



Danish Ministry of Climate,  
Energy and Utilities

**Danish comments to the public consultation concerning the draft on Guidelines on State aid for climate, environmental protection and energy**

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**1. General comments to draft guidelines**

The Danish Government welcomes the opportunity to comment on the Commission's draft on State aid Guidelines for climate, environmental protection and energy 2022 (hereafter "CEEAG").

The current Guidelines for Environmental Protection and Energy 2014-2020 has played an important role, in relation to not only the regulation of the internal market, but also – and especially – when it comes to fulfilling and meeting EU's energy and climate targets and objectives. The Danish Government therefore welcomes the draft CEEAG and the changes introduced in this draft to support EU and its Member States in the efforts to meet the targets to reduce greenhouse gas emissions and becoming climate-neutral by 2050.

As an introductory remark, the Danish Government finds that the structure of the draft CEEAG is clear and logical and thereby more accessible to the reader.

Furthermore, the Danish Government generally finds that the draft CEEAG strikes a reasonable balance between considerations for competition in the internal market and the urgency to ensure a fast and fair transition to a low carbon economy.

In previous consultations concerning the revision of the guidelines, the Danish Government has highlighted the need for a strengthened, modernized and a future proof state aid legislation that can support the green transition in the Member States and ensure the necessary investments in renewable energy, including new renewable energy technologies, and other types of technologies that can reduce greenhouse gas emissions.

The Danish Government therefore welcomes that the draft CEEAG not only seems to be more aligned with recently adopted energy legislation, for example the Renewable Energy Directive (2018/2001/EU) (hereafter "RED II"), but also the intention to future proof the guidelines by not locking it to existing RES technologies and ensuring that it should be interpreted together with the relevant sector legislation. The changes introduced by the Commission in section 4.1 of the CEEAG, which seek to clarify how the Commission will assess aid to technologies such as Power-to-X, is e.g. an example on how the guidelines will be more suitable as an instrument for designing aid schemes in the future.

However, we have also identified some elements contained in the sections on the specific aid categories in the draft CEEAG that could give rise to uncertainty or bring about certain challenges when applying the future CEEAG. These sections are addressed in the following.

## 2. Specific comments to the various sections of the guidelines

### ***Section 4.1: Aid for reduction and removal of greenhouse gas emissions including through support for renewable energy***

The Danish Government welcomes that the relevant provision regarding aid for renewable energy now focuses on reduction and removal of greenhouse gas emission. We also welcome that the scope has been broadened and e.g. includes RES and other technologies for reducing greenhouse emissions as hydrogen and CCS. Both hydrogen and CCS are technologies that still cannot compete at market terms, but are necessary in order to decarbonize sectors that are difficult to electrify. It seems like an important and essential step in relation to support EU and its Member States in reaching the greenhouse gas emission reduction targets, which are set at EU and national level, and becoming climate neutral by 2050.

The government also appreciates that the key principle concerning competitive bidding as a default mechanism for awarding aid and setting the level of aid is passed on to the new guidelines, including section 4.1. And that bidding - unless justified and to the extent possible - should be open to competing technologies in the Member State, which can deliver the target objective of reducing greenhouse gas emissions.

The Danish Government, however, notes that the draft CEEAG do not seem to target countries who already have a very high percentage of renewable energy in their electricity grid and gas grid. The relevant models and calculations requested in this section do not seem to take into account the different starting points in the various Member States, thus making it difficult for Member States with high percentages of renewable energy to implement aid schemes for new technologies, such as Power-to-X. It is for instance unclear, how it is determined if hydrogen can be characterised as renewable energy. In this regard, it is particularly relevant to know whether there exists a “minimum limit” in relation to electricity from the electricity grid, so that hydrogen produced by Power-to-X always would be considered renewable energy when e.g. more than 90 percent of the electricity in the grid stem from renewable energy sources.

Concerning the new requirement of a *public consultation* before new aid schemes are notified, the Danish Government acknowledges the need for a national public consultation. However, some Member States – e.g. Denmark – has already a long legal tradition of public consultations concerning new legislation and aid schemes etc. The mandatory public consultation regime set out in the draft CEEAG may therefore lead to unnecessary administrative burdens in these situations and potentially have a negative impact on the timeframe for the approval of a notified aid scheme. The Danish government therefore proposes a general exception for the public consultation, where general consultations in the Member State concerned can replace the obligation of a public consultation within the framework of the CEEAG.

The Danish Government also notes that Article 26 of RED II does not regulate *biogas* in general, but only biogas used for transport and biofuels, liquid biofuels and biomass produced from food and feed crops. Consequently, CEEAG point 77 should be widened and not only refer to that biogas generally must comply with the requirements set out in RED II, Article 26. The Danish Government therefore proposes that point 77 of the CEEAG is clarified regarding this matter.

***Section 4.2: Aid for the improvement of the energy and environmental performance of buildings***

Regarding section 4.2.2 'Scope and supported activities', point 116 (d), the Danish Government proposes that the eligible investments should not be limited to wiring or structured cabling, but should also include e.g. software, because it may constitute a substantial part of the digitalisation of the building.

***Section 4.9: Aid for energy infrastructure***

The European Green Deal and EU's climate targets require that policy initiatives on infrastructure provide the necessary framework to phase out fossil fuels while ensuring security of supply and cost-efficiency. It is important that state aid to infrastructure projects not represent a loophole for financing lifetime extension of fossil-based infrastructure. Investments in gas infrastructure should only be possible, if there are certainty that the infrastructure is fit for use for green hydrogen and renewable gases or fuels.

***Section 4.10: Aid for district heating and cooling***

The Danish Government welcomes the abolition of the maximum aid intensity for aid for district heating and cooling. The Danish Government also welcomes the requirement, which only allows aid to energy efficient district heating and cooling. However, it would be highly appreciated with further guidance on how the share of renewable energy in the collective power or gas grid should be included in the calculation when assessing whether a district heating network qualifies as energy efficient.

***Section 4.11: Aid in the form of reductions from electricity levies for energy-intensive users***

The Danish Government notes that the list of eligible sectors under Section 4.11 has been shortened, which means that it would not be possible to compensate certain energy intensive sectors from 2022. We would be interested in getting more background information concerning these changes.

Some stakeholders have also drawn our attention to the use of NACE codes and some of the challenges connected to the use of this. A specific NACE code does not always cover an entire sector and its products (e.g. mineral wool). This could create unfair competition, if some products falls under the option to be compensated, but other similar products does not. A solution could perhaps be to ensure an evaluation at prodcom level for NACE codes, which represents a heterogeneous sector.

**Section 4.12: Aid for coal, peat and oil shale closure**

The Danish Government notes that guidelines on aid for early closure corresponds with recent decisions from the Commission on aid for closure of coal-fired power plants. Nevertheless, Denmark welcomes the inclusion of the Commission's previous practices in the CEEAG, as it provides legal certainty.

However, the Danish Government would also like to urge the Commission to expand the scope of the guidelines to include the early closure of power plants fired by all types of fossil fuels. For the present, the shift away from coal, peat and oil share might be the most important driver for decarbonisation in some countries. It is, however, our impression that not only Denmark, but also a large number of Member States soon are beyond that point and could be ready to take the next step away from all fossil fuel in the power and heating sector.

**3. Other comments**

Even though the draft CEEAG should be future proof in relation to coming revisions of EU's energy legislation (Fit for 55-package), we would still stress the importance of ensuring that any relevant changes in e.g. RED II are taken into consideration before the adoption of the guidelines.