



FEAD Comments

On the Draft Guidelines on environmental and energy State aid for 2014-2020

February 2014

FEAD (Register ID number: 2157643512-49) welcomes the work of the European Commission regarding the preparation of the Paper of the Services of DG Competition containing draft Guidelines on environmental and energy state aid for 2014-2020 (draft Guidelines). Our members are grateful for the opportunity to present our observations.

5.2. Aid to energy from renewable energy sources

The range [1-3%] proposed by the European Commission is not coherent with the situation of electricity production in each Member State (MS). The application of this threshold would lead to the application of regulations on state aid concerning deployed technologies for less deployed technologies in certain MSs. This will hamper the development of certain technologies of energy production from renewable energy. For instance, electricity production from biogas represents only 1.09% of total EU electricity production (source: Eurostat) with high discrepancies between MSs. There is no justification for applying an EU average level of electricity production as a rule to differentiate the legal regime applicable to aid and projects because the so-called deployment rate depends on national markets regulated and stimulated by national rules. Therefore, the application of this range is in contradiction with Article 194 § 2 of the Treaty on the Functioning of the European Union: "Such measures [related to the Union policy on energy] shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply."

Furthermore, the range proposed by the European Commission seems to be too low to determine a situation of less deployed technology at the MS level and subject to interpretation from the Commission. Therefore, FEAD, representing the European waste and resource management sector demands the application of the 3% threshold and clarifications on "the less deployed technology" concept before the implementation of these guidelines.

5.4 Aid for resource efficiency and in particular aid to waste management

FEAD members see the draft Guidelines as a useful measure to avoid that state aid results in distortion of competition in the internal market and affects trade between Member States in a way which is contrary to the common interest. Moreover, we believe that the draft Guidelines will help to

ensure that state aid for resource efficiency and waste management is granted under such conditions that the normal functioning of the secondary materials market is not negatively impacted.

At the same time, we think that state aid, granted in accordance with the draft Guidelines, should facilitate the development of certain economic activities and should contribute to phasing out environmental harmful subsidies. We hope that the Commission will consider aid for resource efficiency and waste management to serve an objective of common interest according to the waste hierarchy of the Waste Framework Directive. FEAD calls for a clear link between granting state aid and proper implementation of the waste *acquis*. To avoid that state aid measures lead to environmental harm, in particular Member States must also ensure compliance with EU environmental legislation and carry out an environmental impact assessment when it is required by EU law and ensure all relevant permits.

5.7 Aid in the form of reductions in funding support for electricity from renewable sources

State aid in the form of reductions in funding support for electricity from renewable sources is of key interest for FEAD members who perform recycling activities or produce refuse-derived fuel (RDF). Above all, we recognise that state aid should be targeted to avoid the risk that certain sectors are relocated outside the EU.

FEAD members would like to draw attention to the fact that the draft Guidelines stress that state aid should be limited to *sectors that are exposed to a significant risk of carbon leakage* due to the funding of support to energy from renewable sources. If the draft Guidelines recognise that state aid should be limited *only* to sectors that are exposed to a significant risk of carbon leakage, the European private waste management industry would have to face high energy costs. Recycling activity benefits the environment through the avoidance of emissions in primary production processes and EU policy is designed to encourage higher levels of recycling. The impact of higher energy prices resulting from the promotion of renewable energies could inadvertently reduce the incentive for recycling activity to be maximised across the EU.

Therefore, FEAD calls on the European Commission to ensure that the Guidelines are coherent with other EU law and policies (e.g. waste law and Europe 2020). Therefore, FEAD calls on the European Commission to revise the draft Guidelines so the recycling industry is also protected from higher energy costs resulting from funding of support to energy from renewable sources.

FEAD is the European Federation representing the European waste management industry. FEAD's members are national waste management associations covering 18 Member States, as well as Norway and Serbia. They have an approximate 60% share in the household waste market and handle more than 75% of industrial and commercial waste in Europe. Their combined annual turnover is approximately € 75 billion.

FEAD represents about 3000 companies with activities in all forms of waste management. These companies employ over 320000 people who operate around 2400 recycling and sorting centres, 1100 composting sites, 260 waste-to-energy plants and 900 controlled landfills. They play an important role in the determination of the best environmental option for waste management problems.

