



EUROPEAN COMMISSION

*Brussels, 28.4.2017
C(2017) 2801 final*

Dear President,

The Commission would like to thank the Bundesrat for its Opinion on the proposal for a Directive of the European Parliament and of the Council amending Directive 2012/27/EU on energy efficiency {COM(2016) 761 final} and the proposal for a Directive of the European Parliament and of the Council amending Directive 2010/31/EU on the energy performance of buildings {COM(2016) 765 final}.

These proposals form part of a broader set of ambitious measures – the Clean Energy for All Europeans package – designed to boost the energy transition by modernising the EU economy and to equip European citizens and businesses with an effective and stable regulatory framework, yet one that is flexible enough to adapt to the challenges the Union is facing.

The package addresses key priorities in the Energy Union Framework Strategy: security, solidarity and trust; a fully-integrated internal energy market; energy efficiency; climate action – decarbonising the economy; research, innovation and competitiveness.

As part of this package, the proposal amending the Energy Efficiency Directive puts the "Energy efficiency first" principle into practice, in recognition of energy efficiency as a source of energy in its own right. With an ambitious 30% binding energy efficiency target for 2030 at EU level, the proposal aims to give Member States and investors a long-term perspective to plan their policies and investments and to adapt their strategies towards more energy efficiency. The objective of the proposal is also to trigger end-use energy savings, attract private investment in energy efficiency and support the emergence of new market actors. Consumers should in particular be able to reap significant benefits by being better informed and empowered as key players in the energy market.

*Ms Sonja LEDL-ROSSMANN
President of the Bundesrat
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Focusing on the EU building sector, the proposal amending the Energy Performance of Buildings Directive aims to tap the significant potential of buildings in terms of energy efficiency with a view to achieving the EU's overarching energy efficiency and decarbonisation objectives. To this end, the proposal sets a particular focus on three areas: accelerating the renovation rate of existing buildings, making buildings more active energy players ('prosumer' vision) and leveraging smart technologies for efficient operation.

The Commission would like to highlight that the two proposals are fully complementary. Where the proposal amending the Energy Efficiency Directive sets a global ambition on energy efficiency, the proposal amending the Energy Performance of Buildings Directive introduces specific strategies for the building sector to support this ambition.

The Commission has taken good note of the concerns expressed by the Bundesrat in its Opinion. In response to the specific questions raised in the Opinion, the Commission would like to refer the Bundesrat to the attached annex.

The points made in this reply are based on the initial proposals presented by the Commission, which are currently in the legislative process involving both the European Parliament and the Council.

The Commission hopes that the clarifications provided in this reply address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Miguel Arias Cañete
Member of the Commission*

ANNEX

The Commission has carefully considered each of the issues raised by the Bundesrat in its Opinion and is pleased to offer the following clarifications.

The Commission notes the concerns expressed by the Bundesrat in relation to Article 7 of the proposal amending the Energy Efficiency Directive, which provides that policy measures will only count toward the achievement of these targets if they are initiated after 31 December 2020. In that regard, the Commission would like to stress that for the next obligation period (2021-2030), Member States may count energy savings triggered by new policy measures introduced post-2020 and also policy measures introduced during the existing period 2014-2020 if they result in individual actions which produce energy savings and which take place after January 2021. The purpose of that provision is to generate new savings thanks to new actions undertaken during the obligation period in question even though the policy measure which gives rise to the (new) individual action is adopted or introduced before the existing or new obligation period. In essence, it follows the same principle as in the framework of Article 7 of the current Directive, which is explained in more detail in section D3 of the Guidance note on the Energy Efficiency Directive¹.

As regards the Bundesrat's concerns that the costs of installing smart meters for the measurement of heating are disproportionate and are not necessarily outweighed by the benefits of smart metering systems, the Commission would like to underline that the proposed new provisions on remote reading have been designed on the basis of cost-effectiveness considerations. The Commission estimates that, in the vast majority of cases, any extra costs would be outweighed by the additional energy savings and the other benefits they generate. In any event, except in the case of major renovations, the installation of individual meters or heat cost allocators in existing buildings would still be subject to technical feasibility and cost-effectiveness criteria as it is today under Article 9(3) of the current Energy Efficiency Directive. In addition, the Commission would like to emphasize that the proposal implies that the Energy Efficiency Directive would no longer regulate smart electricity metering. For gas, smart metering provisions would remain unchanged. With respect to the Bundesrat's observation on data protection issues, the Commission would like to emphasize that generally applicable legislation on data protection continues to apply and must of course be respected.

The Bundesrat's Opinion also draws the Commission's attention to the fact that "retrofitting obligations as well as the need for new installations and other technical measures are issues that deserve special attention". The Commission fully supports this statement and would like to highlight that the main objective of the proposal amending the Energy Performance of Buildings Directive is to accelerate the cost-effective renovation of existing buildings in the European Union. Conversely, the Commission does not fully agree that, in this respect, "the obligation to present an energy performance certificate as a prerequisite for the construction, sale or renting out of dwellings (...) should be sufficient". While it is true that Energy Performance Certificates have proven to be effective in raising awareness about the energy efficiency of buildings, the Commission considers that additional measures are required to accelerate renovation. This is the reason why the proposal introduces in Article 2a a vision

¹ SWD(2013) 451 final.

for the decarbonisation of buildings by 2050 underpinned by national long-term renovation strategies and specific provisions to support smart financing for building renovation. The Commission would like to underline that the approach followed has the advantage of ensuring consistency, convergence and impact at EU level while leaving it to Member States to define the strategies that fit best their national contexts.

The Bundesrat finally expresses concerns that the introduction of a smartness indicator for buildings (Article 8 of the proposal amending the Energy Performance of Buildings Directive) would impose an additional burden on sellers and lessors as well as on buyers and tenants. On that specific point, the Commission would like to stress that the proposal does not introduce any measures that would result in significant costs for building owners or tenants. The only cost mandated is the cost of providing the indicator for a given building, which is negligible (around EUR 20 per building). The smartness indicator would ensure that owners, tenants and consumers are aware of the added value of smart technologies and would encourage investments in building smartness where it is cost-effective. Given the impact of smart technologies on building energy efficiency, it is estimated that this measure would result – at EU level – in additional final energy savings of 8 to 10 million of tonnes of oil equivalent in 2030, corresponding to a decrease of annual energy expenditures of EUR 8 to 10 billion.