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Comments on the **Draft Community Guidelines for State Aid for Environmental Protection**

UEAPME welcomes the review of the existing “Community guidelines for state aid for environmental protection” (2001/C 37/03), which aims at bringing them in line with the “less and better targeted state aid” principle by using a refined economic approach as defined by the State Aid Action Plan. Furthermore, UEAPME supports the intention to make these guidelines an instrument to support environmental protection as an important EU policy, defined in the European Sustainability Strategy and the European Action Plan.

Europe’s SMEs must play an important role in both policy areas and are the main target group of environmental aid. With this position paper, UEAPME intends to put forward some proposals for amendments, which would bring the draft guidelines even more in line with their intended aims and with the practical needs of SMEs.

1. General remarks

The overall structure of the guidelines is a significant improvement as regards coherence and makes it more user-friendly and transparent than the existing one.

UEAPME welcomes and fully supports the definition of so-called “safe harbour” measures, which help all potential providers of state aid to define their schemes and programmes and will make notification significantly less bureaucratic.

UEAPME particularly welcomes the new differentiation between small enterprises and medium sized enterprises concerning the SME bonus.

2. Remarks on the theoretical approach

UEAPME has very much welcomed the use of a refined economic approach to justify the use of state aid as an effective tool to achieve objectives of common interests. UEAPME also welcomed the idea to use state aid with the intention to compensate for market failures. Both are core elements of the State Aid Action Plan and should be also used in these guidelines.

UEAPME agrees to a large extent with the theoretical analyses on market failures as regards the protection of the environment and the problems with the implementation of the “polluter pays principle” (PPP) in chapter 1.2 of the introduction. The basic idea put forward is: economic activities can harm the environment through negative external effects in form of pollution. The PPP tries to internalise these effects – however, there are limits to its application, and in such cases state aid may provide incentives to achieve a higher level of environmental protection.

As regards energy saving or the promotion of renewable energy, on the other hand, UEAPME is not persuaded that the same theoretical logic applies. From a company point of view and in a competitive environment the use of energy, which is an important input for production, depends fully on price signals and economic efficiency. Furthermore, energy as a product cannot be seen as a public good such as the “use” of environment. Therefore, the efficient use on energy for business activities does not create negative external effects. This means that there is no reason to apply something like the PPP, because there is nothing to be internalised. (This argumentation is independent from whether negative externalities have been internalised at the production of energy, i.e. the costs for energy are in line with the PPP.)

If levels of energy saving above the efficient economic use of energy become a common political interest as put forward in the Energy Action Plan, energy saving measures which go further than the economical rationale or the use of renewable energy even when it is not economically efficient create positive externalities and must be compensated by the public.

Therefore, UEAPME urges DG COMP to re-think its theoretical approach towards state aid for energy saving measures and include in the introduction a chapter about the rationale of state aid for energy saving measures.

3. Remarks on the definition of eligible costs for investment aid

The method used for the calculation of eligible costs for investment aid in the draft guidelines, but also in the existing guidelines for environmental aid, is (a) in conflict with the theoretical approach, (b) does not provide sufficient incentives and (c) has been proved as not practicable in the past.

- a) The need for economic efficiency in a competitive market economy provides the incentive for each company to invest in better technologies, but also in energy saving and environmental protection to the extent to which the total costs of such an investment are lower than its benefits (reduction in the use of labour, energy, resources, etc.). If the society wants for environmental or energy saving reasons a higher level of investments by companies than economically justified, the public has to compensate for it.

The method currently used to calculate the eligible costs for investment aid (paragraphs 70, 71, 76, 81, 90, 100, 107 and 114), which defines eligible costs as the additional costs of specific environmental protecting or energy saving measures net of all benefits and net of all operating benefits/costs, is so narrow that there are no reasons for a company to bear these costs because they do not provide any additional economic benefit.

Furthermore, footnotes 31, 32, 34 and 37 do not seem to make sense. It is already in the rationale of the calculation method that economic benefits reduce the eligible costs and if such benefits do not exist, nothing can be deducted.

- b) The provided method to calculate the eligible costs for investment aid is so narrow that there are no incentives left for a company to bear this cost. Therefore, in accordance to the concept to use state aid to compensate for market failures, the aid intensity for such narrow defined eligible costs would have to be 100%.
- c) Experiences with the existing guidelines, which provide more or less the same calculation method for eligible costs, show that is not practicable. According to the information UEAPME received from providers of environment aid, Member States are not using the existing environmental guidelines but other guidelines (de minimis, SME investment aid, etc.) or state aid schemes for environmental aid notified by Member States and accepted by the European Commission, are using in reality a wider definition of eligible costs to

create an incentive for the targeted companies to apply for such aid and to implement such investments.

Therefore, UEAPME asks DG COMP to rethink its calculation method or, consequently, increase the allowed aid intensity to 100%. We would prefer a more extended definition of eligibility than higher aid intensity.

4. Remarks on the specific situation for SMEs

Smaller companies face some specific problems and shortcomings as regards investment in energy efficiency and environmental protection, which trigger underinvestment not only from the point of view of the whole society, but also from a business perspective.

- a) Many SMEs are not aware about their potential to increase energy efficiency. A recent [survey](#)¹ made by KfW (Germany) shows that SME owners believe that their potential for energy saving is below 10%, while experts and researchers expect it to be 20% on average.
- b) Furthermore, an overwhelming majority of SMEs has an energy intensity about 3 to 4 %, which reduces the economic incentive to invest in energy saving.
- c) Investments in new production facilities have to be calculated very carefully and must be used during the whole amortisation period. If new standards force SMEs to undertake new investments before the existing ones are fully depreciated, the additional costs may seriously endanger the existence of a company.
- d) Any investment in energy efficiency has to compete against other investments that may be more important for competitiveness or have a higher potential for cost saving (i.e. labour costs).
- e) Most SMEs have a very low equity ratio and depend mainly on debt finance, which reduces the possibility to invest and forces SME owners to prioritise the most important investments from a business point of view.

Due to these shortcomings, public support for SMEs to increase investments in energy efficiency or environmental protection measures seems justified from both perspectives: public interest in energy saving and state aid policy principles.

The most important areas for support are consulting services (such as awareness raising, project definition, project implementation) and financial support for the investments, which should not endanger other expenses that might be more important for competitiveness reasons.

As regards consultancy services, UEAPME proposes to include a specific chapter with “safe harbour” measures on energy consulting for SMEs in these guidelines. UEAPME doubts that the provision for general consulting services made in the General Block Exemption Regulation (GBER) is sufficient and fears “crowding out” effects with other kinds of consulting.

As regards support for investments, different measures have proved to be efficient and may even improve the current situation:

- As regards the implementation of new community standards, the proposal allows support only for early adaptation. The specific situation of SMEs justifies keeping at least the current provision, which allows support during the first three years after the adoption of new standards.

¹ http://www.kfw.de/DE_Home/Research/Sonderthem68/Energieeff15/Befragung_Energieeffizienz_12.05.pdf

- As regards the eligible costs see point 3.
- Furthermore, it has to be differentiated between investments in energy saving linked to new production technologies and such investments, which are only done for energy saving reasons (ex. increase of energy efficiency of buildings). For the later higher aid intensities seems to be justified.
- Investments in energy saving measures financed with additional loans or out of profit reduce the capacity for other investments and may not happen in many cases, even if such investments would be profitable in a mid-term view. Therefore, new instruments to finance energy saving measures, which can avoid “crowding out” of other investments, could solve this problem.

UEAPME sees two possible scenarios to achieve this:

- a. Investments are financed by energy service companies, which sell only a service to SMEs. Such energy service companies would have to refinance themselves on the capital market and support may be needed to create such markets.
- b. SMEs get access to financial sources, which do not affect the creditability and creditworthiness of the company. Therefore, public promotional banks (EIB, national institutes) would have to provide specific instruments, which have the character of quasi-debt mezzanine capital (i.e. junior loans) and need a certain amount of guarantees.

UEAPME is aware that the last two points are not directly linked to these guidelines, because they are quite neutral as regards the instruments for state aid. However, those points might be relevant if such instruments are notified.

5. Specific remarks on the draft environmental guidelines

- **Paragraph 59 d) – definition of “Eco-innovation”**

UEAPME welcomes in particular the use of a wider definition of innovation, which goes beyond R&D and high-tech.

- **Paragraph 69 b) – identifying cost directly related to environmental protection**

The last sentence states that in case of an increase in production capacity, eligible costs include only costs corresponding to the original capacity. This does not make much sense. If aid is meant to compensate costs related to environmental protection, this should also be the case for the part of environmental protection costs related to the additional capacity.

- **Paragraph 85 – aid for renewable energy sources**

Aid schemes for renewable energy sources are often targeted to a specific source (wind, biomass, etc.) and ignore the fact that different sources are variably efficient and need a different amount of support. In order to ensure the most efficient use of public financial resources, state aid schemes should be defined in a way, which ensures that investments are channelled towards the most efficient renewable source available.

UEAPME would prefer for investment aid as well a provision demanding neutrality as regards technology and the energy source, like the draft does for operational aid (paragraph 95).

- **Paragraph 94 and 95 – different options for the provision of operating aid for renewable energy sources**

UEAPME would prefer option 2, which is neutral as regards technology and energy source, but is aware that option 1 is currently used by many Member States. Therefore, UEAPME suggests ensuring neutrality as regards technology and energy source also in option 1. (See also comment on paragraph 85)

UEAPME asks DG COMP to consider our comments in the interest of SMEs in Europe during the ongoing consultation process and the negotiations with the Member States.