

Competition Policy & the Green Deal – Joint Submission of the Alliance for Energy-Intensive Industries

The Alliance of Energy-Intensive Industries, welcomes that the European Commission has decided to launch the debate on how competition policy can support the European Green Deal. The EU's competition law rules will have an essential role to play in ensuring that the twin objectives of 1) reaching climate neutrality by mid-century and 2) maintaining a strong industrial base in Europe can be achieved.

In a detailed report published last year 'The Industrial Transformation Masterplan' the framework conditions needed for Energy intensive Industries (EII) to transition to climate neutrality were identified. Throughout the report, it was evident that more flexible competition law rules are essential in ensuring these framework conditions can be provided.

Looking ahead, to ensure that EU Competition Law Rules are better aligned with the objectives of the Green New Deal, we recommend the following:

1. A more globally focused assertive competition policy, looking at not just intra-EU competition distortions but also extra-EU;
2. Ensuring globally competitive industrial electricity prices through a) ensuring renewable surcharge exemptions are maintained, b) limiting climate costs of other elements of the electricity bill energy intensive face such as public service obligations, capacity mechanisms, etc and c) creating a regulatory and commercial framework that facilitates long term PPAs;
3. De-risking and innovation support for low carbon technologies in energy intensive sectors through mechanisms such as Carbon Contracts for Difference, modification of IPCEIs rules, etc;
4. Demand side measures to incentivise the creation of a market for low carbon products;
5. Provide greater predictability on long term regulatory costs.

Background

Through our joint contribution to the “Masterplan for a competitive transformation of Energy-Intensive Industries (EIIs)”¹, our sectors have aimed to achieve progress on the enabling framework conditions for a Climate-neutral, Circular Economy by 2050. The Masterplan is the result of a collective work inspired by the shared ambition of seizing the opportunities of the transition to a climate-neutral economy while addressing the challenge of a fragmented international climate action.

The Masterplan identifies three key enabling conditions: creation of markets for climate-neutral, circular economy products; developing climate-neutral solutions and financing their uptake; access to resources and deployment. In providing these enabling conditions, competition law rules will have a key role to play.

In the below section, we provide some of our reaction to the European Commission's consultation document.

¹ Masterplan for a competitive transformation of EU energy-intensive industries enabling a climate-neutral, circular economy by 2050 (<https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetailDoc&id=39583&no=1>)

1. A more globally focused assertive competition policy, looking at not just intra-EU competition distortions but also extra-EU;

The EU should develop a more globally focused competition policy that looks at extra-EU market distortions, not just at the Single Market.

A climate ambitious competition policy and its enforcement should, as a general principle, take into account the impact on the global competitiveness of the European industry as a key factor. Global warming is not an EU internal-market problem, but rather an international one. Through its ambitious climate policy, Europe is leading on international climate action, but its effort will have limited effect if we do not see corresponding, reciprocal effort by other large nations or regions. By acting alone, European industry is suffering from added costs compared with main international competitors. Until this global level playing field is established, European industrial competitiveness needs to be safeguarded also via competition policy. In today's carbon constrained world, globally competing energy intensive industries, are exposed to market distortion due to different non-reciprocal climate policies worldwide.

Therefore, it is of utmost importance that competition policy and state aid address growing global competition imbalances, too. State subsidies, market protection, and unfair trade practices that infringe market-based principles can give an unfair competitive advantage to competing firms. To counter this, we need strengthened rules to address market-distorting subsidies, including indirect industrial subsidies in the form of tax cuts, cheap sovereign loans to state-owned enterprises and/or inflated procurement prices paid by local public authorities. Also, the reciprocity principle should apply to all free trade agreements between EU and third countries.

It should not be forgotten that state-aid control is in fact a tool aimed at forging genuine competition. State-aid schemes should also consider the need for a level-playing field between EU EITs and global competitors, acknowledge the specificities of industrial sectors and avoid the unintended effect of compromising the global competitive position of European EITs. EU State aid rules only arrange for a level playing field within the EU, without also ensuring a level playing field for EU companies competing worldwide, apart from the existence of a so called "matching clause" in some situations (e.g. the Research, Development and Innovation framework) to compensate for the distortive third-country subsidy. However, this clause has never been applied because there is a lack of data regarding aid granted to competitors by third countries.

2. Ensuring competition electricity prices for industry through a) ensuring renewable surcharge exemptions are maintained, b) limiting climate costs of other elements of the electricity bill energy intensives face such as public service obligations, capacity mechanisms, etc and c) creating a regulatory and commercial framework that facilitates long term PPAs

In the 'Industrial Transformation Masterplan'² access of industry to abundant, competitively priced energy was identified as the most important framework condition for the industrial transition to climate neutrality. The "Clean Planet for all" Strategy of 2018 stipulates that power can be climate neutral by 2045 with intermittent renewables, wind and solar, representing 85% of European electricity by 2045³. With this decarbonisation of power and the penetration of variable renewable electricity, the EEAG will have a crucial role to play to ensure electricity remains sufficient and globally competitive.

² Masterplan for a Competitive Transformation of EU Energy-intensive Industries Enabling a Climate-neutral, Circular Economy by 2050. Available [here](#).

³ On electricity, the strategy projects wind with a 60% share by 2045 and solar representing 25%. The remaining 15% will be a mix of nuclear, hydro and/or gas with CCS.

i. *Maintain current system of reduction in renewables support in EEAG to allow energy and electro-intensive industries to remain competitive*

For the most electro intensive industries, electricity cost can be up to 40% of the production cost and represents the main parameter deciding the producer's global competitive position. The introduction of breakthrough technologies will lead to an increase of these costs as energy-intensive industries transition towards carbon neutrality. Therefore, the current EEAG rules on reduction of RES support should be maintained and strengthened in view of the increasing costs stemming from Green Deal implementation. State aid policy must allow for adequate hardship regimes, cost limits and specific measures for industrial users exposed to the risk of carbon leakage, until a level global energy and climate playing field is established. The provisions in current Section 3.7 paragraphs 188 & 189 of the current EEAG, wherein proportionate relief is granted needs to be maintained.

ii. *Limit future climate related costs impacting electricity consumption prices*

Looking ahead, the new rules should allow for reduction in or exemption from the future extra costs resulting from financing the EU Green Deal and higher climate ambition, which are not faced by international competitors. These costs include direct funding support for additional infrastructure, storage that enables the targeted renewable electricity uptake in the power mix. Further, reductions in capacity mechanisms surcharges, system balancing costs and extra network investments should also be allowed.

iii. *Support schemes for renewables*

New EEAG should include clear and specific guidance on how to design cost-effective, competitive bidding schemes for RES and other technologies, how they should be implemented at national level and monitor the implementation of such guidance. The massive decrease of RES technology costs must be reflected in the maximum aid allowed and the state aid guidelines should address this. We also call on the Commission to study the cumulative impact of exemptions to existing rules (market-based and market-responsive support, balancing requirements, priority dispatch) for small renewable installations when revising the EEAG.

Elsewhere, it would be useful if all notified support measures were accompanied by a study analysis the impact on the measure on the final price of electricity and the competitiveness of EU companies. This would bring greater certainty to industry.

iv. *Support for long term low carbon power purchasing agreements*

At present, high power costs and the lack of regulatory certainty, are undermining the attractiveness to undertake a PPA here in Europe. This is something which the upcoming Competition Policy Framework should seek to address.

Renewable energy power purchase (RPPAS) agreements have been important for investors in Member States where the support cost is low and uncertain and where the investors are exposed to future uncertainty. It is apparent that when the overall electricity market is competitive and liquid and support schemes are correctly designed, both RES generators and consumers have incentives to sign long-term PPAs. The energy intensive industries interest to enter commercial RPPAs is depending on the framework conditions for industrial consumers with clarity on some regulatory components, in particular compensation for the indirect costs of the EU ETS and cost reductions in the EEAG, playing a crucial role.

However, numerous obstacles remain that prevent large scale RES PPAs from being signed. With regards the decarbonisation of electricity supply, a report published by DG Energy last year detailed

significant challenges that large corporate consumers face in consuming renewable electricity⁴. In particular, the requirement for massive volumes of baseload electricity makes it very difficult, and very expensive, for large electro-intensive consumers to cover their demand using low-carbon generation, which tends to be much more variable given the profiles of wind and solar production. Given that baseload electricity is needed for our industries, the cost of matching variable electricity generation with an industrial consumption profile (so called “firming costs”) was identified as a major barrier to the further uptake of RES sourcing in the “Masterplan for a Competitive Transformation of EU Energy-intensive Industries”⁵.

In order to incentivise the corporate sourcing of renewable electricity, cost reductions should be considered (such as contracts for difference, exemptions/reductions to network charges, relief from shaping costs etc) in order to offset the additional costs that these entail, thereby safeguarding the competitiveness of Europe’s energy-intensive industries while significantly reducing their carbon footprint. The cost of providing such compensation on the consumption side is much lower than the equivalent cost of supporting the same volume of electricity on the production side via a RES support scheme.

v. Incentivising direct and indirect electrification

Direct and indirect (i.e. via hydrogen) industrial electrification is a major opportunity for Europe to achieve its climate neutral objectives. Given the major potential of direct and indirect industrial electrification, support schemes should promote both technological solutions.

Competitive prices for heat

Elsewhere it should be noted that a huge transition in heat generation has to take place. Industry needs competitive prices for heat to be competitive. A detailed plan on roll out of low carbon heat and the financing thereof is needed.

3. Innovation support for low carbon technologies in energy intensive sectors

Materials produced with breakthrough technologies may be more expensive than the ones produced with conventional processes, at least in a transition phase until the new technologies reach a sufficient level of maturity and become cost competitive. This will require investigating and developing incentives that foster the uptake and cost competitiveness of innovative products.

The Energy Intensive Industries have identified several technology pathways that could enable deep emissions reductions and companies are working at concrete projects to implement them. Considering the additional time required for their uptake and deployment, it is essential to test the most promising technologies at industrial scale as soon as possible in the coming decade. These solutions entail high technology risks, **very large capital requirements** and often higher operating costs than conventional technologies.

i. Carbon contracts for difference (CCfDs)

Carbon CfDs could support climate neutral projects and reduce the “first-movers risk” by covering the incremental costs of breakthrough low-carbon investments and create a business case for very risky first movers in such technologies. The idea would be to provide a cash payment to top-up the market price of conventional products based on the abatement costs of low carbon technologies. While it

⁴ See report ‘Competitiveness of the heating and cooling industry and services. Part 2 of the study on the competitiveness of the renewable energy sector’ [here](#).

⁵ Published by the High Level Group on Energy-intensive Industries and was mentioned in the Green Deal Communication [here](#)

cannot cover all the sites in Europe, it could ensure a certain share of the market going green. Such a measure could be more useful together with the other tools in the field of innovation support.

In particular, the upcoming revision of the Guidelines on EEAG should set the right framework for ambitious CCfDs to be implemented at national and sectorial level. In this context, the EEAG shall be revised and introduce CCfDs, factoring in criteria that are necessary for the transformation of industrial sectors. Namely:

- 1) Allow compensation for the entire transformation cost;
- 2) Accept long-term duration of CCfDs, tailored to the specificity of industrial sectors with very long investment cycles;
- 3) Specific projects based CCfDs to be signed by large energy consumers with the government, (without energy providers involved in the contractual arrangements);
- 4) Secure complementarity and synergies with other national and EU funding programmes.

ii. IPCEI

IPCEI criteria should be amended to allow funding for the operational costs incurred by the use of low-carbon production processes. The scope should be extended to support, under a set of defined conditions, innovation for the decarbonisation of existing products, including electricity supply. Public support via IPCEI could for example support the development of relevant breakthrough technologies beyond CCS.

The success of the Green Deal relies partly on the development of and scaling new technologies such as batteries and green hydrogen into cost competitive components in the climate neutral economy. To ensure such development at sufficient speed is likely to require public support schemes beyond current programs and allowing also for scaling of proven technology. This is limited in current EU state aid rules. As long as European companies compete with international peers, access to similar level and duration of public support will be required. The state aid rules should allow for full compensation of additional costs, but at the same time make sure aid does not go beyond the amount that is really needed. IPCEIs allow for higher maximum state aid, but the processes are complicated and lengthy. Measures to simplify should be considered.

With regard to the IPCEI, there is a list of equally relevant modifications, namely, to extend the co-financing requirement by the beneficiary by the option of co-financing by union funds, to extend the eligible projects of Point 23 in the section “specific criteria” with climate protection projects, to add a provision which would allow to consider the relevant costs of project proposals submitted to the Innovation Fund of the European Union Emissions Trading System as being equivalent to and compatible with the IPCEI funding gap, to exclude from the ban of “mass production” and “commercial activities” any production and commercial activities characterized by an innovative element and to provide that for investments with long investment cycles that the funding gap calculation should not be made across the full life time of the investment.

We propose the following adjustments to the environmental and energy aid guidelines, in order to implement the requirements:

- Definition of a general compatibility criterion “conversion to low CO₂ or CO₂-neutral production”, according to which support for additional investment and operating costs with an aid intensity of 100% is expressly permitted under the state aid rules.
- Inclusion of a special rule on the compatibility of carbon contracts for difference (CCfD) as a key instrument for the promotion of projects to introduce low carbon production processes.

4. Create a market for low carbon products

The large-scale deployment of breakthrough technologies by EITs on the supply side will need significant changes to incentives and consumption patterns of industrial materials on the demand side. A supportive policy framework needs to define a proper mix of pull and push measures that shape new business models and create markets for climate-neutral, circular and sustainable products. Such measures need to consider firstly, the environmental footprint including GHG over the full life cycle – beyond manufacturing (cradle to cradle) and secondly, a level playing field with third countries' producers. Product information, including product labelling, can be a useful tool to empower consumers, from simple awareness to active involvement.

As identified in the above-mentioned Masterplan, a supportive policy framework needs to define a proper mix of pull and push measures that shapes new business models and create markets for low-carbon products. In the transition phase, until new products and solutions reach maturity and become cost competitive, demand side instruments - including financial support – will be needed. Public procurement (15% of EU GDP) could play a role in acceleration in market creation (in particular sectors like transport, energy, construction and telecommunications). Once these innovative technologies and solutions are developed and reach a sufficient market penetration, standards may support their market update.

A facilitating regulatory framework for bringing products with low GHG footprint to the market can be found in rules on public procurement, labelling or in standardization efforts. In each of these regulatory initiatives, it is essential to understand what “product” means: the CO₂ performance does not stop when placing the product on the market, it extends to its use and its treatment at the end of life. The development of a life-cycle assessment that provides a fair treatment for all materials equally is a necessary precondition for the development of further regulatory measures.

While it is correct that previous attempts for an industry-wide accepted LCA methodology have not been successful, there is now clearly a sense of urgency with policymakers and industry alike that spurs initiatives such as “Building Levels” which assesses CO₂ performance over the life-cycle and across different materials as part of the built environment. There is no doubt about the need for a transparent and robust accounting methodology throughout the value chain and product life cycles, which empowers consumers to make informed choice.

5. Provide greater predictability on long term regulatory costs

The new state aid framework should provide long-term certainty on regulatory costs so that green investments are more attractive. It is essential and would be greatly beneficial for energy-intensive undertakings if regulation would establish better long term reliability. Such reliability would encourage long term investments (which tend to be highly capital-intensive, and therefore have long payback periods). At present, there remains great uncertainty and insecurity regarding the future existence and scope of EU regulations. This regulatory uncertainty creates an unsuitable framework for investment and innovation in electro-intensive sectors.