EASE Reply to the European Commission Public Consultation for the Revision of the Guidelines on State aid for Environmental protection and Energy 2014-2020 (EEAG)

January 2021

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Introduction

The EEAG enable Member States to fund projects for environmental protection, energy infrastructure and security of energy supply in a cost-effective and non-distortive way, protecting competition and trade in the single market.

Member States can also grant aid for environmental purposes in accordance with the GBER. This Regulation allows Member States to grant aid for smaller and simpler projects without the need to notify the measure to the Commission in advance, provided the aid meets a number of predefined criteria. These criteria are derived from the Commission experience with notified measures and reflect those established in the EEAG, although generally with lower aid intensities to account for the fact that the Commission does not examine these measures ex-ante.

The EEAG entered into force in 2014 together with the relevant provisions of the GBER. Both acts were applicable until 31 December 2020 but the Commission has prolonged their validity until 31 December 2021 and 31 December 2023 respectively.

The revision of the EEAG and the related provisions of the GBER occurs against the backdrop of recent regulatory changes (notably the 2030 Climate and Energy Framework, the Clean Energy Package, the Clean Mobility Package, the Circular Economy Package), as well as the Commission's intention to make Europe fit for the Digital Agenda, the Industrial Strategy and the European Green Deal initiative that aims to transform the EU into a carbon neutral economy by 2050, as well as into a circular economy thriving for zero-pollution, where natural capital is protected (see Green Deal Communication and the various initiatives announced in the Roadmap). In addition, in September 2020 the Commission proposed to increase the EU's climate ambition for 2030 to a reduction of at least 55% compared to 1990, including carbon removals. To that effect, it will put forward proposals for the revision of key climate and energy legislation by June 2021.

In addition, the revision will have to take into account the impact of the COVID-19 pandemic on Member States' economies (including citizens) and their funding capabilities together with the deployment of the Recovery Plan for Europe.

This consultation follows the results of the 'fitness check'. Although the EEAG and related provisions in GBER have generally delivered on their objectives, the following issues are noticed:

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a) There are indications that the scope of the guidelines might have been too restricted and that the guidelines are too tightly focused on specific aid categories and technologies. They are thus not sufficiently future-proof, to cater for recent and expected technological and market developments and novel aid designs.

b) There are some indications that the compatibility rules on environmental protection are not entirely suited to face the climate neutrality challenge, in particular the rules to ensure necessity of aid, proportionality and limitation of distortions.

c) It is very difficult to measure whether the redistribution of costs inherent in the reductions to Energy Intensive Users (EIUs) from energy charges really increases the acceptability of the underlying policy from the perspective of public opinion. Furthermore, the correlation between the existence of EIU reductions and the introduction of ambitious renewables policies is uncertain.

d) More could be done to contribute to the Energy Union, by aligning to the more recent legislation in the energy field and further promoting competition and market integration. In addition, more could be done to align to more recent legislation in the sphere of environmental protection (including climate protection).

e) Finally, there is scope for further clarifying and simplifying a series of concepts and provisions, taking into account additional case practice and experience.

This consultation focuses on issues a) to c) where more evidence and information is required, in line with the Commission's Better Regulation requirements.

The EEAG are not the only set of guidelines that contain compatibility criteria for aid schemes supporting the achievement of the objectives of the Green Deal. Other guidelines can also be of relevance, like the Framework on Aid for research and development and innovation or the Communication on State aid to important projects of common European interest or the Guidelines on State aid in the agricultural and forestry sectors and in rural areas. This consultation does not focus on areas covered by those other guidelines.

The information collected through this consultation will be used by the Commission to prepare the impact assessment for the future EEAG and relevant parts of GBER. The questionnaire is available in the three Commission working languages (English, French and German) and replies can be submitted in all official EU languages.

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A summary report of the public consultation will also be published in the spring of 2021 on the official public consultations page of the European Commission (https://ec.europa.eu/info/law/better-regulation/have-yoursay_en). The final report will be published in the autumn of 2021 on the same website.

In a separate but linked exercise, DG Competition has also published a call for contributions on questions about how competition rules and sustainability policies work together, and how competition rules can best support the Green Deal, including open questions on whether and how to deal with support to projects which can have negative impact on the environment or whether more support should be granted to projects with high environmental value. More information is available here: https://ec.europa.eu/competition/information/green_deal/index_en.html.

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A) Environmental protection and energy

[Environmental protection should be understood as covering covers all measures that contribute to the protection of the environment, including the fight against climate change, across the various sectors of the economy, including through the deployment of clean energy sources]

A.1) Context

22. Do you consider that due to the COVID19-pandemic, the ensuing recession as well as the national policy response and taking into account the European response through the Recovery Plan and the Next Generation package:

	Yes	*No*	*I don't know/No opinion*
**Your country will redirect public resources to environmental protection including decarbonisation?*	☐	☐	☒
**Your country will have enough resources to support environmental protection including decarbonisation?*	☐	☐	☒
**The difference between Member States' resources to support environmental protection including decarbonisation have increased since 2019?*	☐	☐	☐

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A.2) Necessity for aid

In the light of technological progress and market evolutions (significant decrease in equipment costs), it might be that State aid possibilities for environmental protection purposes should either be more restricted or be subject to stricter conditions or on the contrary widened to achieve the Green Deal objectives

23. In your opinion, should aid be allowed for the following areas?

	Yes, in the same way as today	*Yes and more than before (higher aid intensities or new aid forms)*	*Yes, but subject to stricter conditions*	*Yes but subject to lower aid intensities /amounts*	*For certain types of installations only within the category (Please specify)*	*No: aid is no longer needed*	*No: aid is too distortive*	*No: aided measure is not beneficial for the environment*	*Don't know/No opinion.*
**Renewable electricity*	☐	☐	☒	☐	☐	☐	☐	☐	☐
**Renewable heating/cooling*	☐	☐	☒	☐	☐	☐	☐	☐	☐
**Renewable and low carbon hydrogen production*	☐	☒	☐	☐	☐	☐	☐	☐	☐

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	Yes, in the same way as today	*Yes and more than before (higher aid intensities or new aid forms)*	*Yes, but subject to stricter conditions*	*Yes but subject to lower aid intensities /amounts*	*For certain types of installations only within the category (Please specify)*	*No: aid is no longer needed*	*No: aid is too distortive*	*No: aided measure is not beneficial for the environment*	*Don't know/No opinion.*
**Alternative transport fuel (other than hydrogen)*	☐	☐	☐	☐	☐	☐	☐	☐	☒
**Combined Heat and Power (CHP)*	☐	☐	☐	☐	☐	☐	☐	☐	☒
**District heating/cooling*	☐	☒	☐	☐	☐	☐	☐	☐	☐
**Energy efficiency in production processes*	☐	☐	☐	☐	☐	☐	☐	☐	☐
**Energy efficiency in buildings*	☐	☐	☐	☐	☐	☐	☐	☐	☐
**Industrial decarbonisation*	☐	☒	☐	☐	☐	☐	☐	☐	☐

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	Yes, in the same way as today	*Yes and more than before (higher aid intensities or new aid forms)*	*Yes, but subject to stricter conditions*	*Yes but subject to lower aid intensities /amounts*	*For certain types of installations only within the category (Please specify)*	*No: aid is no longer needed*	*No: aid is too distortive*	*No: aided measure is not beneficial for the environment*	*Don't know/No opinion.*
**(Solid) Waste recycling*	☐	☐	☐	☐	☐	☐	☐	☐	☒
**Resource efficiency/Circular economy (water)*	☐	☐	☐	☐	☐	☐	☐	☐	☒
**Resource efficiency/Circular economy (waste heat)*	☐	☒	☐	☐	☐	☐	☐	☐	☐
**Low/zero emission vehicles*	☐	☐	☐	☐	☐	☐	☐	☐	☐
**Low/zero emission transport infrastructure*	☐	☒	☐	☐	☐	☐	☐	☐	☐

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	Yes, in the same way as today	*Yes and more than before (higher aid intensities or new aid forms)*	*Yes, but subject to stricter conditions*	*Yes but subject to lower aid intensities /amounts*	*For certain types of installations only within the category (Please specify)*	*No: aid is no longer needed*	*No: aid is too distortive*	*No: aided measure is not beneficial for the environment*	*Don't know/No opinion.*
**Carbon Capture and Storage (CCS)*	☐	☐	☐	☐	☐	☐	☐	☐	☒
**Carbon Capture and Use (CCU)*	☐	☐	☐	☐	☐	☐	☐	☐	☒
**Energy storage*	☐	☒	☐	☐	☐	☐	☐	☐	☐
**Demand response*	☐	☐	☐	☒	☐	☐	☐	☐	☐
**Energy infrastructure*	☐	☒	☐	☐	☐	☐	☐	☐	☐
**Biodiversity*	☐	☐	☐	☐	☐	☐	☐	☐	☒
**Other (e.g., reduction of pollutants beyond EU standards). Please specify*	☐	☐	☐	☐	☐	☐	☐		

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25. If you replied that aid should be allowed for certain types of installation only, please explain which type(s).

3000 character(s) maximum

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A.3) Type of aid / aid instrument

A.3.1) Eligible costs: operating versus investment expenses

26. In your opinion, should aid covering operating costs (in particular energy costs and raw material costs) on top of investment costs be generally allowed for the following areas

	Yes	*Yes but only with sufficient safeguards against undue competition distortion*	*No, aid covering investment costs is normally sufficient to incentivise a project*	*No because surcharges financing the support would increase too much*	*I don't know*
**Renewable electricity*	☐	☐	☐	☐	☐
**Renewable heating/cooling*	☐	☐	☐	☐	☐
**Renewable and low carbon hydrogen production*	☐	☒	☐	☐	☐
**Alternative transport fuel (other than hydrogen)*	☐	☐	☐	☐	☐

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	Yes	*Yes but only with sufficient safeguards against undue competition distortion*	*No, aid covering investment costs is normally sufficient to incentivise a project*	*No because surcharges financing the support would increase too much*	*I don't know*
**Combined Heat and Power (CHP)*	☐	☐	☐	☐	☐
**District heating/cooling*	☐	☐	☐	☐	☐
**Energy efficiency in production processes*	☐	☐	☐	☐	☐
**Energy efficiency in buildings*	☐	☐	☐	☐	☐
**Industrial decarbonisation*	☐	☐	☐	☐	☐
**(Solid) Waste recycling*	☐	☐	☐	☐	☐

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	Yes	*Yes but only with sufficient safeguards against undue competition distortion*	*No, aid covering investment costs is normally sufficient to incentivise a project*	*No because surcharges financing the support would increase too much*	*I don't know*
**Resource efficiency/Circular economy (water)*	☐	☐	☐	☐	☐
**Resource efficiency/Circular economy (waste heat)*	☐	☐	☐	☐	☐
**Low/zero emission vehicles*	☐	☐	☐	☐	☐
**Low/zero emission transport infrastructure*	☐	☐	☐	☐	☐
**Carbon Capture and Storage (CCS)*	☐	☐	☐	☐	☐
**Carbon Capture and Use (CCU)*	☐	☐	☐	☐	☐

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	Yes	*Yes but only with sufficient safeguards against undue competition distortion*	*No, aid covering investment costs is normally sufficient to incentivise a project*	*No because surcharges financing the support would increase too much*	*I don't know*
**Energy storage*	☐	☒	☐	☐	☐
**Demand response*	☐	☐	☐	☐	☐
**Energy infrastructure*	☐	☒	☐	☐	☐
**Biodiversity*	☐	☐	☐	☐	☐
**Other (please specify)*					

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A.3.2) Form of the aid: operating aid versus investment aid

28. Do you think that aid paid out as a premium covering the difference between the production costs for one unit and the revenues is more suited than aid paid ex ante as a share of the investment costs in any of the following areas?

	Yes – because operating aid can more easily be designed to precisely match the funding gap (eg. adapting over time to market revenues)	*Yes – because operating aid allows the payments to be spread over the project lifetime rather than requiring an immediate disbursement from the budget*	*No – because operating aid is more distortive*	*No – because operating aid is generally financed from surcharges on the product*	*I don't know/No opinion*
**Renewable electricity*	☐	☐	☐	☐	☐
**Renewable heating/cooling*	☐	☐	☐	☐	☐
**Renewable and low carbon hydrogen production*	☐	☐	☐	☐	☐
**Alternative transport fuel (other than hydrogen)*	☐	☐	☐	☐	☐
**Combined Heat and Power (CHP)*	☐	☐	☐	☐	☐
**District heating/cooling*	☐	☐	☐	☐	☐

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	Yes – because operating aid can more easily be designed to precisely match the funding gap (eg. adapting over time to market revenues)	*Yes – because operating aid allows the payments to be spread over the project lifetime rather than requiring an immediate disbursement from the budget*	*No – because operating aid is more distortive*	*No – because operating aid is generally financed from surcharges on the product*	*I don't know/No opinion*
**Energy efficiency in production processes*	☐	☐	☐	☐	☐
**Energy efficiency in buildings*	☐	☐	☐	☐	☐
**Industrial decarbonisation*	☐	☐	☐	☐	☐
**(Solid) Waste recycling*	☐	☐	☐	☐	☐
**Resource efficiency/Circular economy (water)*	☐	☐	☐	☐	☐
**Resource efficiency/Circular economy (waste heat)*	☐	☐	☐	☐	☐
**Low/zero emission vehicles*	☐	☐	☐	☐	☐
**Low/zero emission transport infrastructure*	☐	☐	☐	☐	☐

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	Yes – because operating aid can more easily be designed to precisely match the funding gap (eg. adapting over time to market revenues)	*Yes – because operating aid allows the payments to be spread over the project lifetime rather than requiring an immediate disbursement from the budget*	*No – because operating aid is more distortive*	*No – because operating aid is generally financed from surcharges on the product*	*I don't know/No opinion*
**Carbon Capture and Storage (CCS)*	☐	☐	☐	☐	☐
**Carbon Capture and Use (CCU)*	☐	☐	☐	☐	☐
**Energy storage*	☐	☒	☐	☐	☐
**Demand response*	☐	☐	☐	☐	☐
**Energy infrastructure*	☐	☐	☐	☐	☐
**Biodiversity*	☐	☐	☐	☐	☐
**Other (please specify)*	☐				

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30. Do you think operating aid for environmental protection impacts the aid beneficiary's behaviour on the energy or product market differently than investment aid?

☐ *Yes*

☐ *No*

☒ *I don't know*

31. Please explain in what areas and/or circumstances their impact may differ or why you consider that they have the same impact. 1000 character(s) maximum

32. Do you think that the current rules include appropriate safeguards to avoid potential negative impacts or are additional safeguards required? 1000 character(s) maximum

33. Various different instruments have been used to incentivise investments in renewable energy that pay beneficiaries over the project lifetime – for example fixed feed in premiums that pay a fixed subsidy for each unit of output, variable premiums that pay a top up equal to the difference between the market value of the output and a predefined price, and two way contracts for difference that pay this top up in the same way as a variable premium but also oblige the beneficiary to make a payback if market prices go above the predefined price level.

Do you think that these methods are equivalent in terms of incentivising new investments while keeping and product markets distortions limited to the minimum?

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☐ *Yes – all of them allow investments to be financed and take account of market revenues*

☒ *No – fixed premiums are superior because they leave market participants more exposed to market Price signals and adapt product to real demand*

☐ *No – variable premiums are superior over fixed premiums as they are adapting to real costs*

☐ *No – two-way contracts for difference are superior because they guard against overcompensation*

☐ *Other (please explain)*

☐ *I don't know/No opinion*

35. The introduction of carbon contracts (for difference) has been suggested to further incentivise the decarbonisation of the industry. Such contracts would reimburse the extra costs resulting from decarbonisation by paying the investor the difference between the costs of reducing one ton of CO2 for the production of a given product (steel, cement, fertilisers, etc.) and the actual CO2 price in the ETS, bridging the cost gap compared to conventional production of the given product. Such type of contract would create a further incentive for industries to invest into decarbonisation technologies beyond the ETS incentive by removing uncertainties about the profitability of the investment and guarantee a certain rate of return for the investment.

Do you agree with the above statement and thus consider that this type of support should be allowed?

☒*Yes*

☐ *No*

☐ *I don't know*

36. If no, please explain your reply. 3000 character(s) maximum

37. If you believe that carbon contracts for difference should be allowed, do you consider that:

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	Yes	*No*	*I don't know*
They should only be awarded via competitive bidding procedures	☒	☐	☐
They should be technology neutral and eligibility should apply to a wide range of sectors	☐	☒	☐
They should be sector specific provided sufficient competition is possible to have a competitive bidding procedure	☒	☐	☐
They should apply only to investments that have a high emissions reduction potential, but not to incremental carbon reductions	☒	☐	☐
They should be available only for long-term investments (life time > 15 years)	☐	☒	☐
They should be available to all economic sectors, whether in ETS or not	☐	☒	☐
They should be available only to sectors subject to the ETS	☐	☒	☐
They should be available only to sectors that are facing particular technological challenges to decarbonise	☒	☐	☐

38. Please explain your answers when you answered with yes or no.

3000 character(s) maximum

In our view, aid eligibility should be limited to hard-to-abate sectors facing a technological challenge whose removal requires a "significant innovation", with a special attention to carbon leakage sectors (at least while an effective Carbon Border Adjustment Mechanism is not in place). Investments entailing incremental adjustments should be excluded. The objective is not to ex-ante choose winning technologies, but to ensure efforts are not thinned down.

Carbon contracts for difference should also cover short-term projects, rather than covering only projects with a lifetime exceeding 15 years.

For sectors in the ETS, granting a carbon contract for difference immediately translates into a reduction of the demand for EUAs and, hence, into a CO_2 price depression, which affects the whole of the EU internal market. As a mitigation measure, aid should be

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conditional to the cancellation (by the Member State granting the aid) of the EUAs corresponding to the CO_2 saved, thus preserving the ETS' decarbonisation price signal.\

In principle, the emission pricing through EU ETS system should be the main driver for investments forwards the EU carbon neutrality. Therefore the EU should ensure that the EU ETS market performing well before introducing any other support instrument.

39. Do you think that carbon contract for difference for the industry would imply certain risks for competition on the market?

☒ *Yes*

☐ *No*

☐ *I don't know*

40. Please explain your reply to the previous question.

1000 character(s) maximum

While carbon contracts for difference could provide valuable decarbonisation support, the impact of carbon contracts for difference on the EU ETS should be carefully studied in order to avoid distortions. A well-functioning ETS is essential to ensure an effective decarbonisation process. Therefore, carbon contracts for difference must be carefully designed.

41. If you replied yes, which type of safeguards would you propose to reduce the risk (limitation of the amount, duration of the aid, degressivity, eligibility, competitive bidding process, etc.)?

3000 character(s) maximum

Safeguards required:

- Eligibility for aid limited to hard-to-abate industrial sectors facing a technological challenge requiring "significant innovations", with a special attention to carbon leakage risk sectors (at least while an effective Carbon Border Adjustment Mechanism is not in place).

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- "Significant innovation": a technological keystone in a pathway to full decarbonisation by 2050. Investments targeting an incremental carbon reductions should be excluded. The European Commission should define periodically such decarbonisation pathways and keystones.
- CCs could cause a significant distortion of the internal market (competition & trade) due to Member States having a very different financial capacity to set a budget for aid. As a mitigation measure, CCs should be granted at pan-European level through a collaborative platform involving all Member States and coordinated by the European Commission. As a second-best, the number of CCs awarded for each of the keystones must be limited for each MS and across the whole of the EU. Such limits could be stablished in terms of a maximum volume of abated emissions. Other EU funding or State aid figures (e.g. IPCEIs) involving support for the keystones defined should be considered for these limits.
- For the sake of proportionality, the CCs should be allocated through competitive bidding procedures whenever possible. Otherwise, the funding gap approach should be adopted. Given the CC only controls for overcompensation due to CO2 pricing only and considering the significant information asymmetry (i.e. actual investment and/or operating costs might be significantly lower than expected when setting the CC's reference price), additional ex-post clawback mechanisms would be needed. In any case, the aid potentially granted should be capped by the CO2 abatement cost of other technological alternatives (should there be any available).
- For sectors in the ETS, granting CCs immediately translates into a reduction of the demand for EUAs and, hence, into a CO2 price depression with very negative impacts in terms of (a) the CO2 abatement to be delivered by the ETS and (b) a redistribution of abatements among MSs (i.e. higher CO2 emissions in all MSs but in those implementing CCs). As a mitigation measure, granting CCs should be conditional to the cancellation (by the MS granting them) of the EUAs corresponding to the CO2 saved, thus preserving the ETS' decarbonisation price signal. In this sense, it is paramount to note that the ETS' Market Stability Reserve (MSR) has not been designed to cope with this kind of carbon price shocks.

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A.3.3) Aid intensities – Funding gap

*For investment aid, the EEAG and the GBER use two approaches to calculating the amount of aid that a project can receive: i) **funding gap** (for energy infrastructure, for district heating and cooling networks and for CO2 capture, transport and storage); and ii) **aid intensities**.*

*According to a **funding gap** approach, all revenues and expenses over the lifetime of the investment, discounted to their current value (typically using the cost of capital) are forecasted. If the sum of the discounted cash flows is negative for the investment, aid can be awarded to cover the entire gap. The funding gap approach requires a thorough business plan. The funding gap can be calculated only on project per project basis.*

***Aid intensities**, on the other hand, limit the aid awarded to a certain percentage (so-called maximum aid intensity) of the extra investment cost of the project which needs to be incurred to reach the environmental or energy objective compared with a defined counterfactual. This approach was chosen in 2014 for investment aid for equipment producing energy or products. It was considered to ensure predictability, be easy to use and to ensure a level playing field when comparing projects within a specific category. Aid intensities were calculated to roughly approximate the funding gap of a certain number of standard projects observed before 2014. In the meantime, however, new technologies have been developed.*

42. Do you think that aid intensities combined with the use of a counterfactual should be maintained as a way to measure the proportionality of the aid?

☒Yes – because easy to use
☐Yes – in particular under the GBER
☐Yes – in particular for small projects
☐Yes – but only for standard projects where costs and counterfactual are well established.
☐No – because aid amount is never correctly calibrated
☐No – because counterfactual is difficult to identify
☐I don't know

43. Please indicate if you consider there are specific types of investments where applying aid intensities would be particularly useful:

☐ Renewable electricity
☐ Renewable heating/cooling
☐ Renewable and low carbon hydrogen production
☐ Alternative transport fuel (other than hydrogen)

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☐ *Combined Heat and Power (CHP)*
☐ *District heating/cooling*
☐ *Energy efficiency in production processes*
☐ *Energy efficiency in buildings*
☐ *Industrial decarbonisation*
☐ *(Solid) Waste recycling*
☐ *Resource efficiency/Circular economy (water)*
☐ *Resource efficiency/Circular economy (waste heat)*
☐ *Low/zero emission vehicles*
☐ *Low/zero emission transport infrastructure*
☐ *Carbon Capture and Storage (CCS)*
☐ *Carbon Capture and Use (CCU)*
☒ *Energy storage*
☐ *Demand response*
☐ *Energy infrastructure*
☐ *Biodiversity*
☐ *Other (Please specify)*

49. Are you aware of projects eligible for support for environmental protection under the EEAG or GBER, which were not implemented because the aid intensity allowed under the EEAG or GBER did not make the project sufficiently financially attractive?

☐ *Yes*

☐ *No*

52. Do you have experience with the funding gap (as explained above) approach in receiving or granting of aid?

☐ *Yes*

☐ *No*

56. Do you think that a claw back mechanism should be introduced to avoid excessive funding?

☐ *Yes*

☐ *No*

☐ *I don't know/No opinion*

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57. How do you rate aid intensities compared to a funding gap approach in terms of the likelihood of generating a reasonable rate of return or an excessive rate of return?

- ☐ *Aid intensities are more likely than funding gap to lead to an excessive rate of return (because the aid intensity is too generous and/or ignores important savings/revenues)*
- ☐ *Funding gap method is more likely to lead to an excessive rate of return (because costs and revenues cannot correctly be forecasted)*
- ☒ *When combined with a claw back mechanism (i.e. a mechanism that ensures that aid has to be reimbursed if actual costs are lower than foreseen in the funding gap calculation or when revenues are higher than initially planned), the funding gap method is more likely to lead to reasonable a rate of return than aid intensities*
- ☐ *Both approaches are equivalent*
- ☐ *I don't know/No opinión*

[We propose not to reply to questions 57-62 on administrative burden on behalf of EASE]

A.4) Aid award procedure: Transparency, broadening, cross border opening, competitive bidding process, public consultation, avoiding investment flow interruption

This section seeks views on potential competition distortions that may result from the continued and increasing use of State aid for environmental protection, as well as the pros and cons of various tools that could be used to reduce these distortions.

63. There are various situations, in which State aid for environmental protection might pose a risk to fair and equal competition, such as:

- ***Overcompensation*** *(projects receive more aid than needed to carry out the investment/activity)*
- ***Crowding-out of private investment*** *(aid granted to projects which would have taken place without aid anyway or reducing the private incentive to invest)*
- ***Greenwashing*** *(projects claiming aid for alleged higher environmental benefits, while the real environmental benefits they provide are very low)*
- ***Lack of cost-effectiveness*** *(the cheapest projects to fulfil the environmental objective are not chosen)*

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- ***Deep pockets distortions*** *(Member States with greater financial resources being able to over subsidise environmental protection activities in their territory, giving a competitive advantage to firms located in their territory).*

On a scale from 1 (not at all important) to 5 (very important), how important is it that State aid rules seek to minimise/prevent these risks?

	1	*2*	*3*	*4*	*5*	*I don't know /No opinion*
**Overcompensation*	☐	☐	☐	☐	☒	☐
**Crowding-out of private investment*	☐	☐	☒	☐	☐	☐
**Greenwashing*	☐	☐	☒	☐	☐	☐
**Lack of cost effectiveness*	☐	☐	☒	☐	☐	☐
**Deep pockets distortions*	☐	☐	☐	☐	☒	☐

A.4.1) Transparency of environmental protection costs

Transparency in this section refers to the transparency of the environmental protection cost. State aid rules could more systematically require Member States to identify the contribution to environmental protection in monetary terms in a harmonised manner, as cost (in EUR) per unit of environmental protection achieved (as for example, EUR aid per tCO2 emissions reduced) [or, where other objectives are identified, eg. EUR per measureable unit of improvement of air/water/soil quality or biodiversity].

Increasing the transparency of the cost in this way could provide a basis for ensuring aid is necessary, as well as comparing and choosing between different types of project that contribute to the same objective. Making the costs transparent might also discourage Member States from picking relatively expensive means to meet the targeted objective and reducing the risk that targeted support is used to support national industry rather than as an efficient means of increasing environmental protection, bearing in mind the need to support the development of technologies to decarbonise production processes that currently face high abatement costs in view of the climate neutrality objective by 2050.

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For decarbonisation costs, such a calculation would need to take into account direct savings from the activity as well as emissions linked to primary energy consumption – for example, switching from a gas boiler to an electric boiler would reduce emissions because gas would no longer be burned to fire the boiler. The calculation would need to make assumptions about the carbon intensity of the electricity used to power the electric boiler. Similarly, for support for renewable electricity this could require a calculation taking into account estimates of the hours in which the supported generation would run, and the type of alternative electricity production that it would displace in these hours.

64. Do you think a calculation of the cost per tCO2 emissions reduced should be reported for aid measures targeting decarbonisation for the sake of transparency?

- ☐ *Not at all*
- ☐ *Rather not*
- ☐ *Neither yes nor no*
- ☒ *Rather yes*
- ☐ *Yes, fully*
- ☐ *I don't know*

65. Please explain the reason for your response. 1000 characters maximum

In general, transparency might increase the efficiency of the instrument, but for certain investments a sole focus on the cost per tCO2 emissions may be misleading. This could be the case e.g. for technologies that are still far away from the market but nonetheless very promising in the future, like CCU.

Cost per unit of environmental benefit (e.g. CO2 abated) is useful in terms of publicly assessing:

- Need.
- Appropriateness.
- Proportionality.

If the measure pursues goals additional to decarbonisation (e.g. first-mover risk; biodiversity; revenue stability to reduce capital costs; enable new entrants; etc.), the cost per environmental benefit should be complemented by other indicators. Alternatively, an index quantifying all the goals pursued could be created. These indicators or index would contribute to a better understanding, making it possible for the public to compare with other alternatives – i.e. key for public involvement, scrutiny and acceptance and, hence, for the Green Deal.

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For other environmental protection objectives, such a calculation can also be complex, in particular when environmental protection projects tackle several types of environmental impacts. Allocating the costs to the various environmental benefits can be complicated. For instance, an investment that allows a company to both consume less water and release less pollutants in the air and water may be complex to convert into a cost per unit of pollution avoided. Also the types of pollution avoided vary and cannot be compared amongst each other. In those cases, instead of a cost per unit of environmental benefit, it might be more useful to require the quantification of the expected different environmental benefits of a given investment.

66. For environmental protection objectives other than decarbonisation, do you think that a calculation of the actual cost per unit of environmental benefit or where not possible a requirement for quantifying the actual environmental benefits of support measures should be required as part of the compatibility conditions:

☐ *Not at all*
☐ *Rather not*
☐ *Neither yes nor no*
☐ *Rather yes*
☒ *Yes, fully*
☐ *I don't know*

68. Please explain the reason for your response. 1000 characters maximum

The cost per unit of environmental benefit or, where not possible, the quantification of the environmental benefits, is very useful in terms of assessing:

- Need: If cost per unit of environmental benefit is low (e.g. vis-à-vis ETS price) and/or the environmental benefits are low, then the need for the measure should be further justified.
- Appropriateness: If abatement cost are high and/or environmental benefits are low, then the MS should further demonstrate that other options to achieve the goals pursued are not available / feasible.
- Proportionality: If abatement cost are high and/or environmental benefits are low, then the EC should trigger a through proportionality assessment, including e.g. the possibility to use a competitive bidding process.

Therefore, although the cost per unit of environmental benefit / quantification of the environmental benefits, are not definitive criteria for the approval, they provide key insights for carrying out the compatibility assessment.

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69. How difficult do you rate the quantification of the environmental benefits?

☐*Easy*
☐*Rather easy*
☐*Neither easy/nor difficult*
☐*Rather difficult*
☐*Difficult*
☒*Very difficult*
☐*I don't know*

70. How would you rate this potential transparency requirement in terms of its suitability to mitigate the following risks?

	No impact on the risk	*Only partially suited*	*Well suited*	*I don't know/No opinión*
**Overcompensation*	☒	☐	☐	☐
**Crowding-out of private investment*	☒	☐	☐	☐
**Greenwashing*	☐	☐	☒	☐
**Lack of cost effectiveness*	☒	☐	☐	☐
**Deep pockets distortions*	☒	☐	☐	☐

A.4.2) Broadening

Broadening in this context refers to increasing the eligibility for participating in an aid scheme from a specific beneficiary or group of beneficiaries (in terms of technology or sector) to other beneficiaries, sectors or technologies that can contribute to the same objective. For instance, a broadening requirement could prevent that a Member State limits support only to energy efficiency measures in buildings, or only to solar electricity production, or to renewable energy or only to low emission mobility through electric cars. Rather, State aid rules could aim at opening schemes to a wider variety of projects that can all contribute to the targeted objective (like decarbonisation). Similarly, if a Member State aims to incentivise industrial decarbonisation, State aid rules could avoid

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limiting the support to one company only and rather require a broadening of the proposed support so that eg. all companies active in the same sector, or all companies which are competing against each other, or all companies facing the same decarbonisation challenge are eligible to apply for subsidies.

By opening up the possibility of support to the entire sector, to all competing undertakings or all undertakings facing the same environmental challenge, competition distortions may be reduced. For example, expanding eligibility to include more cost-effective options, or direct/indirect competitors to the originally targeted beneficiaries might reduce the possibility for Member States to use State aid for providing competitive advantage to the beneficiaries over competitors by subsidising emissions reductions only in one specific factory, in one specific part of the country, or in one specific type of factory.

Provided that the broadening is not accompanied by an increase in the budget and is combined with a selection procedure, it might also reduce the cost of achieving environmental protection objectives, given that Member States would have the possibility to select the projects that they will support from a larger range of potentially cheaper projects [Broadening should not be understood as requiring Member States to increase the budget of their aid schemes or to broaden the support to more expensive approaches. Rather, such a requirement would be limited to requiring support for comparable projects when they can more cost-effectively achieve the targeted objective]. A significant challenge associated with such a "broadening" approach would be the need to come up with an objective basis for defining an appropriate scope – ie. is it sufficient to broaden a measure to include all undertakings producing the same good or service, would the Member State have to also include undertakings producing products or services that compete with the originally intended beneficiaries, or would the Member State have to include all possible projects that could contribute to the targeted objective? An additional complexity would arise in schemes pursuing more than one environmental objective.

71. Would you consider beneficial a requirement for Member States to broaden their support schemes for decarbonisation?

- ☒ *Yes*
- ☐ *No*
- ☐ *I don't know/No opinion*

72. Please explain. 1000 characters maximum

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If implemented correctly, broadening of support schemes could allow for a more technology neutral process, allowing all technologies capable of meeting the targeted objective to compete on a level playing field. Broadening could thus contribute to more competition as well as more efficient allocation of state aid.

73. Would you consider beneficial a requirement for Member States to broaden their support schemes for environmental objectives other than decarbonisation?

☐ *Yes*

☐ *No*

☒ *I don't know/No opinion*

75. If you answered yes to 71) and/or 73), how far should this broadening requirement reach?

☐ *Must include all undertakings producing the same good or service*

☒ *Must include undertakings producing products or services that compete with the originally intended beneficiaries (eg. steel producers as well as all products competing with steel for its various applications)*

☐ *Must include all possible projects that could contribute to the targeted objective, i.e. should apply across sectors*

☐ *Other (please explain)*

76. Please explain your answer. 1000 characters maximum

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79. How would you rate this potential broadening requirement in terms of its suitability to mitigate the following risks?

	No impact on the risk	*Not sufficient on its own to fully tackle the risk*	*Well suited*	*I don't know/No opinion*
**Overcompensation*	☐	☐	☒	☐
**Crowding-out of private investment*	☐	☒	☐	☐
**Greenwashing*	☐	☒	☐	☐
**Lack of cost effectiveness*	☐	☐	☒	☐
**Deep pockets distortions*	☒	☐	☐	☐

A.4.3) Cross-border opening of aid schemes

Cross-border opening of aid schemes in this context refers to the possibility for State aid rules to require national support schemes to be broadened beyond national borders. Schemes would need to be open to projects in other Member States that can contribute to the achievement of the targeted objective [This would be similar to the rules already applicable for capacity mechanisms used to ensure security of electricity supplies. However, the existing sectoral rules for renewable energy (Renewables Directive) makes the use of cooperation mechanisms and the opening of support schemes across borders voluntary].

The requirement to enable foreign participation could be limited to a percentage of the available budget for a scheme.

As with the potential national broadening tool described above, it would not be appropriate for State aid rules to require Member States to increase the budget of their aid schemes. Rather, such a requirement would be limited to requiring support for

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comparable projects in other Member States when they can more cost-effectively achieve the targeted objective.

Such a requirement would increase competition and could potentially serve as an important control against the risk of Member States with greater financial resources being able to over subsidise environmental protection activities in their territory, giving a competitive advantage to firms located in their territory. However, it would also increase complexity and there may be challenges associated with monitoring and enforcing rules across borders, which would depend to some extent on the willingness of national authorities to cooperate.

However, there may also be situations when such approach would not be appropriate. Where a Member State targets a specifically local pollution problem – air quality in a city for example – it would not be likely to be appropriate to open the support scheme to projects in other Member States unless these projects were geographically close enough to cost effectively make a difference to the objective pursued.

80. Would you support a requirement for Member States to open their support schemes for decarbonisation across borders?

☒ *Yes*

☐ *No*

☐ *I don't know*

81. Please explain. 1000 characters maximum

Opening support schemes for cross-border participation could help ensure a more harmonised market, reducing the risk of "deep-pocket distortions" between Member States.

However, it would be politically challenging to allocate large parts of national financial resources to other EU entities, therefore a maximum of 10% of the scheme should be opened for cross-border participation.

82. Would you support a requirement for Member States to open their support schemes for environmental objectives other than decarbonisation across borders?

☐ *Yes*

☒ *No*

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☐ *I don't know*

83. Please explain. 1000 characters maximum

84. If you answered yes to 80) and/or 82), should Member States be able to limit the amount of support available to projects in other Member States?

☒ *Yes – no more than 10% of the scheme budget should be available to projects in other Member States*

☐ *Yes – no more than 50% of the scheme budget should be available to projects in other Member States*

☐ *No – it should be possible for projects in other Member States to be allocated the full budget from the scheme if they are more cost effective ways to achieve the targeted objective than national projects*

☐ *Other (please explain)*

85. Please explain your answer.

[Questions 85-94 are addressed to individual businesses that have participated in cross-border support schemes, so we propose not to reply as EASE]

95. How would you rate this potential cross-border opening requirement in terms of its suitability to mitigate the following risks?

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	No impact on the risk	*Contributes to reducing the risk but not sufficient on its own*	*Well suited*	*I don't know/No opinion*
**Overcompensation*	☒	☐	☐	☐
**Crowding-out of private investment*	☒	☐	☐	☐
**Greenwashing*	☒	☐	☐	☐
**Lack of cost effectiveness*	☐	☒	☐	☐
**Deep pockets distortions*	☐	☐	☒	☐

A.4.4) Competitive bidding process

Competitive bidding process refers to selecting beneficiaries and determining the aid amount for the beneficiaries through a non-discriminatory and competitive bidding process, that provides for the participation of a sufficient number of undertakings and where the aid is granted on the basis of either the initial bid submitted by the bidder or a clearing price. The budget or volume related to the bidding process is a binding constraint leading to a situation where not all bidders can receive aid. Tenders can be limited to specific categories of projects.

Competitive bidding processes in general have been useful to drive down costs and increase the efficiency of the support and help ensure the proportionality of aid. They can be complex to design and may increase the administrative burden and costs especially for smaller participants, but they avoid the need for administrative assessments of the amount of aid that projects should receive.

To ensure the proportionality of the aid, competitive bidding processes require a sufficient number of projects and those projects should be sufficiently comparable. There may therefore be areas in which competitive bidding processes are less suitable because there are no enough projects on a regular basis to organise a competitive bidding process or because projects are so diverse that a comparison of costs only would not seem adequate.

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96. Do you think that competitive bidding processes should be the general rule to allocate investment and operating aid for energy and environmental purposes?

☒ *Yes*

☐ *No*

☐ *I don't know/no opinion*

[Questions 103-106 are aimed at individual businesses so we propose not to reply.]

A requirement for a competitive bidding process could be combined with other requirements being considered in this consultation, for example the potential requirement for broadening and the potential 'transparency' requirement for calculating the cost of achieving the targeted objective. If a broadening requirement were to be combined with tendering it could be expected to lead to a further reduction of the costs of support. Also, when combined with tender, the broadening requirement could ensure that the tender is competitive by contrast to a tender limited to a sector in which there are only too few competitors.

107. In your view, would a competitive bidding procedure that selected the cheapest projects to deliver industrial decarbonisation within a given sector and on national basis (steel only, cement only, fertilisers only) be sufficiently competitive to ensure that aid is limited to the minimum necessary to trigger the projects?

☐ *Yes*

☐*No*

☐*I don't know*

110. Competitive bidding procedures open to several technologies/sectors usually focus on one or very few parameters, on which participants bid and are compared, such as the actual aid amount for the construction of the project or the cost of delivering a MWh of renewable energy or the costs of reducing one ton of CO2. Are there important environmental or social costs or benefits that cannot be internalised in a competitive bidding procedure with a broader scope?

☒ *Yes*

☐ *No*

☐ *I don't know/ no opinion*

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111. If yes, which one(s)?

- ☒ *Costs for electricity grid reinforcement*
- ☒ *Costs for system integration*
- ☒ *Long-term potential of projects/technologies*
- ☒ *Lock-in into a technology which is not suitable in the long term*
- ☐ *Trade-offs with other environmental impacts (e.g. on local air quality, biodiversity, etc.)*
- ☒ *Coordination with other policies (e.g. security of supply)*
- ☐ *Other (please specify)*

113. How would you rate a competitive bidding procedure across heterogeneous projects? In such a procedure, projects of different types all contributing to decarbonisation would compete and be compared on the basis of the cost per unit of CO2 emission reduction. This could involve for example a competitive bidding process in which renewable electricity and heat, insulation of buildings, acquisition of clean vehicles, process energy efficiency, waste heat recovery, renewable and low carbon hydrogen production/consumption, and CCS projects all participate.

	Not at all suited (no impact on that risk)	*Contributes to reducing the risk but not sufficient on its own*	*Well suited*	*Don't know/No opinion*
**Overcompensation*	☐	☐	☐	☐
**Crowding-out of private investment*	☐	☐	☐	☐
**Greenwashing*	☐	☐	☐	☐
**Missing cost effectiveness*	☐	☐	☐	☐
**Deep pockets distortions*	☐	☐	☐	☐

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[We consider the followin section – public consultation– less relevant for EASE and therefore propose not to reply].

A.4.6) Summary

Having responded to the questions above, please summarise your views by completing the following table.

119. On a scale from 1 (completely disagree) to 5 (completely agree): to which extent to you agree with the following statements?

	1	*2*	*3*	*4*	*5*	*I don't know/No opinion*
**Currently, State aid for environmental protection is well spent.*	☐	☐	☐	☒	☐	☐
**State Aid should allow Member States to target what they consider the most pressing environmental issues in their national context regardless of competition distortions*	☐	☐	☐	☐	☐	☒
**Reducing the cost of environmental aid makes it more acceptable*	☐	☐	☐	☐	☒	☐
**Improving the transparency of the cost of environmental protection makes aid for environmental protection more acceptable*	☐	☐	☐	☒	☐	☐
**State aid rules should prevent Member States subsidising only more expensive ways to achieve environmental protection objectives and should require Member States to also/instead support more cost effective ways to achieve environmental protection objectives*	☐	☐	☐	☐	☒	☐
**Awarding environmental aid through tenders makes it more acceptable*	☐	☐	☐	☐	☒	☐
**Opening environmental aid schemes to as many contributors to the environmental objective as possible makes it more acceptable*	☐	☐	☐	☒	☐	☐

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	1	2	3	4	5	I don't know/No opinion
*Opening environmental aid schemes cross border makes them more acceptable	☐	☐	☒	☐	☐	☐
*Making the rules clearer and simpler would significantly facilitate their use	☐	☐	☐	☐	☒	☐

120. Other than the potential tools explained here (transparency, broadening etc) do you have any other suggestions as to how the risks of competition distortions could be mitigated through state aid rules?

☐*Yes*

☐ *No*

☐*I don't know*

[Please note that sections A.4.7 Administrative Burden and B Energy Intensive Users have been removed because we do not consider them relevant for EASE.]

Final comments and document upload

144. If there is anything else you would like to say which may be relevant for the impact assessment of the EEAG, feel free to do so.

1000 character(s) maximum

Some essential considerations for aligning the EEAG with the European Green Deal have not even been mentioned in this consultation questionnaire.

One primary issue is the scope of support for key decarbonisation technologies. The scope of support for energy storage projects must be expanded, in line with the energy storage provisions in the Clean Energy Package:

- **Covering all energy storage technologies, including power-to-x,** rather than only 'electricity storage' as currently defined in Article 1, Par. 1.3, 31-(a)-(iii) of the EEAG.

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- **A technology neutral approach is essential** to allow the various energy storage solutions to compete on a level playing field, rather than picking winners and losers through administrative procedures.
- **We do not see a rationale for limiting the consideration of storage projects to those connected to high-voltage transmission lines designed for a voltage of 110kV or more** (as is currently the case in the EEAG). Many energy storage facilities are now deployed at distribution level to support the integration of variable Renewable Energy Sources (vRES), and storage can also be deployed behind-the-meter at commercial & industrial facilities as well as residential homes.

The unique added value of energy storage to the energy system must be supported also in the EEAG, in order to ensure a fair treatment of these solutions.

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

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

☒ *Yes*

☐ *No*

As mentioned in the Introductory Part of this questionnaire, the Commission is currently conducting a consultation on the relationship between competition law and the Green Deal. In this framework, the Commission is examining to what extent green bonuses could be allowed for measures or projects delivering high environmental protection, whether that high environmental contribution should be identified thanks to the EU taxonomy or not and how risks of overcompensation can be avoided when normal aid intensities already cover all extra environmental costs.
In the call for contributions, stakeholders are invited to examine among others the following questions, which are also relevant for the EEAG revision. The questions are reproduced here for the sake of transparency. The Commission invites stakeholders to submit their comments to this consultation on the role of competition law in the Green Deal to COMP-GREEN-DEAL@ec.europa.eu.

3. If you consider that more State aid to support environmental objectives should be

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allowed, what are your ideas on how that should be done? a. Should this take the form of allowing more aid (or aid on easier terms) for environmentally beneficial projects than for comparable projects which do not bring the same benefits ("green bonus")? If so, how should this green bonus be defined? b. Which criteria should inform the assessment of a green bonus? Could you give concrete examples where, in your view, a green bonus would be justified, compared to examples where it would not be justified? Please provide reasons explaining your choice.

4. How should we define positive environmental benefits? a. Should it be by reference to the EU taxonomy and, if yes, should it be by reference to all sustainability criteria of the EU taxonomy? Or would any kind of environmental benefit be sufficient?

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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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Disclaimer

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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