

Public Innovation Support

Coordination and Legal Requirements

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1. Aims of public innovation support and case for government intervention

Aims of public innovation support

- Emission reduction opportunities through product and process design innovation (“generation of innovation“)
- Emission reduction opportunities through innovation for change (development and implementation of state of the art)

Case for government intervention

- Market failure
- Diverging international environmental policy

2. Driving forces for innovation and adoption

- Profit maximization
- Consumers' needs
- Short payback period
- Strong property rights
- Stability and reliability
- ...

3. Design parameters from governments' point of view

- Targeted use of government resources
- Dynamic efficiency (portfolio)
- Low costs
- ...

3. Public innovation support instruments

- Green public procurement
- Funding of research
- Funding of demonstration projects
- Carbon contracts
- Carbon charges
- Labelling

4. Coordination of instruments

a) Domestic and European dimension

b) Design challenges

- Competences within companies
- Division of competences within Member States
- Transparency
- Avoiding excessive promotion
- Implementation costs

5. Legal Framework

State aid law

a) EU Law

- General prohibition of State Aid under Articles 107, 108 TFEU when aid is granted by Member States
- Possible Compatibility under Article 107 (3) TFEU as made more precise by State Aid Guidelines (2014/C 200/01)
 - Cumulative requirements: well-defined objective of common interest; need for State intervention; appropriateness of the aid measure; incentive effect; proportionality of the aid; avoidance of undue negative effects on competition and trade between Member States; transparency of aid
 - For us: Really create procedural obligations

5. Legal Framework

State aid law

b) WTO Law

- Further restrictions by SCM Agreement to subsidies contingent upon exports or upon the use of domestic over imported goods
- Not very developed case law
- Less politicized (in theory at least)

5. Legal Framework

EU Public procurement law

- Aiming at transparency, equal treatment, open competition
- Environmental aspects can be included in PP when
 - Defining the contract (e.g. use of specific material)
 - Selecting the economically most advantageous bid (LCC analysis)
 - Drafting award criteria
- Clear procurement notice with regards to award criteria
- Specifications and award criteria to be linked to subject-matter, measurable and verifiable
- New flexible procedures allow for innovation support
 - ➔ “Innovation partnership”
 - ➔ Aims at supporting innovative products, services