



## BusinessEurope comments on the 'Clean energy for all Europeans' package

### Key messages

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The energy system is the backbone of European economy. The energy and climate policies should adapt to the ongoing transition and strike a balance in terms of different objectives. These include security of electricity supply and Europe's low-carbon agenda, while making sure that power remains affordable to consumers. Policies shall address current political, technical and societal challenges, including lack of investments in the power sector. Overall, the proposed Clean energy package is a step in the right direction. Yet, there are issues that need to be resolved when designing an enabling framework. BusinessEurope has the following key observations:

**IMPROVE COHERENCE.** To make best use of the proposed instruments, these have to complement rather than contradict each other or overlap. In terms of content and process, the EU institutions have to guarantee coherence and consistency. The example of higher energy efficiency target shows the risk of undermining the ongoing reform of the emissions trading scheme (EU ETS).

**INCENTIVISE INVESTMENTS.** The transition to a low-carbon economy can only work if the level of investments in new energy technologies is not only maintained, but increased. A stable and predictable framework to enhance markets and price signals is key for financing this transition. This requires among others more market-based price formation, less restrictions in the wholesale markets and better use of long-term contracts.

**ENABLE RENEWABLES.** With higher demand for low carbon technologies, the integration of the renewable energy in the current system is a highly complex task. Making sure that renewables are fit for the market and the market fit for renewables is essential. The transition has to be done in a cost-effective manner, with competition of low carbon technologies and equal importance of the sectors of electricity, buildings, heating and cooling and transport. At the same time, remuneration for mature renewable energy technologies should come from the market and grid distortions have to be minimized.



**EMPOWER CONSUMERS.** Increasing complexity of the energy system requires new models and solutions. With new entities entering the energy market, and consumers turning to prosumers, the markets and infrastructure have to be designed to accommodate them, while preserving fair competition. Setting right conditions for demand response and putting value on flexibility is a prerequisite.

**STRENGTHEN EUROPE.** More integration and cooperation is expected to contribute to an increased energy system efficiency and lower costs. It is important that the Commission better addresses and quantifies the expected benefits of such an approach in its proposals. Despite the need for improvements, the proposals on regional cooperation, adequacy assessments and capacity mechanisms bring 'more Europe' in the political debate on energy system governance.

**PROMOTE EFFICIENCY.** Energy efficiency is a guiding principle in the society. While industry continuously invests to be more efficient, there is still an untapped potential in non-economic sectors such as in buildings. The energy efficiency directive should well complement other policies. Rather than raising the target, the flexibility for member states to use right instruments should be maintained and an enabling framework to trigger investments reinforced.



### BusinessEurope comments on the ‘Clean energy for all Europeans’ package

Europe faces unprecedented changes in its energy landscape, perhaps the most far-reaching since the energy crisis of 1973. Some of them are triggered by political objectives, others are bottom-up driven and have their roots in the societal or technological developments. Internationally, the energy landscape is changing as well. For example, the shale gas and oil revolution in the US is impacting global energy supply but also industrial investments. These developments demonstrate the need for the EU to update its energy policy, making sure that energy suppliers and consumers’ interests are properly addressed.

European industry has always stood in the core of the energy system transformation and been part of the solution to adapt the system to new realities. BusinessEurope supports a more flexible and dynamic model that is based on more cooperation, competition and integration. It is a model that secures unhindered flows of sustainable and affordable energy and empowers consumers. However, the current framework does not deliver on such expectations. Instead, the system becomes very difficult to manage and market does not provide reliable investment signals.

In order to revive the energy market, EU policies must adapt to the ongoing transition by addressing the main challenges, be it more decentralized energy, a growing number of state interventions or higher share of intermittent renewable energy.

Overall, BusinessEurope is of the opinion that the ‘Clean energy for all Europeans’ package goes in the right direction to reform the energy system in Europe.

This paper outlines BusinessEurope’s first comments on most of the legislative and non-legislative proposals listed below. While acknowledging a number of positive developments, it also makes concrete proposals where the legislation must be improved.

- [Electricity market regulation](#)
- [Electricity market directive](#)
- [Renewable energy directive](#)
- [Governance regulation](#)
- [Energy efficiency directive](#)
- [Energy performance of buildings directive](#)
- [ACER regulation](#)
- [Energy prices and costs report](#)



### FOSTERING INTERNAL ENERGY MARKET

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BusinessEurope supports the Commission's efforts to establish a European-wide electricity market in order to facilitate unhindered flows of electricity across borders without physical, commercial or regulatory barriers, and to reduce costs for consumers. The necessary cost-effective interconnections and infrastructure at all levels is an integral part of this objective. The new package correctly intends to strengthen the market-based approach as the main means to deliver the new power market design.

Together with the climate objective, the priorities must be security of supply and affordable prices, ensuring that price convergence is reached across the EU so that all consumers can benefit from a single internal market. This will contribute to industrial competitiveness whilst aligning with a consistent climate and energy policy. Coherence of the policy instruments is a prerequisite and any overlaps or conflicts of the targets should be avoided. This is particularly essential for the energy system where different political objectives tend to compete. Also, an effective implementation of the third energy package by all member states is an essential prerequisite.

European industry needs framework conditions that remain predictable and stable over the longer term and incentivise new investment decisions. This would ensure highly efficient, clean and sufficiently flexible capacity securing energy supplies in the overall internal market. The benchmark of today's market design is the energy-only market. A market design that enhances revenue stabilisation, whilst limiting market distortions, keeping financing costs low and reducing energy costs for consumers.

Europe has witnessed an increase in national interventions. They intend to either guarantee security of supply, protect national capacities or facilitate the integration of renewable energy. The risk is that national interventions can lead to a less cost-optimal allocation of resources and not to a common power market. Instead, deeper European integration of the power system is important as electricity does not respect borders. The best option is an integrated and competitive electricity market that fosters flexibility and regional cooperation.

#### 1) Better investments conditions and market signals

##### **Strengthening investments conditions**

→ *Article 9, 10 of the electricity market regulation*

BusinessEurope supports intentions of the Commission to improve conditions for market-driven investments in the power sector. By removing restrictions and enhancing the wholesale markets, investors can base their decisions on longer-term predictions, while rewarding flexibility, integrating renewables and creating a true level-playing field for different technologies. The proposals correctly propose to remove price restrictions. Prices based on market principles, reflecting scarcity in terms of price and location, would bring a real signal for investments. In terms of 'value of lost load', the EU needs to ensure



a common methodology with the objective of reaching a sufficient level of harmonization. On the contrary, substantially different 'values of lost load' could be detrimental to cross-border trade and market integration. BusinessEurope backs the Commission's proposal to apply the provision of Article 10 to bidding and clearing for all markets, especially in the intraday market.

Investments in the power sector have a long-term nature. However, in the last decade, the EU witnessed a number of investments put on hold or even moved outside of the Union because of a lack of confidence and predictability in the policy framework. While short-term market prices can help strengthen signals for consumers, long-term contracts should also play an important role in the system. As such it can be mutually beneficial – helping consumers hedge their energy contracting and investors to secure their asset decision. BusinessEurope therefore calls on the EU institutions to facilitate an unrestricted use of these contracts. The proposed provision does not specifically address this issue, as it is solely focusing on transmission rights so far.

### **Reviewing pricing zones and congestion management**

→ *Articles 13, 14, 15 of the electricity market regulation*

An optimized use of the bidding zones is a must. It shall help decrease the level of congestions and contribute to security of supply. In this regard, it is positive that the electricity market regulation brings a number of changes as well as a proposal to review the current EU bidding zones configuration. Enhanced congestion management is crucial for a smooth network operation. BusinessEurope supports the need to set up zones on the basis of long-term, structural congestions in the transmission network. Yet, due to many ramifications, an involvement of all relevant stakeholders in the decision-making process needs to be secured. Bidding zones configuration and its impact on market efficiency and liquidity as well as on the long-term value of existing assets should be considered with due care. The impact on industrial consumers and prices in the current zones should also be carefully assessed.

In general, the use of the flow-based method and management of the interconnection capacity should have positive effect on the operation among different areas. It is also positive that derogations are possible only on the basis of the consultation among the member states' regulatory authorities. It is furthermore important that the future legislation remains coherent with corresponding network codes and System Operation Guidelines. Therefore, increased powers of the Agency for the Cooperation of Energy Regulators (ACER) in this sphere of activity should be accompanied by clearly defined and transparent procedural rules, allowing for involvement of the relevant market entities as well as consumers.

## **2) Enabling framework for renewable energy**

The deployment of renewable energy and other low carbon sources or technologies is one of the key instruments to tackle climate change and meet EU energy needs. Renewable energy is also a driver of economic growth, jobs creation and human welfare. In view of the EU target of 27% renewables in the final energy consumption,



BusinessEurope commits to the further roll-out of renewable energy in a cost-effective manner, with competition of low-carbon technologies and equal importance of the sectors of electricity, buildings, heating and cooling and transport. At the same time, the remuneration for mature renewable energy technologies has to come from the market, as for any other energy source. In order to do so, the right framework conditions must be put in place. It is important to develop a strategy to avoid excess capacities and to integrate renewable capacity in a competitive market with conditions so that they can grow free of support schemes and be exposed to market rules. Many of the proposals are assessed positively.

### **Scaling-up renewable energy in a more cost-effective way**

→ *Articles 4, 5, 6 and 16 of the renewable energy directive*

→ *Article 27, par. 4 of the governance regulation*

Scaling-up renewable energy requires collective effort and more investments in the EU. While the EU member states are likely on track to reach their 2020 renewable energy targets, they nevertheless face an investment shortfall. EU investments in renewable energy have declined substantially between 2011 and 2015 despite significant decline of technology costs<sup>1</sup>. At the same time, global renewable energy is growing rapidly and became the second-highest sector for investment by public investors, outpacing industries such as transport, utilities, waste management and telecoms. This gap must be addressed in an economically reasonable way.

It is important that the future scale-up of renewable energy is organic and sustainable, which implies for example that renewable electricity capacity extension happens at optimal locations and is synchronised with the development of the grid. Support mechanisms must be seen as a transitional policy tool – limited in time – to boost innovation in new technologies and incentivise immature ones to become cost competitive. In order to trigger investments, it is necessary that support already granted to existing installations stays in place. BusinessEurope thus agrees that the proposal in the renewable energy directive should avoid any retroactive changes in the EU regulatory framework. Given costs of some technologies, there should already be an investment case for renewable energy even without subsidies. The updated rules must reflect that mature technologies will progressively rule out financial support beyond 2020. As long as they are considered, the impact on the competitiveness of industries exposed to international competition shall be taken into account in the relevant state aid rules.

Where considered necessary by member states, notably for immature technologies, support mechanisms must be cost-effective and market-based, ensuring least cost for consumers as possible. Competitive tendering procedures allow the selection of most efficient projects. In fact, the necessary further evolution of support schemes towards a more market based and non-distorting model will mostly be driven by current and future state aid guidelines rather than by the post-2020 renewable energy directive. The directive only provides the general permission to introduce support schemes. Therefore, upcoming revision of state aid guidelines for period after 2020 shall ensure legal certainty

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<sup>1</sup> Frankfurt School & FS-UNEP Collaborating Centre: Global Trends in renewable energy investment, 2017



and predictability in a coherent way and should be conducted as early as possible. More focus should also be given to supporting innovation.

The proposed obligation to partially open support schemes to cross-border participation can reduce costs, lead to investments at most suitable locations, strengthen regional cooperation and the internal energy market. However, it is important to have better clarity on its practical feasibility and the benefits for consumers. Also, the proposal should ensure that whenever renewable electricity is granted foreign subsidies, physical grid interconnections and impact on costs are properly assessed and taken into consideration in the competitive process.

The Commission rightly gives attention to the problem of long and complicated permit granting process in member states. The administrative simplification of all energy projects, especially for renewable energy, as part of this process is positive since it allows to further decrease the cost of energy, particularly when repowering existing plants.

The governance regulation proposes a financial platform (a fund), to which member states may contribute in the absence of sufficient ambition in the area of renewable energy. While seeing benefits in financing large-scale renewable energy projects that bring a clear European added value, there are many uncertainties around such a fund that still need to be clarified e.g. level of contributions from member states, redistribution mechanism or granting process.

### **Bringing more responsibilities for renewable electricity together with better market conditions**

→ *Articles 4, 5, 6, 7 of the electricity market regulation*

Renewable energy is forecasted to account for about 50% of total EU electricity generation by 2030. This positive development fundamentally changes the functioning of the power market and the grid system. It is therefore necessary that all energy sources, including renewables, stand on equal footing in the market, ensuring a level-playing field. This can be enhanced by strengthening the balancing responsibility of all generation and demand sources. In this respect, the Article 4 of the electricity regulation envisaging general balancing responsibility for all market participants is a positive contribution. At the same time BusinessEurope warns against exempting of small-scale installations in the future, which may contradict the objective of establishing a level playing field.

BusinessEurope supports that the proposal does not make any retroactive changes in this regard to existing installations. In terms of derogation for installations benefitting from financial support, it is unclear how this proposal would be compatible with existing state aid rules. These rules already put balancing responsibilities on renewable electricity generators that are subject to financial support unless no liquid intra-day markets exist.

Strengthened liquid short-term and balancing markets enable renewable energy producers to better participate in the market and secure their revenues. Shorter gate closure times will help renewable energy producers to more actively participate, providing efficiency benefits to the whole value chain. On the contrary, fragmentation and different market designs would lead to inefficiencies and less security of supply.



More integration and market coupling as proposed by the Commission, taking into account implementation costs, is thus positive.

### **Removing distortions on access to the grid**

→ *Articles 11 and 12 of the electricity market regulation*

The removal of priority dispatch for new installations is strengthening the market and is therefore welcomed. However, exemptions may contradict the envisaged level playing field – as it is the case with exemptions for balancing responsibilities – and should hence be carefully examined. Exemptions should only be limited to emerging and immature technologies, and not be based on the installed capacity.

Rules on curtailment and redispatching of generation sources also raise concerns. While market-based curtailment and redispatching shall be used to the maximum extent, the proposed rules for non-market based system should be revised.

Firstly, security of supply shall be the primary criterion when using non-market based measures, as this is the last possible tool for transmission system operators (TSOs) to restore a balance in the electricity grid. The so-called last-curtailment rule for renewable energy and high-efficient cogeneration should be used in exceptional circumstances only. Secondly, whatever generation source is concerned, full compensation for non-market-based redispatching and curtailment should be ensured. This implies changes of the calculation methodology and the Article 12.

### **Making renewable energy grow in transport, heating and cooling**

→ *Articles 23, 24, 25 and 26, Annex 9 of the renewable energy directive*

Transport as well as heating and cooling also have a role to play in increasing the share of renewable energy in total energy consumption. The uptake of renewable energy in those sectors can still improve. Therefore, smart framework conditions are necessary to incentivise investments without picking winners and losers.

#### Transport

To achieve the aim of greater low-emission mobility in Europe, it is essential to improve the performance of all means of transport across all modes, for instance through the increased efficiency of engines, penetration of alternatively fuelled vehicles and the market-driven deployment of sustainable recharging and refuelling points for alternative fuels, supported by an adequate funding framework that provides innovation incentives to achieve these goals.

Care is needed when tackling the environmental challenges in the transport sector without sacrificing efficiency and compromising mobility. The right conditions should be created for the market to uptake those innovative technologies and fuels which have the potential for economic and environmental sustainability.



BusinessEurope underlines that when choosing the type of initiatives to reduce transport emissions, it is crucial to better take into account that the development of sustainable and affordable transport requires a mix of initiatives to work in combination with each other. These may include a number of means, including further liberalization, better connecting core infrastructure networks, supporting energy-efficient and cleaner transport initiatives, triggering investment, ICT solutions, smart logistics, simplifying administrative procedures, adequate logistics planning and the elimination of administrative and regulatory barriers.

Furthermore, a number of industrial sectors strongly rely on bio-based feedstock. A level-playing field should therefore be maintained between the different users of the same raw materials. Technology neutrality, as a general rule in the market-based economy, should be respected. However, for advanced biofuels being an immature technology, specific temporary incentives may be necessary to make them competitive and economically effective.

### Heating & cooling

The possibility by member states to designate implementing entities to pursue an increase of the share of renewable energy supplied for heating and cooling by at least 1% per year provides rather flexible framework conditions. However, deeper consideration should be given to the following issues:

- The level and availability of renewables in this sector varies considerably among member states. Hence, the national specificities and starting level should be acknowledged.
- The opt-in for member states to designate implementing entities may lead to fragmentation across the EU where a fuel or energy supplier in one country is obliged to increase renewable energy and a supplier in another country is not.

Increasing the uptake of renewable energy in heating and cooling should take into account sector coupling initiatives to create synergies. This refers to the integration of different sectors such as power, mobility and building and the linkage of respective grids – for instance in gas and electricity through power-to-gas technologies. This way, excess renewable electricity can be better used for heating and cooling requirements as well as for other purposes, such as in transport.

The disconnection possibility for customers of district heating and cooling systems and non-discriminatory access rules is welcomed in order to stimulate competition and resource efficiency.

### Sustainability criteria

Lastly, the proposal to set uniform sustainability criteria for biomass in all member states is necessary to ensure overall competitiveness of bioenergy and therefore goes in the right direction. Different levels of criteria would hinder competition, trade and result in higher prices. Verification and administration burdens need to be limited in order to create a level playing field between different energy sources.



### 3) Empowered consumers

#### **Introducing more flexibility and demand side response**

- *Chapter II of the electricity market regulation*
- *Chapter III of the electricity market directive*
- *Articles 21-24 of the renewables directive*

The proposals rightly bring a number of principles and concrete provisions strengthening the consumer-centred market approach. It includes obligations to ensure that national legislation does not hamper cross-border flows of electricity and consumer participation, including demand side response, storage or electro-mobility.

BusinessEurope supports the removal of constraints and discriminatory provisions to promote self-generation and 'prosumers'. Member states shall ensure that active customers are not subject to disproportionately burdensome procedures and charges. Instead, they shall have the opportunity to generate, store and consume electricity in all organized markets. When providing electricity surplus into the grid, they also have to respect common rules applicable to all market participants. The level-playing field should thus be ensured for all resources, while customers should have equal rights to efficiently use the grid.

BusinessEurope endorses a number of new elements that benefit end-users. All customers shall be free to purchase electricity from the supplier and contract of their choice. In order to benefit from dynamic pricing, the respective contract should reflect prices at the spot or day-ahead market and value flexibility. To enhance the consumer empowerment, the use of smart meters should be promoted.

Also, BusinessEurope supports the obligation for member states to ensure that final customers offering their flexibility should be encouraged to participate alongside generators in a non-discriminatory manner. This implies the integration of necessary technological means, such as smart meters. Industry welcomes that these instruments enable voluntary participation of demand response, including through independent aggregators. To foster competition, these should be treated equally in the retail market, through different means such as a market entry, transparent rules, responsibilities and data exchange rules.

While it is to be seen how customers benefit from the aggregating services, most of the proposals to have more consumer engagement as well as fewer constraints for demand side response and the role of aggregators go in the right direction. Furthermore, demand side resources should be granted access to all markets. In order to maintain a level-playing field, the same rules should apply to all market players including aggregators and energy communities. As an example, aggregators should have the same balancing responsibilities and obligations as suppliers, including compensation payments between aggregators and balancing responsible parties.

Regarding the deployment of storage systems, it should be underlined that investments must be market-based. Storage services can for instance help to provide balancing responsibilities and a more balanced dispatch for renewable energy producers.



### **Promoting new entities and level-playing field**

→ *Articles 3, 6, 7, 11 and 12 of the electricity market regulation*

With deep transformation of the energy sector and new, emerging business models, there is a vast array of entities operating in the market. The Commission rightly intends to facilitate the entry of new players to increase competition. In this sense, BusinessEurope supports the proposal to have all sources on an equal footing in the market. Market undertakings should be able to enter or exit the electricity generation and electricity supply based on the assessment of their economic and financial viability. The general rules for the electricity market and the explicit principle that all generation, storage and demand resources shall have the same rights and obligations in the market are positive.

However, in other provisions, some of the Commission's attempts may weaken this level-playing field. As an example, priority dispatch rules for some generation capacities should not undermine the objective of gradually removing all restrictions and discriminatory rules. With a growing share of distributed generation and smaller capacities, rules for participation applicable to all-sized sources should be maintained.

### **Addressing energy poverty in a less distortive way**

→ *Articles 5, 28 and 29 of the electricity market directive*

→ *Articles 7a and 7b of the energy efficiency directive*

Without ignoring that energy poverty may be an important social challenge in some member states, BusinessEurope is not convinced with the approach taken by the Commission. Main reasons are:

- In the absence of proper definitions of energy poverty at national level, there is a risk of continuing unnecessary price regulation that the Commission itself wants to minimise.
- It is highly questionable whether the electricity market directive or energy efficiency directive are the right places to address the challenge of energy poverty.
- The cost implications for the overall energy system and in particular consumers have not been properly documented so far.

A more rigorous cost-effectiveness analysis of possible measures seems advisable. For instance, addressing the issue of the upward pressure on prices, by preventing variety of policy costs driving energy bills further up, is a better approach to tackle energy poverty in the first place.



### 4) Competitive electricity prices

#### **Enhancing price formation and removing restrictions**

→ *Articles 3, 9 and 10 of the electricity market regulation*

On many occasions, the Commission rightly stated that a well-functioning electricity market is the best tool to guarantee affordable electricity. It also acknowledges that affordable electricity prices are key as they have direct impact on consumers and industry's competitiveness. Hence, electricity prices have a pivotal role in the proposed policies and are mainstreamed throughout the entire structure of the Clean energy package. Yet, a thorough analysis of some proposals is still missing, in particular the impact of capacity mechanisms and the dynamic pricing model on specific consumer groups.

The proposals rightly strengthen market-based price formation. The price should be based on supply and demand, protected against interventions, reflecting market fundamentals, but also national specificities. The proposal thus reflects the previous calls to phase out price regulation. With regard to wholesale prices, it is positive that the Commission wants to enable real scarcity pricing in intraday and balancing power markets, but it remains to be seen how this contributes to investments signals.

#### **Addressing subsidies, taxes and levies**

→ *'Energy prices and costs in Europe' study*

BusinessEurope welcomes the effort to bring more light into energy prices and costs. It is positive that the Commission carried out a second report on this issue, but the lack of transparency in the way electricity statistics are collected, validated and disseminated, remains a systemic issue. As repeatedly said, the diagnosis seems to be correct, but the therapy and solutions are still missing.

The second report again shows that increase in electricity prices are largely a result of government adds-on falling within the taxes and levies component. Between 2008 and 2014, households had to bear additional tax and levy costs of around 46%, whereas the supply costs even decreased around 7% (see graph above). Looking at industrial consumers in the same period, taxes and levy costs more than tripled (+213%), while energy and supply costs decreased by 3,5%.

There is an urgent need for a structured dialogue with the Commission, member states and stakeholders to find solutions and restore a level playing field between Europe and main competitors. Member states should phase out the variety of policy levies, as well as address diverging national tax levels. Identifying costs not related to energy supply and eliminating them from final electricity bills of each country will be key to reduce the cumulative costs. The European semester and the proposed governance structure with the new reporting obligations for member states concerning competitiveness aspect might be suitable means to address this issue and trigger the discussion.



## 5) Stronger security of supply through more integration

### **Assessing resource adequacy on EU level**

→ *Articles 18 and 19 of the electricity market regulation*

The Commission introduces an enhanced system of adequacy assessments. It aims at complementing the national assessment with a European assessment of capacity management and planning. Member states would monitor resource adequacy in their territory based on assessments at EU level. At the same time, they would have an obligation to cope with distortions that could lead to impact resource adequacy concerns.

BusinessEurope supports adequacy assessments at regional or EU level in addition to assessments at national level. The ultimate goal of an EU-wide solution has the potential to contribute to an efficient use of resources and capacities. This implies a common methodology and closer cooperation among involved transmission system operators (TSOs) and national regulatory authorities (NRAs). As interconnection capacities across Europe are finite, the location of “firm capacity” in all timeframes is just as relevant as the total amount. Combined use of adequacy assessments on different levels shall contribute to informed decisions at EU and national level on market design. Furthermore, the optimal use of resources throughout the EU and the prevention of protectionist measures by member states must be addressed.

BusinessEurope also supports an active role of national TSOs together with European Network for Transmission System Operators for Electricity (ENTSO-E) to create a methodology and prepare long-term adequacy assessments on an annual basis. TSOs shall develop thorough national adequacy analysis for the sake of regional and EU coordination.

### **Making capacity mechanisms a last resort**

→ *Articles 20-24 of the electricity market regulation*

BusinessEurope welcomes the Commission’s views on the role of capacity mechanisms in Europe. The approach involves several dimensions, from the requirement of full implementation of the acquis to the removal of all regulatory distortions. The proposal rightly stresses that member states and the European Commission work together to ensure other options are exhausted before capacity mechanisms are pursued, while making sure these do not distort the power market. Like any regulatory intervention, capacity mechanisms have risks associated, and these need to be reduced. They should also be limited in time and fully comply with the state aid guidelines.

As mentioned above, BusinessEurope supports the prerequisite of the use of adequacy assessments beyond national borders, based on a common EU methodology. Taking into account solely national context or targets in place could stifle further integration and regional cooperation aiming at improving coherency. When a regional assessment identifies an adequacy concern, member states may explore possibilities to address it, including capacity mechanisms, while testing different options.



However, capacity mechanisms now exist in a number of member states and more could be introduced before the legislation is enacted. The European Commission and member states should ensure that capacity mechanisms comply with the internal energy market, have least distortive effects and would not disincentivise interconnections. This includes obligations for all capacity mechanisms to be open to cross border participation and demand-side response, to be technology neutral and to be derived based on shared reliability standards. It is also important that the impact on competitiveness of energy-intensive industries exposed to international competition is duly assessed and, where appropriate, that those sectors are shielded from costs of these mechanisms.

### **Favouring a market-based approach for low-carbon emissions**

→ *Article 23 of the electricity market regulation*

While the proposed Emissions Performance Standards (EPS) of 550 grams of CO<sub>2</sub> per kWh is limited in its scope (i.e. applying in the framework of capacity mechanisms), it brings several questions of principle. The first one being whether the EU should move away from a market-based strategy to decarbonise industrial emissions. BusinessEurope has repeatedly expressed its strong preference for pursuing a market-based approach. BusinessEurope supports the on-going reform of the EU Emissions Trading System (EU ETS) to bring a meaningful carbon price while simultaneously protecting global competitiveness of European industry. EPS brings a command-and-control approach, removing flexibility that ensures emissions are cut where it costs least to do so. Another question of principle is whether the EU should further accumulate overlapping policy instruments that undermine each other, notably in the case of the EU ETS. On top of those questions of principle, a thorough impact assessment on the proposed measure is urgently needed

Nevertheless, these concerns over EPS in EU policies should not elude the necessary transition from coal-fired to gas-fired power stations. Among other technologies, gas-fired power plants can provide for Europe's security of supply and bring stronger benefits on flexibility – as compared to coal-fired generation – to the EU energy landscape, in particular with a growing share of intermittent renewable energy sources. The EU ETS should be the main policy tool to incentivise the transition. If complementary national policies to phase-out coal are necessary, these should be as closely as possible coordinated at EU level in order to minimise the impact on the EU ETS.

### **Enhancing regional cooperation**

→ *Articles 31-44 of the electricity market regulation*

BusinessEurope has previously called for more integration of power system operation (instead of mere coordination of system operation) over borders. A more integrated approach to transmission system operation is necessary given the expected medium- to long-term transformation of the European electricity system, as well as the obligations stemming from the EU network codes.

Therefore, BusinessEurope supports the Commission's approach to set-up a future-oriented framework for regional cooperation among Transmission System Operators



(TSOs). Building upon the tasks performed by existing TSO coordination initiatives (Regional Security Coordination Initiatives), and based on a cost-benefit analysis, a gradual increase of competences at regional level will be an important task.

However, the proposal put forward by the European Commission requires a number of clarifications and improvements. In particular, the governance of regional centers must fully acknowledge that national TSOs remain ultimately responsible and liable for the operation safety of the system. With regard to the proposed functions and geographical scope of the regional centers, their implementation requires a deeper assessment to ensure that there will be no negative impact on the overall effectiveness of the system management.



### MAKING EUROPE MORE ENERGY EFFICIENT

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BusinessEurope agrees that energy efficiency should be a guiding principle for all activities in the society. As such, it will contribute to security of supply and the EU's objective to tackle energy and climate challenges. European industry has proven to lead these efforts and that efficiency is in its DNA.

Being strongly committed to this principle of energy efficiency, European entrepreneurs have made a great contribution to make the continent one of the most energy efficient regions in the world. Industry has improved its energy intensity by almost 18 % in 2000-2014<sup>2</sup>, which is more than any other part of the European society. In comparison, the efficiency has increased twice as much as in the United States. In some sectors, this can further be strengthened through the wider deployment of already available technologies and behavioural changes.

Though the energy-not-used is the cleanest and most secure one, the EU should not compromise on societal needs and efforts to develop the economy and create growth. The efficiency model is a preferred one to savings, avoiding limits to energy consumption. It is important to look into ways to use the energy more economically and effectively, respecting the physical limits of materials and processes.

Also, it is necessary to look at the society in its complexity. Despite energy efficiency of many processes, especially in companies, may be reaching its technological and economic limit, there is still a large untapped potential in Europe. This is why new energy efficiency measures should focus on non-economic activities that have the biggest potential. For instance, in the renovation of the existing buildings stock where the EU needs to scale up the financing of cost-effective energy efficiency measures. In this context, the energy efficiency directive (EED), as well as the energy performance of buildings directive (EPBD), should create a framework to trigger investments.

The European business community is committed to continue its efforts. While policies at EU level should establish the enabling framework, specific measures need to be decided at national level to enable a cost-effective implementation of the policies in all member states. EU approach should be based on cost efficiency and technology neutrality.

#### **Making the energy efficiency target fit for purpose**

→ *Article 1 of the energy efficiency directive*

The enabling framework for energy efficiency is set in a wider context of the energy and climate policies. All the instruments, including energy efficiency, shall contribute to abatement of emissions and climate change mitigation. BusinessEurope calls for maintaining the agreed post-2020 ambition and architecture agreed in 2014 to minimise competition and overlaps of policies.

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<sup>2</sup> European Commission (2016): JRC Science for Policy Report. Energy Consumption and Energy Efficiency Trends in the EU-28 2000-2014, P.184.



The impact of increasing the efficiency target to 30% is poorly substantiated and may negatively affect the ongoing EU ETS reform. While the increased efficiency shall contribute to climate objectives, the leading role of the EU ETS should not be undermined. Also, the indicative nature of the efficiency target should be maintained. A stable framework respecting legal certainty and predictability is a prerequisite for future investments.

While moving to 30% might trigger more investments in energy efficient projects, it could also have an adverse impact on cost-competitiveness of a number of sectors. This would be due to current financial constraints and longer return on investments. Also, comparing investments in energy efficiency up to now with what is forecasted by the Commission to move beyond 27%<sup>3</sup> reveals a major gap. It is therefore questionable whether such a move would be realistic and proportionate. While European industry supports more investments in energy efficiency, an increase of the target is set to represent a likely non-proportionate burden on most categories of consumers.

### **Moving away from capping industrial energy consumption**

→ *Article 3 of the energy efficiency directive*

Energy efficiency means the intelligent use of energy in a cost-efficient way. This is especially valid for European industry. The joint expression of an absolute primary and final energy consumption does not represent an ideal means to measure and contribute to energy efficiency in the manufacturing sectors. The optimal solution would be to maintain flexibility of member states to decide on the most suitable expression respecting economic growth.

Concretely in terms of the target definition, the proposal wrongly puts a cap on energy consumption; and targets are expressed as savings rather than energy efficiency. Such approach would provide a wrong incentive to “produce less” and risk of capping future growth prospects instead of “being more efficient”. Studies show<sup>4</sup> that due to economic growth the aggregate energy consumption of industry will increase towards 2050, despite efficiency gains. The target should be defined to underpin growth and give signals to investments in efficiency and industry in general.

### **Promoting efficiency gains in the building sector**

→ *Directive on the energy performance of buildings*

→ *Article 7 of the energy efficiency directive*

The building sector has a prominent role to play, offering high potential for energy savings and energy system management, especially through the existing building stock. BusinessEurope welcomes the effort of the European Commission to address the existing financial barriers (including high upfront costs, limited access to financing or competing priorities) but calls for stronger signals. Existing technologies, such as energy

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<sup>3</sup> European Commission, Impact Assessment SWD (2016) 405, table 22

<sup>4</sup> ICF study on energy efficiency and energy saving potential in industry and possible policy mechanisms, 2015



efficient appliances and technical buildings systems could also be more widely deployed, contributing to their energy performance and overall system management.

In order to maximize the uptake of building renovation measures, and to secure the contribution of the energy efficiency in buildings, long-term national renovation strategies need to be strengthened and better implemented. A clear long-term ambition for improving energy performance of buildings is a necessity to create stable and predictable investment signals for building renovation. Measures generated under Article 7 of the energy efficiency directive could contribute to a greater extent to the implementation of long-term building renovation strategies, in a coherent and reinforcing framework.

In the assessment of the energy performance of buildings, it is necessary to adopt a holistic approach to achieve the most cost-effective solutions on case-by-case basis. Burdensome solutions include the provisions imposing requirements on the performance of single building components, while existing international and European standards from ISO and CEN would be more suitable. In terms of the methodology, primary energy consumption is a useful indicator in assessing building performance, but may be complemented with a final energy consumption assessment.

### **Providing flexibility to reach the target**

→ *Article 7 of the energy efficiency directive*

Member states should continue after 2020 to set their indicative national energy efficiency targets, based on bottom-up potential, and then have flexibility to achieve these in most effective way, avoiding policy overlaps. This is mirrored in the Article 1 and 3, and could for instance be achieved using tax reductions, obligations schemes or voluntary long-term agreements.

BusinessEurope therefore asks that:

- (1) The energy efficiency directive provides more flexibility for member states. For example, it should be possible for industries, which fall in the scope of the EU ETS, to be excluded from the Article 7 target calculation, in the same way as transport.
- (2) It should take into account already accomplished efforts (incl. cases where targets were exceeded prior to 2021) and more importantly the techno-economical potential in the future.
- (3) All measures resulting in an increase in energy efficiency during 2021-2030 should be accountable, including those implemented before 2021. Renewable energy in buildings for own consumption should not be excluded from the calculations, but should be accountable as a measure.
- (4) Participation of industry in specific projects remains on voluntary basis. Instead the directive should provide for incentives and simplify access to finance to trigger investments, which is especially relevant for small-scale projects.



### **Putting obligation schemes and alternative measures on equal footing**

→ *Articles 7 and 7a of the energy efficiency directive*

Different member states have varying starting points and levels of potential for improving energy efficiency. Such differences exist also from sector to sector. The annual target of 1.5% energy savings from final energy sales ignores these differences and/or the domestic contexts.

Despite the addition of a new article on alternative measures, there seems to be more focus on the obligation schemes as the primary instrument. While obligation schemes can have advantages in specific cases, these also run the risk of impeding the development of competitive markets in energy efficiency services. For BusinessEurope a one-size-fits-all is not a preferred option and more flexibility at a national level is needed. Therefore, removing any restrictions and promoting the use of alternative measures should be considered. Policy-makers should ensure that administration and reporting obligations for either option are not burdensome.

Lastly, the calculation and verification of the savings should be as simple as possible to avoid additional burden for both companies and public administration.

### **Ensuring better guidance for energy audits**

→ *Article 8 of the energy efficiency directive*

Despite the fact that industry acknowledges the positive role of energy audits, it must be noted that companies with large share of energy cost in the production are in most cases already performing advanced audits. Therefore, obligatory audits may have none or very limited added value in such cases. BusinessEurope therefore recommends adjusting the requirements so that member states rather promote energy audits in small, medium-sized and large enterprises and give incentives to implement them in cost-effective way.

In addition, the implementation of this obligation has brought inflexibilities to some well-functioning auditing schemes. These arose from the limited timeframe for audits, as well as from the lack of EU-wide definition of a 'large company', to name few. The latter led to high number of interpretations by different member states, and made the compliance difficult for companies operating in several member states. Moreover, it distorted competition across the EU for both companies and energy auditors.

Based on first experiences from the implementation phase, BusinessEurope proposes the EU institutions consider reviewing Article 8, in order to i) reduce the administrative burden on companies and prefer incentives for energy audits and implementation of the cost-effective energy efficiency measures, ii) clarify the definitions and iii) avoid market disturbances on the auditing service market. A clear and more detailed guidance on the proper and coherent implementation would also be welcomed.

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