E R E F

European Renewable Energies Federation

BEE
Bundesverband
Erneuerbare Energie e.V.

Joaquín Almunia
Commissioner for Competition
Günther Oettinger
Commissioner for Energy
Rue de la Loi 200
1049 Brussels
Belgium

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ON THE DRAFT GUIDELINES ON ENVIRONMENTAL AND ENERGY AID

Dear Commissioner Almunia, dear Commissioner Oettinger,

The recently leaked draft of new Guidelines on environmental and energy aid for 2014-2020 raises serious concerns, in particular because it seems to suggest that established support mechanisms such as the feed-in tariffs for renewable energy are not compatible with the internal energy market. These mechanisms have in the past been the most successful instrument to foster the development of renewable energy in Europe and have been the preferred option in most Member States, among which France, Spain, Germany, and, for some technologies, the United Kingdom. Some of those countries have chosen set-ups which are within the definition of State aid and thus have aligned them according to the past and current State aid Guidelines' compatibility conditions for authorized state aid. Against this background, some of the key features of the new draft guidelines seriously endanger Europe's commitment to growth of renewable energy and the Member States' plans to achieve their national renewable energy targets and a system change in their energy mix based on efficiency and renewables as prime drivers.

Whereas the Commission's Directorate General Energy in its recent draft guidance document on support scheme reform and best practice gives Member States the flexibility they need in accordance with the Renewable Energy Directive (Directive 2009/28/EC), the Directorate General Competition seems to strive for technology-neutral tenders as their only preferred option and all Member States using state aid to promote renewables should accordingly adapt their systems. However, the instrument DG competition seems to envision as the best design for renewable energy support is not in use in any of the Member States. Seeing that the options under the Commission's State Aid Guidelines always reflect those best practice options which are successfully applied in the European Union in order to reach the respective objective, it is difficult to understand how technology-neutral tenders which nobody really uses (The Netherlands having a system coming closest to the Commission's suggestions, it seems, and have already realized its shortcomings) can be considered generally compatible with the internal market according to the Commission's/ Member States' experience. Rather, this unproven instrument bears the risk of market distortion, windfall profits and resulting loss of acceptance for the support of renewable energy sources (RES).

There are many good reasons why Member States do not use tender systems – even national, non-technology-neutral ones – or have abandoned this option, as for example the United Kingdom and Ireland. Those designs seem to fail to support decentralized small-scale renewable energy production, but played into the hands of big firms and centralized generation.

The draft Guidelines thus ignore national best practice and try to force Member States into an unwanted system. The Commission would violate the very essence and political compromise under the with the Renewable Energy Directive and the Treaty on the Functioning of the European Union by restricting Member States' control over their national support instruments and limiting the responsibility they have for their own energy mix.

As rightly and explicitly stated in the Directive 2009/28/EC, support mechanisms are effective mostly due to their specific design. Because of significant differences between Member States in terms of energy markets, energy systems and resource priorities, a general solution does not seem appropriate or equally effective and efficient for all Member States. We therefore ask the Commission to continue to support Member States with the development of well-designed support mechanisms by promoting criteria for good design and – where appropriate – convergence, instead of trying to impose unproven "one size fits all" policies such as technology-neutral tenders.

We would also like to draw the Commission's attention to another very critical aspect of the leaked draft. It suggests that subsidies for nuclear energy may be compatible with state aid rules and with the internal energy market. If this assessment remains in the final Guidelines, it will send the signal that it is financially viable to build new nuclear power plants based on substantial subsidies. Whereas the Commission requires stepped up full market integration from the renewable sector, demands a strict cost digression and sets time limits for the given support to renewables, it proposes comparatively weak requirements for nuclear energy – so for example, the current draft does not suggest on which basis the aid shall be calculated and up to which maximum level aid per Kwh it may be paid, nor does it set a maximum duration for the aid given to nuclear power.

Nuclear energy over decades enjoyed massive hidden and open public financial support which distorts the market and contradicts the European objective of finalizing an internal energy market by 2014. Examples for favoritism towards nuclear can be seen in a multitude of facts such as that rules on liability mostly provide for the State, not the operator, to be liable in case of a nuclear accident. Compulsory insurance to cover all damages in case of a severe accident does not exist in any of the European Union's Member States – not even in Germany, where the nuclear plant operators' responsibility for damage is unlimited in national legislation but the insurance is not covering 100 % of this risk. Other privileges include the redistribution of costs for the nuclear waste disposal to be paid by the public, advantages resulting from privileged status concerning financial reserves for future dismantling and lavish support under EURATOM and various national programmes. The European Commission should focus on phasing out this support and addressing the market distortions it creates, thus enabling a real level playing field and not facilitating approval for new subsidies for nuclear. The renewable industry sees itself here in complete alliance with EURELECTRIC which is also strictly against new subsidies to nuclear and an inclusion of this sector in the new guidelines. If some Member States want to massively support nuclear power with taxpayers' money, then their extraordinary approach needs an in-depth examination and in depth case-to-case procedure by the European Commission.

We consider the content of the leaked draft Guidelines unacceptable and a real threat to the achievement of EU's energy policy objectives, including the increase in renewable energy by at least 20% until 2020 and the internal energy market finalization by 2014. We ask you to ensure that the severe interference in functioning national RES support systems and the potential subsidies for new nuclear power are not accepted.

Yours faithfully,

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