

# CEEAG – Comments related to Infrastructure with a holistic view



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# MAIN DRIVERS FOR REVISION

- Deliver the Green Deal
- Ensuring the alignment and coherence with relevant EU legislation in the environmental and energy fields
- Facilitating the phasing out of subsidies for fossil fuels



COMMENTS TO THE  
PROCEDURE

## PROCEDURE IN THE EU

- On 7 June 2021 the Commission published for consultation the draft revised Guidelines on State aid for environmental protection and energy 2014-2020
- Deadline of the consultation set to 2 of August 2021
- The College of Commissioners endorsed the Guidelines on 21 December 2021
- Formal adoption on 27 January 2022 (C 2022 481 final)

# NATIONAL PROCEDURE IN NORWAY

- No national consultation
- Multilateral meetings between the Commission and the Member States from July
- CEEAG will not be incorporated into the EEA-Agreement, but the EFTA Surveillance Authority will adopt them and publish them
- Directly applicable in Norway

# SUGGESTION TO NATIONAL PROCEDURES

- A national consultation before the deadline on 2 August 2021
- A public platform where drafts from the multilateral meetings would be published to receive voluntary feed-back for interested and relevant stakeholders
- Would provide transparency and engagement

# SECTION 4.9 AID FOR INFRASTRUCTURE



# MARKET FAILURES

- Point 371: Projects of Common Interests- Problems of Coordination
- Point 373: In line with Notion of State Aid (OJ C 262, 19.7.2016) support to energy structure within the framework of legal monopoly not subject to state aid rules, in the energy sector particularly relevant where exclusively reserved by law for the TSO and DSO
- Points 374 and 375 : Legal and Natural Monopoly



# LEGAL MONOPOLY

- Point 374: Legal monopoly:
  - TSO and DSO legally only entity entitled to make a certain type of investment or activity and operate the infrastructure
  - the legal monopoly excludes the competition on the market – the exclusivity precludes any competition to become the operator of the infrastructure in question
  - if the operator is active in another geographical or product market that is open to competition: cross-subsidiation is excluded:
    - Separate accounts, costs and revenues are allocated in an appropriate way – unbundling: separate accounts according to the Gas and Electricity Directives

# NATURAL MONOPOLY

- Point 375: Natural monopoly:
  - The infrastructure faces no direct competition: the energy infrastructure cannot be economically replicated and hence where no operators other than the TSO/DSO are involved
  - Alternative financing in the network, in addition to the network financing, is insignificant in the Member State concerned
  - the infrastructure is not designed to selectively favour a specific undertaking or sector but provides benefit for society at large
  - Member States have to ensure that the funding provided for the construction and/or operation cannot be used to cross-subsidy or indirectly subsidise other economic activities

# QUESTIONS RAISED

- What about ITO or ISO models?
- Offshore wind?
- Hydrogen?
- Equal playing field?

# SCOPE AND SUPPORTED ACTIVITIES

- Section 4.9 applies for the construction or upgrade investments of energy infrastructure
- Eligible investments may include : digitalisation, smartening of energy infrastructure
- Operating costs should in general be borne by network users and aid for these costs should not be required – only in exceptional cases as stated in CEEAG
- Section 4.9 will also apply to energy storage facilities until 31 December 2023

# MINIMISATION OF DISTORTIONS OF COMPETITION AND TRADE

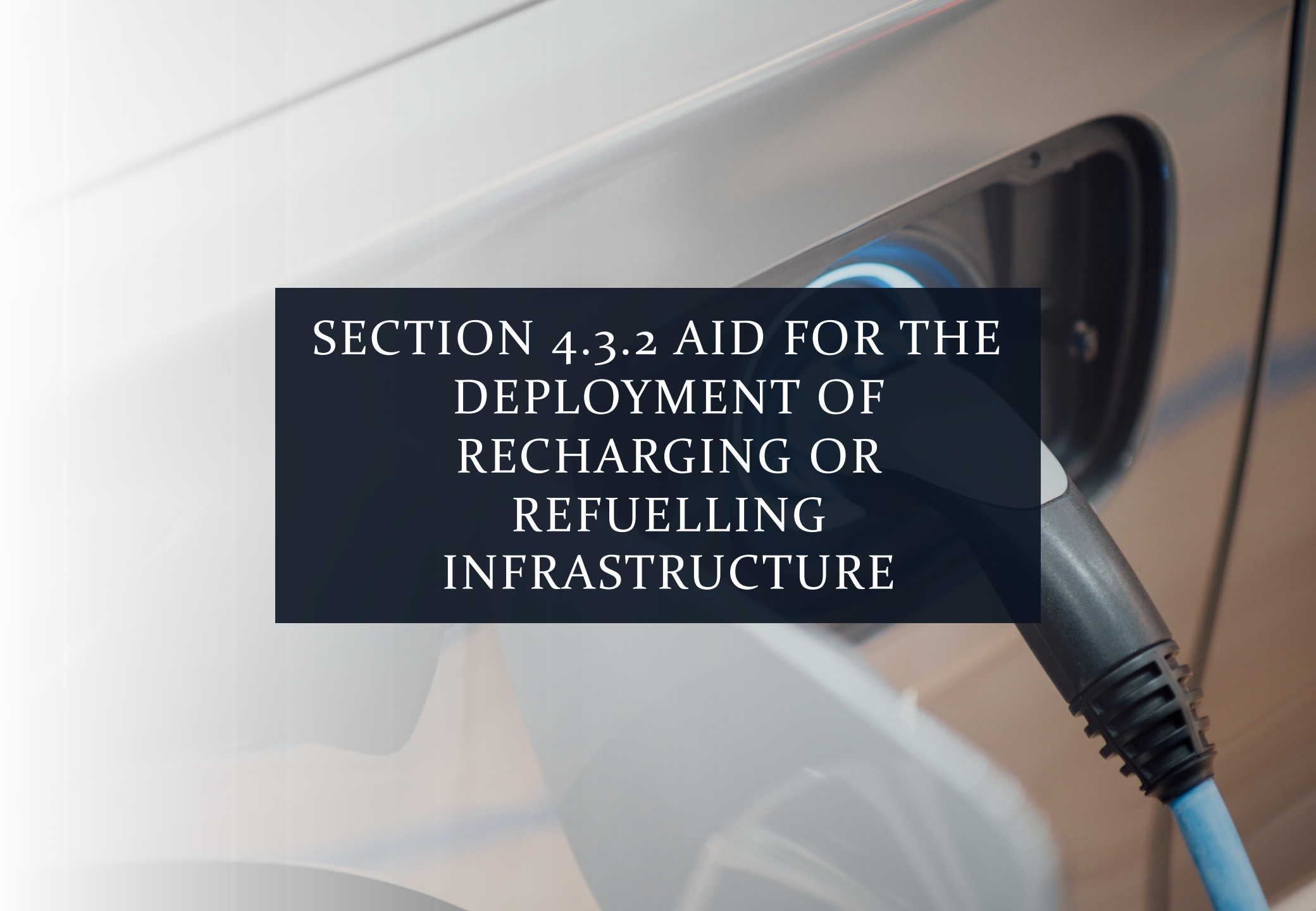
- Energy infrastructure is typically financed through user tariffs
- The granting of State aid is a way to overcome market failures which cannot be fully addressed by means of compulsory user tariffs

# MINIMISATION OF DISTORTIONS OF COMPETITION AND TRADE

- To demonstrate the need for State aid there is a distinction between infrastructure fully regulated and partially/fully exempted
- For fully regulated:
  - (a) the Commission considers that for projects of common interest as defined in Article 2, point (4), of Regulation (EU) No 347/2013 which are fully subjected to internal energy market legislation, the market failures in terms of coordination problems are such that financing by means of tariffs may not be sufficient and State aid may be granted;

# MINIMISATION OF DISTORTIONS OF COMPETITION AND TRADE

- For partial or fully exemption the Commission will perform a case-to-case assessment and consider the following factors:
  - (i) the extent to which a market failure leads to a sub-optimal provision of the necessary infrastructure;
  - (ii) the extent to which the infrastructure is open to third party access and subject to tariff regulation; and
  - (iii) the extent to which the project contributes to the security of energy supply in the Union or to the climate neutrality objectives of the Union. For infrastructure between the Union and a third country, if the project is not contained in the list of projects of mutual interest, other factors may also be taken into account to assess the compatibility with Internal Market rules



SECTION 4.3.2 AID FOR THE  
DEPLOYMENT OF  
RECHARGING OR  
REFUELLING  
INFRASTRUCTURE



# REVISION OF GENERAL BLOCK EXEMPTION REGULATION (GBER)

- Consultation Period from 6 October 2021 to 8 December 2021
- “Aid for energy infrastructure that is partly or fully exempted from third party access or tariff regulation in accordance with internal energy market legislation shall not be exempted under this Article from the notification requirement of Article 108(3) of the Treaty.
- Aid for gas infrastructure shall only be exempted from the notification requirement of Article 108(3) of the Treaty where the infrastructure in question is dedicated to the use for hydrogen and/or for renewable gases, or mainly used for the transport of hydrogen and renewable gases. The eligible costs shall be the [total] investment costs. The aid intensity may reach up to 100 % of the funding gap

«Ser ikke skogen for bare trær»- «Missing the big picture» Holistic look of all the relevant legislation



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# REVISION OF RED II

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive (EU) 2018/2001 of the European Parliament and of the Council, Regulation (EU) 2018/1999 of the European Parliament and of the Council and Directive 98/70/EC of the European Parliament and of the Council as regards the promotion of energy from renewable sources



# 40 % BINDING TARGET AT EUROPEAN LEVEL BY 2030

## Transport



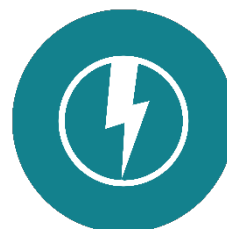
-13% GHG intensity,  
2,6% RFNBO

## Buildings



49% renewable energy

## Industry



1,1% yearly annual increase,  
50% RFNBO

## Heating & Cooling



1,1% annual increase of renewable energy

# PROPOSED AMENDMENT TO ARTICLE 4

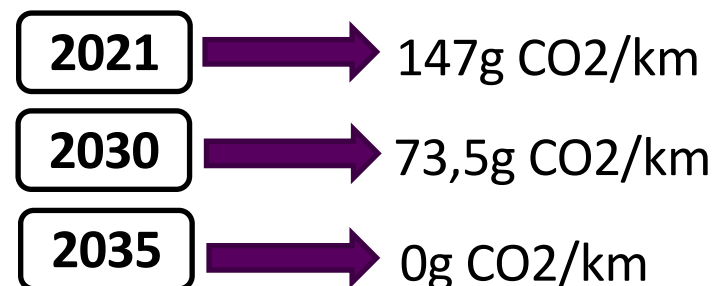
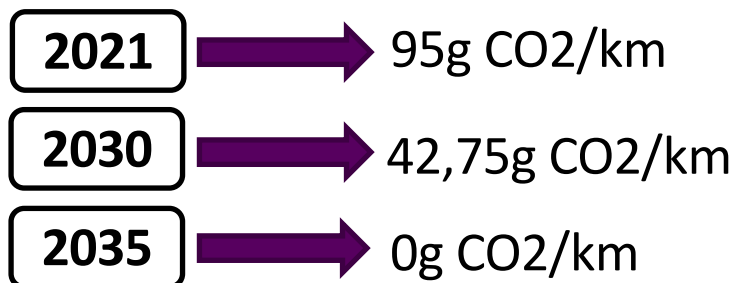
- *By 31 December 2025, each Member State shall agree to establish at least one joint project with one or more other Member States for the production of renewable energy. The Commission shall be notified of such an agreement, including the date on which the project is expected to become operational. Projects financed by national contributions under the Union renewable energy financing mechanism established by Commission Implementing Regulation (EU) 2020/129425 shall be deemed to satisfy this obligation for the Member States involved*

# PROPOSED AMENDMENT TO ARTICLE 4

- *Member States bordering a sea basin shall cooperate to jointly define the amount of offshore renewable energy they plan to produce in that sea basin by 2050, with intermediate steps in 2030 and 2040. They shall take into account the specificities and development in each region, the offshore renewable potential of the sea basin and the integrated national energy and climate plans submitted pursuant to Article 14 of Regulation (EU) 2018/1999.’; importance of ensuring the associated integrated grid planning. Member States shall notify that amount in the updated*

## PROPOSED REGULATION (EU) 2019/631 AS REGARDS STRENGTHENING THE CO<sub>2</sub> EMISSION PERFORMANCE STANDARDS FOR NEW PASSENGER CARS AND NEW LIGHT COMMERCIAL VEHICLES IN LINE WITH THE UNION'S INCREASED CLIMATE AMBITION

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## PROPOSAL FOR A REGULATION ON THE DEPLOYMENT OF ALTERNATIVE FUELS INFRASTRUCTURE, AND REPEALING DIRECTIVE 2014/94/EU

- Directive ➡ Regulation
- Sector targets for building infrastructure regarding recharging and refuelling infrastructure







# Revision of the TEN-E Regulation

## TEN-E REGULATION (347/2013)

- Development of infrastructure by concrete projects of European Common Interest (PCI)
- Focus on cross-border infrastructure projects
- Ensured security of supply, energy isolation and marked integration

# BENEFITS OF PCI STATUS

- Faster concession procedures
- Simplified regulatory processes
- Financial support through Connecting Europe facility (CEF)

## 3 EUROPEAN STRATEGIES IMPACTED THE REVISION OF TEN-E REGULATION

- Offshore renewable energy Strategy
- Strategy of Sector Integration
- Hydrogen Strategy

# OFFSHORE INFRASTRUCTURE AND HYDROGEN

- Infrastructure Offshore: 4 new corridors, Integrated offshore network plans, one –stop principle for concessions, and incentives for Europe to reach the set goal of 300 GW i 2050
- Hydrogen – electrolyzers, infrastructure

# INFRASTRUCTURE

- Offshore grid planning (Articles 8.6, 14) Member States will plan their offshore grids based on national policies and plans, agreement under this chapter will be voluntary and non-binding
- National competent authorities will decide to jointly designate a unique point of contact per project of common interest for project promoters. Such points of contact will be responsible for facilitating exchange of information aiming at facilitating the permitting process of the project
- The ENTSO for Electricity will develop and publish, as a separate report but as a part of the Union-wide TYNDP, high-level strategic integrated offshore network development plans, for each sea basin.

# PROJECTS OF MUTUAL INTEREST

- Projects of mutual interest (PMIs) (Articles 2, 4 and related) - PMIs will need to demonstrate that they bring significant benefits either directly or indirectly (via interconnection with a third country) at the Union level
- The third country or countries involved will need to demonstrate legal enforcement mechanisms to support the overall policy objectives of the Union
- Limited Union financing for third countries will be possible in accordance with the provisions of the CEF regulation (article 5(2))

## BLENDING

- (Article 24a) During a transitional period, dedicated hydrogen assets converted from natural gas assets will be able to be used for transport or storage of a pre-defined blend of hydrogen with natural gas or biomethane. The transitional period will end on 31 December 2029, whereas any eligibility for Union financial assistance will end on 31 December 2027



## GREEN HYDROGEN

- On electrolysers (Annex IV), the threshold of 50 MW, provided by a single electrolyser or by a set of electrolysers that form a single, coordinated project. The wording that life-cycle GHG emission must include indirect emissions was preserved. Electrolyser projects will not be eligible for grant for works

# RADIAL CONNECTIONS

- Radial connections (Annex IV) will be able to apply for PCI status and financing, however, only if the project will be designed to transfer electricity from offshore generation sites with capacity of at least 500 MW. In addition, the project will need to be developed in the areas with low penetration of offshore renewable electricity and shall demonstrate a significant positive impact on the EU energy and climate targets and contribute significantly to the sustainability of the energy system and market integration while not hindering the crossborder capacities and flows

## EEA RELEVANCE

- Trans-European Infrastructure for transport, energy and telecom – first mentioned in the Maastricht Treaty
- TEN-E and Connecting Europe Facility (for energy) not considered EEA relevant, but TEN-T incorporated into Protocoll 31 of the EEA-Agreement
- Norwegian companies enjoyed PCI status and funding of Connecting Europe Facility
- Might be a game changer with the introduction of Projects of Mutual Interest
- Apply Protocoll 31 for the incorporation of TEN-E?

Taxonomy



# THE EU TAXONOMY

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# ADOPTED ACQUIS BY THE EU

- The Taxonomy Regulation 2020/852 of 18 June 2020
- Commission Delegated Regulation 2021/2139 of 4 June 2021 by establishing the technical screening criteria for determining the conditions under which an economic activity qualifies as contributing substantially to climate change mitigation or climate change adaptation and for determining whether that economic activity causes no significant harm to any of the other environmental objectives
- Commission Delegated Regulation 2021/2178 by specifying the content and presentation of information to be disclosed by undertakings subject to Articles 19a or 29a of Directive 2013/34/EU concerning environmentally sustainable economic activities, and specifying the methodology to comply with that disclosure obligation

# THE GIFT THAT KEEPS ON GIVING



# REFERENCES IN CEEAG TO TAXONOMY

## Section 3.3

### Weighing the positive effects of the aid against the negative effects on competition and trade

*72. In that balancing exercise, the Commission will pay particular attention to Article 3 of Regulation (EU) 2020/852, including the ‘do no significant harm’ principle, or other comparable methodologies. Furthermore, as part of the assessment of the negative effects on competition and trade, the Commission will take into account, where relevant, negative externalities of the aided activity where such externalities adversely affect competition and trade between Member States to an extent contrary to the common interest by creating or aggravating market inefficiencies including in particular those externalities that may hinder the achievement of climate objectives set under Union law*

# REMEMBER THE REASONS







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