

EU state aid guidelines

What can explain the shift in 2014?

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Content

1. The RES shift in guidelines from 2008 to 2014
 1. Stronger promotion of market based measures
 2. Stronger EU steering
2. What can explain the shift?
 1. Judicialization and European Court of Justice
 2. Changes in the European Organizational field of Energy
3. Preliminary conclusions

Change in character

- Strength of EU steering
 - The guidelines make clear that all renewables support is state aid
 - No support scheme exempted from guidelines
- From technology-administrative steering to steering based on economic criteria
 - Shift to a much stronger use of economic criteria
 - Possible to favour technology development over economy only in certain rather clearly defined situations

Change RES 2008 – 2014

	2008	2014
Overarching objectives	Climate, security of supply	Boosting growth, climate, security of supply
Assessment methods	Extra cost model	More detailed rules introduced, more focus on cost-efficiency calculations.
Requirements operation aid	Feed-in and green certificates not included	All measures over a certain level included, detailed requirements that ensure support levels to fluctuate in line with electricity price developments. Auctioning/competitive bidding projected as ideal support scheme. Technology specific auctioning allowed.
Requirements from January 1th 2016		Aid granted as premium Beneficiaries subject to balancing responsibilities No incentives to generate electricity under negative prices Competitive bidding process on the basis of clear, transparent and non-discriminatory criteria (2017)
Exemptions	Feed-in and green certificates exempted	If no liquid intra-day market exist Installations smaller than 500 kW/demonstration projects/wind energy smaller than 3MW or 3 units.
Requirements from January 1st 2017		Competitive bidding process on the basis of clear, transparent and non-discriminatory criteria (2017)
Exemptions		Very limited number of project sites If bidding would lead to higher price If bidding would lead to lower project realization
Certificate schemes	No detailed rules	The support must be essential to ensure the viability of the RES concerned The scheme shall not result in overcompensation over time and across technologies. The scheme shall not dissuade RES actors from becoming more competitive

Institutional pattern Structural pattern	Structural power gathered in Brussels	Structural powers dispersed across Europe
One Dominant Model/Policy Approach	1) EU Governs Example: Environmental and Energy State Aid Guidelines 2014 <i>National fields have little importance</i>	2) Natural harmonization <i>National fields are important</i>
Different Models/Policy Approach	3) Unpredictable EU Governing Example: Environmental State Aid Guidelines 2008 <i>National fields are important</i>	4) Let a thousand flowers bloom <i>National fields are important</i>

What can explain the shift?

- Judicialization and the European Court of Justice (ECJ)
 - Expectation: The ECJ has changed its rulings over time, and this has had direct impact on the shift in 2014 guidelines



What can explain the shift?

- Expected changes in the European Organizational field of Energy
 - Actors promoting market streamlining has gained more favourable structural positions, and/or;
 - Normative shift from technology-administrative to economic cost efficiency approach
- Field actors
 - DG COMP, ENERGY, CLIMATE
 - Electricity +renewables industries
 - Member States
 - Inter-relationships



The Madou Building

Timeline

- 1990ies
 - The first schemes notified to DG COMP: decided they represented state and swiftly approved the.
- 2001
 - Renewables included in the environmental state aid guidelines,
 - First EU renewables directive
 - PreussenElektra: German scheme does not constitute state aid
- 2008
 - Commission revise state aid guidelines and publish with draft RES directive, promoting market based EU wide support scheme
 - Directive is radically re-written by Parliament and Council
- 2012:
 - Modernisation of state aid process starts
- 2014
 - Commission publish new guidelines, now also named energy, with detailed requirements promoting market streamlining

European Court of Justice

- 1990s: Not active interpreter of state aid and renewables issues
- 2001: *PreussenElectra*; feed-in not state aid
- 2006: the court confirms a very restrictive interpretation of *PreussenElectra* in the *Essent* case
 - Hence, the Commission could have developed stricter state aid rules already in 2008, but they refrained from it
- *Preliminary conclusion: 1) ECJ ruling in 2001 initially hindered the Commission to introduce market streamlining, but changes in rulings could have enables a shift already in 2008, 2) The degree of juridification has decreased over time*

European Commission I

- DG COMPETITION
 - ‘The decisions adopted after the immediate aftermath of the judgement [PreussenElectra] lack consistency’ (Rushe 2015: 86)
 - Resulted in ‘a decision-making practice that finely and sophisticatedly distinguished each support scheme on its individual merits and precise details of design’. (Rushe 2015: 80)
- Interviewees: Energy is a much bigger part of the DG COMP portfolio than it used to
- New decision-making procedures makes the process more open and transparent, but it does not hinder DG COMP to have a heavy hand in the process
- DG COMP has aimed to streamline the guidelines to the rational in other competition issues, with a particular focus on public procurement

European Commission II

- DG ENERGY
 - More dominated by market thinking than it used to, but not sure whether/how this influenced the decision making
- DG CLIMATE
 - Has seemingly not played a major role
- High level engagement
 - Interviewees indicate that steering from the highest level of the Commission was decisive
- *Preliminary conclusion: DG COMP has increased its structural power, DG ENERGY has changed its view on market streamlining*

Industry power and positions

- More active as lobbyists in 2014 than in 2008
- Consultation inputs:
 - Electricity industry call for market streamlining
 - Renewables industry calls for exemptions
- Interviewees
 - Traditional electricity industry has become more serious in their renewables engagement
 - The new renewables industry has become more like a regular industry, and they collaborate more with traditional electricity industry
 - Less conflict between the two groups
- *Preliminary conclusion: Market thinking dominates more, lower level of normative conflict than in 2008*

Member States

- Germany:
 - 'Anything Germany does is hugely significant in any event'
 - Changes in the positions of the German government (?)
- UK
 - Highlighted by the Commission as the example to follow, but was itself more interested in nuclear
- Poland
 - Angry, but marginalized (?)
- All others
 - Had a broad variety of view points on many issues and they all got something
- *Preliminary conclusion: Lower level of resistance from member states than in 2008 (?)*

Towards a more united field?

- Less distinct conflict between traditional electricity industry and renewables industry
- New developments undermine simplified and ideological lines of conflict
 - All actors engaged in solving actual technical and economic challenges related to increased RES share
 - More complex ownership patterns
- DG COMP has increased its structural position in the field, DG ENERGY and DG CLIMATE reduced impact
- *Preliminary conclusion: Changes in the field underpinned the shift, but steering by the college of Commissioners can not fully be explained by structural and institutional changes at field level*

Preliminary conclusions

- Changes in ECJ rulings underpinned shift in 2008
- Changes in the organizational field of energy underpinned changes in 2014
- We also need to take into account
 - Window of opportunity created by the financial crisis and German experiences
 - The strategic intervention of the Commissioner for Competition Joaquín Almunia and the rest of the college

