



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
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Opinion

Title

DG ENER – Impact assessment on the legislative proposal for an amendment of Articles 1 and 3 (1st part) and Articles 7 and 9-11 (2nd part) of the Energy Efficiency Directive 2012/27/EU

(version of 4 May 2016)*

(A) Context

Energy efficiency is one of the five dimensions of the Energy Union Strategy adopted on 25 February 2015. The Strategy stressed that it was necessary to fundamentally rethink energy efficiency and treat it as an energy resource in its own right. It also states, in line with the October 2014 European Council conclusions, that a new governance system will have to ensure the delivery of the 2030 energy and climate framework, and notably the implementation of the indicative EU target for energy efficiency and the legally binding EU target for renewables to be attained by 2030.

The Directive on Energy Efficiency (EED) (2012/27/EU) lays down the EU 20% headline target for energy efficiency and establishes a common framework of measures for the promotion of energy efficiency within the EU to ensure the achievement of the target by 2020 and to pave the way for further energy efficiency improvements beyond that date. The EED is part of the broader EU energy efficiency policy framework, which brings together other key instruments such as the Energy Performance of Buildings Directive (2010/31/EU) (EPBD), Energy Labelling Directive (2010/30/EU), Ecodesign Directive (2009/125/EC), transport energy efficiency measures (notably CO2 standards for vehicles), as well as measures to improve the availability of finance for energy efficiency (cf. European Fund for Strategic Investments and European Structural and Investment Funds). The EED is interlinked with other energy and climate policy areas, notably, the Emissions Trading System (ETS) and the Effort Sharing Decision, security of supply, transport, policy on renewables and market design.

(B) Overall opinion: POSITIVE

The Board gives a positive opinion on the understanding that the impact assessment report shall be adjusted to integrate the Board's recommendations with respect to the following key aspects:

In order to ensure coherence and consistency, the two parts should be merged into one single impact assessment report, which should better present the logical links between the levels of ambition and their implications for the appropriate mix of policy measures (and associated impacts), including sectors captured by the target but not covered by the

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

legislation on ecodesign, energy performance of buildings and energy efficiency. The merged report should also unify the baseline using the Reference scenario.

The problem analysis should clarify the extent to which existing policies have been successful in contributing to meeting the 2020 targets and what conclusions can be drawn as regards their potential to contribute to delivery of the possible targets for energy efficiency for 2030. It should also explain how the energy efficiency achievements contribute to the Effort Sharing.

The options analysis should consider a wider range of options even if these are discarded early (e.g. nationally binding targets and cancellation of Article 7) and clarify what the key policy choices are. It should be better explained how an indicative EU target called for by the European Council fits with Article 7 which implies a binding uniform target for each Member State. The sustainability of a continued annual cut by 1.5% under Article 7 should also be analysed. The report should also describe which policy mixes have been considered to achieve the various targets and present their respective cost-effectiveness and trade-offs. The required level of investment expenditure for each option and how this could be financed should be further clarified.

The report should explain better the interaction of the EED with other policy initiatives and explain the trade-offs and ways to mitigate them (such as the potential over achievement of national greenhouse gas emission reductions by some Member States under a revised effort sharing decision). The report should also clarify how the options would meet the objective of tackling energy poverty.

The lead DG shall ensure that the report is adjusted accordingly prior to launching the interservice consultation.

(C) Main recommendations for improvements

(1) Merging the reports. In order to ensure coherence and consistency of approach and compliance with the principle of 'one initiative, one IA', the two reports should be merged and consolidated into one single self-standing impact assessment report, which should better reflect the logical links between the level of ambition, the policy choices to be made and the likely implications for measures and their impacts. The merged report should unify the baseline, bringing it into line with a "no policy change" scenario – in this case represented by the REF2016 scenario (which assumes however that Article 7 will be allowed to lapse in 2020), against which all options should be assessed. The issue of metering and billing provisions should be referred to the upcoming impact assessment on market design of the electricity sector.

(2) Policy context. The merged report should better describe the overall policy context and put the EED into context against the related strands of policies which also have an impact on energy efficiency both at the European and national levels (effort sharing, ETS, renewables, EPBD, energy labelling, eco-design, etc.). It should also refer to the upcoming initiatives on market design and RES. The report should better explain how the different targets at European and national level interact. Finally, it should be transparent about the economic consequences of the current policy approach and explain how it relates to cost-effectiveness given the difference in potential for mitigating market and regulatory failures.

(3) The problem. The problem description should outline the current approach of the EED and set out to what extent the current target(s) will be reached in 2020 and what the contributions of various policy strands and sectors are in achieving this. On this basis, the report should explain better the market and regulatory failures and the origin of any potential further energy efficiency gains expected for 2030.

(4) Objectives. The objectives of the two parts should be integrated and spelled out more clearly, considering in particular their articulation, prioritisation and coherence vis-à-vis other energy and climate objectives.

(5) Policy options. The report should better link the different levels of ambition (targets) with options (policy mixes) of actual policy measures as outlined in the 2nd part. Integrated options should be outlined which encompass the level of ambition with the content of the policy measures taken. These options should be assessed in the context of the effort sharing decision and the greenhouse gas commitments. It should be clarified how consistent the various options would be with the related targets and their cost-effective delivery. It should also be considered whether article 7 could be redundant, if national binding targets were to be adopted. As current options mainly represent modified options within the same basic approach – even if reflecting different levels of ambition – more radically different options should be considered to better cover the full range of policy choices and issues raised by stakeholders or in the debate. Such options should be considered even if discarded upfront on the basis of clear justifications. Further options could include targets on energy intensity or productivity and alternatives to the 1.5 % target for annual national energy savings (for instance with higher or lower rates or with declining rates reflecting increasing marginal costs). Binding versus indicative targets could also be considered in this context and the implications of not adopting a European level energy efficiency target and not extending article 7 should also be clarified.

(6) Analysis of options. The current analysis in the 1st part largely amounts to a comparison of different economic scenarios. However, the comparison of options should better reflect the underlying policy choices to be made and outline the areas for possible energy efficiency gains. It should spell out what the consequences of the different ambition levels are for actual policy making and how the impacts of these different policy options compare, including as regards cost-effectiveness. The modelling results depend crucially on the assumptions and the sensitivity of these should be clarified. In particular, the report should discuss the dependency of the 2020-2030 results on the realisation of the current individual policies by 2020. The report should explain how the required investments for the various scenarios would be generated and financed (including with reference to any envisaged incentives) and assess possible crowding out effects on other investments. Finally, the report should discuss the trade-offs between imposing targets and unified measures and the appropriate level of cost efficiency and flexibility for Member States. An overview table illustrating these trade-offs would be useful.

(7) Energy poverty. The report should underline that addressing energy poverty impacts of more ambitious energy efficiency scenarios is likely to require additional measures.

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 two reports should be merged and shortened in order to better articulate the levels of ambition of the initiative with the delivery mechanisms and actual policy measures. The report should be made more accessible for readers who are not experts in energy policy.

(E) RSB scrutiny process	
Reference number	2016/ENER/002
External expertise used	No
Date of RSB meeting	7 June 2016