity storage and demand response, decarbonising production processes). The revised rules generally allow for aid amounts covering up to 100% of the funding gap where aid awards are based on competitive bidding, and to introduce new aid instruments such as Contracts for Difference.
- **Increase flexibility and streamline the existing rules**, by introducing a simplified assessment of cross-cutting measures under a single section of the Guidelines (for example the section on aid for the reduction and removal of greenhouse gas emissions, including through support for renewable energy and energy efficiency) and eliminating the requirement for individual notifications of large green projects within aid schemes previously approved by the Commission.
- **Introduce safeguards**, such as a public consultation requirement above certain thresholds, to ensure that the aid is effectively directed where it is necessary to improve climate and environmental protection, is limited to what is needed to achieve the environmental goals and does not unduly distort competition or the integrity of the Single Market.
- **Ensure coherence with the relevant EU legislation and policies** in the environmental and energy fields, among others by phasing out subsidies for fossil fuels.

**How will the CEEAG interact with the General Block Exemption Regulation (GBER)?**

While the CEEAG include some specific rules for small projects, they are generally designed to cover also larger aid measures. They operate alongside the General Block Exemption Regulation (GBER), which provides scope for certain smaller schemes to be implemented without prior approval by the Commission.

The GBER is currently undergoing a targeted revision with the aim to further facilitate green investments by widening its scope to cover aid for investments in new technologies, such as hydrogen and carbon capture and storage or usage, and for areas that are key to achieve the objectives of the Green Deal, like resource efficiency and biodiversity. Moreover, the rules are more flexible with regard to the definition of eligible costs and aid intensities.

**How will the CEEAG contribute to the Green Deal / Fit for 55 package?**

The CEEAG will help Member States meet the European Green Deal objectives, at the least possible cost for taxpayers and without unduly distorting competition. To this end, the Guidelines are aligned with relevant EU legislation and policies in the environmental and energy fields. In particular:

- The CEEAG adopt a **technology neutral** approach to all the technologies that can contribute to the reduction or removal of greenhouse gases, including renewable energy and energy efficiency. However, **technology specific tenders** remain possible, for example where Union law establishes specific sectoral or technology based targets, e.g. for renewable energy under the Renewable Energy Directive.
- To facilitate the implementation of the Renovation Wave, the CEEAG include for the first time a dedicated section on the **energy and environmental performance of buildings**. This will enable Member States to combine aid for the improvement of the energy efficiency of buildings

with aid for any other investment that improve the energy or environmental performance of buildings.

- The CEEAG provide clear rules for support to **clean mobility**, in line with the Clean Mobility Package. In particular, the Guidelines feature a dedicated section covering aid for the acquisition of clean vehicles and retrofitting of vehicles, as well as for the deployment of recharging and refuelling infrastructure.
- The CEEAG provide for a broad coverage of and clearer rules for aid to **increase the level of resource efficiency** of companies, and allow for the development of a more **circular economy**, in line with the Circular Economy Action Plan.
- In line with the objectives of the Biodiversity Strategy, the CEEAG provide clear rules for Member States to support the **protection and restoration of biodiversity**, **the rehabilitation of natural ecosystems and the implementation of nature-based solutions**, for which so far no specific State aid guidance existed.

**What is the link between the CEEAG and Taxonomy?**

The CEEAG and the EU Taxonomy are both important pillars of the European Green Deal, fulfilling different but complementary roles:

- The CEEAG are the EU rulebook for public support in the energy and environmental sectors, setting out which projects can be supported with public funds and how this support can be provided, while minimising impacts on the market and providing value to European citizens.
- The **EU Taxonomy** is a tool developed to enable private investors to re-orient investments towards more sustainable technologies and businesses. It will help make the EU a global leader in setting standards for sustainable finance. The Taxonomy can be a very useful tool in the context of EU State aid assessments. Where measures meet the taxonomy requirements, the State aid assessment can be simplified. In particular, in balancing the positive and negative effects of the aid, the Commission will pay particular attention to compliance with the 'do no significant harm' principle.

However, there are other conditions in competition rules that would still need to be applied to ensure for example that the aid is necessary and proportionate (by way of example, the taxonomy identifies renewable energy as sustainable, and the competition rules then generally require renewable energy to be supported through competitive bidding processes). Support may in some cases also be granted to projects that do not meet the standards laid down in the Taxonomy so long as their positive effects are justified and a lock-in of non-sustainable activities is avoided.

**How can the CEEAG contribute to tackling high energy prices?**

The current high energy prices in Europe are mostly the result of global supply and demand patterns in the natural gas market, driven in part by the global economic recovery.

On 13 October, the Commission adopted a Communication on "tackling rising energy prices while delivering the green transition" that describes the main tools for Member States to tackle this challenge, and how the Commission can support them in this respect. Following up to the Communication of 13 October, and as requested by Member States, in December 2021, the Commission proposed to **improve the resilience of the gas system and strengthen the existing security of supply provisions**.

The best way to reduce energy costs in the medium and long term is to reduce the EU's dependence on fossil fuel imports, and thus to accelerate the energy transition towards an energy efficient electricity system, based on renewable energy. The CEEAG support this target. For example, the CEEAG cover support measures to help companies quickly adapt and fully participate in the energy transition. This includes for example support for decarbonisation measures or increased energy efficiency, reducing the impact of increased electricity or gas prices for undertakings.

Competition law allows a range of measures that Member States can take without unduly distorting competition in the market. These include direct support measures to the most vulnerable and energy-poor, such as payments or energy allowances. Moreover, measures of a general nature, equally helping all energy consumers, do not constitute State aid. Such non-selective measures can take the form of general reductions in taxes or levies, a reduced rate to the supply of natural gas, electricity or district heating.

**How do the CEEAG foster the development of renewable energy communities and other smaller actors?**

Renewable energy communities (REC) and other small actors play an important role in the achievement of the European Green Deal objectives, as also recognised in the recast Renewable

Energy Directive (RED II). This is why the CEEAG provides additional flexibility for these actors, allowing Member States to exempt renewable energy community projects and SME-owned projects below 6 Megawatts (MW) of installed capacity from the competitive bidding requirement. Renewable energy communities and small and micro enterprises may also develop wind projects up to 18 MW without competitive bidding.

More generally, where competitive bidding does apply, the CEEAG enable Member States to design tenders in a way which enhances the participation of energy communities, for example by lowering pre-qualification requirements.

SMEs and small mid-caps can also benefit from aid when they provide energy performance improvement measures under energy performance contracts, either for buildings or industrial activities. Furthermore, aid intensities can be increased by 20 percentage points for small undertakings or by 10 percentage points for medium-sized undertakings for a number of aid categories such as aid for energy performance improvements in buildings, aid for the acquisition of zero-emission vehicles and the deployment of recharging and refuelling infrastructure, aid for resources efficiency, aid for the prevention or the reduction of pollution other than from greenhouse gases, and for studies or consultancy services on matters relating to climate, environmental protection and energy.

**Why is nuclear energy not covered by the Guidelines?**

The CEEAG follow the same line as the previous guidelines (the 2014 Energy and Environmental Aid Guidelines, EEAG) and therefore do not apply to nuclear energy. This is because support for nuclear energy generally concerns a limited number of very large projects, is particularly sensitive from a security perspective, legally needs to take account particularly of the EURATOM treaty, and thus requires a case-by-case assessment. State aid for nuclear energy can, however, be approved directly under the Treaty and the EURATOM Treaty.

While support for nuclear energy is per se not covered by the CEEAG, support for the production of other energy sources based on nuclear, e.g. low-carbon hydrogen produced using nuclear energy, is possible under the Guidelines so long as these projects deliver emissions reductions and do not lead to increased demand for electricity generated from fossil fuels.

**Do the CEEAG cover aid for the production of products contributing to the green transition (e.g. zero-emission vehicles, electrolysers, etc.)?**

The CEEAG do not cover aid for the manufacturing of environmentally friendly products, machines or means of transport.

As already recognised under the previous guidelines (2014 EEAG), environmental aid is generally less distortive and more effective if it is granted to the consumer or user of environmentally friendly products instead of the producer or manufacturer of the environmentally friendly product. Aiding the producer or manufacturer of the environmentally friendly product does not bring about an environmental benefit in itself; such benefit materialises only if and when such products substitute more polluting alternatives. However, by creating the right enabling conditions for support, the CEEAG are likely to indirectly boost demand for greener products. For example, support for the acquisition of electric vehicles and/or the roll-out of recharging infrastructure for electric vehicles are likely to increase the demand for such vehicles in the market.

In addition, Member States may grant environmental aid to companies to enhance the level of environmental protection of their manufacturing activities. Producers and manufacturers can also receive aid for developing novel environmentally friendly products under the research, development and innovation (R&D&I) State aid rules (GBER or R&D&I Framework).

**Can fossil fuels be supported under the CEEAG?**

The CEEAG ensure coherence with the Union climate targets by contributing to phasing out the possibility of subsidies for fossil fuels. For the most polluting fossil fuels, the guidelines foresee that a positive assessment by the Commission under State aid rules is unlikely in light of their negative environmental effects.

For natural gas, the Commission acknowledges its role in a transitional period. State aid for projects involving natural gas is subject to important safeguards to ensure compatibility with the EU's 2030 and 2050 climate targets. In that context, it is important that support for natural gas does not lead to lock-in effects. For example, large capital investments in a certain polluting technology are unlikely to incentivise the operator to change to a less polluting technology in the short term. Therefore, measures involving new investments in natural gas are unlikely to be assessed positively under State aid rules, unless it can be clearly demonstrated that the investments are compatible with the Union's 2030 and 2050 climate targets.

This requirement is modulated according to types of investment. For example, for natural gas infrastructure, investments will be required to be "fit for hydrogen" and renewable gases. For energy generation additional commitments may be required (see next question).

**How will the Commission assess whether fossil fuel investments are compatible with the 2030 and 2050 climate targets?**

The Commission may require commitments to ensure the 'lock in' of fossil fuels is avoided and fossil fuel installations are compatible with the 2030 and 2050 targets. This may include for example commitments related to the future deployment of Carbon Capture and Storage (CCS), replacing natural gas with green gas, or a closure timeline for the installation.

**The CEEAG include safeguards, such as the requirement for public consultation and quantification of the $CO_2$ abatement cost. Why are they necessary?**

By ensuring transparency and inclusiveness, these safeguards contribute to ensuring value for money. Such safeguards are also important to ensure that the increased flexibility and amount of aid allowed under the CEEAG is effectively directed where it is needed to improve environmental protection, is limited to what is needed to achieve the environmental goals and does not unduly distort competition or the integrity of the internal market. Moreover, some of the safeguards – for example the public consultation requirement - are applicable only for schemes or projects that exceed a certain budget, to avoid excessive burdens for smaller aid applicants or straightforward measures. The requirement to quantify the environmental benefit of the measure is important to increase awareness of the relative value for money of different approaches to decarbonisation.

Member States will have time to adapt to these new requirements, which will only apply as from July 2023.

**How do the CEEAG facilitate the needed electrification of industries?**

The Commission is well aware of the challenges facing the industries in meeting the objectives of the Green Deal. That is why the Guidelines increase the possibilities to grant aid for industrial decarbonisation, including through electrification of production processes. The CEEAG foresee additional flexibility for a variety of aid instruments, they enable aid for the full additional costs of more environmentally friendly activities, and they cover a wider range of technologies to achieve the Green Deal objectives. Where electrification is supported, it is however important to ensure that the emissions from electricity used to meet the additional electricity demand are properly taken into account.

In that context, the new rules for reduction of electricity levies (see question further below) seek a balance between supporting the efforts of energy-intensive users to electrify their industrial processes, while making sure that the right incentives to enhance energy efficiency are also in place.

**Will technology neutral competitive bidding favour established technologies against innovative ones?**

Competitive bidding procedures have helped to lower the price of renewable energy, favouring the uptake of more efficient technologies like wind and solar energy. Moreover, competitive bidding can reduce the risk of overcompensation, thereby also ensuring the best value for money for tax payers. For these reasons, competitive bidding will be the default mechanism under most sections of the CEEAG to award aid. Where possible, open tenders across comparable areas and technologies are encouraged.

Nevertheless, the Guidelines also provide an open list of situations justifying technology specific tenders. These include grid issues, the demonstrated long-term potential of a technology, cost efficiency, and other environmental objectives. Furthermore, in cases, where Union law establishes specific sectoral or technology based targets (e.g. for energy efficiency under the Energy Efficiency Directive or for renewables under the Renewable Energy Directive) or where new technologies need to be demonstrated, the CEEAG offer Member States flexibility to design more targeted measures.

**What is the 'funding gap'?**

The funding gap corresponds to the difference between the costs and revenues of an activity that contributes to the achievement of higher climate, energy or environmental standards compared to the costs and revenues of a similar, less environmentally friendly activity that would be carried out in the absence of aid. Therefore, the funding gap identifies the minimum aid necessary to incentivise the aided activity.

**Specific sections/areas of the Guidelines**

***Renewable energy sources***

**How do the CEEAG support the deployment of renewables?**

Renewable energy remains as important as ever to reach the EU's ambitious climate targets. To enable Member States to support all technologies and approaches that can contribute to the Green Deal, and to ensure the Guidelines are as future proof as possible, the new Guidelines include provisions explicitly covering support for renewable energy. Member States can deploy specific renewable schemes to contribute to the EU's renewable energy targets and support specific renewable technologies where this achieves lower costs or other efficiency or environmental benefits.

***Energy and environmental performance of buildings***

**How do the CEEAG facilitate support energy efficiency of buildings?**

The CEEAG include a dedicated section on the energy and environmental performance of buildings, which introduces a simplified assessment, in particular as regards the determination of the eligible costs. Furthermore, the CEEAG enable Member States to combine aid for the improvement of the energy efficiency of buildings with aid for any other investments that improve their energy or environmental performance, provided that the aid induces a minimum level of energy savings. Moreover, aid measures that induce ambitious energy savings are eligible for a green bonus. Finally, the section contains specific rules on liquidity aid to Energy Service Companies (ESCOs) for the facilitation of energy performance contracting.

***Clean mobility***

**What do the CEEAG say on clean mobility?**

State aid for the acquisition of new transport vehicles and for the retrofitting of vehicles could already be approved under the previous Guidelines (2014 EEAG). The CEEAG introduces four new elements:

- **stricter requirements for vehicles to be considered as 'clean'**. Aid will no longer be available for marginal improvements in the level of emissions of CO2 or other pollutants.
- **detailed guidance to Member States** to help them design their support measures and thereby facilitate the uptake of zero and low-emission vehicles and the roll-out of the necessary infrastructure for their operation. The new rules also clarify that aid can be granted for the greening of all transport modes, including aviation, and provide dedicated provisions catering for the specific characteristics of the different transport modes.
- **increased flexibility** for Member States to determine the eligible costs and the amount of support that is necessary.
- **broader scope,** with a new section on **aid for the deployment of recharging and refuelling infrastructure for all transport modes.** This will help increasing the level of legal certainty for Member States and stakeholders and facilitate Member States' support measures in this important area.

***Resource efficiency***

**What is the chapter about resource efficiency about? Does it support green products?**

The chapter on aid for resource efficiency has been extensively revised to address the challenges of ensuring the transition towards a circular economy.

State aid for waste management, i.e. aid for the collection, sorting and processing of waste, remains possible. Alongside, the CEEAG also include specific provisions on aid for the reduction, prevention, preparing for re-use, recovery and recycling of waste and other products, as well as aid for other investments improving the resource efficiency of production processes by reducing the amount of resources consumed or by replacing primary raw materials with secondary raw materials.

This section does not cover aid for the production of green products (see above). Instead, the aim of aid for resource efficiency is to incentivise economic operators to reduce the amount of waste they produce, to use fewer resources, to re-use and to better recycle materials, to increase the usage of recycled and bio-based materials and, generally, to switch to more resource-efficient and eco-friendly production processes.

***Security of electricity supply***

**What has changed compared to the 2014 EEAG?**

The CEEAG introduce a number of clarifications to better align the security of supply rules with the 2019 Electricity Regulation and to explain how the rules apply to variety of different possible measures for security of supply, including measures related to regional security of supply problems caused by network insufficiency.

The rules also further limit the potential for fossil fuels to benefit from support under security of supply measures, and enable Member States to introduce environmental criteria in their security of supply measures to ensure support is targeted at sustainable activities.

***Energy intensive users***

**Why does the Commission allow support to energy-intensive industries in the form of reduction on electricity levies?**

The Commission only allows reductions in certain electricity levies for industries that have been identified as being electro-intensive and at the same time open to international trade. Due to these two factors, the cost of electricity may play a role in possible relocation decisions. Should such companies decide to produce outside the EU, they would typically move to countries with lower environmental standards. In addition, the switch to electricity in industrial processes is a promising avenue for the decarbonisation of some of these sectors. Lowering decarbonisation levies for particularly exposed sectors may therefore incentivises the electrification of their industrial processes.

Lastly, the new rules also require that levy reductions are conditional upon commitments by the beneficiaries to reduce their carbon footprint, either through energy-efficiency measures, or consumption of carbon-free electricity or investments in state-of-the-art technologies which reduce GHG emissions.

The new Guidelines codify the existing case practice under which reductions may be granted not only for levies financing renewable policies but for all levies financing decarbonisation and social policies. On the other hand, it is not allowed to grant on this basis reductions from the costs of providing electricity, such as network charges. These components finance costs of generating and distributing electricity in a stable and secure way. Electricity prices must reflect these costs to provide efficient signals to customers, which would be undermined by selective reductions from these price components.

The CEEAG allow to extend eligibility to additional sectors and subsectors complying with the thresholds for electro and trade intensity, while making sure that this is consistently based on verified data representative at EU level. This possibility contributes to a level playing field within sectors and subsectors with similar characteristics.

***Coal, peat and oil shale closure***

**What is the rationale for introducing rules for aid for coal, peat and oil shale closure?**

The shift away from power generation based on coal, peat and oil shale is one of the most important drivers of decarbonisation in the power sector in the EU, in line with the European Green Deal. The new Guidelines introduce compatibility rules for measures that Member States may take to support the early closure of profitable coal, peat and oil shale activities.

The Guidelines also allow aid to cover exceptional costs resulting from the closure of uncompetitive coal, peat and oil shale activities. Such aid can, for example, be used to fund compensatory pensions or re-adaptation and training of workers or costs related to the rehabilitation of former power plants and mines.

These rules aim to provide a framework for how the Commission will assess such measures, and to incentivise Member States to accelerate or facilitate the closure process in order to ensure both legal certainty as well as a safe, just and fair transition. There were no compatibility rules for such measures in the 2014 Environmental and Energy aid Guidelines (EEAG).

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