

RHI STATE AIDS – COMMISSION PRELIMINARY FEEDBACK

The governing directive is the RENEWABLE ENERGY DIRECTIVE 2009/28/EC

Case SA.32125 – RHI scheme – additional questions**Publication of the details of the RHI scheme**

You indicated that Secondary legislation (details of the RHI scheme) should be published on the first week of February 2011.

1. *Please provide such document if available. Please specify which changes are relevant in your view from a State aid perspective, including updating the Discussion Paper.*

We had hoped to publish in early February but this was unfortunately slightly delayed until 10 March 2011. The key change from our consultation document is the introduction of the RHI in two main phases – phase 1 to encompass support for the commercial, public and industrial sectors from autumn this year; phase 2 primarily support for single domestic properties in 2012 as well as additional technologies in the commercial sector. The main reason for a two phased approach is to provide additional time to better understand the performance of renewable heat technologies in the domestic setting and to tailor support to better accommodate the relatively short tenure of home owners and the different ways that individuals raise and re-pay finance.

- *Please explain clearly which elements are going ahead and which are not.*

For the avoidance of doubt, the scheme will, for the time being, only apply to installations in industrial, public and commercial premises or where one system is supplying multiple domestic premises, that supply heat as steam, hot water or other liquids, or generate biomethane from renewable resources. Domestic users will no longer be able to benefit from the scheme and we wish to withdraw this element of the prenotification.

Renewable heat definition

We are in contact with DG ENER on the inclusion of biomethane and heat pumps into the renewable energy sources (points 53 to 57 of the DP).

2. *Please clarify further why you consider that:*

- *Biomethane, that you define as 'gas produced by the anaerobic and thermal conversion of organic matter', should be considered as renewable energy source, for instance as it is related to biomass as defined in point 70(6) EAG (Environmental Aid Guidelines), and in line with the definition for biogas given in Annex III of the Renewable Energy Sources Directive (Directive 2009/28/EC of the European Parliament and of the Council), namely "a fuel gas produced from biomass and/or from the biodegradable fraction of waste, that can be purified to natural gas quality, to be used as biofuel, or wood gas";*

- *All heat pumps use a renewable energy source (e.g. solar or geothermal). Alternatively, please explain for what other reasons you consider these heat pumps complying with the definition of renewable energy under the RES Directive;*

On biofuels, the directive gives the following definition:

- *'Energy from renewable sources' means energy from renewable non-fossil sources, namely wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases.*
- Bio-methane is a renewable energy as it is a type of biogas. The Directive requires the use of biomass feedstock from sustainable sources. Only sustainable biomethane will be eligible for support under the RHI. From launch, reporting on the sustainability of biomass feedstock for installations above 1 MW is mandatory. Smaller installations will not be required to report on sustainability initially. However, regulations on biomass sustainability for all users will be introduced from 2013 for both the RHI and the Renewables Obligation and we will be consulting on these in 2012. We do not believe that the relatively small number of installations that will become operational before 2013 will pose significant sustainability issues in the interim.
- The Energy Act 2008 gives the following definitions:
 - *"Biogas" means gas produced by the anaerobic conversion of organic matter,*
 - *"Biomass" means material, other than fossil fuel, which is, or is derived directly or indirectly from, plant matter, animal matter, fungi or algae.*
 - *"Biomethane" means biogas which is suitable for conveyance through pipes to premises in accordance with a licence under section 7 of the Gas Act 1986 (c. 44) (gas transporter licences).*
- These definitions encompass biomethane

On heat pumps, the Directive qualifies their eligibility:

Heat pumps enabling the use of aerothermal, geothermal or hydrothermal heat at a useful temperature level need electricity or other auxiliary energy to function. The energy used to drive heat pumps should therefore be deducted from the total usable heat. Only heat pumps with an output that significantly exceeds the primary energy needed to drive it should be taken into account.

Only heat pumps which comply with the directive will be eligible for the RHI. The RHI will cover heat pump installations that deliver heat to water. It will ensure that heat pumps achieve an energy output significantly above the primary energy input in accordance with the directive by

audit of the manufacturers specifications and design approval during the appraisal process for each project. Heat pumps will be required to meet the minimum coefficient of performance standard of 2.9.

Payment of the RHI against metered heat delivered will incentivise the efficient operation of the system. The tariff for heat pump installations has been calculated to compensate for the excess capital, operating, fuel and barrier costs over heat delivered by the counterfactual fossil fuel system. It does not, therefore, pay the whole cost of heat produced. Air to air heat pumps are not supported in the RHI but we will consider whether to include these in 2012 when we have adequate knowledge of their performance and efficiency.

Aid element and beneficiaries

The UK explained that the scheme contains a non-State Aid element, as support is being provided also to households and other entities that do not qualify as undertakings. They also explained that in their view, should Northern Ireland introduce a similar RHI scheme, there would be no geographical selectivity anymore. Please note that while support to entities that do not qualify as undertakings does not constitute aid, it cannot be excluded that such support contains indirect aid (e.g. to producers of heat installations). Also, please note that while geographical selectivity might be excluded through the adoption of a similar scheme in Northern Ireland, other forms of selectivity may still remain. Considering the above, we consider that complete information should be provided on the scheme, including for the support granted to beneficiaries that do not qualify as undertakings and regardless of whether a similar scheme is introduced in Northern Ireland or not.

3. *Please justify why support to domestic installations would not constitute in your view indirect aid to certain producers of renewable heat installations.*

As explained in answer to question 1 above, the RHI will no longer support domestic installations in the current phase. This is to allow us to develop a better understanding of how the technologies work in a domestic environment, to refine the support mechanism to give better cost efficiency for the taxpayer, and to tailor the scheme to better reflect the shorter tenure of home owners. We are withdrawing this element of the prenotification

Duration

In our understanding, the scheme is intended to be put into effect by 1 July 2011 and last until 30 June 2040, while the RHI payments are planned for 20 years.

4. *Please confirm that no aid will be granted before the Commission adopts a decision on the scheme and that the scheme will be renotified by the UK authorities in 10 years.*

The scheme will be put into effect by approval of the regulations by the UK Parliament in July 2011. We confirm that no aid will be granted before the commission adopts a decision and that the scheme will be renotified in 10 years.