

Brussels, 10 September 2018 (OR. en)

Interinstitutional File: 2016/0380(COD)

7506/3/18 REV 3

ENER 110 ENV 200 CLIMA 55 COMPET 184 CONSOM 78 FISC 157 CODEC 444

# **NOTE**

From:	General Secretariat of the Council		
То:	Delegations		
No. Cion doc.:	15150/1/16 REV 1 + ADD 1 REV 1		
Subject:	Proposal for a Directive of the European Parliament and of the Council on common rules for the internal market in electricity (recast)		

Following Coreper on 7 September 2018, delegations will find in the annex a slightly modified version on the above-mentioned proposal. Changes compared to the previous version (7506/2/18 REV 2) are set out in Articles 4 (line 168), 13(5) (line 273), 14(1)(a) (line 276) and recital 11ba (line 20) and indicated in **bold underlined** and strikethrough.

7506/3/18 REV 3 GW/ns

TREE.2.B EN

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

1.	COMISSION PROPOSAL (COD - doc. 15150/1/16 REV 1)	EP PLENARY TEXT	COUNCIL GENERAL APPROACH (doc. 15886/17 + ADD 1 )	Presidency compromise proposals
2.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,  Having regard to the proposal from the European Commission,  After transmission of the draft legislative act to the national parliaments,  Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,  Having regard to the opinion of the Committee of the Regions <sup>2</sup> ,		THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,  Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,  Having regard to the proposal from the European Commission,  After transmission of the draft legislative act to the national parliaments,  Having regard to the opinion of the European Economic and Social Committee <sup>3</sup> ,  Having regard to the opinion of the Committee of the Regions <sup>4</sup> ,	N.B. any compromise proposals for the recitals are provisional, and without prejudice to any alignment with the content of the Articles that may prove necessary.

OJ C 211, 19.8.2008, p. 23.

\_

	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
	Whereas:	Whereas:	
3.	(1) A number of amendments are to be made to Directive 2009/72/EC of the European Parliament and of the Council <sup>5</sup> . In the interests of clarity, that Directive should be recast.	(1) A number of amendments are to be made to Directive 2009/72/EC of the European Parliament and of the Council <sup>6</sup> . In the interests of clarity, that Directive should be recast.	
4.	(2) The internal market in electricity, which has been progressively implemented throughout the Union since 1999, aims, by organising competitive electricity markets across country borders, to deliver real choice for all consumers of the European Union, be they citizens or businesses, new business opportunities competitive prices, efficient investment signals, higher standards of service, and to contribute to security of supply and sustainability.	(2) The internal market in electricity, which has been progressively implemented throughout the Union since 1999, aims, by organising competitive electricity markets across country borders, to deliver real choice for all consumers of the European Union, be they citizens or businesses, new business opportunities, competitive prices, efficient investment signals, higher standards of service, and to contribute to security of supply and sustainability.	

<sup>&</sup>lt;sup>2</sup> OJ C 172, 5.7.2008, p. 55.

<sup>&</sup>lt;sup>3</sup> OJ C 211, 19.8.2008, p. 23.

<sup>4</sup> OJ C 172, 5.7.2008, p. 55.

Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).

Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ L 211, 14.8.2009, p. 55).

	I	
5.	(3) Directive 2003/54/EC of the	(3) Directive 2003/54/EC of the
	European Parliament and of the	European Parliament and of the
	Council and Directive 2009/72/EC of	Council and Directive 2009/72/EC of
	the European Parliament and of the	the European Parliament and of the
	Council have made a significant	Council have made a significant
	contribution towards the creation of	contribution towards the creation of
	such an internal market in electricity.	such an internal market in electricity.
	However, Europe's energy system is in	However, Europe's energy system is
	the middle of a profound change. The	in the middle of a profound change.
	common goal to decarbonise the	The common goal to [] lower the
	energy system creates new	emission of the energy system
	opportunities and challenges for	creates new opportunities and
	market participants. At the same time,	challenges for market participants. At
	technological developments allow for	the same time, technological
	new forms of consumer participation	developments allow for new forms of
	and cross-border cooperation. There is	consumer participation and cross-
	a need to adapt the Union market rules	border cooperation. There is a need
	to a new market reality.	to adapt the Union market rules to a
		new market reality.
6.	(4) The Energy Union Framework	(4) The Energy Union Framework
	Strategy sets out the vision of an	Strategy sets out the vision of an
	Energy Union with citizens at its core,	Energy Union with citizens at its
	where citizens take ownership of the	core, where citizens take ownership
	energy transition, benefit from new	of the energy transition, benefit from
	technologies to reduce their bills,	new technologies to reduce their
	participate actively in the market, and	bills, participate actively in the
	where vulnerable consumers are	market, and where vulnerable
	protected.	consumers are protected.

The Communication from the Commission of 15 July 2015 'Delivering a new deal for energy consumers<sup>7</sup>' put forward the Commission's vision for a retail market that better serves energy consumers, including by better linking wholesale and retail markets. Taking advantage of new technology, new and innovative energy service companies should enable all consumers to fully participate in the energy transition, managing their consumption to deliver energy efficient solutions which save them money and contribute to overall reduction of energy consumption.

### AM 1

The Communication from the Commission of 15 July 2015 'Delivering a new deal for energy consumers<sup>31</sup> put forward the Commission's vision for a retail market that better serves energy consumers, including by better linking wholesale and retail markets. Taking advantage of new technologies, new and innovative energy service companies should enable all consumers to raise their awareness of their energy consumption and to fully participate in the energy transition, managing their consumption to deliver energy efficient solutions which save them money and contribute to overall reduction of energy consumption.

The Communication from the Commission of 15 July 2015 'Delivering a new deal for energy consumers<sup>8</sup>' put forward the Commission's vision for a retail market that better serves energy consumers, including by better linking wholesale and retail markets. Taking advantage of new technology, new and innovative energy service companies should enable all consumers to fully participate in the energy transition, managing their consumption to deliver energy efficient solutions which save them money and contribute to overall reduction of energy consumption.

\_

<sup>&</sup>lt;sup>31</sup> COM (2015) 339 final of 15.7.2015.

<sup>&</sup>lt;sup>7</sup> COM (2015) 339 final of 15.7.2015.

<sup>8</sup> COM (2015) 339 final of 15.7.2015.

The Communication from the (6)Commission of 15 July 2015 Launching the public consultation process on a new energy market design'9 highlighted that the move away from generation in large central power plants towards de-centralized production from renewable energy sources and decarbonized markets requires an adaptation of the current rules of electricity trading and changes to the existing market roles. It underlined needs to organise electricity markets in a more flexible manner and to fully integrate all market players – including renewable energy producers, new energy service providers, energy storage and flexible demand.

## AM 2

The Communication from the Commission of 15 July 2015 Launching the public consultation process on a new energy market design'32 highlighted that the move away from generation in large central power plants towards de-centralized production from renewable energy sources and decarbonized markets requires an adaptation of the current rules of electricity trading and changes to the *roles of* existing market *participants*. It underlined needs to *organize* electricity markets in a more flexible manner and to fully integrate all market players – including renewable energy producers, new energy service providers, energy storage and flexible demand. It is equally important for the Union to invest urgently in interconnection at European level for the transfer of energy through high-voltage, electric power transmission systems.

The Communication from the Commission of 15 July 2015 Launching the public consultation process on a new energy market design'10 highlighted that the move away from generation in large central power plants towards de-centralized production from renewable energy sources [] requires an adaptation of the current rules of electricity trading and changes to the existing market roles. It underlined needs to organise electricity markets in a more flexible manner and to fully integrate all market players – including renewable energy producers, new energy service providers, energy storage and flexible demand.

<sup>&</sup>lt;sup>32</sup> COM (2015) 340 final of 15.7.2015.

<sup>&</sup>lt;sup>9</sup> COM (2015) 340 final of 15.7.2015.

COM (2015) 340 final of 15.7.2015.

9.		AM 3 (6a) (new) With a view to creating an internal market in electricity, Member States should foster the integration of their national markets and the cooperation of system operators at Union and regional level, also incorporating isolated systems forming electricity islands that persist in the Union.		
10.	(7) Apart from the new challenges, the Directive seeks also to address the persisting obstacles to the completion of the internal market in electricity. Refined regulatory framework needs to contribute to overcoming the current problems of fragmented national markets which are still often determined by a high degree of regulatory interventions. Such interventions have led to obstacles to the sale of electricity on equal terms as well as higher costs in comparison to solutions based on cross-border cooperation and market-based principles.		challenges, the Directive seeks also to address the persisting obstacles to the completion of the internal market in electricity. Refined regulatory framework needs to contribute to overcoming the current problems of fragmented national markets which are still often determined by a high degree of regulatory interventions. Such interventions have led to obstacles to the sale of electricity on equal terms as well as higher costs in comparison to solutions based on cross-border cooperation and market-based principles.	
11.		AM 4 (7a) (new) The Union will most effectively meet its renewable targets through the creation of a market framework that rewards flexibility and innovations. A well-functioning electricity market design is the key enabler for the uptake of renewables.		

Consumers are essential to (8)achieving the flexibility necessary to adapt the electricity system to variable, distributed renewable generation. Technological progress in grid management and renewable generation has unlocked many opportunities for consumers, and healthy competition on retail markets will be essential to ensuring the market-driven deployment of innovative new services that cater to the consumers' changing needs and abilities, while increasing system flexibility. By empowering consumers to participate in the energy market more, and participate in new ways, citizens should benefit from the internal market in electricity and the Union's renewable targets should be attained.

# AM 5

- Consumers are essential to (8) achieving the flexibility necessary to adapt the electricity system to variable *and* distributed renewable generation. Technological progress in grid management and renewable generation has unlocked many opportunities for consumers. Healthy competition on retail markets will be essential to ensuring the marketdriven deployment of innovative new services that *address* consumers' changing needs and abilities, while increasing system flexibility. However, the lack of real time or near real time information provided to consumers about their energy consumption, in particular due to the slow roll-out of smart meters, has prevented them from being active participants in the energy market and the energy transition. By empowering consumers and providing them with the tools to participate in the energy market more, and participate in new ways, citizens should benefit from the internal market in electricity and the Union's renewable targets should be attained.
- Consumers are essential to achieving the flexibility necessary to adapt the electricity system to variable, distributed renewable generation. Technological progress in grid management and renewable generation has unlocked many opportunities for consumers, and healthy competition on retail markets will be essential to ensuring the market-driven deployment of innovative new services that cater to the consumers' changing needs and abilities, while increasing system flexibility. By empowering consumers to participate in the energy market more, and participate in new ways, citizens should benefit from the internal market in electricity and the Union's renewable targets should be attained.

13.			(8a) This Directive respects	
			fundamental rights and observes	
			the principles recognised in the	
			Charter of Fundamental Rights of	
			the European Union ('Charter').	
			Accordingly, this Directive should	
			be interpreted and applied in	
			accordance with those rights and	
			principles, in particular the right	
			to protection of personal data	
			guaranteed by Article 8 of the	
			Charter. It is essential that any	
			processing of personal data under	
			this Directive be in compliance	
			with Regulation (EU) 2016/679.	
14.	(9) The freedoms which the Treaty	AM 6	(9) The freedoms which the	
	guarantees the citizens of the Union —	(9) The freedoms which the	Treaty guarantees the citizens of the	
	inter alia, the free movement of goods,	Treaty guarantees the citizens of the	Union — inter alia, the free	
	the freedom of establishment and the	Union — inter alia, the free	movement of goods, the freedom of	
	freedom to provide services — are	movement of goods, the freedom of	establishment and the freedom to	
	achievable only in a fully open market,	establishment and the freedom to	provide services — are achievable	
	which enables all consumers freely to	provide services — are achievable	only in a fully open market, which	
	choose their suppliers and all suppliers	only in a fully open <i>and</i>	enables all consumers freely to	
	freely to deliver to their customers.	interconnected market, which	choose their suppliers and all	
		enables all consumers freely to	suppliers freely to deliver to their	
		1		1
		choose their suppliers and all	customers.	
		choose their suppliers and all suppliers freely to deliver to their	customers.	

15.	(10) Promoting fair competition and		(10) Promoting fair competition	
	easy access for different suppliers		and easy access for different	
	should be of the utmost importance for		suppliers should be of the utmost	
	Member States in order to allow		importance for Member States in	
	consumers to take full advantage of the		order to allow consumers to take full	
	opportunities of a liberalised internal		advantage of the opportunities of a	
	market in electricity.		liberalised internal market in	
			electricity. Nonetheless, market	
			failure may still persist in	
			peripheral small electricity systems	
			and systems not connected with	
			other EU Member States, where	
			electricity prices fail to provide the	
			right signal to drive investment,	
			and may therefore require specific	
			solutions to ensure an adequate	
			level of security of electricity	
			supply.	
16.	(11) In order to secure competition	AM 7	(11) In order to secure competition	
	and the supply of electricity at the	(11) In order to secure competition	and the supply of electricity at the	
	most competitive price, Member States	and the supply of electricity at the	most competitive price, Member	
	and national regulatory authorities	most competitive price, Member	States and national regulatory	
	should facilitate cross-border access	States and national regulatory	authorities should facilitate cross-	
	for new suppliers of electricity from	authorities should facilitate cross-	border access for new suppliers of	
	different energy sources as well as for	border access for new suppliers of	electricity from different energy	
	new providers of power generation	electricity from different energy	sources as well as for new providers	
	storage and demand response.	sources as well as for new providers	of power generation, storage and	
		of power generation, storage and	demand response.	
		demand response. <i>However</i> , <i>Member</i>		
		States should cooperate in		
		scheduling electricity flows and		
		should take necessary action to		
		prevent unscheduled loop-flows of		
ı		electricity.		

17.	AM 8	(11a) Member States should	
	(11a) (new) Member States should	ensure that no undue barriers exist	
	ensure that no undue barriers exist	within the internal electricity	
	within the internal electricity market	market as regards market entry,	
	as regards market entry, operation	operation and exit. At the same	
	and exit. At the same time, it should	time, it should be clear that this	
	be clear that this obligation is	provision is without prejudice to	
	without prejudice to those	those competences, which Member	
	competences which Member States	States retain in relation to third	
	retain in relation to third countries.	countries. Such a clarification must	
	Such a clarification must not be	not be interpreted as enabling a	
	interpreted as enabling a Member	Member State to exercise an	
	State to exercise an exclusive	exclusive competence of the	
	competence of the Union. It should	Union. It should also be clarified	
	also be clarified that market	that market participants from	
	participants from third countries	third countries operating within	
	must comply with applicable Union	the internal market must comply	
	and Member States' laws just like al		
	other market participants.	Member States' laws just like all	
		other market participants.	
18.	AM 9	(11aa) Market rules allow for entry	
	(11b) (new) The European Council	and exit of electricity generation	
	stated in its conclusions of October	and electricity supply undertakings	
	2014 that the Commission supported		
	by the Member States must take	economic and financial viability of	
	urgent measures in order to ensure	their operations. This principle	
	the achievement of a minimum	would not be incompatible with the	
	target of 10% of existing electricity	possibility of Member States to	
	interconnections, as a matter of	impose on undertakings operating	
	urgency, and no later than 2020, at	in the electricity sector, in general	
	least for Member States which have	economic interest, public service	
	not yet attained a minimum level of	obligations, where this is done in	
	integration in the internal energy	conformity with the Treaties, in	
	market, which are the Baltic States,	particular Article 106 TFEU, and	
	Portugal and Spain, and for	with the provisions of this	

	Member States which constitute their main point of access to the internal energy market. It further stated that the Commission will also report regularly to the European Council with the objective of arriving at a 15% target by 2030.	Directive and [Electricity Regulation].	
19.		(11b) Sufficient physical interconnection with neighbours is important to enable all countries to benefit from the positive effects of the internal market as stressed in the Commission's 'Communication on strengthening Europe's energy networks' <sup>11</sup> and as also reflected in the Integrated National Energy and Climate Plans under the [Governance Regulation].	
20.			(11ba) Given the changing patterns of electricity sales, in particular through electricity sharing within energy communities and peer-to-peer electricity trading between consumers, as well as the increasingly diverse requirements of electricity consumption, such as charging electric vehicles, customers could benefit by diversifying their electricity supply. To increase consumer choice and competition, all customers should be free to

11 COM(2017) 718 final

			contract simultaneously with several suppliers. Where contracting simultaneously with several suppliers technically requires additional connection points, customers are entitled to these additional connection points in accordance with Article 27.
21.	(12) Securing common rules for a true internal market and a broad supply of electricity accessible to all should also be one of the main goals of this Directive. To that end, undistorted market prices would provide an incentive for cross-border interconnections and for investments in new power generation while leading, in the long term, to price convergence.	true interr supply of should als of this Dir undistorte provide ar interconne in new po	curing common rules for a nal market and a broad electricity accessible to all so be one of the main goals rective. To that end, ed market prices would n incentive for cross-border ections and for investments ower generation while n the long term, to price nce.
22.	(13) Market prices should give the right incentives for the development of the network and for investing in new electricity generation.	(13) Ma right incer of the net	arket prices should give the entives for the development work and for investing in ricity generation.

23.	(14) Different types of market		(14) Different types of market	
	organisation exist in the internal		organisation exist in the internal	
	market in electricity. The measures		market in electricity. The measures	
	that Member States could take in order		that Member States could take in	
	to ensure a level playing field should		order to ensure a level playing field	
	be based on overriding requirements of		should be based on overriding	
	general interest. The Commission		requirements of general interest. The	
	should be consulted on the		Commission should be consulted on	
	compatibility of the measures with the		the compatibility of the measures	
	Treaty and Union law.		with the Treaty and Union law.	
24.	(15) Member States should maintain	AM 10	(15) Member States should	
	a wide discretion to impose public	(15) Member States should	maintain a wide discretion to impose	
	service obligations on electricity	maintain a wide discretion to impose	public service obligations on	
	undertakings in pursuing objectives of	public service obligations on	electricity undertakings in pursuing	
	general economic interest. Member	electricity undertakings in pursuing	objectives of general economic	
	States should ensure that household	objectives of general economic	interest. Member States should	
	customers and, where Member States	interest. Member States should	ensure that household customers and,	
	deem it appropriate, small enterprises,	ensure that household customers and,	where Member States deem it	
	enjoy the right to be supplied with	where Member States deem it	appropriate, small enterprises, enjoy	
	electricity of a specified quality at	appropriate, small enterprises, enjoy	the right to be supplied with	
	clearly comparable, transparent and	the right to be supplied with	electricity of a specified quality at	
	competitive prices. Nevertheless,	electricity of a specified quality at	clearly comparable, transparent and	
	public service obligations in the form	clearly comparable, transparent and	competitive prices. Nevertheless,	
	of supply price regulation constitute a	competitive prices. Nevertheless,	public service obligations in the form	
	fundamentally distortive measure that	public service obligations in the form	of supply price regulation constitute	
	often leads to the accumulation of	of supply price regulation constitute	a fundamentally distortive measure	
	tariff deficits, limitation of consumer	a fundamentally distortive measure	that often leads to the accumulation	
	choice, poorer incentives for energy	that often leads to the accumulation	of tariff deficits, limitation of	
	saving and energy efficiency	of tariff deficits, limitation of	consumer choice, poorer incentives	
	investments, lower standards of	consumer choice, poorer incentives	for energy saving and energy	
	service, lower levels of consumer	for energy saving and energy	efficiency investments, lower	
	engagement and satisfaction,	efficiency investments, lower	standards of service, lower levels of	
	restriction of competition as well as	standards of service, lower levels of	consumer engagement and	
	fewer innovative products and services	consumer engagement and	satisfaction, restriction of	
	on the market. Consequently, Member	satisfaction, restriction of	competition as well as fewer	

	States should apply other policy tools, and in particular targeted social policy measures, to safeguard the affordability of electricity supply to their citizens. Interventions in price setting should only be applied in limited exceptional circumstances. A fully liberalised retail electricity market would stimulate price and non-price competition among existing suppliers and incentivise new market entries therefore improving consumers' choice and satisfaction.	competition as well as fewer innovative products and services on the market. Consequently, Member States should apply other policy tools, and in particular targeted social policy measures, to safeguard the affordability of electricity supply to their citizens. Interventions in price setting should only be applied in very limited exceptional circumstances in order to protect the most vulnerable and should be phased out within a limited timeframe. A fully liberalised, well-functioning retail electricity market would stimulate price and non-price competition among existing suppliers and incentivise new market entries	innovative products and services on the market. Consequently, Member States should apply other policy tools, and in particular targeted social policy measures, to safeguard the affordability of electricity supply to their citizens. Interventions in price setting should only be applied [] as public service obligations and subject to specific conditions specified in this Directive. A fully liberalised retail electricity market would stimulate price and non-price competition among existing suppliers and incentivise new market entries therefore improving consumers' choice and satisfaction.	
25.		incentivise new market entries therefore improving consumers' choice and satisfaction.	(15a) Public service obligations in the form of electricity supply price regulation should be used without overriding the principle of open markets in clearly defined circumstances and beneficiaries and be limited in duration. Such circumstances could occur for example when the supply of electricity is severely constrained, causing significantly higher electricity prices than normal, or in	
			the event of market failure where interventions by regulatory authorities and competition	

authorities have proven ineffective. This would disproportionately affect households, and in particular, vulnerable consumers who typically use a higher share of their disposable income on energy bills, compared to high income consumers. In order to mitigate the distortive effects of public service obligations in the price-setting for supply of electricity, Member **States applying such interventions** should put in place additional measures, including measures preventing distortions to wholesale market price setting. Member States should ensure that all beneficiaries of regulated prices are able to fully benefit from the offers of the competitive market when they choose so. To this effect they need to be equipped with smart meters and have access to dynamic electricity price contracts, they should be directly and regularly informed of the offers and savings available on the competitive market, in particular dynamic electricity price contracts, and be provided with assistance to engage with and benefit from market based offers.

26		(15b) Th441 6	
26.		(15b) The entitlement of	
		beneficiaries of regulated prices to	
		receive individual smart meters	
		without extra costs, does not	
		prohibit Member States modifying	
		the functionality of smart meters	
		where smart meter infrastructure	
		does not exist as the cost-benefit	
		assessment regard roll-out of smart	
		meters was negative.	
27.		(15c) Interventions in electricity	
		supply price regulation must not	
		lead to cross-subsidisation between	
		different categories of consumers	
		in a direct manner. According to	
		this principle, price systems must	
		not explicitly make certain	
		categories of consumers bear the	
		cost of price interventions affecting	
		other categories of consumers. For	
		example, price interventions whose	
		cost is born by suppliers or other	
		operators in a non discriminatory	
		manner should not be considered	
		as direct cross-subsidisation.	

28.	(16) In order to ensure the	(16) In order to ensure the
	maintenance of the high standards of	maintenance of the high standards of
	public service in the Union, all	public service in the Union, all
	measures taken by Member States to	measures taken by Member States to
	achieve the objective of this Directive	achieve the objective of this
	should be regularly notified to the	Directive should be regularly notified
	Commission. The Commission should	to the Commission. The Commission
	regularly publish a report analysing	should regularly publish a report
	measures taken at national level to	analysing measures taken at national
	achieve public service objectives and	level to achieve public service
	comparing their effectiveness, with a	objectives and comparing their
	view to making recommendations as	effectiveness, with a view to making
	regards measures to be taken at	recommendations as regards
	national level to achieve high public	measures to be taken at national level
	service standards.	to achieve high public service
		standards.
29.	(17) It should be possible for	(17) It should be possible for
	Member States to appoint a supplier of	Member States to appoint a supplier
	last resort. That supplier may be the	of last resort. That supplier may be
	sales division of a vertically integrated	the sales division of a vertically
	undertaking, which also performs the	integrated undertaking, which also
	functions of distribution, provided that	performs the functions of
	it meets the unbundling requirements	distribution, provided that it meets
	of this Directive.	the unbundling requirements of this
		Directive.
30.	(18) It should be possible for	(18) It should be possible for
	measures implemented by Member	measures implemented by Member
	States to achieve the objectives of	States to achieve the objectives of
	social and economic cohesion to	social and economic cohesion to
	include, in particular, the provision of	include, in particular, the provision
	adequate economic incentives, using,	of adequate economic incentives,
	where appropriate, all existing national	using, where appropriate, all existing
	and Union tools. Such tools may	national and Union tools. Such tools
	include liability mechanisms to	may include liability mechanisms to
	guarantee the necessary investment.	guarantee the necessary investment.

31.	(19) To the extent to which measures	(19) To the extent to which	
	taken by Member States to fulfil public	measures taken by Member States	to
	service obligations constitute State aid	fulfil public service obligations	
	under Article 107(1) of the Treaty,	constitute State aid under	
	there is an obligation under	Article107(1) of the Treaty, there	is
	Article 108(3) of the Treaty to notify	an obligation under Article 108(3	
	them to the Commission.	the Treaty to notify them to the	
		Commission.	
32.		(19a) Cross-sectorial legislation	
		provides a strong basis for	
		consumer protection for a wide	
		range of energy services that ex	st,
		and may develop in the future.	
		Nevertheless, certain basic	
		contractual rights of customers	
		should be clearly defined.	
33.	(20) Clear and comprehensible	(20) Clear and comprehensible	
	information should be made available	information should be made avail	able
	to consumers concerning their rights in	to consumers concerning their rig	nts
	relation to the energy sector. The	in relation to the energy sector. The	ne
	Commission has established, after	Commission has established, after	r
	consulting relevant stakeholders	consulting relevant stakeholders	
	including Member States, national	including Member States, national	
	regulatory authorities, consumer	regulatory authorities, consumer	
	organisations and electricity	organisations and electricity	
	undertakings an energy consumer	undertakings an energy consumer	
	checklist providing consumers with	checklist providing consumers wi	.h
	practical information about their rights.	practical information about their	
	That checklist should be maintained up	rights. That checklist should be	
	to date provided to all consumers and	maintained up to date provided to	all
	made publicly available.	consumers and made publicly	
		available.	

34.	(21) At present, several factors impede consumers from accessing, understanding and acting upon the various sources of market information available to them. To that end, the comparability of offers should be improved and barriers to switching minimised to the greatest practicable extent without unduly limiting consumer choice.	(21) At present, several factors impede consumers from accessing, understanding and acting upon the various sources of market information available to them. To that end, the comparability of offers should be improved and barriers to switching minimised to the greatest practicable extent without unduly limiting consumer choice.
35.	(22) Customers are still being charged a broad range of fees directly or indirectly as a result of switching energy supplier. Such fees make calculating the best product or service more difficult and diminish the immediate financial advantage of switching. Although removing such fees may limit consumer choice by eliminating products based on rewarding consumer loyalty, restricting their use further should improve consumer welfare, consumer engagement and competition in the market.	(22) Smaller customers are still being charged a broad range of fees directly or indirectly as a result of switching energy supplier. Such fees make calculating the best product or service more difficult and diminish the immediate financial advantage of switching. Although removing such fees may limit consumer choice by eliminating products based on rewarding consumer loyalty, restricting their use further should improve consumer welfare, consumer engagement and competition in the market.

36.	
30.	(22a) Shorter expected switching
	times can encourage consumers to
	search for better energy deals and
	switch suppliers. The increased
	deployment of information
	technology will mean that the
	technical switching process of
	registering a new supplier in a
	metering point at the market
	operator should typically be able to
	be completed within 24 hours on
	any working day by the year 2025.
	Notwithstanding other steps in the
	switching process that must be
	completed before the technical
	process of switching is initiated,
	ensuring the technical process of
	switching can take place within 24
	hours by this date will minimise
	switching times, helping to increase
	consumer engagement and retail
	competition. In any case, the total
	duration of the switching process
	should not exceed three weeks
	from the date of the customer
	notification.

(23) Independent comparison tools including websites are an effective means for customers to assess the merits of different energy offers available on the market. Search costs are lower as they no longer need to collect information from individual suppliers and service providers. Such tools can provide the right balance between the need for information to be clear and concise and the need for it to be complete and comprehensive. They should aim at including the broadest possible range of available offers, and at covering the market as completely as is feasible so as to give the customer a representative overview.. It is crucial that the information given on such tools be trustworthy, impartial and transparent.

(23) Independent comparison tools including websites are an effective means for smaller customers to assess the merits of different energy offers available on the market. Search costs are lower as they no longer need to collect information from individual suppliers and service providers. Such tools can provide the right balance between the need for information to be clear and concise and the need for it to be complete and comprehensive. They should aim at including the broadest possible range of available offers, and at covering the market as completely as is feasible so as to give the customer a representative overview. It is crucial that consumers have access to at least one comparison tool and that the information given on such tools be trustworthy, impartial and transparent. Member States may provide for this through a comparison tool that is operated by a national authority or a verified comparison tool that is operated by a private company.

38.	(24) Greater consumer protection is	AM 11	(24) Greater consumer protection is	
	guaranteed by the availability of			
	effective means of dispute settlement	guaranteed by the availability of	effective means of dispute settlement	
			for all consumers. Member States	
	should introduce speedy and effective dispute settlement <i>mechanisms</i> for should introduce speedy and effective		should introduce speedy and	
	complaint handling procedures. all consumers, such as energy effective		effective complaint handling	
	ombudsman or a consumer body. prod		procedures.	
		Member States should introduce		
		speedy and effective complaint		
		handling procedures.		
<b>39.</b>	(25) All consumers should be able to	AM 12	(25) All consumers should be able	
	benefit from directly participating in	(25) All consumers should be able	to benefit from directly participating	
	the market, in particular by adjusting	to benefit from directly participating	in the market, in particular by	
	their consumption according to market	in the market, in particular by	adjusting their consumption	
	signals and in return benefit from	adjusting their consumption	according to market signals and in	
	lower electricity prices or other	according to market signals and in	return benefit from lower electricity	
	incentive payments. The benefits of	return benefit from lower electricity	prices or other incentive payments.	
	this active participation are likely to	prices or other incentive payments.	The benefits of this active	
	increase over time when electric	The benefits of this active	participation are likely to increase	
	vehicles, heat pumps and other flexible	participation are likely to increase	over time when electric vehicles, heat	
	loads become more competitive.	over time when the awareness of	pumps and other flexible loads	
	Consumers should be enabled to	otherwise passive consumers is	become more competitive.	
	participate in all forms of demand	raised about their possibilities as	Consumers should be enabled to	
	response and therefore should have the	active consumers and when the	participate in all forms of demand	
	possibility to opt for having a smart	information on the possibilities of	response and therefore should have	
	metering system and a dynamic	active participation are better	the possibility to opt for having a	
	electricity pricing contract. This should	accessible and known. Consumers	smart metering system and a	
	allow them to adjust their consumption	should be enabled to participate in all	dynamic electricity pricing contract.	
	according to real time price signals forms of demand response and		This should allow them to adjust	
	that reflect the value and cost of therefore should have the po		their consumption according to real	
	electricity or transportation in different	to benefit from the full roll-out of	time price signals that reflect the	
	time periods, while Member States	smart metering systems, and in	value and cost of electricity or	
	should ensure a reasonable exposure of	cases where such a roll out has been	transportation in different time	
	consumers to the wholesale price risk.	negatively assessed, they should be	periods, while Member States should	
	Member States should also ensure that	able to opt for having a smart	ensure a reasonable exposure of	

	those consumers who choose not to actively engage in the market are not penalised but instead their informed decision making on the options available to them should be facilitated in the manner that is the most suitable for domestic market conditions.	metering system and a dynamic electricity pricing contract. This should allow them to adjust their consumption according to real time price signals that reflect the value and cost of electricity or transportation in different time	consumers to the wholesale price risk. Member States should also ensure that those consumers who choose not to actively engage in the market are not penalised but instead their informed decision making on the options available to them should	
		periods, while Member States should ensure a reasonable exposure of consumers to the wholesale price risk. Consumers should be informed about potential price risk of dynamic price contracts. Member	be facilitated in the manner that is the most suitable for domestic market conditions.	
		States should also ensure that those consumers who choose not to actively engage in the market are not penalised but instead their informed decision making on the options available to them should be		
		facilitated in the manner that is the most suitable for domestic market conditions.		
40.	(26) All customer groups (industrial, commercial and households) should have access to the energy markets to trade their flexibility and self-generated electricity. Customers should be allowed to make full use of the advantages of aggregation of production and supply over larger regions and benefit from cross-border competition. Aggregators are likely to play an important role as intermediaries between customer groups and the market. Transparent		(26) All customer groups (industrial, commercial and households) should have access to the energy markets to trade their flexibility and self-generated electricity. Customers should be allowed to make full use of the advantages of aggregation of production and supply over larger regions and benefit from cross-border competition. [] Market participants engaged in aggregation are likely to play an important role as	

and fair rules should be established to also allow independent aggregators to fulfil this role. Products should be defined on all organised energy markets, including ancillary services and capacity markets so as to encourage the participation of demand response.

intermediaries between customer groups and the market. Member States should be free to choose the appropriate implementation model and approach to governance, for independent aggregation while respecting the general principles as laid out in this Directive. This could include market-based or regulatory principles which provide solutions which achieve the provisions set out in this Directive, including models where imbalances are corrected. The chosen model should contain transparent and fair rules [] to [] allow independent aggregators to fulfil this role and to ensure, that the final customer adequately benefits from their activity. Products should be defined on all [] energy markets, including ancillary services and capacity markets so as to encourage the participation of demand response.

41.	(27) The 'European Strategy for Low	(27) The 'European Strategy for	
	Emission Mobility'12 stresses the need	Low Emission Mobility' stresses	
	for the decarbonisation of the transport	the need for the decarbonisation of	
	sector and the reduction of its	the transport sector and the reduction	
	emissions especially in urban areas and	of its emissions especially in urban	
	highlights the important role that	areas and highlights the important	
	electro-mobility can play in	role that electro-mobility can play in	
	contributing to these objectives.	contributing to these objectives.	
	Moreover, the deployment of electro-	Moreover, the deployment of electro-	
	mobility constitutes an important	mobility constitutes an important	
	element of the energy transition.	element of the energy transition.	
	Market rules set out in this Directive	Market rules set out in this Directive	
	should therefore contribute to creating	should therefore contribute to	
	favourable conditions for electric	creating favourable conditions for	
	vehicles of all kinds. In particular, they	electric vehicles of all kinds. In	
	should safeguard the effective	particular, they should safeguard the	
	deployment of publicly accessible and	effective deployment of publicly	
	private recharging points for electric	accessible and private recharging	
	vehicles and ensure the efficient	points for electric vehicles and	
	integration of vehicle charging into	ensure the efficient integration of	
	system operation.	vehicle charging into system	
		operation.	
<b>42.</b>	(28) Demand response will be pivotal	(28) Demand response will be	
	to enable smart charging of electric	pivotal to enable smart charging of	
	vehicles and thereby enable the	electric vehicles and thereby enable	
	efficient integration of electric vehicles	the efficient integration of electric	
	into the electricity grid which will be	vehicles into the electricity grid	
	crucial for the decarbonisation of	which will be crucial for the <b>process</b>	
	transport.	of decarbonisation of transport.	

<sup>&</sup>lt;sup>12</sup> SWD(2016) 244 final

SWD(2016) 244 final

(29) Consumers should be able to consume, store and/or sell selfgenerated electricity to the market. New technology developments will facilitate these activities in the future. However, legal and commercial barriers exist including for example disproportionate fees for internally consumed electricity, obligations to feed self- generated electricity to the energy system, administrative burdens such as for self- generators who sell electricity to the system to comply with the requirements for suppliers, etc. All these obstacles that prevent consumers from self-generating and from consuming, storing or selling self-generated electricity to the market should be removed while it should be ensured that self-generating consumers contribute adequately to system costs.

Consumers should be able to consume, store and/or sell selfgenerated electricity to the market. New technology developments will facilitate these activities in the future. However, legal and commercial barriers exist including for example disproportionate fees for internally consumed electricity, obligations to feed self- generated electricity to the energy system, administrative burdens such as for self- generators who sell electricity to the system to comply with the requirements for suppliers, etc. All these obstacles that prevent consumers from selfgenerating and from consuming, storing or selling self-generated electricity to the market should be removed while it should be ensured that self-generating consumers contribute adequately to system costs. Member States may have different governing provisions with respect to taxes and levies for individual and jointly acting final customers as well as for household and other final customers in their national legislation.

(30) Distributed energy technologies and consumer empowerment have made community energy and energy cooperatives an effective and costefficient way to meet citizens' needs and expectations regarding energy sources, services and local participation. Community energy offers an inclusive option for all consumers to have a direct stake in producing, consuming or sharing energy between each other within a geographically confined community network that may operate in an isolated mode or be connected to the public distribution network. Community energy initiatives focus primarily on providing affordable energy of a specific kind, such as renewable energy, for their members or shareholders rather than prioritising profit-making like a traditional energy company. By directly engaging with consumers community energy initiatives are demonstrating their potential in facilitating the up-take of new technologies and consumption patterns, including smart distribution grids and demand response, in an integrated manner. Community energy can also advance energy efficiency at household level and help fight energy poverty through reduced consumption and lower supply tariffs. Community energy also enables certain groups of

## AM 13

(30) Distributed energy technologies and consumer empowerment have made community energy and energy cooperatives an effective and cost-efficient way to meet citizens' needs and expectations regarding energy sources, services and local participation. Community energy offers an inclusive option for all consumers to have a direct stake in producing, consuming or sharing energy between each other, on the basis of open and voluntary participation, within a geographically confined community network that may operate in an isolated mode or be connected to the public distribution network. Community energy initiatives focus primarily on providing affordable energy of a specific kind, such as renewable energy, for their members or shareholders, contributing to bringing benefits to local communities and to representing local interests, and rather than prioritising profit-making like a traditional energy company. By directly engaging with consumers community energy initiatives are demonstrating their potential in facilitating the up-take of new technologies and consumption patterns, including smart distribution

(30) Distributed energy technologies and consumer empowerment have made community energy [] an effective and costefficient way to meet citizens' needs and expectations regarding energy sources, services and local participation. Community energy offers an inclusive option for all consumers to have a direct stake in producing, consuming or sharing energy between each other []. Community energy initiatives focus primarily on providing affordable energy of a specific kind, such as renewable energy, for their members or shareholders rather than prioritising profit-making like a traditional energy company. By directly engaging with consumers community energy initiatives are demonstrating their potential in facilitating the up-take of new technologies and consumption patterns, including smart distribution grids and demand response, in an integrated manner. Community energy can also advance energy efficiency at household level and help fight energy poverty through reduced consumption and lower supply tariffs. Community energy also enables certain groups of household consumers to participate in the energy market who otherwise

household consumers to participate in the energy market who otherwise might not have been able to do so. Where they have been successfully operated such initiatives have delivered economic, social and environmental value to the community that goes beyond the mere benefits derived from the provision of energy services. Local energy communities should be allowed to operate on the market on a level-playing field without distorting competition. Household consumers should be allowed to voluntarily participate in a community energy initiative as well as to leave it, without losing access to the network operated by the community energy initiative or their rights as consumers. Access to a local energy community's network should be granted on fair and cost-reflective terms.

grids and demand response, in an integrated manner. Community energy can also advance energy efficiency at household level and help fight energy poverty through reduced consumption and lower supply tariffs. Community energy also enables certain groups of household consumers to participate in the energy market who otherwise might not have been able to do so. Where they have been successfully operated such initiatives have delivered economic, social and environmental value to the community that goes beyond the mere benefits derived from the provision of energy services. Local energy communities should be allowed to operate on the market on a level-playing field without distorting competition. Household consumers should be allowed to voluntarily participate in a community energy initiative as well as to leave it, without losing access to the network operated by the community energy initiative or their rights as consumers. Access to a local energy community's network should be granted on fair and cost-reflective terms.

might not have been able to do so. Where they have been successfully operated such initiatives have delivered economic, social and environmental value to the community that goes beyond the mere benefits derived from the provision of energy services. [] The Directive aims at recognizing certain categories of citizen energy initiatives at the European level as "energy communities" to provide them with an enabling framework, fair treatment, a level playing field and a well-defined catalogue of rights and obligations. Household consumers should be allowed to voluntarily participate in a community energy initiative as well as to leave it, without losing access to the network operated by the community energy initiative or their rights as consumers. Access to a [] energy community's network should be granted on fair and cost-reflective terms.

45.	(30a) Energy community	
	membership is open to all	
	categories of entities, how	ever the
	decision-making powers w	ithin an
	energy community should	be
	limited to those members	or
	shareholders that are not	engaged
	in large scale commercial	activity
	and for which the energy s	sector
	does not constitute a prim	ary area
	of economic activity. Ener	
	communities, as defined in	
	Directive, are deemed a ca	
	citizens' initiatives that sh	
	subject to recognition and	
	protection under the Unio	n law.
	The definition of energy	
	communities does not pre	
	existence of other citizen is	
	such as those stemming fr	
	private law agreements. T	
	it should be possible for M	
	States to choose any form	
	for energy communities as	9
	such an entity may, acting	
	own name, exercise rights	and be
	subject to obligations.	

46.	(30b) The provisions on energy
	communities contain a catalogue of
	applicable rights and obligations,
	which could be deduced from
	other, already existing rules, such
	as the freedom of contracting,
	supplier switching rules,
	distribution system operator
	responsibilities, network charges,
	balancing obligation.
47.	(30c) Energy communities
	constitute a new type of entity due
	to their membership structure,
	governance requirements and
	purpose. They should be allowed to
	operate on the market on a level-
	playing field without distorting
	competition subject to the same
	rights and obligations as the other
	electricity undertakings. The rights
	and obligations should apply
	according to the roles undertaken
	such as the roles of final customers,
	generators, suppliers, distribution
	system operators. Energy
	communities should not face
	regulatory restrictions if they
	apply existing or future ICT
	technologies to share electricity
	from generation assets within the
	community between its members
	or shareholders based on market
	principles, for example by
	offsetting the energy component of
	members using the generation
	available within the community,

even over the public network, provided that both metering points belong to the community. Virtual sharing enables members to be supplied with electricity from the generation plants within the community without being in direct physical proximity or behind a single metering point. Where electricity is shared over the public network it should not affect the collection of network charges, tariffs, taxes and levies related to electricity flows. The sharing should be facilitated according the obligations and correct timeframes for balancing, metering and settlement. The provisions on energy communities do not interfere with the Member States' competence to design and implement their policies for the energy sector related to taxation, network charges and tariffs or energy policy financing systems and cost sharing as long as those policies are non-discriminatory and lawful.

48.	(30d) The Directive foresees a
	possibility for Member States to
	allow an energy community to
	become a distribution system
	operator either under the general
	regime or in accordance with Art.
	38 as the so-called "Closed
	Distribution System Operator".
	Once an energy community is
	granted the status as a distribution
	system operator, it should be
	treated and be subject to the same
	obligations as distribution system
	operators. The provisions on
	energy communities only clarifies
	aspects of distribution system
	operation that are likely to be
	relevant for energy communities,
	while other aspects on distribution
	system operation apply according
	to the provisions on distribution
	system operators.

(31) Energy bills and annual statements are an important means through which customers are informed. As well as data on consumption and costs, they can also convey other information that helps consumers to compare their current deal with other offers. However, considering that billrelated disputes are a very common source of consumer complaints, a factor which contributes to persistently low levels of consumer satisfaction and engagement in the energy sector, it is necessary to make bills and annual statements clearer and easier to understand, as well as to ensure that bills contain all the information necessary to enable consumers to regulate their energy consumption, compare offers and switch suppliers.

### AM 14

(31) Energy bills and annual statements are an important means through which customers are informed. Energy bills and annual statements provide data on consumption and costs, while they can also convey other information that helps consumers to compare their current deal with other offers. However, considering that billrelated disputes are a very common source of consumer complaints, bills and annual statements contribute to persistently low levels of consumer satisfaction and engagement in the energy sector. *Therefore* it is necessary to make bills and annual statements clearer and easier to understand, as well as to ensure that bills contain all the information necessary to enable consumers to regulate their energy consumption, compare offers and switch suppliers.

(31) Energy bills [] are an important means through which customers are informed. As well as data on consumption and costs, they can also convey other information that helps consumers to compare their current deal with other offers. However, [] bill-related disputes are a very common source of consumer complaints, a factor which contributes to persistently low levels of consumer satisfaction and engagement in the energy sector. It is therefore necessary to make bills [] clearer and easier to understand, as well as to ensure that bills and billing information [] prominently display a limited number of important information items that are necessary to enable consumers to regulate their energy consumption, compare offers and switch suppliers. Other information items should be available to final customers in. with or signposted to within their bills. These can be displayed in the bill, be in a separate document attached to the bill, or the bill can contain a reference to where the customer can easily find the information on a website, app or through other means.

<b>7</b> 0	(24 ) [7]
50.	(31a) The regular provision of
	accurate billing information based
	on actual consumption, facilitated
	by smart meters, is important for
	helping consumers to control their
	electricity consumption and costs.
	Nevertheless, consumers, in
	particular household consumers,
	should have access to flexible
	arrangements for actual payment.
	This enables, for example,
	consumers to be provided frequent
	billing information whilst only
	paying on a quarterly basis, or
	products where the consumer pays
	the same amount every month
	independent of the actual
	consumption.
51.	(31b) The provisions on billing
	provided for in Directive
	2012/27/EU of the European
	Parliament and of the Council <sup>14</sup>
	should be updated, streamlined
	and moved to Directive
	2009/72/EC, where they fit more
	coherently.

TREE.2.B

7506/3/18 REV 3

GW/ns 35

ANNEX

Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

52.	(32) Member States should	AM 15	(32) Member States should	
	encourage the modernisation of	(32) Member States should	encourage the modernisation of	
	distribution networks, such as through	encourage the modernisation of	distribution networks, such as	
	the introduction of smart grids, which	distribution networks, such as	through the introduction of smart	
	should be built in a way that	through the introduction of smart	grids, which should be built in a way	
	encourages decentralised generation	grids, which should be built in a way	that encourages decentralised	
	and energy efficiency.	that encourages decentralised	generation and energy efficiency.	
		generation, energy storage and		
		energy efficiency.		
<b>53.</b>	(33) Engaging consumers requires		(33) Engaging consumers requires	
	appropriate incentives and		appropriate incentives and	
	technologies such as smart metering.		technologies such as smart metering.	
	Smart metering systems empower		Smart metering systems empower	
	consumers as they allow them to		consumers as they allow them to	
	receive accurate and near-real time		receive accurate and near-real time	
	feedback on their energy consumption		feedback on their energy	
	or generation allowing them to manage		consumption or generation allowing	
	it better, participate in and reap		them to manage it better, participate	
	benefits from demand side response		in and reap benefits from demand	
	programmes and other services, and		side response programmes and other	
	lower their electricity bill. Smart		services, and lower their electricity	
	metering also enables distribution		bill. Smart metering also enables	
	system operators to have better		distribution system operators to have	
	visibility of their networks, and		better visibility of their networks, and	
	consequently reduce their operation		consequently reduce their operation	
	and maintenance costs and pass those		and maintenance costs and pass those	
	savings to the distribution tariffs which		savings to the distribution tariffs	
	are ultimately borne by consumers.		which are ultimately borne by	
			consumers.	
54.	(34) When it comes to deciding at	AM 16	(34) When it comes to deciding at	
	national level on the smart metering	(34) When it comes to deciding at	national level on the smart metering	
	deployment, it should be possible to	national level on the smart metering	deployment, it should be possible to	
	base this on an economic assessment.	deployment, it should be possible to	base this on an economic assessment.	
	Should that assessment conclude that	base this on an economic assessment.	Should that assessment conclude that	
	the introduction of such metering	This economic assessment should	the introduction of such metering	
	systems is economically reasonable	take into account the long term	systems is economically reasonable	

	and cost-effective only for consumers	benefits of smart metering	and cost-effective only for consumers	
	with a certain amount of electricity	deployment for the whole value	with a certain amount of electricity	
	· · · · · · · · · · · · · · · · · · ·			
	consumption, Member States should be able to take that into account when	chain, in particular for better	consumption, Member States should be able to take that into account	
		network management, more precise		
	proceeding with implementation.	planning and identification of	when proceeding with	
		network losses. Should that	implementation.	
		assessment conclude that the		
		introduction of such metering		
		systems is cost-effective only for		
		consumers with a certain amount of		
		electricity consumption, Member		
		States should be able to take that into		
		account when proceeding with		
		implementation. <i>This assessment</i>		
		should however be reviewed		
		regularly and at least every two		
		years in light of the fast evolving		
		technological developments.		
<b>55.</b>	(35) Member States that are not		(35) Member States that are not	
	systematically rolling out smart		systematically rolling out smart	
	metering should give the possibility to		metering should give the possibility	
	consumers to benefit, upon request and		to consumers to benefit, upon request	
	under fair and reasonable conditions,		and under fair and reasonable	
	and by providing them with all the		conditions, and by providing them	
	relevant information, from the		with all the relevant information,	
	installation of an electricity smart		from the installation of an electricity	
	meter. Where consumers do not have		smart meter. Where consumers do	
	smart meters, they should be entitled to		not have smart meters, they should	
	meters that fulfil the minimum		be entitled to meters that fulfil the	
	requirements necessary to provide		minimum requirements necessary to	
	them with the billing information		provide them with the billing	
	specified in this Directive.		information specified in this	
			Directive.	

<b>56.</b>	(36) In order to assist consumers'		(36) In order to assist consumers'	
	active participation in the electricity		active participation in the electricity	
	market, the smart metering systems to		market, the smart metering systems	
	be deployed by Member States in their		to be deployed by Member States in	
	territory should be interoperable, not		their territory should be	
	represent a barrier to switching of		interoperable, not represent a barrier	
	supplier, and should be equipped with		to switching of supplier, and should	
	fit-for-purpose functionalities that		be equipped with fit-for-purpose	
	allow consumers to have near-real time		functionalities that allow consumers	
	access to their consumption data,		to have near-real time access to their	
	modulate their energy consumption		consumption data, modulate their	
	and, to the extent that the supporting		energy consumption and, to the	
	infrastructure permits, offer their		extent that the supporting	
	flexibility to the network and to energy		infrastructure permits, offer their	
	services companies, be rewarded for it,		flexibility to the network and to	
	and achieve savings in their electricity		energy services companies, be	
	bill.		rewarded for it, and achieve savings	
			in their electricity bill.	
57.	(37) A key aspect of supplying	AM 17	(37) A key aspect of supplying	
	customers is access to objective and	(37) A key aspect of supplying	customers is access to objective and	
	transparent consumption data. Thus,	final customers is access to	transparent consumption data. Thus,	
	transparent consumption data. Thus, consumers should have access to their	<i>final</i> customers is access to objective, <i>timely</i> and transparent	transparent consumption data. Thus, consumers should have access to	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated	<i>final</i> customers is access to objective, <i>timely</i> and transparent consumption data. Thus, consumers	transparent consumption data. Thus, consumers should have access to their consumption data and	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data.	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be non-discriminatory.	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be non-discriminatory. Information on energy costs provided	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be non-discriminatory. Information on	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be non-discriminatory. Information on energy costs provided to consumers frequently enough will	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be non-discriminatory. Information on energy costs provided to consumers	
	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be non-discriminatory. Information on energy costs provided	final customers is access to objective, timely and transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while	transparent consumption data. Thus, consumers should have access to their consumption data and associated prices and services costs so that they can invite competitors to make an offer based on those data. Consumers should also have the right to be properly informed about their energy consumption. Prepayments should not place a disproportionate disadvantage at their users, while different payment systems should be non-discriminatory. Information on	

feedback on the effects of investment consumers frequently enough will it will give customers direct feedback in energy efficiency and change of create incentives for energy savings on the effects of investment in energy because it will give *final* customers behaviour. In this respect, full efficiency and change of behaviour. implementation of Directive direct feedback on the effects of In this respect, full implementation of 2012/27/EU of the European investment in energy efficiency and Directive 2012/27/EU of the Parliament and of the Council<sup>15</sup> will change of behaviour. In this respect, European Parliament and of the Council<sup>16</sup> will help consumers to help consumers to reduce their energy full implementation of Directive 2012/27/EU of the European reduce their energy costs. costs. Parliament and of the Council<sup>35</sup> will help consumers to reduce their energy costs.

15

7506/3/18 REV 3 GW/ns 39
ANNEX TREE.2.B

Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (OJ L 315, 14.11.2012, p. 1).

the management of data have been developed or are under development in the Member States following the deployment of smart metering systems. Independently of the data management model it is important that Member States put in place transparent rules under which data can be accessed under non-discriminatory conditions and ensure the highest level of cybersecurity and data protection as well as the impartiality of the entities which handle data.

## **AM 18**

(38) Currently different models for the management of data have been developed or are under development in the Member States following the deployment of smart metering systems. Independently of the data management model it is important that Member States put in place transparent rules under which data can be accessed and exchanged under non-discriminatory conditions and in an effective manner and ensure the highest level of data integrity, cybersecurity and data protection as well as the impartiality of the entities which handle data. Member States should also ensure that consumers remain in control and owners of the consumption data, in particular by being able to identify themselves, give or withdraw consent in an easy manner in accordance with Union data protection legislation.

(38) Currently different models for the management of data have been developed or are under development in the Member States following the deployment of smart metering systems. Independently of the data management model it is important that Member States put in place transparent rules under which data can be accessed under non-discriminatory conditions and ensure the highest level of cybersecurity and data protection as well as the impartiality of the entities which handle data.

59.	(39) Member States should take the		(39) Member States should take the	
	necessary measures to protect		necessary measures to protect	
	vulnerable and energy poor customers		vulnerable and energy poor	
	in the context of the internal market in		customers in the context of the	
	electricity. Such measures may differ		internal market in electricity. Such	
	according to the particular		measures may differ according to the	
	circumstances in the Member States in		particular circumstances in the	
	question and may include social or		Member States in question and may	
	energy policy measures relating to the		include social or energy policy	
	payment of electricity bills, investment		measures relating to the payment of	
	in residential energy efficiency or		electricity bills, investment in	
	consumer protection such as		residential energy efficiency or	
	disconnection safeguards. Where		consumer protection such as	
	universal service is also provided to		disconnection safeguards. Where	
	small enterprises, measures to ensure		universal service is also provided to	
	that such universal service is provided		small enterprises, measures to ensure	
	may differ according to whether they		that such universal service is	
	are aimed at household customers or		provided may differ according to	
	small enterprises.		whether they are aimed at household	
			customers or small enterprises.	
<b>60.</b>	(40) Energy services are fundamental	AM 19	(40) Energy services are	
	to safeguard the well-being of the	(40) Energy <i>supply is</i> fundamental	fundamental to safeguard the well-	
	Union citizens. Adequate warmth,	to safeguard the well-being of the	being of the Union citizens.	
	cooling, lighting and the energy to	Union citizens. <i>Heating</i> , cooling,	Adequate warmth, cooling, lighting	
	power appliances are essential services	lighting and the energy to power	and the energy to power appliances	
	to guarantee a decent standard of	appliances are essential to guarantee	are essential services to guarantee a	
	living and citizens' health.	a decent standard of living and	decent standard of living and citizens'	
	Furthermore, access to these energy	citizens' health. Furthermore, access	health. Furthermore, access to these	
	services empowers European citizens	to energy empowers European	energy services empowers European	
	to fulfil their potential and it enhances	citizens to fulfil their potential and it	citizens to fulfil their potential and it	
	social inclusion. Energy poor	enhances social inclusion. Energy	enhances social inclusion. Energy	
	households are unable to afford these	poor households are unable to afford	poor households are unable to afford	
	energy services due to a combination	these energy services due to a	these energy services due to a	
	of low income, high energy	combination of low income, high	combination of low income, high	
	expenditure and poor energy efficiency	energy expenditure and poor energy	energy expenditure and poor energy	

of their homes. Member States should collect the right information to monitor the number of households in energy poverty. Accurate measurement should assist Member States to identify those households affected by energy poverty in order to provide targeted support. The Commission should actively support the implementation of the provisions on energy poverty by facilitating the sharing of good practices between Member States.

efficiency of their homes. Member States should collect the right information to monitor the number of households in energy poverty. Accurate measurement should assist Member States to identify those households affected by energy poverty in order to provide targeted support through their social welfare systems or other policy measures. The Commission should actively support the implementation of the provisions on energy poverty by facilitating the sharing of good practices between Member States.

efficiency of their homes. Member States should collect the right information to monitor the number of households in energy poverty. Accurate measurement should assist Member States to identify those households affected by energy poverty in order to provide targeted support. The Commission should actively support the implementation of the provisions on energy poverty by facilitating the sharing of good practices between Member States.

Member States which are 61. (41) affected by energy poverty and which have not yet done so should therefore develop national action plans or other appropriate frameworks to tackle this problem, aiming at decreasing the number of people suffering such situation. Low income, high energy expenditure, and poor energy efficiency of homes are relevant factors in designing indicators for the measurement of energy poverty. In any event. Member States should ensure the necessary energy supply for vulnerable and energy poor customers. In doing so, an integrated approach, such as in the framework of energy and social policy, could be used and measures could include social policies or energy efficiency improvements for

## **AM 20**

- (41) Energy poverty is a growing problem in the Union. Member States which are affected by energy poverty and which have not yet done so should therefore develop national action plans or other appropriate frameworks to tackle *energy poverty*, aiming at decreasing the number of energy poor customers. Low income, high energy expenditure, and poor energy efficiency of homes are relevant factors in designing indicators for the measurement of energy poverty. In any event, Member States should ensure the necessary energy supply for vulnerable and energy poor customers. In doing so, an integrated approach, such as in the framework
- (41) Member States which are affected by energy poverty and which have not vet done so should therefore develop national action plans or other appropriate frameworks to tackle this problem, aiming at decreasing the number of people suffering such situation. Low income, high energy expenditure, and poor energy efficiency of homes are, among others, relevant factors in designing indicators for the measurement of energy poverty. In any event, Member States should ensure the necessary energy supply for vulnerable and energy poor customers. In doing so, an integrated approach, such as in the framework of energy and social policy, could be used and measures could include

	housing. At the very least, this	of energy and social policy, could be	social policies or energy efficiency	
	Directive should allow national	used and measures could include	improvements for housing. At the	
	policies in favour of vulnerable and	social policies or energy efficiency	very least, this Directive should	
	energy poor customers.	improvements for housing. This	allow national policies in favour of	
	energy poor editioners.	Directive should <i>enhance</i> national	vulnerable and energy poor	
		policies in favour of vulnerable and	customers.	
		energy poor customers.	customers.	
62.	(42) Distribution system operators	chergy poor customers.	(42) Distribution system operators	
02.	have to cost-efficiently integrate new		have to cost-efficiently integrate new	
	electricity generation especially		electricity generation especially	
	generating installations using		generating installations using	
	renewable energy sources and new		renewable energy sources and new	
	loads such as heat pumps and electric		loads such as heat pumps and electric	
	* *		* *	
	vehicles. For this purpose distribution		vehicles. For this purpose	
	system operators should be enabled		distribution system operators should	
	and incentivised to use services from		be enabled and incentivised to use	
	distributed energy resources such as		services from distributed energy	
	demand response and energy storage,		resources such as demand response	
	based on market procedures, in order		and energy storage, based on market	
	to efficiently operate their networks		procedures, in order to efficiently	
	and avoid costly network expansions.		operate their networks and avoid	
	Member States should put in place		costly network expansions. Member	
	appropriate measures such as national		States should put in place appropriate	
	network codes and market rules, and		measures such as national network	
	incentivise distribution system		codes and market rules, and	
	operators through network tariffs		incentivise distribution system	
	which do not create obstacles to		operators through network tariffs	
	flexibility or to the improvement of		which do not create obstacles to	
	energy efficiency in the grid. Member		flexibility or to the improvement of	
	States should also introduce network		energy efficiency in the grid.	
	development plans for distribution		Member States should also introduce	
	systems in order to support the		network development plans for	
	integration of generating installations		distribution systems in order to	
	using renewable energy sources,		support the integration of generating	
	facilitate the development of storage		installations using renewable energy	

	C '1'' 11 1'C'' C1	
	facilities and the electrification of the	sources, facilitate the development of
	transport sector, and provide to system	storage facilities and the
	users adequate information regarding	electrification of the transport sector,
	the foreseen expansions or upgrades of	and provide to system users adequate
	the network, as currently such	information regarding the foreseen
	procedure does not exist in the	expansions or upgrades of the
	majority of Member States.	network, as currently such procedure
		does not exist in the majority of
		Member States.
<b>63.</b>		(42a) Network operators should
		not own, develop, manage or
		operate energy storage facilities. In
		the new electricity market design
		storage services should be market-
		based and competitive.
		Consequently, cross-subsidization
		between storage and the regulated
		function of distribution or
		transmission of electricity should
		be avoided. Such restriction on
		storage facilities ownership is to
		prevent distortion of competition,
		eliminate the risk of
		discrimination, safeguard fair
		access to storage services to all
		market participants and to foster
		effective and efficient use of
		storage facilities, beyond the
		operation of the distribution or
		transmission system. This should
		be interpreted and applied in
		accordance with the rights and
		principles established under the
		Charter of Fundamental Rights of
		the European Union, in particular

			the freedom to conduct a business and the right to property guaranteed by Articles 16 and 17 of the Charter.	
			or the charter.	
64.	(43) Non-discriminatory access to the		(43) Non-discriminatory access to	
	distribution network determines		the distribution network determines	
	downstream access to customers at		downstream access to customers at	
	retail level. To create a level playing		retail level. To create a level playing	
	field at retail level, the activities of		field at retail level, the activities of	
	distribution system operators should		distribution system operators should	
	therefore be monitored so that they are		therefore be monitored so that they	
	prevented from taking advantage of		are prevented from taking advantage	
	their vertical integration as regards		of their vertical integration as regards	
	their competitive position on the		their competitive position on the	
	market, in particular in relation to		market, in particular in relation to	
	household and small non-household		household and small non-household	
	customers.		customers.	
<b>65.</b>	(44) Where a closed distribution	AM 21	(44) Where a closed distribution	
	system is used to ensure the optimal	(44) Where a closed distribution	system is used to ensure the optimal	
	efficiency of an integrated energy	system is used to ensure the optimal	efficiency of an integrated energy	
	supply requiring specific operational	efficiency of an integrated energy	supply requiring specific operational	
	standards, or a closed distribution	supply requiring specific operational	standards, or a closed distribution	
	system is maintained primarily for the	standards, or when a closed	system is maintained primarily for	
	use of the owner of the system, it	distribution system is maintained	the use of the owner of the system, it	
	should be possible to exempt the	primarily for the use of the owner of	should be possible to exempt the	
	distribution system operator from	the system, it should be possible to	distribution system operator from	
	obligations which would constitute an	exempt the distribution system	obligations which would constitute	
	unnecessary administrative burden	operator from obligations which	an unnecessary administrative burden	
	because of the particular nature of the	would constitute an unnecessary	because of the particular nature of the	
	relationship between the distribution	administrative burden because of the	relationship between the distribution	
	system operator and the users of the	particular nature of the relationship	system operator and the users of the	
	system. Industrial, commercial or	between the distribution system	system. Industrial, commercial or	
	shared services sites such as train	operator and the users of the system.	shared services sites such as train	
	station buildings, airports, hospitals,	Industrial, commercial or shared	station buildings, airports, hospitals,	
	large camping sites with integrated	services sites such as train station	large camping sites with integrated	
	facilities or chemical industry sites can	buildings, airports, hospitals, large	facilities or chemical industry sites	

<b>68.</b>	(47) Only the removal of the
	incentive for vertically integrated
	undertakings to discriminate against
	competitors as regards network access
	and investment can ensure effective
	unbundling. Ownership unbundling,
	which implies the appointment of the
	network owner as the system operator
	and its independence from any supply
	and production interests, is clearly an
	effective and stable way to solve the
	inherent conflict of interests and to
	ensure security of supply. For that
	reason, the European Parliament, in its
	resolution of 10 July 2007 on
	prospects for the internal gas and
	electricity market <sup>17</sup> referred to
	ownership unbundling at transmission
	level as the most effective tool to
	promote investments in infrastructure
	in a non-discriminatory way, fair
	access to the network for new entrants
	and transparency in the market. Under
	ownership unbundling, Member States
	should therefore be required to ensure
	that the same person or persons are not
	entitled to exercise control over a
	generation or supply undertaking and,
	at the same time, exercise control or
	any right over a transmission system
	operator or transmission system.
	Conversely, control over a
	transmission system or transmission

(47) Only the removal of the incentive for vertically integrated undertakings to discriminate against competitors as regards network access and investment can ensure effective unbundling. Ownership unbundling, which implies the appointment of the network owner as the system operator and its independence from any supply and production interests, is clearly an effective and stable way to solve the inherent conflict of interests and to ensure security of supply. For that reason, the European Parliament, in its resolution of 10 July 2007 on prospects for the internal gas and electricity market referred to ownership unbundling at transmission level as the most effective tool to promote investments in infrastructure in a nondiscriminatory way, fair access to the network for new entrants and transparency in the market. Under ownership unbundling, Member States should therefore be required to ensure that the same person or persons are not entitled to exercise control over a generation or supply undertaking and, at the same time, exercise control or any right over a transmission system operator or

7506/3/18 REV 3 GW/ns 47
ANNEX TREE.2.B

<sup>&</sup>lt;sup>17</sup> OJ C 175 E, 10.7.2008, p.206.

	system operator should preclude the	transmission system. Conversely,	
	possibility of exercising control or any	control over a transmission system or	
	right over a generation or supply	transmission system operator should	
	undertaking. Within those limits, a	preclude the possibility of exercising	
	generation or supply undertaking	control or any right over a generation	
	should be able to have a minority	or supply undertaking. Within those	
	shareholding in a transmission system	limits, a generation or supply	
	operator or transmission system.	undertaking should be able to have a	
		minority shareholding in a	
		transmission system operator or	
		transmission system.	
69.	(48) Any system for unbundling	(48) Any system for unbundling	
	should be effective in removing any	should be effective in removing any	
	conflict of interests between producers,	conflict of interests between	
	suppliers and transmission system	producers, suppliers and transmission	
	operators, in order to create incentives	system operators, in order to create	
	for the necessary investments and	incentives for the necessary	
	guarantee the access of new market	investments and guarantee the access	
	entrants under a transparent and	of new market entrants under a	
	efficient regulatory regime and should	transparent and efficient regulatory	
	not create an overly onerous regulatory	regime and should not create an	
	regime for national regulatory	overly onerous regulatory regime for	
	authorities.	national regulatory authorities.	
70.	(49) Since ownership unbundling	(49) Since ownership unbundling	
	requires, in some instances, the	requires, in some instances, the	
	restructuring of undertakings, Member	restructuring of undertakings,	
	States that decide to implement	Member States that decide to	
	ownership unbundling should be	implement ownership unbundling	
	granted additional time to apply the	should be granted additional time to	
	relevant provisions. In view of the	apply the relevant provisions. In view	
	vertical links between the electricity	of the vertical links between the	
	and gas sectors, the unbundling	electricity and gas sectors, the	
	provisions should apply across the two	unbundling provisions should apply	
	sectors.	across the two sectors.	

71.	(50) Under ownership unbundling, to	(50) Under ownership unbundling,
	ensure full independence of network	to ensure full independence of
	operation from supply and generation	network operation from supply and
	interests and to prevent exchanges of	generation interests and to prevent
	any confidential information, the same	exchanges of any confidential
	person should not be a member of the	information, the same person should
	managing boards of both a	not be a member of the managing
	transmission system operator or a	boards of both a transmission system
	transmission system and an	operator or a transmission system
	undertaking performing any of the	and an undertaking performing any
	functions of generation or supply. For	of the functions of generation or
	the same reason, the same person	supply. For the same reason, the
	should not be entitled to appoint	same person should not be entitled to
	members of the managing boards of a	appoint members of the managing
	transmission system operator or a	boards of a transmission system
	transmission system and to exercise	operator or a transmission system
	control or any right over a generation	and to exercise control or any right
	or supply undertaking.	over a generation or supply
		undertaking.
72.	(51) The setting up of a system	(51) The setting up of a system
	operator or a transmission operator that	operator or a transmission operator
	is independent from supply and	that is independent from supply and
	generation interests should enable a	generation interests should enable a
	vertically integrated undertaking to	vertically integrated undertaking to
	maintain its ownership of network	maintain its ownership of network
	assets whilst ensuring effective	assets whilst ensuring effective
	separation of interests, provided that	separation of interests, provided that
	such independent system operator or	such independent system operator or
	such independent transmission	such independent transmission
	operator performs all the functions of a	operator performs all the functions of
	system operator and detailed	a system operator and detailed
	regulation and extensive regulatory	regulation and extensive regulatory
	control mechanisms are put in place.	control mechanisms are put in place.

73.	(52) Where, on 3 September 2009, an	(52) Where, on 3 September 2009,
	undertaking owning a transmission	an undertaking owning a
	system was part of a vertically	transmission system was part of a
	integrated undertaking, Member States	vertically integrated undertaking,
	should therefore be given a choice	Member States should therefore be
	between ownership unbundling and	given a choice between ownership
	setting up a system operator or	unbundling and setting up a system
	transmission operator which is	operator or transmission operator
	independent from supply and	which is independent from supply
	generation interests.	and generation interests.
74.	(53) To preserve fully the interests of	(53) To preserve fully the interests
	the shareholders of vertically	of the shareholders of vertically
	integrated undertakings, Member	integrated undertakings, Member
	States should have the choice of	States should have the choice of
	implementing ownership unbundling	implementing ownership unbundling
	either by direct divestiture or by	either by direct divestiture or by
	splitting the shares of the integrated	splitting the shares of the integrated
	undertaking into shares of the network	undertaking into shares of the
	undertaking and shares of the	network undertaking and shares of
	remaining supply and generation	the remaining supply and generation
	undertaking, provided that the	undertaking, provided that the
	requirements resulting from ownership	requirements resulting from
	unbundling are complied with.	ownership unbundling are complied
		with.

(54) The full effectiveness of the independent system operator or independent transmission operator solutions should be ensured by way of specific additional rules. The rules on the independent transmission operator provide an appropriate regulatory framework to guarantee fair competition, sufficient investment, access for new market entrants and the integration of electricity markets. Effective unbundling through the independent transmission operator provisions should be based on a pillar of organisational measures and measures relating to the governance of transmission system operators and on a pillar of measures relating to investment, connecting new production capacities to the network and market integration through regional cooperation. The independence of the transmission operator should also, inter alia, be ensured through certain 'cooling-off' periods during which no management or other relevant activity giving access to the same information as could have been obtained in a managerial position is exercised in the vertically integrated undertaking.

(54) The full effectiveness of the independent system operator or independent transmission operator solutions should be ensured by way of specific additional rules. The rules on the independent transmission operator provide an appropriate regulatory framework to guarantee fair competition, sufficient investment, access for new market entrants and the integration of electricity markets. Effective unbundling through the independent transmission operator provisions should be based on a pillar of organisational measures and measures relating to the governance of transmission system operators and on a pillar of measures relating to investment, connecting new production capacities to the network and market integration through regional cooperation. The independence of the transmission operator should also, inter alia, be ensured through certain 'cooling-off' periods during which no management or other relevant activity giving access to the same information as could have been obtained in a managerial position is exercised in the vertically integrated undertaking.

<b>76.</b>	(55) A Member State has the right to	(55) A Member State has the right	
	opt for full ownership unbundling in	to opt for full ownership unbundling	
	its territory. Where a Member State	in its territory. Where a Member	
	has exercised that right, an undertaking	State has exercised that right, an	
	does not have the right to set up an	undertaking does not have the right	
	independent system operator or an	to set up an independent system	
	independent transmission operator.	operator or an independent	
	Furthermore, an undertaking	transmission operator. Furthermore,	
	performing any of the functions of	an undertaking performing any of the	
	generation or supply cannot directly or	functions of generation or supply	
	indirectly exercise control or any right	cannot directly or indirectly exercise	
	over a transmission system operator	control or any right over a	
	from a Member State that has opted for	transmission system operator from a	
	full ownership unbundling.	Member State that has opted for full	
		ownership unbundling.	
77.	(56) The implementation of effective	(56) The implementation of	
	unbundling should respect the	effective unbundling should respect	
	principle of non-discrimination	the principle of non-discrimination	
	between the public and private sectors.	between the public and private	
	To that end, the same person should	sectors. To that end, the same person	
	not be able to exercise control or any	should not be able to exercise control	
	right, in violation of the rules of	or any right, in violation of the rules	
	ownership unbundling or the	of ownership unbundling or the	
	independent system operator option,	independent system operator option,	
	solely or jointly, over the composition,	solely or jointly, over the	
	voting or decision of the bodies of both	composition, voting or decision of	
	the transmission system operators or	the bodies of both the transmission	
	the transmission systems and the	system operators or the transmission	
	generation or supply undertakings.	systems and the generation or supply	
	With regard to ownership unbundling	undertakings. With regard to	
	and the independent system operator	ownership unbundling and the	
	solution, provided that the Member	independent system operator	
	State in question is able to demonstrate	solution, provided that the Member	
	that the requirement is complied with,	State in question is able to	
	two separate public bodies should be	demonstrate that the requirement is	
	able to control generation and supply	complied with, two separate public	
	activities on the one hand and	bodies should be able to control	

	transmission activities on the other.	generation and supply activities on
		the one hand and transmission
		activities on the other.
<b>78.</b>	(57) Fully effective separation of	(57) Fully effective separation of
	network activities from supply and	network activities from supply and
	generation activities should apply	generation activities should apply
	throughout the Union to both Union	throughout the Union to both Union
	and non- Union undertakings. To	and non- Union undertakings. To
	ensure that network activities and	ensure that network activities and
	supply and generation activities	supply and generation activities
	throughout the Union remain	throughout the Union remain
	independent from each other,	independent from each other,
	regulatory authorities should be	regulatory authorities should be
	empowered to refuse certification to	empowered to refuse certification to
	transmission system operators that do	transmission system operators that do
	not comply with the unbundling rules.	not comply with the unbundling
	To ensure the consistent application of	rules. To ensure the consistent
	those rules across the Union, the	application of those rules across the
	regulatory authorities should take	Union, the regulatory authorities
	utmost account of the Commission's	should take utmost account of the
	opinion when the former take	Commission's opinion when the
	decisions on certification. To ensure,	former take decisions on
	in addition, respect for the	certification. To ensure, in addition,
	international obligations of the Union,	respect for the international
	and solidarity and energy security	obligations of the Union, and
	within the Union, the Commission	solidarity and energy security within
	should have the right to give an	the Union, the Commission should
	opinion on certification in relation to a	have the right to give an opinion on
	transmission system owner or a	certification in relation to a
	transmission system operator which is	transmission system owner or a
	controlled by a person or persons from	transmission system operator which
	a third country or third countries.	is controlled by a person or persons
		from a third country or third
		countries.

<b>79.</b>	(58) Authorisation procedures should	(58) Authorisation procedures	
	not lead to an administrative burden	should not lead to an administrative	
	disproportionate to the size and	burden disproportionate to the size	
	potential impact of electricity	and potential impact of electricity	
	producers. Unduly lengthy	producers. Unduly lengthy	
	authorisation procedures may	authorisation procedures may	
	constitute a barrier to access for new	constitute a barrier to access for new	
	market entrants.	market entrants.	
80.	(59) Energy regulators need to be	(59) Energy regulators need to be	
	able to take decisions in relation to all	able to take decisions in relation to	
	relevant regulatory issues if the	all relevant regulatory issues if the	
	internal market in electricity is to	internal market in electricity is to	
	function properly, and to be fully	function properly, and to be fully	
	independent from any other public or	independent from any other public or	
	private interests. This precludes neither	private interests. This precludes	
	judicial review nor parliamentary	neither judicial review nor	
	supervision in accordance with the	parliamentary supervision in	
	constitutional laws of the Member	accordance with the constitutional	
	States. In addition, approval of the	laws of the Member States. In	
	budget of the regulator by the national	addition, approval of the budget of	
	legislator does not constitute an	the regulator by the national	
	obstacle to budgetary autonomy. The	legislator does not constitute an	
	provisions relating to the autonomy in	obstacle to budgetary autonomy. The	
	the implementation of the allocated	provisions relating to the autonomy	
	budget of the regulatory authority	in the implementation of the	
	should be implemented in the	allocated budget of the regulatory	
	framework defined by national	authority should be implemented in	
	budgetary law and rules. While	the framework defined by national	
	contributing to the independence of the	budgetary law and rules. While	
	national regulatory authority from any	contributing to the independence of	
	political or economic interest through	the [] regulatory authority from any	
	an appropriate rotation scheme, it	political or economic interest through	
	should be possible for Member States	an appropriate rotation scheme, it	
	to take due account of the availability	should be possible for Member States	
	of human resources and of the size of	to take due account of the availability	
	the board.	of human resources and of the size of	
		the board.	

81.	(60) National regulatory authorities	(60) National regulatory authorities	
	should be able to fix or approve tariffs,	should be able to fix or approve	
	or the methodologies underlying the	tariffs, or the methodologies	
	calculation of the tariffs, on the basis	underlying the calculation of the	
	of a proposal by the transmission	tariffs, on the basis of a proposal by	
	system operator or distribution system	the transmission system operator or	
	operator(s), or on the basis of a	distribution system operator(s), or on	
	proposal agreed between those	the basis of a proposal agreed	
	operator(s) and the users of the	between those operator(s) and the	
	network. In carrying out those tasks,	users of the network. In carrying out	
	national regulatory authorities should	those tasks, national regulatory	
	ensure that transmission and	authorities should ensure that	
	distribution tariffs are non-	transmission and distribution tariffs	
	discriminatory and cost-reflective, and	are non-discriminatory and cost-	
	should take account of the long-term,	reflective, and should take account of	
	marginal, avoided network costs from	the long-term, marginal, avoided	
	distributed generation and demand-	network costs from distributed	
	side management measures.	generation and demand-side	
		management measures.	
82.	(61) Energy regulators should have	(61) Energy regulators should have	
	the power to issue binding decisions in	the power to issue binding decisions	
	relation to electricity undertakings and	in relation to electricity undertakings	
	to impose effective, proportionate and	and to impose effective,	
	dissuasive penalties on electricity	proportionate and dissuasive	
	undertakings which fail to comply with	penalties on electricity undertakings	
	their obligations or to propose that a	which fail to comply with their	
	competent court impose such penalties	obligations or to propose that a	
	on them. To this end, regulatory	competent court impose such	
	authorities should be able to request	penalties on them. To this end,	
	relevant information from electricity	regulatory authorities should be able	
	undertakings, make appropriate and	to request relevant information from	
	sufficient investigations and settle	electricity undertakings, make	
	disputes. Energy regulators should also	appropriate and sufficient	
	he amounted the manner to decide	investigations and settle disputes.	
	be granted the power to decide, irrespective of the application of	Energy regulators should also be	

	competition rules, on appropriate	granted the power to decide,	
	measures ensuring customer benefits	irrespective of the application of	
	through the promotion of effective	competition rules, on appropriate	
	competition necessary for the proper	measures ensuring customer benefits	
	functioning of the internal market in	through the promotion of effective	
	electricity.	competition necessary for the proper	
		functioning of the internal market in	
		electricity.	
83.	(62) Energy regulators should also	(62) Energy regulators should also	
	be granted the power to contribute to	be granted the power to contribute to	
	ensuring high standards of universal	ensuring high standards of universal	
	and public service in compliance with	and public service in compliance	
	market opening, to the protection of	with market opening, to the	
	vulnerable customers, and to the full	protection of vulnerable customers,	
	effectiveness of consumer protection	and to the full effectiveness of	
	measures. Those provisions should be	consumer protection measures. Those	
	without prejudice to both the	provisions should be without	
	Commission's powers concerning the	prejudice to both the Commission's	
	application of competition rules	powers concerning the application of	
	including the examination of mergers	competition rules including the	
	with a Union dimension, and the rules	examination of mergers with a Union	
	on the internal market such as the free	dimension, and the rules on the	
	movement of capital. The independent	internal market such as the free	
	body to which a party affected by the	movement of capital. The	
	decision of a national regulator has a	independent body to which a party	
	right to appeal could be a court or	affected by the decision of a national	
	other tribunal empowered to conduct a	regulator has a right to appeal could	
	judicial review.	be a court or other tribunal	
		empowered to conduct a judicial	
		review.	

84.		(62)	2a) The Electricity and Gas	
		Dir	rectives do not deprive the	
		gov	vernment of the possibility of	
		esta	tablishing and issuing its national	
		ene	ergy policy. This means that,	
		dep	pending on the national	
		con	nstitution, it could be the	
		gov	vernment's competency to	
		det	termine the policy framework	
		wit	thin which the regulatory	
		aut	thorities must operate, for	
			stance concerning security of	
			pply. However, general energy	
		-	licy guidelines issued by the	
			vernment must not impinge on	
			e regulatory authority	
			dependence and autonomy.	
85.	(63) Under [recast of Regulation	· ·	3) Under [recast of Regulation	
	714/2009 as proposed by		4/2009 as proposed by	
	COM(2016)861/2], the Commission		OM(2016)861/2], the Commission	
	may adopt guidelines or network codes		ny adopt guidelines or network	
	to achieve the necessary degree of		des to achieve the necessary	
	harmonisation. Such guidelines or		gree of harmonisation. Such	
	network codes, which constitute		idelines or network codes, which	
	binding implementing measures, are,		nstitute binding implementing	
	also with regard to certain provisions		easures, are, also with regard to	
	of this Directive, a useful tool which		rtain provisions of this Directive, a	
	can be adapted quickly where		eful tool which can be adapted	
	necessary.	quie	ickly where necessary.	

86.	(64) Member States and the Energy	(64) Member States and the Energy
	Community Contracting Parties should	Community Contracting Parties
	closely cooperate on all matters	should closely cooperate on all
	concerning the development of an	matters concerning the development
	integrated electricity trading region	of an integrated electricity trading
	and should take no measures that	region and should take no measures
	endanger the further integration of	that endanger the further integration
	electricity markets or security of	of electricity markets or security of
	supply of Member States and	supply of Member States and
	Contracting Parties.	Contracting Parties.
<b>87.</b>	(65) This Directive should be read	(65) This Directive should be read
	together with [recast of Regulation	together with [recast of Regulation
	714/2009 as proposed by	714/2009 as proposed by
	COM(2016)861/2] which lays down	COM(2016)861/2] which lays down
	key principles of the new market	key principles of the new market
	design for electricity which will enable	design for electricity which will
	better reward for flexibility, provide	enable better reward for flexibility,
	adequate price signals and ensure the	provide adequate price signals and
	development of functioning integrated	ensure the development of
	short-term markets. [recast of	functioning integrated short-term
	Regulation 714/2009 as proposed by	markets. [recast of Regulation
	COM(2016)861/2] also sets out new	714/2009 as proposed by
	rules in various areas including	COM(2016)861/2] also sets out new
	capacity mechanisms and cooperation	rules in various areas including
	between transmission system	capacity mechanisms and
	operators.	cooperation between transmission
		system operators.

88.	(66) Since the objective of this	(66) Since the objective of this	
	Directive, namely the creation of a	Directive, namely the creation of	i l
	fully operational internal electricity	fully operational internal electricity	y
	market, cannot be sufficiently achieved	market, cannot be sufficiently	
	by the Member States and can	achieved by the Member States ar	d
	therefore be better achieved at Union	can therefore be better achieved a	
	level, the Union may adopt measures,	Union level, the Union may adopt	
	in accordance with the principle of	measures, in accordance with the	
	subsidiarity as set out in Article 5 of	principle of subsidiarity as set out	in
	the Treaty on the European Union. In	Article 5 of the Treaty on the	
	accordance with the principle of	European Union. In accordance w	
	proportionality, as set out in that	the principle of proportionality, as	
	Article, this Directive does not go	out in that Article, this Directive of	
	beyond what is necessary in order to	not go beyond what is necessary i	1
	achieve that objective.	order to achieve that objective.	
89.	(67) This Directive respects the	(67) This Directive respects the	
	fundamental rights, and observes the	fundamental rights, and observes	
	principles, recognised in particular by	principles, recognised in particula	:
	the Charter of Fundamental Rights of	by the Charter of Fundamental	
	the European Union.	Rights of the European Union.	
90.	(68) In order to provide the minimum		
	degree of harmonisation required to		
	achieve the aim of this Directive, the		
	power to adopt acts in accordance with		
	Article 290 of the Treaty should be		
	delegated to the Commission to		
	establish guidelines on the extent of		
	the duties of the regulatory authorities		
	to cooperate with each other and with		
	the Agency for the Cooperation of		
	Energy Regulators (the 'Agency') and		
	setting out the details of the procedure.		
	It is of particular importance that the		
	Commission carry out appropriate		
	consultations during its preparatory		

	work, including at expert level, and			
	that those consultations be conducted			
	in accordance with the principles laid			
	down in the Interinstitutional			
	Agreement on Better Law-Making of			
	13 April 2016 <sup>18</sup> . In particular, to			
	ensure equal participation in the			
	preparation of delegated acts, the			
	European Parliament and the Council			
	receive all documents at the same time			
	as Member States' experts, and their			
	experts systematically have access to			
	meetings of Commission expert groups			
	dealing with the preparation of the			
	delegated acts.			
91.	(69) In order to ensure uniform	AM 22	(69) In order to ensure uniform	
	conditions for the implementation of	(69) In order to ensure uniform	conditions for the implementation of	
	this Directive, implementing powers	conditions for the implementation of	this Directive, implementing powers	
	should be conferred on the	this Directive, implementing powers	should be conferred on the	
	Commission in order to determine a	should be conferred on the	Commission in order to determine	
	common European data format and	Commission in order to determine a	interoperability for a common	
	non-discriminatory and transparent	common European data format and	European data format and non-	
	procedures for accessing the data on	non-discriminatory and transparent	discriminatory and transparent	
	metering, consumption data as well as	procedures for accessing the data on	procedures for accessing the data on	
	data required for consumer switching.	metering, consumption data as well	metering, consumption data as well	
	Those powers should be exercised in	as data required for consumer	as data required for consumer	
	accordance with Regulation (EU) No	switching. Those powers should be	switching. Those powers should be	
	182/2011 of the European Parliament	exercised in accordance with	exercised in accordance with	
	and of the Council <sup>19</sup> .	Regulation (EU) No 182/2011 of the	Regulation (EU) No 182/2011 of the	

7506/3/18 REV 3 GW/ns 60
ANNEX TREE.2.B

OJ L 123, 12.5.2016, p. 1.

Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

		European Parliament and of the Council <sup>38</sup> . In order to ensure that such a common European data format supports marked-based competition and contributes to ensuring interoperability between energy services, the Commission may request if appropriate that data standards are drawn up by the	European Parliament and of the Council <sup>20</sup> .	
		relevant European standardisation organisations.		
92.	(70) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.	organisations.	(70) The obligation to transpose this Directive into national law should be confined to those provisions which represent a substantive amendment as compared to the earlier Directive. The obligation to transpose the provisions which are unchanged arises under the earlier Directive.	
93.	(71) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>21</sup> , Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components		(71) In accordance with the Joint Political Declaration of 28 September 2011 of Member States and the Commission on explanatory documents <sup>22</sup> , Member States have undertaken to accompany, in justified cases, the notification of their transposition measures with one or more documents explaining the relationship between the components	

Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

OJ C 369, 17.12.2011, p. 14.

OJ C 369, 17.12.2011, p. 14.

94. 95. 96.	of a directive and the corresponding parts of national transposition instruments. With regard to this Directive, the legislator considers the transmission of such documents to be justified.  (72) This Directive should be without prejudice to the obligations of the Member States relating to the timelimit for the transposition into national law and the date of application of the Directive set out in Annex IV.  HAVE ADOPTED THIS DIRECTIVE:	СНАРТ		
0=		SUBJECT MATTER A		
97.		Artici Subject i		
98.	This Directive establishes common rules for the generation, transmission, distribution, storage and supply of electricity, together with consumer protection provisions, with a view to creating truly integrated competitive, consumer-centred and flexible electricity markets in the Union. Using the advantages of an integrated market, the Directive aims at ensuring affordable energy prices for consumers, a high degree of security of supply and a smooth transition towards a decarbonised energy system. It lays down key rules relating to the	AM 23 This Directive establishes common rules for the generation, transmission, distribution, storage and supply of electricity, together with consumer protection provisions, with a view to creating truly integrated competitive, consumer-centred and flexible electricity markets in the Union. Using the advantages of an integrated market, the Directive aims at ensuring affordable, transparent energy costs for consumers, a high degree of security of supply and a smooth transition towards a	This Directive establishes common rules for the generation, transmission, distribution, storage and supply of electricity, together with consumer protection provisions, with a view to creating truly integrated competitive, consumer-centred and flexible, fair and transparent electricity markets in the Union. Using the advantages of an integrated market, the Directive aims at ensuring affordable energy prices for consumers, a high degree of security of supply and a smooth transition towards a [] low-carbon energy system. It lays down key rules	Accept in part (see also AM 34, point 163):  This Directive establishes common rules for the generation, transmission, distribution, storage and supply of electricity, together with consumer protection provisions, with a view to creating truly integrated competitive, consumer-centred, flexible, fair and transparent electricity markets in the Union. Using the advantages of an integrated market, the Directive aims at ensuring affordable, transparent energy prices and costs

	organisation and functioning of the European electricity sector, in particular rules on consumer empowerment and protection, on open access to the integrated market, on third party access to transmission and distribution infrastructure, unbundling rules, and on independent national energy regulators.	decarbonised <i>and sustainable</i> energy system. It lays down key rules relating to the organisation and functioning of the European electricity sector, in particular rules on consumer empowerment and protection, on open access to the integrated market, on third party access to transmission and distribution infrastructure, unbundling rules, and on independent national energy regulators.	relating to the organisation and functioning of the European electricity sector, in particular rules on consumer empowerment and protection, on open access to the integrated market, on third party access to transmission and distribution infrastructure, unbundling rules, and on independent national energy regulators.	for consumers, a high degree of security of supply and a smooth transition towards a sustainable low-carbon energy system. It lays down key rules relating to the organisation and functioning of the European electricity sector, in particular rules on consumer empowerment and protection, on open access to the integrated market, on third party access to transmission and distribution infrastructure, unbundling rules, and on independent national energy regulators. This Directive also sets out modes of cooperation among Member States, regulatory authorities and transmission system operators towards the creation of a fully interconnected internal electricity market that increases the integration of renewable electricity, the mechanisms of solidarity among Member States, the free competition and security of supply.
99.		Artic <b>Defini</b>		
100.	For the purposes of this Directive, the following definitions apply:	Dejini	For the purposes of this Directive, the following definitions apply:	
101.	1. 'customer' means a wholesale or final customer of electricity;		1. 'customer' means a wholesale or final customer of electricity;	

102.	2. 'wholesale customer' means a	2.	. 'wholesale customer' means a	
	natural or legal person purchasing	na	atural or legal person purchasing	
	electricity for the purpose of resale	el	lectricity for the purpose of resale	
	inside or outside the system where he		nside or outside the system where he	
	is established;	is	s established;	
103.	3. 'final customer' means a customer	3.	. 'final customer' means a customer	
	purchasing electricity for his own use;	pı	urchasing electricity for his own	
		us	se;	
104.	4. 'household customer' means a	4.	. 'household customer' means a	
	customer purchasing electricity for his	cı	ustomer purchasing electricity for	
	own household consumption,	hi	is own household consumption,	
	excluding commercial or professional	ex	xcluding commercial or	
	activities;	pı	rofessional activities;	
105.	5. 'non-household customer' means a	5.	. 'non-household customer' means a	
	natural or legal person purchasing	na	atural or legal person purchasing	
	electricity which is not for their own	el	lectricity which is not for their own	
	household use and includes producers	ho	ousehold use and includes	
	industrial customers, small and	pı	roducers industrial customers, small	
	medium sized enterprises, businesses	ar	nd medium sized enterprises,	
	and wholesale customers;	bi	usinesses and wholesale customers;	
106.		58	a. 'microenterprise' means an	
			nterprise which employs fewer	
		th	han 10 persons and whose annual	
		tu	urnover and/or annual balance	
		sł	heet total does not exceed EUR 2	
		m	nillion;	
107.		51	b. 'small enterprise' means an	
		er	nterprise which employs fewer	
			han 50 persons and whose annual	
		tu	urnover and/or annual balance	
		sł	heet total does not exceed EUR 10	
		m	nillion;	

108.	6. 'active customer' means a customer	AM 24	6. 'active customer' means a <b>final</b>	
	or a group of jointly acting customers	6. 'active customer' means a	customer or a group of jointly acting	
	who consume, store or sell electricity	<i>final</i> customer or a group of jointly	final customers who consume or	
	generated on their premises, including	acting <i>final</i> customers who consume,	store [] electricity generated on the	
	through aggregators, or participate in	store or sell electricity generated	same site or sells self-generated	
	demand response or energy efficiency	within their premises, including	electricity [], provided that these	
	schemes provided that these activities	through aggregators or suppliers or	activities do not constitute their	
	do not constitute their primary	<i>traders</i> , or participate in demand	primary commercial or professional	
	commercial or professional activity;	response or energy efficiency	activity;	
		schemes provided that these activities	-	
		do not constitute their primary		
		commercial or professional activity;		
109.			6a. 'electricity markets' shall	
			include over-the-counter markets	
			and electricity exchanges for	
			trading energy, capacity, balancing	
			and ancillary services in all	
			timeframes, including forward,	
			day-ahead and intra-day markets;	
110.			6b 'market participant' means a	
			natural or legal person buying,	
			selling or generating electricity,	
			engaging in aggregation or storage	
			services, including the placing of	
			orders to trade, in one or more	
			electricity markets including	
			balancing energy markets;	
111.	7. 'local energy community' means: an	AM 25	7. '[] energy community' means: [] a	
	association, a cooperative, a	7. 'local energy community'	legal entity which is based on	
	partnership, a non-profit organisation	means an association, a cooperative,	voluntary and open participation,	
	or other legal entity which is	a partnership, a non-profit	effectively controlled by []	
	effectively controlled by local	organisation, <i>SME</i> or other legal	shareholders or members who are	
	shareholders or members, generally	entity which is based on voluntary	natural persons, local authorities,	
	value rather than profit-driven,	and open participation and is	including municipalities, or small	
	involved in distributed generation and	effectively controlled by local	enterprises and microenterprises	

	in performing activities of a distribution system operator, supplier or aggregator at local level, including across borders;	shareholders or members, the predominant aim of which is to provide local environmental, economic or social community benefits for its members or the local area or areas where it operates rather than where it generates profits, and which is involved in activities such as distributed generation, storage, supply, provision of energy efficiency services, aggregation, electromobility and distribution system	[]. The primary purpose of an energy community is to provide environmental, economic or social community benefits for its members or the local areas where it operates rather than financial profits. An energy community can be engaged [] in [] electricity generation, distribution and supply, consumption, aggregation, storage or energy efficiency services, generation of renewable electricity [] or provide other energy services	
112.	8. 'supply' means the sale, including	operation, including across borders;	to its shareholders or members []; 8. 'supply' means the sale, including	
112.	resale, of electricity to customers;		resale, of electricity to customers;	
113.	9. 'electricity supply contract' means a		9. 'electricity supply contract' means	
	contract for the supply of electricity,		a contract for the supply of	
	but does not include an electricity		electricity, but does not include an	
	derivative;		electricity derivative;	
114.	•		10. 'electricity derivative' means a	
	financial instrument specified in		financial instrument specified in	
	points 5, 6 or 7 of Section C of		points 5, 6 or 7 of Section C of	
	Annex I to Directive 2004/39/EC of		Annex I to Directive 2004/39/EC of	
	the European Parliament and of the		the European Parliament and of the	
	Council <sup>23</sup> , where that instrument		Council <sup>24</sup> , where that instrument	
	relates to electricity;		relates to electricity;	

-

Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (OJ L 145, 30.4.2004, p. 1).

Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments (OJ L 145, 30.4.2004, p. 1).

115.	11. 'dynamic electricity price contract'		11. 'dynamic electricity price	
	means an electricity supply contract		contract' means an electricity supply	
	between a supplier and a final		contract between a supplier and a	
	customer that reflects the price at the		final customer that reflects the price	
	spot market, including at the day ahead		variation at the spot markets	
	market at intervals at least equal to the		including day ahead and intraday	
	market settlement frequency;		markets, [] at intervals at least equal	
	, ,		to the market settlement frequency;	
116.	12. 'contract termination fee' means		12. 'contract termination fee' means	
2200	any charge or penalty imposed on		any charge or penalty imposed on	
	customers by suppliers or aggregators		customers by suppliers or [] market	
	for withdrawing from an electricity		participants engaged in	
	supply or service contract;		aggregation for withdrawing from	
	Suffer at the community		an electricity supply or service	
			contract;	
117.	13. 'switching related fee' means any		13. 'switching related fee' means any	
	charge or penalty imposed on		charge or penalty imposed on	
	customers by suppliers or system		customers by suppliers or market	
	operators directly or indirectly for		participants engaged in	
	changing suppliers, including contract		aggregation or system operators	
	termination fees;		directly or indirectly for changing	
	*		suppliers or market participants	
			engaged in aggregation, including	
			contract termination fees;	
118.	14. 'aggregator' means a market		14. [] 'aggregation' means a	
	participant that combines multiple		function taken by a natural or legal	
	customer loads or generated electricity		<b>person</b> [] that combines multiple	
	for sale, for purchase or auction in any		customer loads or generated	
	organised energy market;		electricity for sale, for purchase or	
			auction in any [] electricity market;	
119.	15. 'independent aggregator' means an	AM 26	15. 'independent aggregator' means []	
	aggregator that is not affiliated to a	15. 'independent aggregator'	a market participant that performs	
	supplier or any other market	means an aggregator that is not	aggregation that is not affiliated to	
	participant;	affiliated to <i>the</i> supplier <i>of the</i>	its customer's [] supplier [];	
		customer;		

120.	16. 'demand response' means the	16. 'demand response' means the
	change of electricity load by final	change of electricity load by final
	customers from their normal or current	customers from their normal or
	consumption patterns in response to	current consumption patterns in
	market signals, including time-variable	response to market signals, including
	electricity prices or incentive	time-variable electricity prices or
	payments, or in response to acceptance	incentive payments, or in response to
	of the final customer's bid, alone or	acceptance of the final customer's
	through aggregation, to sell demand	bid, alone or through aggregation, to
	reduction or increase at a price in	sell demand reduction or increase at a
	organised markets as defined in	price in organised markets as defined
	Commission Implementing Regulation	in Commission Implementing
	(EU) No 1348/2014 <sup>25</sup> ;	Regulation (EU) No 1348/2014 <sup>26</sup> ;
121.		16a. 'billing information' means all
		the information provided in final
		customers' bills, apart from a
		request for payment;
122.	17. 'conventional meter' means an	17. 'conventional meter' means an
	analogue meter or an electronic meter	analogue meter or an electronic
	with no capability to both transmit and	meter with no capability to both
	receive data;	transmit and receive data;
<b>123.</b>		18. 'smart metering system' means
	electronic system that can measure	an electronic system that can
	energy consumption, providing more	measure energy consumption or the
	information than a conventional meter,	amount of electricity put into the
	and can transmit and receive data for	grid, providing more information
	information, monitoring and control	than a conventional meter, and can
	purposes, using a form of electronic	transmit and receive data for
		information manitoning and control
	communication;	information, monitoring and control
	communication;	purposes, using a form of electronic communication;

2.5

Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and the Council on wholesale energy market integrity and transparency (OJ L 363, 18.12.2014, p. 121).

Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and the Council on wholesale energy market integrity and transparency (OJ L 363, 18.12.2014, p. 121).

124.	19. 'interoperability' means, in the		nteroperability' means, in the	
	context of smart metering, the ability	conte	ext of smart metering, the ability	
	of two or more energy or		o or more energy or	
	communication networks, systems,	comm	nunication networks, systems,	
	devices, applications or components to	device	ces, applications or components	
	interwork, to exchange and use		erwork, to exchange and use	
	information in order to perform		mation in order to perform	
	required functions;		red functions;	
125.	20. 'near-real time' means, in the	20. 'n	near-real time' means, in the	
	context of smart metering, the time,		ext of smart metering, [] a short	
	usually down to seconds, that elapses		<b>period</b> , usually down to seconds	
	between data recording and their		to the imbalance settlement	
	automated processing and transmission	timef	frame in the national market	
	for use or information purposes;	П;		
<b>126.</b>			best available techniques'	
	in the context of data protection and		as, in the context of data	
	security in a smart metering		ction and security in a smart	
	environment, the most effective and		ring environment, the most	
	advanced stage in the development of		tive and advanced stage in the	
	activities and their methods of		lopment of activities and their	
	operation, which indicates the practical		ods of operation, which	
	suitability of particular techniques,		ates the practical suitability of	
	designed to prevent or mitigate risks		cular techniques, designed to	
	on privacy, personal data and security,		ent or mitigate risks on privacy,	
	for providing in principle the basis for		onal data and security, for	
	complying with the Union data		ding in principle the basis for	
	protection framework;		olying with the Union data	
			ction framework;	
127.	22. 'distribution' means the transport of		listribution' means the transport	
	electricity on high-voltage, medium-		ectricity on high-voltage,	
	voltage and low-voltage distribution		um-voltage and low-voltage	
	systems with a view to its delivery to		bution systems with a view to	
	customers, but does not include		elivery to customers, but does	
	supply;	not in	nclude supply;	

128.	23. 'distribution system operator'	23. 'distribution system operator'
	means a natural or legal person	means a natural or legal person
	responsible for operating, ensuring the	responsible for operating, ensuring
	maintenance of and, if necessary,	the maintenance of and, if necessary,
	developing the distribution system in a	developing the distribution system in
	given area and, where applicable, its	a given area and, where applicable,
	interconnections with other systems	its interconnections with other
	and for ensuring the long-term ability	systems and for ensuring the long-
	of the system to meet reasonable	term ability of the system to meet
	demands for the distribution of	reasonable demands for the
	electricity;	distribution of electricity;
129.	24. 'energy efficiency' means the ratio	24. 'energy efficiency' means the
	of output of performance, service,	ratio of output of performance,
	goods or energy, to input of energy;	service, goods or energy, to input of
		energy;
130.	25. 'energy from renewable sources'	25. 'energy from renewable sources'
	means energy from renewable non-	means energy from renewable non-
	fossil sources, in particular wind, solar	fossil sources, in particular wind,
	(solar thermal and solar photovoltaic),	solar (solar thermal and solar
	geothermal energy, ambient heat,	photovoltaic), geothermal energy,
	hydropower and tide, ocean, wave	ambient heat, hydropower and tide,
	energy, and combustible renewables:	ocean , wave, and other ocean
	biofuels, bioliquids, biogas, solid	energy, hydropower and
	biofuels and combustible wastes of	combustible renewables: biofuels,
	renewable origin;	bioliquids, biogas, solid biofuels and
		combustible wastes of renewable
		origin;
131.	26. 'distributed generation' means	26. 'distributed generation' means
	generation plants connected to the	generation plants connected to the
	distribution system;	distribution system;
132.	27. 'recharging point' means an	27. 'recharging point' means an
	interface that is capable of charging	interface that is capable of charging
	one electric vehicle at a time or	one electric vehicle at a time or
	exchanging a battery of one electric	exchanging a battery of one electric
	vehicle at a time;	vehicle at a time;

133.	28. 'transmission' means the transport	28. 'transmission' means the transport
	of electricity on the extra high-voltage	of electricity on the extra high-
	and high-voltage interconnected	voltage and high-voltage
	system with a view to its delivery to	interconnected system with a view to
	final customers or to distributors, but	its delivery to final customers or to
	does not include supply;	distributors, but does not include
		supply;
134.	29. 'transmission system operator'	29. 'transmission system operator'
	means a natural or legal person	means a natural or legal person
	responsible for operating, ensuring the	responsible for operating, ensuring
	maintenance of and, if necessary,	the maintenance of and, if necessary,
	developing the transmission system in	developing the transmission system
	a given area and, where applicable, its	in a given area and, where applicable,
	interconnections with other systems,	its interconnections with other
	and for ensuring the long-term ability	systems, and for ensuring the long-
	of the system to meet reasonable	term ability of the system to meet
	demands for the transmission of	reasonable demands for the
	electricity;	transmission of electricity;
135.	30. 'system user' means a natural or	30. 'system user' means a natural or
	legal person supplying to, or being	legal person supplying to, or being
	supplied by, a transmission or	supplied by, a transmission or
	distribution system;	distribution system;
136.	31. 'generation' means the production	31. 'generation' means the production
	of electricity;	of electricity;
137.	32. 'producer' means a natural or legal	32. 'producer' means a natural or
	person generating electricity;	legal person generating electricity;

138.	33. 'interconnector' means a	[33. 'interconnector' means an	33. 'interconnector' means an
	transmission line which crosses or	equipment used to link electricity	equipment used to link electricity
	spans a border between bidding zones,	systems [] which crosses or spans a	transmission systems, excluding
	between Member States or, up to the	border between bidding zones <b>or</b>	equipment crossing a bidding zone
	border of EU jurisdiction, between	between Member States or, up to the	border inside a Member State.
	Member States and third countries;	border of [] Union territorial	
		jurisdiction, between Member States	
		and third countries;] <sup>27</sup>	
139.	34. 'interconnected system' means a	34. 'interconnected system' means a	
	number of transmission and	number of transmission and	
	distribution systems linked together by	distribution systems linked together	
	means of one or more interconnectors;	by means of one or more	
		interconnectors;	
140.	35. 'direct line' means either an	35. 'direct line' means either an	
	electricity line linking an isolated	electricity line linking an isolated	
	generation site with an isolated	generation site with an isolated	
	customer or an electricity line linking	customer or an electricity line linking	
	an electricity producer and an	an electricity producer and an	
	electricity supply undertaking to	electricity supply undertaking to	
	supply directly their own premises,	supply directly their own premises,	
	subsidiaries and customers;	subsidiaries and customers;	
141.	36. 'small isolated system' means any	36. 'small isolated system' means	
	system with consumption of less than	any system with consumption of less	
	3 000 GWh in the year 1996, where	than 3 000 GWh in the year 1996,	
	less than 5 % of annual consumption is	where less than 5 % of annual	
	obtained through interconnection with	consumption is obtained through	
	other systems;	interconnection with other systems;	

7506/3/18 REV 3 GW/ns 72
ANNEX TREE.2.B

<sup>&</sup>lt;sup>27</sup> This definition is not part of the general approach.

142.			36a. 'small connected system'	
172.			<u> </u>	
			means any system with	
			consumption of less than 3 000	
			GWh in the year 1996, where more	
			than 5 % of annual consumption is	
			obtained through interconnection	
			with other systems;	
143.	37. 'ancillary service' means a service		37. 'ancillary service' means a	
	necessary for the operation of a		service necessary for the operation of	
	transmission or distribution system		a transmission or distribution system	
	including balancing and non-frequency		including balancing and non-	
	ancillary services but not congestion		frequency ancillary services but not	
	management;		congestion management;	
144.	38. 'non-frequency ancillary service'	AM 27	38. 'non-frequency ancillary service'	
177.	means a service used by a transmission	38. 'non-frequency ancillary	means a service used by a	
	or distribution system operator for	service' means a service used by a	transmission [] system operator for	
	steady state voltage control, fast	transmission or distribution system	steady state voltage control, fast	
	reactive current injections, inertia and	operator for steady state voltage	reactive current injections, inertia for	
	black start capability;	control, fast reactive current	grid stability, short circuit current,	
		injections, inertia for local grid	[] black start capability and island	
		stability, short-circuit current, and	operation capability or a service	
		black start capability and island	used by a distribution system	
		operation capability;	operator, including storage facility,	
			for steady state voltage control,	
			fast reactive current injections and	
			short circuit current;	
145.		AM 28	39. [] Regional Security	
	the regional operational centre as	39. 'regional <i>coordination</i> centre'	Coordinators means the [] Regional	
	defined in Article 32 of the [recast of	means the regional <i>coordination</i>	Security Coordinators pursuant to	
	Regulation 714/2009 as proposed by	centre as established pursuant to	[] Article 32 of the [recast of	
	COM(2016)861/2].	Article 32 of <i>Regulation (EU)</i>	Regulation 714/2009 as proposed by	
		[recast of Regulation 714/2009 as	COM(2016)861/2];	
		proposed by COM(2016)861/2].		
		(This amendment applies throughout		
		the text. Adopting it will necessitate		
		corresponding changes throughout.)		

146.		AM 29 39a. (new) 'integral part of the transmission system' means network components that are integrated in	39a. 'fully integrated network components' means static network components that are integrated in the transmission or distribution	
		the transmission or distribution system, including storage facilities, and are used for the sole purpose of ensuring a secure and reliable operation of the transmission or distribution system, however not for balancing or congestion	system, including storage facility, and are used for the only purpose of ensuring a secure and reliable operation of the transmission or distribution system but not for balancing nor congestion management;	
		management, except for the reactive		
		instantaneous restoration of network security in case of network		
		contingencies;		
147.	40. 'integrated electricity undertaking'		40. 'integrated electricity	
	means a vertically or horizontally		undertaking' means a vertically or	
	integrated undertaking;		horizontally integrated undertaking;	
148.	41. 'vertically integrated undertaking'		41. 'vertically integrated undertaking'	
	means an electricity undertaking or a		means an electricity undertaking or a	
	group of electricity undertakings		group of electricity undertakings	
	where the same person or the same		where the same person or the same	
	persons are entitled, directly or		persons are entitled, directly or	
	indirectly, to exercise control, and		indirectly, to exercise control, and	
	where the undertaking or group of		where the undertaking or group of	
	undertakings perform at least one of the functions of transmission or		undertakings perform at least one of the functions of transmission or	
	distribution, and at least one of the		distribution, and at least one of the	
	functions of generation or supply of		functions of generation or supply of	
	electricity;		electricity;	

149.	42. 'related undertaking' means	42. 'related undertaking' means	d undertaking' means	
	affiliated undertakings, within the	affiliated undertakings, within the	undertakings, within the	
	meaning of Article 2(12) of Directive	meaning of Article 2(12) of Directive	of Article 2(12) of Directive	
	2013/34/EU of the European	2013/34/EU of the European	EU of the European	
	Parliament and of the Council <sup>28</sup> , and	Parliament and of the Council <sup>29</sup> and	nt and of the Council <sup>28</sup> , and	
	undertakings which belong to the same	undertakings which belong to the	ngs which belong to the same	
	shareholders;	same shareholders;	lers;	
150.	43. 'horizontally integrated	43. 'horizontally integrated	ontally integrated	
	undertaking' means an undertaking	undertaking' means an undertaking	ng' means an undertaking	
	performing at least one of the	performing at least one of the		
	functions of generation for sale, or	functions of generation for sale, or		
	transmission, or distribution, or supply	transmission, or distribution, or		
	of electricity, and another non-	supply of electricity, and another	•	
	electricity activity;	non-electricity activity;	activity;	

\_

7506/3/18 REV 3 GW/ns 75 ANNEX TREE.2.B **EN** 

Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

151.	44. 'control' means rights, contracts or	44. 'control' means rights, contracts
	any other means which, either	or any other means which, either
	separately or in combination and	separately or in combination and
	having regard to the considerations of	having regard to the considerations
	fact or law involved, confer the	of fact or law involved, confer the
	possibility of exercising decisive	possibility of exercising decisive
	influence on an undertaking, in	influence on an undertaking, in
	particular by:	particular by:
152.	(a) ownership or the right to use all	(a) ownership or the right to use
	or part of the assets of an undertaking;	all or part of the assets of an
	,	undertaking;
153.	(b) rights or contracts which confer	(b) rights or contracts which
	decisive influence on the composition,	confer decisive influence on the
	voting or decisions of the organs of an	composition, voting or decisions of
	undertaking;	the organs of an undertaking;
154.	45. 'electricity undertaking' means any	45. 'electricity undertaking' means
	natural or legal person carrying out at	any natural or legal person carrying
	least one of the following functions:	out at least one of the following
	generation, transmission, distribution,	functions: generation, transmission,
	supply, or purchase of electricity,	distribution, aggregation, demand
	which is responsible for the	response, storage, supply, or
	commercial, technical or maintenance	purchase of electricity, which is
	tasks related to those functions, but	responsible for the commercial,
	does not include final customers;	technical or maintenance tasks
		related to those functions, but does
		not include final customers;
155.	46. 'security' means both security of	46. 'security' means both security of
	supply and provision of electricity, and	supply and provision of electricity,
	technical safety;	and technical safety;

156.	47. 'energy storage' means, in the electricity system, deferring an amount of the electricity that was generated to the moment of use, either as final energy or converted into another energy carrier.	AM 30 47. 'energy storage' means, in the electricity system, deferring the use of electricity to a later moment than when it was generated or the conversion of electrical energy into a form of energy which can be stored, the storing of that energy, and the subsequent reconversion of	47. 'energy storage' means, in the electricity system, [] the conversion of an amount of the electricity that was generated [] into a form of energy which can be stored, the storing of that energy, and the subsequent direct use or reconversion of that energy back into electrical energy or into	
		that energy back into electrical energy or another energy carrier.	another energy carrier and use of that reconverted energy at a later moment than it was generated;	
157.			47a. 'energy storage facility' in the electricity system means a facility where energy storage occurs.	
158.		CHAPT GENERAL RULES FOR THE ORO	ER II	
159.		Artic		
			nd non-discriminatory electricity marke	
160.	1. Member States shall ensure that their national legislation does not unduly hamper cross-border flows of electricity, consumer participation including through demand—side response, investments into flexible energy generation, energy storage, the deployment of electro-mobility or new interconnectors, and that electricity prices reflect actual demand and supply.	1. Member States shall ensure that their national legislation does not unduly hamper cross-border <i>trade</i> and flows of electricity, consumer participation including through demand—side response, investments into flexible energy generation, energy storage, the deployment of electro-mobility or new interconnectors, and that electricity prices reflect actual demand and supply.	1. Member States shall ensure that their national legislation does not unduly hamper cross-border [] trade of electricity, consumer participation including through demand—side response, investments into [] energy generation, energy storage, the deployment of electro-mobility or new interconnectors between Member States, and that electricity prices reflect actual demand and supply. Any public intervention in electricity prices shall be subject to conditions in Article 5.	Accept in part:  1. Member States shall ensure that their national legislation does not unduly hamper cross-border trade of electricity, consumer participation including through demand—side response, investments into in particular variable and flexible energy generation, energy storage, the deployment of electromobility or new interconnectors between Member States, and that electricity prices reflect actual demand and supply.

161.	AM 32 1a. (new) Member States shall ensure that their national legislation ensures an equal level-playing field and does not discriminate against any market participant, including those from other Member States.	1a. When developing new interconnectors, Member States shall take into account the electricity interconnection targets.	Accept in part (included in para.2a)
162.	AM 33  1b. (new) Without prejudice to the competences in relation to third countries, Members States shall ensure that no undue barriers exist within the internal electricity market as regards market entry, operation and exit. Market participants from third countries shall comply with applicable Union and Member States' laws, including those concerning environmental and safety policy.		Accept in part (included in paras.2 and 2b)
163.	AM 34  Ic. (new) This Directive also sets out means of cooperation among  Member States, regulatory  authorities and transmission system operators towards the creation of a fully interconnected internal market that increases the integration of renewable electricity, the mechanisms of solidarity among Member States, the free competition and the security of supply.		Accept (included in Article 1)

164.	2. Members States shall ensure that no undue barriers exist for market entry and market exit of electricity generation and electricity supply undertakings.	AM 35 2. Members States shall ensure that no undue barriers exist for market entry and market exit of electricity generation, energy storage, demand-response and electricity supply undertakings.	2. Members States shall ensure that no undue barriers exist within the internal electricity market as regards [] market entry, operation and [] exit [], without prejudice to those competences which Member States retain in relation to third countries. Market participants from third countries, operating within the internal electricity market shall comply with applicable Union and Member States' laws, including those concerning environmental and safety policy.	Maintain Council GA (however second part of the paragraph moved to new para. 2b, point 166)  2. Members States shall ensure that no undue barriers exist within the internal electricity market as regards market entry, operation and exit, without prejudice to those competences which Member States retain in relation to third countries.
165.			2a. Member States shall ensure that electricity undertakings are subject to transparent, proportionate and non-discriminatory rules, fees and treatment, in particular in the fields of balancing responsibility, access to wholesale markets, access to data, customer switching and billing and, where applicable, in the Member States licensing.	2a. Member States shall ensure a level-playing field where electricity undertakings are subject to transparent, proportionate and non-discriminatory rules, fees and treatment, in particular in the fields of balancing responsibility, access to wholesale markets, access to data, customer switching and billing and, where applicable, in the Member States licensing.
166.				2b. Market participants from third countries, operating within the internal electricity market shall comply with applicable Union and Member States' laws, including those concerning environmental and safety policy.

<b>167.</b>		Article 4					
		Free choice of electricity supplier					
168.	Member States shall ensure that all	AM 36	Member States shall ensure that all	Maintain Council general			
	customers are free to purchase	Member States shall ensure that all	customers are free to purchase	approach.			
	electricity from the supplier of their	customers are free to purchase	electricity from the supplier of their				
	choice.	electricity from the <i>producer or</i>	choice.				
		supplier of their choice and are free					
		to contract simultaneously with					
		several suppliers.					
<i>169</i> .		Artic					
		Market based s	supply prices				
170.	to determine the price at which they supply electricity to customers.  Member States shall take appropriate actions to ensure effective competition between electricity suppliers.		1. Electricity suppliers shall be free to determine the price at which they supply electricity to customers. Member States shall take appropriate actions to ensure effective competition between electricity suppliers.				
171.	2. Member States shall ensure the protection of energy poor or vulnerable customers in a targeted manner by other means than public interventions in the price-setting for the supply of electricity.	AM 37 2. Member States <i>may</i> ensure the protection of energy poor or vulnerable <i>household</i> customers in a targeted manner by <i>social policy or</i> other means than public interventions in the price-setting for the supply of electricity.	2. Member States shall ensure the protection of energy poor or vulnerable customers <b>pursuant to</b> Article 28 [] by other means than public interventions in the pricesetting for the supply of electricity.				

172.	3. By way of derogation from paragraphs 1 and 2, Member States which apply public interventions in price setting for the supply of electricity for energy poor or vulnerable household customers at the [OP: please insert the date of entry into force of this Directive] may continue to apply such public interventions until [OP: insert the date – five years from the entry into force of this Directive]. Such public interventions shall pursue a general economic interest, be clearly defined, transparent, non-discriminatory, verifiable and guarantee equal access for Union electricity companies to customers. The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue, be limited in time and proportionate as regards their beneficiaries.	3. By way of derogation from paragraphs 1 and 2, Member States [] may apply public interventions in price setting for the supply of electricity subject to the conditions in paragraphs 3a and 3b [].	
173.		3a. [] Public interventions pursuant to paragraph 3 shall:	
174.		(a) pursue a general economic interest;	
175.		(b) be clearly defined, transparent, non-discriminatory and verifiable [];	
176.		(c) guarantee equal access for Union electricity companies to customers.  The interventions shall not go beyond what is necessary to achieve the general economic interest which they pursue,	

177.	(d) be limited in time and proportionate as regards their
	beneficiaries.
178.	3b. Public interventions
	pursuant to paragraph 3 shall:
179.	(-a) avoid influencing the wholesale
	electricity market;
180.	(a) not result in additional costs for
	market participants in a
	discriminatory way;
181.	(b) not lead to direct cross-
	subsidisation between customers
	supplied at free market prices and
	those supplied at regulated supply
	prices;
182.	(c) ensure that all beneficiaries of
	such public intervention have the
	possibility to choose competitive
	market offers and are directly
	informed of the availability of
	offers and savings on the
	competitive market, in particular
	dynamic electricity price contracts,
	at least every quarter and that they
	are provided with assistance to
	switch to a market based offer;
183.	(d) ensure that, pursuant to Article
	19 and 21, all beneficiaries of such
	public interventions are entitled to
	and are offered to have smart
	meters being installed at no extra
	costs for these customers and are
	directly informed of the possibility
	to install smart meters and are
	provided with necessary assistance.

184.			3c. By way of derogation from paragraph 3b, Member States which apply public interventions in price setting for the supply of electricity to households as part of the support programme [under the European Stability Mechanism], may continue to apply such public interventions subject to the terms stipulated in that support programme and the implementing documents.	
185.	4. After[OP – insert the date – five years from the entry into force of this Directive], Member States may still apply public interventions in the price-setting for the supply of electricity for vulnerable household customers in so far as it is strictly necessary for reasons of extreme urgency. Such interventions shall comply with the conditions set out in paragraph 3.	4. Between [OP – insert the date – five years from the entry into force of this Directive] and [OP – insert the date – ten years from the entry into force of this Directive], Member States may still apply public interventions in the price-setting for the supply of electricity for vulnerable household customers. Such interventions shall comply with all the following conditions:  (a) they shall not go beyond what is necessary to achieve the general economic interest which they pursue;  (b) they shall be limited in time;  (c) they shall be proportionate as regards their beneficiaries;  (d) they shall be limited to energy poor and vulnerable customers;  (e) they shall not impede market entry by new participants;		

		(6) (1 1 11 ( ) ( )		
		(f) they shall not negatively		
		impact the wholesale electricity		
		market;		
		(g) they shall not result in		
		additional costs for market		
		participants in a discriminatory		
		way; and		
		(h) all beneficiaries of such		
		public intervention shall have the		
		possibility to choose competitive		
		market offers and shall be directly		
		informed of the availability of offers		
		and savings on the competitive		
		market, in particular dynamic		
		electricity price contracts, at least		
		every quarter and they shall be		
		provided with assistance to switch to		
		a market based offer.		
186.	Member States shall notify the		4 II Manshay Ctatas aball notify	
	measures taken in accordance with the		4. [] Member States shall notify	
	first subparagraph to the Commission		the measures taken in accordance	
	within one month after adoption and		with paragraph 3 [] to the	
	may apply them immediately. The		Commission within one month after	
	notification shall be accompanied by		adoption and may apply them	
	an explanation why other instruments		immediately. The notification shall	
	could not sufficiently address the		be accompanied by an explanation	
	situation and how the beneficiaries and		why [] other instruments could not	
	the duration of the measure have been		sufficiently address the situation and	
	determined. The notification shall be		how the beneficiaries and the	
	considered as complete if, within two		duration of the measure have been	
	months from its receipt, or from the		determined. []	
	receipt of any additional information			
	requested, the Commission does not			
	request any further information.			

187.	The Commission may take a decision		_	
1071	asking the national authorities to			
	amend or withdraw the measures			
	within two months from receipt of a			
	-			
	complete notification where it			
	considers that the requirements set out			
	in the first subparagraph are not			
	fulfilled. The decision-making period			
	can be extended with the consent of			
	both the Commission and the Member			
	State concerned.			
188.	The public intervention applied on the		0	
	basis of this paragraph shall be deemed		ш	
	valid as long as the Commission has			
	not taken a decision asking the			
	national authorities to amend or			
	withdraw the measure.			
189.		Artic	e 6	
		Third-part	y access	
190.	1. Member States shall ensure the		1. Member States shall ensure the	
	implementation of a system of third		implementation of a system of third	
	party access to the transmission and		party access to the transmission and	
	distribution systems based on		distribution systems based on	
	published tariffs, applicable to all		published tariffs, applicable to all	
	customers and applied objectively and		customers and applied objectively	
	without discrimination between system		and without discrimination between	
	users. Member States shall ensure that		system users. Member States shall	
	those tariffs, or the methodologies		ensure that those tariffs, or the	
	underlying their calculation, are		methodologies underlying their	
	approved prior to their entry into force		calculation, are approved prior to	
	in accordance with Article 59 and that		their entry into force in accordance	
	those tariffs, and the methodologies —		with Article 59 and that those tariffs,	
	those tarris, and the inclined orgies			
			and the methodologies — where only	
	where only methodologies are		and the methodologies — where only methodologies are approved — are	
	where only methodologies are approved — are published prior to		methodologies are approved — are	
	where only methodologies are			

191.	2. The transmission or distribution	2. The transmission or
	system operator may refuse access	distribution system operator may
	where it lacks the necessary capacity.	refuse access where it lacks the
	Duly substantiated reasons shall be	necessary capacity. Duly
	given for such refusal, in particular	substantiated reasons shall be given
	having regard to Article 9, and based	for such refusal, in particular having
	on objective and technically and	regard to Article 9, and based on
	economically justified criteria.	objective and technically and
	Member States or, where Member	economically justified criteria.
	States have so provided, the regulatory	Member States or, where Member
	authorities shall ensure that those	States have so provided, the
	criteria are consistently applied and	regulatory authorities shall ensure
	that the system user who has been	that those criteria are consistently
	refused access can make use of a	applied and that the system user who
	dispute settlement procedure. The	has been refused access can make use
	regulatory authorities shall also ensure,	of a dispute settlement procedure.
	where appropriate and when refusal of	The regulatory authorities shall also
	access takes place, that the	ensure, where appropriate and when
	transmission or distribution system	refusal of access takes place, that the
	operator provides relevant information	transmission or distribution system
	on measures that would be necessary	operator provides relevant
	to reinforce the network. Such	information on measures that would
	information shall be provided in all	be necessary to reinforce the
	cases when access for recharging	network. Such information shall be
	points was denied. The party	provided in all cases when access for
	requesting such information may be	recharging points was denied. The
	charged a reasonable fee reflecting the	party requesting such information
	cost of providing such information.	may be charged a reasonable fee
		reflecting the cost of providing such
		information.
192.		2a. The provisions of this Article
		apply also to energy communities
		that manage distribution networks.

193.		Artic				
		Direct lines				
194.			1. Member States shall take the			
	measures necessary to enable:		measures necessary to enable:			
195.	electricity supply undertakings established within their territory to supply their own premises, subsidiaries and customers through a direct line;	AM 39  (a) all electricity producers and electricity supply undertakings established within their territory to supply their own premises, subsidiaries and customers through a direct line without being subject to disproportionate administrative procedures or costs related for instance to the need for a supply licence;	(a) all electricity producers and electricity supply undertakings established within their territory to supply their own premises, subsidiaries and customers through a direct line;	Accept in part:  (a) all electricity producers and electricity supply undertakings established within their territory to supply their own premises, subsidiaries and customers through a direct line without being subject to disproportionate administrative procedures or costs;		
196.	(b) all customers within their territory to be supplied through a direct line by a producer and supply undertakings.	AM 40 (b) all customers within their territory <i>individually or jointly</i> , to be supplied through a direct line by a producer and supply undertakings.	(b) all customers within their territory to be supplied through a direct line by a producer and supply undertakings.	Accept		
197.	2. Member States shall lay down the criteria for the grant of authorisations for the construction of direct lines in their territory. Those criteria shall be objective and non-discriminatory.		2. Member States shall lay down the criteria for the grant of authorisations for the construction of direct lines in their territory. Those criteria shall be objective and non-discriminatory.			
198.	3. The possibility of supplying electricity through a direct line as referred to in paragraph 1 shall not affect the possibility of contracting electricity in accordance with Article 6.	AM 41 3. The possibility of supplying electricity through a direct line as referred to in paragraph 1 shall not affect the possibility of contracting electricity in accordance with Article 6 and shall not affect the right of the customer to sign a second supply contract for the residual electricity demand.	3. The possibility of supplying electricity through a direct line as referred to in paragraph 1 shall not affect the possibility of contracting electricity in accordance with Article 6.	Accept		

199.	4. Member States may issue an	4. Member States may issue an
	authorisation to construct a direct line	authorisation to construct a direct
	subject either to the refusal of system	line subject either to the refusal of
	access on the basis, as appropriate, of	system access on the basis, as
	Article 6 or to the opening of a dispute	appropriate, of Article 6 or to the
	settlement procedure under Article 60.	opening of a dispute settlement
	_	procedure under Article 60.
200.	5. Member States may refuse to	5. Member States may refuse to
	authorise a direct line if the granting of	authorise a direct line if the granting
	such an authorisation would obstruct	of such an authorisation would
	application of the provisions on public	obstruct application of the provisions
	service obligations pursuant to	on public service obligations
	Article 9. Duly substantiated reasons	pursuant to Article 9. Duly
	shall be given for such refusal.	substantiated reasons shall be given
		for such refusal.
201.		Article 8
		Authorisation procedure for new capacity
202.	1. For the construction of new	1. For the construction of new
	generating capacity, Member States	generating capacity, Member States
	shall adopt an authorisation procedure,	shall adopt an authorisation
	which shall be conducted in	procedure, which shall be conducted
	accordance with objective, transparent	in accordance with objective,
	and non-discriminatory criteria.	transparent and non-discriminatory
		criteria.
203.		2. Member States shall lay down
	the criteria for the grant of	the criteria for the grant of
	authorisations for the construction of	authorisations for the construction of
	generating capacity in their territory.	generating capacity in their territory.
	In determining appropriate criteria,	In determining appropriate criteria,
	Member States shall consider:	Member States shall consider:
204.		(a) the safety and security of the
	electricity system, installations and	electricity system, installations and
	associated equipment;	associated equipment;
205.	1 1	(b) the protection of public health
	and safety;	and safety;

206.	(c) the protection of the		(c) the protection of the
	environment;		environment;
207.	(d) land use and siting;		(d) land use and siting;
208.	(e) the use of public ground;		(e) the use of public ground;
209.	(f) energy efficiency;		(f) energy efficiency;
210.	(g) the nature of the primary		(g) the nature of the primary
	sources;		sources;
211.	(h) the characteristics particular to		(h) the characteristics particular to
	the applicant, such as technical,		the applicant, such as technical,
	economic and financial capabilities;		economic and financial capabilities;
212.	(i) compliance with measures		(i) compliance with measures
	adopted pursuant to Article 9;		adopted pursuant to Article 9;
213.	(j) the contribution of the		(j) the contribution of the
	generating capacity to meeting the		generating capacity to meeting the
	overall Union target of at least a 20 %		overall Union target of at least a 20
	share of energy from renewable		% share of energy from renewable
	sources in the Union 's gross final		sources in the Union's gross final
	consumption of energy in 2020		consumption of energy in 2020
	referred to in Article 3(1) of Directive		referred to in Article 3(1) of
	2009/28/EC of the European		Directive 2009/28/EC of the
	Parliament and of the Council <sup>30</sup> ; and		European Parliament and of the
			Council <sup>31</sup> ; and
214.	(k) the contribution of generating		(k) the contribution of generating
	capacity to reducing emissions.		capacity to reducing emissions.
215.		AM 42	
		(ka) (new) the assessment of	
		alternatives, such as demand-	
		response solutions and energy	
		storage, to the construction of new	
		generating capacity.	

\_

Directive 2009/28/EC of the European Parliament and the Council of 23 April 2009 on the promotion of the use of energy sources (OJ L 140, 5.6.2009, p. 16).

Directive 2009/28/EC of the European Parliament and the Council of 23 April 2009 on the promotion of the use of energy sources (OJ L 140, 5.6.2009, p. 16).

216.	3. Member States shall ensure that	AM 43	3. Member States shall ensure	
	specific authorisation procedures exist	Member States shall ensure that	that specific authorisation procedures	
	for small decentralised and/or	specific, simplified and streamlined	exist for small decentralised and/or	
	distributed generation, which take into	authorisation procedures exist for	distributed generation, which take	
	account their limited size and potential	small decentralised and/or distributed	into account their limited size and	
	impact.	generation, which take into account	potential impact.	
		their limited size and potential		
		impact.		
217.	Member States may set guidelines for		Member States may set guidelines	
	that specific authorisation procedure.		for that specific authorisation	
	National regulatory authorities or other		procedure. National regulatory	
	competent national authorities		authorities or other competent	
	including planning authorities shall		national authorities including	
	review those guidelines and may		planning authorities shall review	
	recommend amendments thereto.		those guidelines and may recommend	
			amendments thereto.	
218.	Where Member States have		Where Member States have	
	established particular land use permit		established particular land use permit	
	procedures applying to major new		procedures applying to major new	
	infrastructure projects in generation		infrastructure projects in generation	
	capacity, Member States shall, where		capacity, Member States shall, where	
	appropriate, include the construction of		appropriate, include the construction	
	new generation capacity within the		of new generation capacity within the	
	scope of those procedures and shall		scope of those procedures and shall	
	implement them in a non-		implement them in a non-	
	discriminatory manner and within an		discriminatory manner and within an	
	appropriate time-frame.		appropriate time-frame.	

210	4 771 .1		4 779 .1	
219.	1		4. The authorisation procedures	
	and criteria shall be made public.		and criteria shall be made public.	
	Applicants shall be informed of the		Applicants shall be informed of the	
	reasons for any refusal to grant an		reasons for any refusal to grant an	
	authorisation. Those reasons shall be		authorisation. Those reasons shall be	
	objective, non-discriminatory, well-		objective, non-discriminatory, well-	
	founded and duly substantiated.		founded and duly substantiated.	
	Appeal procedures shall be made		Appeal procedures shall be made	
	available to the applicant.		available to the applicant.	
220.		Articl	e 9	
		Public service	obligations	
221.	1. Member States shall ensure, on		1. Member States shall ensure, on	
	the basis of their institutional		the basis of their institutional	
	organisation and with due regard to the		organisation and with due regard to	
	principle of subsidiarity, that, without		the principle of subsidiarity, that,	
	prejudice to paragraph 2, electricity		without prejudice to paragraph 2,	
	undertakings are operated in		electricity undertakings are operated	
	accordance with the principles of this		in accordance with the principles of	
	Directive with a view to achieving a		this Directive with a view to	
	competitive, secure and		achieving a competitive, secure and	
	environmentally sustainable market in		environmentally sustainable market	
	electricity, and shall not discriminate		in electricity, and shall not	
	between those undertakings as regards		discriminate between those	
	either rights or obligations.		undertakings as regards either rights	
			or obligations.	
222.	2. Having full regard to the	AM 44	2. Having full regard to the	
	relevant provisions of the Treaty, in	2. Having full regard to the	relevant provisions of the Treaty, in	
	particular Article 106 thereof,	relevant provisions of the Treaty, in	particular Article 106 thereof,	
	Member States may impose on	particular Article 106 thereof,	Member States may impose on	
	undertakings operating in the	Member States may impose on	undertakings operating in the	
	electricity sector, in the general	undertakings operating in the	electricity sector, in the general	
	economic interest, public service	electricity sector, in the general	economic interest, public service	
	obligations which may relate to	economic interest, public service	obligations which may relate to	
	security, including security of supply,	obligations which may relate to	security, including security of supply,	
	regularity, quality and price of supplies	security, including security of supply,	regularity, quality and price of	

	and anning managed and tastical	as and anital and anice of		
	and environmental protection,	regularity, quality and price of	supplies and environmental	
	including energy efficiency, energy	supplies and environmental	protection, including energy	
	from renewable sources and climate	protection, including energy	efficiency, energy from renewable	
	protection. Such obligations shall be	efficiency, energy from renewable	sources and climate protection. Such	
	clearly defined, transparent, non-	sources and climate protection. Such	obligations shall be clearly defined,	
	discriminatory, verifiable and shall	obligations shall be clearly defined,	transparent, non-discriminatory,	
	guarantee equality of access for	transparent, non-discriminatory,	verifiable and shall guarantee	
	electricity undertakings of the Union to	verifiable and shall guarantee	equality of access for electricity	
	national consumers. Public service	equality of access for electricity	undertakings of the Union to national	
	obligations which concern the price	undertakings of the Union to national	consumers. Public service obligations	
	setting for the supply of electricity	consumers. In relation to security of	which concern the price setting for	
	shall comply with the requirements set	supply, energy efficiency/demand-	the supply of electricity shall comply	
	out in Article 5.	side management and for the	with the requirements set out in	
		fulfilment of environmental goals	Article 5.	
		and aims for energy from renewable		
		sources, as referred to in this		
		paragraph, Member States may		
		introduce the implementation of		
		long-term planning, taking into		
		account the possibility of third		
		parties seeking access to the system.		
		Public service obligations which		
		concern the price setting for the		
		supply of electricity shall comply		
		with the requirements set out in		
		Article 5.		
223.	3. Where financial compensation,		3. Where financial compensation,	
	other forms of compensation and		other forms of compensation and	
	exclusive rights which a Member State		exclusive rights which a Member	
	grants for the fulfilment of the		State grants for the fulfilment of the	
	obligations set out in paragraph 2 or		obligations set out in paragraph 2 or	
	for the provision of universal service		for the provision of universal service	
	as set out in Article 27 are provided,		as set out in Article 27 are provided,	
	this shall be done in a non-		this shall be done in a non-	
	discriminatory and transparent way.		discriminatory and transparent way.	
	Giorininator, and transparent way.		and transparent way.	

224.	4. Member States shall, upon	4. Member States shall, upon	
	implementation of this Directive,	implementation of this Directive,	
	inform the Commission of all	inform the Commission of all	
	measures adopted to fulfil universal	measures adopted to fulfil universal	
	service and public service obligations,	service and public service	
	including consumer protection and	obligations, including consumer	
	environmental protection, and their	protection and environmental	
	possible effect on national and	protection, and their possible effect	
	international competition, whether or	on national and international	
	not such measures require a derogation	competition, whether or not such	
	from this Directive. They shall inform	measures require a derogation from	
	the Commission subsequently every	this Directive. They shall inform the	
	two years of any changes to such	Commission subsequently every two	
	measures, whether or not they require	years of any changes to such	
	a derogation from this Directive.	measures, whether or not they require	
		a derogation from this Directive.	
225.	<b>3</b>	5. Member States may decide not	
	to apply the provisions of Articles 6, 7	to apply the provisions of Articles 6,	
	and 8 insofar as their application	7 and 8 insofar as their application	
	would obstruct the performance, in law	would obstruct the performance, in	
	or in fact, of the obligations imposed	law or in fact, of the obligations	
	on electricity undertakings in the	imposed on electricity undertakings	
	general economic interest and insofar	in the general economic interest and	
	as the development of trade would not	insofar as the development of trade	
	be affected to such an extent as would	would not be affected to such an	
	be contrary to the interests of the	extent as would be contrary to the	
	Union . The interests of the Union	interests of the Union. The interests	
	include, inter alia, competition with	of the Union include, inter alia,	
	regard to customers in accordance with	competition with regard to customers	
	this Directive and Article 106 of the	in accordance with this Directive and	
1	Treaty.	Article 106 of the Treaty.	

226.	CHAPTER III					
		CONSUMER EMPOWERMENT AND PROTECTION				
227.		Article				
		Basic contrac				
228.			1. Member States shall ensure			
	all customers are entitled to have their		that all customers are entitled to have			
	electricity provided by a supplier,		their electricity provided by a			
	subject to the supplier's agreement,		supplier, subject to the supplier's			
	regardless of the Member State in		agreement, regardless of the Member			
	which the supplier is registered, as		State in which the supplier is			
	long as the supplier follows the		registered, as long as the supplier			
	applicable trading rules. In this regard,		follows the applicable trading <b>and</b>			
	Member States shall take all measures		<b>balancing</b> rules. In this regard,			
	necessary to ensure that administrative		Member States shall take all			
	procedures do not discriminate against		measures necessary to ensure that			
	supply undertakings already registered		administrative procedures do not			
	in another Member State.		discriminate against supply			
			undertakings already registered in			
			another Member State.			
229.	1 3		2. Without prejudice to Union			
	to Union rules on consumer		rules on consumer protection, in			
	protection, in particular Directive		particular Directive 2011/83/EU of			
	2011/83/EU of the European		the European Parliament and of the			
	Parliament and of the Council <sup>32</sup> and		Council <sup>34</sup> and Council Directive			
	Council Directive 93/13/EEC (33),		93/13/EEC (35), Member States shall			
	Member States shall ensure that		ensure that []:			
	customers:					

7506/3/18 REV 3 GW/ns 94
ANNEX TREE.2.B

<sup>&</sup>lt;sup>32</sup> OJ L 304, 22.11.2011, p. 64–88

OJ L 95, 21.4.1993, p. 29–34

OJ L 304, 22.11.2011, p. 64–88

OJ L 95, 21.4.1993, p. 29–34

230.	(a) have a right to a contract with		(a) <b>customers</b> have a right to a	
	their electricity service provider that		contract with their [] supplier that	
	specifies:		specifies:	
231.	<ul> <li>the identity and address of the</li> </ul>		<ul> <li>the identity and address of the</li> </ul>	
	supplier,		supplier,	
232.	<ul> <li>the services provided, the</li> </ul>		<ul> <li>the services provided, the</li> </ul>	
	service quality levels offered, as well		service quality levels offered, as well	
	as the time for the initial connection,		as the time for the initial connection,	
233.	<ul> <li>the types of maintenance service</li> </ul>		<ul> <li>the types of maintenance</li> </ul>	
	offered,		service offered,	
234.	<ul> <li>the means by which up-to-date</li> </ul>	AM 45	<ul> <li>the means by which up-to-date</li> </ul>	Accept
	information on all applicable tariffs	- the means by which up-to-date	information on all applicable tariffs	_
	and maintenance charges may be	information on all applicable tariffs	and maintenance charges may be	
	obtained,	and maintenance charges and	obtained,	
		additional products and /or services		
		(bundled offers) may be obtained,		
235.	<ul> <li>the duration of the contract, the</li> </ul>	AM 46	<ul> <li>the duration of the contract,</li> </ul>	Accept
	conditions for renewal and termination	- the duration of the contract,	the conditions for renewal and	
	of services and of the contract,	the conditions for renewal and	termination of services and of the	
		termination of services <i>including</i>	contract,	
		additional products and/or services		
		(bundled services) and of the		
		contract and whether withdrawal		
		from the contract without charge is		
		permitted,		
236.	<ul> <li>any compensation and the</li> </ul>		<ul> <li>any compensation and the</li> </ul>	
	refund arrangements which apply if		refund arrangements which apply if	
	contracted service quality levels are		contracted service quality levels are	
	not met, including inaccurate and		not met, including inaccurate and	
	delayed billing,		delayed billing,	
237.	<ul> <li>the method of initiating</li> </ul>		<ul> <li>the method of initiating</li> </ul>	
	procedures for settlement of disputes		procedures for settlement of disputes	
	in accordance with Article 26,		in accordance with Article 26,	

238.			<ul> <li>information relating to</li> </ul>	
	consumer rights, including on the		consumer rights, including on the	
	complaint handling and all of the		complaint handling and all of the	
	information referred to in this point,		information referred to in this point,	
	clearly communicated through billing		clearly communicated through billing	
	or the electricity undertaking's web		or the electricity undertaking's web	
	site.		site.	
239.	Conditions shall be fair and well-		Conditions shall be fair and well-	
	known in advance. In any case, this		known in advance. In any case, this	
	information should be provided prior		information should be provided prior	
	to the conclusion or confirmation of		to the conclusion or confirmation of	
	the contract. Where contracts are		the contract. Where contracts are	
	concluded through intermediaries, the		concluded through intermediaries,	
	information relating to the matters set		the information relating to the	
	out in this point shall also be provided		matters set out in this point shall also	
	prior to the conclusion of the contract;		be provided prior to the conclusion of	
			the contract;	
240.	(b) are given adequate notice of any	AM 47	(b) <b>customers</b> are given adequate	Maintain Council GA
	intention to modify contractual	(b) are given adequate notice of	notice of any intention to modify	
	conditions and are informed about	any intention to modify contractual	contractual conditions and are	
	their right to dissolve the contract	conditions and are informed about	informed about their right to dissolve	
	when the notice is given. Suppliers	their right to dissolve the contract	the contract when the notice is given.	
	shall notify their customers directly of	when the notice is given. Suppliers	Suppliers shall notify their customers	
	any adjustment in the supply price as	shall notify their customers directly	directly of any adjustment in the	
	well as of the reasons and	of any adjustment in the supply price	supply price as well as of the reasons	
	preconditions for the adjustment and	as well as of the reasons and	and preconditions for the adjustment	
	its scope, at an appropriate time no	preconditions for the adjustment and	and its scope, at an appropriate time	
	later than one normal billing period	its scope, as soon as they have the	no later than [] two weeks, and as	
	before the adjustment comes into	information on the adjustment, and	far as household consumers are	
	effect in a transparent and	no later than <i>one month</i> before the	considered, one month before the	
	comprehensible manner. Member	adjustment comes into effect in a	adjustment comes into effect in a	
	States shall ensure that customers are	transparent and comprehensible	transparent and comprehensible	
	free to withdraw from contracts if they	manner. Member States shall ensure	manner. Member States shall ensure	
	do not accept the new contractual	that customers are free to withdraw	that customers are free to withdraw	
	conditions or adjustments in the supply	from contracts if they do not accept	from contracts if they do not accept	
	price notified to them by their	the new contractual conditions or	the new contractual conditions or	

	electricity supplier;	adjustments in the supply price notified to them by their electricity supplier;	adjustments in the supply price notified to them by their electricity supplier;	
241.	(c) receive transparent information on applicable prices and tariffs and on standard terms and conditions, in respect of access to and use of electricity services;		(c) <b>customers</b> receive transparent information on applicable prices and tariffs and on standard terms and conditions, in respect of access to and use of electricity services;	
242.	(d) are offered a wide choice of payment methods, which do not unduly discriminate between customers. Any difference in charges related to payment methods shall reflect the relevant costs incurred by the supplier.	AM 48 (d) are offered a wide choice of payment methods, which do not unduly discriminate between customers. Any difference in charges related to payment methods shall reflect the relevant costs incurred by the supplier, in line with Article 62 of Directive (EU) 2015/2366 which forbids surcharges for any payment instrument;	(d) <b>customers</b> are offered a wide choice of payment methods, which do not unduly discriminate between customers. Any difference in charges related to payment methods shall be objective, non-discriminatory and proportionate and shall not exceed the direct costs borne by the payee for the use of the specific payment method [].	Accept in part:.  (d) customers are offered a wide choice of payment methods, which do not unduly discriminate between customers. Any difference in charges related to payment methods shall be objective, non-discriminatory and proportionate and shall not exceed the direct costs borne by the payee for the use of the specific payment method, in line with Article 62 of Directive (EU) 2015/2366.
243.	(e) are not placed at an excessive disadvantage in comparison to the average market price by the prepayment systems;	AM 49  (e) are not placed at <i>a</i> disproportionate disadvantage in comparison to the average market price by the prepayment systems;	(e) pursuant to subparagraph (d), household customers, who have access to prepayment systems, are not placed at a [] disadvantage [] by the prepayment systems;	Maintain Council GA
244.	(f) are offered fair and transparent general terms and conditions. The general terms and conditions shall be given in clear and comprehensible language and shall not include non-contractual barriers to the exercise of customers' rights, for example excessive contractual documentation.		(f) customers are offered fair and transparent general terms and conditions. The general terms and conditions shall be given in clear and comprehensible language and shall not include non-contractual barriers to the exercise of customers' rights, for example excessive contractual	

	Customers shall be protected against	documentation. Customers shall be	
	unfair or misleading selling methods;	protected against unfair or	
		misleading selling methods;	
245.	(g) have the right to a good standard of	(g) <b>customers</b> have the right to	
	service and complaint handling by	a good standard of service and	
	their electricity service provider.	complaint handling by their	
	Electricity service providers shall	suppliers []. [] Suppliers shall	
	handle complaints in a simple, fair and	handle complaints in a simple, fair	
	prompt manner;	and prompt manner;	
246.	(h) when having access to universal	(h) <b>customers</b> when having access	
	service under the provisions adopted	to universal service under the	
	by Member States pursuant to Article	provisions adopted by Member States	
	27, are informed about their rights	pursuant to Article 27, are informed	
	regarding universal service;	about their rights regarding universal	
		service;	
247.	· / U	(i) household costumers are	
	on alternatives to disconnection	given adequate information on	
	sufficiently in advance before the	alternatives to disconnection	
	planned disconnection. These	sufficiently in advance before the	
	alternatives may refer to sources of	planned disconnection. These	
	support to avoid disconnection,	alternatives may refer to sources of	
	alternative payment plans, debt	support to avoid disconnection,	
	management advice or disconnection	prepayment systems, energy	
	moratorium and should not constitute	audits, energy consultancy	
	an extra cost to customers;	services, alternative payment plans,	
		debt management advice or	
		disconnection [] moratoria. The	
		information on the available	
		alternatives [] should not constitute	
		an extra cost to the customers facing	
		disconnection;	

248.	(j) receive a final closure account	AM 50	(j) <b>customers</b> receive a final	Maintain Council GA
	following any change of electricity	(j) receive a final closure account	closure account following any	
	supplier no later than six weeks after	following any change of electricity	change of [] supplier no later than six	
	the change of supplier has taken place.	supplier no later than <i>two</i> weeks after	weeks after the change of supplier	
		the change of supplier has taken	has taken place.	
2.40		place.		
249.		AM 51		Accept in part:
		(ja) (new) are provided with a		(ja) customers are provided with a
		summary of the key contractual		summary of the key contractual
		conditions (such as the main		conditions (such as the main
		features of the service, detailed		features of the service, detailed
		information on prices, conditions		information on prices, conditions
		for switching and price increase) in		for switching and price increase) in
		concise and simple language on the		concise and simple language.
		first page of the contract or together		
		with the contract.		
250.		Articl		
0.71	1 )/ 1 0 11	Entitlement to a dynamic		
251.	1. Member States shall ensure that		1. Member States shall ensure	
	every final customer is entitled, on		that the national regulatory	
	request, to a dynamic electricity price		framework enables electricity	
	contract by his supplier.		suppliers to offer a dynamic	
			electricity price contract. Member	
			States shall ensure that [] final	
			customers who have a smart meter	
			installed can [] request to conclude	
			a dynamic electricity price contract	
2.7.0		135.50	from at least one [] supplier.	
252.	2. Member States shall ensure that	AM 52	2. Member States shall ensure	Accept in part:
	final customers are fully informed by	2. Member States shall ensure	that final customers are [] well	2. Member States shall ensure
	the suppliers of the opportunities and	that final customers are fully	informed by the suppliers of the	that final customers are well
	risks of such dynamic electricity price	informed by the suppliers of the	opportunities, costs and risks of such	informed by the suppliers of the
	contract.	opportunities and risks of such	dynamic electricity price contract	opportunities, <b>costs</b> and risks of such
		dynamic electricity price contract	and that suppliers are required to	dynamic electricity price contract
		including the need to have an	provide information to the final	and that suppliers are required to

		adequate electricity meter installed.	customers accordingly. Regulatory authorities shall monitor the market developments and assess the risks that the new products and services may entail and modify safeguards in case of abusive practices.	provide information to the final customers accordingly, including the need to have an adequate electricity meter installed.  Regulatory authorities shall monitor the market developments and assess the risks that the new products and services may entail and deal with abusive practices.
253.		AM 53 2a. (new) Every final customer shall always be required to give consent before being switched to a dynamic price contract.		Accept
254.		AM 54 2b. (new) Member States shall aim at reducing the share of fixed components in final customers' electricity bills.		Maintain Council GA
255.	3. Member States, through their National Regulatory Authorities, shall monitor and report annually, for at least a ten-year period after such contracts become available, on the main developments of such contracts including market offers, the impact on consumers' bills and specifically the level of price volatility, and on consumers' sensitivity to the level of financial risk.		3. Where dynamic electricity price contracts account for less than 80% of the electricity consumed by households, Member States [] or their National Regulatory Authorities, shall monitor and publish an annual report [], for at least a ten-year period after such contracts become available, on the main developments of such contracts including market offers[].	

256. 257.		AM 55 3a. (new) Member States shall ensure that adequate safeguards on the exposure of price changes for final customers are in place to avoid bill shocks or high levels of financial liability.  Articl	e 12	Maintain Council GA
237.		Right to switch [] and rules		
258.	1. Member States shall ensure that a customer wishing to change supplier, while respecting contractual conditions, is entitled to such change within three weeks.		1. Member States shall ensure that a customer wishing to change suppliers or market participant engaged in aggregation, while respecting contractual conditions, is entitled to such a change within a maximum of three weeks. By no later than 2025, the technical process of switching supplier shall take no longer than 24 hours and shall be possible on any working day, unless a Member State concludes there is a negative costbenefit analysis.	
259.		AM 56 (new) By 1 January 2022, the technical process of switching supplier shall take no longer than 24 hours and shall be possible on any working day.	NVANVARU SEASON JURIUS	Maintain Council GA
260.	2. Member States shall ensure that customers are not charged any switching-related fees.	AM 57 2. Member States shall ensure that <i>final</i> customers are not charged any switching-related fees.	2. Member States shall ensure that at least household customers, microenterprises and small enterprises are not charged any switching-related fees.	Maintain Council GA

**261.** 3. By way of derogation from paragraph 2, Member States may choose to permit suppliers to charge contract termination fees to customers willingly terminating fixed term supply contracts before their maturity. Such fees may only be charged if customers receive a demonstrable advantage from these contracts. In addition, such fees shall not exceed the direct economic loss to the supplier of the customer terminating the contract, including the cost of any bundled investments or services already provided to the customer as part of the contract.

## **AM 58**

By way of derogation from paragraph 2, Member States may choose to permit suppliers to charge contract termination fees to final customers willingly terminating fixed term, *fixed price* supply contracts before their maturity *provided that* the customer has willingly entered into such a contract. Such fees may only be charged if *final* customers receive a demonstrable advantage from these contracts. In addition, such fees shall be proportionate to the advantage provided to the customer and shall not exceed the direct economic loss to the supplier of the *final* customer terminating the contract, including the cost of any bundled investments or services already provided to the *final* customer as part of the contract. The burden of proof of the direct economic loss shall be on the supplier and shall be monitored by the national regulatory authority.

By way of derogation from paragraph 2, Member States may choose to permit suppliers or market participants engaged in aggregation to charge contract termination fees to customers. willingly terminating fixed term, fixed price supply [] contracts before their maturity, as long as such fees are part of a contract that the costumer has willingly entered into and such fees are clearly communicated to the customer before the contract is entered into. Such fees [] shall [] be proportionate and not exceed the direct economic loss to the supplier or market participant engaged in aggregation of the customer terminating the contract, including the costs of any bundled investments or services already provided to the customer as part of the contract.

Accept in part:

By way of derogation from paragraph 2, Member States may choose to permit suppliers or market participants engaged in **aggregation** to charge contract termination fees to customers. willingly terminating fixed term, *fixed price* supply contracts before their maturity, as long as such fees are part of a contract that the costumer has willingly entered into and such fees are clearly communicated to the customer before the contract is entered into. Such fees shall be proportionate and not exceed the direct economic loss to the supplier or market participant engaged in **aggregation** of the customer terminating the contract, including the costs of any bundled investments or services already provided to the customer as part of the contract. The burden of proof of the direct economic loss shall be on the *supplier* or market participant engaged in aggregation.

262.	4. Member States shall ensure that		4. Member States shall ensure	
	the right to switch suppliers is granted		that the right to switch suppliers or	
	to customers in a non-discriminatory		market participant engaged in	
	manner as regards cost, effort or time.		aggregation is granted to customers	
	,		in a non-discriminatory manner as	
			regards cost, effort or time.	
263.		AM 59		Accept
		4a. (new) Household customers		-
		shall be entitled to participate in		
		collective switching schemes.		
		Member States shall remove all		
		regulatory or administrative barriers		
		for collective switching while		
		providing a framework that ensures		
		utmost protection for consumers to		
		avoid any abusive practices.		
264.		Article		
		[] Aggregation		
265.			-1. Member States shall ensure	
			that all customers are free to	
			purchase and sell electricity	
			services, other than electricity	
			supply, including aggregation,	
			independently from their supply	
			contract and from an electricity	
			undertaking of their choice.	
266.	1. Member States shall ensure that,	AM 60	1. Member States shall ensure	Maintain Council GA
	where a final customer wishes to	1. Member States shall ensure	that, where a final customer wishes	
	conclude a contract with an	that final customers are entitled to	to conclude an aggregation contract	
	aggregator, such engagement shall not	conclude a contract with an	[], <b>this</b> shall not require the consent	
	require the consent of the final	aggregator <i>and that</i> such engagement	of the final customer's [] electricity	
	customer's supplier.	shall not require the consent of the	undertaking Member States may	
		final customer's supplier.	allow suppliers to require such	
			consent only in cases where the	
			customer's supplier does neither	

267.		Member States shall ensure that aggregators fully inform customers of the terms and conditions of the contracts offered to them.	receive a regulated compensation payment in line with Article 17(3)(db) nor a compensation for positive imbalances and the need for the supplier's consent is clearly specified in the contract between the customer and his supplier. Such contractual terms and conditions should be subject to monitoring and approval by the regulatory authorities.	Accept in part:  Member States shall ensure that market participants engaged in aggregation fully inform customers
				of the terms and conditions of the contracts offered to them.
268.		Member States shall ensure that suppliers do not discriminate between customers on the basis of whether they have a contract with an aggregator.		Accept (included in para.5)
269.	2. Member States shall ensure that a final customer wishing to terminate the contract with an aggregator, while respecting contractual conditions, is entitled to such termination within three weeks.	AM 61 2. Member States shall ensure that a final customer wishing to terminate the contract with an aggregator may do so in accordance with Article 12.	2. []	Maintain Council GA

270.	3. Member States shall ensure that final customers terminating a fixed term contract with an aggregator before its maturity are not charged any termination fee that exceeds the direct economic loss to the aggregator, including the cost of any bundled investments or services already provided to the final customer as part of the contract.		3. []	Maintain Council GA
271.		AM 62 (new) The burden of proof of the direct economic loss shall be on the aggregator and shall be monitored by the national regulatory authority.		Maintain Council GA
272.	4. Member States shall ensure that final customers are entitled to receive all relevant demand response data or data on supplied and sold electricity at least once per year.	AM 63 4. Member States shall ensure that final customers are entitled to receive all relevant demand response data or data on supplied and sold electricity and settlement data upon request and without being charged any additional fees and at least once per month.	4. Member States shall ensure that final customers are entitled to receive all relevant demand response data or data on supplied and sold electricity free of charge at least once every billing period [] if requested by the customer.	Maintain Council GA
273.	5. Member States shall ensure that the rights referred to in paragraphs 1, 2, 3 and 4 are granted to final customers in a non-discriminatory manner as regards cost, effort or time.		5. Member States shall ensure that the rights referred to in paragraphs 1[] and 4 are granted to final customers in a non-discriminatory manner as regards cost, effort or time.	Accept text from AM 60: 5. Member States shall ensure that the rights referred to in paragraphs 1 and 4 are granted to final customers in a non-discriminatory manner as regards cost, effort or time. In particular, Member States shall ensure that suppliers do not unduly discriminate between customers on

				the basis of whether they have a
				contract with a market participant
25.4		A .* 1	14	engaged in aggregation.
274.		Article		
.==	1 1 0 1 1	Comparis		
275.	1. Member States shall ensure that	AM 64	1. Member States shall ensure	Accept in part:
	customers have access, free of charge,	1. Member States shall ensure	that at least household customers,	1. Member States shall ensure
	to at least one tool comparing the	that customers have access, free of	and microenterprises with an	that at least household customers,
	offers of suppliers that meets the	charge, to at least one tool comparing	expected yearly consumption of	and microenterprises with an
	certification criteria set out in Annex I.	the offers from both individual and	below 100,000 kWh have access,	expected yearly consumption of
	The comparison tools may be operated	bundled contracts, including	free of charge, to at least one tool	below 100,000 kWh have access,
	by any entity, including private	dynamic price contracts, offers from	comparing the offers of suppliers that	free of charge, to at least one tool
	companies and public authorities or	electricity suppliers, electricity	meets [] at least the following	comparing the offers of suppliers,
	bodies. Customers should be informed	service providers and independent	criteria:	including dynamic price contracts.
	of the availability of such tools.	aggregators that meets at least the	The tools shall:	Customers shall be informed of the
		certification criteria set out in Annex		availability of such tools in or
		I. The comparison tools may be		together with their bills or by other
		operated by any entity, including		means. The tools shall meet at
		private companies and public		least the following criteria:
		authorities or bodies. At least one		
		tool per Member States shall cover		
		the whole of the market. Customers		
		shall be informed of the availability		
		of such tools in or together with		
		their bills.		
276.			(a) be operationally independent	Accept AM 178 and 181 in part
			and ensure that electricity	(points 918 and 921):
			undertakings are given equal	(a) be independent from electricity
			treatment in search results;	undertakings market participants
				and ensure that electricity
				undertakings are given equal
				treatment in search results <i>and in</i>
				particular rank and display the
				search results according to an
				impartial algorithm;

277.	(b) clearly disclose their owners and the natural or legal person operating the tool;	Accept AM 179 (point 919): (b) clearly disclose their owners and the natural or legal person operating the tool as well as information on how the tools are financed;
278.	(c) set out clear, objective criteria on which the comparison will be based and disclose them;	Accept AM 180 in part (point 920): (c) set out clear, objective criteria on which the comparison will be based, including services, and disclose them;
279.	(d) use plain and unambiguous language;	
280.	(e) provide accurate and up-to-date information and state the time of the last update;	
281.	(f) where multiple tools cover the market, include, as complete as practicable, a range of electricity offers covering a significant part of the market and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results. In such cases the Member State shall ensure that at least one tool provides an overview of the whole of the market; and	Accept AM 64 in part (point 257): (f) Member States shall ensure that at least one tool covers the whole of the market. Where multiple tools cover the market, include, as complete as practicable, a range of electricity offers covering a significant part of the market and, where the information presented does not completely cover the market, a clear statement to that effect, before displaying results, and;
282.	(g) provide an effective procedure to report incorrect information on published offers.	· · · · · · · · · · · · · · · · · · ·

283.			1a The tools referred to in paragraph 1 may be operated by any entity, including private companies and public authorities or bodies.	
284.			1b Household customers and microenterprises with an expected yearly consumption of below 100,000 kWh shall be informed of the availability of the tools referred to in paragraph 1.	
285.	2. Member States shall appoint an independent competent authority responsible for certifying comparison tools and ensuring that certified comparison tools continue to meet the criteria set out in Annex I.		2. Member States shall appoint a [] competent authority to be responsible for [] verifying comparison tools and ensuring that [] verified comparison tools continue to meet the criteria set out in paragraph 1 []. This authority shall be independent from any market participants and comparison tool operators.	
286.	3. Member States may require the comparison tools referred to in paragraph 1 to include comparative determinants relating to the nature of the services offered by the suppliers.	AM 65 3. Member States <i>shall</i> require the comparison tools referred to in paragraph 1 to include comparative determinants relating to the nature of the services offered by the suppliers.	3. []	Maintain Council GA
287.	4. Any tool comparing the offers of suppliers shall be eligible to apply for certification in accordance with this Article on a voluntary and non-discriminatory basis.	AM 66 4. Any tool comparing the offers of electricity suppliers, electricity service providers and aggregators, including independent aggregators, shall apply for certification in accordance with this Article on a non-discriminatory basis.	4. Any tool comparing the offers of [] market participants shall be eligible to apply for [] verification in accordance with this Article on a voluntary and non-discriminatory basis.	Maintain Council GA

288.			4a. By way of derogation from paragraphs 2 and 4, Member States may choose not to provide for verification of comparison tools should a public authority or body provide a comparison tool fulfilling the obligation set out in paragraph	
289.		Articl Active cu.		
290.	1. Member States shall ensure that final customers:	Tienve cu	1. Member States shall ensure that final customers:	
291.	(a) are entitled to generate, store, consume and sell self-generated electricity in all organised markets either individually or through aggregators without being subject to disproportionately burdensome procedures and charges that are not cost reflective;	AM 67  (a) are entitled to generate, store, consume and sell self-generated electricity in all organised markets either individually or through aggregators without being subject to discriminatory or disproportionately burdensome procedures and charges that are not cost reflective;	(a) are entitled [] to act as active customers, without being subject to [] discriminatory technical and administrative requirements, procedures and charges [];	Maintain Council GA
292.	(b) are subject to cost reflective, transparent and non-discriminatory network charges, accounting separately for the electricity fed into the grid and the electricity consumed from the grid, in line with Article 59(8).		(b) []	
293.			1a. Member States shall ensure that active consumers:	
294.			(a) are entitled to operate either directly or through aggregation;	

295.	(b) are entitled to sell self-
	generated electricity including
	through power purchase
	agreements;
296.	(c) are entitled to participate in
	demand response and energy
	efficiency schemes;
297.	(d) are entitled to delegate the
	management of the installations
	required for their activities to a
	third party, including installation,
	operation, data handling and
	maintenance;
298.	(e) are subject to cost reflective,
	transparent and non-
	discriminatory network charges,
	accounting separately for the
	electricity fed into the grid and the
	electricity consumed from the grid,
	in line with Article 59(8) ensuring
	they contribute in an adequate and
	balanced way to the overall cost
	sharing of system of producing,
	distributing and consuming
	electricity in line with Article 16 of
	the [Electricity Regulation];

299.			(f) are financially responsible	
			for the imbalances they cause in	
			the electricity system. To this	
			extent they shall be balance	
			responsible parties or shall	
			delegate their balance	
			responsibility in accordance with	
			Article 4 of the [Electricity	
200			Regulation].	
300.			1b. Member States may have	
			different governing provisions for	
			individual and jointly acting final	
			customers in their national	
			legislation provided that all rights	
			and obligations as stipulated in this	
			article are applied to all active	
			customers.	
301.			1c. Member States that have	
			existing schemes not accounting	
			separately for the electricity fed	
			into the grid and the electricity	
			consumed from the grid, shall	
			grant no new rights under these	
			schemes beyond the end of the year	
			2025.	
302.	2. The energy installation required	AM 68	2. []	Maintain Council GA
	for the activities of the active customer	2. The energy installation		
	may be managed by a third party for	required for the activities of the		
	installation, operation, including	active customer may be managed by		
	metering and maintenance.	a third party for installation,		
		operation, including metering and		
		maintenance <i>provided that the</i>		
		economic risk connected to the		
		operation of the installation remains		
		with the active costumer.		

303.		Member States shall ensure that active customers owning a storage		Maintain Council GA
		facility:		
304.		(a) have the right to a grid		
		connection within a reasonable time		
		following the request;		
305.		(b) are not subject to additional		
		taxes, surcharges, and fees for the		
		electricity stored in the storage		
		facility;		
306.		(c) are distinguished from		
		generators and not subject to related		
		licensing requirements and fees;		
307.		(d) are allowed to provide several		
		services simultaneously, if		
		technically feasible.		
308.		Articl	e 16	
		[] Energy co	mmunities	
309.	1. Member States shall ensure that		1. Member States shall []	
	local energy communities:		provide an enabling regulatory	
			framework for [] energy	
			communities ensuring that:	
310.	(a) are entitled to own, establish, or	AM 69	(a) []	Maintain Council GA
	lease community networks and to	(a) are entitled to own, establish,		(covered in Council text, paras.2(b)
	autonomously manage them;	or lease community networks and		and 2b, points 318 and 327)
		autonomously manage them, as long		
		as the concession system of the		
		Member State is respected;		
311.	(b) can access all organised markets		(b) []	
	either directly or through aggregators			
	or suppliers in a non-discriminatory			
	manner;			

312.		AM 70		Maintain Council GA
		(ba) (new) shall be subject to		(covered in Council text, para.2a
		balance responsibility in accordance		(c), point 324)
		with Article 4 of Regulation (EU)		
		[recast of Regulation 714/2009 as		
		proposed by COM (2016)861/2];		
313.	(c) benefit from a non-	AM 71	(c) []	Maintain Council GA
	discriminatory treatment with regard to	(c) benefit from a non-		(covered in Council text, para.2a
	their activities, rights and obligations	discriminatory treatment with regard		(b), point 323)
	as final customers, generators,	to their activities, rights and		
	distribution system operators or	obligations as final customers,		
	aggregators;	generators, distribution system		
		operators, suppliers or aggregators;		
314.		AM 72		Maintain Council GA
		(ca) (new) adequately contribute to		(covered in Council text, para.1(f),
		the costs of the electricity system to		point 304)
		which they remain connected;		
315.		AM 73		Maintain Council GA
		(cb) (new) operate on the market on		(covered in Council text, para.2a (a)
		a level playing field without		and (b), points 322 and 323)
		distorting competition;		
316.	(d) are subject to fair, proportionate		(d) []	
	and transparent procedures and cost			
	reflective charges.			
317.			(a) participation in an energy	
			community is open and voluntary;	
318.			(b) shareholders or members are	
			allowed to leave an energy	
			community; in such cases Article	
			12 shall apply;	

319.	(c) shareholders or members of
	an energy community shall not lose
	their rights and obligations as
	household customers or active
	customers;
320.	(d) energy communities that
	supply electricity, provide
	aggregation or other commercial
	electricity services are subject to
	the provisions relevant for such
	activities;
321.	(e) relevant distribution system
	operator shall, subject to fair
	compensation as assessed by the
	regulatory authority, cooperate
	with energy communities to
	facilitate electricity transfers
	within energy communities;
322.	(f) energy communities are
	subject to non-discriminatory fair,
	proportionate and transparent
	procedure, including registration
	and licensing, and transparent and
	non-discriminatory and cost
	reflective network charges
	ensuring they contribute in an
	adequate and balanced way to the
	overall cost sharing of the system
	in line with Article 16 of the
	[Electricity Regulation].
<b>323.</b> 2. Member States shall provide an	2. Member States [] may provide
enabling regulatory framework that	[] in the enabling regulatory
ensures that:	framework that [] energy
	communities:

324.		AM 74 (-a) (new) conditions for creating, operating and dissolving local energy networks are well defined;		Maintain Council GA
325.	(a) participation in a local energy community is voluntary;		(a) []	
326.		AM 75 (aa) (new) conditions and standards are set up for local energy communities with networks in order to preserve efficient network planning. These conditions and standards shall also ensure that customers and members in the local energy community receive the same quality and standard of network services that are available to customers outside the local energy community;		Maintain Council GA
327.		AM 76 (ab) (new) final customers are entitled to participate in a local energy community;		Maintain Council GA (covered in Council text, para.1(a), point 299)
328.	(b) shareholders or members of a local energy community shall not lose their rights as household customers or active customers;		(b) []	
329.	(c) shareholders or members are allowed to leave a local energy community; in such cases Article 12 shall apply;		(c) []	

330.	(d) Article 8 (3) applies to generating capacity installed by local energy communities as long as such capacity can be considered small decentralised or distributed generation;		(d) []	
331.	(e) provisions of Chapter IV apply to local energy communities that perform activities of a distribution system operator;	AM 77  (e) provisions of Chapter IV as well as other rules and regulations applying to distribution system operators apply to local energy communities that perform activities of a distribution system operator;	(e) []	Maintain Council GA (covered in Council text, para.2b, point 327)
332.	(f) where relevant, a local energy community may conclude an agreement with a distribution system operator to which their network is connected on the operation of the local energy community's network;		(f) []	
333.	(g) where relevant system users that are not shareholders or members of the local energy community connected to the distribution network operated by a local energy community shall be subject to fair and cost-reflective network charges. If such system users and local energy communities cannot reach an agreement on network charges, both parties may request the regulatory authority to determine the level of network charges in a relevant decision;	AM 78  (g) where relevant system users that are not shareholders or members of the local energy community connected to the distribution network operated by a local energy community shall be subject to non-discriminatory, fair and cost-reflective network charges. If such system users and local energy communities cannot reach an agreement on network charges, both parties may request the regulatory authority to determine the level of network charges in a relevant decision;	(g) []	Maintain Council GA (covered in Council text, para.2b, point 327)

334.	(h) where relevant local energy	(h) []
	communities are subject to appropriate	
	network charges at the connection	
	points between the community	
	network and the distribution network	
	outside the energy community. Such	
	network charges shall account	
	separately for the electricity fed into	
	distribution network and the electricity	
	consumed from the distribution	
	network outside the local energy	
	community in line with Article 59 (8).	
335.		(a) are open to cross-border
		participation;
336.		(b) are entitled to own, establish,
		purchase or lease distribution
		networks and to autonomously
		manage them subject to conditions
		set out in Article 16 (2b);
337.		(c) are subject to exemptions
		foreseen by Article 38(2);
338.		(d) are entitled to arrange
		within the community sharing of
		electricity that is produced by the
		production units owned by the
		community, subject to the
		provisions of this article and
		retaining community members'
		rights and obligations as final
		consumers.
339.		2a. Member States shall ensure
		that energy communities:

340.	(a) can access all electricity
	markets either directly or through
	aggregation in a non-
	discriminatory manner;
341.	(b) are treated in a non-
	discriminatory manner with
	regard to their activities, and are
	subject to the same rights and
	obligations when acting as final
	customers, generators, suppliers,
	distribution system operators, or
	other market participants;
342.	(c) shall be financially
	responsible for the imbalances they
	cause in the electricity system. To
	this extend they shall be balance
	responsible parties or shall
	delegate their balance
	responsibility in accordance with
	Article 4 of the [Electricity
	Regulation];
343.	(d) with regard to self-
	consumption, energy communities
	shall be treated like active
	customers in accordance with
	Article 15(1)b;
344.	(e) are subject to Article 8 (3) in
	relation to generating capacity
	installed by energy communities as
	long as such capacity can be
	considered small decentralised or
	distributed generation.

345.	2b. Member States may decide,
	to grant energy communities with
	a right to manage distribution
	network in their area of operation
	and define the relevant procedures,
	without prejudice to the provisions
	of Chapter IV and other rules and
	regulations applying to
	distribution system operators. If
	such right is granted, Member
	States shall ensure that:
346.	(a) energy communities may
	conclude an agreement with a
	relevant distribution system
	operator or transmission system
	operator to which their network is
	connected on the operation of the
	energy community's network;
347.	(b) energy communities are
	subject to appropriate network
	charges at the connection points
	between the community network
	and the distribution network
	outside the energy community.
	Such network charges shall
	account separately for the
	electricity fed into distribution
	network and the electricity
	consumed from the distribution
	network outside the energy
	community in line with Article 59
	(8);

348.			(c) energy communities do not	
			discriminate or harm customers	
			remaining connected to the	
			distribution system.	
349.		AM 79		Maintain Council GA
		Article 16a (new)		(covered in Council text, para.2(d),
		Electricity sharing		point 320)
		Local energy communities are		
		entitled to share electricity from		
		generation assets within the		
		community between its members or		
		shareholders based on market		
		principles, including applying		
		existing or future ICT technologies		
		such as virtual net metering		
		schemes and those based on		
		distributed ledger technologies, as		
		well as through power purchase		
		agreements or peer-to-peer trade		
		arrangements for example.		
<b>350.</b>		Article		
		Demand response th		
351.	1. Member States shall ensure that	AM 80	1. Member States shall allow	Maintain Council GA
	national regulatory authorities	1. Member States shall ensure	and foster participation of demand	
	encourage final customers, including	that <i>the</i> regulatory <i>framework allows</i>	response through aggregation.	
	those offering demand response	final customers, including those	Member States shall [] allow final	
	through aggregators, to participate	offering demand response through	customers, including those offering	
	alongside generators in a non-	aggregators, to participate alongside	demand response through []	
	discriminatory manner in all organised	generators in a non-discriminatory	aggregation, to participate alongside	
	markets.	manner in all organised markets <i>and</i>	electricity generators in a non-	
		capacity mechanisms.	discriminatory manner in all []	
			electricity markets.	

352.	2. Member States shall ensure that transmission system operators and distribution system operators when procuring ancillary services, treat demand response providers, including independent aggregators, in a non-discriminatory manner, on the basis of their technical capabilities.	AM 81 2. Member States shall ensure that transmission system operators and distribution system operators when procuring ancillary services, treat demand response providers, including independent aggregators, in a non-discriminatory manner alongside generators, on the basis of their technical capabilities.	2. Member States shall ensure that transmission system operators and distribution system operators when procuring ancillary services, treat [] market participants engaging in demand response aggregation, in a non-discriminatory manner, on the basis of their technical capabilities.	Accept in part:  2. Member States shall ensure that transmission system operators and distribution system operators when procuring ancillary services, treat market participants engaging in demand response aggregation, in a non-discriminatory manner alongside generators, on the basis of their technical capabilities.
353.	3. Member States shall ensure that their regulatory framework encourages the participation of aggregators in the retail market and that it contains at least the following elements:	AM 82 3. Member States shall ensure that their regulatory framework encourages the participation of aggregators in <i>all markets</i> and that it contains at least the following elements:	3. Member States shall ensure that their <b>relevant</b> regulatory framework [] contains at least the following elements:	Maintain Council GA
354.	(a) the right for each aggregator to enter the market without consent from other market participants;		(a) the right for each market participant engaged in aggregation, including independent aggregators, to enter [] electricity markets without consent from other []market participants;	
355.	(b) transparent rules clearly assigning roles and responsibilities to all market participants;	AM 83 (b) non-discriminatory and transparent rules clearly assigning roles and responsibilities to all market participants;	(b) non-discriminatory and transparent rules clearly assigning roles and responsibilities to all [] electricity undertakings engaged in aggregation or affected by the participation of demand response through aggregation;	Accept in part:  (b) non-discriminatory and transparent rules clearly assigning roles and responsibilities to all electricity undertakings engaged in aggregation or affected by the participation of demand response through aggregation;

356.	(c) transparent rules and procedures	AM 84	(c) non-discriminatory and	Accept in part:
	for data exchange between market	(c) non-discriminatory and	transparent rules and procedures for	(c) non-discriminatory and
	participants that ensure easy access to	transparent rules and procedures for	data exchange between market	transparent rules and procedures for
	data on equal and non-discriminatory	data exchange between market	participants engaged in	data exchange between <b>market</b>
	terms while fully protecting	participants that ensure easy access	aggregation and other [] electricity	participants engaged in
	commercial data;	to data on equal and non-	undertakings that ensure easy access	aggregation and other electricity
		discriminatory terms while fully	to data on equal and non-	undertakings that ensure easy
		protecting commercial data and	discriminatory terms while fully	access to data on equal and non-
		customers' personal data, including	protecting commercial data;	discriminatory terms while fully
		minimum information requirements		protecting commercial data <i>and</i>
		for the aggregator, as well as		customers' personal data;
		minimum criteria for the protection		
		of commercially sensitive data for		
		all parties concerned;		
357.	(d) accurate a shall not be accurred	AM 85	(4) [7]	A
357.	· ,	deleted	(d) []	Accept
	to pay compensation to suppliers or	deteted		
358.	generators;	AM 86	(da) market participants engaged	Accept in part:
330.	•	(da) (new) market participants	in aggregation shall be financially	(da) market participants engaged
		engaged in aggregation shall be	responsible for the imbalances they	in aggregation shall be financially
		financially responsible for the	cause in the electricity system. To	responsible for the imbalances they
		imbalances they cause in the	this extent they shall be balance	cause in the electricity system. To
		electricity system as defined in	responsible parties or shall	this extent they shall be balance
		accordance with Article 4 of	delegate their balance	responsible parties or shall
		accordance with Article 4 of Regulation (EU) [recast of	delegate their balance responsibility in accordance with	responsible parties or shall delegate their balance
		accordance with Article 4 of	delegate their balance	responsible parties or shall

359.		AM 87 (db) (new) non-discriminatory and transparent rules and procedures to compensate market participants for the energy they deliver during the demand response period in a proportionate manner, under the supervision of the national regulatory authority, without creating a barrier for market entry of aggregators or a barrier for flexibility. Compensation shall be strictly limited to cover the resulting costs. The calculation method for such compensation may take account of the benefits induced by the independent aggregators to other market participants and be subject to approval by the regulatory authority;	(db) Member States may require undertakings, including independent aggregators to pay compensation to other market participants or their balancing responsible party if they directly induce imbalances to these market participants including situations where a perimeter correction is introduced without creating a barrier for market entry of aggregators or a barrier for flexibility. In such cases the compensation payment shall be strictly limited to cover the resulting costs. The calculation method for such compensation may take account of the benefits induced by the independent aggregators to other market participants and be subject to approval by the regulatory authority;	Accept in part:  (db) Member States may require undertakings, including independent aggregators to pay compensation to other market participants or their balancing responsible party if they directly induce imbalances to these market participants including situations where a perimeter correction is introduced without creating a barrier for market entry of market participants engaged in aggregation or a barrier for flexibility. In such cases the compensation payment shall be strictly limited to cover the resulting costs. The calculation method for such compensation may take account of the benefits induced by the independent aggregators to other market participants and may be subject to approval by the regulatory authority;
360.		AM 88 (dc) (new) final customers who have a contract with independent aggregators shall not face undue payments, penalties or other undue contractual restriction from their suppliers;	(dc) final customers who have a contract with independent aggregators shall not face undue payments, penalties or other undue contractual restriction from their suppliers;	Accept (identical texts)
361.	(e) a conflict resolution mechanism between market participants.		(e) a conflict resolution mechanism between market participants engaged in	

			aggregation and other market participants, including	
			responsibility for imbalance.	
362.	4. In order to ensure that balancing	AM 89	4. []	Accept
	costs and benefits induced by	deleted		1
	aggregators are fairly assigned to			
	market participants, Member States			
	may exceptionally allow compensation			
	payments between aggregators and			
	balance responsible parties. Such			
	compensation payments must be			
	limited to situations where one market			
	participant induces imbalances to			
	another market participant resulting in			
	a financial cost.			
	Such exceptional compensation			
	payments shall be subject to approval			
	by the national regulatory authorities			
	and monitored by the Agency.			
363.			5. [] Member States shall ensure	
	access to and foster participation of		that national regulatory authorities	
	demand response, including through		or, where their national legal system	
	independent aggregators in all		so requires, transmission system	
	organised markets. Member States		operators and distribution system	
	shall ensure that national regulatory		operators in close cooperation with []	
	authorities or, where their national		market participants and final	
	legal system so requires, transmission		customers define technical []	
	system operators and distribution		characteristics for participation of	
	system operators in close cooperation		demand response in [] all electricity	
	with demand service providers and		markets on the basis of the technical	
	final customers define technical		requirements of these markets and	
	modalities for participation of demand		the capabilities of demand response.	
	response in these markets on the basis		Such specifications shall include the	
	of the technical requirements of these		participation of [] aggregated loads.	
	markets and the capabilities of demand			

	response. Such specifications shall					
	include the participation of					
	aggregators.					
364.	Article 18					
		[] Bills and billin				
365.	1. Member States shall ensure that	AM 90	1. Member States shall ensure	Accept in part:		
	bills fulfil the minimum requirements	1. Member States shall ensure	that bills [] and billing information	1. Member States shall ensure		
	for billing and billing information as	that bills fulfil the minimum	are accurate, easy to understand,	that bills and billing information		
	set out in Annex II. The information	requirements for billing and billing	clear, concise and presented in a	are accurate, easy to understand,		
	contained in bills shall be correct,	information as set out in Annex II.	manner that facilitates comparison by	clear, concise, user-friendly and		
	clear, concise and presented in a	The information contained in bills	consumers. On request, final	presented in a manner that facilitates		
	manner that facilitates comparison by	shall be correct, clear, concise, <i>user</i> -	customers shall receive a clear and	comparison by consumers. <b>On</b>		
	consumers.	<i>friendly</i> and presented in a manner	understandable explanation of how	request, final customers shall		
		that facilitates comparison by	their bill was derived, especially	receive a clear and		
		consumers. The information	where bills are not based on actual	understandable explanation of		
		indicated in Annex II that is not	consumption.	how their bill was derived,		
		obligatory in the bills shall be made	consumption.	especially where bills are not		
		available to the customers by other		based on actual consumption.		
		means as chosen by the Member		based on actual consumption.		
		States.				
266	2 M 1 C	States.	2			
366.	2. Member States ensure that final		2. Member States <b>shall</b> ensure			
	customers receive all their bills and		that final customers receive all their			
	billing information for electricity		bills and billing information [] free of			
	consumption free of charge and that		charge [].			
	bills are clear, accurate and easy to					
	understand.					
<b>367.</b>	3. Billing shall take place on the	AM 91	3. []	Maintain Council GA		
	basis of actual consumption at least	Billing shall take place on the basis		(covered in Council text, see Annex		
	once a year. Billing information shall	of actual consumption at least once a		II para.1a (points 951-955)		
	be made available at least once every	year. Billing information <i>including</i>				
	three months, upon request or where	information on actual consumption				
	the final customers have opted to	shall be made available at least once				
	receive electronic billing or else twice	a month, upon request or where the				
	a year.	final customers have opted to receive				
	-	electronic billing or else twice a year.				
		in the second control of the second control				

368.	This obligation may be fulfilled by a			
	system of regular self-reading by the			
	final customers whereby they			
	communicate readings from their			
	meter to the supplier. Only when the			
	final customer has not been provided a			
	meter reading for a given billing			
	interval may billing be based on			
	estimated consumption or a flat rate.			
369.	4. Where final customers have	AM 92	4. []	Maintain Council GA
	meters that allow remote reading by	4. Where final customers have		
	the operator, accurate billing	meters that allow remote reading by		
	information based on actual	the operator, accurate billing		
	consumption shall be provided at least	information based on actual		
	once a month.	consumption shall be provided at		
		least once a month <i>also through</i>		
		websites or other innovative means.		
<b>370.</b>	5. Member States shall require		5. []	
	that, to the extent that information on			
	the electricity billing and historical			
	consumption is available, it is made			
	available, at the request of the final			
	customer, to a supplier or service			
	provider designated by the consumer			
	in accordance with point 3 of Annex			
	II.			
<b>371.</b>	6. Member States shall ensure that		6. Member States shall ensure	
	final customers are offered the option		that final customers are offered the	
	of electronic billing information and		option of electronic bills and billing	
	bills and that they receive, on request,		information, and flexible	
	a clear and understandable explanation		arrangements for actual payment	
	of how their bill was derived,		<b>Q</b> .	
	especially where bills are not based on			
	actual consumption.			

372.	7. Member States may lay down that, at the request of the final customers, the information contained in these bills shall not be considered to constitute a request for payment. In such cases, Member States shall ensure that suppliers offer flexible arrangements for payments.	AM 93 deleted	7. []	Accept
373.	8. Member States shall require that information and estimates for electricity costs are provided to final customers on demand in a timely manner and in an easily understandable format.	AM 94 8. Member States shall require that information and estimates for electricity costs are provided to final customers on demand in a timely manner and in an easily understandable format. If the contract includes a future change of product or price or a discount, this should be indicated on the bill together with the date when the change takes place.	8. []	Accept in part: 8. If the contract includes a future change of product or price or a discount, this should be indicated on the bill together with the date when the change takes place.
374.		AM 95 8a. (new) Member States shall consult consumer organisations when they consider changes to the format of bills.	8a. Member States shall ensure that bills and billing information fulfil the minimum requirements set out in Annex II.	Maintain Council GA
375.		AM 96 8b. (new) Where a final customer has been on the same tariff for more than 2 years, Member States shall require suppliers to notify the customer, in or alongside the energy bill, whether a more suitable or advantageous tariff is available, and facilitate their move to the new tariff.		Maintain Council GA

376.		Article 19		
		Smart m	etering	
377.		AM 97	1. In order to promote energy	
	efficiency and empower customers,	1. In order to promote energy	efficiency and empower [] final	
	Member States or, where a Member	efficiency and empower customers,	<b>customers</b> , Member States or, where	
	State has so provided, the regulatory	Member States or, where a Member	a Member State has so provided, the	
	authority shall strongly recommend	State has so provided, the regulatory	regulatory authority shall strongly	
	that electricity undertakings and	authority shall strongly recommend	recommend that electricity	
	aggregators optimise the use of	that electricity undertakings and	undertakings and [] other market	
	electricity, inter alia by providing	aggregators optimise the use of	participants optimise the use of	
	energy management services,	electricity, where cost-effective, inter	electricity, inter alia by providing	
	developing innovative pricing	alia by providing energy	energy management services,	
	formulas, or introducing interoperable	management services, developing	developing innovative pricing	
	smart metering systems or smart grids,	innovative pricing formulas, and	formulas, or introducing	
	where appropriate.	introducing interoperable smart	interoperable smart metering systems	
		metering systems in particular with	or smart grids, where appropriate.	
		consumer energy management		
		systems, smart grids, and where		
		appropriate smart appliances and		
		'smart homes' in accordance with		
		the applicable Union data protection		
		legislation.		
378.	2. Member States shall ensure the		2. Member States shall ensure the	
	implementation of smart metering		implementation of smart metering	
	systems in their territories that shall		systems in their territories that shall	
	assist the active participation of		assist the active participation of	
	customers in the electricity market.		customers in the electricity market.	
	Such implementation may be subject		Such implementation may be subject	
	to a cost-benefit assessment which		to a cost-benefit assessment which	
	shall be undertaken according to the		shall be undertaken according to the	
	principles laid down in Annex III.		principles laid down in Annex III.	

**379.** 3. Member States that proceed with deployment shall adopt and publish the minimum functional and technical requirements for the smart metering systems to be rolled out in their territories in line with the provisions laid down in Article 20 and Annex III. Member States shall ensure the interoperability of these smart metering systems as well as their connectivity with consumer energy management platforms. To this respect, Member States shall have due regard to the use of relevant available standards including those enabling interoperability, best practices and the importance of the development of the internal market in electricity.

## **AM 98**

- Member States that proceed with *smart metering* deployment shall adopt and publish the minimum functional and technical requirements for the smart metering systems to be rolled out in their territories in line with the provisions laid down in Article 20 and Annex III. Member States shall ensure the interoperability of these smart metering systems, their usercentricity as well as their connectivity with consumer energy management platforms. To this respect, Member States shall have due regard to the use of relevant available standards including those enabling interoperability on the data model and application layer level, best practices and the importance of the development of *data exchange*, future and innovative energy services, the deployment of smart grids and the internal market in electricity. For existing smart metering systems, the requirements must be met when the metering system is replaced by a new one, at the end of its economic lifetime or earlier.
- Member States that proceed with deployment shall adopt and publish the minimum functional and technical requirements for the smart metering systems to be rolled out in their territories in line with the provisions laid down in Article 20 and Annex III. Member States shall ensure the interoperability of these smart metering systems as well as their [] ability to provide output for consumer energy management [] systems. To this respect, Member States shall have due regard to the use of relevant available standards including those enabling interoperability, best practices and the importance of the development of the internal market in electricity.

380.	4. Member States that proceed	AM 99	4. Member States that proceed	
	with smart metering deployment shall	4. Member States that proceed	with smart metering deployment	
	ensure that final customers contribute	with smart metering deployment	shall ensure that final customers	
	to the associated costs of the roll-out in	shall ensure that final customers	contribute to the associated costs of	
	a transparent and non-discriminatory	contribute to the associated costs of	the roll-out in a transparent and non-	
	manner. Member States shall regularly	the roll-out in a transparent and non-	discriminatory manner. Member	
	monitor this deployment in their	discriminatory manner while taking	States or, where a Member State	
	territories to track the evolution of	into account the long-term benefits	has so provided, the designated	
	costs and benefits for the whole value	for the whole value chain. Member	competent authorities, shall	
	chain, including the delivery of net	States shall regularly monitor this	regularly monitor this deployment in	
	benefits to consumers.	deployment in their territories to	their territories to track the <b>delivery</b>	
		track the evolution of costs and	[] of [] benefits [] to consumers.	
		benefits for the whole value chain,		
		including the delivery of net benefits		
		such as savings to consumers and		
		their overall satisfaction with the		
		deployment.		
381.	1 3	AM 100	5. When the deployment of smart	
381.	metering is negatively assessed as a	AM 100 5. When the deployment of smart	metering is negatively assessed as a	
381.	metering is negatively assessed as a result of cost-benefit assessment	AM 100 5. When the deployment of smart metering is negatively assessed as a	metering is negatively assessed as a result of cost-benefit assessment	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically <b>or</b>	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions and to technology and market	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically and at least every two years in	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in the underlying assumptions and to	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions and to technology and market developments. Member States shall	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically and at least every two years in response to changes in the underlying	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in the underlying assumptions and to technology and market	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically and at least every two years in response to changes in the underlying assumptions and to technology and	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in the underlying assumptions and to technology and market developments. Member States shall	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of their updated	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically and at least every two years in response to changes in the underlying assumptions and to technology and market developments. Member States	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of their updated economic assessment as it becomes	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically and at least every two years in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of their updated	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of their updated	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically and at least every two years in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of their updated economic assessment as it becomes	
381.	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of their updated economic assessment as it becomes	AM 100 5. When the deployment of smart metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically and at least every two years in response to changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible	metering is negatively assessed as a result of cost-benefit assessment referred to in paragraph 2, Member States shall ensure that this assessment is revised periodically or in response to significant changes in the underlying assumptions and to technology and market developments. Member States shall notify to the responsible Commission services the outcome of their updated	

382.			5a. The smart metering	
			provisions in this Directive shall	
			apply to future installations and to	
			installations replacing older smart	
			meters. Smart metering systems	
			that are already installed, or for	
			which the "start of work" as	
			defined in Communication 2014/C	
			200/01 1.3. 19 (44) has started	
			before the date of entry into force	
			of this Directive, may remain in	
			operation over their lifetime.	
383.		Article	20	
		Smart metering j	functionalities	
384.	Where smart metering is positively	AM 101	Where smart metering is positively	
	assessed as a result of cost-benefit	Where smart metering is positively	assessed as a result of cost-benefit	
	assessment referred to in Article 19(2),	assessed as a result of cost-benefit	assessment referred to in Article	
	or systematically rolled out, Member	assessment referred to in Article	19(2), or systematically rolled out,	
	States shall implement smart metering	19(2), or systematically rolled out	Member States shall implement	
	systems in accordance with European	after the entry into force of this	smart metering systems in	
	standards, the provisions in Annex III,	Directive, Member States shall	accordance with European standards,	
	and in line with the following	implement smart metering systems in	the provisions in Annex III, and in	
	principles:	accordance with European standards,	line with the following principles:	
		the provisions in Annex III, and in		
		line with the following principles:		

385.		AM 102	(a) the metering systems	
	measure actual electricity consumption	(a) the metering systems	accurately measure actual electricity	
	and provide to final customers	accurately measure actual electricity	consumption and are able to provide	
	information on actual time of use. That	consumption and provide to final	to final customers information on	
	information shall be made easily	customers information on actual time	actual time of use. [] Validated	
	available and visualised to final	of use. Validated historical	historical consumption data shall	
	customers at no additional cost and at	consumption data shall be made	be made easily <b>and securely</b>	
	near-real time in order to support	easily available and visualised to	available and visualised to final	
	automated energy efficiency	final customers on at least an in-	customers on request and at no	
	programmes, demand response and	home display at no additional cost.	additional cost. [] Non-validated	
	other services;	Unvalidated near-real time	near-real time consumption data	
		consumption data shall be made	shall also be made easily and	
		available to final customers through	securely available to final	
		a standardized interface in order to	customers at no additional cost,	
		support automated energy efficiency	through a standardised interface	
		programmes, demand response and	or remote access, in order to support	
		other services;	automated energy efficiency	
			programmes, demand response and	
			other services;;	
386.	` '		(b) the security of the smart	
	metering systems and data		metering systems and data	
	communication is ensured in		communication is ensured in	
	compliance with relevant Union		compliance with relevant Union	
	security legislation having due regard		security legislation having due regard	
	of the best available techniques for		of the best available techniques for	
	ensuring the highest level of		ensuring the highest level of	
	cybersecurity protection;		cybersecurity protection whilst	
			bearing in mind the costs and	
			principles of proportionality;	

387.	(c) the privacy and data protection of final customers is ensured in compliance with relevant Union data protection and privacy legislation;	AM 103  (c) the privacy and data protection of final customers is ensured in compliance with relevant Union data protection and privacy legislation; it shall in particular be possible for	(c) the privacy and data protection of final customers is ensured in compliance with relevant Union data protection and privacy legislation;	
		the final customer to have access to information on the identity of other parties which access their personal		
		data, and on the moment of access,		
		in order to be able to enforce their		
		rights under Union data protection		
388.	(d) meter operators shall ensure that	legislation;	(d) meter operators shall ensure	
300.	the meter or meters of active		that the meter or meters of active	
	customers who self-generate electricity		customers who self-generate	
	can account for electricity put into the		electricity can account for electricity	
	grid from the active customers'		put into the grid from the active	
	premises;		customers' premises;	
389.		AM 104	(e) if final customers request it,	
	metering data on their electricity input	(e) metering data on their	metering data on their electricity	
	and off-take shall be made available to	electricity input and off-take shall be	input and off-take shall be made	
	them, via a local standardised	made available to them, via a local standardised communication	available to them, via a [] standardised communication	
	communication interface and/or remote access, or to a third party	interface and/or remote access, or to	interface and/or remote access, or to	
	acting on their behalf, in an easily	a third party acting on their behalf, in	a third party acting on their behalf, in	
	understandable format as provided for	an easily understandable format as	an easily understandable format as	
	in Article 24, allowing them to	provided for in Article 24 <i>and as</i>	provided for in Article 24, allowing	
	compare deals on a like-for-like basis;	close to real time as possible	them to compare deals on a like-for-	
		allowing them to compare deals on a	like basis;	
		like-for-like basis; it shall equally be		
		possible for final customers to		
		download their metering data or		
		transmit them to another party at no additional cost and in accordance		
		with their right to data portability		
		wun ineir rigni io aaia poriabilily		

		under Union data protection		
		legislation;		
390.	(f) appropriate advice and	AM 105	(f) appropriate advice and	
	information shall be given to final	(f) appropriate advice and	information shall be given to final	
	customers at the time of installation of	information shall be given to final	customers <b>prior to and/or</b> at the	
	smart meters, in particular about their	customers <i>prior to and/or</i> at the time	time of installation of smart meters,	
	full potential with regard to meter	of installation of smart meters, in	in particular about their full potential	
	reading management and the	particular about their full potential	with regard to meter reading	
	monitoring of energy consumption,	with regard to meter reading	management and the monitoring of	
	and on the collection and processing of	management and the monitoring of	energy consumption, and on the	
	personal data in accordance with the	energy consumption, and on the	collection and processing of personal	
	applicable Union data protection	collection and processing of personal	data in accordance with the	
	legislation;	data in accordance with the	applicable Union data protection	
		applicable Union data protection	legislation;	
		legislation;		
391.	(g) smart metering systems shall		(g) smart metering systems shall	
	enable final customers to be metered		enable final customers to be metered	
	and settled at the same time resolution		and settled at the same time	
	as the imbalance period in the national		resolution as the imbalance period in	
	market.		the national market.	
392.		Article		
		Entitlement to a		
393.	0	AM 106	1. Where smart metering is	
	negatively assessed as a result of cost-	1. Where smart metering is	negatively assessed as a result of	
	benefit assessment referred to in	negatively assessed as a result of	cost-benefit assessment referred to in	
	Article 19(2), nor systematically rolled	cost-benefit assessment referred to in	Article 19(2), nor systematically	
	out, Member States shall ensure that	Article 19(2), nor systematically	rolled out, Member States shall	
	every final customer is entitled to have	rolled out, Member States shall	ensure that every final customer is	
	installed or, where applicable, to have	ensure that every final customer is	entitled, while bearing associated	
	upgraded, on request and under fair	entitled to have installed or, where	costs, to have installed or, where	
	and reasonable conditions, a smart	applicable, to have upgraded, on	applicable, to have upgraded, on	
	meter that complies with the following	request and under fair, reasonable	request and under fair and reasonable	
	requirements:	and cost-effective conditions, a smart	conditions, a smart meter that	
		meter that complies with the	complies with the following	
		following requirements:	requirements:	

394.	(a) is equipped where technically	AM 107	(a) is equipped where technically	
	feasible with functionalities referred to	(a) is equipped with	feasible with functionalities referred	
	in Article 20, or with a minimum set of	functionalities referred to in Article	to in Article 20, or with a minimum	
	functionalities to be defined and	20, or with a minimum set of	set of functionalities to be defined	
	published by Member States at	functionalities to be defined and	and published by Member States at	
	national level and in line with the	published by Member States at	national level and in line with the	
	provisions in Annex III,	national level and in line with the	provisions in Annex III,	
		provisions in Annex III,		
395.	(b) is interoperable and able to		(b) is interoperable and able to	
	deliver the desired connectivity of the		deliver the desired connectivity of	
	metering infrastructure with consumer		the metering infrastructure with	
	energy management systems in near-		consumer energy management	
	real time.		systems in near-real time.	
<b>396.</b>	2. In the context of a customer		2. In the context of a customer	
	request for a smart meter pursuant to		request for a smart meter pursuant to	
	paragraph 1, Member States or, where		paragraph 1, Member States or,	
	a Member State has so provided, the		where a Member State has so	
	designated competent authorities shall:		provided, the designated competent	
			authorities shall:	
<b>397.</b>	(a) ensure that the offer to the final		(a) ensure that the offer to the	
	customer requesting the installation of		final customer requesting the	
	a smart meter explicitly states and		installation of a smart meter	
	clearly describes:		explicitly states and clearly	
			describes:	
<b>398.</b>	<ul><li>(i) the functions and</li></ul>		<ul><li>(i) the functions and</li></ul>	
	interoperability that can be supported		interoperability that can be supported	
	by the smart meter and the services		by the smart meter and the services	
	that are feasible as well as the benefits		that are feasible as well as the	
	that can be realistically attained by		benefits that can be realistically	
	having that smart meter at that moment		attained by having that smart meter at	
	in time;		that moment in time;	
399.	<ul> <li>(ii) any associated costs to be</li> </ul>		<ul> <li>(ii) any associated costs to</li> </ul>	
	borne by the final customer		be borne by the final customer;	

400.	(b) ensure that it is installed within	(b) ensure that it is installed within
	a reasonable time and no later than	a reasonable time and no later than []
	three months after the customer's	four months after the customer's
	request;	request;
401.	(c) regularly, and at least every two	(c) regularly, and at least every
	years, review and make publicly	two years, review and make publicly
	available the associated costs, and	available the associated costs, and
	trace their evolution as a result of	trace their evolution as a result of
	technology developments and potential	technology developments and
	metering system upgrades.	potential metering system upgrades.
402.		Article 22
		Conventional metering
403.	1. Where final customers do not	1. Where final customers do not
	have smart meters, Member States	have smart meters, Member States
	shall ensure that they are provided	shall ensure that they are provided
	with individual conventional meters	with individual conventional meters
	that accurately measure their actual	that accurately measure their actual
	consumption.	consumption.
404.	2. Member States shall ensure that	2. Member States shall ensure
	final customers are able to easily read	that final customers are able to easily
	their conventional meters, either	read their conventional meters, either
	directly or indirectly through an on-	directly or indirectly through an on-
	line interface or through another	line interface or through another
	appropriate interface.	appropriate interface.

405. Article 23 Data management When setting up the rules **AM 108** When setting up the rules **406.** 1. regarding the management and When setting up the rules regarding the management and exchange of data, Member States or, regarding the management and exchange of data, Member States or, where a Member State has so exchange of data, Member States or, where a Member State has so where a Member State has so provided, the designated competent provided, the designated competent authorities shall specify the eligible authorities shall specify the [] rules provided, the designated competent parties which may have access to data authorities shall specify the eligible on the access to data of the final of the final customer with their explicit customer by eligible parties on the parties which may have access to consent in accordance with Regulation data of the final customer with their basis of the [] consent of the final (EU) 2016/679 of the European explicit consent in accordance with customer or other basis foreseen Parliament and of the Council<sup>36</sup>. For Regulation (EU) 2016/679 of the by in accordance with Regulation the purpose of this Directive, data shall European Parliament and of the (EU) 2016/679 of the European Council<sup>52</sup>. For the purpose of this Parliament and of the Council<sup>37</sup>. For include metering and consumption data as well as data required for Directive, data shall include metering the purpose of this Directive, data consumer switching. Eligible parties and consumption data as well as data shall include metering and shall include at least customers, required for consumer switching, consumption data as well as data suppliers, transmission and distribution automated energy efficiency required for consumer switching  $\Pi$ . system operators, aggregators, energy programmes, energy management service companies, and other parties services and demand response which provide energy or other services *services*. Eligible parties shall

include at least customers, suppliers,

transmission and distribution system operators, aggregators, energy service companies, and other parties which provide energy or other

services to customers.

..

to customers.

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

407.		Upon request, eligible parties shall		
		provide customers with an overview		
		of the parties who have access to		
		their data.		
408.	2. Member States shall	AM 109	2. Member States shall organise	
	organise the management of data in	2. Member States shall organise	the management of data in order to	
	order to ensure efficient data access	the <i>secure</i> management of data in	ensure efficient and secure data	
	and exchange. Independently of the	order to ensure efficient data access	access and exchange. Independently	
	data management model applied in	and exchange, data protection, data	of the data management model	
	each Member State, the party or parties	security, transparency, neutrality	applied in each Member State, the	
	responsible for data management shall	and data integrity. Independently of	party or parties responsible for data	
	provide to any eligible party with the	the data management model applied	management shall provide to any	
	explicit consent of the final customer,	in each Member State, the party or	eligible party access to the data of	
	access to the data of the final	parties responsible for data	the final customer on the basis of	
	customer. Eligible parties should have	management shall provide to any	the explicit consent of the final	
	at their disposal in a non-	eligible party with the explicit	customer or other basis foreseen	
	discriminatory manner and	consent of the final customer, access	by Regulation (EU) 2016/679 [].	
	simultaneously the requested data.	to the data of the final customer.	Eligible parties should have at their	
	Access to data shall be easy, while	Eligible parties should have at their	disposal in a non-discriminatory	
	relevant procedures shall be made	disposal in a non-discriminatory	manner and simultaneously the	
	publicly available.	manner and simultaneously the	requested data. Access to data shall	
		requested data. Access to data shall	be easy, while relevant procedures	
		be easy, while relevant procedures	shall be made publicly available.	
		shall be made publicly available.		
409.			2a. The processing of personal	
			data carried out within the	
			framework of this Directive	
			including access to data and data	
			storage shall be carried out in	
			compliance with Regulation (EU)	
			2016/679.	

410.	3. Member States or, where a		3. Member States or, where a	
	Member State has so provided, the		Member State has so provided, the	
	designated competent authorities shall		designated competent authorities	
	authorise and certify the parties which		shall authorise and certify or, where	
	are managing data in order to ensure		applicable, supervise the parties	
	that these parties comply with the		which are managing data in order to	
	requirements of this Directive. Without		ensure that these parties comply with	
	prejudice to the tasks of the data		the requirements of this Directive.	
	protection officers under Regulation		Without prejudice to the tasks of the	
	(EU) 2016/679, Member States may		data protection officers under	
	decide to require from parties		Regulation (EU) 2016/679, Member	
	managing data the appointment of		States may decide to require from	
	compliance officers who shall be		parties managing data the	
	responsible for monitoring the		appointment of compliance officers	
	implementation of measures taken by		who shall be responsible for	
	the relevant parties for ensuring non-		monitoring the implementation of	
	discriminatory access to data and		measures taken by the relevant	
	compliance with the requirements of		parties for ensuring non-	
	this Directive. Compliance officers or		discriminatory access to data and	
	bodies designated pursuant to Article		compliance with the requirements of	
	35(2)(d) may be required to fulfil the		this Directive. Compliance officers	
	obligations of this paragraph.		or bodies designated pursuant to	
			Article 35(2)(d) may be required to	
			fulfil the obligations of this	
44.4	4 37 1111	175440	paragraph.	
411.		AM 110	4. No additional costs shall be	
	charged to final customers for access	4. No additional costs shall be	charged to final customers for access	
	to their data. Member States shall be	charged to final customers for access	to their data. Member States shall be	
	responsible for setting the relevant	to their data or for a request to	responsible for setting the relevant	
	costs for access to data by eligible	transfer their data. Member States	costs for access to data by eligible	
	parties. Regulated entities which	shall be responsible for setting the	parties. []	
	provide data services shall not profit	relevant costs for access to data by		
	from that activity.	eligible parties. Regulated entities		
		which provide data services shall not		
		profit from that activity.		

412.		Article		
		[]Interoperability requirements an	nd procedures for access to data	
413.	1. Member States shall define a common data format and a transparent procedure for eligible parties to have access to the data listed under Article 23 (1), in order to promote competition in the retail market and avoid excessive administrative costs for the eligible parties.	AM 111 1. Member States shall define a common data format to enable interoperability and facilitate exchange of data and a transparent procedure for eligible parties to have access to the data listed under Article 23 (1), in order to promote competition in the retail market and avoid excessive administrative costs for the eligible parties.	1. []	
414.	2. The Commission, by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 68, shall determine a common European data format and non-discriminatory and transparent procedures for accessing the data, listed under Article 23 (1), that will replace national data format and procedure adopted by Member States in accordance with paragraph 1. Member States shall ensure that market participants apply a common European data format.	2. The Commission, by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 68, shall determine interoperability standards and a common European data format and non-discriminatory and transparent procedures for accessing the data, listed under Article 23 (1), and provide for a cost-effective transition, taking into account conditions in Member States, that will replace national data format and procedure adopted by Member States in accordance with paragraph 1. Member States shall ensure that market participants apply interoperability standards or the common European data format. Where necessary, the Commission may, following consultation of the	2. In order to facilitate the full interoperability of cross-border energy services within the EU, the Commission, by means of implementing acts adopted in accordance with the advisory procedure referred to in Article 68 shall determine, interoperability requirements [] and non-discriminatory and transparent procedures for accessing the data, listed under Article 23 (1). These requirements and procedures [] will build upon existing national practices [] adopted by Member States. []	

		committee referred to in Article 68,			
		request that standards be drawn up			
		by the relevant European standards			
		organisations.			
415.		Articl	e 25	<u> </u>	
415.		Single points of contact			
416.	Member States shall ensure the	AM 113	Member States shall ensure the	Maintain Council GA	
	provision of single points of contact to	Member States shall ensure the	provision of single points of contact		
	provide customers with all necessary	provision of single points of contact	to provide customers with all		
	information concerning their rights,	to provide customers with all	necessary information concerning		
	current legislation and the means of	necessary information concerning	their rights, current legislation and		
	dispute settlement available to them in	their rights, current legislation,	the means of dispute settlement		
	the event of a dispute. Such contact	accredited comparison tools and the	available to them in the event of a		
	points may be part of general	means of dispute settlement available	dispute. Such contact points may be		
	consumer information points.	to them in the event of a dispute with	part of general consumer information		
	_	the electricity supplier, energy	points.		
		service provider, aggregator or any			
		other intermediary. Such contact			
		points may be part of general			
		consumer information points. <i>In</i>			
		cases where the service provided is			
		linked or is bundled with software,			
		hardware or communication			
		technology, final customers shall			
		have their complaint handled			
		through a single contact point.			

## Article 26 Right to out-of-court dispute settlement

418. Member States shall ensure that customers have access to simple. fair, transparent, independent, effective and efficient out-of-court dispute resolution mechanisms for the settlement of disputes concerning rights and obligations established under this Directive. Where the costumer is a consumer within the meaning of Directive 2013/11/EU of the European Parliament and of the Council<sup>38</sup>, such out-of-court mechanisms shall comply with the quality requirements established in Directive 2013/11/EU and provide, where warranted, for a system of reimbursement and/or compensation.

## AM 114

Member States shall ensure that customers have access to simple, fair, transparent, independent, effective and efficient out-of-court dispute resolution mechanisms for the settlement of disputes concerning rights and obligations established under this Directive through an independent mechanism such as an energy ombudsman or a consumer **body**. Where the costumer is a consumer within the meaning of Directive 2013/11/EU of the European Parliament and of the Council<sup>53</sup>, such out-of-court mechanisms shall comply with the quality requirements established in Directive 2013/11/EU and provide, where warranted, for a system of reimbursement and/or compensation.

Member States shall ensure that **final** customers have access to simple, fair. transparent, independent, effective and efficient out-of-court dispute resolution mechanisms for the settlement of disputes concerning rights and obligations established under this Directive. Where the final costumer is a consumer within the meaning of Directive 2013/11/EU of the European Parliament and of the Council<sup>39</sup>, such out-of-court mechanisms shall comply with the quality requirements established in Directive 2013/11/EU and provide, where warranted, for a system of reimbursement and/or compensation.

Accept in part:

Member States shall ensure that final customers have access to simple, fair, transparent, independent, effective and efficient out-of-court dispute resolution mechanisms for the settlement of disputes concerning rights and obligations established under this Directive through an independent mechanism such as an energy ombudsman or a consumer body, or a national regulatory authority. Where the **final** costumer is a consumer within the meaning of Directive 2013/11/EU of the European Parliament and of the Council<sup>40</sup>, such out-of-court mechanisms shall comply with the quality requirements established in Directive 2013/11/EU and provide, where warranted, for a system of reimbursement and/or compensation.

7506/3/18 REV 3 GW/ns 142 ANNEX TREE.2.B **EN** 

OJ L 165, 18.6.2013, p. 63–79

OJ L 165, 18.6.2013, p. 63–79

OJ L 165, 18.6.2013, p. 63–79

419.		Such mechanisms shall be extended		Maintain Council GA
		to all energy service providers,		
		aggregators and all contracts with		
		energy components, including		
		bundled offers, and local energy		
		communities, whose participation		
100		shall be mandatory.		
420.		Member States shall ensure that		Maintain Council GA
		electricity suppliers, energy service		
		providers and aggregators provide		
		information on the out-of-court		
		dispute settlement on their website		
		and in all communication with their		
		customers.		
421.		Member States shall regularly		Maintain Council GA
		assess the functioning of the out-of-		
		court dispute settlement		
		mechanisms, especially with regards		
		to the participation and compliance		
		of electricity suppliers, energy		
		service providers, aggregators and		
		intermediaries.		
422.		Article		
		Universal		
423.	1. Member States shall ensure that		1. Member States shall ensure	
	all household customers, and, where		that all household customers, and,	
	Member States deem it appropriate,		where Member States deem it	
	small enterprises (namely enterprises		appropriate, small enterprises [],	
	with fewer than 50 occupied persons		enjoy universal service, that is the	
	and an annual turnover or balance		right to be supplied with electricity of	
	sheet not exceeding EUR 10 million),		a specified quality within their	
	enjoy universal service, that is the right		territory at competitive reasonable	
	to be supplied with electricity of a		easily and clearly comparable,	
	specified quality within their territory		transparent and non-discriminatory	
	at ⊠ competitive ⊠ <del>reasonable,</del>		prices. To ensure the provision of	

			T	
	easily and clearly comparable,		universal service, Member States	
	transparent and non-discriminatory		may appoint a supplier of last resort.	
	prices. To ensure the provision of		Member States shall impose on	
	universal service, Member States may		distribution companies an obligation	
	appoint a supplier of last resort.		to connect customers to their network	
	Member States shall impose on		under terms, conditions and tariffs set	
	distribution companies an obligation to		in accordance with the procedure laid	
	connect customers to their network		down in Article 59(6). This Directive	
	under terms, conditions and tariffs set		shall not prevent Member States	
	in accordance with the procedure laid		from strengthening the market	
	down in Article 59(6). This Directive		position of the household, small and	
	shall not prevent Member States from		medium-sized consumers by	
	strengthening the market position of		promoting the possibilities of	
	the household, small and medium-		voluntary aggregation of	
	sized consumers by promoting the		representation for that class of	
	possibilities of voluntary aggregation		consumers.	
	of representation for that class of			
	consumers.			
424.	<b>C</b> 1		2. Paragraph 1 shall be	
	implemented in a transparent and non-		implemented in a transparent and	
	discriminatory way and shall not		non-discriminatory way and shall not	
	impede the free choice of supplier		impede the free choice of supplier	
	provided for in Article 4.		provided for in Article 4.	
425.		Articl		
		Vulnerable customers		
426.		AM 115	1. Member States shall take	
	appropriate measures to protect	1. Member States shall take	appropriate measures to protect	
	customers and shall, in particular,	appropriate measures to protect	customers and shall, in particular,	
	ensure that there are adequate	customers and shall, in particular,	ensure that there are adequate	
	safeguards to protect vulnerable	ensure that there are adequate	safeguards to protect vulnerable	
	customers. In this context, each	safeguards to protect vulnerable	customers. In this context, each	
	Member State shall define the concept	customers. In this context, each	Member State shall define the	
	of vulnerable customers which may	Member State shall define the	concept of vulnerable customers	
	refer to energy poverty and, inter alia,	concept of vulnerable customers	which may refer to energy poverty	
	to the prohibition of disconnection of	which shall refer to energy poverty	and, inter alia, to the prohibition of	

	electricity to such customers in critical	and may ensure their protection	disconnection of electricity to such	
	times. Member States shall ensure that	through national social security	customers in critical times. Member	
	rights and obligations linked to	systems and, inter alia, the	States shall ensure that rights and	
	vulnerable customers are applied. In	prohibition of disconnection of	obligations linked to vulnerable	
	particular, they shall take measures to	electricity to such customers in	customers are applied. In particular,	
	protect customers in remote areas.	critical times. Member States shall		
			they shall take measures to protect	
	They shall ensure high levels of	ensure that rights and obligations linked to vulnerable customers are	customers in remote areas. They shall	
	consumer protection, particularly with		ensure high levels of consumer	
	respect to transparency regarding	applied. In particular, they shall take	protection, particularly with respect	
	contractual terms and conditions,	measures to protect customers in	to transparency regarding contractual	
	general information and dispute	remote areas. They shall ensure high	terms and conditions, general	
	settlement mechanisms.	levels of consumer protection,	information and dispute settlement	
		particularly with respect to	mechanisms.	
		transparency regarding contractual		
		terms and conditions, general		
		information and dispute settlement		
		mechanisms.		
427.			1a. Where Member States	
			identified energy poverty among	
			household customers they shall	
			publish the parameters and	
			criteria used to identify, measure	
			and to monitor energy poverty.	
428.	2. Member States shall take	AM 116	2. Member States shall take	
	appropriate measures, such as	deleted	appropriate measures, such as	
	formulating national energy action		formulating national energy action	
	plans, providing benefits in social		plans, providing benefits in social	
	security systems to ensure the		security systems to ensure the	
	necessary electricity supply to		necessary electricity supply to	
	vulnerable customers, or providing for		vulnerable customers, or providing	
	support for energy efficiency		for support for energy efficiency	
	improvements, to address energy		improvements, to address energy	
	poverty where identified, including in		poverty where identified, including	
	the broader context of poverty. Such		in the broader context of poverty.	
	measures shall not impede the		Such measures shall not impede the	

	effective opening of the market set out in Article 4 or market functioning and shall be notified to the Commission, where relevant, in accordance with the provisions of Article 9(4). Such notification may also include measures		effective opening of the market set out in Article 4 or market functioning and shall be notified to the Commission, where relevant, in accordance with the provisions of Article 9(4). Such notifications may	
	taken within the general social security		also include measures taken within	
	system.		the general social security system.	
429.		Articl		
		Energy p	·	
430.	Member States shall define a set of criteria for the purposes of measuring energy poverty. Member States shall continuously monitor the number of households in energy poverty and shall report on the evolution of energy poverty and measures taken to prevent it to the Commission every two years as part of their Integrated National Energy and Climate Progress Reports in accordance with Article 21 of [Governance Regulation as proposed by COM(2016)759].	AM 117 Member States, in consultation with relevant stakeholders, shall:		
431.		(a) define a set of criteria for the purposes of measuring energy poverty based on indicators such as low income, high energy expenditure, and poor energy		
432.		efficiency;  (b) continuously monitor the number of households in energy poverty and analyse if these customers are sufficiently protected and improve their protection where needed;		

400		
433.	(c) report on the evolution of	
	energy poverty and measures taken	
	to prevent it to the Commission	
	every two years as part of their	
	Integrated National Energy and	
	Climate Progress Reports in	
	accordance with Article 21a of	
	Regulation (EU) [Governance	
	Regulation as proposed by	
	COM(2016)759].	
434.	In order to address energy poverty	
	where identified, including in the	
	context of broader poverty, and	
	protect vulnerable consumers as	
	referred to in Article 28, Member	
	States shall establish national action	
	plans to reduce the number of	
	households in energy poverty	
	including objectives and measures,	
	both short-term and long-term, and	
	a timeframe for achieving the	
	objectives. Measures may include,	
	inter alia, providing benefits in	
	social security systems to ensure the	
	necessary electricity supply to	
	vulnerable customers, providing for	
	support for energy efficiency	
	improvements and the prohibition of	
	disconnection of electricity at	
	critical times.	
L		

435.		These action plans shall be		
		incorporated into the Member		
		State's integrated national energy		
		and climate plan as part of		
		Regulation (EU) [Governance		
		Regulation as proposed by		
		COM(2016)759].		
436.		The Commission, acting together		
		with Eurostat and the Member		
		States, shall improve the		
		comparability of datasets including		
		national monitoring data so that		
		these become comparable across		
		Member States.		
437.		CHAPT		
		DISTRIBUTION SYS		
438.		Article		
		Designation of distribu		
439.	Member States shall designate or shall		Member States shall designate or	
	require undertakings that own or are		shall require undertakings that own	
	responsible for distribution systems to		or are responsible for distribution	
	designate, for a period of time to be		systems to designate, for a period of	
	determined by Member States having		time to be determined by Member	
	regard to considerations of efficiency		States having regard to	
	and economic balance, one or more		considerations of efficiency and	
	distribution system operators.		economic balance, one or more	
			distribution system operators.	

440.		Article 31
		Tasks of distribution system operators
441.	1. The distribution system operator	1. The distribution system
	shall be responsible for ensuring the	operator shall be responsible for
	long-term ability of the system to meet	ensuring the long-term ability of the
	reasonable demands for the	system to meet reasonable demands
	distribution of electricity, for	for the distribution of electricity, for
	operating, maintaining and developing	operating, maintaining and
	under economic conditions a secure,	developing under economic
	reliable and efficient electricity	conditions a secure, reliable and
	distribution system in its area with due	efficient electricity distribution
	regard for the environment and energy	system in its area with due regard for
	efficiency.	the environment and energy
		efficiency.
442.	•	2. In any event, it must not
	discriminate between system users or	discriminate between system users or
	classes of system users, particularly in	classes of system users, particularly
	favour of its related undertakings.	in favour of its related undertakings.
443.	•	3. The distribution system
	shall provide system users with the	operator shall provide system users
	information they need for efficient	with the information they need for
	access to, including use of, the system.	efficient access to, including use of,
		the system.
444.	<b>3</b> 1	4. A Member State may require
	distribution system operator, when	the distribution system operator,
	dispatching generating installations, to	when dispatching generating
	give priority to generating installations	installations, to give priority to
	using renewable energy sources or	generating installations using
	producing combined heat and power,	renewable energy sources or
	in accordance with Article 11 [recast	producing combined heat and power,
	of Regulation 714/2009 as proposed by	in accordance with Article 11 [recast
	COM(2016)861/2].	of Regulation 714/2009 as proposed
		by COM(2016)861/2].

**445.** 5. Each distribution system operator shall procure the energy it uses to cover energy losses and the non-frequency ancillary services in its system according to transparent, nondiscriminatory and market based procedures, whenever it has such a function. Unless justified by a costbenefit analysis, the procurement of non-frequency ancillary services by a distribution system operator shall be transparent, non-discriminatory and market-based ensuring effective participation of all market participants including renewable energy sources, demand response, energy storage facilities and aggregators, in particular by requiring regulatory authorities or distribution system operators in close cooperation with all market participants, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.

## **AM 118**

- Each distribution system operator shall *act as a neutral* market facilitator in procuring the energy it uses to cover energy losses and the non-frequency ancillary services in its system according to transparent, non-discriminatory and market based procedures, whenever it has such a function. Unless justified by a cost-benefit analysis, the *methodology of which shall be* developed in a transparent manner by the national regulatory authority in accordance with point c of Article 59 (1), procurement of nonfrequency ancillary services by a distribution system operator shall be transparent, non-discriminatory and market-based ensuring effective participation of all market participants including renewable energy sources, demand response. energy storage facilities and aggregators, in particular by requiring regulatory authorities or distribution system operators in close cooperation with all market participants, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.
- 5. Each distribution system operator shall procure the energy it uses to cover energy losses  $\Pi$  in its system according to transparent, non-discriminatory and market based procedures, whenever it has such a function.  $\Pi$

446.	5a. Where a distribution system
	operator is responsible for the
	procurement of products and
	services necessary for the efficient,
	reliable and secure operation of the
	distribution system, rules adopted
	by the distribution system operator
	for that purpose shall be objective,
	transparent and non-
	discriminatory and shall be
	elaborated in coordination with
	transmission system operators and
	other relevant market parties.
	Terms and conditions, including
	rules and tariffs where applicable,
	for the provision of such products
	and services by distribution system
	operators shall be established in
	accordance with Article 59(6) in a
	non-discriminatory and cost-
	reflective way and shall be
	published.
447.	5b. In performing the tasks
	described in paragraph 5a, the
	distribution system operator shall
	procure the non-frequency
	ancillary services needed for its
	system according to transparent,
	non-discriminatory and market-
	based procedures, unless the
	regulatory authority has assessed
	that the market-based provision of
	non-frequency ancillary services is
	economically not efficient and has
	granted a derogation. This

frequency ancillary services does not apply to fully integrated network components.  5c. The procurement of such products and exervices shall ensure the effective participants including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooparation with all market participants, including transmission system operators, to define technical modalities for participants on the basis of the technical requirements of these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		obligation to procure non-
not apply to fully integrated network components.  5c. The procurement of such products and services shall ensure the effective participants including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets and the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		<u> </u>
448.  5c. The procurement of such products and services shall ensure the effective participants including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close coperation with all market participants, including transmission system operators of the technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  5d. Distribution system operators for the effective participants on the participants of the effective participants of the effective participants of the effective participants of the participants of the participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
5c. The procurement of such products and services shall ensure the effective participation of all qualified market participants including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participants in these markets on the basis of the technical requirements of these market sand the capabilities of all market participants.  5d. Distribution system operators for the effective participant of market participant of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
products and services shall ensure the effective participation of all qualified market participants including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  449.  5d. Distribution system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed	448	
the effective participants including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  5d. Distribution system operators for the effective participation of market participants operators for the effective participation of market participants.	770.	
qualified market participants including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  449.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		<u> -</u>
including renewable energy sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing services stemming from resources located in the distribution system shall be agreed		
sources, demand response, energy storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
storage facilities and electricity undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participations system operators shall cooperate with transmission system operators for the effective participation of market participation of market participation connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
undertakings engaged in aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
aggregation, in particular by requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
requiring regulatory authorities and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
and distribution system operators in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  5d. Distribution system operators for the effective participant with transmission system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
in close cooperation with all market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
market participants, including transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
transmission system operators, to define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  5d. Distribution system operators for transmission system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
define technical modalities for participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
participation in these markets on the basis of the technical requirements of these markets and the capabilities of all market participants.  449.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
the basis of the technical requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
requirements of these markets and the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
the capabilities of all market participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
participants.  5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
5d. Distribution system operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		<u>-</u>
operators shall cooperate with transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed	449	
transmission system operators for the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
the effective participation of market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
market participants connected to their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
their grid to the retail, wholesale and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
and balancing markets. Delivery of balancing services stemming from resources located in the distribution system shall be agreed		
balancing services stemming from resources located in the distribution system shall be agreed		
resources located in the distribution system shall be agreed		
distribution system shall be agreed		
WILL THE TEXPECTIVE TRANSPORT		with the respective transmission

system operator in line with Article 182 of the Commission Regulation 2017/1485 establishing a guideline on electricity transmission system operation and Article 53 of the recast Electricity Regulation. **450.** Article 32 [] Incentives for the use of flexibility in distribution networks Member States shall provide **451.** 1. Member States shall provide the **AM 119** necessary regulatory framework to Member States shall provide the the necessary regulatory framework allow and incentivise distribution necessary regulatory framework to to allow and incentivise distribution system operators to procure services in allow and incentivise distribution system operators to procure order to improve efficiencies in the flexibility services, including system operators to procure services operation and development of the in order to improve efficiencies in the congestion management in their distribution system, including local operation and development of the service area, in order to improve congestion management. In particular, distribution system, including local efficiencies in the operation and regulatory frameworks shall enable congestion management. In development of the distribution distribution system operators to particular, regulatory frameworks system []. In particular, regulatory procure services from resources such shall ensure that distribution system frameworks shall enable distribution as distributed generation, demand operators *can* procure services from system operators to procure services response or storage and consider from resources such as distributed resources such as distributed energy efficiency measures, which generation, demand response or generation, demand response or may supplant the need to upgrade or storage and consider energy storage and consider energy replace electricity capacity and which efficiency measures, when such efficiency measures, which may support the efficient and secure services cost-effectively supplant the supplant the need to upgrade or operation of the distribution system. need to upgrade or replace electricity replace electricity capacity and which Distribution system operators shall capacity and which support the support the efficient and secure procure these services according to efficient and secure operation of the operation of the distribution system. transparent, non-discriminatory and distribution system. Distribution market based procedures. system operators shall procure these services according to transparent, non-discriminatory and market based procedures.

**452.** Distribution system operators shall define standardised market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, and aggregators. Distribution system operators shall exchange all necessary information and coordinate with transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development. Distribution system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and communication technologies expenses, including expenses which correspond to the necessary information and communication infrastructure.

## **AM 120**

Standardised market products for such services shall be defined at least at the national level. Distribution system operators shall, in a transparent and participatory process that includes all relevant system users, the national regulatory authority and the transmission system operator, define standardised market products for the services procured ensuring effective participation of all market participants including renewable energy sources, demand response, storage and aggregators. Distribution system operators shall exchange all necessary information and coordinate with transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development. Distribution system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and communication technologies expenses, including expenses which correspond to the necessary information and communication infrastructure.

Distribution system operators subject to an oversight by the regulatory authority, or the regulatory authority itself, shall define [] the specifications for the flexibility services procured in close cooperation with the transmission system operators. The specifications shall ensure an □ effective and non-discriminatory participation of all market participants including renewable energy sources, demand response, energy storage facilities and ∏market participants engaged in aggregation. Distribution system operators shall exchange all necessary information and coordinate with transmission system operators in order to ensure the optimal utilisation of resources, ensure the secure and efficient operation of the system and facilitate market development. Distribution system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding reasonable costs [], including the necessary information and communication technologies expenses and [] infrastructure **costs**.

**453.** 2. The development of a distribution system shall be based on a transparent network development plan that distribution system operators shall submit every two years to the regulatory authority. The network development plan shall contain the planned investments for the next five to ten years, with particular emphasis on the main distribution infrastructure which is required in order to connect new generation capacity and new loads including re-charging points for electric vehicles. The network development plan shall also demonstrate the use of demand response, energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion.

## **AM 121**

The development of a distribution system shall be based on a transparent network development plan that distribution system operators shall submit every two years to the regulatory authority. *In* developing the network development plan, the distribution system operator shall involve, including through consultation, all current or *potential system users.* The network development plan shall contain the planned investments for the next five to ten years, with particular emphasis on the main distribution infrastructure, including energy efficiency, demand response and energy storage, which is required in order to connect new generation capacity and new loads including recharging points for electric vehicles. The network development plan shall also demonstrate the use of demand response, energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion.

The development of a distribution system shall be based on a transparent network development plan that distribution system operators shall [] publish at least every two years and submit to the regulatory authority and the transmission system operator. The regulatory authority may request amendments to the plans. The network development plan shall provide transparency on the medium and long-term flexibility services needed, contain the planned investments for the next five to ten years, with particular emphasis on the main distribution infrastructure which is required in order to connect new generation capacity and new loads including re-charging points for electric vehicles. The network development plan shall also include [] the use of demand response, energy efficiency, energy storage facilities or other resources that distribution system operator is using as an alternative to system expansion.

454.	The regulatory authority shall consult		2a. The [] distribution system	
	all current or potential system users on		operators shall consult all []	
	the network development plan. The		relevant system users on the network	
	regulatory authority shall publish the		development plan. The []	
	result of the consultation process on		distribution system operators shall	
	the proposed investments.		publish the results of the consultation	
			process along with [] the network	
			development plan and submit to	
			the regulatory authority.	
<b>455.</b>	Member States may decide not to		2b. Member States may decide not	
	apply this obligation to integrated		to apply this obligation to integrated	
	undertakings serving less than 100 000		undertakings serving less than 100	
	connected consumers, or serving		000 connected consumers, or serving	
	isolated systems.		isolated systems.	
<b>456.</b>		Article		
		Integration of electro-mobility		
<b>457.</b>	1. Member States shall provide the	AM 122	1. Member States shall provide	
	necessary regulatory framework to	1. Without prejudice to Directive	the necessary regulatory framework	
	facilitate the connection of publicly	2014/94/EU, Member States shall	to facilitate the connection of	
	accessible and private recharging	provide the necessary regulatory	publicly accessible and private	
	points to the distribution networks.	framework to facilitate the	recharging points to the distribution	
	Member States shall ensure that	connection of publicly accessible and	networks. Member States shall	
	distribution system operators cooperate	private recharging points to the	ensure that distribution system	
	on a non-discriminatory basis with any	distribution networks. Member States	operators cooperate on a non-	
	undertaking that owns, develops,	shall ensure that distribution system	discriminatory basis with any	
	operates or manages recharging points	operators cooperate on a non-	undertaking that owns, develops,	
	for electric vehicles, including with	discriminatory basis with any	operates or manages recharging	
	regard to connection to the grid.	undertaking that owns, develops,	points for electric vehicles, including	
		operates or manages recharging	with regard to connection to the grid.	
		points for electric vehicles, including		
		with regard to connection to the grid.		

458.		AM 123	1a. Distribution system	
		1a. (new) Distribution system	operators shall not be allowed to	
		operators shall not be allowed to	own, develop, manage or operate	
		own, develop, manage or operate	recharging points for electric	
		recharging points for electric	vehicles, with the exception of	
		vehicles.	those cases where distribution	
			system operators own private	
			recharging points solely for their	
			own use.	
459.	2. Member States may allow	AM 124	2. By way of derogation from	
	distribution system operators to own,	2. By way of derogation from	paragraph 1a, Member States may	
	develop, manage or operate recharging	paragraph 1a, Member States may	allow distribution system operators to	
	points for electric vehicles only if the	allow distribution system operators to	own, develop, manage or operate	
	following conditions are fulfilled:	own, develop, manage or operate	recharging points for electric vehicles	
	-	recharging points for electric vehicles	only if the following conditions are	
		only if <i>all of</i> the following conditions	fulfilled:	
		are fulfilled:		
460.	(a) other parties, following an open	AM 125	(a) other parties, following an	
	and transparent tendering procedure,	(a) other parties, following an	open and transparent tendering	
	have not expressed their interest to	open and transparent tendering	procedure, [] could not be awarded	
	own, develop, manage or operate	procedure, subject to review by the	with a right to own, develop,	
		national regulatory authority, have	manage or operate recharging points	
		not expressed their interest to own,	for electric vehicles;	
		develop, manage or operate		
		recharging points for electric vehicles		
		or cannot deliver those services at a		
		reasonable cost and in a timely		
		manner;		
461.	(b) the regulatory authority has		(b) the regulatory authority has	
	granted its approval.		carried out an ex-ante review of	
			the conditions of the tendering	
			procedure under subparagraph (a)	
			and has granted its approval;	

462.			(c) in operation of the recharging points the distribution system operator must not discriminate between system users or classes of system users, particularly in favour of its related	
			undertakings.	
463.	3. Articles 35 and 56 shall apply to distribution system operators engaged in ownership, development, operation or management of recharging points.		3. []	
464.		AM 126 4. Member States shall perform at regular intervals or at least every five years a public consultation in order to re-assess the potential interest of market parties to own, develop, operate or manage recharging points for electric vehicles. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States shall ensure that distribution system operators' activities in this regard are phased-out and that the associated costs can be recovered.	4. Where Member States have implemented the conditions set out in paragraph 2, Member States or their designated competent authorities shall perform at regular intervals or at least every five years a public consultation in order to reassess the potential interest of market parties to own, develop, operate or manage recharging points for electric vehicles on the basis of third party access. In case the public consultation indicates that third parties are able to own, develop, operate or manage such points, Member States shall ensure that distribution system operators' activities in this regard are phased-out subject to a successful completion of a procedure referred to in paragraph (2)a. As part of the conditions for this procedure regulatory authorities may allow the distribution system operators	

		T		Г
			to recover the residual value of the	
			investment made into recharging	
			infrastructure.	
465.		Article		
			n operators in data management	
466.	Member States shall ensure that all	AM 127	In compliance with applicable data	
	eligible parties have non-	Member States shall ensure that all	provisions regulations, Member	
	discriminatory access to data under	eligible parties have non-	States shall ensure that all eligible	
	clear and equal terms. In Member	discriminatory access to data under	parties have non-discriminatory	
	States where smart metering systems	clear and equal terms, and are in	access to data under clear and equal	
	have been implemented according to	compliance with data and	terms. In Member States where smart	
	Article 19 and distribution system	information protection legislation.	metering systems have been	
	operators are involved in data	In Member States where smart	implemented according to Article 19	
	management, compliance programmes	metering systems have been	and distribution system operators are	
	as set in Article 35(2)(d) shall include	implemented according to Article 19	involved in data management,	
	specific measures in order to exclude	and distribution system operators are	compliance programmes as set in	
	discriminatory access to data from	involved in data management,	Article 35(2)(d) shall include specific	
	eligible parties as provided for in	compliance programmes as set in	measures in order to exclude	
	Article 23. Where distribution system	Article 35(2)(d) shall include specific	discriminatory access to data from	
	operators are not subject to Article	measures in order to exclude	eligible parties as provided for in	
	35(1), (2) and (3), Member States shall	discriminatory access to data from	Article 23. Where distribution system	
	take all necessary measures to ensure	eligible parties as provided for in	operators are not subject to Article	
	that the vertically integrated	Article 23. Where distribution system	35(1), (2) and (3), Member States	
	undertaking do not have privileged	operators are not subject to Article	shall take all necessary measures to	
	access to data for the conduct of its	35(1), (2) and (3), Member States	ensure that the vertically integrated	
	supply activity.	shall take all necessary measures to	undertaking do not have privileged	
		ensure that the vertically integrated	access to data for the conduct of its	
		undertaking do not have privileged	supply activity.	
		access to data for the conduct of its		
		supply activity, if necessary by		
		requiring the creation of a central		
		data management platform to be		
		managed by the transmission system		
		operator or another neutral entity .		

467.		Article 35		
		Unbundling of distribution system operators		
468.	1. Where the distribution system	1. Where the distribution system		
	operator is part of a vertically	operator is part of a vertically		
	integrated undertaking, it shall be	integrated undertaking, it shall be		
	independent at least in terms of its	independent at least in terms of its		
	legal form, organisation and decision	legal form, organisation and decision		
	making from other activities not	making from other activities not		
	relating to distribution. Those rules	relating to distribution. Those rules		
	shall not create an obligation to	shall not create an obligation to		
	separate the ownership of assets of the	separate the ownership of assets of		
	distribution system operator from the	the distribution system operator from		
	vertically integrated undertaking.	the vertically integrated undertaking.		
469.	2. In addition to the requirements	2. In addition to the requirements		
	under paragraph 1, where the	under paragraph 1, where the		
	distribution system operator is part of a	distribution system operator is part of		
	vertically integrated undertaking, it	a vertically integrated undertaking, it		
	shall be independent in terms of its	shall be independent in terms of its		
	organisation and decision-making from	organisation and decision-making		
	the other activities not related to	from the other activities not related to		
	distribution. In order to achieve this,	distribution. In order to achieve this,		
	the following minimum criteria shall	the following minimum criteria shall		
	apply:	apply:		
470.	(a) those persons responsible for the	(a) those persons responsible for		
	management of the distribution system	the management of the distribution		
	operator must not participate in	system operator must not participate		
	company structures of the integrated	in company structures of the		
	electricity undertaking responsible,	integrated electricity undertaking		
	directly or indirectly, for the day-to-	responsible, directly or indirectly, for		
	day operation of the generation,	the day-to-day operation of the		
	transmission or supply of electricity;	generation, transmission or supply of		
		electricity;		

471.	(b) appropriate measures must be	(b) approp	priate measures must be
	taken to ensure that the professional		are that the professional
	interests of the persons responsible for		he persons responsible
	the management of the distribution		gement of the
	system operator are taken into account		system operator are taken
	in a manner that ensures that they are		in a manner that ensures
	capable of acting independently;		capable of acting
		independentl	
472.	(c) the distribution system operator	(c) the dis	stribution system
7/2.	must have effective decision-making		st have effective
	rights, independent from the integrated	_	king rights, independent
	electricity undertaking, with respect to		egrated electricity
	assets necessary to operate, maintain		with respect to assets
	or develop the network. In order to		operate, maintain or
	fulfil those tasks, the distribution		network. In order to
	system operator shall have at its		asks, the distribution
	disposal the necessary resources		asks, the distribution ator shall have at its
	including human, technical, physical		necessary resources
	and financial resources. This should		man, technical, physical
	not prevent the existence of		I resources. This should
	appropriate coordination mechanisms		he existence of
	to ensure that the economic and		coordination mechanisms
			at the economic and
	management supervision rights of the		
	parent company in respect of return on		t supervision rights of the
	assets, regulated indirectly in		any in respect of return
	accordance with Article 59(6), in a	<u> </u>	gulated indirectly in
	subsidiary are protected. In particular,		with Article 59(6), in a
	this shall enable the parent company to		re protected. In
	approve the annual financial plan, or		is shall enable the parent
	any equivalent instrument, of the		approve the annual
	distribution system operator and to set		n, or any equivalent
	global limits on the levels of		of the distribution system
	indebtedness of its subsidiary. It shall		to set global limits on
	not permit the parent company to give		indebtedness of its
	instructions regarding day-to-day	subsidiary. It	t shall not permit the

	operations, nor with respect to	parent company to give instructions	
	individual decisions concerning the	regarding day-to-day operations, nor	
	construction or upgrading of	with respect to individual decisions	
	distribution lines, that do not exceed	concerning the construction or	
	the terms of the approved financial	upgrading of distribution lines, that	
	plan, or any equivalent instrument; and	do not exceed the terms of the	
		approved financial plan, or any	
		equivalent instrument; and	
473.	(d) the distribution system operator	(d) the distribution system	
	must establish a compliance	operator must establish a compliance	
	programme, which sets out measures	programme, which sets out measures	
	taken to ensure that discriminatory	taken to ensure that discriminatory	
	conduct is excluded, and ensure that	conduct is excluded, and ensure that	
	observance of it is adequately	observance of it is adequately	
	monitored. The compliance	monitored. The compliance	
	programme shall set out the specific	programme shall set out the specific	
	obligations of employees to meet that	obligations of employees to meet that	
	objective. An annual report, setting out	objective. An annual report, setting	
	the measures taken, shall be submitted	out the measures taken, shall be	
	by the person or body responsible for	submitted by the person or body	
	monitoring the compliance	responsible for monitoring the	
	programme, the compliance officer of	compliance programme, the	
	the distribution system operator, to the	compliance officer of the distribution	
	regulatory authority referred to in	system operator, to the regulatory	
	Article 57(1) and shall be published.	authority referred to in Article 57(1)	
	The compliance officer of the	and shall be published. The	
	distribution system operator shall be	compliance officer of the distribution	
	fully independent and shall have	system operator shall be fully	
	access to all the necessary information	independent and shall have access to	
	of the distribution system operator and	all the necessary information of the	
	any affiliated undertaking to fulfil his	distribution system operator and any	
	task.	affiliated undertaking to fulfil his	
		task.	

474.	3. Where the distribution system	3. Where the distribution system
	operator is part of a vertically	operator is part of a vertically
	integrated undertaking, the Member	integrated undertaking, the Member
	States shall ensure that the activities of	States shall ensure that the activities
	the distribution system operator are	of the distribution system operator
	monitored by regulatory authorities or	are monitored by regulatory
	other competent bodies so that it	authorities or other competent bodies
	cannot take advantage of its vertical	so that it cannot take advantage of its
	integration to distort competition. In	vertical integration to distort
	particular, vertically integrated	competition. In particular, vertically
	distribution system operators shall not,	integrated distribution system
	in their communication and branding,	operators shall not, in their
	create confusion in respect of the	communication and branding, create
	separate identity of the supply branch	confusion in respect of the separate
	of the vertically integrated	identity of the supply branch of the
	undertaking.	vertically integrated undertaking.
475.	4. Member States may decide not	4. Member States may decide not
	to apply paragraphs 1, 2 and 3 to	to apply paragraphs 1, 2 and 3 to
	integrated electricity undertakings	integrated electricity undertakings
	serving less than 100000 connected	serving less than 100000 connected
	customers, or serving small isolated	customers, or serving small isolated
	systems.	systems.

<b>476.</b>		Article				
		Ownership of energy storage facilities by distribution system operators				
477.	• • •	AM 128	1. Distribution system operators			
	shall not be allowed to own, develop,	1. Distribution system operators	shall not be allowed to own, develop,			
	manage or operate energy storage	shall not be allowed to own, develop,	manage or operate energy storage			
	facilities.	manage or operate energy storage	facilities.			
		facilities, except equipment used by				
		the distribution system operators for				
		local short-term control of the				
		distribution system where there is no				
		influence on energy and non-				
		frequency ancillary services				
		markets, and where the national				
		regulatory authority has granted its				
470		approval.	2 P 61 6			
478.	3 3	AM 129	2. By way of derogation from			
	paragraph 1, Member States may allow	2. By way of derogation from	paragraph 1, Member States may			
	distribution system operators to own,	paragraph 1, Member States may	allow distribution system operators to			
	develop, manage or operate storage	allow distribution system operators to	own, develop, manage or operate			
	facilities only if the following conditions are fulfilled:	own, develop, manage or operate	energy storage facilities which are			
	conditions are fulfilled:	storage facilities only if <i>all of</i> the following conditions are fulfilled:	fully integrated network			
		Tollowing conditions are fulfilled:	components and the regulatory authority has granted its approval			
			or [] if all of the following			
			conditions are fulfilled:			
479.			(-a) such facilities are necessary			
477.			for the distribution system			
			operators to fulfil their obligations			
			under this Directive for the			
			efficient, reliable and secure			
			operation of the distribution			
			system and they are not used to			
			buy or sell electricity to the			
			wholesale market, including			
			balancing markets;			

480.	(a) other parties, following an open	AM 130	(a) other parties, following an	
	and transparent tendering procedure,	(a) other parties, following an	open, [] transparent and non-	
	have not expressed their interest to	open and transparent tendering	<b>discriminatory</b> tendering procedure,	
	own, develop, manage or operate	procedure, subject to review by the	subject to review and approval by	
	storage facilities;	national regulatory authority, have	the regulatory authority [] have	
	storage racinities,	not expressed their interest to own,	not been awarded with a right to	
		develop, manage or operate storage	own, develop, manage [] or operate	
		facilities or cannot deliver those	such [] facilities. Regulatory	
		services at a reasonable cost and in	authorities may draw up guidelines	
		a timely manner;	or procurement clauses to help	
		a timety manner,	distribution system operators	
			ensure a fair tendering procedure;	
			and	
481.	(b) such facilities are necessary for	AM 131	(b) []	
401.	the distribution system operators to	(b) such facilities are necessary		
	fulfil their obligations under this	for the distribution system operators		
	Directive for the efficient, reliable and	to fulfil their obligations under this		
	secure operation of the distribution	Directive for the efficient, reliable		
	system; and	and secure operation of the		
	system, and	distribution system, and <i>the</i>		
		ownership or operation of the		
		facility does not influence		
482.	(a) the magnifetoms outhority has	competitive energy markets;	(a) the magnifetoms outhority has	
404.	(c) the regulatory authority has		(c) the regulatory authority has	
	assessed the necessity of such		assessed the necessity of such	
	derogation taking into account the		derogation and has carried out an	
	conditions under points (a) and (b) and		assessment of the tendering	
	has granted its approval.		procedure, including the	
			conditions, [] and has granted its	
402		ANT 122	approval.	
483.		AM 132		
		2a. (new) National regulatory		
		authorities may draw up guidelines		
		or procurement clauses to aid		
		distribution system operators in		
		ensuring a fair tendering procedure.		

484.	11 3		3. []	
	distribution system operators engaged			
	in ownership, development, operation			
	or management of energy storage			
	facilities.			
485.	2 3	AM 133	4. [] The distribution system	
	perform at regular intervals or at least	4. <i>Member States</i> shall perform	operators or the regulatory	
	every five years a public consultation	at regular intervals or at least every	authority shall perform at regular	
	in order to re-assess the potential	five years a review of the ability for	intervals or at least every five years a	
	interest of market parties to invest,	existing storage facilities to be	public consultation for the required	
	develop, operate or manage energy	tendered and where appropriate a	energy storage facilities in order to	
	storage facilities. In case the public	public consultation in order to re-	assess the potential availability and	
	consultation indicates that third parties	assess the potential interest of market	interest of market parties to invest []	
	are able to own, develop, operate or	parties to invest, develop, operate or	in such facilities. [] Where the	
	manage such facilities, Member States	manage energy storage facilities. In	public consultation, as assessed by	
	shall ensure that distribution system	case <i>the review or</i> the public	the regulatory authority, indicates	
	operators' activities in this regard are	consultation indicates that third	that third parties are able to own,	
	phased-out.	parties are able to own, develop,	develop, operate or manage such	
		operate or manage such facilities,	facilities in a cost-effective manner,	
		Member States shall ensure that	[] regulatory authorities shall	
		distribution system operators'	ensure that distribution system	
		activities in this regard are phased-	operators' activities in this regard are	
		out and that the associated costs can	phased-out within 24 months. As	
		be recovered.	part of the conditions for this	
			procedure, regulatory authorities	
			may allow the distribution system	
			operators to receive reasonable	
			compensation, in particular to	
			recover the residual value of the	
			investment they made into energy	
			storage facilities.	
486.			4a. Paragraph 4 shall not apply	
			for the usual depreciation period of	
			new battery storage facilities with	
			a final investment decision until	
			2024.	

487.	AM 134	
	Article 36a	
	New activities of distribution system	
	operators	
488.	1. Distribution system operators	
	shall not be allowed to carry out	
	activities beyond those set out in this	
	Directive and in Regulation (EU)	
	[recast of Regulation 714/2009 as	
	proposed by COM(2016)861/2].	
489.	2. Member States may allow	
	distribution system operators to	
	carry out activities other than those	
	provided for in this Directive and in	
	Regulation (EU) [recast of	
	Regulation 714/2009 as proposed by	
	COM(2016)861/2] where the	
	regulatory authority has assessed	
	the necessity of such a derogation	
	and has granted its approval and the	
	following conditions are met:	
490.	(a) other parties, following an	
	open and transparent tendering	
	procedure, have not expressed their	
	interest to carry out those activities;	
491.	(b) such activities are necessary	
	for the distribution system operators	
	to fulfil their obligations under this	
	Directive for the efficient, reliable	
	and secure operation of the	
	distribution system;	

492.		(c) such activities are necessary		
		for the distribution system operators		
		to fulfil their obligations under the		
		Regulation (EU) [recast of		
		Regulation 714/2009 as proposed by		
		COM(2016)861/2], including an		
		obligation to cooperate with		
		transmission system operators,		
		ensuring the cost-efficient, secure		
		and reliable development and		
		operation of the distribution and		
		transmission networks as a whole.		
493.		Articl	e 37	
		Confidentiality obligation of a	listribution system operators	
494.	Without prejudice to Article 55 or any		Without prejudice to Article 55 or	
	other legal duty to disclose		any other legal duty to disclose	
	information, the distribution system		information, the distribution system	
	operator must preserve the		operator must preserve the	
	confidentiality of commercially		confidentiality of commercially	
	sensitive information obtained in the		sensitive information obtained in the	
	course of carrying out its business, and		course of carrying out its business,	
	shall prevent information about its own		and shall prevent information about	
	activities which may be commercially		its own activities which may be	
	advantageous being disclosed in a		commercially advantageous being	
	discriminatory manner.		disclosed in a discriminatory manner.	

495.		Article 38	
		Closed distribution systems	
496.	1. Member States may provide for	1. Member States may provide	
	national regulatory authorities or other	for national regulatory authorities or	
	competent authorities to classify a	other competent authorities to	
	system which distributes electricity	classify a system which distributes	
	within a geographically confined	electricity within a geographically	
	industrial, commercial or shared	confined industrial, commercial or	
	services site and does not, without	shared services site and does not,	
	prejudice to paragraph 4, supply	without prejudice to paragraph 4,	
	household customers, as a closed	supply household customers, as a	
	distribution system if:	closed distribution system if:	
497.	(a) for specific technical or safety	(a) for specific technical or safety	
	reasons, the operations or the	reasons, the operations or the	
	production process of the users of that	production process of the users of	
	system are integrated; or	that system are integrated; or	
498.	(b) that system distributes	(b) that system distributes	
	electricity primarily to the owner or	electricity primarily to the owner or	
	operator of the system or their related	operator of the system or their related	
	undertakings.	undertakings.	
499.	2. Member States may provide for	2. Member States may provide	
	national regulatory authorities to	for national regulatory authorities to	
	exempt the operator of a closed	exempt the operator of a closed	
	distribution system from:	distribution system from:	
<b>=</b> 00			
500.	` /	(a) the requirement under Article	
	Article 31(5) to procure the energy it	31(5) to procure the energy it uses to	
	uses to cover energy losses and the	cover energy losses and the non-	
	non-frequency ancillary services in its	frequency ancillary services in its	
	system according to transparent, non-	system according to transparent, non-	
	discriminatory and market based	discriminatory and market based	
	procedures;	procedures;	

501.	(b) the requirement under Article 6	(b) the requirement under Article	
	(1) that tariffs, or the methodologies	6 (1) that tariffs, or the	
	underlying their calculation, are	methodologies underlying their	
	approved prior to their entry into force	calculation, are approved prior to	
	in accordance with Article 59 (1).	their entry into force in accordance	
		with Article 59 (1).	
502.	3. Where an exemption is granted	3. Where an exemption is granted	
	under paragraph 2, the applicable	under paragraph 2, the applicable	
	tariffs, or the methodologies	tariffs, or the methodologies	
	underlying their calculation, shall be	underlying their calculation, shall be	
	reviewed and approved in accordance	reviewed and approved in accordance	
	with Article $59(1)$ upon request by a	with Article 59(1) upon request by a	
	user of the closed distribution system.	user of the closed distribution	
	•	system.	
503.	4. Incidental use by a small	4. Incidental use by a small	
	number of households with	number of households with	
	employment or similar associations	employment or similar associations	
	with the owner of the distribution	with the owner of the distribution	
	system and located within the area	system and located within the area	
	served by a closed distribution system	served by a closed distribution	
	shall not preclude an exemption under	system shall not preclude an	
	paragraph 2 being granted.	exemption under paragraph 2 being	
		granted.	
504.	5. Closed distribution systems	5. Closed distribution systems	
	shall be considered as distribution	shall be considered as distribution	
	systems for the purpose of the	systems for the purpose of the	
	Directive.	Directive.	
505.		Article 39	
		Combined operator	
506.	Article 35(1) shall not prevent the	Article 35(1) shall not prevent the	
	operation of a combined transmission	operation of a combined transmission	
	and distribution system operator	and distribution system operator	
	provided that operator complies with	provided that operator complies with	
	Articles 43(1), or 44 and 45, or Section	Articles 43(1), or 44 and 45, or	
	3 of Chapter VI or falls under Article	Section 3 of Chapter VI or falls	
	66(2).	under Article 66(2).	

507.	Chapter V				
	GENER	GENERAL RULES APPLICABLE TO THE TRANSMISSION SYSTEM OPERATOR			
508.		Article 40			
		Tasks of transmission system operators			
509.	1. Each transmission system		1. Each transmission system		
	operator shall be responsible for:		operator shall be responsible for:		
<b>510.</b>	(a) ensuring the long-term ability of		(a) ensuring the long-term ability		
	the system to meet reasonable		of the system to meet reasonable		
	demands for the transmission of		demands for the transmission of		
	electricity, operating, maintaining and		electricity, operating, maintaining		
	developing under economic conditions		and developing under economic		
	secure, reliable and efficient		conditions secure, reliable and		
	transmission systems with due regard		efficient transmission systems with		
	to the environment, in close		due regard to the environment, in		
	cooperation with neighbouring		close cooperation with neighbouring		
	transmission system operators and		transmission system operators and		
	distribution system operators;		distribution system operators;		
511.	(b) ensuring adequate means to		(b) ensuring adequate means to		
	meet its obligations;		meet its obligations;		
512.	(c) contributing to security of		(c) contributing to security of		
	supply through adequate transmission		supply through adequate		
	capacity and system reliability;		transmission capacity and system		
			reliability;		
513.			(d) managing electricity flows on		
	the system, taking into account		the system, taking into account		
	exchanges with other interconnected		exchanges with other interconnected		
	systems. To that end, the transmission		systems. To that end, the		
	system operator shall be responsible		transmission system operator shall be		
	for ensuring a secure, reliable and		responsible for ensuring a secure,		
	efficient electricity system and, in that		reliable and efficient electricity		
	context, for ensuring the availability of		system and, in that context, for		
	all necessary ancillary services,		ensuring the availability of all		
	including those provided by demand		necessary ancillary services,		
	response and energy storage, insofar as		including those provided by demand		
	such availability is independent from		response and energy storage, insofar		
	any other transmission system with		as such availability is independent		

	which its system is interconnected;	from any other transmission system with which its system is interconnected;
514.	(e) providing to the operator of any other system with which its system is interconnected sufficient information	(e) providing to the operator of any other system with which its
	to ensure the secure and efficient	system is interconnected sufficient information to ensure the secure and
	operation, coordinated development and interoperability of the	efficient operation, coordinated development and interoperability of
	interconnected system;	the interconnected system;
515.	• •	(f) ensuring non-discrimination as
	between system users or classes of system users, particularly in favour of	between system users or classes of system users, particularly in favour
	its related undertakings;	of its related undertakings;
516.		(g) providing system users with
	information they need for efficient	the information they need for
	access to the system; and	efficient access to the system; []
517.	(h) collecting congestion rents and	(h) collecting congestion rents and
	payments under the inter-transmission	payments under the inter-
	system operator compensation	transmission system operator
	mechanism, in compliance with	compensation mechanism, in
	Article 46 of [recast of Regulation	compliance with Article 46 of [recast
	714/2009 as proposed by	of Regulation 714/2009 as proposed
	COM(2016)861/2], granting and	by COM(2016)861/2], granting and
	managing third-party access and	managing third-party access and
	giving reasoned explanations when it	giving reasoned explanations when it
	denies such access, which shall be	denies such access, which shall be
	monitored by the national regulatory	monitored by the national regulatory
	authorities; in carrying out their tasks	authorities; in carrying out their tasks
	under this Article transmission system	under this Article transmission
	operators shall primarily facilitate	system operators shall primarily
	market integration.	facilitate market integration;

518.		AM 135 (ha) (new) standardisation, in		
		cooperation with distribution system		
		operators, of relevant data formats		
		and protocols to facilitate cross-		
		border exchange of data;		
519.	(i) procuring ancillary services		(i) procuring ancillary services []	
	from market participants to ensure		to ensure operational security;	
	operational security.			
<b>520.</b>	(j) adopting a framework for the	AM 136	(j) adopting a framework for the	
	cooperation and coordination between	(j) cooperating with the Agency,	cooperation and coordination	
	regional operational centres.	regional coordination centres and	between [] Regional Security	
		the ENTSO for electricity on the	Coordinators;	
		<i>adoption of</i> a framework for the		
		cooperation and coordination		
		between regional coordination		
		centres;		
<b>521.</b>		AM 137	(ja) participate in establishing of	
		(ja) (new) digitalisation of	the European and national	
		transmission systems to ensure,	adequacy assessments pursuant to	
		among others, efficient real time	Chapter IV of [recast of	
		data acquisition and use, smart	Regulation 714/2009 as proposed	
		substations;	by COM(2016)861/2];	
522.		AM 138	(jb) digitalisation of transmission	
		(jb) (new) data management, cyber	systems;	
		security and data protection.		
523.			(jc) data management, including	
			development of data management	
			systems, cyber security and data	
			protection subject to applicable	
			provisions and rules and without	
			prejudice to the competences of	
			other authorities;	
524.			(jd) participation in development	
			of demand response.	

**525.** 2. Member States may provide that one or several responsibilities listed under points (a) to (j) of paragraph 1 be assigned to a transmission system operator other than the one which owns the transmission system to which the concerned responsibilities would otherwise be applicable. The transmission system operator to which the tasks are assigned shall be certified as ownership unbundled and fulfil the requirements provided for in Article 43, but does not have to own the transmission system it is responsible for. The transmission system operator which owns the transmission system shall fulfil the requirements provided for in Chapter VI and be certified in accordance with Article 43.

## **AM 139**

Member States may provide that one or several responsibilities listed under points (a) to (j) of paragraph 1 be assigned to a transmission system operator other than the one which owns the transmission system to which the concerned responsibilities would otherwise be applicable. The transmission system operator to which the tasks are assigned shall be certified as ownership unbundled, independent system operator or independent transmission operator and fulfil the requirements provided for in Article 43, but does not have to own the transmission system it is responsible for. The transmission system operator which owns the transmission system shall fulfil the requirements provided for in Chapter VI and be certified in accordance with Article 43.

Member States may provide that one or several responsibilities listed under points (a) to (id) of paragraph 1 be assigned to a transmission system operator other than the one which owns the transmission system to which the concerned responsibilities would otherwise be applicable. The transmission system operator to which the tasks are assigned shall be certified as ownership unbundled, independent system operator or independent transmission operator, and fulfil the requirements provided for in Article 43, but does not have to own the transmission system it is responsible for. The transmission system operator which owns the transmission system shall fulfil the requirements provided for in Chapter VI and be certified in accordance with Article 43. This is without prejudice to the possibility for transmission system operators which are certified as ownership unbundled, independent system operator or independent transmission operator to delegate on their own initiative and under their supervision certain tasks to other transmission system operators which are certified as ownership unbundled, independent system operator or independent

			transmission operator where this delegation of tasks does not endanger the effective and	
			independent decision-making	
			rights of the delegating	
			transmission system operator.	
<b>526.</b>		AM 140	3.	
	paragraph 1, the transmission system	3. In performing the tasks listed		
	operator shall take into account the	in paragraph 1, the transmission		
	functions performed by the regional	system operator shall take into		
	operational centres and cooperate as	account the recommendations issued		
	necessary with neighbouring	by the regional <i>coordination</i> centres		
	transmission system operators.	and cooperate as necessary with		
		neighbouring transmission system		
		operators.		
527.	4. In performing the task described	AM 141	4. In performing the task	
527.	4. In performing the task described in point (i) of paragraph 1, the	AM 141 4. In performing the task	4. In performing the task described in point (i) of paragraph 1,	
527.	in point (i) of paragraph 1, the	4. In performing the task	described in point (i) of paragraph 1,	
527.	in point (i) of paragraph 1, the transmission system operator shall	4. In performing the task described in point (i) of paragraph 1,	described in point (i) of paragraph 1, the transmission system operators	
527.	in point (i) of paragraph 1, the	4. In performing the task	described in point (i) of paragraph 1,	
527.	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of	4. In performing the task described in point (i) of paragraph 1, the transmission system operator	described in point (i) of paragraph 1, the transmission system operators shall [] <b>procure</b> balancing services []	
527.	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified	4. In performing the task described in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of	described in point (i) of paragraph 1, the transmission system operators shall [] <b>procure</b> balancing services []	
527.	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit analysis, non-	4. In performing the task described in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless	described in point (i) of paragraph 1, the transmission system operators shall [] <b>procure</b> balancing services []	
527.	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit analysis, non-	4. In performing the task described in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit <i>or technical viability</i> analysis <i>and approved by the competent</i>	described in point (i) of paragraph 1, the transmission system operators shall [] <b>procure</b> balancing services []	
527.	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit analysis, non-	4. In performing the task described in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit or technical viability analysis and approved by the competent authority, non-frequency ancillary	described in point (i) of paragraph 1, the transmission system operators shall [] <b>procure</b> balancing services []	
	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit analysis, non-frequency ancillary services, is:	4. In performing the task described in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit <i>or technical viability</i> analysis <i>and approved by the competent</i>	described in point (i) of paragraph 1, the transmission system operators shall [] procure balancing services [] according to:	
527. 528.	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit analysis, non-frequency ancillary services, is:  (a) transparent, non-discriminatory	4. In performing the task described in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit or technical viability analysis and approved by the competent authority, non-frequency ancillary	described in point (i) of paragraph 1, the transmission system operators shall [] procure balancing services [] according to:  (a) transparent, non-	
	in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit analysis, non-frequency ancillary services, is:	4. In performing the task described in point (i) of paragraph 1, the transmission system operator shall ensure that the procurement of balancing services and, unless justified by a cost-benefit or technical viability analysis and approved by the competent authority, non-frequency ancillary	described in point (i) of paragraph 1, the transmission system operators shall [] procure balancing services [] according to:	

<b>529.</b>	(b) ensures effective participation of		(b) ensures effective participation	
	all market participants including		of all qualified electricity	
	renewable energy sources, demand		undertakings and market	
	response, energy storage facilities and		participants including renewable	
	aggregators, in particular by requiring		energy sources, demand response,	
	regulatory authorities or transmission		energy storage facilities and []	
	system operators in close cooperation		market participants engaged in	
	with all market participants, to define		aggregation. For that purpose, []	
	technical modalities for participation		regulatory authorities [] and	
	in these markets on the basis of the		transmission system operators shall,	
	technical requirements of these		in close cooperation with all market	
	markets and the capabilities of all		participants, [] define technical	
	market participants		modalities for participation in these	
	•		markets on the basis of the technical	
			requirements of these markets in	
			accordance with the Commission	
			Regulation 2017/1485 establishing	
			a guideline on electricity	
			transmission system operation [].	
530.	5. Transmission system operators		5. []	
	shall not own assets that provide			
	ancillary services save under the			
	conditions set out in Article 54.			
531.		AM 142	5a. The requirements of	
		5a. (new) Member States shall	paragraph 4 shall apply to the	
		provide the necessary regulatory	provision of those non-frequency	
		framework to allow and incentivise	ancillary services by transmission	
		transmission system operators to	system operators, unless the	
		procure services in order to improve	regulatory authority has assessed	
		efficiencies in the operation and	that the market-based provision of	
		development of the transmission	non-frequency ancillary services is	
		system, including local congestion	economically not efficient and has	
		management. In particular,	granted a derogation.	
		regulatory frameworks shall ensure		
		that transmission system operators		

	can procure servic	
	such as demand re	sponse or storage
	and consider energ	y efficiency
	measures, when su	ch services cost-
	effectively supplan	t the need to
	upgrade or replace	electricity
	capacity and which	support the
	efficient and secur	e operation of the
	transmission system	n. Transmission
	system operators si	nall procure those
	services in accorde	nce with
	transparent, non-d	iscriminatory and
	market based proc	edures.
532.	Standardised mark	et products for
	such services shall	be defined at
	least at the national	l level.
	Transmission syste	m operators
	shall, in a transpar	ent and
	participatory proce	ss that includes
	all relevant system	
	national regulator	authority, define
	standardised mark	et products for
	the services procui	ed ensuring
	effective participat	on of all market
	participants includ	ing renewable
	energy sources, de	nand response,
	storage and aggreg	ators.
	Transmission syste	m operators shall
	exchange all neces	sary information
	and coordinate wit	h distribution
	system operators in	order to ensure
	the optimal utilisat	ion of resources,
	ensure the secure of	and efficient
	operation of the sy	stem and
	facilitate market de	velopment.

	Transmission system operators shall be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and		
	expenses.	5h This obligation to progress	
<u> </u>	Articl		
Confidentiality and			an cuctom aunore
	i transparency requirements for transm 		n system owners
		1 3	
•			
		1	
		•	
		•	
•			
		,	
•			
_		unbundling, Member States shall	
	Confidentiality and  I. Without prejudice to Article 55 or any other legal duty to disclose information, each transmission system operator and each transmission system owner shall preserve the confidentiality of commercially sensitive information obtained in the course of carrying out its activities, and shall prevent information about its own activities which may be commercially advantageous from being disclosed in a discriminatory manner. In particular it shall not disclose any commercially sensitive information to the remaining parts of the undertaking, unless this is necessary for carrying out a business transaction. In order to ensure the full respect of the rules on information unbundling, Member States shall ensure that the transmission system	be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and communication technologies expenses.  Articl  Confidentiality and transparency requirements for transmant transparency require	be adequately remunerated for the procurement of such services in order to recover at least the corresponding expenses, including the necessary information and communication technologies expenses.  5b. This obligation to procure non-frequency ancillary services does not apply to fully integrated network components.  Article 41  Confidentiality and transparency requirements for transmission system operators and transmission and transmission system operator and each transmission system

	owner and the remaining part of the		ensure that the transmission system	
	undertaking do not use joint services,		owner and the remaining part of the	
	such as joint legal services, apart from		undertaking do not use joint services,	
	purely administrative or IT functions.		such as joint legal services, apart	
	purery administrative of 11 functions.			
			from purely administrative or IT	
526	2		functions.	
536.	•		2. Transmission system operators	
	shall not, in the context of sales or		shall not, in the context of sales or	
	purchases of electricity by related		purchases of electricity by related	
	undertakings, misuse commercially		undertakings, misuse commercially	
	sensitive information obtained from		sensitive information obtained from	
	third parties in the context of providing		third parties in the context of	
	or negotiating access to the system.		providing or negotiating access to the	
			system.	
537.	3. Information necessary for		3. Information necessary for	
	effective competition and the efficient		effective competition and the	
	functioning of the market shall be		efficient functioning of the market	
	made public. That obligation shall be		shall be made public. That obligation	
	without prejudice to preserving the		shall be without prejudice to	
	confidentiality of commercially		preserving the confidentiality of	
	sensitive information.		commercially sensitive information.	
538.	Article 42			
	Decision-making powers regarding the connection of new power plant to the transmission system			n system
539.	1. The transmission system		1. The transmission system	
	operator shall establish and publish		operator shall establish and publish	
	transparent and efficient procedures		transparent and efficient procedures	
	for non-discriminatory connection of		for non-discriminatory connection of	
	new power plants and energy storage		new power plants and energy storage	
	facilities to the transmission system.		facilities to the transmission system.	
	Those procedures shall be subject to		Those procedures shall be subject to	
	the approval of national regulatory		the approval of national regulatory	
	authorities.		authorities.	

540.	2. The transmission system		
	operator shall not be entitled to refuse		
	the connection of a new power plant or		
	energy storage facility on the grounds		
	of possible future limitations to		
	available network capacities, such as		
	congestion in distant parts of the		
	transmission system. The transmission		
	system operator shall supply necessary		
	information.		

The transmission system operator shall not be entitled to refuse the connection of a new power plant or energy storage facility on the grounds of possible future limitations to available network capacities, such as congestion in distant parts of the transmission system. The transmission system operator shall supply necessary information. This shall be without prejudice to the possibility for transmission system operators to limit the guaranteed connection capacity or offer connections subject to operational limitations to ensure economic efficiency regarding new power plants or energy storage facilities where such limitations have been approved by the regulatory authority. The regulatory authority shall ensure that any limitations in guaranteed connection capacity or operational limitations are introduced on the basis of transparent and nondiscriminatory procedures and do not create undue barriers to market entry. Where the power plant or energy storage facility bears the costs related to ensuring unlimited connection, no limitation shall apply.

541.	3. The transmission system	3. The transmission system
	operator shall not be entitled to refuse	operator shall not be entitled to
	a new connection point, on the ground	refuse a new connection point, on the
	that it will lead to additional costs	ground that it will lead to additional
	linked with necessary capacity	costs linked with necessary capacity
	increase of system elements in the	increase of system elements in the
	close-up range to the connection point.	close-up range to the connection
		point.
542.		Chapter VI
		UNBUNDLING OF TRANSMISSION SYSTEM OPERATORS
543.		SECTION 1
		OWNERSHIP UNBUNDLING
544.		Article 43
	Ow	nership unbundling of transmission systems and transmission system operators
545.	1. Member States shall ensure that:	1. Member States shall ensure
		that:
546.	(a) each undertaking which owns a	(a) each undertaking which owns
	transmission system acts as a	a transmission system acts as a
	transmission system operator;	transmission system operator;
547.	(b) the same person or persons are	(b) the same person or persons are
	entitled neither:	entitled neither:
548.	<ul> <li>directly or indirectly to exercise</li> </ul>	<ul> <li>directly or indirectly to</li> </ul>
	control over an undertaking	exercise control over an undertaking
	performing any of the functions of	performing any of the functions of
	generation or supply, and directly or	generation or supply, and directly or
	indirectly to exercise control or	indirectly to exercise control or
	exercise any right over a transmission	exercise any right over a
	system operator or over a transmission	transmission system operator or over
	system; nor	a transmission system; nor

549.	<ul> <li>directly or indirectly to exercise</li> </ul>	<ul> <li>directly or indirectly to</li> </ul>	
	control over a transmission system	exercise control over a transmission	
	operator or over a transmission system,	system operator or over a	
	and directly or indirectly to exercise	transmission system, and directly or	
	control or exercise any right over an	indirectly to exercise control or	
	undertaking performing any of the	exercise any right over an	
	functions of generation or supply;	undertaking performing any of the	
		functions of generation or supply;	
550.	(c) the same person or persons are	(c) the same person or persons are	
	not entitled to appoint members of the	not entitled to appoint members of	
	supervisory board, the administrative	the supervisory board, the	
	board or bodies legally representing	administrative board or bodies	
	the undertaking, of a transmission	legally representing the undertaking,	
	system operator or a transmission	of a transmission system operator or	
	system, and directly or indirectly to	a transmission system, and directly or	
	exercise control or exercise any right	indirectly to exercise control or	
	over an undertaking performing any of	exercise any right over an	
	the functions of generation or supply;	undertaking performing any of the	
	and	functions of generation or supply;	
		and	
551.	(d) the same person is not entitled to	(d) the same person is not entitled	
	be a member of the supervisory board,	to be a member of the supervisory	
	the administrative board or bodies	board, the administrative board or	
	legally representing the undertaking, of	bodies legally representing the	
	both an undertaking performing any of	undertaking, of both an undertaking	
	the functions of generation or supply	performing any of the functions of	
	and a transmission system operator or	generation or supply and a	
	a transmission system.	transmission system operator or a	
		transmission system.	
552.	2. The rights referred to in points	2. The rights referred to in points	
	(b) and (c) of paragraph 1 shall	(b) and (c) of paragraph 1 shall	
	include, in particular:	include, in particular:	
553.	(a) the power to exercise voting	(a) the power to exercise voting	
	rights;	rights;	

554.	(b) the power to appoint members	(b) the power to appoint members
	of the supervisory board, the	of the supervisory board, the
	administrative board or bodies legally	administrative board or bodies
	representing the undertaking; or	legally representing the undertaking;
		or
555.	(c) the holding of a majority share.	(c) the holding of a majority
		share.
<b>556.</b>	3. For the purpose of	3. For the purpose of
	paragraph 1(b), the notion	paragraph 1(b), the notion
	'undertaking performing any of the	'undertaking performing any of the
	functions of generation or supply' shall	functions of generation or supply'
	include 'undertaking performing any	shall include 'undertaking
	of the functions of production and	performing any of the functions of
	supply' within the meaning of	production and supply' within the
	Directive 2009/73/EC of the European	meaning of Directive 2009/73/EC of
	Parliament and of the Council <sup>41</sup> , and	the European Parliament and of the
	the terms 'transmission system	Council <sup>42</sup> , and the terms
	operator' and 'transmission system'	'transmission system operator' and
	shall include 'transmission system	'transmission system' shall include
	operator' and 'transmission system'	'transmission system operator' and
	within the meaning of that Directive.	'transmission system' within the
		meaning of that Directive.
557.	$\mathcal{C}$	4. The obligation set out in
	paragraph 1(a) shall be deemed to be	paragraph 1(a) shall be deemed to be
	fulfilled in a situation where two or	fulfilled in a situation where two or
	more undertakings which own	more undertakings which own
	transmission systems have created a	transmission systems have created a
	joint venture which acts as a	joint venture which acts as a
	transmission system operator in two or	transmission system operator in two
	more Member States for the	or more Member States for the
	transmission systems concerned. No	transmission systems concerned. No

Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas (OJ L 211, 14.8.2009, p. 94)

7506/3/18 REV 3 GW/ns 183
ANNEX TREE.2.B

Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas (OJ L 211, 14.8.2009, p. 94)

	other undertaking may be part of the	other undertaking may be part of the
	joint venture, unless it has been	joint venture, unless it has been
	approved under Article 44 as an	approved under Article 44 as an
	independent system operator or as an	independent system operator or as an
	independent transmission operator for	independent transmission operator
	the purposes of Section 3.	for the purposes of Section 3.
558.	5. For the implementation of this	5. For the implementation of this
	Article, where the person referred to in	Article, where the person referred to
	points (b), (c) and (d) of paragraph 1 is	in points (b), (c) and (d) of paragraph
	the Member State or another public	1 is the Member State or another
	body, two separate public bodies	public body, two separate public
	exercising control over a transmission	bodies exercising control over a
	system operator or over a transmission	transmission system operator or over
	system on the one hand, and over an	a transmission system on the one
	undertaking performing any of the	hand, and over an undertaking
	functions of generation or supply on	performing any of the functions of
	the other, shall be deemed not to be the	generation or supply on the other,
	same person or persons.	shall be deemed not to be the same
	sume person or persons.	person or persons.
559.	6. Member States shall ensure that	6. Member States shall ensure
	neither commercially sensitive	that neither commercially sensitive
	information referred to in Article 41	information referred to in Article 41
	held by a transmission system operator	held by a transmission system
	which was part of a vertically	operator which was part of a
	integrated undertaking, nor the staff of	vertically integrated undertaking, nor
	such a transmission system operator, is	the staff of such a transmission
	transferred to undertakings performing	system operator, is transferred to
	any of the functions of generation and	undertakings performing any of the
	supply.	functions of generation and supply.
560.	** *	7. Where on 3 September 2009,
300.	the transmission system belongs to a	the transmission system belongs to a
	vertically integrated undertaking a	vertically integrated undertaking a
	Member State may decide not to apply	Member State may decide not to
	•	
	paragraph 1.	apply paragraph 1.

561.	,	In such case, the Member State
	concerned shall either:	concerned shall either:
562.	(a) designate an independent system	(a) designate an independent
	operator in accordance with Article 44;	system operator in accordance with
	or	Article 44; or
563.	(b) comply with the provisions of	(b) comply with the provisions of
	Section 3.	Section 3.
564.	8. Where, on 3 September 2009,	8. Where, on 3 September 2009,
	the transmission system belongs to a	the transmission system belongs to a
	vertically integrated undertaking and	vertically integrated undertaking and
	there are arrangements in place which	there are arrangements in place
	guarantee more effective independence	which guarantee more effective
	of the transmission system operator	independence of the transmission
	than the provisions of Section 3, a	system operator than the provisions
	Member State may decide not to apply	of Section 3, a Member State may
	paragraph 1.	decide not to apply paragraph 1.
565.	9. Before an undertaking is	9. Before an undertaking is
	approved and designated as a	approved and designated as a
	transmission system operator under	transmission system operator under
	paragraph 8, it shall be certified	paragraph 8, it shall be certified
	according to the procedures laid down	according to the procedures laid
	in Article 52(4), (5), and (6), of this	down in Article 52(4), (5), and (6), of
	Directive and in Article 48 of [recast	this Directive and in Article 48 of
	of Regulation 714/2009 as proposed by	[recast of Regulation 714/2009 as
	COM(2016)861/2], pursuant to which	proposed by COM(2016)861/2],
	the Commission shall verify that the	pursuant to which the Commission
	arrangements in place clearly	shall verify that the arrangements in
	guarantee more effective independence	place clearly guarantee more
	of the transmission system operator	effective independence of the
	than the provisions of Section 3.	transmission system operator than the
		provisions of Section 3.
566.	• 0	10. Vertically integrated
	undertakings which own a	undertakings which own a
	transmission system shall not in any	transmission system shall not in any
	event be prevented from taking steps	event be prevented from taking steps
	to comply with paragraph 1.	to comply with paragraph 1.

	11 TT 1 . 11 C 1 C	44 77 1 11 6 1
567.		11. Undertakings performing any
	the functions of generation or supply	of the functions of generation or
	shall not in any event be able to	supply shall not in any event be able
	directly or indirectly take control over	to directly or indirectly take control
	or exercise any right over unbundled	over or exercise any right over
	transmission system operators in	unbundled transmission system
	Member States which apply paragraph	operators in Member States which
	1.	apply paragraph 1.
568.		SECTION 2
		INDEPENDENT SYSTEM OPERATOR
569.		Article 44
		Independent system operator
<b>570.</b>	1. Where the transmission system	1. Where the transmission system
	belongs to a vertically integrated	belongs to a vertically integrated
	undertaking on 3 September 2009,	undertaking on 3 September 2009,
	Member States may decide not to	Member States may decide not to
	apply Article 43 (1) and designate an	apply Article 43 (1) and designate an
	independent system operator upon a	independent system operator upon a
	proposal from the transmission system	proposal from the transmission
	owner. Such designation shall be	system owner. Such designation shall
	subject to approval by the	be subject to approval by the
	Commission.	Commission.
571.	2. The Member State may approve	2. The Member State may
	and designate an independent system	approve and designate an
	operator only where:	independent system operator only
	opinion starty masses	where:
572.	(a) the candidate operator has	(a) the candidate operator has
	demonstrated that it complies with the	demonstrated that it complies with
	requirements of Article 43 (1)(b), (c)	the requirements of Article 43 (1)(b),
	and (d);	(c) and (d);
573.	(b) the candidate operator has	(b) the candidate operator has
	demonstrated that it has at its disposal	demonstrated that it has at its
	the required financial, technical,	disposal the required financial,
	physical and human resources to carry	technical, physical and human
	out its tasks under Article 40;	resources to carry out its tasks under
	out its tasks under Afficie 40,	Article 40;
		Afficie 40 ,

574.	(c) the candidate operator has	(c) the candidate operator has	
	undertaken to comply with a ten-year	undertaken to comply with a ten-year	
	network development plan monitored	network development plan monitored	
	by the regulatory authority;	by the regulatory authority;	
575.	(d) the transmission system owner	(d) the transmission system owner	
	has demonstrated its ability to comply	has demonstrated its ability to	
	with its obligations under paragraph 5.	comply with its obligations under	
	To that end, it shall provide all the	paragraph 5. To that end, it shall	
	draft contractual arrangements with the	provide all the draft contractual	
	candidate undertaking and any other	arrangements with the candidate	
	relevant entity; and	undertaking and any other relevant	
		entity; and	
<b>576.</b>	(e) the candidate operator has	(e) the candidate operator has	
	demonstrated its ability to comply with	demonstrated its ability to comply	
	its obligations under [recast of	with its obligations under [recast of	
	Regulation 714/2009 as proposed by	Regulation 714/2009 as proposed by	
	COM(2016)861/2] including the	COM(2016)861/2] including the	
	cooperation of transmission system	cooperation of transmission system	
	operators at European and regional	operators at European and regional	
	level.	level.	
577.	3. Undertakings which have been	3. Undertakings which have been	
	certified by the regulatory authority as	certified by the regulatory authority	
	having complied with the requirements	as having complied with the	
	of Article 53 and paragraph 2 of this	requirements of Article 53 and	
	Article shall be approved and	paragraph 2 of this Article shall be	
	designated as independent system	approved and designated as	
	operators by Member States. The	independent system operators by	
	certification procedure in either Article	Member States. The certification	
	52 of this Directive and Article 48 of	procedure in either Article 52 of this	
	[recast of Regulation 714/2009 as	Directive and Article 48 of [recast of	
	proposed by COM(2016)861/2] or in	Regulation 714/2009 as proposed by	
	Article 53 of this Directive shall be	COM(2016)861/2] or in Article 53 of	
	applicable.	this Directive shall be applicable.	

578.	4. Each independent system	4. Each independent system
	operator shall be responsible for	operator shall be responsible for
	granting and managing third-party	granting and managing third-party
	access, including the collection of	access, including the collection of
	access charges, congestion charges,	access charges, congestion charges,
	and payments under the inter-	and payments under the inter-
	transmission system operator	transmission system operator
	compensation mechanism in	compensation mechanism in
	compliance with Article 46 of [recast	compliance with Article 46 of [recast
	of Regulation 714/2009 as proposed by	of Regulation 714/2009 as proposed
	COM(2016)861/2], as well as for	by COM(2016)861/2], as well as for
	operating, maintaining and developing	operating, maintaining and
	the transmission system, and for	developing the transmission system,
	ensuring the long-term ability of the	and for ensuring the long-term ability
	system to meet reasonable demand	of the system to meet reasonable
	through investment planning. When	demand through investment
	developing the transmission system,	planning. When developing the
	the independent system operator shall	transmission system, the independent
	be responsible for planning (including	system operator shall be responsible
	authorisation procedure), construction	for planning (including authorisation
	and commissioning of the new	procedure), construction and
	infrastructure. For this purpose, the	commissioning of the new
	independent system operator shall act	infrastructure. For this purpose, the
	as a transmission system operator in	independent system operator shall act
	accordance with this Section . The	as a transmission system operator in
	transmission system owner shall not be	accordance with this Section . The
	responsible for granting and managing	transmission system owner shall not
	third-party access, nor for investment	be responsible for granting and
	planning.	managing third-party access, nor for
		investment planning.
<b>579.</b>	1	5. Where an independent system
	operator has been designated, the	operator has been designated, the
	transmission system owner shall:	transmission system owner shall:

580.	(a) provide all the relevant	(a) provide all the relevant
	cooperation and support to the	cooperation and support to the
	independent system operator for the	independent system operator for the
	fulfilment of its tasks, including in	fulfilment of its tasks, including in
	particular all relevant information;	particular all relevant information;
581.	(b) finance the investments decided	(b) finance the investments
	by the independent system operator	decided by the independent system
	and approved by the regulatory	operator and approved by the
	authority, or give its agreement to	regulatory authority, or give its
	financing by any interested party	agreement to financing by any
	including the independent system	interested party including the
	operator. The relevant financing	independent system operator. The
	arrangements shall be subject to	relevant financing arrangements shall
	approval by the regulatory authority.	be subject to approval by the
	Prior to such approval, the regulatory	regulatory authority. Prior to such
	authority shall consult the transmission	approval, the regulatory authority
	system owner together with the other	shall consult the transmission system
	interested parties;	owner together with the other
		interested parties;
582.	(c) provide for the coverage of	(c) provide for the coverage of
	liability relating to the network assets,	liability relating to the network
	excluding the liability relating to the	assets, excluding the liability relating
	tasks of the independent system	to the tasks of the independent
	operator; and	system operator; and
583.	(d) provide guarantees to facilitate	(d) provide guarantees to facilitate
	financing any network expansions with	financing any network expansions
	the exception of those investments	with the exception of those
	where, pursuant to point (b), it has	investments where, pursuant to point
	given its agreement to financing by	(b), it has given its agreement to
	any interested party including the	financing by any interested party
	independent system operator.	including the independent system
		operator.

584.	6. In close cooperation with the	6. In close cooperation with the	
	regulatory authority, the relevant	regulatory authority, the relevant	
	national competition authority shall be	national competition authority shall	
	granted all relevant powers to	be granted all relevant powers to	
	effectively monitor compliance of the	effectively monitor compliance of the	
	transmission system owner with its	transmission system owner with its	
	obligations under paragraph 5.	obligations under paragraph 5.	
585.		Article 45	
		Unbundling of transmission system owners	
586.	1. A transmission system owner,	1. A transmission system owner,	
	where an independent system operator	where an independent system	
	has been appointed, which is part of a	operator has been appointed, which is	
	vertically integrated undertaking shall	part of a vertically integrated	
	be independent at least in terms of its	undertaking shall be independent at	
	legal form, organisation and decision	least in terms of its legal form,	
	making from other activities not	organisation and decision making	
	relating to transmission.	from other activities not relating to	
	· ·	transmission.	
587.	2. In order to ensure the	2. In order to ensure the	
	independence of the transmission	independence of the transmission	
	system owner referred to in paragraph	system owner referred to in	
	1, the following minimum criteria shall	paragraph 1, the following minimum	
	apply:	criteria shall apply:	
588.	(a) persons responsible for the	(a) persons responsible for the	
	management of the transmission	management of the transmission	
	system owner shall not participate in	system owner shall not participate in	
	company structures of the integrated	company structures of the integrated	
	electricity undertaking responsible,	electricity undertaking responsible,	
	directly or indirectly, for the day-to-	directly or indirectly, for the day-to-	
	day operation of the generation,	day operation of the generation,	
	distribution and supply of electricity;	distribution and supply of electricity;	

589.	(b) appropriate measures shall be	(b) appropriate measures shall be
307.	taken to ensure that the professional	taken to ensure that the professional
	interests of persons responsible for the	interests of persons responsible for
	management of the transmission	the management of the transmission
	system owner are taken into account in	system owner are taken into account
	a manner that ensures that they are	in a manner that ensures that they are
	capable of acting independently; and	capable of acting independently; and
<b>590.</b>	•	(c) the transmission system owner
	shall establish a compliance	shall establish a compliance
	programme, which sets out measures	programme, which sets out measures
	taken to ensure that discriminatory	taken to ensure that discriminatory
	conduct is excluded, and ensure that	conduct is excluded, and ensure that
	observance of it is adequately	observance of it is adequately
	monitored. The compliance	monitored. The compliance
	programme shall set out the specific	programme shall set out the specific
	obligations of employees to meet those	obligations of employees to meet
	objectives. An annual report, setting	those objectives. An annual report,
	out the measures taken, shall be	setting out the measures taken, shall
	submitted by the person or body	be submitted by the person or body
	responsible for monitoring the	responsible for monitoring the
	compliance programme to the	compliance programme to the
	regulatory authority and shall be	regulatory authority and shall be
	published.	published.
591.	published.	Section 3
371.		INDEPENDENT TRANSMISSION OPERATOR
592.		Article 46
592.		
593.	1 Transmission system anarotous	Assets, equipment, staff and identity
595.	, i	1. Transmission system operators
	shall be equipped with all human,	shall be equipped with all human,
	technical, physical and financial	technical, physical and financial
	resources necessary for fulfilling their	resources necessary for fulfilling
	obligations under this Directive and	their obligations under this Directive
	carrying out the activity of electricity	and carrying out the activity of
	transmission, in particular:	electricity transmission, in particular:

594.	(a) assets that are necessary for the	(a) assets that are necessary for
	activity of electricity transmission,	the activity of electricity
	including the transmission system,	transmission, including the
	shall be owned by the transmission	transmission system, shall be owned
	system operator;	by the transmission system operator;
595.	(b) personnel, necessary for the	(b) personnel, necessary for the
	activity of electricity transmission,	activity of electricity transmission,
	including the performance of all	including the performance of all
	corporate tasks, shall be employed by	corporate tasks, shall be employed by
	the transmission system operator;	the transmission system operator;
<b>596.</b>	(c) leasing of personnel and	(c) leasing of personnel and
	rendering of services, to and from any	rendering of services, to and from
	other parts of the vertically integrated	any other parts of the vertically
	undertaking shall be prohibited. A	integrated undertaking shall be
	transmission system operator may,	prohibited. A transmission system
	however, render services to the	operator may, however, render
	vertically integrated undertaking as	services to the vertically integrated
	long as:	undertaking as long as:
<b>597.</b>	the provision of those services does	the provision of those services does
	not discriminate between system users,	not discriminate between system
	is available to all system users on the	users, is available to all system users
	same terms and conditions and does	on the same terms and conditions and
	not restrict, distort or prevent	does not restrict, distort or prevent
	competition in generation or supply;	competition in generation or supply;
	and	and
598.	<ul> <li>the terms and conditions of the</li> </ul>	<ul> <li>the terms and conditions of the</li> </ul>
	provision of those services are	provision of those services are
	approved by the regulatory authority;	approved by the regulatory authority;

<b>599.</b>	(d) without prejudice to the	(d) without prejudice to the
	decisions of the Supervisory Body	decisions of the Supervisory Body
	under Article 49, appropriate financial	under Article 49, appropriate
	resources for future investment	financial resources for future
	projects and/or for the replacement of	investment projects and/or for the
	existing assets shall be made available	replacement of existing assets shall
	to the transmission system operator in	be made available to the transmission
	due time by the vertically integrated	system operator in due time by the
	undertaking following an appropriate	vertically integrated undertaking
	request from the transmission system	following an appropriate request
	operator.	from the transmission system
		operator.
600.	2. The activity of electricity	2. The activity of electricity
	transmission shall include at least the	transmission shall include at least the
	following tasks in addition to those	following tasks in addition to those
	listed in Article 40:	listed in Article 40 :
601.	(a) the representation of the	(a) the representation of the
	transmission system operator and	transmission system operator and
	contacts to third parties and the	contacts to third parties and the
	regulatory authorities;	regulatory authorities;
602.	(b) the representation of the	(b) the representation of the
	transmission system operator within	transmission system operator within
	the European Network of	the European Network of
	Transmission System Operators for	Transmission System Operators for
	Electricity (ENTSO for Electricity);	Electricity (ENTSO for Electricity);
603.	(c) granting and managing third-	(c) granting and managing third-
	party access on a non-discriminatory	party access on a non-discriminatory
	basis between system users or classes	basis between system users or classes
	of system users;	of system users;
604.	(d) the collection of all the	(d) the collection of all the
	transmission system related charges	transmission system related charges
	including access charges, and ancillary	including access charges, energy for
	services charges;	losses and ancillary services charges;
605.	(e) the operation, maintenance and	(e) the operation, maintenance and
	development of a secure, efficient and	development of a secure, efficient
	economic transmission system;	and economic transmission system;

606.	(f) investment planning ensuring	(f) investment planning ensuring
	the long-term ability of the system to	the long-term ability of the system to
	meet reasonable demand and	meet reasonable demand and
	guaranteeing security of supply;	guaranteeing security of supply;
607.	(g) the setting up of appropriate	(g) the setting up of appropriate
	joint ventures, including with one or	joint ventures, including with one or
	more transmission system operators,	more transmission system operators,
	power exchanges, and the other	power exchanges, and the other
	relevant actors pursuing the objectives	relevant actors pursuing the
	to develop the creation of regional	objectives to develop the creation of
	markets or to facilitate the	regional markets or to facilitate the
	liberalisation process; and	liberalisation process; and
608.	(h) all corporate services, including	(h) all corporate services,
	legal services, accountancy and IT	including legal services, accountancy
	services.	and IT services.
609.	3. Transmission system operators	3. Transmission system operators
	shall be organised in a legal form as	shall be organised in a legal form as
	referred to in Article 1 of Directive	referred to in Article 1 of Directive
	2009/101/EC of the European	2009/101/EC of the European
	Parliament and of the Council <sup>43</sup> .	Parliament and of the Council <sup>44</sup> .
610.	•	4. The transmission system
	operator shall not, in its corporate	operator shall not, in its corporate
	identity, communication, branding and	identity, communication, branding
	premises, create confusion in respect	and premises, create confusion in
	of the separate identity of the vertically	respect of the separate identity of the
	integrated undertaking or any part	vertically integrated undertaking or
	thereof.	any part thereof.

7506/3/18 REV 3 GW/ns 194
ANNEX TREE.2.B

Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11).

Directive 2009/101/EC of the European Parliament and of the Council of 16 September 2009 on coordination of safeguards which, for the protection of the interests of members and third parties, are required by Member States of companies within the meaning of the second paragraph of Article 48 of the Treaty, with a view to making such safeguards equivalent (OJ L 258, 1.10.2009, p. 11).

611.	•	5.	The transmission system
	operator shall not share IT systems or		rator shall not share IT systems or
	equipment, physical premises and		pment, physical premises and
	security access systems with any part	secu	rity access systems with any part
	of the vertically integrated undertaking		ne vertically integrated
	nor use the same consultants or		ertaking nor use the same
	external contractors for IT systems or		sultants or external contractors
	equipment, and security access	for I	T systems or equipment, and
	systems.	secu	rity access systems.
612.		6.	The accounts of transmission
	system operators shall be audited by an		em operators shall be audited by
	auditor other than the one auditing the		uditor other than the one auditing
	vertically integrated undertaking or		vertically integrated undertaking
	any part thereof.		ny part thereof.
613.		Article 47	
		Independence of the transmission	
614.		1.	Without prejudice to the
	decisions of the Supervisory Rody	l deci	gions of the Supervisory Rody
	decisions of the Supervisory Body		sions of the Supervisory Body
	under Article 49, the transmission	unde	er Article 49, the transmission
	under Article 49, the transmission system operator shall have:	unde	er Article 49, the transmission em operator shall have:
615.	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights,	unde syste (a)	er Article 49, the transmission em operator shall have: effective decision-making
615.	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically	unde syste (a) right	er Article 49, the transmission em operator shall have: effective decision-making ts, independent from the
615.	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically integrated undertaking, with respect to	unde syste (a) right verti	er Article 49, the transmission em operator shall have: effective decision-making ts, independent from the ically integrated undertaking,
615.	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain	under system (a) right vertition with	er Article 49, the transmission em operator shall have:  effective decision-making ts, independent from the ically integrated undertaking, respect to assets necessary to
615.	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically integrated undertaking, with respect to	unde syste (a) right verti with oper	er Article 49, the transmission em operator shall have: effective decision-making ts, independent from the ically integrated undertaking, respect to assets necessary to rate, maintain or develop the
	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain or develop the transmission system; and	unde syste (a) right verti with oper	er Article 49, the transmission em operator shall have: effective decision-making ts, independent from the ically integrated undertaking, a respect to assets necessary to rate, maintain or develop the smission system; and
615.	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain or develop the transmission system; and  (b) the power to raise money on the	unde syste (a) right verti with oper trans (b)	er Article 49, the transmission em operator shall have:  effective decision-making ts, independent from the ically integrated undertaking, a respect to assets necessary to rate, maintain or develop the smission system; and the power to raise money on
	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain or develop the transmission system; and  (b) the power to raise money on the capital market in particular through	under system (a) right vertice with oper trans (b) the contraction of	err Article 49, the transmission em operator shall have:  effective decision-making ts, independent from the ically integrated undertaking, a respect to assets necessary to rate, maintain or develop the smission system; and the power to raise money on capital market in particular
	under Article 49, the transmission system operator shall have:  (a) effective decision-making rights, independent from the vertically integrated undertaking, with respect to assets necessary to operate, maintain or develop the transmission system; and  (b) the power to raise money on the	under system (a) right vertice with oper trans (b) the contraction of	er Article 49, the transmission em operator shall have:  effective decision-making ts, independent from the ically integrated undertaking, a respect to assets necessary to rate, maintain or develop the smission system; and the power to raise money on

617.	2. The transmission system		2. The transmission system	
	operator shall at all times act so as to		operator shall at all times act so as to	
	ensure it has the resources it needs in		ensure it has the resources it needs in	
	order to carry out the activity of		order to carry out the activity of	
	transmission properly and efficiently		transmission properly and efficiently	
	and develop and maintain an efficient,		and develop and maintain an	
	secure and economic transmission		efficient, secure and economic	
	system.		transmission system.	
618.	3. The vertically integrated	AM 143	3. <b>Subsidiaries of t</b> he vertically	
	undertaking and its subsidiaries	3. <b>Subsidiaries of</b> the vertically	integrated undertaking [] performing	
	performing functions of generation or	integrated <i>undertakings</i> performing	functions of generation or supply	
	supply shall not have any direct or	functions of generation or supply	shall not have any direct or indirect	
	indirect shareholding in the	shall not have any direct or indirect	shareholding in the transmission	
	transmission system operator. The	shareholding in the transmission	system operator. The transmission	
	transmission system operator shall	system operator. The transmission	system operator shall neither have	
	neither have any direct or indirect	system operator shall neither have	any direct or indirect shareholding in	
	shareholding in any subsidiary of the	any direct or indirect shareholding in	any subsidiary of the vertically	
	vertically integrated undertaking	any subsidiary of the vertically	integrated undertaking performing	
	performing functions of generation or	integrated undertaking performing	functions of generation or supply, nor	
	supply, nor receive dividends or any	functions of generation or supply, nor	receive dividends or any other	
	other financial benefit from that	receive dividends or any other	financial benefit from that subsidiary.	
	subsidiary.	financial benefit from that subsidiary.		
619.	4. The overall management		4. The overall management	
	structure and the corporate statutes of		structure and the corporate statutes of	
	the transmission system operator shall		the transmission system operator	
	ensure effective independence of the		shall ensure effective independence	
	transmission system operator in		of the transmission system operator	
	compliance with this Section. The		in compliance with this Section . The	
	vertically integrated undertaking shall		vertically integrated undertaking	
	not determine, directly or indirectly,		shall not determine, directly or	
	the competitive behaviour of the		indirectly, the competitive behaviour	
	transmission system operator in		of the transmission system operator	
	relation to the day to day activities of		in relation to the day to day activities	
	the transmission system operator and		of the transmission system operator	
	management of the network, or in		and management of the network, or	

	relation to activities necessary for the	in relation to activities necessary for	
	preparation of the ten-year network	the preparation of the ten-year	
	development plan developed pursuant	network development plan developed	
	to Article 51.	pursuant to Article 51.	
620.	5. In fulfilling their tasks in	5. In fulfilling their tasks in	
020.	Article 40 and Article 46 (2) of this	Article 40 and Article 46 (2) of this	
	Directive, and in complying with	Directive, and in complying with	
	obligations set out in Articles 14, ,16,	obligations set out in Articles 14, 16,	
	17 and 47 of [of recast of Regulation	17 and 47 of [of recast of Regulation	
	714/2009 as proposed by	714/2009 as proposed by	
	COM(2016)861/2], transmission	COM(2016)861/2], transmission	
	system operators shall not discriminate	system operators shall not	
	against different persons or entities and	discriminate against different persons	
	shall not restrict, distort or prevent	or entities and shall not restrict,	
	competition in generation or supply.	distort or prevent competition in	
(21		generation or supply.	
621.	6. Any commercial and financial	6. Any commercial and financial	
	relations between the vertically	relations between the vertically	
	integrated undertaking and the	integrated undertaking and the	
	transmission system operator,	transmission system operator,	
	including loans from the transmission	including loans from the transmission	
	system operator to the vertically	system operator to the vertically	
	integrated undertaking, shall comply	integrated undertaking, shall comply	
	with market conditions. The	with market conditions. The	
	transmission system operator shall	transmission system operator shall	
	keep detailed records of such	keep detailed records of such	
	commercial and financial relations and	commercial and financial relations	
	make them available to the regulatory	and make them available to the	
	authority upon request.	regulatory authority upon request.	
622.	7. The transmission system	7. The transmission system	
	operator shall submit for approval by	operator shall submit for approval by	
	the regulatory authority all commercial	the regulatory authority all	
	and financial agreements with the	commercial and financial agreements	
	vertically integrated undertaking.	with the vertically integrated	
		undertaking.	

623.	•	8. The transmission system	
	operator shall inform the regulatory	operator shall inform the regulatory	
	authority of the financial resources,	authority of the financial resources,	
	referred to in Article 46 (1)(d),	referred to in Article 46 (1)(d),	
	available for future investment projects	available for future investment	
	and/or for the replacement of existing	projects and/or for the replacement of	
	assets.	existing assets.	
624.	9. The vertically integrated	9. The vertically integrated	
	undertaking shall refrain from any	undertaking shall refrain from any	
	action impeding or prejudicing the	action impeding or prejudicing the	
	transmission system operator from	transmission system operator from	
	complying with its obligations in this	complying with its obligations in this	
	Chapter and shall not require the	Chapter and shall not require the	
	transmission system operator to seek	transmission system operator to seek	
	permission from the vertically	permission from the vertically	
	integrated undertaking in fulfilling	integrated undertaking in fulfilling	
	those obligations.	those obligations.	
625.	10. An undertaking which has been	10. An undertaking which has	
	certified by the regulatory authority as	been certified by the regulatory	
	being in compliance with the	authority as being in compliance with	
	requirements of this Chapter shall be	the requirements of this Chapter shall	
	approved and designated as a	be approved and designated as a	
	transmission system operator by the	transmission system operator by the	
	Member State concerned. The	Member State concerned. The	
	certification procedure in either Article	certification procedure in either	
	52 of this Directive and [Article 48 of	Article 52 of this Directive and	
	of Regulation 714/2009 as proposed by	[Article 48 of Regulation 714/2009	
	COM(2016)861/2] or in Article 53 of	as proposed by COM(2016)861/2] or	
	this Directive shall apply.	in Article 53 of this Directive shall	
		apply.	

626.	Article 48		
	Inde	pendence of the staff and the management of the transmission system operator	
<b>627.</b>	1. Decisions regarding the	1. Decisions regarding the	
	appointment and renewal, working	appointment and renewal, working	
	conditions including remuneration, and	conditions including remuneration,	
	termination of the term of office of the	and termination of the term of office	
	persons responsible for the	of the persons responsible for the	
	management and/or members of the	management and/or members of the	
	administrative bodies of the	administrative bodies of the	
	transmission system operator shall be	transmission system operator shall be	
	taken by the Supervisory Body of the	taken by the Supervisory Body of the	
	transmission system operator	transmission system operator	
	appointed in accordance with Article	appointed in accordance with Article	
	49.	49.	
628.	2. The identity and the conditions	2. The identity and the conditions	
	governing the term, the duration and	governing the term, the duration and	
	the termination of office of the persons	the termination of office of the	
	nominated by the Supervisory Body	persons nominated by the	
	for appointment or renewal as persons	Supervisory Body for appointment or	
	responsible for the executive	renewal as persons responsible for	
	management and/or as members of the	the executive management and/or as	
	administrative bodies of the	members of the administrative bodies	
	transmission system operator, and the	of the transmission system operator,	
	reasons for any proposed decision	and the reasons for any proposed	
	terminating such term of office, shall	decision terminating such term of	
	be notified to the regulatory authority.	office, shall be notified to the	
	Those conditions and the decisions	regulatory authority. Those	
	referred to in paragraph 1 shall become	conditions and the decisions referred	
	binding only if the regulatory authority	to in paragraph 1 shall become	
	has raised no objections within three	binding only if the regulatory	
	weeks of notification.	authority has raised no objections	
		within three weeks of notification.	

629.	The regulatory authority may object to		The regulatory authority may object	
	the decisions referred to in paragraph 1	1	to the decisions referred to in	
	where:		paragraph 1 where:	
630.	(a) doubts arise as to the		(a) doubts arise as to the	
	professional independence of a		professional independence of a	
	nominated person responsible for the		nominated person responsible for the	
	management and/or member of the		management and/or member of the	
	administrative bodies; or		administrative bodies; or	
631.	(b) in the case of premature		(b) in the case of premature	
	termination of a term of office, doubts		termination of a term of office,	
	exist regarding the justification of such		doubts exist regarding the	
	premature termination.	ļ	justification of such premature	
			termination.	
632.	3. No professional position or		3. No professional position or	
	responsibility, interest or business	1	responsibility, interest or business	
	relationship, directly or indirectly, with	1	relationship, directly or indirectly,	
	the vertically integrated undertaking or		with the vertically integrated	
	any part of it or its controlling	1	undertaking or any part of it or its	
	shareholders other than the		controlling shareholders other than	
	transmission system operator shall be	1	the transmission system operator	
	exercised for a period of three years		shall be exercised for a period of	
	before the appointment of the persons	1	three years before the appointment of	
	responsible for the management and/or		the persons responsible for the	
	members of the administrative bodies		management and/or members of the	
	of the transmission system operator		administrative bodies of the	
	who are subject to this paragraph.	1	transmission system operator who are	
			subject to this paragraph.	

633.	1 1	4. The persons responsible for
	management and/or members of the	the management and/or members of
	administrative bodies, and employees	the administrative bodies, and
	of the transmission system operator	employees of the transmission
	shall have no other professional	system operator shall have no other
	position or responsibility, interest or	professional position or
	business relationship, directly or	responsibility, interest or business
	indirectly, with any other part of the	relationship, directly or indirectly,
	vertically integrated undertaking or	with any other part of the vertically
	with its controlling shareholders.	integrated undertaking or with its
		controlling shareholders.
634.	5. The persons responsible for the	5. The persons responsible for
	management and/or members of the	the management and/or members of
	administrative bodies, and employees	the administrative bodies, and
	of the transmission system operator	employees of the transmission
	shall hold no interest in or receive any	system operator shall hold no interest
	financial benefit, directly or indirectly,	in or receive any financial benefit,
	from any part of the vertically	directly or indirectly, from any part
	integrated undertaking other than the	of the vertically integrated
	transmission system operator. Their	undertaking other than the
	remuneration shall not depend on	transmission system operator. Their
	activities or results of the vertically	remuneration shall not depend on
	integrated undertaking other than those	activities or results of the vertically
	of the transmission system operator.	integrated undertaking other than
		those of the transmission system
		operator.

635.	6. Effective rights of appeal to the	6.	Effective rights of appeal to	
	regulatory authority shall be	the	regulatory authority shall be	
	guaranteed for any complaints by the	gua	ranteed for any complaints by the	
	persons responsible for the	pers	sons responsible for the	
	management and/or members of the	mai	nagement and/or members of the	
	administrative bodies of the	adn	ninistrative bodies of the	
	transmission system operator against		nsmission system operator against	
	premature terminations of their term of	prei	mature terminations of their term	
	office.	of o	office.	
636.	7. After termination of their term	7.	After termination of their term	
	of office in the transmission system	of c	office in the transmission system	
	operator, the persons responsible for	ope	erator, the persons responsible for	
	its management and/or members of its	its 1	management and/or members of	
	administrative bodies shall have no	its a	administrative bodies shall have	
	professional position or responsibility,	no	professional position or	
	interest or business relationship with	rest	ponsibility, interest or business	
	any part of the vertically integrated	rela	ationship with any part of the	
	undertaking other than the	vert	tically integrated undertaking	
	transmission system operator, or with		er than the transmission system	
	its controlling shareholders for a	ope	erator, or with its controlling	
	period of not less than four years.	sha	reholders for a period of not less	
	•	than	n four years.	
637.	8. Paragraph 3 shall apply to the	8.	Paragraph 3 shall apply to the	
	majority of the persons responsible for	maj	jority of the persons responsible	
	the management and/or members of	for	the management and/or members	
	the administrative bodies of the		the administrative bodies of the	
	transmission system operator.		nsmission system operator.	
638.	The persons responsible for the	The	e persons responsible for the	
	management and/or members of the		nagement and/or members of the	
	administrative bodies of the	adn	ninistrative bodies of the	
	transmission system operator who are	tran	nsmission system operator who are	
	not subject to paragraph 3 shall have		subject to paragraph 3 shall have	
	exercised no management or other		ercised no management or other	
	relevant activity in the vertically		evant activity in the vertically	
	integrated undertaking for a period of		egrated undertaking for a period of	
	at least six months before their		east six months before their	
	appointment.	app	pointment.	

639.	The first subparagraph of this	The first subparagraph of this
	paragraph and paragraphs 4 to 7 shall	paragraph and paragraphs 4 to 7 shall
	be applicable to all the persons	be applicable to all the persons
	belonging to the executive	belonging to the executive
	management and to those directly	management and to those directly
	reporting to them on matters related to	reporting to them on matters related
	the operation, maintenance or	to the operation, maintenance or
	development of the network.	development of the network.
640.		Article 49
		Supervisory Body
641.	1. The transmission system	1. The transmission system
	operator shall have a Supervisory	operator shall have a Supervisory
	Body which shall be in charge of	Body which shall be in charge of
	taking decisions which may have a	taking decisions which may have a
	significant impact on the value of the	significant impact on the value of the
	assets of the shareholders within the	assets of the shareholders within the
	transmission system operator, in	transmission system operator, in
	particular decisions regarding the	particular decisions regarding the
	approval of the annual and longer-term	approval of the annual and longer-
	financial plans, the level of	term financial plans, the level of
	indebtedness of the transmission	indebtedness of the transmission
	system operator and the amount of	system operator and the amount of
	dividends distributed to shareholders.	dividends distributed to shareholders.
	The decisions falling under the remit	The decisions falling under the remit
	of the Supervisory Body shall exclude	of the Supervisory Body shall
	those that are related to the day to day	exclude those that are related to the
	activities of the transmission system	day to day activities of the
	operator and management of the	transmission system operator and
	network, and to activities necessary for	management of the network, and to
	the preparation of the ten-year network	activities necessary for the
	development plan developed pursuant	preparation of the ten-year network
	to Article 51.	development plan developed
		pursuant to Article 51.

642.	2. The Supervisory Body shall be	2. The Supervisory Body shall be	
	composed of members representing the	composed of members representing	
	vertically integrated undertaking,	the vertically integrated undertaking,	
	members representing third party	members representing third party	
	shareholders and, where the relevant	shareholders and, where the relevant	
	legislation of a Member State so	legislation of a Member State so	
	provides, members representing other	provides, members representing other	
	interested parties such as employees of	interested parties such as employees	
	the transmission system operator.	of the transmission system operator.	
643.	3. The first subparagraph of	3. The first subparagraph of	
	Article 48(2) and Article 48(3) to (7)	Article 48(2) and Article 48(3) to (7)	
	shall apply to at least half of the	shall apply to at least half of the	
	members of the Supervisory Body	members of the Supervisory Body	
	minus one.	minus one.	
644.	Point (b) of the second subparagraph	Point (b) of the second subparagraph	
	of Article 48(2) shall apply to all the	of Article 48(2) shall apply to all the	
	members of the Supervisory Body.	members of the Supervisory Body.	
645.		Article 50	
		Compliance programme and compliance officer	
646.	1. Member States shall ensure that	1. Member States shall ensure	
	transmission system operators	that transmission system operators	
	establish and implement a compliance	establish and implement a	
	programme which sets out the	compliance programme which sets	
	measures taken in order to ensure that	out the measures taken in order to	
	discriminatory conduct is excluded,	ensure that discriminatory conduct is	
	and ensure that the compliance with	excluded, and ensure that the	
	that programme is adequately	compliance with that programme is	
	monitored. The compliance	adequately monitored. The	
	programme shall set out the specific	compliance programme shall set out	
		1 'C' 11' 'C' 1	
	obligations of employees to meet those	the specific obligations of employees	
1	objectives. It shall be subject to	the specific obligations of employees to meet those objectives. It shall be	
	objectives. It shall be subject to approval by the regulatory authority.		
	objectives. It shall be subject to	to meet those objectives. It shall be subject to approval by the regulatory authority. Without prejudice to the	
	objectives. It shall be subject to approval by the regulatory authority. Without prejudice to the powers of the national regulator, compliance with the	to meet those objectives. It shall be subject to approval by the regulatory authority. Without prejudice to the powers of the national regulator,	
	objectives. It shall be subject to approval by the regulatory authority. Without prejudice to the powers of the national regulator, compliance with the program shall be independently	to meet those objectives. It shall be subject to approval by the regulatory authority. Without prejudice to the powers of the national regulator, compliance with the program shall be	
	objectives. It shall be subject to approval by the regulatory authority. Without prejudice to the powers of the national regulator, compliance with the	to meet those objectives. It shall be subject to approval by the regulatory authority. Without prejudice to the powers of the national regulator,	

647.	2. The compliance officer shall be	2. The compliance officer shall
	appointed by the Supervisory Body,	be appointed by the Supervisory
	subject to the approval by the	Body, subject to the approval by the
	regulatory authority. The regulatory	regulatory authority. The regulatory
	authority may refuse the approval of	authority may refuse the approval of
	the compliance officer only for reasons	the compliance officer only for
	of lack of independence or	reasons of lack of independence or
	professional capacity. The compliance	professional capacity. The
	officer may be a natural or legal	compliance officer may be a natural
	person. Article 48(2) to (8) shall apply	or legal person. Article 48(2) to (8)
	to the compliance officer.	shall apply to the compliance officer.
648.	3. The compliance officer shall be	3. The compliance officer shall
	in charge of:	be in charge of:
649.		(a) monitoring the implementation
	of the compliance programme;	of the compliance programme;
<b>650.</b>	(b) elaborating an annual report,	(b) elaborating an annual report,
	setting out the measures taken in order	setting out the measures taken in
	to implement the compliance	order to implement the compliance
	programme and submitting it to the	programme and submitting it to the
	regulatory authority;	regulatory authority;
651.		(c) reporting to the Supervisory
	Body and issuing recommendations on	Body and issuing recommendations
	the compliance programme and its	on the compliance programme and its
	implementation;	implementation;
652.		(d) notifying the regulatory
	authority on any substantial breaches	authority on any substantial breaches
	with regard to the implementation of	with regard to the implementation of
	the compliance programme; and	the compliance programme; and
653.		(e) reporting to the regulatory
	authority on any commercial and	authority on any commercial and
	financial relations between the	financial relations between the
	vertically integrated undertaking and	vertically integrated undertaking and
	the transmission system operator.	the transmission system operator.

654.	4. The compliance officer shall	4. The compliance	ance officer shall
	submit the proposed decisions on the	submit the propose	ed decisions on the
	investment plan or on individual	investment plan or	on individual
	investments in the network to the	investments in the	network to the
	regulatory authority. This shall occur	regulatory authoric	ty. This shall occur
	at the latest when the management	at the latest when	the management
	and/or the competent administrative	and/or the compet	ent administrative
	body of the transmission system	body of the transm	nission system
	operator submits them to the	operator submits t	hem to the
	Supervisory Body.	Supervisory Body	
655.	5. Where the vertically integrated	5. Where the v	vertically integrated
	undertaking, in the general assembly	undertaking, in the	e general assembly
	or through the vote of the members of	or through the vote	e of the members
	the Supervisory Body it has appointed,	of the Supervisory	Body it has
	has prevented the adoption of a	appointed, has pre	vented the
	decision with the effect of preventing	adoption of a deci-	sion with the effect
	or delaying investments, which under	of preventing or de	elaying
	the ten-year network development plan	investments, which	h under the ten-
	was to be executed in the following	year network deve	lopment plan was
	three years, the compliance officer		he following three
	shall report this to the regulatory	years, the complia	
	authority, which then shall act in	report this to the re	egulatory authority,
	accordance with Article 51.	which then shall a	ct in accordance
		with Article 51.	
656.		6. The condition	ons governing the
	mandate or the employment conditions	mandate or the em	<u> </u>
	of the compliance officer, including		compliance officer,
	the duration of its mandate, shall be		tion of its mandate,
	subject to approval by the regulatory	shall be subject to	
	authority. Those conditions shall	regulatory authorit	
	ensure the independence of the	conditions shall er	
	compliance officer, including by	independence of the	•
	providing him with all the resources	officer, including	
	necessary for fulfilling his duties.	with all the resour	*
	During his mandate, the compliance	fulfilling his dutie	s. During his

	officer shall have no other professional	mandate, the compliance officer shall	•
	position, responsibility or interest,	have no other professional position,	
	directly or indirectly, in or with any	responsibility or interest, directly or	
	part of the vertically integrated	indirectly, in or with any part of the	
	undertaking or with its controlling	vertically integrated undertaking or	rtaking or with its controlling
	shareholders.	with its controlling shareholders.	eholders.
657.	7. The compliance officer shall	7. The compliance officer shall	The compliance officer shall
	report regularly, either orally or in	report regularly, either orally or in	rt regularly, either orally or in
	writing, to the regulatory authority and	writing, to the regulatory authority	ng, to the regulatory authority and
	shall have the right to report regularly,	and shall have the right to report	have the right to report regularly,
	either orally or in writing, to the	regularly, either orally or in writing,	r orally or in writing, to the
	Supervisory Body of the transmission	to the Supervisory Body of the	rvisory Body of the transmission
	system operator.	transmission system operator.	m operator.
658.	8. The compliance officer may	8. The compliance officer may	The compliance officer may
	attend all meetings of the management	attend all meetings of the	d all meetings of the management
	or administrative bodies of the	management or administrative bodies	ministrative bodies of the
	transmission system operator, and	of the transmission system operator,	mission system operator, and
	those of the Supervisory Body and the	and those of the Supervisory Body	e of the Supervisory Body and the
	general assembly. The compliance	and the general assembly. The	ral assembly. The compliance
	officer shall attend all meetings that	compliance officer shall attend all	er shall attend all meetings that
	address the following matters:	meetings that address the following	ess the following matters:
		matters:	
659.	(a) conditions for access to the	(a) conditions for access to the	conditions for access to the
	network, as defined in [recast of	network, as defined in [recast of	ork, as defined in [recast of
	Regulation 714/2009 as proposed by	Regulation 714/2009 as proposed by	lation 714/2009 as proposed by
	COM(2016)861/2], in particular	COM(2016)861/2], in particular	1(2016)861/2], in particular
	regarding tariffs, third party access	regarding tariffs, third party access	
	services, capacity allocation and	services, capacity allocation and	
	congestion management, transparency,	congestion management,	
	ancillary services and secondary	transparency, ancillary services and	lary services and secondary
	markets;	secondary markets;	tets;

660.	(b) projects undertaken in order to	(b) projects undertaken in order to
	operate, maintain and develop the	operate, maintain and develop the
	transmission system, including	transmission system, including
	interconnection and connection	interconnection and connection
	investments;	investments;
661.	(c) energy purchases or sales	(c) energy purchases or sales
	necessary for the operation of the	necessary for the operation of the
	transmission system.	transmission system.
662.	9. The compliance officer shall	9. The compliance officer shall
	monitor the compliance of the	monitor the compliance of the
	transmission system operator with	transmission system operator with
	Article 41.	Article 41.
663.	10. The compliance officer shall	10. The compliance officer shall
	have access to all relevant data and to	have access to all relevant data and to
	the offices of the transmission system	the offices of the transmission system
	operator and to all the information	operator and to all the information
	necessary for the fulfilment of his task.	necessary for the fulfilment of his
	•	task.
664.	11. After prior approval by the	11. After prior approval by the
	regulatory authority, the Supervisory	regulatory authority, the Supervisory
	Body may dismiss the compliance	Body may dismiss the compliance
	officer. It shall dismiss the compliance	officer. It shall dismiss the
	officer for reasons of lack of	compliance officer for reasons of
	independence or professional capacity	lack of independence or professional
	upon request of the regulatory	capacity upon request of the
	authority.	regulatory authority.
665.	12. The compliance officer shall	12. The compliance officer shall
	have access to the offices of the	have access to the offices of the
	transmission system operator without	transmission system operator without
	prior announcement.	prior announcement.

666.		Article	e 51	
		Network development and power	rs to make investment decisions	
667.	1. At least every two years, transmission system operators shall submit to the regulatory authority a ten-year network development plan based on existing and forecast supply and demand after having consulted all the relevant stakeholders. That network development plan shall contain efficient measures in order to guarantee the adequacy of the system and the security of supply.	Network development and power  AM 144  1. At least every two years, transmission system operators shall submit to the regulatory authority a ten-year network development plan based on existing and forecast supply and demand after having consulted all the relevant stakeholders. That network development plan shall contain efficient measures in order to guarantee the adequacy of the system and the security of supply. The regulatory authority shall review the ten-year network development plan and approve it. Before its approval, it may require the transmission system operator to amend its ten-		
		year network development plan. The transmission system operator shall publish the ten-year network development plan on its website.		
668.	2. The ten-year network development plan shall in particular:		2. The ten-year network development plan shall in particular:	
669.	(a) indicate to market participants the main transmission infrastructure that needs to be built or upgraded over the next ten years;		(a) indicate to market participants the main transmission infrastructure that needs to be built or upgraded over the next ten years;	
670.	(b) contain all the investments already decided and identify new investments which have to be executed in the next three years; and		(b) contain all the investments already decided and identify new investments which have to be executed in the next three years; and	

671.	(c) provide for a time frame for all		(c) provide for a time frame for all	
	investment projects.		investment projects.	
672.	3. When elaborating the ten-year	AM 145	3. When elaborating the ten-year	
	network development plan, the	3. When elaborating the ten-year	network development plan, the	
	transmission system operator shall	network development plan, the	transmission system operator shall	
	make reasonable assumptions about	transmission system operator shall	make reasonable assumptions about	
	the evolution of the generation, supply,	fully take into account the potential	the evolution of the generation,	
	energy storage, consumption and	of the use of demand response,	supply, energy storage, consumption	
	exchanges with other countries, taking	energy storage facilities or other	and exchanges with other countries,	
	into account investment plans for	resources as an alternative to system	taking into account investment plans	
	regional and Union -wide networks.	expansion in addition to expected	for regional and Union -wide	
	-	consumption and <i>trade</i> with other	networks.	
		countries <i>and</i> investment plans for		
		regional and Union wide networks.		
673.	4. The regulatory authority shall		4. The regulatory authority shall	
	consult all actual or potential system		consult all actual or potential system	
	users on the ten-year network		users on the ten-year network	
	development plan in an open and		development plan in an open and	
	transparent manner. Persons or		transparent manner. Persons or	
	undertakings claiming to be potential		undertakings claiming to be potential	
	system users may be required to		system users may be required to	
	substantiate such claims. The		substantiate such claims. The	
	regulatory authority shall publish the		regulatory authority shall publish the	
	result of the consultation process, in		result of the consultation process, in	
	particular possible needs for		particular possible needs for	
	investments.		investments.	
674.	5. The regulatory authority shall	AM 146	5. The regulatory authority shall	
	examine whether the ten-year network	5. The regulatory authority shall	examine whether the ten-year	
	development plan covers all	examine whether the ten-year	network development plan covers all	
	investment needs identified during the	network development plan covers all	investment needs identified during	
	consultation process, and whether it is	investment needs identified during	the consultation process, and whether	
	consistent with the non-binding Union	the consultation process, and whether	it is consistent with the non-binding	
	-wide ten-year network development	it is consistent with the non-binding	Union -wide ten-year network	
	plan (Union -wide network	Union wide ten-year network	development plan (Union -wide	
	development plan) referred to in	development plan Union wide	network development plan) referred	

	[Article 27(1)(b) of recast of	network development plan) referred	to in [Article 27(1)(b) of recast of	
	Regulation 714/2009 as proposed by	to in [Article 27(1)(b) of recast of	Regulation 714/2009 as proposed by	
	COM(2016)861/2]. If any doubt arises	Regulation 714/2009 as proposed by	COM(2016)861/2]. If any doubt	
	as to the consistency with the Union -	COM(2016)861/2]. If any doubt	arises as to the consistency with the	
	wide network development plan, the	arises as to the consistency with the	Union -wide network development	
	regulatory authority shall consult the	Union wide network development	plan, the regulatory authority shall	
	Agency. The regulatory authority may	plan or with the National Energy	consult the Agency. The regulatory	
	require the transmission system	and Climate Plans submitted in	authority may require the	
	operator to amend its ten-year network	accordance with Regulation (EU)	transmission system operator to	
	development plan.	[Governance Regulation], the	amend its ten-year network	
	•	regulatory authority shall consult the	development plan.	
		Agency. The regulatory authority	•	
		may require the transmission system		
		operator to amend its ten-year		
		network development plan.		
675.	6. The regulatory authority shall		6. The regulatory authority shall	
	monitor and evaluate the		monitor and evaluate the	
	implementation of the ten-year		implementation of the ten-year	
	network development plan.		network development plan.	
676.		AM 147		
		(new) The regulatory authority shall		
		monitor and evaluate the		
		development of overall system		
		flexibility and report annually on		
<b>(=</b>		progress.		
677.	7. In circumstances where the		7. In circumstances where the	
	transmission system operator, other		transmission system operator, other	
	than for overriding reasons beyond its		than for overriding reasons beyond	
	control, does not execute an		its control, does not execute an	
	investment, which, under the ten-year		investment, which, under the ten-year	
	network development plan, was to be		network development plan, was to be	
	executed in the following three years,		executed in the following three years,	
	Member States shall ensure that the		Member States shall ensure that the	
	regulatory authority is required to take		regulatory authority is required to	
	at least one of the following measures		take at least one of the following	

	to ensure that the investment in	measures to ensure that the
	question is made if such investment is	investment in question is made if
	still relevant on the basis of the most	such investment is still relevant on
	recent ten-year network development	the basis of the most recent ten-year
	plan:	network development plan:
<b>678.</b>	(a) to require the transmission	(a) to require the transmission
	system operator to execute the	system operator to execute the
	investments in question;	investments in question;
679.	(b) to organise a tender procedure	(b) to organise a tender procedure
	open to any investors for the	open to any investors for the
	investment in question; or	investment in question; or
680.	(c) to oblige the transmission	(c) to oblige the transmission
	system operator to accept a capital	system operator to accept a capital
	increase to finance the necessary	increase to finance the necessary
	investments and allow independent	investments and allow independent
	investors to participate in the capital.	investors to participate in the capital.
681.	Where the regulatory authority has	Where the regulatory authority has
	made use of its powers under point (b)	made use of its powers under point
	of the first subparagraph, it may oblige	(b) of the first subparagraph, it may
	the transmission system operator to	oblige the transmission system
	agree to one or more of the following:	operator to agree to one or more of
		the following:
<b>682.</b>	<ul> <li>financing by any third party;</li> </ul>	<ul><li>financing by any third party;</li></ul>
683.	<ul> <li>construction by any third party;</li> </ul>	<ul> <li>construction by any third</li> </ul>
		party;
684.	<ul> <li>building the new assets</li> </ul>	<ul> <li>building the new assets</li> </ul>
	concerned itself;	concerned itself;
685.	<ul> <li>operating the new asset</li> </ul>	<ul> <li>operating the new asset</li> </ul>
	concerned itself.	concerned itself.

686.	The transmission system operator shall	The transmission system operator
	provide the investors with all	shall provide the investors with all
	information needed to realise the	information needed to realise the
	investment, shall connect new assets to	investment, shall connect new assets
	the transmission network and shall	to the transmission network and shall
	generally make its best efforts to	generally make its best efforts to
	facilitate the implementation of the	facilitate the implementation of the
	investment project.	investment project.
687.	The relevant financial arrangements	The relevant financial arrangements
	shall be subject to approval by the	shall be subject to approval by the
	regulatory authority.	regulatory authority.
688.	8. Where the regulatory authority	8. Where the regulatory authority
	has made use of its powers under the	has made use of its powers under the
	first subparagraph of paragraph 7, the	first subparagraph of paragraph 7, the
	relevant tariff regulations shall cover	relevant tariff regulations shall cover
	the costs of the investments in	the costs of the investments in
	question.	question.
689.		Section 4
		Designation and certification of transmission system operators
690.		Article 52
		Designation and certification of transmission system operators
691.	C	1. Before an undertaking is
	approved and designated as	approved and designated as
	transmission system operator, it shall	transmission system operator, it shall
	be certified according to the	be certified according to the
	procedures laid down in paragraphs 4,	procedures laid down in paragraphs
	5, 6 of this Article and in Article 48 of	4, 5, 6 of this Article and in Article
	[recast of Regulation 714/2009 as	48 of [recast of Regulation 714/2009
	proposed by COM(2016)861/2].	as proposed by COM(2016)861/2].

692.	2. Undertakings which have been	2. Undertakings which have been
	certified by the national regulatory	certified by the [] regulatory
	authority as having complied with the	authority as having complied with
	requirements of Article 43, pursuant	the requirements of Article 43,
	to the certification procedure below,	pursuant to the certification
	shall be approved and designated as	procedure below, shall be approved
	transmission system operators by	and designated as transmission
	Member States. The designation of	system operators by Member States.
	transmission system operators shall be	The designation of transmission
	notified to the Commission and	system operators shall be notified to
	published in the Official Journal of the	the Commission and published in the
	European Union.	Official Journal of the European
		Union.
693.	3. Transmission system operators	3. Transmission system operators
	shall notify to the regulatory authority	shall notify to the regulatory
	any planned transaction which may	authority any planned transaction
	require a reassessment of their	which may require a reassessment of
	compliance with the requirements of	their compliance with the
	Article 43.	requirements of Article 43.
694.	4. Regulatory authorities shall	4. Regulatory authorities shall
	monitor the continuing compliance of	monitor the continuing compliance of
	transmission system operators with the	transmission system operators with
	requirements of Article 43. They shall	the requirements of Article 43. They
	open a certification procedure to	shall open a certification procedure
	ensure such compliance:	to ensure such compliance:
695.	(a) upon notification by the	(a) upon notification by the
	transmission system operator pursuant	transmission system operator
	to paragraph 3;	pursuant to paragraph 3;

696.	(b) on their own initiative where	(b) on their own initiative where
	they have knowledge that a planned	they have knowledge that a planned
	change in rights or influence over	change in rights or influence over
	transmission system owners or	transmission system owners or
	transmission system operators may	transmission system operators may
	lead to an infringement of Article 43,	lead to an infringement of Article 43,
	or where they have reason to believe	or where they have reason to believe
	that such an infringement may have	that such an infringement may have
	occurred; or	occurred; or
697.	(c) upon a reasoned request from	(c) upon a reasoned request from
	the Commission.	the Commission.
698.	5. The regulatory authorities shall	5. The regulatory authorities shall
	adopt a decision on the certification of	adopt a decision on the certification
	a transmission system operator within	of a transmission system operator
	a period of four months from the date	within a period of four months from
	of the notification by the transmission	the date of the notification by the
	system operator or from the date of the	transmission system operator or from
	Commission request. After expiry of	the date of the Commission request.
	that period, the certification shall be	After expiry of that period, the
	deemed to be granted. The explicit or	certification shall be deemed to be
	tacit decision of the regulatory	granted. The explicit or tacit decision
	authority shall become effective only	of the regulatory authority shall
	after the conclusion of the procedure	become effective only after the
	set out in paragraph 6.	conclusion of the procedure set out in
		paragraph 6.
699.	6. The explicit or tacit decision on	6. The explicit or tacit decision
	the certification of a transmission	on the certification of a transmission
	system operator shall be notified	system operator shall be notified
	without delay to the Commission by	without delay to the Commission by
	the regulatory authority, together with	the regulatory authority, together
	all the relevant information with	with all the relevant information with
	respect to that decision. The	respect to that decision. The
	Commission shall act in accordance	Commission shall act in accordance
	with the procedure laid down in	with the procedure laid down in
	[Article 48 of recast of Regulation	[Article 48 of recast of Regulation

	714/2009 as proposed by	714/2009 as proposed by
	COM(2016)861/2].	COM(2016)861/2].
700.	7. The regulatory authorities and	7. The regulatory authorities and
	the Commission may request from	the Commission may request from
	transmission system operators and	transmission system operators and
	undertakings performing any of the	undertakings performing any of the
	functions of generation or supply any	functions of generation or supply any
	information relevant for the fulfilment	information relevant for the
	of their tasks under this Article.	fulfilment of their tasks under this
		Article.
701.	8. Regulatory authorities and the	8. Regulatory authorities and the
	Commission shall preserve the	Commission shall preserve the
	confidentiality of commercially	confidentiality of commercially
	sensitive information.	sensitive information.
702.		Article 53
		Certification in relation to third countries
703.	1	1. Where certification is
	by a transmission system owner or a	requested by a transmission system
	transmission system operator which is	owner or a transmission system
	controlled by a person or persons from	operator which is controlled by a
	a third country or third countries, the	person or persons from a third
	regulatory authority shall notify the	country or third countries, the
	Commission.	regulatory authority shall notify the
<b>-</b> 0.4		Commission.
704.	The regulatory authority shall also	The regulatory authority shall also
	notify to the Commission without	notify to the Commission without
	delay any circumstances that would	delay any circumstances that would
	result in a person or persons from a	result in a person or persons from a
	third country or third countries	third country or third countries
	acquiring control of a transmission	acquiring control of a transmission
	system or a transmission system	system or a transmission system
	operator.	operator.

705.	2. The transmission system	2. The transmission system
	operator shall notify to the regulatory	operator shall notify to the regulatory
	authority any circumstances that would	authority any circumstances that
	result in a person or persons from a	would result in a person or persons
	third country or third countries	from a third country or third
	acquiring control of the transmission	countries acquiring control of the
	system or the transmission system	transmission system or the
	operator.	transmission system operator.
706.	$\mathcal{C}$	3. The regulatory authority shall
	adopt a draft decision on the	adopt a draft decision on the
	certification of a transmission system	certification of a transmission system
	operator within four months from the	operator within four months from the
	date of notification by the transmission	date of notification by the
	system operator. It shall refuse the	transmission system operator. It shall
	certification if it has not been	refuse the certification if it has not
	demonstrated:	been demonstrated:
707.	(a) that the entity concerned	(a) that the entity concerned
	complies with the requirements of	complies with the requirements of
	Article 43; and	Article 43; and
708.	(b) to the regulatory authority or to	(b) to the regulatory authority or
	another competent authority	to another competent authority
	designated by the Member State that	designated by the Member State that
	granting certification will not put at	granting certification will not put at
	risk the security of energy supply of	risk the security of energy supply of
	the Member State and the Union. In	the Member State and the Union . In
	considering that question the	considering that question the
	regulatory authority or other	regulatory authority or other
	competent authority so designated	competent authority so designated
	shall take into account:	shall take into account:

709.	<ul> <li>the rights and obligations of the</li> </ul>	the right	ts and obligations of
103.	0 0		
	Union with respect to that third		n respect to that third
	country arising under international		g under international
	law, including any agreement	law, including	any agreement
	concluded with one or more third	concluded with	h one or more third
	countries to which the Union is a party	countries to w	hich the Union is a
	and which addresses the issues of	party and which	ch addresses the issues
	security of energy supply;	of security of e	energy supply;
710.	<ul> <li>the rights and obligations of the</li> </ul>	– the righ	ts and obligations of
	Member State with respect to that third	the Member S	tate with respect to that
	country arising under agreements	third country a	arising under
	concluded with it, insofar as they are	agreements co	ncluded with it, insofar
	in compliance with Union law; and	as they are in o	compliance with
		Union law; and	d
711.	<ul> <li>other specific facts and</li> </ul>	– other sp	ecific facts and
	circumstances of the case and the third	circumstances	of the case and the
	country concerned.	third country of	concerned.
712.	4. The regulatory authority shall	4. The reg	ulatory authority shall
	notify the decision to the Commission	notify the deci	sion to the
	without delay, together with all the	Commission v	vithout delay, together
	relevant information with respect to	with all the rel	levant information with
	that decision.	respect to that	decision.

713.	5. Member States shall provide for	5. Member States shall provide
	the regulatory authority or the	for the regulatory authority or the
	designated competent authority	designated competent authority
	referred to in paragraph 3(b), before	referred to in paragraph 3(b), before
	the regulatory authority adopts a	the regulatory authority adopts a
	decision on the certification, to request	decision on the certification, to
	an opinion from the Commission on	request an opinion from the
	whether:	Commission on whether:
714.	(a) the entity concerned complies	(a) the entity concerned complies
	with the requirements of Article 43;	with the requirements of Article 43;
	and	and
715.	(b) granting certification will not	(b) granting certification will not
	put at risk the security of energy	put at risk the security of energy
	supply to the Union.	supply to the Union.
716.	6. The Commission shall examine	6. The Commission shall
	the request referred to in paragraph 5	examine the request referred to in
	as soon as it is received. Within a	paragraph 5 as soon as it is received.
	period of two months after receiving	Within a period of two months after
	the request, it shall deliver its opinion	receiving the request, it shall deliver
	to the national regulatory authority or,	its opinion to the [] regulatory
	if the request was made by the	authority or, if the request was made
	designated competent authority, to that	by the designated competent
	authority.	authority, to that authority.
717.	In preparing the opinion, the	In preparing the opinion, the
	Commission may request the views of	Commission may request the views
	the Agency, the Member State	of the Agency, the Member State
	concerned, and interested parties. In	concerned, and interested parties. In
	the event that the Commission makes	the event that the Commission makes
	such a request, the two-month period	such a request, the two-month period
	shall be extended by two months.	shall be extended by two months.

718.	In the absence of an opinion by the	In the absence of an opinion by the	
	Commission within the period referred	Commission within the period	
	to in the first and second	referred to in the first and second	
	subparagraphs, the Commission shall	subparagraphs, the Commission shall	
	be deemed not to raise objections to	be deemed not to raise objections to	
	the decision of the regulatory	the decision of the regulatory	
	authority.	authority.	
719.	7. When assessing whether the	7. When assessing whether the	
	control by a person or persons from a	control by a person or persons from a	
	third country or third countries will put	third country or third countries will	
	at risk the security of energy supply to	put at risk the security of energy	
	the Union, the Commission shall take	supply to the Union, the	
	into account:	Commission shall take into account:	
720.	(a) the specific facts of the case and	(a) the specific facts of the case	
	the third country or third countries	and the third country or third	
	concerned; and	countries concerned; and	
<b>721.</b>	(b) the rights and obligations of the	(b) the rights and obligations of	
	European Union with respect to that	the European Union with respect to	
	third country or third countries arising	that third country or third countries	
	under international law, including an	arising under international law,	
	agreement concluded with one or more	including an agreement concluded	
	third countries to which the Union is a	with one or more third countries to	
	party and which addresses the issues of	which the Union is a party and	
	security of supply.	which addresses the issues of	
		security of supply.	
722.	8. The national regulatory	8. The [] regulatory authority	
	authority shall, within a period of two	shall, within a period of two months	
	months after the expiry of the period	after the expiry of the period referred	
	referred to in paragraph 6, adopt its	to in paragraph 6, adopt its final	
	final decision on the certification. In	decision on the certification. In	
	adopting its final decision the national	adopting its final decision the []	
	regulatory authority shall take utmost	regulatory authority shall take utmost	
	account of the Commission's opinion.	account of the Commission's	
	In any event Member States shall have	opinion. In any event Member States	
	the right to refuse certification where	shall have the right to refuse	

			· · · · · · · · · · · · · · · · · · ·
	granting certification puts at risk the	certification where granting	
	Member State's security of energy	certification puts at risk the Member	
	supply or the security of energy supply	State's security of energy supply or	
	of another Member State. Where the	the security of energy supply of	
	Member State has designated another	another Member State. Where the	
	competent authority to assess	Member State has designated another	
	paragraph 3(b), it may require the	competent authority to assess	
	national regulatory authority to adopt	paragraph 3(b), it may require the []	
	its final decision in accordance with	regulatory authority to adopt its final	
	the assessment of that competent	decision in accordance with the	
	authority. The national regulatory	assessment of that competent	
	authority's final decision and the	authority. The [] regulatory	
	Commission's opinion shall be	authority's final decision and the	
	published together. Where the final	Commission's opinion shall be	
	decision diverges from the	published together. Where the final	
	Commission's opinion, the Member	decision diverges from the	
	State concerned shall provide and	Commission's opinion, the Member	
	publish, together with that decision,	State concerned shall provide and	
	the reasoning underlying such	publish, together with that decision,	
	decision.	the reasoning underlying such	
		decision.	
723.	9. Nothing in this Article shall	9. Nothing in this Article shall	
	affect the right of Member States to	affect the right of Member States to	
	exercise, in compliance with Union	exercise, in compliance with Union	
	law, national legal controls to protect	law, national legal controls to protect	
	legitimate public security interests.	legitimate public security interests.	
724.		10. This Article, with exception of	
	paragraph 3(a), shall also apply to	paragraph 3(a), shall also apply to	
	Member States which are subject to a	Member States which are subject to a	
	derogation under Article 66.	derogation under Article 66.	

725.		Article	e 54	
		Ownership of energy storage facilities	[] by transmission system operators	
726.	1. Transmission system operators shall not be allowed to own, manage or operate energy storage facilities and shall not own directly or indirectly control assets that provide ancillary services.	AM 148 1. Transmission system operators shall not be allowed to own, manage or operate energy storage facilities and shall not own directly or indirectly control assets that provide ancillary services, unless those facilities or assets are an integral part of the transmission system and where the national regulatory authority has granted its approval.	1. Transmission system operators shall not be allowed to own, <b>develop</b> , manage or operate energy storage facilities [].	
727.	2. By way of derogation from paragraph 1, Member States may allow transmission system operators to own, manage or operate storage facilities or assets providing non-frequency ancillary services if the following conditions are fulfilled:	AM 149 2. By way of derogation from paragraph 1, Member States may allow transmission system operators to own, manage or operate storage facilities or assets providing non-frequency ancillary services if <i>all of</i> the following conditions are fulfilled:	2. By way of derogation from paragraph 1, Member States may allow transmission system operators to own, develop, manage or operate energy storage facilities which are fully integrated network components and the regulatory authority has granted its approval or [], if all of the following conditions are fulfilled:	
728.			(-a) such facilities are necessary for the transmission system operators to fulfil their obligations under this Directive for the efficient, reliable and secure operation of the transmission system and they are not used to provide balancing services and to buy or sell electricity to the wholesale markets, including balancing markets;	

<b>729.</b>	(a) other parties, following an open	AM 150	(a) other parties, following an	
	and transparent tendering procedure,	(a) other parties, following an	open, [] transparent and non-	
	have not expressed their interest to	open and transparent tendering	discriminatory tendering procedure,	
	own, control, manage or operate such	procedure, subject to review by the	subject to review and approval by	
	facilities offering storage and/or non-	national regulatory authority, have	the regulatory authority [] have	
	frequency ancillary services to the	not expressed their interest to own,	not been awarded with a right to	
	transmission system operator;	control, manage or operate such	own, develop, control, manage or	
	•	facilities offering storage and/or non-	operate such facilities [] Regulatory	
		frequency ancillary services to the	authorities may draw up guidelines	
		transmission system operator <i>or</i>	or procurement clauses to help	
		cannot deliver these services at a	transmission system operators in	
		reasonable cost and in a timely	ensuring a fair tendering	
		manner;	procedure; and	
<b>730.</b>	(b) such facilities or non-frequency	AM 151		
	ancillary services are necessary for the	(b) such facilities or non-		
	transmission system operators to fulfil	frequency ancillary services are		
	their obligations under this Directive	necessary for the transmission system		
	for the efficient, reliable and secure	operators to fulfil their obligations		
	operation of the transmission system	under this Directive for the efficient,		
	and they are not used to sell electricity	reliable and secure operation of the		
	to the market; and	transmission system, in particular as		
		an alternative to investments in new		
		grid lines, and they are not used to		
		sell electricity to the market; and		
<b>731.</b>	(c) the regulatory authority has		(c) the regulatory authority has	
	assessed the necessity of such		assessed the necessity of such	
	derogation taking into account the		derogation, has carried out an ex-	
	conditions under points (a) and (b) of		ante review of the applicability of a	
	this paragraph and has granted its		tendering procedure, including the	
	approval.		conditions, [] and has granted its	
			approval.	

732.		AM 152		
		2a. (new) National regulatory		
		authorities may draw up guidelines		
		or procurement clauses to aid		
		transmission system operators in		
		ensuring a fair tendering procedure.		
733.	3. The decision to grant derogation	g r	0	
	shall be notified to the Agency and the			
	Commission along with relevant			
	information about the request and the			
	reasons for granting the derogation.			
	reasons for granting the derogation.			
734.	4. The transmission system	AM 153	4. Except for fully integrated	
7540	operator shall perform at regular	4. <i>Member States</i> shall perform	network components, the []	
	intervals or at least every five years a	at regular intervals or at least every	regulatory authorities shall perform	
	public consultation for the required	five years a public consultation for	at regular intervals or at least every	
	storage services in order to assess the	the required storage services in order	five years a public consultation for	
	potential interest of market parties to	to assess the potential interest of	the required <b>energy</b> storage []	
	invest in such facilities and terminate	market parties to invest in such	facilities in order to assess the	
	its own storage activities in case third	facilities. Where the public	potential interest of market parties to	
	parties can provide the service in a	consultation indicates that third	invest in such facilities []. Where the	
	cost-effective manner.	parties are able to own, develop,	public consultation, as assessed by	
	cost-effective manner.	operate or manage such facilities,	the regulatory authority, indicates	
		Member States shall ensure that the	that third parties are able to own,	
		activities of transmission system	develop, operate or manage such	
		operators in this regard are phased	facilities in a cost-effective manner,	
		out.	regulatory authorities shall ensure	
		oui.	that transmission system	
			operators' activities in this regard	
			are phased-out within 24 months.	
			As part of the conditions for this	
			_	
			procedure, regulatory authorities	
			may allow the transmission system	
			operators to receive reasonable	
			compensation, in particular the	

			residual value of the investment	
			they made into energy storage	
			facilities.	
735.			4a. The decision to grant	
			derogation shall be notified to the	
			Agency and the Commission along	
			with relevant information about	
			the request and the reasons for	
			granting the derogation.	
736.			4b. Paragraph 4 shall not apply	
			for the usual depreciation period of	
			new battery storage facilities with	
			a final investment decision until	
			2024.	
737.		Section	on 5	
		Unbundling and trans	sparency of accounts	
738.		Article		
		Right of access		
739.	1. Member States or any		1. Member States or any	
	competent authority they designate,		competent authority they designate,	
	including the regulatory authorities		including the regulatory authorities	
	referred to in Article 57, shall, insofar		referred to in Article 57, shall,	
	as necessary to carry out their		insofar as necessary to carry out their	
	functions, have right of access to the		functions, have right of access to the	
	accounts of electricity undertakings as		accounts of electricity undertakings	
	set out in Article 56.		as set out in Article 56.	

740.	2. Member States and any	2. Member States and any	
	designated competent authority,	designated competent authority,	
	including the regulatory authorities,	including the regulatory authorities,	
	shall preserve the confidentiality of	shall preserve the confidentiality of	
	commercially sensitive information.	commercially sensitive information.	
	Member States may provide for the	Member States may provide for the	
	disclosure of such information where	disclosure of such information where	
	this is necessary in order for the	this is necessary in order for the	
	competent authorities to carry out their	competent authorities to carry out	
	functions.	their functions.	
741.		Article 56	
		Unbundling of accounts	
742.	1. Member States shall take the	1. Member States shall take the	
	necessary steps to ensure that the	necessary steps to ensure that the	
	accounts of electricity undertakings are	accounts of electricity undertakings	
	kept in accordance with paragraphs 2	are kept in accordance with	
	and 3.	paragraphs 2 and 3.	
743.	,	2. Electricity undertakings, whatever	
	whatever their system of ownership or	their system of ownership or legal	
	legal form, shall draw up, submit to	form, shall draw up, submit to audit	
	audit and publish their annual accounts	and publish their annual accounts in	
	in accordance with the rules of	accordance with the rules of national	
	national law concerning the annual	law concerning the annual accounts	
	accounts of limited liability companies	of limited liability companies	
	adopted pursuant to Directive	adopted pursuant to Directive	
	2013/34/EU of the European	2013/34/EU of the European	
	Parliament and of the Council <sup>45</sup> .	Parliament and of the Council <sup>46</sup> .	

7506/3/18 REV 3 GW/ns 226
ANNEX TREE.2.B

Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19)

Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19)

744.	Undertakings which are not legally	Undertakings which are not legally	
	obliged to publish their annual	obliged to publish their annual	
	accounts shall keep a copy of these at	accounts shall keep a copy of these at	
	the disposal of the public in their head	the disposal of the public in their	
	office.	head office.	
745.	3. Electricity undertakings shall, in	3. Electricity undertakings shall,	
	their internal accounting, keep separate	in their internal accounting, keep	
	accounts for each of their transmission	separate accounts for each of their	
	and distribution activities as they	transmission and distribution	
	would be required to do if the activities	activities as they would be required	
	in question were carried out by	to do if the activities in question were	
	separate undertakings, with a view to	carried out by separate undertakings,	
	avoiding discrimination, cross-	with a view to avoiding	
	subsidisation and distortion of	discrimination, cross-subsidisation	
	competition. They shall also keep	and distortion of competition. They	
	accounts, which may be consolidated,	shall also keep accounts, which may	
	for other electricity activities not	be consolidated, for other electricity	
	relating to transmission or distribution.	activities not relating to transmission	
	Revenue from ownership of the	or distribution. Revenue from	
	transmission or distribution system	ownership of the transmission or	
	shall be specified in the accounts.	distribution system shall be specified	
	Where appropriate, they shall keep	in the accounts. Where appropriate,	
	consolidated accounts for other, non-	they shall keep consolidated accounts	
	electricity activities. The internal	for other, non-electricity activities.	
	accounts shall include a balance sheet	The internal accounts shall include a	
	and a profit and loss account for each	balance sheet and a profit and loss	
	activity.	account for each activity.	
746.	4. The audit referred to in	4. The audit referred to in	
	paragraph 2 shall, in particular, verify	paragraph 2 shall, in particular,	
	that the obligation to avoid	verify that the obligation to avoid	
	discrimination and cross-subsidies	discrimination and cross-subsidies	
	referred to in paragraph 3 is respected.	referred to in paragraph 3 is	
		respected.	

747.		CHAPTER VII NATIONAL REGULATORY AUTHORITIES
748.		Article 57
		Designation and independence of regulatory authorities
749.	1. Each Member State shall	1. Each Member State shall
	designate a single national regulatory	designate a single [] regulatory
	authority at national level.	authority at national level.
<b>750.</b>	$\mathcal{C}^{-1}$	2. Paragraph 1 shall be without
	prejudice to the designation of other	prejudice to the designation of other
	regulatory authorities at regional level	regulatory authorities at regional
	within Member States, provided that	level within Member States, provided
	there is one senior representative for	that there is one senior representative
	representation and contact purposes at	for representation and contact
	Union level within the Board of	purposes at Union level within the
	Regulators of the Agency in	Board of Regulators of the Agency in
	accordance with Article 22(1) of	accordance with Article 22(1) of
	[recast of Regulation 713/2009 as	[recast of Regulation 713/2009 as
	proposed by COM(2016)863/2].	proposed by COM(2016)863/2].
<b>751.</b>		3. By way of derogation from
	paragraph 1, a Member State may	paragraph 1, a Member State may
	designate regulatory authorities for	designate regulatory authorities for
	small systems on a geographically	small systems on a geographically
	separate region whose consumption, in	separate region whose consumption,
	2008, accounted for less than 3 % of	in 2008, accounted for less than 3 %
	the total consumption of the Member	of the total consumption of the
	State of which it is part. This	Member State of which it is part.
	derogation shall be without prejudice	This derogation shall be without
	to the appointment of one senior	prejudice to the appointment of one
	representative for representation and	senior representative for
	contact purposes at Union level within	representation and contact purposes
	the Board of Regulators of the Agency	at Union level within the Board of
	in compliance with [Article 22 (1) of	Regulators of the Agency in
	recast of Regulation 713/2009 as	compliance with [Article 22 (1) of
	proposed by COM(2016)863/2].	recast of Regulation 713/2009 as
		proposed by COM(2016)863/2].

752.	4. Member States shall guarantee	4. Member States shall guarantee	
	the independence of the regulatory	the independence of the regulatory	
	authority and shall ensure that it	authority and shall ensure that it	
	exercises its powers impartially and	exercises its powers impartially and	
	transparently. For this purpose,	transparently. For this purpose,	
	Member States shall ensure that, when	Member States shall ensure that,	
	carrying out the regulatory tasks	when carrying out the regulatory	
	conferred upon it by this Directive and	tasks conferred upon it by this	
	related legislation, the regulatory	Directive and related legislation, the	
	authority:	regulatory authority:	
753.	(a) is legally distinct and	(a) is legally distinct and	
	functionally independent from any	functionally independent from any	
	other public or private entity;	other public or private entity;	
754.	(b) ensures that its staff and the	(b) ensures that its staff and the	
	persons responsible for its	persons responsible for its	
	management:	management:	
755.	(i) act independently from any	(i) act independently from any	
	market interest; and	market interest; and	
<b>756.</b>	(ii) do not seek or take direct	(ii) do not seek or take direct	
	instructions from any government or	instructions from any government or	
	other public or private entity when	other public or private entity when	
	carrying out the regulatory tasks. This	carrying out the regulatory tasks.	
	requirement is without prejudice to	This requirement is without prejudice	
	close cooperation, as appropriate, with	to close cooperation, as appropriate,	
	other relevant national authorities or to	with other relevant national	
	general policy guidelines issued by the	authorities or to general policy	
	government not related to the	guidelines issued by the government	
	regulatory powers and duties under	not related to the regulatory powers	
	Article 59.	and duties under Article 59.	
757.	5. In order to protect the	5. In order to protect the	
	independence of the regulatory	independence of the regulatory	
	authority, Member States shall in	authority, Member States shall in	
	particular ensure that:	particular ensure that:	

<b>758.</b>	(a) the regulatory authority can take	AM 154	(a) the regulatory authority can	
	autonomous decisions, independently	(a) the regulatory authority can	take autonomous decisions,	
	from any political body, and has	take autonomous decisions,	independently from any political	
	separate annual budget allocations,	independently from any political	body, and has separate annual budget	
	with autonomy in the implementation	body;	allocations, with autonomy in the	
	of the allocated budget, and adequate		implementation of the allocated	
	human and financial resources to carry		budget, and adequate human and	
	out its duties; and		financial resources to carry out its	
			duties; and	
<b>759.</b>	(b) the members of the board of the		(b) the members of the board of	
	regulatory authority or, in the absence		the regulatory authority or, in the	
	of a board, the regulatory authority's		absence of a board, the regulatory	
	top management are appointed for a		authority's top management are	
	fixed term of five up to seven years,		appointed for a fixed term of five up	
	renewable once;		to seven years, renewable once;	
760.		AM 155		
		(ba) (new) the regulatory authority		
		draws up a draft budget covering the		
		regulatory tasks conferred upon it		
		by this Directive and by related		
		legislative acts, in order to provide		
		the regulatory authority with the		
		human and financial resources it		
		needs to carry out its duties and		
		powers in an effective and efficient		
		manner;		
761.		AM 156		
		(bb) (new) the ex-post control of a		
		regulatory authority's annual		
		accounts is performed by an		
		independent auditor;		

<b>762.</b>	(c) the members of the board of the	(c) the members of the board of	
	regulatory authority or, in the absence	the regulatory authority or, in the	
	of a board, the regulatory authority's	absence of a board, the regulatory	
	top management are appointed based	authority's top management are	
	on objective, transparent and published	appointed based on objective,	
	criteria, in an independent and	transparent and published criteria, in	
	impartial procedure, which ensures	an independent and impartial	
	that the candidates have the necessary	procedure, which ensures that the	
	skills and experience for any relevant	candidates have the necessary skills	
	position in the national regulatory	and experience for any relevant	
	authority and that parliamentary	position in the []regulatory authority	
	hearings are held;	[];	
<b>763.</b>	(d) conflict of interest provisions	(d) conflict of interest provisions	
	are in place and confidentiality	are in place and confidentiality	
	obligations extend beyond the end of	obligations extend beyond the end of	
	the mandate of the members of the	the mandate of the members of the	
	board of the regulatory authority or, in	board of the regulatory authority or,	
	the absence of a board, the regulatory	in the absence of a board, the	
	authority's top management in the	regulatory authority's top	
	national regulatory authority;	management in the []regulatory	
		authority;	
<b>764.</b>	(e) the members of the board of the	(e) the members of the board of	
	regulatory authority or, in the absence	the regulatory authority or, in the	
	of a board, the regulatory authority's	absence of a board, the regulatory	
	top management can be dismissed only	authority's top management can be	
	based on transparent criteria in place.	dismissed only based on transparent	
		criteria in place.	
765.	In regard to point (b) of the first	In regard to point (b) of the first	
	subparagraph, Member States shall	subparagraph, Member States shall	
	ensure an appropriate rotation scheme	ensure an appropriate rotation	
	for the board or the top management.	scheme for the board or the top	
	The members of the board or, in the	management. The members of the	
	absence of a board, members of the top	board or, in the absence of a board,	
	management may be relieved from	members of the top management may	
	office during their term only if they no	be relieved from office during their	

	longer fulfil the conditions set out in		term only if they no longer fulfil the	
	this Article or have been guilty of		conditions set out in this Article or	
	misconduct under national law.		have been guilty of misconduct under	
			national law.	
766.		AM 157		
		5a. (new) By [three years after		
		the date of entry into force of this		
		Directive] and every three years		
		thereafter, the Commission shall		
		present a report to the European		
		Parliament and the Council on		
		national authorities´ compliance		
		with the principle of independence,		
		pursuant to this Article.		
767.		Articl		
		General objectives of th	1	
768.			In carrying out the regulatory tasks	
	specified in this Directive, the		specified in this Directive, the	
	regulatory authority shall take all		regulatory authority shall take all	
	reasonable measures in pursuit of the		reasonable measures in pursuit of the	
	following objectives within the		following objectives within the	
	framework of their duties and powers		framework of their duties and powers	
	as laid down in Article 59, in close		as laid down in Article 59, in close	
	consultation with other relevant		consultation with other relevant	
	national authorities including		national authorities including	
	competition authorities and authorities		competition authorities and	
	from neighbouring countries, including		authorities, including regulatory	
	third countries as appropriate, and		authorities, from neighbouring	
	without prejudice to their		countries, including third countries as	
	competencies:		appropriate, and without prejudice to	
			their competencies:	

769.	(a) promoting, in close cooperation		(a) promoting, in close	
	with the Agency, regulatory authorities	c	cooperation with the Agency,	
	of other Member States and the	re	regulatory authorities of other	
	Commission, a competitive, flexible,		Member States and the Commission,	
	secure and environmentally sustainable	a	a competitive, flexible, secure and	
	internal market in electricity within the	e	environmentally sustainable internal	
	Union, and effective market opening	n	narket in electricity within the	
	for all customers and suppliers in the	l l	Union, and effective market opening	
	Union and ensuring appropriate	fe	for all customers and suppliers in the	
	conditions for the effective and reliable	l l	Union and ensuring appropriate	
	operation of electricity networks,	c	conditions for the effective and	
	taking into account long-term	re	eliable operation of electricity	
	objectives;	n	networks, taking into account long-	
		te	erm objectives;	
770.	(b) developing competitive and		(b) developing competitive and	
	properly functioning regional cross-	p	properly functioning regional cross-	
	border, markets within the Union in	b	oorder, markets within the Union in	
	view of the achievement of the	v	view of the achievement of the	
	objectives referred to in point (a);	О	objectives referred to in point (a);	
771.	(c) eliminating restrictions on trade		(c) eliminating restrictions on	
	in electricity between Member States,		rade in electricity between Member	
	including developing appropriate		States, including developing	
	cross-border transmission capacities to	a	appropriate cross-border transmission	
	meet demand and enhancing the	c	capacities to meet demand and	
	integration of national markets which		enhancing the integration of national	
	may facilitate electricity flows across		narkets which may facilitate	
	the Union;	<del> </del>	electricity flows across the Union;	
772.	(d) helping to achieve, in the most	`	(d) helping to achieve, in the most	
	cost-effective way, the development of		cost-effective way, the development	
	secure, reliable and efficient non-		of secure, reliable and efficient non-	
	discriminatory systems that are		discriminatory systems that are	
	consumer oriented, and promoting		consumer oriented, and promoting	
	system adequacy and, in line with		system adequacy and, in line with	
	general energy policy objectives,		general energy policy objectives,	
	energy efficiency as well as the	e	energy efficiency as well as the	

	integration of large and small-scale		integration of large and small-scale	
	production of electricity from		production of electricity from	
	renewable energy sources and		renewable energy sources and	
	distributed generation in both		distributed generation in both	
	transmission and distribution networks		transmission and distribution	
	and in facilitating their operation in		networks and in facilitating their	
	relation to other energy networks of		operation in relation to other energy	
	gas or heat;		networks of gas or heat;	
773.	(e) facilitating access to the network		(e) facilitating access to the	
	for new generation capacity and		network for new generation capacity	
	energy storage facilities, in particular		and energy storage facilities, in	
	removing barriers that could prevent		particular removing barriers that	
	access for new market entrants and of		could prevent access for new market	
	electricity from renewable energy		entrants and of electricity from	
	sources;		renewable energy sources;	
774.	(f) ensuring that system operators		(f) ensuring that system operators	
	and system users are granted		and system users are granted	
	appropriate incentives, in both the		appropriate incentives, in both the	
	short and the long term, to increase		short and the long term, to increase	
	efficiencies, especially energy		efficiencies, especially energy	
	efficiency, in system performance and		efficiency, in system performance	
	foster market integration;		and foster market integration;	
775.	(g) ensuring that customers benefit	AM 158	(g) ensuring that customers benefit	
	through the efficient functioning of	(g) ensuring that customers benefit	through the efficient functioning of	
	their national market, promoting	through the efficient functioning of	their national market, promoting	
	effective competition and helping to	their national market <i>and their</i>	effective competition and helping to	
	ensure consumer protection;	participation therein is not	ensure consumer protection;	
		<i>restricted</i> , promoting effective		
		competition and to guarantee		
		consumer protection <i>in close</i>		
		cooperation with relevant consumer		
		protection authorities;		

776.	(h) helping to achieve high	(h) helping to achieve high
	standards of universal and public	standards of universal and public
	service in electricity supply,	service in electricity supply,
	contributing to the protection of	contributing to the protection of
	vulnerable customers and contributing	vulnerable customers and
	to the compatibility of necessary data	contributing to the compatibility of
	exchange processes for customer	necessary data exchange processes
	switching.	for customer switching.
777.		Article 59
		Duties and powers of the regulatory authority
778.	1. The regulatory authority shall	1. The regulatory authority shall
	have the following duties:	have the following duties:
779.	(a) fixing or approving, in	(a) fixing or approving, in
	accordance with transparent criteria,	accordance with transparent criteria,
	transmission or distribution tariffs and	transmission or distribution tariffs []
	their methodologies;	or their methodologies;
<b>780.</b>		(b) ensuring compliance of
	transmission and distribution system	transmission and distribution system
	operators and, where relevant, system	operators and, where relevant, system
	owners, as well as of any electricity	owners, as well as of any electricity
	undertakings and other market	undertakings and other market
	participants, with their obligations	participants, with their obligations
	under this Directive, the [recast of	under this Directive, the [recast of
	Regulation 714/2009 as proposed by	Regulation 714/2009 as proposed by
	COM(2016)861/2], the network codes	COM(2016)861/2], the network
	adopted pursuant to Article 54 and	codes adopted pursuant to Article 54
	Article 55 of [recast of Regulation	and Article 55 of [recast of
	714/2009 as proposed by	Regulation 714/2009 as proposed by
	COM(2016)861/2], and the guidelines	COM(2016)861/2], and the
	adopted pursuant to Article 57 of	guidelines adopted pursuant to
	[recast of Regulation 714/2009 as	Article 57 of [recast of Regulation
	proposed by COM(2016)861/2 and	714/2009 as proposed by
	other relevant Union legislation,	COM(2016)861/2and other relevant
	including as regards cross-border	Union legislation, including as
	issues;	regards cross-border issues;

<b>781.</b>	(c) approving products and	(c) approving products and
	procurement process for non-	procurement process for non-
	frequency ancillary services;	frequency ancillary services;
<b>782.</b>	(d) implementing the network codes	(d) implementing the network
	and Guidelines adopted pursuant to	codes and Guidelines adopted
	Articles 54 to 57 of the [recast of	pursuant to Articles 54 to 57 of the
	Regulation 714/2009 as proposed by	[recast of Regulation 714/2009 as
	COM(2016)861/2] through national	proposed by COM(2016)861/2]
	measures or, where so required,	through national measures or, where
	coordinated regional or Union-wide	so required, coordinated regional or
	measures;	Union-wide measures;
783.	(e) cooperating in regard to cross-	(e) cooperating in regard to cross-
	border issues with the regulatory	border issues with the regulatory
	authority or authorities of the Member	authority or authorities of the
	States concerned and with the Agency,	Member States concerned and with
	in particular through participation in	the Agency, in particular through
	the work of the Agency's Board of	participation in the work of the
	Regulators pursuant to Article 22 of	Agency's Board of Regulators
	[recast of Regulation 713/2009 as	pursuant to Article 22 of [recast of
	proposed by COM(2016)863/2];	Regulation 713/2009 as proposed by
		COM(2016)863/2];
<b>784.</b>	(f) complying with, and	(f) complying with, and
	implementing, any relevant legally	implementing, any relevant legally
	binding decisions of the Agency and of	binding decisions of the Agency and
	the Commission;	of the Commission;
<b>785.</b>	(g) ensuring that interconnector	(g) ensuring that <b>transmission</b>
	capacities are made available to the	system operators, make available
	utmost extent pursuant to Article 14 of	interconnector capacities [] to the
	[recast of Regulation 714/2009 as	utmost extent pursuant to Article 14
	proposed by COM(2016)861/2];	of [recast of Regulation 714/2009 as
		proposed by COM(2016)861/2];

<b>786.</b>	(h) reporting annually on its activity	(h) reporting annually on its	
	and the fulfilment of its duties to the	activity and the fulfilment of its	
	relevant authorities of the Member	duties to the relevant authorities of	
	States, the Agency and the	the Member States, the Agency and	
	Commission. Such reports shall cover	the Commission. Such reports shall	
	the steps taken and the results obtained	cover the steps taken and the results	
	as regards each of the tasks listed in	obtained as regards each of the tasks	
	this Article;	listed in this Article;	
787.	(i) ensuring that there are no cross-	(i) ensuring that there are no	
	subsidies between transmission,	cross-subsidies between	
	distribution, and supply activities;	transmission, distribution, and supply	
	•••	activities;	
788.	(j) monitoring investment plans of	(j) monitoring investment plans of	
	the transmission system operators, and	the transmission system operators,	
	providing in its annual report an	and providing in its annual report an	
	assessment of the investment plans of	assessment of the investment plans of	
	the transmission system operators as	the transmission system operators as	
	regards their consistency with the	regards their consistency with the	
	Union -wide network development	Union -wide network development	
	plan referred to in Article 27(1)(b) of	plan referred to in Article 27(1)(b) of	
	the [recast of Regulation 714/2009 as	the [recast of Regulation 714/2009 as	
	proposed by COM(2016)861/2]; such	proposed by COM(2016)861/2]; such	
	assessment may include	assessment may include	
	recommendations to amend those	recommendations to amend those	
	investment plans;	investment plans;	
<b>789.</b>	(k) measuring the performance of	(k) [] <b>assessing</b> the performance	
	the transmission system operators and	of the transmission system operators	
	distribution system operators in	and distribution system operators in	
	relation to the development of a smart	relation to the development of a	
	grid that promotes energy efficiency	smart grid that promotes energy	
	and the integration of energy from	efficiency and the integration of	
	renewable sources based on a limited	energy from renewable sources [],	
	set of Union-wide indicators, and	and publish a national report every []	
	publish a national report every 2 years,	4 years, including recommendations	
	including recommendations for	[];	
	improvement where necessary;		

<b>790.</b>	(1) setting or approving standards		(l) setting or approving standards	
	and requirements for quality of service		and requirements for quality of	
	and supply or contributing thereto		service and supply or contributing	
	together with other competent		thereto together with other competent	
	authorities and monitoring compliance		authorities and monitoring	
	with and reviewing the past		compliance with and reviewing the	
	performance of network security and		past performance of network security	
	reliability rules;		and reliability rules;	
791.	(m) monitoring the level of		(m) monitoring the level of	
	transparency, including of wholesale		transparency, including of wholesale	
	prices, and ensuring compliance of		prices, and ensuring compliance of	
	electricity undertakings with		electricity undertakings with	
	transparency obligations;		transparency obligations;	
792.	(n) monitoring the level and	AM 159	(n) monitoring the level and	
	effectiveness of market opening and	(n) monitoring the level and	effectiveness of market opening and	
	competition at wholesale and retail	effectiveness of market opening and	competition at wholesale and retail	
	levels, including on electricity	competition at wholesale and retail	levels, including on electricity	
	exchanges, prices for household	levels, including on electricity	exchanges, prices for household	
	customers including prepayment	exchanges, prices for household	customers including prepayment	
	systems, switching rates, disconnection	customers including prepayment	systems, switching rates,	
	rates, charges for and the execution of	systems, impact of dynamic price	disconnection rates, charges for and	
	maintenance services, and complaints	contracts and of the use of smart	the execution of maintenance	
	by household customers, as well as any	<i>meter</i> , switching rates, disconnection	services, and complaints by	
	distortion or restriction of competition,	rates, charges for and the execution	household customers, as well as any	
	including providing any relevant	of maintenance services, <i>the</i>	distortion or restriction of	
	information, and bringing any relevant	relationship between household and	competition, including providing any	
	cases to the relevant competition	wholesale prices, the evolution of	relevant information, and bringing	
	authorities;	grid tariffs and levies and complaints	any relevant cases to the relevant	
		by household customers, as well as	competition authorities;	
		any distortion or restriction of		
		competition, including providing any		
		relevant information, and bringing		
		any relevant cases to the relevant		
		competition authorities;		

793.	(o) monitoring the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent large non-household customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, where appropriate, informing the national competition authorities of such practices;	AM 160  (o) monitoring the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, where appropriate, informing the national competition authorities of such practices;	(o) monitoring the occurrence of restrictive contractual practices, including exclusivity clauses which may prevent large non-household customers from contracting simultaneously with more than one supplier or restrict their choice to do so, and, where appropriate, informing the national competition authorities of such practices;	
794.		AM 161 (oa) (new) monitoring and reporting on consumer participation, and the availability and potential of flexibility, in the energy system;		
795.	(p) monitoring the time taken by transmission and distribution system operators to make connections and repairs;		(p) monitoring the time taken by transmission and distribution system operators to make connections and repairs;	
796.	(q) helping to ensure, together with other relevant authorities, that the consumer protection measures are effective and enforced;	AM 162 (q) helping to ensure, together with other relevant authorities, that the new and existing consumer protection measures, including for active customers, are effective and enforced; monitoring the removal of unjustified obstacles and restrictions to the development of self-consumption and local energy communities;	(q) helping to ensure, together with other relevant authorities, that the consumer protection measures are effective and enforced;	
797.	(r) publishing recommendations, at least annually, in relation to compliance of supply prices with Article 5, and providing these to the competition authorities, where appropriate;		(r) publishing recommendations, at least annually, in relation to compliance of supply prices with Article 5, and providing these to the competition authorities, where appropriate;	

798.	(s) ensuring access to customer	AM 163	(s) ensuring access to customer	
1200	consumption data, the provision, for	(s) ensuring <i>non-discriminatory</i>	consumption data, the provision, for	
	optional use, of an easily	access to customer consumption data,	optional use, of an easily	
	understandable harmonised format at	the provision, for optional use, of an	understandable harmonised format at	
	national level for consumption data,	easily understandable harmonised	national level for consumption data,	
	and prompt access for all customers to	format at national level for	and prompt access for all customers	
	such data pursuant to Articles 23 and	consumption data, and prompt access	to such data pursuant to Articles 23	
	24;	for all customers to such data	and 24;	
	21,	pursuant to Articles 23 and 24;	and 2 i ,	
799.	(t) monitoring the implementation	pursuant to ratheres 23 and 24;	(t) monitoring the	
177.	of rules relating to the roles and		implementation of rules relating to	
	responsibilities of transmission system		the roles and responsibilities of	
	operators, distribution system		transmission system operators,	
	operators, suppliers and customers and		distribution system operators,	
	other market parties pursuant to [recast		suppliers and customers and other	
	of Regulation 714/2009 as proposed by		market parties pursuant to [recast of	
	COM(2016)861/2]		Regulation 714/2009 as proposed by	
	2011(2010)001/2]		COM(2016)861/2;	
800.	(u) monitoring investment in		(u) monitoring investment in	
	generation and storage capacities in		generation and storage capacities in	
	relation to security of supply;		relation to security of supply;	
801.	(v) monitoring technical		(v) monitoring technical	
	cooperation between Union and third-		cooperation between Union and	
	country transmission system operators;		third-country transmission system	
			operators;	
802.	(w) contributing to the compatibility		(w) contributing to the	
	of data exchange processes for the		compatibility of data exchange	
	most important market processes at		processes for the most important	
	regional level.		market processes at regional level.	
803.	(x) monitoring the availability of	AM 164	(x) monitoring the availability	
	comparison websites, including	(x) monitoring the availability of	of comparison tools [] that fulfil	
	comparison tools that fulfil the criteria	comparison tools, including	the criteria set out in Article 14 [].	
	set out in Article 14 and Annex I.	comparison websites, apps and other		
		interactive means, that fulfil the		
		criteria set out in Article 14.		

804.		(xa) monitoring the development	
		of energy communities established	
		in accordance with Article 16.	
805.	2. Where a Member State has so	2. Where a Member State has so	
	provided, the monitoring duties set out	provided, the monitoring duties set	
	in paragraph 1 may be carried out by	out in paragraph 1 may be carried out	
	other authorities than the regulatory	by other authorities than the	
	authority. In such a case, the	regulatory authority. In such a case,	
	information resulting from such	the information resulting from such	
	monitoring shall be made available to	monitoring shall be made available to	
	the regulatory authority as soon as	the regulatory authority as soon as	
	possible.	possible.	
806.	While preserving their independence,	While preserving their independence,	
	without prejudice to their own specific	without prejudice to their own	
	competencies and consistent with the	specific competencies and consistent	
	principles of better regulation, the	with the principles of better	
	regulatory authority shall, as	regulation, the regulatory authority	
	appropriate, consult transmission	shall, as appropriate, consult	
	system operators and, as appropriate,	transmission system operators and, as	
	closely cooperate with other relevant	appropriate, closely cooperate with	
	national authorities when carrying out	other relevant national authorities	
	the duties set out in paragraph 1.	when carrying out the duties set out	
		in paragraph 1.	
807.	Any approvals given by a regulatory	Any approvals given by a regulatory	
	authority or the Agency under this	authority or the Agency under this	
	Directive are without prejudice to any	Directive are without prejudice to	
	duly justified future use of its powers	any duly justified future use of its	
	by the regulatory authority under this	powers by the regulatory authority	
	Article or to any penalties imposed by	under this Article or to any penalties	
	other relevant authorities or the	imposed by other relevant authorities	
	Commission.	or the Commission.	

808.	3. Member States shall ensure that	3. Member States	s shall ensure
	regulatory authorities are granted the	that regulatory author	ities are granted
	powers enabling them to carry out the	the powers enabling the	hem to carry
	duties referred to in this Article in an	out the duties referred	I to in this
	efficient and expeditious manner. For	Article in an efficient	t and
	this purpose, the regulatory authority	expeditious manner. F	For this purpose,
	shall have at least the following	the regulatory authorit	ty shall have at
	powers:	least the following po	wers:
809.	(a) to issue binding decisions on	(a) to issue binding	g decisions on
	electricity undertakings;	electricity undertaking	gs;
810.	(b) to carry out investigations into	(b) to carry out inv	restigations into
	the functioning of the electricity	the functioning of the	electricity
	markets, and to decide upon and	markets, and to decide	e upon and
	impose any necessary and	impose any necessary	and
	proportionate measures to promote	proportionate measure	es to promote
	effective competition and ensure the	effective competition	and ensure the
	proper functioning of the market.	proper functioning of	the market.
	Where appropriate, the regulatory	Where appropriate, th	e regulatory
	authority shall also have the power to	authority shall also ha	ive the power to
	cooperate with the national	cooperate with the nat	tional
	competition authority and the financial	competition authority	and the
	market regulators or the Commission	financial market regul	
	in conducting an investigation relating	Commission in condu	
	to competition law;	investigation relating	to competition
		law;	
811.		(c) to require any in	
	electricity undertakings relevant for	from electricity under	
	the fulfilment of its tasks, including the	for the fulfilment of it	
	justification for any refusal to grant	including the justification	
	third-party access, and any information	refusal to grant third-p	
	on measures necessary to reinforce the	and any information o	
	network;	necessary to reinforce	the network;

812.	(d) to impose effective,	AM 165	(d) to impose effective,	
	proportionate and dissuasive penalties	(d) at its own initiative or upon	proportionate and dissuasive	
	on electricity undertakings not	request from the Agency to enforce	penalties on electricity undertakings	
	complying with their obligations under	its binding decisions, to impose	not complying with their obligations	
	this Directive or any relevant legally	effective, proportionate and	under this Directive or any relevant	
	binding decisions of the regulatory	dissuasive penalties on electricity	legally binding decisions of the	
	authority or of the Agency, or to	undertakings, ENTSO of Electricity	regulatory authority or of the	
	propose that a competent court impose	or regional coordination centres, not	Agency, or to propose that a	
	such penalties. This shall include the	complying with their obligations	competent court impose such	
	power to impose or propose the	under this Directive, <i>Regulation</i>	penalties. This shall include the	
	imposition of penalties of up to 10 %	(EU) [recast of Regulation	power to impose or propose the	
	of the annual turnover of the	714/2009 as proposed by COM	imposition of penalties of up to 10 %	
	transmission system operator on the	(2016) 861/2], or any relevant legally	of the annual turnover of the	
	transmission system operator or of up	binding decisions of the regulatory	transmission system operator on the	
	to 10 % of the annual turnover of the	authority or of the Agency, or to	transmission system operator or of up	
	vertically integrated undertaking on	propose that a competent court	to 10 % of the annual turnover of the	
	the vertically integrated undertaking,	impose such penalties. This shall	vertically integrated undertaking on	
	as the case may be, for non-	include the power to impose or	the vertically integrated undertaking,	
	compliance with their respective	propose the imposition of penalties	as the case may be, for non-	
	obligations pursuant to this Directive;	of up to 10 % of the annual turnover	compliance with their respective	
	and	of the transmission system operator	obligations pursuant to this Directive;	
		on the transmission system operator	and	
		or of up to 10 % of the annual		
		turnover of the vertically integrated		
		undertaking on the vertically		
		integrated undertaking, as the case		
		may be, for non-compliance with		
		their respective obligations pursuant		
012		to this Directive; and		
813.			(e) appropriate rights of	
	investigations and relevant powers of		investigations and relevant powers of	
	instructions for dispute settlement		instructions for dispute settlement	
	under Article 60 (2) and (3).		under Article 60 (2) and (3).	

814.		4. In addition to the duties
	conferred upon it under paragraph 1	conferred upon it under paragraph 1
	and 3 of this Article, when an	and 3 of this Article, when an
	independent system operator has been	independent system operator has
	designated under Article 44, the	been designated under Article 44,
	regulatory authority shall:	the regulatory authority shall:
815.	(a) monitor the transmission system	(a) monitor the transmission
	owner's and the independent system	system owner's and the independent
	operator's compliance with their	system operator's compliance with
	obligations under this Article, and	their obligations under this Article,
	issue penalties for non-compliance in	and issue penalties for non-
	accordance with paragraph 3 (d);	compliance in accordance with
		paragraph 3 (d);
816.	(b) monitor the relations and	(b) monitor the relations and
	communications between the	communications between the
	independent system operator and the	independent system operator and the
	transmission system owner so as to	transmission system owner so as to
	ensure compliance of the independent	ensure compliance of the
	system operator with its obligations,	independent system operator with its
	and in particular approve contracts and	obligations, and in particular approve
	act as a dispute settlement authority	contracts and act as a dispute
	between the independent system	settlement authority between the
	operator and the transmission system	independent system operator and the
	owner in respect of any complaint	transmission system owner in respect
	submitted by either party pursuant to	of any complaint submitted by either
	paragraph 11;	party pursuant to paragraph 11;
817.	1 3	(c) without prejudice to the
	procedure under Article 442)(c), for	procedure under Article 44(2)(c), for
	the first ten-year network development	the first ten-year network
	plan, approve the investments planning	development plan, approve the
	and the multi-annual network	investments planning and the multi-
	development plan presented at least	annual network development plan
	every two years by the independent	presented at least every two years by
	system operator;	the independent system operator;

818.	(d) ensure that network access	(d) ensure that network access	
	tariffs collected by the independent	tariffs collected by the independent	
	system operator include remuneration	system operator include	
	for the network owner or network	remuneration for the network owner	ļ
	owners, which provides for adequate	or network owners, which provides	
	remuneration of the network assets and	for adequate remuneration of the	ļ
	of any new investments made therein,	network assets and of any new	ļ
	provided they are economically and	investments made therein, provided	ļ
	efficiently incurred;	they are economically and efficiently	ļ
		incurred;	ļ
819.	(e) have the powers to carry out	(e) have the powers to carry out	
	inspections, including unannounced	inspections, including unannounced	ļ
	inspections, at the premises of	inspections, at the premises of	ļ
	transmission system owner and	transmission system owner and	ļ
	independent system operator; and	independent system operator; and	
820.	(f) monitor the use of congestion	(f) monitor the use of congestion	
	charges collected by the independent	charges collected by the independent	ļ
	system operator in accordance with	system operator in accordance with	ļ
	[Article 17(2) of recast of Regulation	[Article 17(2) of recast of Regulation	ļ
	714/2009 as proposed by	714/2009 as proposed by	ļ
	COM(2016)861/2].	COM(2016)861/2].	
821.	5. In addition to the duties and	5. In addition to the duties and	ļ
	powers conferred on it under	powers conferred on it under	ļ
	paragraphs 1 and 3 4 of this Article,	paragraphs 1 and 3 of this Article,	ļ
	when a transmission system operator	when a transmission system operator	ļ
	has been designated in accordance	has been designated in accordance	ļ
	with Section 3 of Chapter VI, the	with Section 3 of Chapter VI, the	ļ
	regulatory authority shall be granted at	regulatory authority shall be granted	ļ
	least the following duties and powers:	at least the following duties and	ļ
		powers:	
822.	(a) to issue penalties in accordance	(a) to issue penalties in	
	with paragraph 3 (d) for discriminatory	accordance with paragraph 3 (d) for	
	behaviour in favour of the vertically	discriminatory behaviour in favour of	
	integrated undertaking;	the vertically integrated undertaking;	

	I	
823.	` '	(b) to monitor communications
	between the transmission system	between the transmission system
	operator and the vertically integrated	operator and the vertically integrated
	undertaking so as to ensure compliance	undertaking so as to ensure
	of the transmission system operator	compliance of the transmission
	with its obligations;	system operator with its obligations;
824.	1	(c) to act as dispute settlement
	authority between the vertically	authority between the vertically
	integrated undertaking and the	integrated undertaking and the
	transmission system operator in	transmission system operator in
	respect of any complaint submitted	respect of any complaint submitted
	pursuant to Article 60(2);	pursuant to Article 60(2);
825.	(d) to monitor commercial and	(d) to monitor commercial and
	financial relations including loans	financial relations including loans
	between the vertically integrated	between the vertically integrated
	undertaking and the transmission	undertaking and the transmission
	system operator;	system operator;
826.	(e) to approve all commercial and	(e) to approve all commercial and
	financial agreements between the	financial agreements between the
	vertically integrated undertaking and	vertically integrated undertaking and
	the transmission system operator on	the transmission system operator on
	the condition that they comply with	the condition that they comply with
	market conditions;	market conditions;
827.	(f) to request justification from the	(f) to request justification from
	vertically integrated undertaking when	the vertically integrated undertaking
	notified by the compliance officer in	when notified by the compliance
	accordance with Article 50(4). Such	officer in accordance with Article
	justification shall, in particular, include	50(4). Such justification shall, in
	evidence to the end that no	particular, include evidence to the
	discriminatory behaviour to the	end that no discriminatory behaviour
	advantage of the vertically integrated	to the advantage of the vertically
	undertaking has occurred;	integrated undertaking has occurred;

828.	(g) to carry out inspections,	(g) to carry out inspections,	
	including unannounced ones, on the	including unannounced ones, on the	
	premises of the vertically integrated	premises of the vertically integrated	
	undertaking and the transmission	undertaking and the transmission	
	system operator; and	system operator; and	
829.	(h) to assign all or specific tasks of	(h) to assign all or specific tasks	
	the transmission system operator to an	of the transmission system operator	
	independent system operator appointed	to an independent system operator	
	in accordance with Article 44 in case	appointed in accordance with Article	
	of a persistent breach by the	44 in case of a persistent breach by	
	transmission system operator of its	the transmission system operator of	
	obligations under this Directive, in	its obligations under this Directive, in	
	particular in case of repeated	particular in case of repeated	
	discriminatory behaviour to the benefit	discriminatory behaviour to the	
	of the vertically integrated	benefit of the vertically integrated	
	undertaking.	undertaking.	
830.	6. The regulatory authorities shall,	6. The regulatory authorities	
	except in cases where the Agency is	shall, except in cases where the	
	competent to fix and approve the terms	Agency is competent to fix and	
	and conditions or methodologies for	approve the terms and conditions or	
	the implementation of network codes	methodologies for the	
	and guidelines under Chapter VII of	implementation of network codes and	
	[recast of Regulation 714/2009 as	guidelines under Chapter VII of	
	proposed by COM(2016)861/2]	[recast of Regulation 714/2009 as	
	pursuant to Article 5(2) of [recast of	proposed by COM(2016)861/2]	
	Regulation 713/2009 as proposed by	pursuant to Article 5(2) of [recast of	
	COM(2016)863/2] because of their	Regulation 713/2009 as proposed by	
	coordinated nature, be responsible for	COM(2016)863/2] because of their	
	fixing or approving sufficiently in	coordinated nature, be responsible	
	advance of their entry into force at	for fixing or approving sufficiently in	
	least the national methodologies used	advance of their entry into force at	
	to calculate or establish the terms and	least the national methodologies used	
	conditions for:	to calculate or establish the terms and	
		conditions for:	

831.	(a) connection and access to		(a) connection and access to	
	national networks, including		national networks, including	
	transmission and distribution tariffs or		transmission and distribution tariffs	
	their methodologies. Those tariffs or		or their methodologies. Those tariffs	
	methodologies shall allow the		or methodologies shall allow the	
	necessary investments in the networks		necessary investments in the	
	to be carried out in a manner allowing		networks to be carried out in a	
	those investments to ensure the		manner allowing those investments	
	viability of the networks;		to ensure the viability of the	
	,		networks;	
832.	(b) the provision of ancillary		(b) the provision of ancillary	
	services which shall be performed in		services which shall be performed in	
	the most economic manner possible		the most economic manner possible	
	and provide appropriate incentives for		and provide appropriate incentives	
	network users to balance their input		for network users to balance their	
	and off-takes. The ancillary services		input and off-takes. The ancillary	
	shall be provided in a fair and non-		services shall be provided in a fair	
	discriminatory manner and be based on		and non-discriminatory manner and	
	objective criteria; and		be based on objective criteria; and	
833.	(c) access to cross-border		(c) access to cross-border	
	infrastructures, including the		infrastructures, including the	
	procedures for the allocation of		procedures for the allocation of	
	capacity and congestion management.		capacity and congestion	
			management.	
834.	7. The methodologies or the terms		7. The methodologies or the	
	and conditions referred to in		terms and conditions referred to in	
	paragraph 6 shall be published.		paragraph 6 shall be published.	
835.	Ö	AM 166	8. With a view to increasing	
	transparency in the market and provide	8. With a view to increasing	transparency in the market and	
	to all interested parties all necessary	transparency in the market and	provide to all interested parties all	
	information, decisions or proposals for	provide to all interested parties all	necessary information, decisions or	
	a decision concerning transmission and	necessary information, decisions or	proposals for a decision concerning	
	distribution tariffs as referred in	proposals for a decision concerning	transmission and distribution tariffs	
	Article 60(3), regulatory authorities	transmission and distribution tariffs	as referred in Article 60(3),	
	shall make available to market parties	as referred in Article 60(3),	regulatory authorities shall make	

	the detailed methodology and	regulatory authorities shall make	available to market parties the	
		available to market parties the	detailed methodology and underlying	
	underlying costs used for the			
	calculation of the relevant network	detailed methodology and underlying	costs used for the calculation of the	
	tariffs.	costs used for the calculation of the	relevant network tariffs, subject to	
		relevant network tariffs by taking	applicable rule on confidentiality.	
		into account the investment cost,		
		added value of distributed		
		generation, flexibility, digitalisation,		
		demand response, storage and use		
		of the networks by system users		
		including active customers and		
		other factors.		
836.	9. The regulatory authorities shall		9. The regulatory authorities shall	
	monitor congestion management of		monitor congestion management of	
	national electricity systems including		national electricity systems including	
	interconnectors, and the		interconnectors, and the	
	implementation of congestion		implementation of congestion	
	management rules. To that end,		management rules. To that end,	
	transmission system operators or		transmission system operators or	
	market operators shall submit their		market operators shall submit their	
	congestion management rules,		congestion management rules,	
	including capacity allocation, to the		including capacity allocation, to the	
	national regulatory authorities.		national regulatory authorities.	
	National regulatory authorities may		National regulatory authorities may	
	request amendments to those rules.		request amendments to those rules.	
837.		Article	e 60	
		Decisions and	complaints	
838.	1. Regulatory authorities shall		1. Regulatory authorities shall	
	have the authority to require		have the authority to require	
	transmission and distribution system		transmission and distribution system	
	operators, if necessary, to modify the		operators, if necessary, to modify the	
	terms and conditions, including tariffs		terms and conditions, including	
	or methodologies referred to Article		tariffs or methodologies referred to	
	59, to ensure that they are		Article 59, to ensure that they are	
	proportionate and applied in a non-		proportionate and applied in a non-	

_			
	discriminatory manner, in line with	discriminatory manner, in line with	
	Article 16 of [recast of Regulation	Article 16 of [recast of Regulation	
	714/2009 as proposed by	714/2009 as proposed by	
	COM(2016)861/2]. In the event of	COM(2016)861/2]. In the event of	
	delay in the fixing of transmission and	delay in the fixing of transmission	
	distribution tariffs, regulatory	and distribution tariffs, regulatory	
	authorities shall have the power to fix	authorities shall have the power to fix	
	or approve provisional transmission	or approve provisional transmission	
	and distribution tariffs or	and distribution tariffs or	
	methodologies and to decide on the	methodologies and to decide on the	
	appropriate compensatory measures if	appropriate compensatory measures	
	the final transmission and distribution	if the final transmission and	
	tariffs or methodologies deviate from	distribution tariffs or methodologies	
	those provisional tariffs or	deviate from those provisional tariffs	
	methodologies.	or methodologies.	
839.	2. Any party having a complaint	2. Any party having a complaint	
	against a transmission or distribution	against a transmission or distribution	
	system operator in relation to that	system operator in relation to that	
	operator's obligations under this	operator's obligations under this	
	Directive may refer the complaint to	Directive may refer the complaint to	
	the regulatory authority which, acting	the regulatory authority which, acting	
	as dispute settlement authority, shall	as dispute settlement authority, shall	
	issue a decision within a period of two	issue a decision within a period of	
	months after receipt of the complaint.	two months after receipt of the	
	That period may be extended by two	complaint. That period may be	
	months where additional information	extended by two months where	
	is sought by the regulatory authority.	additional information is sought by	
	That extended period may be further	the regulatory authority. That	
	extended with the agreement of the	extended period may be further	
	complainant. The regulatory	extended with the agreement of the	
	authority's decision shall have binding	complainant. The regulatory	
	effect unless and until overruled on	authority's decision shall have	
	appeal.	binding effect unless and until	
		overruled on appeal.	

840.	3. Any party who is affected and	3. Any party who is affected and
	who has a right to complain	who has a right to complain
	concerning a decision on	concerning a decision on
	methodologies taken pursuant to	methodologies taken pursuant to
	Article 59 or, where the regulatory	Article 59 or, where the regulatory
	authority has a duty to consult,	authority has a duty to consult,
	concerning the proposed tariffs or	concerning the proposed tariffs or
	methodologies, may, at the latest	methodologies, may, at the latest
	within two months, or a shorter time	within two months, or a shorter time
	period as provided by Member States,	period as provided by Member
	following publication of the decision	States, following publication of the
	or proposal for a decision, submit a	decision or proposal for a decision,
	complaint for review. Such a	submit a complaint for review. Such
	complaint shall not have suspensive	a complaint shall not have suspensive
	effect.	effect.
841.		4. Member States shall create
	appropriate and efficient mechanisms	appropriate and efficient mechanisms
	for regulation, control and	for regulation, control and
	transparency so as to avoid any abuse	transparency so as to avoid any abuse
	of a dominant position, in particular to	of a dominant position, in particular
	the detriment of consumers, and any	to the detriment of consumers, and
	predatory behaviour. Those	any predatory behaviour. Those
	mechanisms shall take account of the	mechanisms shall take account of the
	provisions of the Treaty, and in	provisions of the Treaty, and in
	particular Article 102 thereof.	particular Article 102 thereof.
842.		5. Member States shall ensure
	the appropriate measures are taken,	that the appropriate measures are
	including administrative action or	taken, including administrative action
	criminal proceedings in conformity	or criminal proceedings in
	with their national law, against the	conformity with their national law,
	natural or legal persons responsible	against the natural or legal persons
	where confidentiality rules imposed by	responsible where confidentiality
	this Directive have not been respected.	rules imposed by this Directive have
		not been respected.

843.	6. Complaints referred to in	6. Complaints referred to in
	paragraphs 2 and 3 shall be without	paragraphs 2 and 3 shall be without
	prejudice to the exercise of rights of	prejudice to the exercise of rights of
	appeal under Union or national law.	appeal under Union or national law.
844.	7. Decisions taken by regulatory	7. Decisions taken by regulatory
	authorities shall be fully reasoned and	authorities shall be fully reasoned
	justified to allow for judicial review.	and justified to allow for judicial
	The decisions shall be available to the	review. The decisions shall be
	public while preserving the	available to the public while
	confidentiality of commercially	preserving the confidentiality of
	sensitive information.	commercially sensitive information.
845.		8. Member States shall ensure
	suitable mechanisms exist at national	that suitable mechanisms exist at
	level under which a party affected by a	national level under which a party
	decision of a regulatory authority has a	affected by a decision of a regulatory
	right of appeal to a body independent	authority has a right of appeal to a
	of the parties involved and of any	body independent of the parties
	government.	involved and of any government.
846.		Article 61
		Regional cooperation between regulators on cross-border issues
847.	1. Regulatory authorities shall	1. Regulatory authorities shall
	alacate consult and acomousts with	1 1 1, 1 , 1
	closely consult and cooperate with	closely consult and cooperate with
	each other, in particular within the	each other, in particular within the
	each other, in particular within the Agency, and shall provide each other	each other, in particular within the Agency, and shall provide each other
	each other, in particular within the Agency, and shall provide each other and the Agency with any information	each other, in particular within the Agency, and shall provide each other and the Agency with any information
	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their
	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect
	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the
	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the
	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that
0.10	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.
848.	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.  2. Regulatory authorities shall	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.  2. Regulatory authorities shall
848.	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.	each other, in particular within the Agency, and shall provide each other and the Agency with any information necessary for the fulfilment of their tasks under this Directive. In respect of the information exchanged, the receiving authority shall ensure the same level of confidentiality as that required of the originating authority.

849.	(a) foster the creation of operational	(a) fost	ter the creation of
	arrangements in order to enable an	operationa	al arrangements in order to
	optimal management of the network,	enable an	optimal management of the
	promote joint electricity exchanges	network,	promote joint electricity
	and the allocation of cross-border	exchanges	s and the allocation of
	capacity, and to enable an adequate	cross-boro	der capacity, and to enable
	level of interconnection capacity,	an adequa	ate level of interconnection
	including through new	capacity, i	including through new
	interconnection, within the region and	interconne	ection, within the region
	between regions to allow for	and between	een regions to allow for
	development of effective competition	developm	ent of effective competition
	and improvement of security of	and impro	ovement of security of
	supply, without discriminating	supply, w	ithout discriminating
	between supply undertakings in	between s	supply undertakings in
	different Member States;	different I	Member States;
<b>850.</b>	(b) coordinate the joint oversight of	(b) coo	ordinate the joint oversight
	entities performing functions at	of entities	performing functions at
	regional level;	regional le	
851.	(c) coordinate, in cooperation with	(c) coo	ordinate, in cooperation with
	other involved authorities, the joint	other invo	olved authorities, the joint
	oversight of national, regional and	oversight	of national, regional and
	European-wide adequacy assessments;	European-	-wide adequacy
		assessmer	nts;
852.	(d) coordinate the development of	(d) coo	ordinate the development of
	all network codes and Guidelines for	all networ	k codes and Guidelines for
	the relevant transmission system	the releva	nt transmission system
	operators and other market actors; and	operators	and other market actors;
		and	
853.	· ·		ordinate the development of
	the rules governing the management of		governing the management
	congestion.	of conges	tion.
854.			tional regulatory authorities
	shall have the right to enter into		the right to enter into
	cooperative arrangements with each		ve arrangements with each
	other to foster regulatory cooperation.	other to fo	oster regulatory
		cooperation	

855.	4. The actions referred to in		4. The actions referred to in	
	paragraph 2 shall be carried out, as		paragraph 2 shall be carried out, as	
	appropriate, in close consultation with		appropriate, in close consultation	
	other relevant national authorities and		with other relevant national	
	without prejudice to their specific		authorities and without prejudice to	
	competencies.		their specific competencies.	
856.	5. The Commission is empowered		5. The Commission is	
	to adopt delegated acts in accordance		empowered to adopt []	
	with Article 67 to establish guidelines		implementing acts in accordance	
	on the extent of the duties of the		with Article [] 68 to establish	
	regulatory authorities to cooperate		guidelines on the extent of the duties	
	with each other and with the Agency.		of the regulatory authorities to	
			cooperate with each other and with	
			the Agency.	
857.		Article	e 62	
	Duties a	nd powers of regulatory authorities with	h respect to [] Regional Security Coordi	nators
858.		AM 167		
		Article 62 – title		
		Duties and powers of regulatory		
		authorities with respect to regional		
		coordination centres		
859.	1. The regional regulatory	AM 168	1. The regional regulatory	
	authorities of the geographical area	1. The regional regulatory	authorities of the [] system	
	where a regional operational centre is	authorities of the geographical area	operation region where a Regional	
	established shall, in close coordination	where a regional <i>coordination</i> centre	Security Coordinators is	
	with each other:	is established shall, in close	established shall, in close	
		coordination with each other:	coordination with each other:	

860.	(a) approve the statutes and rules of	AM 169	(a)approve the [] proposal for the	
	procedure;	(a) approve the <i>proposal for the</i>	establishment of Regional Security	
		establishment of regional	Coordinators in accordance with	
		coordination centres in accordance	Article 32(1) of Regulation (EU);	
		with Article 32(1) of Regulation		
		(EU) [recast of Regulation		
		714/2009 as proposed by COM		
		(2016) 861/2];		
861.	(b) approve the annual budget;		(b)[]	
862.	(c) approve the cooperative	AM 170	(c) approve the cooperative	
	decision-making process;	(c) approve the cooperative	decision-making process;	
		processes;		
863.	(d) assess if the regional operational	AM 171	(d)[] proposing jointly with other	
	centre has the appropriate	(d) <i>ensure that</i> if the regional	regulatory authorities of a system	
	competences, resources and	coordination centre has the	operation region about possible	
	impartiality to carry out independently	appropriate competences, resources	additional tasks and additional	
	the functions and tasks assigned to it,	and impartiality to carry out	decision-making powers to be	
	including security, liability and	independently the functions and tasks	assigned to the Regional Security	
	contingency arrangements;	assigned to it, including security,	<b>Coordinators by the Member</b>	
		liability and contingency	States of the system operation	
		arrangements;	region [];	
864.	(e) ensure its compliance with the		(e) ensure its compliance with the	
	obligations under this Directive and		obligations under this Directive and	
	other relevant Union legislation,		other relevant Union legislation,	
	notably as regards cross-border issues;		notably as regards cross-border	
0.65			issues;	
865.	(f) monitor the performance of their		(f)monitor the performance of []	
	functions and report annually to the		system coordination and report	
	Agency in this respect.		annually to the Agency in this	
			respect.	

866.	2. Member States shall ensure that		2. Member States shall ensure	
	regulatory authorities are granted the		that regulatory authorities are granted	
	powers enabling them to carry out the		the powers enabling them to carry	
	duties referred to in paragraph 1 in an		out the duties referred to in paragraph	
	efficient and expeditious manner. For		1 in an efficient and expeditious	
	this purpose, the regulatory authorities		manner. For this purpose, the	
	shall have at least the following		regulatory authorities shall have at	
	powers:		least the following powers:	
867.	(a) to request information from	AM 172	(a) to request information from	
	regional operational centres;	(a) to request information from	Regional [] Security Coordinators;	
		regional <i>coordination</i> centres;		
868.	(b) to carry out inspections,	AM 173	(b) to carry out inspections,	
	including unannounced inspections, at	(b) to carry out inspections,	including unannounced inspections,	
	the premises of regional operational	including unannounced inspections,	at the premises of [] Regional	
	centres;	at the premises of regional	Security Coordinators;	
		coordination centres;		
869.	(c) to issue joint binding decisions	AM 174	(c) to issue joint binding decisions	
	on regional operational centres.	(c) to issue joint binding decisions	relevant for the improvement of	
		on regional <i>coordination</i> centres.	coordination on [] Regional	
			Security Coordinators.	
870.		AM 175		
		(ca) (new) to handle complaints		
		against regional coordination		
		centres in relation to their		
		obligations under Union law.		
871.		AM 176		
		(cb) (new) Regulatory authorities		
		shall cooperate and consult with		
		each other and with the Agency, and		
		shall provide each other and the		
		Agency with any information		
		necessary for the fulfilment of their		
		tasks under this Article.		

872.	Article 63		
		Compliance with the network codes and guidelines	
873.	1. Any regulatory authority and the	1. Any regulatory authors	ority and
	Commission may request the opinion	the Commission may reque	est the
	of the Agency on the compliance of a	opinion of the Agency on t	he
	decision taken by a regulatory	compliance of a decision ta	iken by a
	authority with the network codes and	regulatory authority with the	ne network
	guidelines referred to in this Directive	codes and guidelines referr	ed to in
	or in Chapter VII of [recast of	this Directive or in Chapter	r VII of
	Regulation 714/2009 as proposed by	[recast of Regulation 714/2	2009 as
	COM(2016)861/2].	proposed by COM(2016)86	51/2].
874.	2. The Agency shall provide its	2. The Agency shall pr	ovide its
	opinion to the regulatory authority	opinion to the regulatory at	uthority
	which has requested it or to the	which has requested it or to	o the
	Commission, respectively, and to the	Commission, respectively,	and to the
	regulatory authority which has taken	regulatory authority which	has taken
	the decision in question within three	the decision in question wi	thin three
	months from the date of receipt of the	months from the date of red	ceipt of
	request.	the request.	
875.	3. Where the regulatory authority	3. Where the regulatory	y authority
	which has taken the decision does not	which has taken the decision	on does not
	comply with the Agency's opinion	comply with the Agency's	opinion
	within four months from the date of	within four months from the	e date of
	receipt of that opinion, the Agency	receipt of that opinion, the	Agency
	shall inform the Commission	shall inform the Commission	on
	accordingly.	accordingly.	

876.	4. Any regulatory authority may	4. Any regulatory authority may	
	inform the Commission where it	inform the Commission where it	
	considers that a decision relevant for	considers that a decision relevant for	
	cross-border trade taken by another	cross-border trade taken by another	
	regulatory authority does not comply	regulatory authority does not comply	
	with the network codes and guidelines	with the network codes and	
	referred to in this Directive or in	guidelines referred to in this	
	Chapter VII of [recast of Regulation	Directive or in Chapter VII of [recast	
	714/2009 as proposed by	of Regulation 714/2009 as proposed	
	COM(2016)861/2] within two months	by COM(2016)861/2] within two	
	from the date of that decision.	months from the date of that	
		decision.	
877.	5. Where the Commission, within	5. Where the Commission, within	
	two months after having been	two months after having been	
	informed by the Agency in accordance	informed by the Agency in	
	with paragraph 3, or by a regulatory	accordance with paragraph 3, or by a	
	authority in accordance with	regulatory authority in accordance	
	paragraph 4, or on its own initiative,	with paragraph 4, or on its own	
	within three months from the date of	initiative, within three months from	
	the decision, finds that the decision of	the date of the decision, finds that the	
	a regulatory authority raises serious	decision of a regulatory authority	
	doubts as to its compatibility with the	raises serious doubts as to its	
	network codes and guidelines referred	compatibility with the network codes	
	to in this Directive or in Chapter VII of	and guidelines referred to in this	
	[recast of Regulation 714/2009 as	Directive or in Chapter VII of [recast	
	proposed by COM(2016)861/2], the	of Regulation 714/2009 as proposed	
	Commission may decide to examine	by COM(2016)861/2], the	
	the case further. In such a case, it shall	Commission may decide to examine	
	invite the regulatory authority and the	the case further. In such a case, it	
	parties to the proceedings before the	shall invite the regulatory authority	
	regulatory authority to submit	and the parties to the proceedings	
	observations.	before the regulatory authority to	
		submit observations.	

878.	6. Where the Commission takes a	6. Where the Commission takes a	
	decision to examine the case further, it	decision to examine the case further,	
	shall, within four months of the date of	it shall, within four months of the	
	such decision, issue a final decision:	date of such decision, issue a final	
		decision:	
879.	(a) not to raise objections against	(a) not to raise objections against	
	the decision of the regulatory	the decision of the regulatory	
	authority; or	authority; or	
880.	(b) to require the regulatory	(b) to require the regulatory	
	authority concerned to withdraw its	authority concerned to withdraw its	
	decision on the basis that the the	decision on the basis that the network	
	network codes and guidelines have not	codes and guidelines have not been	
	been complied with.	complied with.	
881.	7. Where the Commission has not	7. Where the Commission has	
	taken a decision to examine the case	not taken a decision to examine the	
	further or a final decision within the	case further or a final decision within	
	time-limits set in paragraphs 5 and 6	the time-limits set in paragraphs 5	
	respectively, it shall be deemed not to	and 6 respectively, it shall be deemed	
	have raised objections to the decision	not to have raised objections to the	
	of the regulatory authority.	decision of the regulatory authority.	
882.	8. The regulatory authority shall	8. The regulatory authority shall	
	comply with the Commission decision	comply with the Commission	
	to withdraw their decision within a	decision to withdraw their decision	
	period of two months and shall inform	within a period of two months and	
	the Commission accordingly.	shall inform the Commission	
		accordingly.	
883.	9. The Commission is empowered	9. The Commission is	
	to adopt delegated acts in accordance	empowered to adopt []	
	with Article 67 to establish guidelines	implementing acts in accordance	
	setting out the details of the procedure	with Article [] 68 to establish	
	to be followed for the application of	guidelines setting out the details of	
	this Article.	the procedure to be followed for the	
		application of this Article.	

884.	Article 64		
		Record keeping	
885.	1. Member States shall require	1. Member States shall require	
	supply undertakings to keep at the	supply undertakings to keep at the	
	disposal of the national authorities,	disposal of the national authorities,	
	including the national regulatory	including the ☐ regulatory authority,	
	authority, the national competition	the national competition authorities	
	authorities and the Commission, for	and the Commission, for the	
	the fulfilment of their tasks, for at least	fulfilment of their tasks, for at least	
	five years, the relevant data relating to	five years, the relevant data relating	
	all transactions in electricity supply	to all transactions in electricity	
	contracts and electricity derivatives	supply contracts and electricity	
	with wholesale customers and	derivatives with wholesale customers	
	transmission system operators	and transmission system operators.	
886.	2. The data shall include details on	2. The data shall include details	
	the characteristics of the relevant	on the characteristics of the relevant	
	transactions such as duration, delivery	transactions such as duration,	
	and settlement rules, the quantity, the	delivery and settlement rules, the	
	dates and times of execution and the	quantity, the dates and times of	
	transaction prices and means of	execution and the transaction prices	
	identifying the wholesale customer	and means of identifying the	
	concerned, as well as specified details	wholesale customer concerned, as	
	of all unsettled electricity supply	well as specified details of all	
	contracts and electricity derivatives.	unsettled electricity supply contracts	
		and electricity derivatives.	
887.		3. The regulatory authority may	
	decide to make available to market	decide to make available to market	
	participants elements of that	participants elements of that	
	information provided that	information provided that	
	commercially sensitive information on	commercially sensitive information	
	individual market players or individual	on individual market players or	
	transactions is not released. This	individual transactions is not	
	paragraph shall not apply to	released. This paragraph shall not	
	information about financial	apply to information about financial	
	instruments which fall within the scope	instruments which fall within the	
	of Directive 2004/39/EC.	scope of Directive 2004/39/EC.	

888.	4. The provisions of this Article	4. The provisions of this Article	
	shall not create additional obligations	shall not create additional obligations	
	towards the authorities referred to in	towards the authorities referred to in	
	paragraph 1 for entities falling within	paragraph 1 for entities falling within	
	the scope of Directive 2004/39/EC.	the scope of Directive 2004/39/EC.	
889.	5. In the event that the authorities	5. In the event that the authorities	
	referred to in paragraph 1 need access	referred to in paragraph 1 need	
	to data kept by entities falling within	access to data kept by entities falling	
	the scope of Directive 2004/39/EC, the	within the scope of Directive	
	authorities responsible under that	2004/39/EC, the authorities	
	Directive shall provide them with the	responsible under that Directive shall	
	required data.	provide them with the required data.	
890.		CHAPTER VIII	
		FINAL PROVISIONS	
891.	Article 65		
	Level playing field		
892.	1. Measures that the Member	1. Measures that the Member	
	States may take pursuant to this	States may take pursuant to this	
	Directive in order to ensure a level	Directive in order to ensure a level	
	playing field shall be compatible with	playing field shall be compatible	
	the Treaty, notably Article 36 thereof,	with the Treaty, notably Article 36	
	and with Union law.	thereof, and with Union law.	
893.	2. The measures referred to in	2. The measures referred to in	
	paragraph 1 shall be proportionate,	paragraph 1 shall be proportionate,	
	non-discriminatory and transparent.	non-discriminatory and transparent.	
	Those measures may be put into effect	Those measures may be put into	
		00 . 1 0.11 . 1 . 10" . 1	
	only following the notification to and	effect only following the notification	

894.	3. The Commission shall act on the	3. The Commission shall act on
	notification referred to in paragraph 2	the notification referred to in
	within two months of the receipt of the	paragraph 2 within two months of the
	notification. That period shall begin on	receipt of the notification. That
	the day following receipt of the	period shall begin on the day
	complete information. In the event that	following receipt of the complete
	the Commission has not acted within	information. In the event that the
	that two-month period, it shall be	Commission has not acted within that
	deemed not to have raised objections	two-month period, it shall be deemed
	to the notified measures.	not to have raised objections to the
		notified measures.
895.		Article 66
		Derogations
896.	1. Member States which can	1. Member States which can
	demonstrate that there are substantial	demonstrate that there are substantial
	problems for the operation of their	problems for the operation of their
	small isolated systems, may apply for	small [] connected systems and
	derogations from the relevant	small isolated systems, may apply
	provisions of Chapters IV, V and VI as	for derogations from the relevant
	well as articles 4, 6, 7 and 8. The	provisions of Chapters IV, V and VI
	Commission shall inform the Member	as well as articles [] 7 and 8; small
	States of those applications before	isolated systems may also apply for
	taking a decision, taking into account	a derogation from articles 4, 5 and
	respect for confidentiality. That	<b>6.</b> The Commission shall inform the
	decision shall be published in the	Member States of those applications
	Official Journal of the European	before taking a decision, taking into
	Union.	account respect for confidentiality.
		For small connected systems and
		small isolated systems, the
		derogation shall be limited in time
		and subject to conditions aiming at
		increased competition and
		integration with the internal
		market and ensuring that they do
		not hamper the transition towards

		renewable energies. For outermost regions within the meaning of Article 349 of TFEU, that cannot be interconnected with the European energy market, the derogation shall not be limited in time and shall be subject to conditions aimed at ensuring that the derogation does not hamper the transition towards renewable energies. That decision shall be	
		published in the Official Journal of	
005	2	the European Union.	
897.	2. Article 43 shall not apply to Cyprus and Malta. In addition,	2. Article 43 shall not apply to Cyprus, <b>Luxembourg</b> and Malta. In	
	Articles 6 and 35 shall not apply to	addition, Articles 6 and 35 shall not	
	Malta.	apply to Malta and Articles 44, 45,	
		46, 47, 48, 49, 50 and 52 shall not	
		apply to Cyprus.	
898.		For the purposes of Article 43 (1)(b),	
	the notion 'undertaking performing	the notion 'undertaking performing	
	any of the functions of generation or	any of the functions of generation or	
	supply' shall not include final	supply' shall not include final	
	customers who perform any of the	customers who perform any of the	
	functions of generation and/or supply	functions of generation and/or supply	
	of electricity, either directly or via	of electricity, either directly or via	
	undertakings over which they exercise	undertakings over which they	
	control, either individually or jointly,	exercise control, either individually	
	provided that the final customers	or jointly, provided that the final	
	including their shares of the electricity	customers including their shares of	
	produced in controlled undertakings	the electricity produced in controlled	
	are, on an annual average, net	undertakings are, on an annual	
	consumers of electricity and provided	average, net consumers of electricity	
	that the economic value of the	and provided that the economic value	
	electricity they sell to third parties is	of the electricity they sell to third	

	insignificant in proportion to their	parties is insignificant in proportion
	other business operations.	to their other business operations.
899.	•	2a. Until 1 January 2025 or a
		later date set out in a decision
		pursuant to paragraph 1, Article 5
		shall not apply to Cyprus.
900.		2b. Article 4 shall not apply to
		Malta for a period of eight years
		from the entry into force of this
		Directive, which may be extended
		for a further additional period, not
		exceeding eight years. The
		extension for a further additional
		period shall be made pursuant to a
		decision referred to in paragraph
		1.
901.		[2c. In respect of interconnectors
		to and from third countries
		completed before [PO: date of
		entry into force of this Directive],
		Member States may decide to
		derogate from Articles 43, 52, 53,
		59(6), 59(8) and 60(1) for the
		sections of such interconnectors
		between the border of Union
		territorial jurisdiction and the first
		interconnection point, if and to the
		extent that in the absence of such
		derogation the owner of the
		interconnector would not be able
		to recover the residual value of the
		investment or if and to the extent
		that the derogation is required for
		reasons of security of electricity
		supply of a Member State directly

	linked to the need to continue the
	implementation of a cross-border
	regulatory arrangement governing
	the technical operation of the
	interconnector or the stability of
	the electricity systems, and
	provided that the derogation would
	not be detrimental to competition
	on or the effective functioning of
	the internal market in electricity in
	the Union, or the security of supply
	in the Union.]
902.	[2d. The derogation shall be
	limited up to the end of the period
	of recovery of the residual value of
	the investment or up to the end of
	the existing cross-border
	regulatory arrangement breach of
	which would pose a serious risk to
	the security of supply in the
	Member State and may be subject
	to conditions which contribute to
	the achievement of the above
	conditions. Where the
	interconnector in question is
	located in the territorial
	jurisdiction of more than one
	Member State, the Member State
	in the territorial jurisdiction of
	which the first interconnection
	point is located shall decide on a
	derogation for the interconnector.
	Member States shall publish any
	decision on a derogation in
	accordance with this paragraph

			within one year after the entry into	
			force of this Directive.]	
903.			[2e. Paragraph 2c and 2d is not	
			applicable to interconnectors	
			completed before [PO: date of	
			entry into force of this Directive] to	
			and from third countries which	
			apply Article 59 of the [recast	
			<b>Electricity Regulation.</b> ]	
904.			[2f. As regards interconnectors	
			referred to in paragraph 2e,	
			Member States may apply for	
			exemptions pursuant to Article 59	
			of the [recast Electricity	
			Regulation]]	
905.		Article	e 67	
		<u> </u>		
906.	1. The power to adopt delegated			
	acts is conferred on the Commission			
	subject to the conditions laid down in			
	this Article.			
907.	2. The power to adopt delegated			
	acts referred to in Article 61 and			
	Article 63 shall be conferred on the			
	Commission for an undetermined			
	period of time from the (OP: please			
	insert the date of entry into force).			

908.	3. The delegation of power	0	
700.	referred to in Article 61 and 63 may be	п	
	revoked at any time by the European		
	Parliament or by the Council. A		
	decision to revoke shall put an end to		
	the delegation of power specified in		
	that decision. It shall take effect the		
	day following the publication of the		
	decision in the Official Journal of the		
	European Union or at a later date		
	specified therein. It shall not affect the		
	validity of any delegated act already in		
	force.		
909.	4. Before adopting a delegated act,		
	the Commission shall consult experts		
	designated by each Member State in		
	accordance with the principles laid		
	down in the Interinstitutional		
	Agreement on Better Law-Making of		
	13 April 2016.		
910.	5. As soon as it adopts a delegated		
	act, the Commission shall notify it		
	simultaneously to the European		
	Parliament and to the Council.		
911.	A delegated act adopted pursuant to		
	Article 61 and 63 shall enter into force	_	
	only if no objection has been		
	expressed either by the European		
	Parliament or by the Council within a		
	period of two months of notification of		
	that act to the European Parliament		
	and the Council or if, before the expiry		
	of that period, the European		
	Parliament and the Council have both		
	informed the Commission that they		

	will not object. That period shall be			
	extended by two months at the			
	initiative of the European Parliament			
	or of the Council.			
912.		Articl		
		Committee		
913.	1. The Commission shall be		1. The Commission shall be	
	assisted by a committee. That		assisted by a committee. That	
	committee shall be a committee within		committee shall be a committee	
	the meaning of Regulation (EU)		within the meaning of Regulation	
	No 182/2011.		(EU) No 182/2011.	
914.	2. Where reference is made to this		2. Where reference is made to	
	paragraph, Article 4 of Regulation		this paragraph, Article [] 5 of	
	(EU) No 182/2011 shall apply.		Regulation (EU) No 182/2011 shall	
			apply.	
915.		Article	e 69	
		Repor	rting	
916.	The Commission shall monitor and		The Commission shall monitor and	
	review the application of this Directive		review the application of this	
	and submit an overall progress report		Directive and submit an overall	
	to the European Parliament and the		progress report to the European	
	Council as an annex to the State of the		Parliament and the Council as an	
	Energy Union Report referred to in		annex to the State of the Energy	
	[Article 29 of Governance Regulation		Union Report referred to in [Article	
	as proposed by COM (2016) 549.		29 of Governance Regulation as	
			proposed by COM (2016) 549.	

917.		AM 177		
		Article 69a (new)		
		Review		
		By 1 June 2025, the Commission		
		shall review and submit a report on		
		the implementation of this Directive,		
		together with a legislative proposal		
		if appropriate, to the European		
		Parliament and to the Council.		
918.		The review shall in particular assess		
		whether customers, especially those		
		who are vulnerable or in energy		
		poverty, are adequately protected		
		under the provisions of this		
		Directive.		
919.		Articl	e 70	
		Transpo	osition	
920.	1. Member States shall bring into		1. Member States shall bring into	
	force the laws, regulations and		force the laws, regulations and	
	administrative provisions necessary to		administrative provisions necessary	
	comply with Articles 2, 3, 5, 6(2),		to comply with Articles 2, 3, 5, 6(2),	
	9(2), 10(2), 11 to 24, 26, 29, 31 to 34,		9(2), 10(2), 11 to 24, 26, 29, 31 to	
	36, 38(5), 40 42, 51, 54, 57 to 59, 61 to		34, 36, 38(5), 40 42, 51, 54, 57 to 59,	
	63 and Annexes I to III by [12 months		61 to 63 and Annexes I to III by [ []	
	from entry into force]. They shall		<b>18</b> months from entry into force].	
	immediately communicate the text of		They shall immediately	
	those provisions to the Commission.		communicate the text of those	
			provisions to the Commission .	
921.	3 11 3		They shall apply those measures	
	[12 months from entry into force with		from [] 18 months from entry into	
	the exception of Article 5(3) which		force with the exception of Article	
	they shall apply from [date of entry		5(3) which they shall apply <b>after 6</b>	
	into force].		months from [date of entry into	
			force].	

922.	When Member States adopt those	When Member States adopt those
	measures, they shall contain a	measures, they shall contain a
	reference to this Directive or be	reference to this Directive or be
	accompanied by such a reference on	accompanied by such a reference on
	the occasion of their official	the occasion of their official
	publication. They shall also include a	publication. They shall also include a
	statement that references in existing	statement that references in existing
	laws, regulations and administrative	laws, regulations and administrative
	provisions to the Directive repealed by	provisions to the Directive repealed
	this Directive shall be construed as	by this Directive shall be construed
	references to this Directive. Member	as references to this Directive.
	States shall determine how such	Member States shall determine how
	reference is to be made and how that	such reference is to be made and how
	statement is to be formulated.	that statement is to be formulated.
923.	2. Member States shall	2. Member States shall
	communicate to the Commission the	communicate to the Commission the
	text of the main provisions of national	text of the main provisions of
	law which they adopt in the field	national law which they adopt in the
	covered by this Directive.	field covered by this Directive.
924.		Article 71
		Repeal
925.	Directive 2009/72/EC is repealed with	Directive 2009/72/EC is repealed
	effect from [12 months from entry into	with effect from [ [] 18 months from
	force], without prejudice to the	entry into force], without prejudice to
	obligations of Member States relating	the obligations of Member States
	to the time-limits for the transposition	relating to the time-limits for the
	into national law and the dates of	transposition into national law and
	application of the Directive set out in	the dates of application of the
	Annex IV.	Directive set out in Annex IV.
926.	References to the repealed Directive	References to the repealed Directive
	shall be construed as references to this	shall be construed as references to
	Directive and shall be read in	this Directive and shall be read in
	accordance with the correlation table	accordance with the correlation table
	set out in Annex V.	set out in Annex V.
1		

027			A41 . 771	
927.			Article 71a	
000			General Revision of the Directive	
928.			The Directive shall be subject to a	
			general revision not later than by	
			the end of 2025.	
929.		Article		
		Entry int		
930.	This Directive shall enter into force on		This Directive shall enter into force	
	the twentieth day following that of its		on the twentieth day following that	
	publication in the Official Journal of		of its publication in the Official	
	the European Union.		Journal of the European Union.	
931.		Article	e 73	
		Addres	ssees	
932.	This Directive is addressed to the		This Directive is addressed to the	
	Member States.		Member States.	
	Done at Brussels,		Done at Brussels,	
	For the European Parliament		For the European Parliament	
	The President		The President	
	For the Council		For the Council	
	The President		The President	
933.		ANNE	XES	
934.		ANNI	EX I	
		П		
935.	The tools established in accordance			
	with Article 14 shall:		_	
936.	(a) be operationally independent and	AM 178	(a) []	Accept in part
	ensure that suppliers are given equal	(a) be independent <i>from all</i>		(included in Article 14 para.1(a))
	treatment in search results;	market players and ensure that all		r
	,	suppliers are given equal treatment in		
		search results;		

937.	(b) clearly disclose their owners and the natural or legal person operating the tool;	AM 179 (b) clearly disclose their owners and the natural or legal person operating the tool <i>as well as</i>	(b) []	Accept (included in Article 14 para.1(b)
938.	(c) set out clear, objective criteria on	information on how the tools are financed; AM 180	(c) []	Accept in part
	which the comparison will be based;	(c) set out clear, objective criteria on which the comparison will be based, <i>displaying included services</i> ;	(c) []	(included in Article 14 para.1(c)
939.		AM 181 (ca) (new) rank and display the search results according to an impartial algorithm independent from any remuneration from suppliers;		Accept in part (included in Article 14 para.1(a)
940.	(d) use plain and unambiguous language;		(d) []	
941.		AM 182 (da) (new) be accessible for persons with disabilities;		Maintain Council GA
942.		AM 183  (f) include an as complete a range of energy offers, including information on energy sources, and provide transparency of various offers covering both dynamic and non-dynamic tariffs, individual and bundled contracts, from suppliers, aggregators and service providers, and, where the information presented is not a complete overview of the market, a clear statement to that effect, before displaying results; and		Maintain Council GA

943.	(e) provide accurate and up-to-date		(e) []	
	information and state the time of the			
0.11	last update;		(2)	
944.			(f) []	
	electricity offers as practicable			
	covering a significant part of the			
	market and, where the information			
	presented is not a complete overview			
	of the market, a clear statement to that			
	effect, before displaying results; and			
945.	(g) provide an effective procedure to		(g) []	
	report incorrect information on			
	published offers.			
946.		AM 184		Maintain Council GA
		(ga) (new) allow consumers to		
		perform comparisons without		
		having to submit personal		
		information.		
947.		ANNE		
		IMUM REQUIREMENTS FOR BIL	LING AND BILLING INFORMATION	
948.	1. Minimum information contained in		1. Minimum information contained	1. Minimum information
	the bill		in the bill	contained in the bill and in the
				billing information
949.	The following information shall be	AM 185	The following information shall be	Accept in part:
	prominently displayed to final	The following <i>key</i> information shall	prominently displayed to final	The following <i>key</i> information shall
	customers in their bills and periodical	be prominently displayed to final	customers in their bills and [] billing	be prominently displayed to final
	settlement bills:	customers in their bills and periodical	information:	customers in their bills and billing
		settlement bills, distinctly apart from		information, distinctly apart from
		other parts of the bill:		other parts of the bill and billing
				information:

<b>950.</b>	(a) the price to pay; and, where	AM 186	(a) the price to pay; and, where	Maintain Council GA
	possible, the breakdown of price;	(a) the price to pay <i>and</i> , <i>where</i>	possible, [] a breakdown of the price;	
		relevant, the final price per kWh;		
		and, where possible, the breakdown		
		of price;		
951.		AM 187		Accept
		(aa) (new) when the payment is due;		_
952.	(b) electricity consumption for the	-	(b) electricity consumption for the	
	billing period;		billing period;	
953.	(c) the name of the supplier;		(c) the name [] and the contact	Accept AM 188 in part:
	* *		details of the supplier including a	(c) the name and the contact
			consumer support hotline;	details of the supplier including a
			,	consumer support hotline and
				email address;
954.	(d) the contact details of the	AM 188	(d) []	See indent (c) above)
	supplier including a consumer support	(d) the contact details of the	-	, , ,
	hotline;	supplier with at least the phone		
		number and email address;		
955.		AM 189		Accept
		(da) (new) the information on		
		switching and dispute settlement;		
956.	(e) the tariff name;	•	(e) the tariff name;	
957.	(f) the duration of the contract; the		(f) [] the <b>end</b> date of [] the	
	date of end of the contract and the		contract, if applicable; []	
	deadline for sending an advance notice			
	of cancelation if the consumer			
	considers switching at the end of the			
	current fixed contract, while for			
	contracts of indeterminate duration:			
	the length of the advance notice period			
	and the methods of communication on			
	this choice.			
958.	(g) the customer's switching code or		(g) the customer's switching code	
	unique identification code for their		or unique identification code for their	

	supply point;		supply point;	
959.		AM 190 (ga) (new) a link or reference to where price comparison site(s) can be found;		Accept
960.	(h) information on their rights as regards the means of dispute settlement available to them in the event of a dispute pursuant to Article 26.	AM 191  (h) contact details of the entity responsible for dispute settlement;	(h) the contact details of the entity responsible for [] dispute settlement [] pursuant to Article 26.	Accept in part:  (h) the contact details of the entity responsible for dispute settlement pursuant to Article 26.
961.		AM 192 (ha) (new) the single point of contact referred to in Article 25.		Accept
962.	Where appropriate, the following information shall be prominently displayed to final customers in or with their bills and periodical settlement bills:	AM 193 The following information shall be displayed to final customers in or with their bills and periodical settlement bills:	Where appropriate, the following information shall be [] made available to final customers in, [] with or signposted to within their bills and periodical settlement bills:	Accept in part (based on Annex VIIa point 3 of the revised EED):  Where bills are based on actual consumption or remote reading by the operator, the following information shall be made available to final customers in, with or signposted to within their bills and periodical settlement bills:
963.	(a) current actual prices and actual consumption of electricity;		(a) []	
964.	(b) comparisons of the customers' current electricity consumption with consumption for the same period in the previous year in graphic form;		(b) comparisons of the customers' current electricity consumption with consumption for the same period in the previous year in graphic form;	
965.	(c) contact information for consumer organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative		(c) contact information for consumer organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures[] for energy-	

	end-user profiles and objective		using equipment;	
	technical specifications for energy-			
	using equipment.			
966.		AM 194	(ca) [] comparisons with an average	Accept
		(ca) information on their rights as	normalised or benchmarked customer	
		regards the means of dispute	in the same user category [];	
		settlement available to them in the		
		event of a dispute pursuant to		
		Article 26.		
967.			(cb) information on their rights as	
			regards the means of dispute	
			settlement available to them in the	
			event of a dispute pursuant to	
			Article 26.	
968.	In addition, comparisons with an	AM 195		Maintain Council GA
	average normalised or benchmarked	In addition, comparisons with an		(covered in Council text, see indent
	customer in the same user category	average normalised or benchmarked		(ca) above)
	shall be made available to final	customer in the same user category		
	customers in, with or signposted to	shall be made available to final		
	within, their bills and periodical	customers.		
	settlement bills.			
969.			1a. Frequency of billing and the	
			provision of billing information:	

970.	(a) billing shall take place on the
	basis of actual consumption at least
	once a year;
971.	(b) where final customers do not
	have meters that allow remote
	reading by the operator, or where
	the final customers have actively
	chosen to disable remote reading in
	accordance with provisions under
	national law accurate billing
	information based on actual
	consumption shall be made
	available to final customers at least
	every six months, or once every
	three months on request or where
	the final customer has opted to
	receive electronic billing;
972.	(c) where final customers do not
	have meters that allow remote
	reading by the operator, or where
	the final customers have actively
	chosen to disable remote reading in
	accordance with provisions under
	national law, the obligations in
	subparagraphs (a) and (b) may be
	fulfilled by a system of regular self-
	reading by the final customers,
	whereby they communicate
	readings from their meter to the
	supplier. Only when the final
	customer has not provided a meter
	reading for a given billing interval
	billing or billing information may
	be based on estimated consumption
	or a flat rate;

973.			(d) where final customers have meters that allow remote reading by the operator, accurate billing information based on actual consumption shall be provided at least every three months, or once every month on request or where	
			the final customer has opted to receive electronic billing.	
974.	2. Breakdown of the customers'		Breakdown of the customers' price	
975.	The customers' price is the sum of the following three main components: the energy and supply component, the network component (transmission and distribution) and the component comprising taxes, levies, fees and charges	AM 196 The customers' price is the sum of the following three main components: the energy and supply component, the network component (transmission and distribution) and the component comprising taxes, levies, <i>all subsidies</i> , fees and charges.	The customers' price is the sum of the following three main components: the energy and supply component, the network component (transmission and distribution) and the component comprising taxes, levies, fees and charges.	Maintain Council GA
976.	Where a breakdown of the customers' price is presented in bills, the common definitions of the three main components in this breakdown established under Regulation (EU) 2016/1952 shall be used throughout the Union.		Where a breakdown of the customers' price is presented in bills, the common definitions of the three main components in this breakdown established under Regulation (EU) 2016/1952 shall be used throughout the Union.	
977.	3. Access to complementary information on historical consumption		3. Access to complementary information on historical consumption	

978.			Member States shall require that,	
			to the extent that complementary	
			information on historical	
			consumption is available, it is made	
			available, at the request of the final	
			customer, to a supplier or service	
			provider designated by the	
			consumer.	
979.	Where final customers have meters		Where final customers have meters	
	that allow remote reading by the		that allow remote reading by the	
	operator installed, final customers shall		operator installed, final customers	
	have the possibility of easy access to		shall have the possibility of easy	
	complementary information on		access to complementary information	
	historical consumption allowing		on historical consumption allowing	
	detailed self-checks.		detailed self-checks.	
980.	Complementary information on		Complementary information on	
	historical consumption shall include:		historical consumption shall include:	
981.	(a) cumulative data for at least the		(a) cumulative data for at least the	
	three previous years or the period since		three previous years or the period	
	the start of the supply contract if this is		since the start of the supply contract	
	shorter. The data shall correspond to		if this is shorter. The data shall	
	the intervals for which frequent billing		correspond to the intervals for which	
	information has been produced; and		frequent billing information has been	
	•		produced; and	
982.	(b) detailed data according to the time	AM 197	(b) detailed data according to the	Accept
	of use for any day, week, month and	(b) detailed data according to the	time of use for any day, week, month	_
	year. These data shall be made	time of use for any day, week, month	and year. These data shall be made	
	available to final customers in near	and year. These data shall be made	available to final customers in near	
	real time via the internet or the meter	available to final customers in near	real time via the internet or the meter	
	interface for the period of at least the	real time in a user-friendly format,	interface for the period of at least the	
	previous 24 months or the period since	via the internet or the meter interface	previous 24 months or the period	
	the start of the supply contract if this is	for the period of at least the previous	since the start of the supply contract	
	shorter.	24 months or the period since the	if this is shorter.	
		start of the supply contract if this is		
		shorter.		

983.	4. Disclosure of energy sources	4	4. Disclosure of energy sources	
984.	Suppliers shall specify in bills:	S	Suppliers shall specify in bills <b>the</b>	
		C	contribution of each energy source	
		t	to the electricity purchased by the	
		C	customer in accordance with the	
		s	supply contract (product level	
		d	disclosure).	
985.		]	The following information shall be	
		r	made available to final customers	
			in, with, or signposted to within	
		t	their bills and billing information:	
986.	(a) the contribution of each energy		(a) the contribution of each energy	
	source to the overall fuel mix of the		source to the overall fuel mix of the	
	supplier (at national level i. e. in the		supplier (at national level i. e. in the	
	Member State where the supply		Member State where the supply	
	contract has been concluded, as well as		contract has been concluded, as well	
	at the level of the supply undertaking if		as at the level of the supply	
	the supplier is active in several		undertaking if the supplier is active	
	Member States) over the preceding		in several Member States) over the	
	year in a comprehensible and clearly		preceding year in a comprehensible	
	comparable manner;	a	and clearly comparable manner;	
987.	(b) the contribution of each energy		(b) []	
	source to the electricity purchased by			
	the customer in accordance with the			
	supply contract (product level			
	disclosure);			
988.	(c) as a minimum the reference to		(c) [] information on the	
	existing reference sources, such as web		environmental impact, in terms of at	
	pages, where information on the		least CO2 emissions and the	
	environmental impact, in terms of at		radioactive waste resulting from the	
	least CO2 emissions and the		electricity produced by the overall	
	radioactive waste resulting from the		fuel mix of the supplier over the	
	electricity produced by the overall fuel	l p	preceding year [];	
	mix of the supplier over the preceding			
	year is publicly available;			

989.	As regards points (a) and (b) of the	As regards the first subparagraph	
	first subparagraph with respect to	points (a) [] of the [] <b>second</b>	
	electricity obtained via an electricity	subparagraph with respect to	
	exchange or imported from an	electricity obtained via an electricity	
	undertaking situated outside the Union	exchange or imported from an	
	, aggregate figures provided by the	undertaking situated outside the	
	exchange or the undertaking in	Union, aggregate figures provided by	
	question over the preceding year may	the exchange or the undertaking in	
	be used.	question over the preceding year may	
		be used.	
990.	For disclosure of electricity from	For <b>the</b> disclosure of electricity from	
	renewable energy sources or from high	renewable energy sources or from	
	efficiency cogeneration, guarantees of	high efficiency cogeneration,	
	origin issued under Article 15 of	guarantees of origin issued under	
	Directive 2009/28/EC and Article	Article 15 of Directive 2009/28/EC	
	14(10) of Directive 2012/27/EC shall	and Article 14(10) of Directive	
	be used.	2012/27/EC [] <b>may</b> be used.	
991.	The regulatory authority or another	The regulatory authority or another	
	competent national authority shall take	competent national authority shall	
	the necessary steps to ensure that the	take the necessary steps to ensure	
	information provided by suppliers to	that the information provided by	
	final customers pursuant to this Article	suppliers to final customers pursuant	
	is reliable and is provided, at a national	to this Article is reliable and is	
	level, in a clearly comparable manner.	provided, at a national level, in a	
		clearly comparable manner.	

992.	ANNEX III					
		SMART M	IETERS			
993.	1. Member States shall ensure the		1. Member States shall ensure the			
	implementation of smart metering		implementation of smart metering			
	systems in their territories that may		systems in their territories that may			
	be subject to an economic assessment		be subject to an economic assessment			
	of all the long-term costs and benefits		of all the long-term costs and benefits			
	to the market and the individual		to the market and the individual			
	consumer or which form of smart		consumer or which form of smart			
	metering is economically reasonable		metering is economically reasonable			
	and cost-effective and which		and cost-effective and which			
	timeframe is feasible for their		timeframe is feasible for their			
	distribution.		distribution.			
994.	2. Such assessment shall take into	AM 198	2. Such assessment shall take into			
	consideration the methodology for a	2. Such assessment shall <i>be</i>	consideration the methodology for a			
	cost-benefit analysis and the minimum	based on the methodology for a cost-	cost-benefit analysis and the			
	functionalities for smart metering	benefit analysis and the minimum	minimum functionalities for smart			
	defined in the Commission	functionalities for smart metering	metering defined in the Commission			
	Recommendation 2012/148/EU as well	defined in the Commission	Recommendation 2012/148/EU as			
	as best available techniques for	Recommendation 2012/148/EU as	well as best available techniques for			
	ensuring the highest level of	well as best available techniques for	ensuring the highest level of			
	cybersecurity and data protection.	ensuring the highest level of	cybersecurity and data protection.			
		cybersecurity and data protection.				
		The Commission shall ensure that				
		this methodology is used in a				
		consistent manner across the Union.				

995.	3. Subject to that assessment,	AM 199	3. Subject to that assessment,		
	Member States or, where a Member	3. Subject to that assessment,	Member States or, where a Member		
	State has so provided, the designed	Member States or, where a Member	State has so provided, the designed		
	competent authority, shall prepare a	State has so provided, the designed	competent authority, shall prepare a		
	timetable with a target of up to 10	competent authority, shall prepare a	timetable with a target of up to 10		
	years for the deployment of smart	timetable with a target of up to 5	years for the deployment of smart		
	metering systems. Where roll-out of	years for the deployment of smart	metering systems. Where roll-out of		
	smart meters is assessed positively, at	metering systems. Where roll-out of	smart meters is assessed positively, at		
	least 80 % of final customers shall be	smart meters is assessed positively, at	least 80 % of final customers shall be		
	equipped with smart metering systems	least 80 % of final customers shall be	equipped with smart metering		
	within 8 years from the date of their	equipped with smart metering	systems within 8 years from the date		
	positive assessment or by 2020 for	systems within 5 years from the date	of the adoption of a national legal		
	those Member States that have	of their positive assessment or by	framework for the roll-out [].		
	initiated deployment before entering	2020 for those Member States that			
	into force of this Directive.	have initiated deployment before			
		entering into force of this Directive.			
996.		ANNE			
		Part			
		Repealed I			
		(referred to in			
997.			Directive (OJ L 211,		
	Directive (OJ L 211,		2009/72/EC 14.8.2009, p.		
	2009/72/EC 14.8.2009, p.		55-93)		
	55-93)				
<b>998.</b>			Part B		
	List of time-limits for		List of time-limits for		
	transposition into national law		transposition into national law		
	[and application]		[and application]		
	(referred to in Article [])		(referred to in Article [])		

999.	Directive	Time-	Date of	Directive	Time-	Date of	
		limit	application		limit	application	
		for			for		
		transpo			transpo		
		sition			sition		
	2009/72/	03.03.2	03.09.2009	2009/72/	03.03.2	03.09.2009	
	EC	011		EC	011		

1000	ANNEX V CORRELATION TABLE					
1001	Directive 2009/72/EC	This Directive				
	Article 1	Article 1				
	Article 2	Article 2				
	=	Article 3				
	Article 33	Article 4				
	=	Article 5				
	Article 32	Article 6				
	Article 34	Article 7				
	Article 7	Article 8				
	Article 3(1),	Article 9(1)				
	Article 3(2)	Article 9(2)				
	Article 3(6)	Article 9(3)				
	Article 3(15)	Article 9(4)				
	Article 3(14)	Article 9(5)				
	Article 3(4)	Article 10				
	Annex I. 1	Article 10				

Article 11
Article 12
Article 13
Article 14
Article 15
Article 16
Article 17
Article 18
Article 19
Article 20
Article 21
Article 22
Article 23
Article 24
Article 25
Article 26
Article 27
Article 28(1)

Article 3(8)	Article 28(2)
	Article 29
Article 24	Article 30
Article 25	Article 31
=	Article 32
=	Article 33
	Article 34
Article 26	Article 35
	Article 36
Article 27	Article 37
Article 28	Article 38
Article 29	Article 39
Article 12	Article 40
Article 16	Article 41
Article 23	Article 42
Article 9	Article 43
Article 13	Article 44
Article 14	Article 45

Article 17	Article 46
Article 18	Article 47
Article 19	Article 48
Article 20	Article 49
Article 21	Article 50
Article 22	Article 51
Article 10	Article 52
Article 11	Article 53
_	Article 54
Article 30	Article 55
Article 31	Article 56
Article 35	Article 57
Article 36	Article 58
Article 37(1)	Article 59(1)
Article 37(2)	Article 59(2)
Article 37(4)	Article 59(3)
Article 37(3)	Article 59(4)
Article 37(5)	Article 59(5)

Article 37(6)	Article 59(6)
Article 37(7)	Article 59(7)
Article 37(8)	
=	Article 59(8)
Article 37(9)	Article 59(9)
Article 37(10)	Article 60(1)
Article 37(11)	Article 60(2)
Article 37(12)	Article 60(3)
Article 37(13)	Article 60(4)
Article 37(14)	Article 60(5)
Article 37(15)	Article 60(6)
Article 37(16)	Article 60(7)
Article 37(17)	Article 60(8)
Article 38	Article 61
=	Article 62
Article 39	Article 63
Article 40	Article 64
Article 43	Article 65

Article 44	Article 66
	Article 67
	Article 68
	Article 69
Article 49	Article 70
Article 48	Article 71
Article 50	Article 72
Article 51	Article 73
Article 3(9)	Annex II.4
Article 3(5)	=
Article 3(10)	=
Article 3(16)	=
Article 4	=
Article 5	=
Article 6	=
Article 8	=
Article 41	=
Article 42	=

Article 45	=
Article 46	=
Article 47	=