



Bundesministerium  
für Wirtschaft  
und Energie



Ministero  
dello Sviluppo Economico



Department  
of Energy &  
Climate Change

*DG Competition's draft guidelines on environmental and energy aid put member states' plans to implement ambitious climate and energy policies and European industry at risk.*

On 18 December 2013, DG Competition presented draft guidelines on environmental and energy aid for 2014 – 2020 for public consultation. We welcome DG Competition's efforts to prevent unfair competition and to push for a more market-based funding system for low-carbon energy which fosters market integration and competition in the course of the further expansion of low-carbon generation technologies in the EU. However, we are concerned about certain elements in the draft.

We recognise the Commission's competence on state aid, but would note Member States' rights to determine their own energy mix under Article 194 TFEU. We are concerned that the current draft of the guidelines risks constraining the ability of Member States to determine their **national energy policy**.

The draft runs **counter to the Commission's State Aid Modernisation initiative's ("SAM")** objective to simplify and streamline EU state aid rules and to reduce bureaucratic barriers and hurdles. In particular:

- The draft guidelines and block exemption regulation will not reduce the number of notifications and this situation will worsen as more projects of larger scale come forward. We need a more pragmatic approach to cases which reflects reality and ensures there is a manageable work load going forward.
- The 125MW individual notification threshold for renewable energy projects has potentially quite serious consequences for larger scale renewables deployment and may deter investment in key technologies leading to an investment hiatus when Member States are gearing up to achieve their 2020 targets.
- Some of the transparency and reporting requirements seem disproportionate and are inconsistent with confidentiality and data protection requirements, particularly as regards taxation.

The criteria on **exemptions for electricity-intensive** industries in the draft guidelines would leave sectors and undertakings exposed to international competition at risk of carbon leakage. The European Commission must work with Member States to ensure the guidelines are effectively targeted at those industries which are most at risk. We also take the view that the proposed one-off payment requirement is not the most appropriate vehicle for providing aid and think that the guidelines should also include aid in the form of exemptions from regulation or taxation.

Furthermore, the detailed rules on the **funding mechanism for renewable energy** and the opening up of funding systems for other countries are too restrictive and their application is partly premature. A “one size fits all” approach is not appropriate in view of the lack of case experience and binding 2020 targets; it is also contrary to the objectives of the RES-Directive. Despite the promising potential of bidding procedures, the insufficient experience means that technology-specific support schemes must generally continue to be permitted without a bidding process, where this ensures efficient results.

It will thus be essential that **appropriate transitional arrangements** are in place to ensure that our ability to meet our 2020 objectives is not undermined by disruption to pipeline investment or investor uncertainty. It should be noted that it can take years to complete consultation processes and pass the necessary legislation through national parliaments.

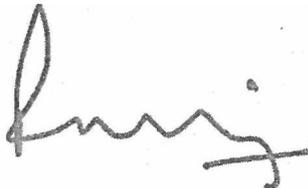
In the light of the above, we request the Commission to reconsider its draft Guidelines on environmental and energy aid and to thoroughly take into account Member States responses in the consultation.

Michael Fallon

**M. Michael FALLON**

Minister of State for Business and Energy

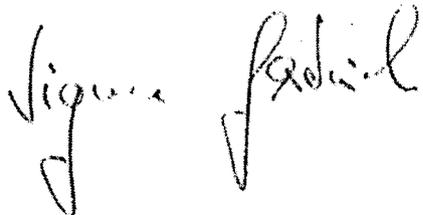
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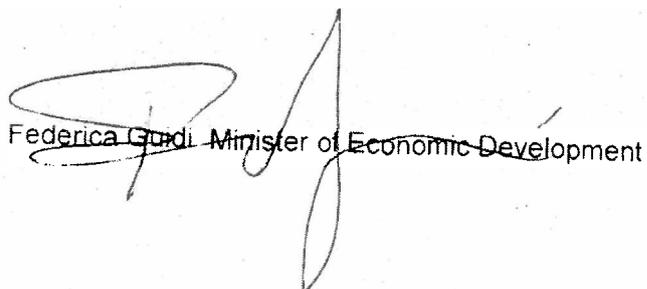
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