Subsidies to Nuclear Power vs European Law

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EU: Internal Market and Fair Competition

- EU Competition law as pillar of the internal market
- Rules applying to companies
- Rules on State aid

Principal Prohibition of State aid!
Application of State aid rules in Euratom?

- State aid rules laid down in EU Treaties
- Euratom is a separate Treaty
- Rules on State aid apply for Euratom as well!
Questions to be answered in State aid cases

- Is there a State aid? (Article 107 para. 1 TFEU)
- Is there exceptionally an exemption?

(Article 107 paras. 2 and 3; Secondary law)
Elements of State aid (Article 107 para. 1 TFEU)

- Aid
- Granted by a Member State or through State resources
- Favouring certain undertakings
- Disturbing competition
- Affecting trade between Member States
Subsidies to Nuclear Power

- **Low liability limits** for operators of nuclear power plants
- **Long-term price guarantees** by „Contracts for Difference“
Low liability limits

- Laid down in national legislation
- Limits are **not covering potential damages**
- **Liability assumptions** by the **Member States**
- **Underinsurance** leads to savings of charges
- **Illegal State aid**!
Contracts for Difference

- Long term price stability
- Fixed „strike price“ is independent of market prices
- „Strike price“ is far beyond realistic market prices
- Illegal State aid!
Contracts for Difference – Payment flows

Producer

Market price: € 40

Top up: € 60

CfD
Strike: € 100

Counterparty

Fund (administered by the Counterparty)

Electricity Suppliers

Charges

Basis in national law
EU Commission on Hinkley Point

- „The Commission considers at this stage that the notified measure involves State aid within the meaning of Art 107(1) TFEU.

- The Commission doubts that the aid might be considered as compatible aid for the provision of a Service of general interest.

- Finally, the Commission has doubts that the notified measure can be declared compatible under Article 107 para. 3 TFEU and in particular that it effectively addresses a market failure and is appropriate.“
Future

- Commission defines policy in the field of State aid
- *Draft Guidelines on environmental and energy aid 2014-2020*
- Stay alert!
Thanks for your attention…

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