

Targeted Consultation for the Evaluation of the Guidelines on State aid for Environmental protection and Energy 2014-2020 (EEAG)

Fields marked with * are mandatory.

Introduction

In 2012, the Commission launched the State aid modernisation with the objectives to: 1) foster sustainable, smart and inclusive growth in a competitive internal market; 2) focus Commission's *ex ante* scrutiny on cases with the biggest impact on the internal market; and 3) streamline the rules and provide for faster decisions. In view of these objectives, the Commission has since 2013 revised a number of State aid rules, including the State aid Guidelines for environmental protection and energy (EEAG).

In January 2019, the European Commission announced its intention to prolong seven sets of State aid rules for a period of two years^[1] and launched a [comprehensive policy evaluation in the area of State aid \("Fitness Check"\)](#). Part of this exercise is the evaluation of the State aid Guidelines for environmental protection and energy to reflect if the current rules are still fit for purpose.

Besides the general public consultation on the fitness check of EU State aid rules, this targeted consultation aims to ask supplementary questions in order to gather stakeholders' views on the implementation of the State aid Guidelines for environmental protection and energy and the provisions applicable to aid for environmental protection (and energy) (Section 7) of the General Block Exemption Regulation (GBER) and to receive insights about potential gaps, overlaps or excessive regulatory burden.

You are kindly invited to reply to a set of 19 Questions. Please make sure you use the save button as you proceed with the questionnaire to avoid losing information that was already inserted - especially in the case of questions with open replies. At the end of the survey you will have an opportunity to provide broader, more general comments and to upload documents, which you consider as relevant.

The Commission will publish an analysis of the results of the Fitness Check and examine possible follow up actions at the beginning of 2020.

[1] For details and state-of-play see the relevant initiatives on the Better Regulation Portal: [State aid – 2-year extension for general block exemption regulation](#); [State aid – 2-year extension for de minimis regulation](#); [Prolongation of state aid rules reformed under the state aid modernisation package expiring end of 2020](#).

About you

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☒ **Public**

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

Please provide your contact details below.

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- ☐ Bulgarian
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- ☐ Estonian
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- ☐ French
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- ☐ Greek
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- ☐ Swedish

* First name

Dorothea

* Surname

* I am giving my contribution as

- ☐ Academic/research institution
- ☐ Business association
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- ☒ Consumer organisation
- ☐ EU citizen
- ☐ Environmental organisation
- ☐ Non-EU citizen
- ☐ Non-governmental organisation (NGO)
- ☐ Public authority
- ☐ Trade union
- ☐ Other

* Organisation name

255 character(s) maximum

Federal Chamber of labour

* Organisation size

- ☐ Micro (1 to 9 employees)
- ☐ Small (10 to 49 employees)
- ☐ Medium (50 to 249 employees)
- ☒ Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

23869471911-54

* Please describe the main activities of your company/organisation/association, if applicable.

1000 character(s) maximum

The Austrian federal chamber of labour (BAK) is the statutory representative of more than 3.7 million employees and consumers in Austria. BAK represents and promotes its members on all social, educational, economic and consumer policy-related issues at a national level and in Brussels at the European level. Furthermore, the Federal Chamber is also part of the Austrian Social Partnership.

* Please describe the relevance of State aid rules for you.

1000 character(s) maximum

BAK supports the ambitious EU-energy and climate goals. However, the decarbonisation goal has a massive impact, not only on our economic system, but also on the interests of consumers and employees.

In BAK's view the future State Aid Guidelines should be based on the following principles:

- Respect of the 'polluter pays' principle
- In consideration of "Energy Efficiency first Principle"
- Protection of households stricken by energy poverty or unemployment;
- No general exemption from the contribution to the costs of energy transition – e.g. taxes, levies etc. for energy intensive industry.
- Subsidies for renewable energy should be cost-efficient, set incentives for innovation and act be based on network necessities. Subsidies for self-generation should be granted only for investment, operating aid should be excluded.
- State Aid Guidelines should offer legal certainty

More details and recommendations of these issues will be addressed in the following answers.

How would you best describe the nature of your understanding and involvement in matters related to State aid rules?

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BAK is very concerned of the competition-distorting effects of energy policy measures. Energy-intensive companies are being freed from the responsibility of making an appropriate contribution to the energy transition by exemptions from levies, reduced grid charges and inadequate financial regulation. This does not only affect the promotion of renewable energy but also the financing of the required grid infrastructure and brings about a distortion of competition between Member States. In some Member States - with Germany in the lead – there is an increasing tendency to pass on nearly the entire costs of the energy transition onto private households and small and medium sized enterprises.

The future State Aid Guidelines will play a key role regarding a fair distribution of the costs of energy transition among all energy consumers and therefore for the urgently needed broad support for energy- and climate policies among citizens.

* Country of origin

Please add your country of origin, or that of your organisation

- ☐ Afghanistan
- ☐ Åland Islands
- ☐ Albania
- ☐ Algeria
- ☐ Andorra
- ☐ Angola
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- ☐ Argentina
- ☐ Armenia
- ☐ Australia
- ☒ Austria
- ☐ Azerbaijan
- ☐ Bahamas
- ☐ Bahrain
- ☐ Bangladesh
- ☐ Barbados

- Ⓒ Belarus
- Ⓒ Belgium
- Ⓒ Belize
- Ⓒ Benin
- Ⓒ Bhutan
- Ⓒ Bolivia
- Ⓒ Bosnia and Herzegovina
- Ⓒ Botswana
- Ⓒ Brazil
- Ⓒ Brunei Darussalam
- Ⓒ Bulgaria
- Ⓒ Burkina Faso
- Ⓒ Burundi
- Ⓒ Cabo Verde
- Ⓒ Cambodia
- Ⓒ Cameroon
- Ⓒ Canada
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- Ⓒ Chad
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- Ⓒ Congo
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- Ⓒ Côte D'Ivoire
- Ⓒ Croatia
- Ⓒ Cuba
- Ⓒ Cyprus
- Ⓒ Czechia
- Ⓒ Democratic Republic of the Congo
- Ⓒ Denmark
- Ⓒ Djibouti
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- Ⓒ Dominican Republic
- Ⓒ Ecuador
- Ⓒ Egypt
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- Ⓒ Equatorial Guinea
- Ⓒ Eritrea
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- Ⓒ Ethiopia
- Ⓒ Fiji
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- Ⓒ France
- Ⓒ Gabon

- Ⓐ Gambia
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- Ⓐ Guatemala
- Ⓐ Guinea
- Ⓐ Guinea Bissau
- Ⓐ Guyana
- Ⓐ Haiti
- Ⓐ Honduras
- Ⓐ Hungary
- Ⓐ Iceland
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- Ⓐ Indonesia
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- Ⓐ Laos
- Ⓐ Latvia
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- Ⓐ Lesotho
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- Ⓐ Madagascar
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- Ⓒ Montenegro
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- Ⓒ Mozambique
- Ⓒ Myanmar
- Ⓒ Namibia
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- Ⓒ Nigeria
- Ⓒ North Korea
- Ⓒ North Macedonia
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- Ⓒ Poland
- Ⓒ Portugal
- Ⓒ Qatar
- Ⓒ Republic of Moldova
- Ⓒ Romania
- Ⓒ Russian Federation
- Ⓒ Rwanda
- Ⓒ Saint Kitts and Nevis
- Ⓒ Saint Lucia
- Ⓒ Saint Vincent and the Grenadines
- Ⓒ Samoa
- Ⓒ San Marino
- Ⓒ Sao Tome and Principe
- Ⓒ Saudi Arabia
- Ⓒ Senegal
- Ⓒ Serbia
- Ⓒ Seychelles
- Ⓒ Sierra Leone

- ☐ Singapore
- ☐ Slovakia
- ☐ Slovenia
- ☐ Solomon Islands
- ☐ Somalia
- ☐ South Africa
- ☐ South Korea
- ☐ South Sudan
- ☐ Spain
- ☐ Sri Lanka
- ☐ Sudan
- ☐ Suriname
- ☐ Swaziland
- ☐ Sweden
- ☐ Switzerland
- ☐ Syrian Arab Republic
- ☐ Tajikistan
- ☐ Tanzania
- ☐ Thailand
- ☐ Timor-Leste
- ☐ Togo
- ☐ Tonga
- ☐ Trinidad and Tobago
- ☐ Tunisia
- ☐ Turkey
- ☐ Turkmenistan
- ☐ Tuvalu
- ☐ Uganda
- ☐ Ukraine
- ☐ United Arab Emirates
- ☐ United Kingdom
- ☐ United States of America
- ☐ Uruguay
- ☐ Uzbekistan
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- ☐ Zambia
- ☐ Zimbabwe

* Email (this won't be published)

Dorothea.Herzele@akwien.at

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EEAG Targeted Questionnaire

Effectiveness:

In this section, we would like your opinion on the extent to which the State aid Guidelines for environmental protection and energy (EEAG) and the provisions applicable to aid for environmental protection (which include provisions on energy) (Section 7) of the General Block Exemption Regulation (related GBER provisions) have achieved their objectives and delivered results.

1. Based on your experience, to what extent have the EEAG and the corresponding GBER provisions (e.g. tendering, technological neutrality, market integration) been effective in:

	To a large extent	To some extent	Not at all	I don't know
- enabling the deployment of renewables while lowering societal costs and reducing the amount of aid needed?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
- facilitating the integration of renewable energy into the electricity market?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
- ensuring financing of support schemes to renewable energy sources, while limiting negative impacts on the competitiveness of EU firms?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
- ensuring that capacity mechanisms were necessary and cost-effective in providing security of supply and least-distortive to competition and intra-EU trade?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
- ensuring that capacity mechanisms did not negatively impact the objective of phasing out environmentally harmful subsidies including for fossil fuels?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
- ensuring that in cogeneration and district heating the most cost-efficient projects could be realised?	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please explain:

5000 character(s) maximum

Consultation Question: Was financing of support schemes to renewable energy sources ensured, while limiting negative impacts on the competitiveness of EU firms?

In many cases the polluter-pays-principle is not implemented, neither in the Guidelines nor in Commission's decisions, because generous exemptions are granted and accepted in favour of large energy consumers or so called atypical consumers, for example in the case of network charges, renewable energies levies or

energy taxes.

From BAK's point of view section 3.7.2 of the Guidelines leads to an overestimation of the impact on global competitiveness of energy intensive industries combined with the overestimation of the value of their contribution to the network stability resulting in disproportional reductions on renewables' surcharges as well as network charges or energy taxes in their electricity bill. Most Member States use the reductions allowed in section 3.7.2. This leads to increased bills for household consumers and small and medium-sized companies.

The situation in Austria: Due to the spread of network levels between small electricity consumers and large electricity consumers, private households and small companies (network level 7) have to pay more than half of the network costs, although they only consume about 25 % of the energy. Industry (network level 3 or 4) consumes about 20 % of energy, but bears only about 7 % of the total energy costs.

For this reason, private households and small enterprises pay 5.6 cent per kWh for the use of the electricity network and 2.6 cent per kWh for the support of renewable energy. Large electricity consumers bear significantly lower costs: An industrial company pays only 1.2 cent per kWh for its grid use and 0.5 cent per kWh for the financing of subsidies for renewable energies.

This spread reduces the competitiveness for SME's. Furthermore, it particularly increases the bills of household consumers, and reduces their purchasing power, weakening the domestic demand of the internal market. Finally, it exacerbates the situation of households stricken by energy poverty, with ever less people able to foot their bills.

BAK is concerned about the competition-distorting effects of energy policy measures by generous exemptions from levies, reduced charges and inadequate financial regulation. Member States release energy-intensive companies from their responsibility of making an appropriate contribution to energy transition. Above all this applies to energy transition related charges and fees, which are not covered by harmonized EU legislation. This is the case, for example, for electricity grid costs for large electricity consumers or so called atypical consumers. In Germany, big energy consumers are exempted from network charges up to a level of 90 percent. This leads to relocation of production or companies into low-cost Member States and to job-losses due to unfair cross-border competition between Member States. An example for this is UPM Steyrermühl paper mill/sawmill in Austria. 125 jobs were lost because of the relocation of a paper machine capacity to Germany.

(see in attachment: newspaper reports). Meanwhile, the Austrian Energy Institute for Business (Energieinstitut der Wirtschaft) has prepared an expert opinion on the location factor, comparing electricity costs in Austria and Germany (see in attachment: "Standortfaktor Stromkosten Österreich : Deutschland"). The first sentence reading, "Especially with regard to the league of large electricity-consuming production facilities, Germany knows better how to use for its teams the laws of the game laid down at EU level", already suggests to Austrian energy policymakers that they should follow the German path of large-scale exemptions. Thus, private households along with small and medium-sized enterprises would have to bear a much greater burden of costs.

Therefore, BAK calls for clear EU-wide rules by limiting exemptions for consumers or groups of consumers. Clearly defined criteria for all energy transition related charges and fees are needed on EU-level and should be stipulated by the State Aid Guidelines based on the polluters-pays-principle and on energy transition considerations. Industrial policy purposes should be banned as justification for State aid. For example, an important contribution to greenhouse gas reductions is the support of public transportation. Therefore, exemptions from transition costs are justified in order to keep public transport affordable and to provide an incentive to switch from individual motorized traffic to public transport. These concerns about exemptions also refer to favouring certain market players like aggregators or energy local communities. Unjustified privileges lead to a distortion of competition and could have a negative impact on society as a whole.

Please continue if necessary:

Consultation Question: Were capacity mechanisms necessary and cost-effective in providing security of supply and least distortive to competition and intra-EU trade?

BAK is critical as to capacity markets as well as to financial compensation of power generation capacities. They should be assessed as last resort solution if security of supply cannot be guaranteed in a different way. "Commend and funding economy" in the energy sector will be further developed and the cost redirected to the energy consumers. Moreover, price and market manipulation may take place if supply or consumption flexibility is reduced (market power, risk of strategic behaviour due to systemic complexity).

Thus, capacity mechanisms have not always been necessary and designed in a way that leads to cost-effective results. The assessment of aid in the form of capacity mechanisms must ensure that the design of the mechanism implicitly and explicitly allows the participation of a wide range of solutions, such as demand-side response and interconnections. Allowing these alternatives will result in lower emissions and lower costs, but this has not always been the case.

New rules in the Clean Energy Package intend to solve some of these issues. The reform of the State Aid Guidelines must also ensure a level playing for these technologies

Strategic grid reserves, ie power plants that are contracted directly by Transmission System Operators (TSOs) to stabilize the power grid (congestion management), are less complex, more controllable and easier to set up. However, these costs are also passed on to the electricity customers (in Austria, they amounted to between 150 and 350 million euros annually in the past three years).

When it comes to ensuring security of supply, from the point of view of BAK strategic network reserves are preferable to capacity mechanisms. But in principle, priority must be given to eliminating market failures before giving priority to any kind of capacity mechanisms.

When assessing state aid, BAK recommends the Commission to consider the consumer impact as a main priority, embedding the assessment in the "energy efficiency first" principle and ensuring the functioning of the electricity market, especially

- to foster the integration of renewable energies in the electricity market
- to ensure a swifter electricity network expansion
- to provide incentives for demand side management
- to provide incentives for flexible electricity generation
- to support the realisation of a true cross border electricity market.

Consultation Question: Did the Guidelines ensure that capacity mechanisms did not negatively impact the objective of phasing out environmentally harmful subsidies including for fossil fuels?

In BAK's experience, capacity mechanisms (including strategic grid reserve) have sometimes hindered the objective of phasing out fossil power, including coal and diesel fired power plants as well as nuclear power plants. A market-based approach might result in fossil fuel plants winning the bids. In the UK, the first capacity mechanisms were awarded to diesel fired power plants. From BAK's point of view the recommendations of para 220 (facilitating demand side management and increasing interconnection capacity); para 232 (technology neutrality) and para 233 (give preference to low-carbon generations) are poorly implemented and enforced.

BAK recommends that the objectives of cost-efficiency and phasing out of fossil-fuelled and nuclear power plants should be part of the assessment of State aid.

Consultation Question: ensuring that in cogeneration and district heating the most cost-efficient projects could be realised

BAK holds that the assessment of State aid mechanism should consider the impacts of district heating and cooling and cogeneration on consumers as a main priority.

District heating is on the one hand an important energy efficiency measure as waste energy is put to a use; on the other hand, it increases the share of renewable energy in heating and cooling. This consideration is recognized by the EU legislative (RED II; EED; Regulation on Governance). District heating increased by now. Up to about 25% of households in Austria obtain their heat supply from district heating.

However, district heating is a natural monopoly, but there is no strong regulation in place comparable to electricity and natural gas. In this context, protection of consumers (households, especially of tenants in multi-storey apartments and SME) against misuse of market power, combined with enhanced price- and contract transparency and easily accessible/independent price comparison is particularly important. District heating suppliers and cogeneration networks are typically organised in oligopolistic structures, which need public regulation in order to achieve a level playing field.

2. Based on your experience, have Member States created a level playing field for imported and domestically produced biofuels and/or biomass energy when providing support (for instance by supporting a specific type of domestically produced biofuels and/or biomass energy, but not other types of biofuels and/or biomass energy with similar costs or greenhouse gases emissions)?

- ☐ Yes
- ☐ No
- ☒ Partially
- ☐ I don't know

Please explain:

1000 character(s) maximum

In the Federal Environmental Support Scheme (Umweltförderung des Bundes), the guidelines in respect to projects using biomass make no distinction as regards the regional sourcing of biomass. The sustainability bonus (increase of subsidy by 3 percentage points) is granted to biomass district heating and biomass cogeneration plants (CHP) if biomass is sourced regionally, that is from less than 50 km distance; this comprises neighbouring states. The BAK is not aware of any public measures giving priority to Austrian biofuels over those sourced from other countries.

3. Based on your experience, to what extent has the GBER ensured public support for waste recycling while limiting the amount of aid to the minimum and limiting distortions of competition to the minimum?

- ☐ To a large extent
- ☐ To some extent
- ☐ Not at all
- ☒ I don't know

Please explain:

1000 character(s) maximum

4. Based on your experience, to what extent has Article 39 GBER allowed aid through financial instruments for energy efficiency measures in buildings while limiting distortions of competition at the level of the financial intermediary and the funds involved?

- ☐ To a large extent
- ☐ To some extent
- ☐ Not at all
- ☒ I don't know

Please explain:

1000 character(s) maximum

5. Based on your experience, has State aid granted under the EEAG or the GBER generally achieved the relevant climate and environmental protection objectives while maintaining a competitive internal market?

- ☐ Yes
- ☐ No
- ☒ Partially
- ☐ I don't know

Please explain:

1000 character(s) maximum

In recent years, electricity prices for household consumers have increased – because of increasing environmental and climate levies - whilst industry prices have decreased. The low industry price is mainly driven by low environmental and climate levies and network charges for industry. These exemptions led to the situation that households have to bear non-proportionate share of the burden, even more difficult for vulnerable consumers. Therefore, BAK proposes to include the principle of protecting households stricken by energy poverty or unemployment in the State Aid Guidelines.

Furthermore, most of the Member States – including Austria – will not achieve their energy efficiency target in 2020. Increasing energy efficiency helps companies to improve their competitiveness. It is also a very effective measure to address energy poverty. Therefore, BAK emphasises the need to embed and strengthen the “Energy Efficiency first” principle within the future State Aid Guidelines.

6. Based on your experience, has State aid granted under the EEAG or the GBER generally achieved the relevant energy objectives while maintaining a competitive internal market?

- ☐ Yes
- ☐ No
- ☒ Partially
- ☐ I don't know

Please explain:

1000 character(s) maximum

The Guidelines allow and encourage a big range of compensation measures for energy intensive industries. These possibilities for exemptions have not yet been fully used by national legislators. However, there is growing pressure on policy makers to implement these exemptions foreseen by the State Aid Guidelines and to following the German path of large-scale exemptions.

Exemptions for large energy consumers contradicts the “polluter pays” principle, undermine European climate and energy goals, and lead to a distortion of competition between Member States. Investments in electricity networks are urgently needed. If the example for generous exemptions, like in Germany, is followed by other Member States and network costs are increasingly passed on to households, trade businesses and small businesses, then network development and expansion will not only become unviable but will also meet growing opposition by European citizens.

7. Based on your experience, have there been any unexpected or unintended results from the implementation of the EEAG and the corresponding GBER provisions?

- ☒ Yes
- ☐ No
- ☐ Partially
- ☐ I don't know

Please specify:

1000 character(s) maximum

In order to avoid State aid control, Member States' tendency increases to choose legal constructions by which virtually all tasks of general public interest (including fee collection) are transferred to private (often oligopolistic) market participants, thus increasing their market power and at the same time reducing the State responsibility and eliminating budgetary control. This means that the public sector largely gives away the possibility to control costs or limit the transfer of costs to private households and SME, for example regarding renewable energy levies or network charges.

Generous exemptions for big companies are often justified with sophisticated technical explanations – for example the “physical path” in Germany, which is supposed to take into account the contribution towards reducing and avoiding costs made by electricity-intensive consumers. Thus, Germany big energy consumer are exempted from network charges up to a level of 90 percent.

8. Are there sectors (at NACE 4 level^[2]) and products (at Prodcom 8 level^[3]) which, were included in the list of eligible sectors and products for reductions under section 3.7.2. of the EEAG (c.f. Annex 3 and Annex 5 of the EEAG), but which, according to your experience, were not particularly affected by the financing costs of renewable energy support and therefore were not put at a significant competitive disadvantage?

- ☒ Yes
- ☐ No
- ☐ I don't know

If you replied “Yes” to the question above, please list those sectors and sub-sectors and substantiate your answer:

1000 character(s) maximum

The current level of exemptions for industry is too extensive.

Therefore, BAK considers the approach for a sector to be included in Annex 3 and 5 needs significant modifications as the following aspects are inadequate:

- arbitrary thresholds of trade and electro-intensity.
- assessments based only on past costs, where future costs should be considered, e.g. wholesale costs will be reduced thanks to increases in energy efficiency.
- other elements of competitiveness must be assessed, e.g. customer proximity and loyalty, integration within the value chains and transportation, well-qualified specialists and security of electricity supply.
- the sectors are assessed at EU level averages, which can lead to the wrong conclusions.
- the eligibility of substitute products. In some cases, the products that can substitute the one meeting the criteria also play in other markets. Their loss of competitiveness is then reduced, and the level of subsidy allowed would not be proportional.

[2] NACE is derived from the French "Nomenclature statistique des Activités économiques dans la Communauté Européenne" (Statistical classification of economic activities in the European Community). It designates the various statistical classifications of economic activities developed since 1970 by the European Union. According to NACE rev.1.1: http://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_CLS_DLD&StrNom=NACE_1_1&StrLanguageCode=EN&StrLayoutCode=HIERARCHIC

[3] Production Communautaire list, available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Industrial_production_statistics_introduced_-_PRODCOM PRODCOM is a survey, with an at-least-annual frequency, for the collection and dissemination of statistics on the production of industrial (mainly manufactured) goods, both in value and quantity terms, in the European Union. The PRODCOM survey is based on a list of products called the PRODCOM list which currently comprises about 4000 headings relating to industrial products and some industrial services. These products are detailed at an eight-digit level.

9. Are there sectors (at NACE 4 level^[4]) or products (at Prodcom 8 level^[5]) which, according to your experience, were particularly affected by the financing costs of renewable energy support and therefore were put at a significant competitive disadvantage, but were not included in the list of eligible sectors for reductions under section 3.7.2. of the EEAG (c.f. Annex 3 and Annex 5 of the EEAG)?

- ☐ Yes
- ☒ No
- ☐ I don't know

[4] According to NACE rev.1.1: http://ec.europa.eu/eurostat/ramon/nomenclatures/index.cfm?TargetUrl=LST_CLS_DLD&StrNom=NACE_1_1&StrLanguageCode=EN&StrLayoutCode=HIERARCHIC

[5] Production Communautaire list, available at: https://ec.europa.eu/eurostat/statistics-explained/index.php/Industrial_production_statistics_introduced_-_PRODCOM

10. Based on your experience, have the minimum own contributions of the full electricity surcharges of 15 % of the full renewable surcharge, and 4 % and 0.5 % of the Gross Value Added of the undertaking concerned (see points 188 and 189 of the EEAG) been adequately set to ensure a sufficient financing basis for the underlying energy policy?

	Too high	Too low	Adequate	I don't know
15% of the full renewable surcharge	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

4% of the Gross Value Added	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
0.5% of the Gross Value Added	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

Please substantiate your answer:

1000 character(s) maximum

In principle, these exemptions go against the polluter pays principle of Art 191 TFEU and therefore are incompatible with the internal market. Eventual exemptions must be well substantiated and granted in exceptional, narrowly defined cases, e.g. exemptions based on the retention of competitiveness of energy-intensive industry which suffers from proven economical disadvantages towards third countries or exemptions are justified by energy transition considerations.

11. Based on your experience, have the reductions in electricity surcharges given to energy-intensive users (EIUs) created market distortions?

- ☒ Yes
- ☐ No
- ☐ I don't know

Please substantiate your answer:

3000 character(s) maximum

As one example for many, the current regulation in force in Germany under Art 19 StromNEV (grid usage regulation) shows substantial negative economic impacts on the EU internal market. In concrete terms, § 19 para 2 StromNEV is leading to a serious distortion of competition and tangible damage to cross-border trade. Such exemptions bring about a low contribution to energy transition by large electricity consumers. These exemptions cause distortions of competition and thereby a negative impact on the labour market of other Member States.

In concrete terms: According to media reports, 125 jobs were lost in the paper plant Steyrermühl because a paper machine was shut down. The production capacities freed up as a result were shared out among other UPM plants, overwhelmingly among German plants. What matters here is that the higher the capacity utilisation of German machines the greater the preferential treatment, as regards grid charges and/or lower network charges that can be claimed in the first place if utilisation is high enough a 7.000 or more working hours per year.

If capacity utilisation is lower, then network costs are, correspondingly, significantly higher. Along with a stagnant market for paper an essential reason for this was the excessive energy costs (due to higher network costs) in Austria as well as better support for energy-intensive plants abroad (i.a. Germany).

These effects are exacerbated by other subsidies for these users, e.g. level of exemptions from the RES. Member states allow for exemptions up to 85% for intensive industry (para 188). These exemption levels are not proportionate, as such high discounts are in no correlation to with the level of loss of competitiveness. From BAK's point of view, the assessment of State aid should be based on the cumulative impact of these exemptions. They result in:

- Market distortions across countries on the final product price.
- Distortions of the choice of energy sources by consumers, incl. households. This has a secondary effect on the appliance's markets. e.g., between heat pumps (using electricity) and gas boilers (using gas).
- Weakening of demand in the internal market due to the lower disposable income of household consumers.
-

Furthermore, energy poverty will rise. Other consumer protection associations, including BEUC or Client Earth on European level, have also been observing this two-fold problem with great concern: on the one hand, large electricity consumers are increasingly relieved of the costs for energy transition, while on the other hand there is a lack of protection against energy poverty, which is aggravated by these reliefs. This disparity shall not be increased.

12. Based on your experience, what impact have reductions granted to energy intensive users had on renewable energy charges and other relevant charges paid by non-energy intensive industrial consumers and households?

- ☒ Excessive
- ☐ Adequate
- ☐ I don't know

Please substantiate your answer:

3000 character(s) maximum

Such exemptions result in a distortion of competition (s. answer to question 11) and leads to a regulatory race to the bottom by competition of lowest grid charges and renewable energy levies for large energy consuming industry (s. expert opinion on the location factor, comparing electricity costs in Austria and Germany in question 1). In Austria, private households and small enterprises have to pay 5.6 cent per kWh for using the electricity network and 2.6 cent per kWh for the promotion of renewable energy. These costs are significantly less for large electricity consumers: An industrial company pays only 1.2 cent per kWh for using the grid and 0.5 cent per kWh for subsidies costs for renewable energies (s. also answer to question 1). Therefore, especially the fiction of the “physical path” as justification for generous exemptions for large energy consumers has to be urgently abolished (s. answer to question 11).

13. Based on your experience, has the higher aid intensity allowed under point 78 of the EEAG been adequate to address the double market failure linked to the higher risks of innovation and the environmental aspects of the project without creating unnecessary distortions of competition?

- ☐ Yes
- ☐ Not adequate (too low aid intensity)
- ☐ Not adequate (too high aid intensity)
- ☒ I don't know

Please explain:

1000 character(s) maximum

Efficiency:

In this section, we would like to know your opinion about the efficiency of the EEAG and the related GBER provisions.

14. Based on your experience, to what extent are the different compatibility conditions and methodologies included in the EEAG and the GBER related provisions sufficiently clear and easy to apply:

	Yes	No	I don't know
- in general terms?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the methodology for calculating eligible costs for investment aid to go beyond standards, in the absence of standards and early adaptation to standards under Article 36 of the GBER and points 73 to 75 of the EEAG?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the criteria for limiting bidding processes for renewables to specific technologies (see EEAG point 126 and GBER Article 42.3)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

- as regards the methodology for calculating eligible costs for investment aid to renewables and co-generation (CHP) projects?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the methodology to assess proportionality of aid based on levelised cost of energy (see point 131 of the EEAG and Article 43, paragraphs 5 and 6 of the GBER)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the provisions for demonstration projects (as defined in point 19 paragraph 45 of the EEAG) and for the new and innovative renewable energy technologies (see Article 42.4 of the GBER)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the methodology to assess eligible costs for energy-efficiency investment aid under Article 38 of the GBER?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the compatibility conditions (in particular the full passing on, the leverage condition, the conditions imposed on the financial intermediaries) for energy efficiency projects in buildings (see paragraphs 4 to 10 in Article 39 of the GBER)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the compatibility conditions for aid for Resource Efficiency (section 3.5.1 of the EEAG read in combination with section 3.2 of the EEAG)?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the compatibility conditions (in particular the “state of the art” requirement, the “polluter pays principle” and the “treatment of the waste of others”) for waste management projects under 47 of the GBER and section 3.5.2 of the EEAG?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- as regards the methodology for calculating eligible costs for waste management projects under Article 47 of the GBER and section 3.5.2. of the EEAG?	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
- Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain:

5000 character(s) maximum

15. Based on your experience, how do administrative costs incurred by the aid application under the EEAG and GBER related provisions compare with the actual amount of compensation received?

Please rate from very low (administrative costs representing less than 1% of the actual amount of compensation received) to very high (administrative costs representing more than 20% of the actual amount of compensation received):

	Very low (less than 1%)	Low (between 1% and 5%)	Intermediate (between 5% and 10%)	High (between 10% and 20%)	Very high (more than 20%)	I don't know
Proportion of administrative costs in total actual amount of compensation received	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain:

1000 character(s) maximum

Relevance:

16. Based on your experience, have the EEAG and GBER adequately addressed recent market developments or technological changes such as:

	Yes	No	Partially	I don't know
Storage	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Zero subsidy bids	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Repowering	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Renewable energy power purchase agreements	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Renewable self consumption and/or active consumers	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Citizens energy communities and/or renewable energy communities	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Hydrogen, synthetic fuels and low carbon gas	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Alternative fuel infrastructure (publicly accessible or dedicated infrastructure)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Low or zero emission vehicles	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Carbon Capture, Storage and/or Utilisation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Nearly-zero-energy buildings	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Smart energy technologies (e.g. in buildings)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Energy services (e.g. energy performance contracting)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Advanced technology for water reuse (e.g. membranes and UV)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain:

5000 character(s) maximum

In the case of renewable self-consumption and citizen energy communities the problem of burden sharing for the network maintenance and cost sharing for the provision of balancing energy has to be tackled (and has not yet been tackled). Unduly privileges lead to a distortion of competition and could have a negative impact on the society as a whole.

17. To what extent do recent economic developments – such as the falling renewable energy costs and possible changes to trade intensity and electro intensity of the sectors concerned – impact the relevance of the rules which apply to reductions for energy-intensive users (EIUs)?

	To a large extent	To some extent	Not at all	I don't know
Falling costs of renewable energy producers	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Changes to the trade intensity of the sectors listed in Annex 3 and 5 of the EEAG	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Changes to the electro intensity of the sectors listed in Annex 3 of the EEAG	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain:

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The exemptions from network charges has to be tackled on the EU-level as non-harmonised exemptions and preconditions for exemptions lead to a high distortion of competition between Member States. Exemptions must be well defined on EU-level, should be allowable only in exceptional cases and well justified by the Member States. Fictions like the legal concept of the “physical path” are no longer valid taking into account the fast development of energy transition (with increasing volatile power generation). Therefore, the role of large (inflexible) energy consumers is no longer necessary in the same way as in the early 2010s for the provision of dispatching services (s. answers to question 8 and 11). However, the Commission should consider a more holistic approach on the loss of significant competitiveness of those receiving reductions. That is, it should consider many other elements further to trade and electro intensity that might affect competitiveness than the current Guidelines do. In particular any assessment should be based on the polluters-pay-principle as well as on energy transition considerations.

Coherence:

In this section, we would like to know your opinion on the extent to which the EEAG and the related GBER provisions are coherent with other EU policies and legislations.

18. Based on your experience, to what extent are the EEAG and the related GBER provisions coherent with relevant EU policies and legislation such as:

	Yes	No	Partially	I don't know
Renewable Energy Directive	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Electricity Directive [6]	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Electricity Market Regulation [7]	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Risk-preparedness Regulation [8]	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
EU ETS Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Industrial Emissions Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Alternative Fuels Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Energy Efficiency Directive	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Energy Performance of Buildings Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
EU Waste legislation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Water Framework Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Air Quality Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Birds Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Habitats Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
ERDF Regulation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain:

5000 character(s) maximum

[6] This directive is under review. The latest text can be consulted on: [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0380\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0380(COD)&l=en)

[7] This regulation is under review. The latest text can be consulted on: [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0379\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0379(COD)&l=en)

[8] This directive is under review. The latest text can be consulted on: [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0377\(COD\)&l=en](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2016/0377(COD)&l=en)

19. Have the EEAG and GBER rules on exemptions or reductions from energy taxation produced inconsistencies with other EU rules?

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	Yes	No	Partially	I don't know
Energy Taxation Directive	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Other (please specify)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

Please explain:

1000 character(s) maximum

Final Comments and Document Upload

If there is anything else you would like to say which may be relevant for the evaluation of the EEAG and the related GBER provisions, please feel free to do so:

1000 character(s) maximum

TRANSPARENCY: It is very difficult for BAK to assess and quantify the impact of the State Aid Guidelines. This is because often the relevant data is not public, is incomplete, not comparable or is part of highly technical documents. BAK recommends that any assessment of a support scheme should include an assessment of the transparency and clarity of such support scheme, including its costs projection and distribution across different types of consumers. In particular, the data situation of Eurostat has to be improved in this regard.

DISTRIBUTIONAL IMPACTS ON CLIMATE POLICIES: BAK recommends that any assessment of a State Aid scheme should include an analysis of its distributional impacts on all consumer bills, with special attention to those in vulnerable situation. The Guidelines should encourage and ensure that Member States create policies to mitigate these negative impacts e.g. in Austria, low-income households are completely exempt from paying for renewable subsidies.

If you wish to attach relevant supporting documents for any of your replies to the questions above, please feel free to do so:

Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

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/Links_media_reports__UPM_Steyrerm_hl_and_expert_opinion_location_factor.pdf

Please indicate whether the Commission services may contact you for further details on the information submitted, if required.

- ☒ Yes
☐ No

THANK YOU FOR RESPONDING TO THIS QUESTIONNAIRE

Useful links

[Fitness Check \(http://ec.europa.eu/competition/state_aid/modernisation/fitness_check_en.html\)](http://ec.europa.eu/competition/state_aid/modernisation/fitness_check_en.html)

[Guidelines on State aid for environmental protection and energy 2014-2020 \(https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52014XC0628%2801%29\)](https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A52014XC0628%2801%29)

[General Block Exemption Regulation \(GBER\) \(https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014R0651-20170710\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02014R0651-20170710)

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