Climate, Energy and Environmental Guidelines (CEEAG)
Briefing

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1. Introduction: State aid rules for the 2030 goals

On the 27th January 2022, the **new Climate, Energy and Environmental Guidelines (CEEAG) for State aid officially entered in force**, after the final draft was adopted by the European Commission in December. The Guidelines set out the criteria under which the Commission will assess whether aid may be authorised, in accordance with Article 108 TFEU: Member States will have until 2024 to adapt their existing support schemes to comply with the CEEAG.

The new CEEAG represent a clear and bold step forward compared to the previous 2014-2021 Guidelines, as they aims at providing Member States with a framework that would enable them to support the European Green Deal objectives while minimising distortion of competition. These new Guidelines move away from the approach of the previous Guideline by focusing on desired objectives: **all technologies that can deliver these objectives can be supported**, provided that they fulfil the requirements for each Section considered (but technology-specific auctions are still allowed).

The **aim is to future-proof** these rules and make them apt for the 2030 decarbonisation targets proposed with the Fit for 55 Package, with the overarching goal of harmonising State aid rules with energy policy and legislation. The revised rules generally allow for aid amounts covering up to 100% of the funding gap where aid awards are based on competitive bidding, and to introduce new aid instruments such as Carbon Contracts for Difference (CCfDs).

Moreover, the European Commission made an effort to harmonise rules for different Sections and technologies, and tried where possible to avoid having different rules for similar aims, with also the goal of providing flexibility for Member States when setting their support aid schemes.

Finally, some safeguards have been introduced: such as a public consultation requirement above certain thresholds, to ensure that the aid is effectively directed where it is necessary, is limited to what is needed to achieve the environmental goals and does not unduly excludes competitors and distort competition or the integrity of the Single Market.

2. The European Commission's assessment

After notification by the Member State, the European Commission needs to review the proposed aid scheme through an investigation: it has a maximum of two months to do so. The assessment criteria relate to a **positive condition**, i.e. whether the aid facilitates the development of certain economic activities within the Union, and a **negative condition**, i.e. whether such aid does not adversely affect trading conditions to an extent contrary to the common interest.

Under the positive condition, the Commission will examine firstly the qualification of the economic activity facilitated by the measure, that needs to to support the green economy or increase its sustainability, as well as the expected benefits of the aid for environmental protection, such as climate change mitigation, or the efficient functioning of the internal energy market; and secondly the incentive effect of the aid, i.e. whether the aid induces the beneficiary to change its behavior in order to engage in more sustainable economic activities. Finally, the foreseen aid must not breach any relevant provision of Union law.

Under the negative condition, the Commission will assess the need for State intervention, that is, whether the aid corrects market failures that prevent the achievement of a sufficient level of environmental protection or an efficient internal energy market; secondly, the appropriateness of the aid, that is, whether the objective cannot be (sufficiently) achieved by alternative measures (e.g. market-based instruments) or less distortive aid instruments; thirdly, the proportionality of the aid, meaning that the Commission needs to assess if the aid granted is the minimum necessary to achieve the intended goal. With the drafting of the CEEAG, the European Commission is moving towards a “funding gap” approach, where all costs and revenues of a project are taken into account, and the aid granted should generally be such as to cover the funding gap between the “non-sustainable” version of the project, and its version that contributes to the achievement of higher climate, energy or environmental standards. Fourthly, transparency (i.e. if the aid is well publicised by the relevant entity) needs to be assessed. The Commission will then weigh the positive and negative effects of the aid, paying attention to the activity's sustainability and, in particular, that it 'does no significant harm' to environmental objectives. Finally, the avoidance of undue negative effects of the aid on competition and trade is evaluated, taking into account the distortive effects on direct competitors that operate in compliance with the CEEAG objectives. Each category of aid foresees specific requirements for these assessment criteria.

3. The CEEAG categories: cross-sectoral support for energy storage to pursue different objectives

The previous Guidelines allowed aid for energy storage projects through the support for electricity infrastructure: it was limited in scope and was not reflecting the rapidly changing reality of the energy system.

The new CEEAG explicitly cover energy storage as defined in the Electricity Market Directive (2019/944) and envision 13 different categories that justify the approval of State aid measures. Several of them are relevant for energy storage – in the following paragraphs these will be individually analysed with regards to scope, positive requirements, negative requirements and, eventually, safeguards.

3.1 Aid for the reduction and removal of greenhouse gas emissions including through support for renewable energy and energy efficiency (Section 4.1)

This Section covers aid for all type of renewable energy and all technologies that contribute to the reduction of greenhouse gas emissions are in principle eligible, and namely "*aid to demand response and energy storage where this reduces emissions*". It's important to note that no methodology has been set by the European Commission to assess when the storage asset would help reduce emission, but both direct and indirect reduction are relevant (therefore, for both co-located and standalone storage).

The definition for renewable energy has not changed from the past State aid guidelines, and still doesn't include electricity discharged from an energy storage facility: this is to avoid the same electricity gets aided twice, and for all other purposes (e.g. green certificates) other pieces of legislation apply (see Renewable Energy Directive and the upcoming Implementing Act on Additionality).

Aid for the production of both renewable and low-carbon hydrogen can be assessed under this Section, as well as aid to support electrification using renewable electricity and/or low-carbon electricity, including support for heating and industrial processes.

For this Section, necessity of aid is presumed and the general rules to not apply (point 34 to 37), but it is necessary for Member State to demonstrate that the project would not be carried out without the aid. Appropriateness is also presumed (Section 3.2.1.2 does not apply), and rules on avoiding undue negative effects on competition are also lifted.

An important addition for projects aimed at decarbonisation is that starting from 1 July 2023, subsidy per tonne of CO2 equivalent emissions avoided must estimated for each project, taking into account life-cycle emissions created or reduced; short and long-term interactions with other relevant policies (especially the EU ETS) should be considered). Emissions should not be merely displaced to another sector, and should be lowered directly. Aid for decarbonisation can also take the form of carbon contracts for difference[1].

Also starting 1 July 2023, Member States must consult publicly on the competition impacts and proportionality of measures taken under this Section.

[1] A contract for difference entitles the beneficiary to a payment equal to the difference between a fixed 'strike' price and a reference price - such as a market price, per unit of output. They have been used for electricity generation measures in recent years but could also involve a reference price linked to the ETS - i.e. 'carbon' contracts for difference. Such carbon contracts for difference may be a useful tool for bringing to market breakthrough technologies that may be necessary to achieve industrial decarbonisation. Contracts for difference may also involve paybacks from beneficiaries to taxpayers or consumers for periods in which the reference price exceeds the strike price (see CEEAG, note 69).

In general, aid should be granted through a competitive procedure, but there can be exceptions, some of which relevant for storage projects; notably

- for electricity generation or storage projects – projects below or equal to 1 MW of installed capacity;

- for 100 % SME-owned or renewable energy community projects equal to or below 6 MW installed capacity or maximum demand;

- for projects 100 % owned by small and microenterprises or by renewable energy communities for wind generation only, equal to or below 18 MW of installed capacity;

- project applying innovating technologies which follows R&D&I activities;

- the project is part of a large integrated cross-border project.

3.2 Aid for the improvement of the energy and environmental performance of buildings (Section 4.2)

Market failures may arise may arise in the field of the energy performance of buildings, such as the unequal burden of renovation costs (normally exclusively borne by the owner of the building, and not by e.g., the tenant). This Sections aims at creating individual incentives to attain energy savings targets.

Specifically, aid may be granted for the installation of equipment for the storage of the energy generated by on-site renewable energy installations, and the construction and installation of recharging infrastructure for use by building user. Aid may also be granted for heating or cooling equipment, exclusively located inside the building.

The aid must induce measurable reduction in primary energy demand (10 to 20% depending of the nature of the project). Moreover, aid projects should normally have a payback period of no less than 5 years. All normal rules for appropriateness, proportionality and avoidance of undue negative competition effects apply.

3.3 Aid for clean mobility

3.3.1 Aid for acquisition, leasing and retrofitting of clean vehicles

Under this Section, introduced with the CEEAG, aid may be granted for the acquisition and leasing of new or used clean vehicles and for the acquisition and leasing of clean mobile service equipment. Aid may also be granted for the retrofitting, refitting and adaptation of vehicles or mobile service equipment, when it allows them to qualify as clean vehicles.

All general requirements for appropriateness, proportionality, incentive effect and avoidance of undue negative competition effects apply. Aid should be granted through a competitive procedure, unless the expected number of participants is insufficient or a Member State provides adequate justification that the absence of a competitive bidding process would not distort competition.

3.3.2 Aid for recharging and refueling infrastructure

Under this Section, Aid may be granted for the construction, installation, upgrade or extension of recharging or refueling infrastructure. Member States can provide aid to address residual market failures not solved by other relevant pieces of legislation (primarily AFIR, the Alternative Fuels Infrastructure Regulation). According to point 192, "*projects may also include […] on-site storage units for storing electricity or renewable or low-carbon hydrogen to be supplied as transport fuels*". Moreover, "*where a project includes […] the on-site storage of electricity or renewable or low-carbon hydrogen, the eligible costs may include the investment costs of the production units or of the storage facilities".*

The necessity of the aid is assessed through an *ex ante* public consultation or independent study, as well as demonstrate that the project wouldn't take place in the short term without public aid. Appropriateness and proportionality requirement follow the general rules; rules for the competitive bidding process are equivalent to the previous Section on clean vehicles.

3.4 Aid for the security of electricity supply (Section 4.8)

This Section covers compatibility rules for aid measures aimed at increasing the security of electricity supply. This includes capacity mechanisms and any other measures for dealing with long and short-term security of supply issues resulting from market failures preventing sufficient investment in electricity generation capacity, storage, interconnection, as well as network congestion measures. Storage, utility-scale and in aggregation of small units, should in principle always be eligible to these aid measures.

In order for the aid measures to be approved, Member State should carry out an assessment of all elements that may cause or exacerbate the security of supply problem, and demonstrate that the issue cannot be solved through means other than State aid (examples of alternative measures are improved market design, incentivised use of demand side management and energy storage, etc.). The security of supply issue as identified by the Member State should be consistent with the latest analysis carried out by ENTSO-E for electricity.

A key innovation of the CEEAG for this Section is the introduction is the mandatory public consultation to be performed by Member State to assess the proportionality and competition impact of the measure. Another relevant addition is the allocation of costs: as per point 367, *"the costs of a security of supply measure should be borne by the market participants who* *contribute to the need for the measure. For example, this may be achieved by allocating the costs of a security of supply measure to electricity consumers in periods of peak electricity demand or by allocating the costs of a network congestion measure to consumers in the region experiencing scarcity at times when the capacity in the measure is dispatched".*

3.5 Aid for energy infrastructure (Section 4.9)

Similarly, to the previous State aid guidelines, aid for both electricity and gas infrastructure can be covered under this Section, provided that the support does not take place within the framework of a legal monopoly[2]: in this case, the support does not qualify as state aid and is not subject to the applicable rules. Energy storage facilities can be granted aid provided that they are either:

- integrated network components,
- owned or controlled by TSOs and DSOs if compliant with art 36 and 54 of the Electricity Directive,
- qualified as PCIs under the TEN-E regulation,
- and until 31 December 2023, standalone storage facilities on both transmission and distribution lines.

Rules on necessity and appropriateness do not apply; a case-by-case approach will be taken for assessing avoidance of undue negative effects on competition. Proportionality is assessed through the "funding gap" principle. When approving aid for an energy storage facility, the European Commission may ask for proof of a specific market failure in developing facilities providing similar services.

3.6 Aid for district heating and cooling (Section 4.10)

This Section applies to aid for the construction, the upgrade or the operation of a heating or cooling generation and storage plants or the distribution network or both. The environmental externalities associated with the operation of district heating and cooling can lead to inefficient underinvestment in the construction and upgrade of district heating and cooling systems, and state aid can contribute to addressing this market failure.

[2] The conditions for a legal monopoly are laid out at point 374.

Specifically, Heating and cooling equipment, including thermal storage, within customers premises as referred to under point 138, when linked to district heating or cooling systems- can also be covered.

General rules on necessity and appropriateness, as well as avoidance of undue negative effects on competition, do not apply. Proportionality is as usual assessed through the "funding gap" principle.

It's important to distinguish heating and cooling installations for individual buildings (covered under Section 4.2) and facilities connected to district heating and cooling.

4. Final remarks: what's next in the State aid framework?

Energy storage can be covered through several objectives, and is likely to be granted aid especially when its capability of reducing overall emissions can be demonstrated or presumed. The CEEAG are a step forward to clarity in the scope of state aid, and greatly support innovation by following the overarching principle of technology neutrality.

As touched upon in the introduction, the CEEAG apply to funding awarded or intended to be awarded starting from 27 January 2022; Member States have a two-years window to adapt their existing support schemes to comply with the CEEAG, ending in 2024. The general review of State aid rules for the energy sector, though, continues: the European Commission is currently revision the General Block Exemption Regulation, the GBER, which allows Member States to grand aid under certain thresholds without the need for Commission's scrutiny (and therefore, with no prior notification). The GBER is relevant for smaller project (energy communities and domestic storage aid) and especially for R&I: EASE is closely following the developments in the drafting of the new Regulation in order to monitor what is next for energy storage systems.

European Association for Storage of Energy

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About EASE

The European Association for Storage of Energy (EASE) is the voice of the energy storage community, actively promoting the use of energy storage in Europe and worldwide. It supports the deployment of energy storage as an indispensable instrument within the framework of the European energy and climate policy to deliver services to, and improve the flexibility of, the European energy system. EASE seeks to build a European platform for sharing and disseminating energy storage-related information and supports the transition towards a sustainable, flexible and stable energy system in Europe.

For more information please visit www.ease-storage.eu

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This response was elaborated by EASE and reflects a consolidated view of its members from an energy storage point of view. Individual EASE members may adopt different positions on certain topics from their corporate standpoint.

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