# CONSULTATION RESPONSE

# Response to the consultation on the draft new State aid Framework to support the Clean Industrial Deal

Brussels, 25th April 2025

## Key messages

A well-functioning, cost-efficient, and integrated energy market is essential for a successful energy transition. Design of national state aid schemes must reflect this priority.

We highlight four key principles that should guide future support mechanisms:

1. **State aid must preserve a level playing field across the EU and support the integrity of the internal market.**
2. **National support schemes should be time-limited and awarded via competitive processes.**
3. **Transparency is essential. Full visibility on approved and implemented schemes is key to preventing overcompensation.**
4. **Technology neutrality must remain a guiding principle. All technologies contributing to agreed policy goals should have access to support.**

## Detailed comments

**Please provide any comments you may wish to bring to the Commission's attention in relation to the draft proposal for a new Clean Industrial Deal State aid Framework :**

The revision of the Framework should help achieve the Clean Industrial Deal objectives and Europe’s net-zero target cost-efficiently, by ensuring that market-based signals at the European level steer the deployment of the most cost-effective decarbonisation solutions in the most cost-effective locations.

We would like to take this opportunity to stress our fundamental principles on State Aid :

- State Aid shall always ensure a level playing field among market participants and safeguard the cohesion of the internal market. Guidance clarifying what qualifies as excessive aid, and in what compliance markets subsidised volumes can or cannot be used, would be highly beneficial.
- National support schemes should be limited in duration and allocated through competitive mechanisms, so as not to unduly interfere with the efficient functioning of integrated wholesale markets and price formation.
- Capacity mechanisms should be implemented only when necessary. They should be harmonised on the European level, designed in a market-based way to enable efficient market functioning, and awarded on the transparent and competitive process, without discriminating between new or existing projects. National support schemes should be flexible, enabling the switch between options for the granting of a given subsidy. Possibilities for producers to opt out from support schemes (i.e., by returning previously obtained subsidies) should also be granted, as an additional measure to prevent overcompensation.
- Technology neutrality: aid should be granted to all technologies that meet the politically defined targets.
- Support schemes in the form of Contracts for Difference (CfD) should be awarded based on competitive bidding and should be designed in a way to incentivise responding to price signals, with a reference price based on all timeframes and compatible with PPAs.
- Transparency is key. The primary challenge in preventing overcompensation lies in calculating ex ante whether the total sum (cumulation) of two subsidies exceeds the difference between the price of biomethane and the price of natural gas. Member States should therefore have access in advance to information on other Member States' support mechanisms to mitigate any risk of overcompensation. They shall be able to derive data from the Union database (once fully functioning) regarding support provided at the injection point. It should be guaranteed that Member States, in designing new support schemes, consider and declare upfront the compatibility of these schemes with existing schemes implemented by different Member States

Provided that the cumulation of subsidies is allowed, per se (CEEAG, 56), greater clarity on the conditions for lawfully cumulating the benefits from different support schemes would be beneficial. Currently, the situation across the EU is substantially diverse, and a universal definition of overcompensation is absent, which contributes to the various distorting forces hindering the proper functioning of the market. We also face widespread uncertainty regarding the usability of subsidised biomethane in compliance markets.

Concerning paragraph (31), and more generally regarding the question of ensuring affordable energy, we would also like to bring into question the role of fiscal policy in contributing to energy affordability, which is not solely the prerogative of energy policy.

**Please provide any comments specific to section 4.1 of the draft framework ("Aid schemes to accelerate the rollout of renewable energy") :**

**General Comments :**

The Regulation (EU) 2024/1747 (EMD, Article 19d) states that Direct Price Support Schemes (DPS) for investment in new RES should take the form of two-way contracts for difference, or equivalent schemes with the same effect.

The same clarity of scope is not translated into the proposed state aid guidelines, which state, "for electricity generation from renewable energy, aid will take the form of two-way contracts for difference".

For clear interpretation, the State Aid Guidelines should include a clarification of what is meant by "Direct Price Support Scheme" to ensure that Member States are clear on what forms of aid the requirement to "take the form of a two-way CfD" does and does not apply to. In addition, the EMD Regulation provides that DPS could also take the form of an equivalent scheme with the same effect. This should be included in the proposed State Aid Guidelines, as otherwise the State Aid Guidelines could be interpreted as imposing a requirement that goes beyond EMD, by not allowing for equivalent schemes with the same effect.

To support legal clarity for Member States seeking to comply with the EMD Regulation, this additional requirement from the EMD Regulation should be included in section 4.2 on DPS. It should also be clarified that the requirement for schemes to be compatible with PPAs (including by enabling the reservation of part of the capacity) applies to all support schemes for electricity from renewable sources, which means that the requirement has a broader application than just support schemes in the form of DPS schemes.

We welcome the inclusion of storage investments for R&LCfuels within the scope of eligible State Aid measures(Section 32b). However, we are concerned by the requirement that storage facilities must be directly connected to the production site. While this condition might be feasible for certain types of fuels, it becomes particularly problematic when applied to biomethane, where production facilities are often located in rural or agricultural areas, where feedstock is available, but infrastructure is limited.

We recommend to adopt a more flexible and pragmatic approach, allowing storage investments to be eligible for support regardless of their physical proximity to the production site, if the fuel meets all relevant regulatory criteria.

Finally, while we appreciate that in these early stages, Member States might want to support production, we have been observing, over the past few years, a growing use of supplier quota schemes and other demand-side support measures by EU Member States. If such schemes are to be implemented, they should be designed in a coordinated way that does not create barriers to cross-border biomethane trade. It is therefore essential that the sustainability documentation required for compliance with these schemes is harmonised across the EU, and that the design of these schemes does not discriminate against any volumes of biomethane, provided that it fulfils RED III sustainability and GHG emission reduction criteria, regardless of their origin.

**Specific comments:**

In paragraphs 34 and 55, Member States should ensure that demand response and storage can participate in wholesale and balancing markets before aid is granted to foster a level playing field and ensure revenue stacking.

In paragraph (40), the definitions of “newly installed” and “repowered” capacities should be clarified. The New State Aid Framework should consider upgrading of biogas plants into biomethane plants as “newly installed capacity” and not as “repowered” capacity, allowing for such installations to be eligible for State aid support for their entire capacity being upgraded.

Article 19(b) of the EMD Regulation states that support schemes for electricity from renewable sources shall allow the participation of projects that reserve part of the electricity for sale through a renewable PPA or other market-based arrangements; while paragraphs 44 and 45 of the preambles to the regulation also clarifies that Member States should ensure that support schemes do not constitute a barrier for the development of commercial contracts such as PPAs.

In paragraph 46, we appreciate the clear timeline. All support schemes for renewable energy sources and decarbonisation solutions, which cover operating costs and/ or investment expenses on a per unit output or annual basis, must be subject to clear sunset provisions. However, we do not support paybacks beyond the duration of the support as per footnote 33.

In paragraphs (42) and (48), we suggest amending as follows:
"Aid *should* be granted through a competitive bidding process",
National aid schemes should be limited in duration and allocated to producers through competitive mechanisms, so as not to unduly interfere with the efficient functioning of integrated wholesale markets.

We welcome paragraph 50 that aid should stop during negative prices.

In paragraph 65, where the decarbonisation measures are open to cross-border cooperation, this should include market participants and assets located in third countries, which are both part of the European gas or electricity grid and have a strong regulatory convergence with the EU's overall climate and energy objectives or have reciprocity clauses with the EU.

**Please provide any comments specific to section 4.3 and Annex I of the draft framework ("Aid for capacity mechanisms following a target model") :**

We highlight our general principles concerning capacity remuneration mechanisms (CRMs). A capacity mechanism should:

- Be implemented or maintained only when necessary, with a clear security of supply need assessment at the European level;
- Demonstrate it enhances the security of supply by responding precisely to the need assessed at the regional or European level;
- Be designed to phase out when the security of supply threat vanishes (sunset clause);
- Account for all capacities without discrimination between new and existing facilities, including across borders;
- Be market-based with a decentralised competitive process, no price regulation and allowance for capacity products trading;
- Factor in price signals from all market timeframes and avoid the distortion of energy prices;
- Ensure the direct participation of capacity asset owners across borders who contribute to the security of supply of the area where a CRM is established;
- Minimise the risk of regulatory failure and the need for redesign;
- Undergoes harmonisation at the European level.

**Annex I**

**Point 9** – Bid caps: it should be added that bid caps, if any, "must be based on an objective and transparent methodology that is consulted and published ex ante".

**Point 14:** Secondary market: sell or transfer of commitments must not be restricted "up to at least [6 months] before the start of the delivery window". They must be allowed "within the delivery window". We noted that having a flexible secondary market promotes good market dynamics.

**For aid schemes covering investments relying wholly or partly on the use of hydrogen, section 5, point (82), the new framework takes into account the fact that Article 22a of Directive (EU) 2018/2001 on the promotion of the use of energy from renewable sources (RED) establishes targets for renewable fuels of non-biological origin (RFNBO) for hydrogen in industry. The draft framework does so by laying down a minimum share of renewable hydrogen calculated by reference to the average share of electricity from renewable sources in the Member State concerned, as such project-level contribution to meeting national targets established by EU law is considered a positive effect in the balancing exercise under Article 107(3)(c) TFEU. If you consider that the scope for aid for investments for industrial use of hydrogen should be defined differently, please provide justification and any available evidence for the scope of projects for which you consider that State aid for other types or combinations of hydrogen is required :**

Considering the principle of technology neutrality, we believe hydrogen from biomass (biohydrogen) that is compliant with RED criteria should not be allowed only if used in combination with RFNBOS and low-carbon hydrogen. This is an unjustified limitation to the possibility of using a renewable energy source to achieve industrial decarbonization targets. Rather than enforcing rigid compositional requirements, the framework should prioritise the end goal: reducing greenhouse gas (GHG) emissions, regardless of whether the hydrogen is classified as renewable or low-carbon. We would recommend that the New State Aid Framework modify the definition of "renewable hydrogen" used throughout the text, which refers only to RFNBOS, to also include hydrogen from biomass compliant with the RED sustainability and GHG saving criteria.

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