– Consultation Response –

European Commission public consultation on the draft new State aid Framework to support the Clean Industrial Deal (Clean Industrial Deal State Aid Framework – CISAF)

Brussels, 25 April 2025| Europex welcomes the opportunity to respond to ACER consultation on the draft new State Aid Framework.

General 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

As Europex, we would like to underline our support for the negative conditions presented in section 3.2 as we consider them a valid and important caveat to avoid undue state aid. Indeed, state aid measures must meet the requirements of necessity, appropriateness and proportionality. As a key requirement, state aid measures should result in as little distortion of trade, competition and market functioning as possible.

Moreover, state aid should enable potential market participants in the medium-term to bring their assets to the respective wholesale markets and therefore contribute to a secure, affordable and sustainable supply or the respective good. For electricity, any assets that benefit from state aid should be not only enabled to participate on day-ahead and intraday markets, but also incentivised and even required to do so.

Aid to accelerate the rollout of renewable energy

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

We would like to mainly focus on the subsection 4.1.2 on direct support schemes. In this section, we observe several good proposals and developments incorporated in the draft framework. In particular, we want to highlight that the Commission requires Member States to design any scheme in a way that efficient operating incentives and price signals must be preserved. This should ensure that market participants do not receive any incentive to place a bid below their marginal costs. We believe this is a proper tool to reduce the occurrences of negative prices and will consequently boost the installation of storages and strengthen the business case of renewable generation.

On the negative side, we see the risk that the European Commission may not have considered all cases of potential market distortion. While the issue of low and negative prices is identified and addressed, as we have outlined above, high prices can also cause a biased bidding behaviour and are neglected in the proposes framework. As the German Federal Ministry for Economic Affairs and Climate Action illustrated in its paper on the options for a secure, affordable a sustainable power system, an ill-designed CfD might encourage supported assets to refrain from selling their generation during times of high prices to avoid a claw-back mechanism. This would eventually result in higher costs for European consumers.

Moreover, we encourage the European Commission to investigate further whether the EU has already reached a point where direct price support schemes are no longer required for certain mature technologies. We also advise the European Commission to differentiate between the respective technologies to generate electricity. For the technologies that are most competitive with marginal costs close to zero we doubt that minimum prices are still necessary. In fact, there have already been public auctions and tenders yielded very low or even at negative prices in the recent past. The European Commission seems to be aware of the limitations for such technologies when the introduction of the Weighted Average Cost of Capital (WACC) concept is proposed. In this respect, we want to stress the potential negative side-effects to add such a consideration in a market that is based on marginal prices. To conclude, we can still support a direct price support scheme for renewables with high marginal costs, whereas for technologies with low costs, fostering private investments would be a less distortive approach.

Finally, we challenge the proposal to allow for schemes lasting up to 25 years as such a long timeframe would not be compliant with the requirement of proportionality.

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

In general, we support the fact that the European Commission aims at imposing rather strict requirements for the activation of capacity mechanisms. Overall, capacity mechanisms are only permitted in certain situations and serve to cover the problem of insufficient investment signals ("missing money problem"), which result from existing distortive interventions in wholesale markets. As a consequence, it needs to be safeguarded that the introduction of capacity mechanisms is limited to these cases. However, we object that only proposals based on the European Resource Adequacy Assessment (ERAA) are considered eligible for this simplified procedure, neglecting those relying on a complementary National Resource Adequacy Assessment (NRAA). This initiative risks disregarding specific national needs and it may also not comply with Article 20 of the revised Electricity Regulation, allowing for the identification of adequacy concerns through either ERAA or NRAA, when necessary.

Furthermore, we challenge the fact that the Commission decided to declare only two designs eligible for a simplified procedure - strategic reserves and central single buyer markets – neglecting all the other experiences and models in place in the Member States. Solely choosing between these two designs does not appear to be a reasonable decision, especially with reference to the strategic reserve. Indeed, a strategic reserve, which is defined to be "held outside the electricity market" in accordance with section 2 and Article 22(2) of the revised

Electricity Regulation, could withdraw capacities from the market potentially affecting the price formation in situations of scarcity, like any other capacity mechanism. In our opinion, this creates serious issues with the principle of appropriateness and the goal not to distort markets.

About

Europex is a not-for-profit association of European energy exchanges with 37 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

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