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TO: Margrethe Vestager, Executive Vice-President, Commissioner for Competition
Cc: Frans Timmermans, Executive Vice-President, European Green Deal
Virginijus Sinkevičius, Commissioner for Environment, Oceans, and Fisheries

RE: German State aid for coal phase out notification – request to open an investigation

Brussels, 11/09/2020

Dear Vice President Vestager,

Dear Vice President Timmermans,

Dear Commissioner Sinkevičius,

The European Commission is due to take an important decision on German state aid related to its coal phase out law – herewith ‘DE coal operators aid’¹. That decision will have far-reaching implications for state aid decisions relating to energy and the environment, the Commission’s role as guardian of the treaties, and forward-looking appreciation of the ‘common interest’. Other countries may be inspired to grant similar compensations if the German scheme is considered admissible.

We hope that Commission services will rigorously enforce the common assessment principles set out under the EU Guidelines on State aid for environmental protection and energy², in full alignment with the EU Green Deal objectives and relevant frameworks. Any state aid for coal phase out shall be aligned with the EU’s Paris Agreement commitments, which are incompatible with the use of coal for power generation after 2030.

We would like to highlight the following five fundamental flaws of the DE coal operators aid, namely:

- a) It will promote business as usual for lignite operators, and in some cases even prolong operation. This scheme also deteriorates the market value of renewable energy sources in various ways.

¹ ‘Kohleausstiegsgesetz’ BGBl 1818 of 2020 Teil I Nr 37, 13 August 2020

² 2014/C 200/01; OJEU of 28.6.2014 C200/1 <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XC0628%2801%29>



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- b) Aid is not conditioned to full implementation of Union standards such as Best Available Techniques for Large Combustion Plants, including energy efficiency performance (as in the Dutch case³)
- c) It entails “compensation” to polluters without clarity on the calculations, whilst the negative externalities of their activities (e.g. air pollution and water impact from mining) are not even addressed; covering re-cultivation costs is also in clear breach of the ‘polluter pays’ principle.
- d) A special conversion bonus to support gas combustion is provided.
- e) It does not prohibit expropriations due to continuation of lignite mining.

In the annex **we outline five conditionalities linked to the DE coal operators state aid approval. If any of those are not adequately addressed, the Commission should reject the state aid demand. A formal investigation procedure should be opened.**

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. Wates'.

Jeremy Wates
Secretary General.
European Environmental Bureau

Acting on behalf of:

Wendel Trio
Director
Climate Action Network (CAN) Europe

Jorgo Riss
Director
Greenpeace European Unit

³ State aid SA.54537 (2020/NN) Netherlands
https://ec.europa.eu/competition/state_aid/cases1/202025/284556_2165085_151_2.pdf