To: President Ursula von der Leyen, Executive Vice-President Margrethe Vestager, Commissioner Thierry Breton

Brussels, March 13, 2023

Subject: The EU's response to the IRA must not come at the expense of fair, diverse, resilient and competitive markets

Dear President, Executive Vice-President and Commissioner,

We, the undersigned, are writing to express concerns over the potential threat to fair competition posed by the Commission's reforms to state aid rules through the recently announced Temporary Crisis and Transition Framework (TCTF) and accompanying amendment to the General Block Exemption Regulation (GBER).

We support the use of public investment to accelerate the green transition and make supply chains more resilient, including amending the state aid framework to facilitate this. But strict safeguards are needed to ensure that the TCTF does not worsen market concentration both within and across EU member states.

While many others, including national governments themselves, have rightly warned that a more permissive state aid framework risks disproportionately benefiting larger member states with greater fiscal firepower, we should be just as worried about the prospect of large and dominant companies capturing the majority of the funding, elbowing SMEs aside.

Large companies, while not necessarily the most innovative or efficient, already enjoy often unassailable advantages over smaller firms, including: cheaper and easier access to credit; the ability to cross-subsidise across business segments and engage in predatory pricing; and vertical integration allowing them to discriminate against or lock out competitors from markets.

Large firms are also generally better able to win public funding than start-ups and SMEs, thanks to their greater resources, administrative know-how and lobbying clout. Non-subsidised firms subsequently find it harder to compete with subsidised firms, potentially leading to a vicious cycle of subsidisation feeding market concentration, and vice versa.

Large multinationals are better-placed to make large investments without public support, meaning that subsidies can end up substituting for rather than adding to private investment, pushing up profit margins and rewarding shareholders instead of being reinvested in productive ventures.[1] Subsidies may also encourage such firms to pursue large-scale projects without building a proper business case, raising the risk of taxpayers being saddled with costly 'white elephants' that waste public resources without achieving what they promise.

Finally, large multinationals have the scale and influence to pit governments, both within and outside the EU, against each other in a 'subsidy race' that taxpayers foot the bill for – in contrast to smaller, locally-based firms. We are especially concerned about the TCTF's provisions on "matching aid" and "funding gaps", whereby companies can request state aid based on subsidies available outside the EU or their own self-defined funding needs, which we see as highly vulnerable to being gamed by multinationals.

While we acknowledge that investments in green energy and technology often require a certain degree of scale, in many emerging technologies – from carbon capture to green hydrogen – startups and SMEs play a leading role. Unlike large firms, these companies often struggle to access the funding they need to scale, a gap that public funding can help close.

Channelling green subsidies towards SMEs rather than large multinationals would leave us with a more diverse and resilient European economy, strengthening competition, innovation and energy security and spreading prosperity and opportunity across the EU's member states and regions.

While we welcome the fact that under the TCTF SMEs and companies in disadvantaged regions are eligible for higher support, this will not be sufficient to ensure subsidies benefit companies of all sizes. In order that the TCTF supports the EU's green transition without increasing market concentration and undermining fair competition in the Single Market, we urge the Commission to:

- **Promote a diverse economy:** Member states should be required to ensure that subsidies do not worsen market concentration, for example by introducing a formal duty to promote a balanced market structure, and requiring that a specific share of public funding be allocated to start-ups and SMEs. The Commission should use its so-called 'balancing test' to strike down state aid granted by member states to large companies able to make investments without public support.

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[1] Recent data shows that European companies now buy back shares worth a higher percentage of market capitalisation than their US counterparts, and last year announced plans to repurchase shares worth $350 billion, an increase of over $130 billion from the previous year.

- **Use the right tools:** The Commision should encourage member states to channel state aid through mechanisms easily accessible to companies of different sizes, with a bias towards smaller firms. Examples include grants and tax credits for early-stage R&D and purchases of clean technology by SMEs. The goal should be to support specific technologies and sectors critical to the green transition, not enrich individual companies.

- **Ensure positive impact and accountability:** Companies receiving state aid under the TCTF should be required to demonstrate that public funding is being used to further the EU's social and environmental objectives, for example through public reporting on emission reductions, green innovation and job creation, and to comply with limitations on share buybacks and executive compensation. Conditionality should be lighter for SMEs to reflect their smaller size and administrative capacity.

- **Maximise transparency:** Given the amounts of taxpayer funding set to be distributed, a high degree of transparency is needed on the destination of such aid, including the proportion of public funding allocated to large enterprises versus SMEs in each member state. Any lobbying by large firms in relation to state aid disbursed under the TCTF, both at the national and EU level, should be clearly disclosed.

We thank you for taking these points into consideration as you work with member states on operationalising the TCTF. We remain at your disposal should you wish to discuss our concerns in more detail and explore how the state aid framework can be designed in a way that supports Europe's start-ups and SMEs.

Yours sincerely,

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