

Germany hitting the gas on hydrogen Part II

Going Mad-Max! Commission approved €3 billion German State aid scheme

26 June 2024

The European Commission has consented to a German scheme worth around EUR 3 billion designed to foster the development of the Hydrogen Core Network (*HCM*). This will play a significant role in realizing the goals of the EU Hydrogen Strategy and the 'Fit for 55' package by facilitating the establishment of a hydrogen transmission infrastructure. It is a milestone for promoting the utilization of renewable hydrogen in sectors with high energy consumption like industry and transport.

Legal Background

The Commission's assessment was mainly based on Art. 107 (3) (c) of the Treaty of the Functioning of the EU (*TFEU*) and the 2022 Guidelines on State Aid for climate, environmental protection and energy. Thus, the Commission found that:

- The measure **facilitates** the development of an economic activity, in particular the construction and operation of the hydrogen transmission network. In addition, the scheme is **necessary and appropriate** to speed up investments in hydrogen transmission infrastructure. At the same time, it **supports the objectives of key EU policy initiatives** such as the European Green Deal and the 'Fit for 55' package.
- The scheme is **proportionate**, as the level of the aid corresponds to the effective financing needs while safeguards limit the aid to the minimum.
- The aid has an **incentive effect**, as the supported infrastructure would not be financially viable without the public support, in particular in view of the uncertainty about the prospects of the future market for hydrogen.
- The aid brings about **positive effects** which outweigh any potential distortion to competition and trade in the EU.

The [EU Strategy on Hydrogen](#) (COM/2020/301) was adopted in 2020 and suggests policy action points in 5 areas: investment support; support production and demand; creating a hydrogen market and infrastructure; research and cooperation and international cooperation. The strategy comprises, *inter alia*, a list with 20 key hydrogen actions.

The Fit-for-55 package proposes legislative measures for a European hydrogen policy, including targets for renewable hydrogen use in industry and transport by 2030. It also aimed to develop hydrogen infrastructure and an efficient market. The legislation was enacted in 2023 and 2024. Two additional acts were adopted in June 2023, setting criteria for ‘renewable hydrogen’ and a scheme to calculate life-cycle emissions of renewable hydrogen and recycled carbon fuels. A similar act for low-carbon hydrogen is planned for 2024.

Germany’s hydrogen plan

Germany has informed the Commission of its plan to implement a EUR 3 billion scheme to foster the construction of the national HCN. The HCN, a key component of long-distance hydrogen transport pipelines in Germany, will also connect several Member States as part of the European hydrogen backbone.

The scheme is designed to stimulate investments in the HCN such as:

- the **repurposing of existing gas pipelines** for hydrogen transport and;
- the **construction of new hydrogen pipelines** and compressor stations.

The HCN’s construction and operation will be financed by Hydrogen Transmission System Operators (*TSOs*), selected by the *Bundesnetzagentur*, Germany’s federal network agency, pursuant to the regulations set out in the Energy Industry Act (*Energiwirtschaftsgesetz, EnWG*).

The aid will be in the form of a **State Guarantee**, enabling the TSOs to secure more favorable loans to offset initial losses during the HCN’s ramp-up phase. Initially, a small number of consumers are expected to use the network, and tariffs will be set lower than necessary to cover relevant costs, to promote usage and facilitate hydrogen uptake. The loans will be provided by *Kreditanstalt für Wiederaufbau (KfW)*, Germany’s national promotional bank, at its own refinancing cost, below market rates. The loans will be repaid by 2055, with repayments progressively backloaded in line with the anticipated increase in hydrogen demand. The estimated aid amount of EUR 3 billion represents the additional financing costs that the TSOs would have incurred without the State Guarantee.

Thumbnail

The first major pipeline is expected to be operational from 2025, with the entire HCN to be completed by 2032. The HCN will be regulated under the internal energy market legislation, ensuring **non-discriminatory third-party access and tariff regulation**. The measure aligns with steps taken under the Important Project of Common European Interest (IPCEI) framework, specifically the ‘Hy2Infra’, approved by the Commission in February 2024. This will result in a mutually reinforcing investment in hydrogen infrastructure in Germany and the EU.

No unfamiliar measures

Germany's support of a market ramp-up is no unfamiliar measure. In order to support the global market ramp-up of green hydrogen, the Federal Ministry for Economic Affairs and Climate Protection (*Bundesministerium für Wirtschaft und Klimaschutz, BMWK*) has already provided EUR 900 million for the "**H2Global**" **hydrogen promotion program** in an initial auction in 2023. This amount is intended to close the gap between the purchase and sales price of green hydrogen subproducts (ammonia, methanol and e-SAF). The procurement process is implemented by HINT.CO GmbH.

At the moment, a second auction is envisaged. Therefore, the BMWK is conducting a market consultation to receive feedback for the second round. The published questionnaire describes the measure and formulating specific questions for the companies. Participation in the market consultation is open to all affected companies.

BLOMSTEIN will provide **further legal advice** for companies interested in the second auction. BLOMSTEIN is a law firm specialized, inter alia, in public procurement law and ESG, and has dealt with hydrogen projects. If you are interested in the development of (green) hydrogen or need legal assistance, you can rely on our outstanding expertise. Please feel free to reach out to Dr. Roland M. Stein, Dr. Florian Wolf, Bruno Galvão and Hanna Kurtz.
