



**EUROPEAN COMMISSION**

Competition DG

Markets and Cases I : Energy and Environment  
State Aids

Brussels, 01/07/08\*D/52583

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Attn: Dr. Caroline Lucas  
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**Subject: State Aid - CP290/07 – Waste management plan**

Dear Dr Lucas,

I refer to your letter of 28 September 2007 addressed to Commissioners Kroes and Dimas. As your complaint raises state aid concerns, it was registered by the DG Competition under the above mentioned state aid case number.

According to your complaint, Veolia Environmental Services would have benefited from State aid in the form of state guarantees through the agreement between the above mentioned company and Brighton, Hove City and East Sussex County Councils for the delivery of a waste incinerator in Newhaven, as the local authorities would guarantee to cover any legal costs on behalf of Veolia which would arise from legal challenges to the incinerator development. You also argue that the renegotiated agreement would be contrary to the Community guidelines on state aid for rescuing and restructuring firms in difficulty.

Following your letter we have asked detailed questions to the UK authorities, to which they replied by letter of 21 May 2008. On the basis of the information available, the competent departments in the Directorate General for Competition have concluded that sufficient grounds do not exist for continuing the investigation.

Pursuant to the information provided by the UK authorities, it appears that the agreement is actually concluded with SDWS, a daughter company of Veolia and neither Veolia nor its daughter company seem to be in financial difficulties. Consequently, the Rescue & Restructuring state aid guidelines do not seem to be applicable in this case. Should you however wish to argue the applicability of the Rescue & Restructuring guidelines, please develop your arguments in this regard.

As far as the guarantee to cover the legal risks of the planning permission is concerned, a risk allocation whereby the Councils bear the risks for securing the planning permission, do not seem to amount to a particular advantage to SDWS going beyond the normal risk allocation terms of a normal commercial agreement of this kind. Covering the costs of potential appeals does not seem disproportionate in order to ensure smooth conditions for the execution of the service.

The Commission therefore cannot identify the existence of State Aid elements in the meaning of article 87(1) of the EC Treaty based on the information at its disposal.

Should you however learn of any new particulars that might demonstrate the existence of an infringement of the state aid rules, I would be grateful if you could inform my departments as soon as possible. If the Commission services do not hear from you within 20 working days, the complaint will be considered withdrawn.

Yours sincerely,

Eric Van Ginderachter  
Acting Director

(signed)