



EUROPEAN COMMISSION
Impact Assessment Board

Brussels,
D(2012)

Opinion

Title

DG ENER - Impact Assessment for Commission proposal to enhance the transparency of wholesale electricity markets

(draft version of 23 March 2012)

(A) Context

EU level fundamental electricity data transparency rules set out requirements for transmission system operators (TSOs) to publish data on the availability of networks, capacities of cross-border interconnectors and generation and network outages. Although the rules have provided for improved data disclosure, their level of detailing and ensuing divergences in national applications have left traders with differing sets of market data across the EU. Also, the lack of harmonisation in type and format of the published information makes it difficult for market participants to develop a coherent and accurate view of electricity market fundamentals. This impact assessment examines the need and options for more detailed and precise rules to enhance transparency in the European internal energy market.

(B) Overall assessment

The report needs to be strengthened in several respects. First, it should provide a better description of the current transparency system and requirements. It should then clarify the problems by showing the extent to which these relate to gaps in the current rules or lack of compliance. The report should also better describe the underlying drivers of the problem, including how energy market developments have contributed to the need for change. It should explain the concrete effect that the deficiencies are having on the functioning of the relevant electricity markets and on consumers and should show how the problems would evolve in the absence of any further EU action. Second, the intervention logic should be strengthened by more clearly linking the options to the specific problems identified and to specific objectives. The content of the options, in particular the new elements, should be better explained. Third, the report should much better show why the proposed set of rules is a proportionate response to the identified gaps. It should clarify the costs and benefits for players in the energy markets and for consumers and should specifically assess the impact on SMEs/micros and on third countries. Finally stakeholders' different views should be integrated throughout the text.

(C) Main recommendations for improvements

(1) Strengthen the problem definition and baseline. The report should provide a better explanation of the current rules on data transparency, explaining how the system works, what the current transparency requirements are, the purposes for which the information is used, and the roles, interests and incentives to disclose, of the various players in the energy value chain. Building on that the report should clearly identify the gaps in the current system and should demonstrate with as much evidence as possible, including by using examples, the concrete effect that these deficiencies are having on the functioning of the electricity markets and on consumers. It should also highlight whether the problems may be more acute in some Member States/regions/markets than in others. The report should better explain the underlying drivers of the problems including the key developments in the markets since the adoption of the current rules and should clarify the extent to which the problems derive from either a lack of enforcement of the existing rules or whether they relate to weaknesses/gaps in the current framework. The baseline scenario should better demonstrate what would happen without additional EU measures being taken including what effects improved enforcement of existing rules and of the resolution of outstanding infringements procedures will have.

(2) Strengthen the intervention logic and the description of options. Following the clarification of the problem definition and underlying drivers, the intervention logic should be strengthened by more clearly linking the options to the specific problems identified and to specific objectives. The content of the options and the differences between them should be more clearly explained. The report should better explain what measures are already included in the baseline so that the reader can understand what are the new measures contained in the proposals. For option 3 it should also be clarified how the enhanced publication arrangements will work in practice and whether any other options, apart from the designation of the European Network of Transmission Systems Operators for Electricity (ENTSO-E) as the responsible body for operating the publication platform, were considered. The nature of the proposed instrument, and the extent to which this is legally binding, should also be clarified.

(3) Improve the assessment of impacts. Based on the clarification of the new elements contained in the preferred option, the report should much better show why the proposed set of rules is a proportionate response to the identified gaps. The analysis of the effectiveness of the measures in terms of the specific problems should be enhanced and the costs and benefits for players in the energy markets and for consumers more clearly explained. The report should further discuss the trade-off between competition concerns and the benefit of enhanced information availability. The estimated costs for establishing a publication platform should be much better explained and the additional benefits of this approach over and above the proposal for enhanced transparency requirements only (option 2a) should be more clearly spelled out. The basis and assumptions underlying the calculations should be better explained. The report should specifically assess the impact on SMEs/micros both from a user and supplier perspective. It should also include a more detailed overview on the impact on third countries

(4) Be more specific on the results of the stakeholder consultation. The different stakeholder views should be integrated more systematically throughout the report. Where views within industry or sectors differ this should be made clear.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

The meaning and significance of key terms should be explained for the non-expert reader. The Executive Summary should be fully aligned with the main text including a summary of the assessment of impacts.

(E) IAB scrutiny process

Reference number	2010/ENER/015
External expertise used	No
Date of IAB meeting	18 April 2012