

EBA contribution to Public consultation on the revised Climate, Energy and Environmental Aid Guidelines (CEEAG)

EBA welcomes the approach taken by the European Commission's DG COMP on the draft Guidelines on State Aid for climate, environmental protection and energy 2022 allowing technology-specific support schemes with simplified, harmonized and flexible rules. Renewable energy carriers, such as green power and green gas, can complement each other contributing to improved sector integration, security supply and a cost-efficient energy transition. They are however based on very different production models as well as environmental benefits and require therefore different support systems to enable Europe's climate neutrality by 2050.

Biogas is a renewable gas that can decarbonize hard-to-abate sectors, provide peak load energy and bring along multiple environmental benefits such as reduced pollution of air and ground water and furthermore, as a recycling technology acknowledged by the Waste Framework Directive, biogas production (anaerobic digestion) enables a circular economy. As these externalities have not been adequately internalized, biogas is still mostly dependent on State Aid. EBA understands that investment aid for biogas plants could be covered under different aid categories including aid for decarbonization (category 4.1) but also aid for the transition to a circular economy, notably **points 192 (b) and possibly also 192 (c)** referring to *investments for the reduction, prevention, preparing for re-use, preparing for recycling and recycling of waste and other products, materials or substances including agricultural and forestry residues*. However, **more explicit guidance for Member States would greatly help investments in recycling of bio-waste and other materials**.

Biomass plants have high operating costs which may prevent a biomass plant from operating even after depreciation of the installation or a plant may start operating by using cheaper fossil fuels. In order to preserve the use of sustainable biomass, the Commission should be able to find operating aid to be compatible with the internal market even after plant depreciation, as in the existing guidelines for 2014-2020 (point 132).

The sector is committed to sustainable production of biogas with potential of over 1,000 TWh by 2050. The sustainability criteria of Renewable Energy Directive (Art 26) ensure that only sustainable biogas and biomethane are counted towards the renewable energy targets. However, the Directive does not cap the production of biogas from 'food and feed crops'. Surplus bioenergy that is not consumed within the state of production can be exported to another Member State that may not reach its targets with domestic production. Therefore, such additional backdoor requirement in the State Aid Guidelines is not acceptable and **we request the European Commission to properly align the paragraph 77 of the chapter 4.1.2. with the existing legislation (Directive (EU) 2018/2001)**.

The biogas plants (AD) are still mostly small installations run by farmers who have limited capacity to participate in competitive bidding process with formal administrative procedures. **We call for increasing the threshold of small projects from 400kW installed capacity to 2MW average capacity exempting the smallest production units**, similar to the exemption in the Renewable Energy Directive which allows biogas plants under 2MW to be excluded from the sustainability criteria, due to the administrative burden.

The definitions for DSOs (Distribution System Operators), point 27, and TSOs (Transmission System Operators), point 74, refer to Directive (EU) 2019/944 that covers only the internal market for

electricity. In order for these definitions to also include DSO and TSO for gas systems, reference needs to be made to the corresponding legislation for the gas market.

As biomethane is the only transport fuel going even beyond zero-emission mobility, able to reach carbon negative emissions, we warmly welcome the important proposal to allow aid for CNG and LNG vehicles as well as refuelling infrastructure if Member States commit to have at least 20% share of biomethane in the transport gas mix. The text should furthermore determine a timeline for achieving the 20% share and allow a short transition period encouraging also Member States with low renewable gas shares to increase the use of biomethane as a transport fuel.

It is important to maintain the technology-neutral scope and the rules should be equal for gas and electricity. **The definition for ‘zero-emission mobility’ should be based on the emissions over the whole lifecycle, in order to achieve true emissions savings**, instead of adopting a biased tailpipe approach that does not care about the origin of fuel or the emissions related to the manufacturing process. The well-to-wheel studies of the European Commission’s JRC prove that biomethane is the most-environmentally friendly fuel when considering also the emissions related to the production of fuels. We would kindly like to remind that the European Commission pledged in the CO2 standards for cars and vans (Regulation (EU) 2019/631) the following:

“The Commission shall no later than 2023 evaluate the possibility of developing a common Union methodology for the assessment and the consistent data reporting of the full life cycle CO2 emissions of passenger cars and light commercial vehicles that are placed on the Union market. The Commission shall submit to the European Parliament and to the Council that evaluation, including, where appropriate, proposals for follow-up measures, such as legislative proposals.”

The reference to biomass in the point 107 and the new category ‘zero air pollution renewable energy’ should be removed. Such approach equalizing biomass with non-renewable energy is not coherent with the existing EU law and discriminates against the use of bioenergy which is the main renewable technology in the heating sector. Moreover, sustainable biomass is - based on EU law - a carbon neutral source of energy, complying with the EU decarbonisation vision. Furthermore, air emissions from bioenergy installations are regulated under appropriate EU legislation, e.g. Ecodesign Regulation, Medium Combustion Plant Directive, Industrial Emissions Directive. Installations must comply with these requirements, regardless of whether they receive state aid or not. Finally, zero-emission/zero-pollution technologies do not exist when considering the full life-cycle emissions. Pollution and emissions should always be considered over the life-cycle in order to encompass the full impact of different technologies on our climate. All technologies should be supported on a level-playing field and the Commission should stop punishing sustainable biomass. If maintained, this point 107 could lead to a situation where, de facto, no business plan could any longer be developed for biomass/biogas plants and it would be difficult to get loans from financial institutions.

Regarding the aid in the form of tax reductions and exemptions, **we call for a clarification that full tax exemptions for sustainable biofuels and other biomass fuels, such as biogas and sustainable bio-LPG, are allowed even if treated according to chapter 4.7 CEEAG (Aid in the form of reductions in taxes or parafiscal levies)** instead of chapter 4.1 CEEAG (Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy). The production costs for biogas and bio-LPG are still much higher than the costs for their fossil counterparts, and a full tax exemption is needed for biogas and bio-LPG to contribute to the Union’s climate goals.