



Council of the  
European Union

Brussels, 2 December 2016  
(OR. en)

---

**Interinstitutional File:**  
**2016/0379 (COD)**

---

15135/16  
ADD 8

ENER 418  
ENV 758  
CLIMA 169  
COMPET 637  
CONSOM 301  
FISC 221  
IA 131  
CODEC 1809

#### COVER NOTE

---

From: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 1 December 2016

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

---

No. Cion doc.: SWD(2016) 411 final

---

Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY  
OF THE IMPACT ASSESSMENT Accompanying the document Proposal  
for a Directive of the European Parliament and of the Council on common  
rules for the internal market in electricity (recast) Proposal for a Regulation  
of the European Parliament and of the Council on the electricity market  
(recast) Proposal for a Regulation of the European Parliament and of the  
Council establishing a European Union Agency for the Cooperation of  
Energy Regulators (recast) Proposal for a Regulation of the European  
Parliament and of the Council on risk preparedness in the electricity sector

---

Delegations will find attached document SWD(2016) 411 final.

---

Encl.: SWD(2016) 411 final

Brussels, 30.11.2016  
SWD(2016) 411 final

**COMMISSION STAFF WORKING DOCUMENT**  
**EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT**

*Accompanying the document*

**Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast)**

**Proposal for a Regulation of the European Parliament and of the Council on the electricity market (recast)**

**Proposal for a Regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast)**

**Proposal for a Regulation of the European Parliament and of the Council on risk preparedness in the electricity sector**

{ COM(2016) 861 final }

{ SWD(2016) 410 final }

{ SWD(2016) 412 final }

{ SWD(2016) 413 final }

## Executive Summary Sheet

Impact assessment on:

- Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast)
- Proposal for a Regulation of the European Parliament and of the Council on the electricity market (recast)
- Proposal for a Regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast)
- Proposal for a Regulation of the European Parliament and of the Council on risk preparedness in the electricity sector

### A. Need for action

**Why? What is the problem being addressed?** Maximum 11 lines

Well-functioning energy markets that ensure secure energy supplies at competitive prices are essential for achieving growth and consumer welfare. They are hence at the heart of EU energy policy. They are also a key objective of the EU energy union, which announced its intention to prepare legislative proposals on security of electricity of supply and to redesign the electricity market, linking wholesale and retail. This impact assessment shows that the low-carbon transition will have profound implications for the organisation of the EU electricity sector and the roles of market actors and consumers. It identifies the need for potential improvements in four interrelated areas: (i) the current market design is not fit for taking up large amounts of variable, often decentralised electricity generation and allowing for new technological developments; (ii) there is uncertainty over whether future investment in generation capacity will be sufficient and over uncoordinated capacity markets; (iii) when preparing or managing crisis situations, Member States follow uncoordinated national approaches and tend to disregard the situation across their borders; and (iv) in retail electricity markets there is a slow deployment of new services, low levels of service and questionable market performance.

**What is this initiative expected to achieve?** Maximum 8 lines

The general policy objective is to make electricity markets more secure, efficient and competitive, whilst ensuring that electricity is generated in a sustainable way and remains affordable to all. This requires the full benefits of competition in terms of prices, as well as the range and level of services, to be passed through to every consumer. There are four specific objectives: (i) adapting the market design so that variable and often decentralised generation is cost-effective, taking into account technological developments; (ii) facilitating investment in the right amount and type of resources to ensure security of supply, whilst limiting the distortive effects of uncoordinated capacity mechanisms; (iii) improving Member States' reliance on each other in times of system stress and strengthening their coordination and cooperation in crises; and (iv) addressing the causes and symptoms of weak competition on energy retail markets.

**What is the value added of action at the EU level?** Maximum 7 lines

Electricity markets have become more integrated thanks to increasing cross-border electricity trading and more physical interconnections in the European electricity grid. These factors, plus progressively higher shares of renewable energy sources, have made the national electricity systems much more interdependent than in the past. This initiative aims at amending existing EU legislation and at creating new frameworks for cross-border cooperation. These can legally and practically only be achieved at the European level. The challenges cannot be addressed as effectively by individual Member States. Fostering a more efficient and integrated EU electricity market, and ensuring a more coordinated policy response to security of supply, requires harmonised and coordinated approaches by all Member States. These can most effectively be achieved through EU action.

### B. Solutions

**What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why?** Maximum 14 lines

The impact assessment presents a range of legislative and non-legislative policy options for each of the four problem areas identified.

For **adapting the market design**: (0) no EU action; (0+) a non-regulatory option; (1) upgrade the flexibility of the market by introducing a legally binding framework, leaving scope for national implementation. This option sets out varying degrees of ambition for integrating markets, from least ambitious (a) to most ambitious (c); (2) full integration of the EU market. The preferred option is 1(c).

For **facilitating investments in generation capacity**: (0) no EU action; (0+) a non-regulatory option; (1) pursue an improved energy market, without capacity mechanisms; (2) base capacity mechanisms on an EU-wide adequacy assessment; (3) base capacity mechanisms with an EU framework for cross-border participation; (4) set out EU/regional capacity mechanisms. The preferred option is 3 (which comprises also Options 1 and 2).

For **improving Member States' reliance and cooperation in times of crisis**: (0) no EU action; (0+) enforcement non-regulatory option; (1) common minimum rules to be respected by Member States; (2) common minimum rules plus obligations to cooperate effectively in a regional and EU context; (3) full harmonisation and decision-making at regional level. The preferred option is 2.

For **addressing weak competition in retail markets**: (0) no EU action; (0+) a non-regulatory option to improve competition and consumer engagement; (1) introduce a legally binding framework leaving scope for national implementation; (2) full harmonisation and extensive safeguards for consumers. The preferred option is 1.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The preferred options are the most effective, the most economically efficient and the most consistent with other policy areas.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Who supports which option?</b> <u>Maximum 7 lines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| The various options and ideas are based on a weighing of the options and arguments put forward by all relevant stakeholders, in particular during the public consultations. We believe the initiatives proposed are fair and proportionate compromises. We believe they will result in markets that in the short and medium term are more secure, efficient and competitive, whilst ensuring that electricity is generated in a sustainable way and remains affordable. The proposed initiatives ensure that no harm is done to the internal electricity market.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>C. Impacts of the preferred option</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>What are the benefits of the preferred option (if any, otherwise main ones)?</b> <u>Maximum 12 lines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| Below we provide a holistic overview of the benefits of the preferred options: <ul style="list-style-type: none"> <li>- A contribution to the <b>internal electricity market</b> by establishing a level playing field among different resources on the supply/demand side. This increases competitive pressures and could therefore put downward pressure on electricity bills, ultimately benefitting consumers and the economy with no impact on the environment. Moreover, a well-functioning electricity market will have indirect environmental benefits as it would create incentives to increase low-carbon generation.</li> <li>- More <b>reliable electricity systems</b> in Europe at lower cost. These benefit the economy and provide direct benefits to businesses and consumers. They would help prevent electricity crises and, should they nevertheless occur, would optimise scarce resources and ensure that markets continue functioning as long as possible.</li> <li>- More <b>efficient operation</b> of European transmission and distribution systems. This leads to cost savings that can ultimately be passed through to consumers, including the energy poor and businesses. This is again a benefit to the economy and citizens. It also has indirect environmental benefits since a more efficient system is better able to accommodate high shares of renewable power generation.</li> <li>- The measures proposed on energy poverty will have <b>positive effects on the health and well-being of EU households</b>, as well as indirectly providing economy-wide productivity gains.</li> </ul> |
| <b>What are the costs of the preferred option (if any, otherwise main ones)?</b> <u>Maximum 12 lines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| There may be administrative costs for stakeholders deriving from the need to review and adapt their business practices to facilitate the changes in the functioning of the electricity markets proposed in the initiative. However, there will also be cost savings as the electricity markets will become more integrated. No significant direct negative social or environmental impacts are expected.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>What are the impacts on SMEs and competitiveness?</b> <u>Maximum 8 lines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| The proposed initiatives will reduce market barriers for new entrants and provide them with a stable operating framework. This is particularly important for start-ups and SMEs who typically offer innovative energy services and products. On the other hand, very small installations may be subject to administrative impacts. These impacts are significantly reduced by the measures facilitating their aggregation, allowing the joint operation and management of a large number of small plants. Certain exemptions are equally foreseen.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Will there be significant impacts on national budgets and administrations?</b> <u>Maximum 4 lines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| The proposed initiatives may impose a one-off cost for Member States, who will be required to amend their national legislation. They may also put an additional burden on competent authorities as they will be required to oversee the implementation of these initiatives and monitor their continuous application. However, the impact will be limited since competent authorities already perform such duties at national level.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Will there be other significant impacts?</b> <u>Max 6 lines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| Closer cooperation with the Energy Community Contracting Parties can be foreseen once these countries implement and apply the proposed initiatives. This holds especially for Member States that share borders with Energy Community countries.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Proportionality?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| The preferred options summarised above have in common that they seek to achieve a balance between four aims: i) improving the overall competitiveness, efficiency and reliability of electricity markets; (ii) enabling the transition towards low-carbon electricity production; (iii) promoting regional cooperation; and (iv) leaving scope for national implementation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>D. Follow up</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>When will the policy be reviewed?</b> <u>Maximum 4 lines</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| The Commission will monitor the transposition of the legislation and compliance with the measures adopted. It will take enforcement measures if and when required. The Agency for the Cooperation of Energy Regulators (ACER) will annually monitor progress towards achieving the objectives of the proposed initiatives. The Commission will evaluate the effectiveness, efficiency, coherence and relevance of the measures finally adopted 5 years (indicative) after the entry into force of the adopted measures.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |