E R E F

European Renewable Energies Federation

EREF's Response

to the European Commission's consultation paper of 11 March 2013

on the Environmental and Energy Aid Guidelines 2014 – 2020

29 April 2013

EREF welcomes the European Commission's efforts to modernize the State aid framework and provide the Member States and stakeholders with a clear set of rules as a reference point for the development of their policies and aid interventions. Many national renewable energy support schemes are designed as State aid, have been notified and declared compatible with the existing Community guidelines on state aid for environmental protection. The Guidelines also cover support for renewable technologies and have proven a good tool to give guidance to policymakers, facilitated and speeded up the assessment of State aid schemes for renewables and increased confidence and investment security to the sector. Accordingly, EREF supports a new set of Guidelines with a dedicated section on State aid to renewable energy.

While it is true that renewable energies are becoming more and more competitive, the energy markets remain distorted and decentralized, independent power producers still face difficulties when trying to access markets and to compete with heavily subsidized centralized power generation from fossil fuels and nuclear. Unlike the support to renewable energy, which in particular in such cases where it is designed as State aid and in accordance with the existing Guidelines, such subsidies to fossil fuels and nuclear are often non-transparent and may by large overcompensate the beneficiaries. As the European Commission, DG ENERGY, has recognized, there are no clear data on all the subsidies in the energy sector including a thorough "cradle to cradle "approach. **EREF would strongly agree with the European Commission that a comprehensive study, disclosing all open and hidden subsidies for all energy transforming technologies**, raw material etc… Such guidelines would then serve as benchmark against the height and necessity of the respective support scheme for renewables. It would also help to correct the wrong picture often presented in the media and the public, that renewable energy would be too expensive. In this regard, **EREF also welcomes the European Commission's considerations on the existing exemptions for the energy intensive industry.** In some Member States, such as Germany, the costs for the exemptions are passed on to other consumers, artificially raising the surcharges and creating wrong impressions about the real price for renewable energy support. EREF agrees that it should be the objective to make renewables support as efficient as possible and transition to energy markets in which renewables are the major player.

As regards the European Commission's considerations to extend the scope of the Guidelines, EREF generally confirms that clear and simple rules based on the Commission's experience with similar cases would be to the best advantage of both Member States and stakeholders. It may lead to more targeted and in particular to more transparent subsidies in the energy sector and contribute to the phase-out of unnecessary and outdated subsidies to fossil power.

EREF appreciates that the Commission is considering whether certain infrastructure projects should be included in the scope of the Guidelines and to apply the compatibility criteria for investment aid established on case-to-case basis. This may be particularly valuable for cross-border projects, though, as the Commission correctly recognizes, as a lot of projects can be financed through grid tariffs. This may even include demand-response measures and not only traditional infrastructure projects, so that the first step should in any event remain establishing that the market would not deliver the investments.
EREF on the other hand strongly opposes that new State aid guidelines would cover the whole energy sector, especially including infrastructure, capacity markets and nuclear energy. Nuclear energy can no longer benefit from any State support since it has long left any infant stage and has received enormous State aid in the past without apparently being able to be competitive in the liberalized energy market at all.

Capacity market guidelines should be published in specific guidelines and should certainly not be "smuggled" into the reform of the State aid guidelines for the environment. **EREF shares the European Commission's concerns about State aid for generation capacity and agrees that there is a need for an in-depth assessment of the existence of market failures prior to any intervention.** In this respect, EREF would have liked the Commission to refer more to the need for flexibility rather than capacity, as it is regularly done by, among others, Commissioner for Energy Günther Oettinger. It would fit better with other valuable considerations in the consultation paper as well for example on interruptible contracts.

Again, EREF does not see any legal base for the Commission to include nuclear energy subsidies under the State aid guidelines for the environment. Under a clear analysis on all costs for nuclear under a cradle to cradle approach nuclear is a lost case and has no right to receive further subsidies for new nuclear power stations, since it is a dead-end technology.

For decades, no external costs such as liability insurance, waste disposal or decommissioning have been properly estimated, and duly internalized for nuclear power. Would this be done, and would for example the liability caps as they exist in most Member States be removed exposing nuclear power plant operators to higher insurance premiums and the risk of not finding insurance at all, nuclear power would become so expensive and thus inefficient that the market would certainly not allow any investments in nuclear power.

EREF questions the Commission's capability to extend the Guidelines to low-carbon and nuclear power more generally. First of all, the Guidelines have been and should be based on experience with similar cases. For nuclear power, though, EREF doubts that the Commission has such experience. While the consultation paper mentions that come experience has been obtained in dealing with CCS, it does not mention nuclear power. Second, the current Guidelines foresee certain thresholds, above which projects are no longer eligible for the standard assessment but have to be subjected to a detailed assessment. Nuclear power projects in their size and with the amount of aid granted generally exceed those thresholds by large. Third, the European Commission may not have the competence at all to adopt Guidelines for State aid in the field of energy, as this may interfere with the Member States' sovereignty over their energy mix as explicitly set out in Article 194 of the Treaty on the Functioning of the European Union.

All in all, EREF thus objects to the inclusion of nuclear power in the Guidelines, and stresses that if technology neutrality would be applied, then all technologies should have to internalize all their external costs.

Even if technology neutrality would be applied, EREF agrees with the Commission that then it is still necessary to support first-of-a-kind installations, beyond the stage of research and development but still not commercially viable. Any other approach would go to the expense of diversification and potentially promising future solutions. Thus, such aid should continue to be allowed and facilitated by the European Commission. However, EREF stresses that nuclear power could not fall under such a framework as it is an old technology, rather than a new one. The fact that it is not commercially viable without subsidies should thus – in the market-oriented setting the Commission is aiming for – rule out the deployment of any new nuclear capacity and the decarbonization of the energy sector should be driven by renewable energies.

Thus, to conclude, EREF would like the European Commission to propose Guidelines which respond to the following criteria:

- Provide a framework for transparent and targeted aid, avoiding over-compensation and windfall profits, where it is needed due to proven market failures;
- Based on the principle of technology neutrality, but keep possibilities to support new technologies;
- Technology neutrality to mean that all technologies have to fully disclose and internalize their external costs;
- Allow for a stable framework for renewable energy, supported through State aid or not, and the transition toward the energy supply of the future with renewables as major player
- Does not extend its framework to nuclear and keeps separate approach for infrastructure and capacity markets with distinct guidelines.