

VIK-Position paper on the EU Commission's proposal for the revised rules for State aid promoting the green and digital transition within the General Block Exemption Regulation (GBER)

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The German Association of Industrial Energy Consumers (VIK - Verband der Industriellen Energie- und Kraftwirtschaft e. V.) welcomes the opportunity to participate in the public consultation on the EU Commission's proposal for the revised rules for State aid promoting the green and digital transition within the General Block Exemption Regulation (GBER) and supports the Commission's intention to align the current GBER with the objectives of the European Green Deal and the EU Industrial Strategy.

The GBER is a key instrument in the industrial transformation towards a climate neutral economy. The revision of the GBER must support the right framework for European Industry to contribute to the transition, while remaining competitive on a global scale.

However, the transition to a climate-neutral economy entails challenges. For industrial energy users, these challenges relate to the availability and access to climate-neutral energy at globally competitive prices. Secondly, the transition will require enormous investments to develop, upscale and implement new or existing decarbonisation technologies, both in new and existing plants. These investment costs cannot be borne solely by the industrial companies and must be limited for them, given the high level of global competition they face from competitors operating under less constrained conditions. A well-revised state aid framework is extremely important to provide companies with the much-needed financial support and long-term regulatory certainty.

Main issues

Due to the EU climate ambition that is higher than in other regions and will further increase, it is essential to develop a regulatory framework that will provide adequate carbon leakage protection and drive transformation with the following elements in mind.

European industrial companies are enablers of the green and digital transition envisioned by the EU Green Deal. No transition will be achieved without a strong industrial base in Europe. Industry is a solution provider, being at the start of long value chains that provide products,

materials and technologies that enable emissions reductions in other sectors of the economy. In the past decades, European Industry has strongly contributed to decreasing GHG emissions in the EU.

Long term certainty. The framework should provide long-term certainty for planning of investments, particularly for green projects. Regulatory certainty is important to de-risk investments and render low-carbon solutions competitive with carbon intensive ones.

Against this background, VIK welcomes the release of the draft GBER and especially that the use of gas and low carbon hydrogen is included in the GBER (Article 36(1a)), nevertheless, also the production of low carbon hydrogen should be part of the GBER. Moreover, VIK would like to raise a number of further concerns:

Article 4: Notification thresholds

Thresholds for aid for environmental protection (Article 4(1))

Article 4(1) of the revised GBER raises the threshold for

- investment aid for environmental protection, unless otherwise specified (from EUR 15 million to EUR 20 million per undertaking per investment project);
- operating aid for the promotion of electricity from renewable sources, as referred to in Article 42, and operating aid for the promotion of energy from renewable sources and renewable hydrogen in small scale installations and for the promotion of renewable energy communities, as referred to in Article 43 (from EUR 15 million to EUR 20 million per undertaking per project; when the aid is granted on the basis of a competitive bidding process under Article 42: from 150 million EUR to 250 million EUR per year taking into account the combined budget of all schemes falling under the respective Article) and
- aid for energy infrastructure, as referred to in Article 48 (from EUR 50 million to EUR 70 million per undertaking per project).

Furthermore, Article 4(1) of the revised GBER introduces new threshold for

- aid for dedicated infrastructure and storage referred to in Article 36, paragraph 5 (EUR 20 million per project) and
- aid in form of reduction of environmental taxes or levies referred to in Article 44a (EUR 50 million per scheme per year).

In general, the increase in thresholds is welcome. However, the thresholds need to be raised even further to reflect the complexity of large industrial transformation projects. The European Commission itself recognizes the need for significant investment in order to

achieve the ambition set out in the Green Deal Communication (see draft CEEAG point 3), and this also holds true for projects within the scope of GBER. These investments could be realised more easily if the thresholds would be even higher, so that they would be subject to the less bureaucratic rules of the GBER.

Article 9: Publication and information

Thresholds for granted state aid to be published (Article 9(1)(c))

Compared to the current version of GBER, Article 9(1)(c) of the revised GBER lowers the threshold for granted state aid to be published on a comprehensive State aid website, at national or regional level, from EUR 500,000 to EUR 100,000. This creates potential for reputational damage of companies receiving just small amounts of state aid and is therefore disproportionate. Lowering the thresholds would also increase the bureaucratic burden on member states and eligible companies to gather all information to be published, which would counteract one of GBER`s main goals of reducing bureaucracy. In addition, the thresholds for publication on a comprehensive State aid website should proportionately reflect the increase in the thresholds in Article 4(1) of the revised GBER. Therefore, the threshold should be raised from the current level of EUR 500,000.

Moreover, the possibility to publish aid amounts in ranges should also exist for individual aid amounts granted. The obligation to publish aid amounts in exact numbers could lead to a disclosure of sensitive market information of the relevant companies and therefore distort competition.

Article 36: Investment aid for environmental protection, including climate protection

Carbon capture and utilisation or storage (CCUS, Article 36(2a), (6a))

The revised text of GBER recognizes CCUS as an eligible technology under the GBER and sets the maximum level of aid intensity for investments relating to CCUS at 20 %.

The recognition of CCUS as eligible technology is welcome. However, the aid intensity level should be at least 50 % or higher. It is not comprehensible why CCUS is assessed differently from other eligible technologies under Article 36, where the aid intensity maximum level can be up to 50 % (see Article 36(6)). Especially for the hard-to-abate sectors, where GHG-emission reduction is technologically impossible or at such high cost that the profitability of the whole enterprise would be endangered, CCU/CCS can provide means of reducing emissions by effectively creating CO₂-sinks behind the actual production process and a major step towards an integrated circular economy with CO₂ being an essential ingredient. An increase of the aid

intensity threshold would acknowledge the technology's potential to reduce not the creation of GHGs themselves but GHG-emissions into the atmosphere in the hard-to-abate sectors and thus creating legal and political security for Member States to design and implement instruments for aiding the implementation of such technologies.

Increase of aid intensity up to 100 % through competitive bidding process (Article 36(6b))

According to the revised text of GBER, the aid intensity of investments in technologies under Article 36 may reach 100 % of the eligible costs where aid is granted in a competitive bidding process. This requirement should only apply to those cases where the projects are comparable.

Although a competitive bidding process would lead to efficient allocation and welfare maximisation, it always requires that the offered goods or competing processes are sufficiently standardised. While this is the case for example for most installations for renewable electricity generation, it is not the case for aids that concern industrial processes or complex or composite commodities. For instance, the cost of reducing emissions weighted by the technical efficiency to achieve this goal itself depends on a multitude of side stipulations. Hardly to compare are also projects in relation to demonstrators, proof-of-concept projects or early start-up-phases of markets, instruments, and technologies. For these sorts of projects, where the application of competitive bidding processes is not possible, an aid intensity up to 100 % should in principle be possible.

Article 38: Investment aid for energy efficiency measures

The draft EU Energy Efficiency Directive significantly tightens the targets as well as the obligations of the individual member states. Without industry participation, the efficiency targets cannot be achieved. Here again, the low-hanging fruit has been harvested and higher-complexity technologies and measures must be used to increase efficiency. As a result, the intensity of aid should be increased, both for SMEs and for other companies to at least 50%.

Article 41: Investment aid for the promotion of energy from renewable sources, renewable hydrogen and high-efficiency cogeneration

Hydrogen (Art. 41(3))

The new draft of the GBER mentions explicitly hydrogen production as an eligible instrument under the GBER, but only if the installations produce exclusively renewable hydrogen.

According to the hydrogen strategies of both the European Union and Germany, hydrogen will play a key role in achieving the goals set out by European Green Deal and Europe's climate

targets. Hydrogen can be used across multiple sectors to enable zero or near-zero emissions in different industries and their processes and eventually facilitate creating a circular H₂-CO₂ economy. Only the cheap and reliable supply of hydrogen both as a commodity and as an energy carrier will drive the transformation of the energy intensive industry to achieve the climate goals. Therefore, VIK supports the explicit mention of hydrogen in the GBER.

Nonetheless, it is not understandable why hydrogen is defined differently in Article 41, where hydrogen only includes renewable hydrogen, than in Article 36, where hydrogen includes both renewable hydrogen and low-carbon hydrogen. To this end, the Union and the Member States need to establish the regulatory and economic environment in which a well-functioning market and infrastructure can be quickly and reliably developed. Properly directed state aid will be required for a timely build-up of both market and economy. In order to support a large amount of industrial hydrogen generation projects and enable creation and ramp-up of a European hydrogen market, state aid for hydrogen should be open to all types of low-carbon technology. Against this background, the definition under Article 41 should also include at least low-carbon hydrogen.

Article 44: Aid in the form of tax reductions in accordance with the Energy Tax Directive 2003/96/EC

Tax reductions in favour of energy-intensive businesses (Art. 44(5))

The new draft stipulates that the block exemption of aid schemes in the form of tax reductions under the Energy Taxation Directive for the benefit of energy-intensive companies should continue to apply. However, large energy-intensive companies should only be exempted from the registration requirement if they also meet certain requirements. According to Article 44(5a) GBER, large energy-intensive companies must comply with the obligation to carry out an energy audit (either an independent energy audit or within the framework of a certified energy management or an environmental management system) **and** according to Article 44(5b) GBER within three years, beginning with the date of granting the discount,

- implement the recommendation of the audit report, provided the payback period for the relevant investments does not exceed three years and the costs for your investments are proportionate,

or instead

- invest a significant proportion of at least 50 % of the amount of the discounts in projects that lead to a significant reduction in greenhouse gas emissions from the installation. If necessary, this should lead to reductions that are well below the

corresponding reference value that is used for the free allocation in EU emissions trading.

VIK views the provisions in Article 44(5b) GBER as impractical and not beneficial for the international competitiveness of industrial companies including site operators. Furthermore, financial relief for companies should not be tied to certain conditions for re-investments, otherwise this could lead, for example, to liquidity problems, especially for smaller companies, or to inefficient capital allocation and thus overall, to carbon leakage.

Article 48: Investment aid for energy infrastructures

In Article 48(3) GBER, the Commission stipulates that aid for gas infrastructures is only exempted from the notification requirement under Article 108(3) TFEU if the infrastructure in question is intended for use for hydrogen and / or renewable gases or mainly used for the transport of hydrogen and renewable gases.

It must be made clear here that H2-ready plants and H2-ready gas infrastructures are also exempted from the notification requirement. This would underline the usage of natural gas as bridge technology. It is not realistic, that any new plant or grid infrastructure will be operated exclusively with hydrogen from the beginning. Due to the long lifespan of such investments, it can be expected that e.g., new pipelines will be used for natural gas in the early years (at least partly) and for hydrogen at a later point in time.

Article 36a: Investment aid for charging or refueling infrastructure

VIK welcomes the extension of the eligibility for aid to low-CO2 hydrogen (Article 36a(2) GBER). In Article 36a(6) GBER aid for one and the same recipient may not exceed 40 % of the total budget of the aid scheme in question.

VIK has objections towards the last paragraph as it could put cross-company operating companies of H2 filling or recharging stations at a disadvantage.

VIK is the German Association of Industrial Energy Consumers which, as a cross-sectoral organisation, advocates the interests of and advises its member companies on all issues related to energy economy and energy policies. Founded in 1947, VIK represents 80% of the German industrial energy consumers and 90 % of the electricity producers that are independent from utility firms. The products and services of its members are of high significance for value chains, climate protection and the German Energiewende.