

**Question for written answer P-011273/2011  
to the Commission  
Rule 117  
Jan Zahradil (ECR)**

**Subject:** Commission communication on guidelines on certain state aid measures in the context of the greenhouse gas emission allowance trading scheme

Driven by the logic of strong, effective and open partnership between the Members of the European Parliament and the Commission, I consider it necessary to express my deep concern over the content of the draft Commission communication on guidelines on certain state aid measures in the context of the greenhouse gas emission allowance trading scheme.

This long-awaited draft was intended to shed more light on the issue of the compatibility of European state aid measures with certain aspects of the implementation of climate change policy. The framework of that policy was given by the climate and energy package agreed by the European Council in 2008. One of the basic principles agreed was that no earmarking can be applied in terms of the use of the proceeds of the auctioning, and that it is exclusively up to Member States to determine it (see, e.g., Council document 17215/08 or Directive 2009/29/EC).

However, the draft text of the guidelines provides in its paragraph 25 that the Commission shall, when assessing aid arising from the revenues from auctioning, take into account the positive effects such as: targeting new entrants or operators with low market shares in the electricity market, the provision that large incumbents may not benefit from the aid, etc.

In my understanding, any limitation on the power of Member States to decide concerning auctioning revenues at EU level, over and above the provisions laid down by the Council and the Directive, is in contradiction, not only with the sense of the Council conclusions framing climate change policy but also with the basic principle of subsidiarity and the national sovereignty of the Member States.

Moreover, the pre-empted exclusion of large incumbents is discriminatory in nature, contradicting the non-discriminatory bidding process. Further, it has no legal basis in currently valid EU legislation. Finally, such a provision may be perceived as a violation of the EU Treaty and a deviation from the Commission's case-law.

- Given the above, and bearing in mind the importance of partnership between Parliament and the Commission and their shared role of guaranteeing the legality of all EU acts, will the Commission act to modify the above draft guidelines? Can it also provide an explanation of its approach in this matter?