To the **Heads of Cabinet** of
Commission President Ursula von der Leyen
Executive Vice-President Frans Timmermans
Energy Commissioner Kadri Simson
Executive Vice-President Valdis Dombrovskis
Internal Market Commissioner Thierry Breton
Transport Commissioner Adina Valean

To the **Director-Generals and Deputies** of DG ENER, DG GROW, DG MOVE and DG CLIMA

4 May 2022

Follow-up on our Third joint industry letter on the upcoming Delegated Act on Renewable Hydrogen – comments for the interservice consultation

Dear representatives of the European Commission,

Following up on our joint industry letter on the upcoming Delegated Act (DA) on Article 27(3) of the Renewable Energy Directive (RED II) from 24 March 2022, we would like to share our comments about the draft of the DA which is currently being considered in the interservice consultation.

In light of the Russian invasion of Ukraine, we fully support the efforts of the European Commission and we welcome the **REPowerEU** Communication. It rightly underlines the necessity for a fast ramp-up of domestically produced and imported renewable hydrogen and introduces the "hydrogen accelerator" with ambitious new targets.

For an effective **"hydrogen accelerator"**, the upcoming Delegated Act is of crucial importance. While we fear that strict project-based criteria for additionality, temporal and geographical correlation are in no way helpful for the ramp-up of renewable hydrogen in Europe and a fundamentally new approach ensuring additionality via the national targets of renewable electricity expansion in the Member States would be better, we acknowledge the legal restrictions of RED II.

Against this background, we urge the EU Commission to interpret the criteria of Article 27 (3) as pragmatically as possible and ensure the largest possible flexibility. In order to realise this, we believe that further improvements of the DA are feasible – without undermining RED II or the ambitions of the Green Deal.

Comparing the current draft DA with our proposals put forward earlier, we would like to share the following observations.

Comparison:
[Our comments on the leaked draft as it was sent to interservice consultation in blue.]

Our industry position:
The Delegated Act shall create a **first-mover period** until the **end of 2027**:

1. Regarding **additionality**:

   Our industry position: Grid connected projects commissioned before that date can contract **existing renewable plants** that are not or not anymore subsidised, regardless of whether they have been repowered or not. Those plants are immediately available and can be operated at lower cost. This first-mover period realistically mirrors the differing lead times of new renewable plants – suffering from very long permitting procedures all over Europe – and of hydrogen facilities.

   Our comment on the leaked draft:
   The phase-in period is foreseen to end on **01.01.2027**. This is not sufficient given the long lead times of new renewable plants. Even if permitting procedures were to successfully streamlined with the new "REPowerEU" initiatives, it remains unlikely that enough additional RES deployment will be available for realising the ambitious volumes of hydrogen foreseen with the "hydrogen accelerator".
   While it is positive that RES installations which have been commissioned 36 months before the electrolyser (instead of 24 months) can be taken into account, this does not make up for the too short phase-in period.
   Furthermore, we note that for directly connected electrolysers there is no phase-in arrangement (e.g. phase-in period and grandfathering).

2. Regarding **temporal correlation:**

   Our industry position: Grid connected projects should demonstrate that hydrogen is produced **in the same month** as the renewable electricity. The shorter the balancing period, the bigger the gap to finance green hydrogen is and hence the higher the need for public funding becomes.

   Our comment on the leaked draft:
   The requirement for temporal correlation heavily and unnecessarily increases the cost of renewable hydrogen. Any balancing period shorter than **one month** undermines the cost effectiveness of hydrogen production and is not needed because – as shown by several studies – there is no noticeable increase of GHG emissions caused by a longer balancing period.

3. Regarding **geographical correlation**:

   Our industry position: To facilitate industry decarbonisation and early development of on-site projects, the correlation should be interpreted at Member States' level, and allow for a certain amount of cross-border imports.

Our comment on the leaked draft:
Geographical correlation remains interpreted in a very narrow way at bidding zone level, even though several options, especially relating to offshore wind, create some flexibility. This will not be enough for the ramp-up of as many hydrogen projects as possible all over Europe.

4. **Grandfathering:**

Our industry position: To maintain investment certainty, a **grandfathering rule** is needed: Projects commissioned until the end of 2027 should benefit from the first-mover rules **until 2030**.

Our comment on the leaked draft:
There is no clear and reliable grandfathering rule. Thus, legal uncertainty is created. It should be clarified that projects started before the end of the phase-in period will benefit from the same conditions also beyond this date. Otherwise, the uncertainty of conditions will hinder the ability to build a business case and delay the final investment decisions for projects that are now being planned.

Additional comment on a new element of the leaked draft:

A new option for meeting the RES characteristic has been added: Electricity is considered renewable if the average RES share in a bidding zone was above **90%** in the previous calendar year and the RFNBO production does not exceed a maximum number of hours equal to the RES share in the bidding zone.

The approach is helpful in terms of increasing flexibility. However, the threshold of 90% is extremely high and will not be achieved in most of the bidding zones across the EU. In order to allow for more Member States to apply the new option, it would be better to require only one of the two above mentioned criteria.

A small change in the current text would be sufficient:

Article 4

Rules for counting electricity taken from the grid as fully renewable

Fuel producers may count electricity taken from the grid as fully renewable if the installation producing the renewable liquid and gaseous transport fuel of non-biological origin is located in a bidding zone where the average share of renewable electricity exceeded 90% in the previous calendar year ~~**and**~~ **or** the production of renewable liquid and gaseous transport fuel of non-biological origin does not exceed a maximum number of hours corresponding to the share of renewable electricity in the bidding zone. **The fuel producer should have power purchase agreements with one or more economic operators generating renewable electricity for at least the equivalent amount of electricity consumed in the maximum number of operating hours.**

Furthermore, the current proposal does not explicitly address the possibility to combine the different modes of production. We would argue in favor of combining different production

modes, condition to the possibility to clearly distinguish the electricity according to its origin e.g. direct line, grid etc.

As always, the companies of this alliance stand ready to further discuss these observations and contribute to a DA that is actually supporting the “hydrogen accelerator” as proposed with “REPowerEU”.

Kind regards,

The representatives of the following companies