



EUROPEAN PARLIAMENT

2009 - 2014

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*Committee on Industry, Research and Energy*

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**2011/0172(COD)**22.02.2012

# **COMPROMISE AMENDMENTS**

## **1 - 18**

**Draft report**  
**Claude Turmes**  
PE472.358v01-00)

on the proposal for a directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/

Proposal for a directive  
COM(2011)0370 – C7-0168/2011 – 2011/0172(COD))

**COMP 1**

**on Article 1**

**by EPP, S&D, ALDE, Greens/EFA, EFD, GUE**

Covers AM 4, 307 - 328, ENVI 22

If adopted, AM 4, 307 - 328, ENVI 22 fall

*Text proposed by the Commission*

*Compromise Amendment*

*Article 1*

*Article 1*

***Subject matter and scope***

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This Directive establishes a common framework for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's target of 20% primary energy savings by 2020 and to pave the way for further energy efficiency improvements beyond that date.

This Directive establishes a common framework ***of measures*** for the promotion of energy efficiency within the Union in order to ensure the achievement of the Union's target of ***at least 20%*** primary energy savings ***compared to projections for*** 2020 and to pave the way for further energy efficiency improvements beyond that date.

It lays down rules designed to remove barriers in the energy market and overcome market failures that impede efficiency in the supply and use of energy, and ***provides for the establishment of*** national energy efficiency targets for 2020.

It lays down rules designed to remove barriers in the energy market ***and the energy service markets*** and overcome market failures that impede efficiency in the supply and use of energy, and ***lays down binding*** national energy efficiency targets for 2020.

2. The requirements laid down in this Directive are minimum requirements and shall not prevent any Member State from maintaining or introducing more stringent measures. Such measures shall be compatible with the Union's legislation. National legislation foreseeing more stringent measures shall be notified to the Commission.

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**COMP 2**

**on Article 2 a (new)**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 10, 424-427, 1029, 1350, 1473, ENVI 87, 1474

If adopted, AM 10, 424-427, 828, 1029, 1036, 1320, 1350, 1473, ENVI 87, 1474 fall

*Text proposed by the Commission*

*Compromise Amendment*

**Article 2a**

***Financing and Technical Support***

***1. Without prejudice to Articles 107 and 108 of the Treaty, Member States shall ensure that financing facilities for measures to improve energy efficiency are in place to maximise the benefits of multiple streams of financing. These may include cross-industry funds and financial mechanisms used for investment in energy saving measures.***

***2. These facilities shall include:***

***(a) financial contributions and fines from non-fulfilment of the provisions set out in Articles 6 to 8 as referred to in Article 9,***

***(b) resources allocated to energy efficiency under Article 10(3) of Directive 2009/29/EC,***

***(c) resources allocated to energy efficiency in the multiannual financial framework, in particular cohesion, structural and rural development funds, and dedicated European financial instruments, such as the European Energy Efficiency Fund.***

***3. These facilities may also include:***

*(a) resources allocated to energy efficiency from EU projects bonds,*

*(b) resources allocated to energy efficiency from the European Investment Bank and other European financial institutions, in particular the European Bank for Reconstruction and Development and the Council of Europe Development Bank,*

*(c) resources leveraged in financial institutions.\_*

*(d) national resources, including through the creation of regulatory and fiscal frameworks encouraging the implementation of energy efficiency initiatives and programs.*

*4. Taking into account the principles of flexibility and subsidiarity, the financing facilities referred to in paragraph 1 shall:*

*(a) use this money to enable and encourage private capital investment, in particular drawing on institutional investors, while using criteria ensuring the achievement of both environmental and social objectives for the granting of funds;*

*(b) provide financial tools (e.g. loan guarantees for private capital, loan guarantees to foster energy performance contracting, grants, subsidised loans and dedicated credit lines, third party financing systems) that reduce both the perceived and the actual risks of energy efficiency projects, and allow for cost effective renovations even among low and medium revenue households.*

*(c) be linked to programmes or agencies which will aggregate and assess the quality of energy saving projects, provide technical assistance, promote the energy services market and help to generate consumer demand for these services, in accordance with Article 14;*

*5. The financing facilities referred to in paragraph 1 may also:*

*(a) provide appropriate resources to support training and certification programmes which improve and accredit skills for energy efficiency.*

*(b) provide resources for research on and demonstration and acceleration of uptake of small scale and micro technologies to generate energy and the optimalization of the connections of these generators to the grid;*

*(c) be linked to programmes undertaking action to promote energy efficiency in all houses to prevent energy poverty and stimulate landlords letting houses to render their property as energy efficient as possible.*

*(d) provide appropriate resources to support social dialogue and standard setting aiming at improving energy efficiency and ensuring good working conditions and health and safety at work.*

*6. The Commission shall, where appropriate, directly or via the European financial institutions, assist Member States upon request in setting up financing facilities and technical support schemes with the aim of increasing energy efficiency in different sectors.*

*7. The Commission shall facilitate the exchange of best practice between the responsible national or regional authorities or bodies e.g. through annual meetings of the regulatory bodies, public databases with information on the implementation of measures by Member States and cross-country comparison.*

**COMP 3**

**on Article 3, Article 19, paragraphs 1, 2 (subparagraph 1), 4 and 7 and Annex 0**

**by EPP, S&D, ALDE, Greens/EFA, EFD, GUE**

Covers AM 11-12, 80-81, 83, 86, 90, 428-480, 1496-1504, 1506-1507, 1513-1514  
1517-1518, 1534-1539, 1554-1558, ENVI 29-31, ENVI 89-90, 94, 96, 98

If adopted, AM 11-12, 80-81, 83, 86, 90, 347-348, 421-422, 428-480, 1496-1504,  
1506-1508, 1513-1515, 1517-1518, 1534-1539, 1554-1558, 1562, 1803-1805, ENVI  
29-31, ENVI 33, ENVI 89-90, 94, 96, 98, 109, 110 fall

*Text proposed by the Commission*

*Compromise Amendment*

*Article 3*

*Article 3*

***Energy efficiency targets***

***Energy efficiency targets***

1. Member States shall set a national energy **efficiency** target expressed as an absolute level of primary energy consumption in 2020. When setting these targets, **they** shall take into account the Union's target of 20 % energy savings, the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level.

1. Member States shall set a **binding** national energy **saving** target expressed as an absolute level of primary energy consumption in 2020, **which shall be notified to the Commission by the date of entry into force of this Directive.**

When setting these targets, **each Member State** shall take into account the **2020 national energy saving reference values as provided in the left column of Annex 0 - Part A. The Commission shall ensure that the national targets amount to the overall Union's target of at least 20% primary energy savings in 2020 compared to projections.**

**Member States shall adopt and implement** the measures provided for in this Directive, the measures adopted to reach the national energy saving targets adopted pursuant to Article 4(1) of Directive 2006/32/EC and other measures to promote energy efficiency within Member States and at Union level **so as to ensure that their primary energy consumption is equivalent to or below that shown in the indicative trajectory set out in Annex 0 - Part B and their 2020 target as referred to in subparagraphs 1 and 2.**

***1a. If, by the date of entry into force of this Directive, Member States do collectively adopt and notify binding national energy saving targets in accordance with subparagraphs 1 and 2 and the Commission has verified that the national targets amount to the overall Union's target of a maximum primary energy consumption of 1474 Mtoe in 2020, Member States may deviate from the required minimum values provided for in Articles 4 and 6. If the achievement of the 2020 binding national and Union's energy efficiency targets as set out in this Article can not be demonstrated in accordance with Article 19, any deviation from these required minimum values provided for in Articles 4 and 6 shall not be allowed.***

***If, by the date of entry into force of this Directive, Member States do not collectively adopt and notify binding national energy saving targets in accordance with subparagraphs 1 and 2 and the Commission can not ensure that the national targets amount to the overall Union's target of a maximum primary energy consumption of 1474 Mtoe in 2020, no deviation from the required minimum values provided for in Articles 4 and 6 shall be allowed.***



2. By 30 June **2014**, the Commission shall assess whether ***the Union is likely to*** achieve ***its*** target of 20 % primary energy savings by 2020, requiring a reduction of EU primary energy consumption of 368 Mtoe in 2020, ***taking into account*** the sum of the national targets referred to in paragraph 1 and the evaluation referred to in Article 19(4).

2. By 30 June **2013**, the Commission shall assess whether ***Member States are on track to achieve the national targets referred to in paragraph 1 and required to*** achieve ***the Union's*** target of 20 % primary energy savings by 2020, requiring a reduction of EU primary energy consumption of 368 Mtoe in 2020, ***which amounts to a maximum primary energy consumption of 1474 Mtoe in 2020. This assessment shall include*** the sum of the national targets referred to in paragraph 1 and ***take into account*** the evaluation referred to in Article 19(4).

***If the results of this assessment are negative, the Commission will introduce a combination of measures, including advices, stimulations, warnings and financial repercussions to make sure that each Member States delivers the appropriate contribution to reach the overall EU target in 2020.***

***2a. By 30 June 2014, the Commission shall come forward with a proposal for energy savings targets for 2030.***

*Text proposed by the Commission*

Article 19

***Review and monitoring of implementation***

1. ***By 30 April each year, Member States*** shall report on the progress achieved towards national energy efficiency targets, in accordance with Annex XIV(1).

*Compromise Amendment*

Article 19

***Review and monitoring of implementation***

1. ***Each Member State*** shall ***submit a*** report ***to the Commission*** on the progress achieved towards ***their binding*** national energy efficiency targets, in accordance with Annex XIV(1) ***by 30 April 2013, and every year thereafter.***

2. By 30 April 2014, and every three years thereafter, Member State shall submit supplementary **reports with information on** national energy efficiency policies, action plans, programmes and measures implemented or planned at national, regional and local level to improve energy efficiency in view of achieving the national energy efficiency targets referred to in Article 3 (1). The **reports shall be complemented with** updated estimates of expected overall primary energy consumption in 2020, as well as estimated levels of primary energy consumption in the sectors indicated in Annex XIV(1).

*Text proposed by the Commission*

2. By 30 April 2014, and every three years thereafter, Member State shall submit **to the Commission** supplementary **national energy efficiency action plans. These plans shall include** national energy efficiency policies, action plans, programmes and measures implemented or planned at national, regional and local level to improve energy efficiency in view of achieving the national energy efficiency targets referred to in Article 3. The **plans shall further indicate** updated estimates of expected overall primary energy consumption in **2014, 2016, 2018 and 2020 and whether the Member State's improvement in energy efficiency is in line with the trajectory set by the Member States under Article 3**, as well as estimated levels of primary energy consumption in the sectors indicated in Annex XIV(1).

*Compromise Amendment*

4. The Commission shall evaluate the annual reports and supplementary *reports* and assess the extent to which Member States have made progress towards the achievement of the national energy efficiency targets required by Article 3(1) and towards the implementation of this Directive. The Commission shall send its assessment to the European Parliament and the Council. Based on its assessment of the reports the Commission may issue recommendations to Member States.

4. The Commission shall evaluate the annual reports and supplementary *national energy efficiency action plans* and assess the extent to which Member States have made progress towards the achievement of the national energy efficiency targets required by Article 3 and towards the implementation of this Directive. The Commission shall send its assessment *and report every year* to the European Parliament and the Council. Based on its assessment of the reports *and action plans* the Commission may issue recommendations to Member States. *In particular, if a Member State is not keeping to the indicative trajectory set under Article 3 then the Commission shall require that Member State to set out adequate and proportionate measures to rejoin the trajectory within a reasonable timescale and may in the meantime refuse the action plan.*

*The first Commission's assessment and report shall be submitted to the European Parliament and the Council in 2013.*

*Text proposed by the Commission*

7. By 30 June 2014 the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council, *followed*, if appropriate, *by* a legislative proposal laying down mandatory *national* targets.

*Compromise Amendment*

7. By 30 June 2014 the Commission shall submit the assessment referred to in Article 3(2) to the European Parliament and to the Council *and*, if appropriate, a legislative proposal laying down mandatory targets *if these are not in place in accordance with Article 3.*

<b>ANNEX 0 (new)</b>		
<b><u>National Energy Savings Targets</u></b>		
<b>A. 2020 National Energy Saving Reference Values (in primary energy, excluding non-energy uses)</b>		
	<b>Maximum primary energy consumption, excluding non-energy uses in 2020 (Mtoe)</b>	<b>Minimum reduction of primary energy consumption, excluding non-energy uses) in 2020 (Mtoe) (S<sub>2020</sub>)</b>
<b>Belgium</b>	<b>43.6</b>	<b>9.8</b>
<b>Bulgaria</b>	<b>18.6</b>	<b>3.2</b>
<b>Czech Republic</b>	<b>40.1</b>	<b>5.5</b>
<b>Denmark</b>	<b>19.2</b>	<b>0.8</b>
<b>Germany</b>	<b>241.2</b>	<b>58.7</b>
<b>Estonia</b>	<b>5.4</b>	<b>0.2</b>
<b>Ireland</b>	<b>15.9</b>	<b>2.8</b>
<b>Greece</b>	<b>33.3</b>	<b>2.7</b>
<b>Spain</b>	<b>131.7</b>	<b>31.1</b>
<b>France</b>	<b>207.5</b>	<b>68.9</b>
<b>Italy</b>	<b>159.8</b>	<b>49.0</b>
<b>Cyprus</b>	<b>2.4</b>	<b>0.4</b>
<b>Latvia</b>	<b>7.8</b>	<b>-1.0</b>
<b>Lithuania</b>	<b>8.6</b>	<b>1.1</b>
<b>Luxembourg</b>	<b>4.7</b>	<b>0.9</b>
<b>Hungary</b>	<b>26.7</b>	<b>2.9</b>
<b>Malta</b>	<b>0.8</b>	<b>0.1</b>
<b>Netherlands</b>	<b>58.0</b>	<b>17.7</b>
<b>Austria</b>	<b>29.2</b>	<b>7.2</b>
<b>Poland</b>	<b>90.1</b>	<b>19.7</b>
<b>Portugal</b>	<b>24.0</b>	<b>6.0</b>
<b>Romania</b>	<b>40.1</b>	<b>10.0</b>
<b>Slovenia</b>	<b>7.0</b>	<b>1.8</b>
<b>Slovak Republic</b>	<b>18.5</b>	<b>1.6</b>
<b>Finland</b>	<b>33.2</b>	<b>4.2</b>
<b>Sweden</b>	<b>41.4</b>	<b>14.4</b>
<b>United Kingdom</b>	<b>165.4</b>	<b>48.1</b>
<b>EU</b>	<b>1474</b>	<b>368</b>

**B. Indicative trajectory**

*The indicative trajectory referred to in Article 3(2) shall respect the following primary energy saving path towards each Member State's 2020 target:*

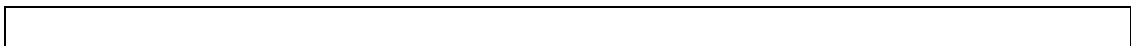
*25%\* ( $S_{2020}$ ), in 2014;*

*50%\* ( $S_{2020}$ ), in 2016;*

*75%\* ( $S_{2020}$ ), in 2018;*

*where*

*$S_{2020}$  = the energy saving for that Member State in 2020 as indicated in the right column of the table in Part A.*



**COMP 4**

**on Article 3 a (new)**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 13, 329-330, 454, 456, 483-487, 500, 527, 533, 537, 564, 583, 587, 627, 630, ENVI 32

If adopted, AM 13, 329, 330, 454, 456, 483-487, 500, 527, 533, 537, 564, 583, 587, 627, 630, 1456, 1505, 1516, ENVI 32 fall

*Text proposed by the Commission*

*Compromise Amendment*

**Article 3a**

**Building renovation**

**1. Member States shall aim to reduce, by 31 December 2050, the energy consumption of the existing building stock by 80% compared to 2010 levels.**

**2. As part of the national plans referred to in Article 9 of Directive 2010/31/EU, Member States shall include policies and measures in accordance with the objective set in paragraph 1, in particular by stimulating deep renovations of buildings, including staged deep renovations.**

**3. By 1 January 2014, Member States shall establish and make publicly available the national plans referred to in paragraph 2. They shall include at least:**

**(a) indicative interim targets, in accordance with the objective set in paragraph 1, for the reduction of the delivered or final energy consumption<sup>1</sup> of their existing building stock of at least 15%, 30% and 60% compared to 2010 levels for 2020, 2030 and 2040 respectively, including deep renovation targets.**

**(b) energy efficiency measures to address social challenges in the housing sector, in particular energy poverty.**

<sup>1</sup> As defined in Annex I of Directive 2010/31/EU, OJ L 153, 18.06.2010, p. 29-30

*The national plans referred to in paragraph 2 may also include:*

*(a) measures that are differentiated according to the category of building;*

*(b) measures to address health and safety, technical, and financial challenges in the buildings sector;*

*(b) measures for financing and training to support the achievement of the targets referred to in the above paragraphs.*

*4. In accordance with Article 4(2) of Directive 2013/31/EU<sup>2</sup>, Member States may decide not to set or apply the requirements referred to in this Directive to the following categories of buildings:*

*(a) buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance;*

*(b) buildings used as places of worship and for religious activities;*

*(c) temporary buildings with a time of use of two years or less, industrial sites, workshops and non-residential agricultural buildings with low energy demand and non-residential agricultural buildings which are in use by a sector covered by a national sectoral agreement on energy performance;*

*(d) residential buildings which are used or intended to be used for either less than four months of the year or, alternatively, for a limited annual time of use and with an expected energy consumption of less than 25 % of what would be the result of all-year use;*

*(e) stand-alone buildings with a total useful floor area of less than 50 m<sup>2</sup>.*

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<sup>2</sup> OJ L 153, 18.06.2010, p.19-20

***5. Member States shall ensure that reduction of the energy consumption of the building stock, in particular through deep and staged deep renovations are carried out first in the buildings-with the worst energy performance.***



**COMP 5**

**on Article 4**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 14-18 and AM 489-627, 629, ENVI 34-38, ENVI 39 (1st part),  
FEMM 8 -10

If adopted, AM 14-18 and AM 489-627, 629), ENVI 34-38, ENVI 39 (1st part),  
FEMM 8 -10 fall

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**COMP 6**

**on Article 5 and Annex III**

**by S&D, ALDE, Greens/EFA, EFD, GUE**

Covers AM 19, 631-652, 1567-1610

If adopted, AM 19, 370, 631-652, 1567-1610 fall

*Text proposed by the Commission*

Article 5

***Purchasing by public bodies***

Member States shall ensure that **public bodies** purchase **only** products, services and buildings with high energy efficiency performance, as referred to in Annex III.

*Draft Compromise Amendment*

Article 5

***Purchasing by public bodies***

***When public bodies purchase products, systems, services and buildings***, Member States shall ensure that ***they*** purchase products, ***systems***, services and buildings, ***and equipment, particularly in the IT field***, with high energy efficiency performance, as referred to in Annex III, ***taking into account a whole life-cycle analysis. For products not covered in Annex III, public bodies shall endeavour to take into account the energy efficiency of purchases.***

***Where public bodies lease or rent products, systems, services and buildings the provisions in sub-paragraph 1 shall also apply. In the case of short-term one-off leasing or renting contracts, Member States may lay down specific exemptions from these provisions.***

***Member States shall ensure that when tendering service contracts, public bodies shall assess the possibility of concluding long term energy performance contracts as referred to in Article 14 b).***

*Without prejudice to the first subparagraph, when a group of products, systems, services or buildings is purchased, the energy efficiency performance of that group as a whole shall take priority over the energy efficiency performance of its individual components, taking into account technical suitability and intended use.*

*Text proposed by the Commission*

*Draft Compromise Amendment*

### ANNEX III

### ANNEX III

*Energy efficiency requirements for purchasing products, services and buildings by public bodies*

*Energy efficiency requirements for purchasing or renting products, systems, services and buildings by public bodies*

Public bodies that purchase products, services or buildings shall:

Public bodies that purchase *or rent* products, *systems*, services or buildings shall *by setting energy efficiency performance requirements as technical specifications*:

a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or Commission Directive implementing Directive 92/75/EEC, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class *while taking* into account cost-effectiveness, economical feasibility *and technical suitability, as well as sufficient competition*;

a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or Commission Directive implementing Directive 92/75/EEC, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class. *Public bodies may take* into account *health impact*, cost-effectiveness *and* economical feasibility *by using award criteria with weighting for energy performance at least equal to the weighting accorded to price*;

b) where a product not covered under point a) is covered by an implementing measure under Directive 2009/125/EC adopted after the entry into force of this Directive, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure;

b) where a product not covered under point a) is covered by an implementing measure under Directive 2009/125/EC adopted after the entry into force of this Directive, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure;

c) purchase office equipment products covered by Council Decision [2006/1005/EC<sup>39</sup>] that comply with energy efficiency requirements not less demanding than those listed in Annex C of the Agreement attached to that Decision;

d) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009<sup>40</sup>. This requirement shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons;

e) require in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in points (a) to (d), when providing the services in question;

f) purchase or *rent* only buildings that comply at least with the *minimum* energy performance requirements *referred to in Article 4(1)*. Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.

c) purchase office equipment products covered by Council Decision [2006/1005/EC<sup>39</sup>] that comply with energy efficiency requirements not less demanding than those listed in Annex C of the Agreement attached to that Decision;

d) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009<sup>40</sup> *when available on the market*. This requirement shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons;

e) require, *where appropriate*, in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in points (a) to (d), when providing the services in question;

f) purchase, or *make new rental agreements for*, only buildings that comply at least with the energy performance requirements *set out in the highest energy efficiency classes as defined in the country where the building is located*. Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.

*Point f) shall not apply to the purchase or rental of buildings officially protected as part of a designated environment or because of their special architectural or historical merit;*

*Point f) shall also apply to the EU Institutions.*

**COMP 6A**  
**on Article 5 and Annex III**  
**by EPP, ECR**  
Covers AM 19, 631-652, 1567-1610  
If adopted, AM 19, 370, 631-652, 1567-1610 fall

*Text proposed by the Commission*

*Draft Compromise Amendment*

Article 5

Article 5

***Purchasing by public bodies***

***Purchasing by public bodies***

Member States shall ensure that public bodies purchase only products, services and buildings with high energy efficiency performance, as referred to in Annex III.

***When public bodies purchase products, systems, services and buildings, Member States shall ensure that they purchase products, systems, services and buildings, and equipment particularly in the IT field, with high energy efficiency performance, as referred to in Annex III taking into account cost effectiveness based on a whole life-cycle analysis. For products not covered in Annex III, public bodies shall endeavour to take into account the energy efficiency of purchases.***

***Member States shall lay down rules to apply the provisions of paragraph 1 and Annex III to public bodies leasing or renting products, systems and services, except for short-term non-rolling contracts.***

***Member States shall ensure that when tendering service contracts, public bodies shall assess the possibility of concluding long term energy performance contracts as referred to in Article 14 b).***

*Without prejudice to subparagraph 1, when purchasing or renting a collection or group of products, systems, services or buildings, the aggregate energy efficiency should take priority over the energy efficiency of an individual purchase, taking into account technical suitability and intended use.*

*Text proposed by the Commission*

*Draft Compromise Amendment*

### ANNEX III

### ANNEX III

*Energy efficiency requirements for purchasing products, services and buildings by public bodies*

*Energy efficiency requirements for purchasing or renting products, systems, services and buildings by public bodies*

Public bodies that purchase products, services or buildings shall:

Public bodies that purchase products, **systems**, services or buildings shall **by setting energy efficiency performance requirements as technical specifications** and taking into account cost-effectiveness **based on a whole life-cycle analysis:**

a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or Commission Directive implementing Directive 92/75/EEC, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class **while taking** into account cost-effectiveness, economical feasibility **and technical suitability, as well as sufficient competition;**

a) where a product is covered by a delegated act adopted under Directive 2010/30/EU or Commission Directive implementing Directive 92/75/EEC, purchase only the products that comply with the criterion of belonging to the highest energy efficiency class. **Public bodies may take** into account **health impact**, cost-effectiveness **and** economical feasibility **by using award criteria with weighting for energy performance at least equal to the weighting accorded to price;**

b) where a product not covered under point a) is covered by an implementing measure under Directive 2009/125/EC adopted after the entry into force of this Directive, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure;

b) where a product not covered under point a) is covered by an implementing measure under Directive 2009/125/EC adopted after the entry into force of this Directive, purchase only products that comply with energy efficiency benchmarks specified in that implementing measure;

c) purchase office equipment products covered by Council Decision [2006/1005/EC<sup>39</sup>] that comply with energy efficiency requirements not less demanding than those listed in Annex C of the Agreement attached to that Decision;

d) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009<sup>40</sup>. This requirement shall not prevent public bodies from purchasing tyres with the highest wet grip class or external rolling noise class where justified by safety or public health reasons;

e) require in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in points (a) to (d), when providing the services in question;

f) purchase or *rent* only buildings that comply at least with the *minimum* energy performance requirements *referred to in Article 4(1)*. Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.

c) purchase office equipment products covered by Council Decision [2006/1005/EC<sup>39</sup>] that comply with energy efficiency requirements not less demanding than those listed in Annex C of the Agreement attached to that Decision;

d) purchase only tyres that comply with the criterion of having the highest fuel energy efficiency class, as defined by Regulation (EC) No 1222/2009<sup>40</sup> *when available on the market. When purchasing tyres, public bodies shall take into account as well the objectives of Article 10 of Regulation (EC) No 1222/2009.*

e) require, *where appropriate*, in their tenders for service contracts that service providers use, for the purposes of providing the services in question, only products that comply with the requirements referred to in points (a) to (d), when providing the services in question;

f) purchase or *rent* only buildings that comply at least with the *minimum* energy performance requirements *referred to in Article 4(1)*. Compliance with these requirements shall be verified by means of the energy performance certificates referred to in Article 11 of Directive 2010/31/EU.

*Point f) shall not apply to the purchase or rental of buildings officially protected as part of a designated environment or because of their special architectural or historical merit;*

*Point f) shall also apply to the EU Institutions.*



COMP 7

**on Article 6, Article 17 paragraph 1 (subparagraph 1), Annex V, Vb (new)**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 20-23 (1st part) 24-35, 93-109, 118 (2nd part), 657-697, 711-724, 727-738, 740-773, 776-785, 787-823, 1614-1637, ENVI 41-50, FEMM 11-13

If adopted, AM 20-35, 93-110, 118 (2nd part), 657-697, 699-704, 706, 710-738, 740-773, 776-785, 787-823, 827, 1614-1637, 1483-1484, ENVI 41-51, FEMM 11-13 fall

*Text proposed by the Commission*

*Compromise Amendment*

Article 6

Article 6

***Energy efficiency obligation schemes***

***Energy end use saving schemes***

1. Each Member State shall ***set up*** an energy ***efficiency*** obligation scheme.

1. Each Member State shall ***ensure that*** an energy ***saving*** obligation scheme ***is in place***.

This scheme shall ensure that either ***all*** energy distributors or ***all*** retail energy sales companies operating on the Member State's territory achieve annual energy savings equal to 1.5% of their energy sales, by volume, ***in the previous year in*** that Member State ***excluding energy used in transport***.

This scheme shall ensure that energy distributors ***and/or*** retail energy sales companies operating on the Member State's territory achieve ***cumulative*** annual ***end-use*** energy savings equal to ***at least*** 1.5% of their ***annual*** energy sales, by volume, ***averaged over the most recent three-year period for*** that Member State.

This amount of energy savings shall be achieved by the obligated parties among final customers.

This amount of energy savings shall be achieved by the obligated parties among final customers.

2. Member States shall express the amount of energy savings required from each obligated party in terms of ***either final or*** primary energy consumption. The method chosen for expressing the required amount of energy savings shall also be used for calculating the savings claimed by obligated parties. The conversion factors in Annex IV shall apply.

2. Member States shall express the amount of ***the achieved end-use*** energy savings required from each obligated party in terms of ***final energy and then calculate in*** primary energy consumption. The method chosen for expressing the required amount of energy savings shall also be used for calculating the savings claimed by obligated parties. The conversion factors in Annex IV shall apply.

3. Measures that target short-term savings, as defined in Annex V(1), shall not account for more than 10% of the amount of energy savings required from each obligated party and shall only be eligible to count towards the obligation laid down in paragraph 1 if combined with measures to which longer-term savings are attributed.

4. Member States shall ensure that the savings claimed by obligated parties are calculated in accordance with Annex V(2). They shall put in place control systems under which at least a statistically significant proportion of the energy efficiency improvement measures put in place by the obligated parties is independently verified.

5. Within the energy *efficiency* obligation scheme, Member States may:

(a) include requirements with a social aim in the saving obligations they impose, including by requiring measures to be implemented in households affected by energy poverty or in social housing;

**2a. Each Member State shall ensure that the 1.5% savings achieved each year are new and additional to the savings achieved in each previous year.**

3. **For the purposes of paragraph 1,** measures that target short-term savings, as defined in Annex V(1), shall not account for more than 10% of the amount of energy savings required from each obligated party and shall only be eligible to count towards the obligation laid down in paragraph 1 if combined with measures to which longer-term savings are attributed.

**3a. For the purposes of paragraph 1, Member States shall ensure that building renovations, in particular staged and deep renovations, account for a significant share of longer-term energy savings.**

4. Member States shall ensure that the **achieved energy** savings claimed by obligated parties are calculated in accordance with Annex V(2). They shall put in place **independent measurement, control and verification** systems under which at least a statistically significant proportion **and representative sample** of the energy efficiency improvement measures put in place by the obligated parties is independently verified. **The verification shall take place every second year. If independent measurement and verification find unverifiable savings or savings that are not documented they may not count towards the saving target referred to in paragraph 1.**

5. Within the energy *saving* obligation scheme, Member States may:

(a) include requirements with a social aim in the saving obligations they impose, including by requiring **a share of energy efficiency** measures to be implemented **as a priority** in households affected by energy poverty, **by landlords or groups of investors that let their property** or in social housing,

(b) permit obligated parties to count towards their obligation certified energy savings achieved by energy service providers or other third parties; ***in this case they shall establish*** an accreditation process that is clear, transparent and open to all market actors, and that aims at minimising the costs of certification;

(c) allow obligated parties to count savings obtained in a given year as if they had instead been obtained in ***any of the two*** previous or ***two*** following years.

6. Member States shall publish the energy savings ***achieved*** by each obligated party and data on the annual trend of energy savings under the scheme. For the purposes of ***publishing and*** verifying the energy savings ***achieved***, Member States shall require obligated parties to submit to them at least the following data:

a) the energy savings achieved;

(b) aggregated statistical information on their final customers (identifying significant changes to previously submitted information); and

(c) current information on final customers' consumption, including, where applicable, load profiles, customer segmentation and geographical location of customers, while preserving the integrity and confidentiality of private or commercially sensitive information in compliance with applicable European Union legislation.

(b) permit obligated parties to count towards their obligation certified energy savings achieved by ***accredited*** energy service providers or other ***accredited*** third parties, ***provided they are additional to the business as usual scenarios***; ***Member States shall ensure that*** an accreditation process ***is in place*** that is clear, transparent and open to all market actors, and that aims at minimising the costs of certification;

(c) allow obligated parties to count savings obtained in a given year as if they had instead been obtained in ***either*** the previous or following year.

6. ***Once a year***, Member States shall publish the ***achieved*** energy savings by each obligated party and data on the annual trend of energy savings under the scheme. For the purposes of verifying the ***achieved*** energy savings, Member States shall require obligated parties to submit to them at least the following data.

(a) the ***required energy savings and the*** energy savings achieved.

(b) aggregated statistical information on their final customers (identifying significant changes to previously submitted information); and

(c) current information on final customers' consumption, including, where applicable, load profiles, ***appropriate*** customer segmentation and ***broad*** geographical location of customers, while preserving the integrity and confidentiality of private or commercially sensitive information in compliance with applicable European Union legislation.

***(ca) the costs passed on to their customers, while preserving the integrity and confidentiality of private or commercially sensitive information in compliance with applicable European Union legislation.***

**6a. Using all the information in Article 6, paragraph 6, national regulatory authorities shall publish annual reports on whether energy efficiency obligation schemes are meeting their objectives at the lowest possible cost to consumers. The national regulatory authorities shall also regularly commission independent reviews on the impacts that the scheme has on energy bills and fuel poverty as well as the energy savings from the scheme to ensure maximum cost-effectiveness. Member States shall be required to take these impacts into account through scheme adjustments.**

7. Member States shall ensure that market actors refrain from any activities that may impede the demand for and delivery of energy services or other energy efficiency improvement measures, or hinder the development of markets for energy services or other energy efficiency improvement measures, including foreclosing the market for competitors or abusing dominant positions.

7. Member States shall ensure that market actors refrain from any activities that may impede the demand for and delivery of energy **saving** services or other energy efficiency improvement measures, or hinder the development of markets for energy **saving** services or other energy efficiency improvement measures, including foreclosing the market for competitors or abusing dominant positions.

***This shall be achieved by implementing clear, transparent and open partnerships between energy distributors and energy service providers in order to optimise the energy saving obligations towards the end-customer.***

8. Member States may exempt small energy distributors and small retail energy sales companies, ***namely those that distribute or sell less than the equivalent of 75 GWh of energy per year, employ fewer than 10 persons or have an annual turnover or annual balance sheet total that does not exceed EUR 2 000 000***, from the application of this Article. Energy produced for self use shall not ***count towards these thresholds***.

8. Member States may exempt small energy distributors and small retail energy sales companies ***in accordance with their specific national energy market circumstances*** from the application of this Article, ***provided that such exemptions do not result in a distortion of competition***. Energy produced for self use shall not ***fall within this Article***.

9. As an alternative to paragraph 1, Member States may opt to take **other** measures to achieve energy savings among final customers. The annual amount of energy savings achieved through this approach shall be equivalent to the amount of energy savings required in paragraph 1.

9. As an alternative to paragraph 1, Member States may opt to take **alternative and/or complementary** measures to achieve **the equivalent** energy savings among final customers. The annual amount of energy savings achieved through this approach shall be **strictly** equivalent to the amount of energy savings required in paragraph 1.

***Provided that the energy savings are additional to the ones obtained through the other obligations under this Directive, the alternative and/or complementary measures may include, but are not limited to:***

***(a) Without prejudice to Directive 2009/29/EC, individual energy efficiency targets by consumer based on results of energy audits;***

***(b) Establishing, supporting and promoting energy service companies (ESCOs), and, where Member States decide to do so, setting performance targets for ESCOs;***

***(d) Improvements to the energy efficiency of buildings, including public buildings;***

***(f) Energy tariff structures which incentivise energy efficiency;***

***(g) a system in which obligated parties are to fulfil up to 50% of their obligation set out in paragraph 1 by paying into the financing facilities referred to in Article 2a. This shall be done by contributing to the financing facility an amount equal to the investment costs estimated to achieve the corresponding share of their obligation.***

Member States opting for this option shall notify to the Commission, by 1 January 2013 at the latest, the alternative measures that they plan to adopt, including the rules on penalties referred to in Article 9, and demonstrating how they would achieve the required amount of savings. The Commission may refuse such measures or make suggestions for modifications in the 3 months following notification. In such cases, the alternative approach shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified draft measures.

Member States opting for this option shall notify to the Commission, by 1 January 2013 at the latest, the alternative measures that they plan to adopt, including the rules on penalties referred to in Article 9, and demonstrating *specifically for each measure* how they would achieve the required amount of savings. ***Member States shall ensure that energy savings for each alternative measure are calculated in accordance with Annex Vb.***

***Member States shall ensure that the measures under this paragraph have equal planning certainty and guarantee a stable framework of incentives linked to energy services schemes for all market actors.***

The Commission may refuse such measures or make suggestions for modifications in the 3 months following notification. In such cases, the alternative approach shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified draft measures.

***Member States shall ensure appropriate monitoring and reporting in line with requirements set out in Article 19. Where the reporting suggests that alternative measures under this Article are materially failing to meet the required savings, the Commission shall require the Member State to put in place an energy efficiency obligation scheme as described in paragraphs 1 and 1a or any alternative measures, if appropriate.***

**9a. The Commission shall establish by 1 January 2013 a harmonised methodology in accordance with the minimum requirements as set out in Annex Vb for the calculation model for the purpose of measuring, monitoring and verifying energy savings attained primarily through energy efficiency improvement measures and programmes in all end-use sectors referred to in this Article. The new harmonised bottom-up calculation model shall first be used as from 1 January 2013.**

*deleted*

**10. If appropriate, the Commission shall establish, by means of a delegated act in accordance with Article 18, a system of mutual recognition of energy savings achieved under national energy efficiency obligation schemes. Such a system shall allow obligated parties to count energy savings achieved and certified in a given Member State towards their obligations in another Member State.**

*Text proposed by the Commission*

Article 17

**Delegated acts and adaptation of annexes**

**1. The Commission shall be empowered to adopt a delegated act in accordance with Article 18 to establish the system of mutual recognition of energy savings achieved under the national energy efficiency obligation schemes referred to in Article 6(9).**

*Text proposed by the Commission*

*Compromise Amendment*

Article 17

**Delegated acts and adaptation of annexes**

*deleted*

*Compromise Amendment*

## ANNEX V

### *Energy efficiency obligation schemes*

#### 1. Measures that *target short-term savings*

The following measures shall be *considered as targeting short-term savings*:

a) distribution or installation of *energy efficient* compact fluorescent light bulbs;

b) distribution or installation of energy efficient shower heads;

c) *energy audits*;

d) *information campaigns*.

#### 2. *Calculation of energy savings*

## ANNEX V

### *Energy end-use saving schemes*

*The following are the guiding principles which shall be used by Member States when determining energy saving above those which would have occurred naturally.*

#### 1. Measures that *do not count towards the energy saving target*

The following measures shall be *excluded from the energy savings target referred to in Article 6* :

a) distribution or installation of compact fluorescent light bulbs;

*aa) distribution or installation of households appliances that are not classified in the highest class of the energy label or which have reached 30% market penetration;*

b) distribution or installation of energy efficient shower heads;

*deleted*

*deleted*

#### *1a. Measures that target short-term savings*

*a) energy audits;*

*b) distribution or installation of smart meters;*

*c) fuel switching;*

*d) information campaigns.*

#### 2. *Energy saving methodology*



***The calculation of energy savings in national energy efficiency obligation schemes shall take into account the lifetime of measures. Where no national values for lifetimes are fixed the default values in point 4 shall apply.***

Obligated parties may use one or more of the following methods for calculating energy savings for the purposes of Article 6(2):

***a) engineering estimates;***

***b) metering;***

***c) standard values and lifetimes that Member States have adopted on a clear and sound basis. Such values shall be notified to the Commission. The Commission may request that such values are modified, where they are likely to distort competition or where they show less ambition than the default values and lifetimes in points 3 and 4.***

Obligated parties may use one or more of the following methods for calculating energy savings for the purposes of Article 6(2):

***a) Deemed savings, by reference to the results of previous independently monitored energy improvements in similar installations. The principles set out in point 3 shall apply when determining deemed savings. The generic approach is termed “ex-ante”;***

***b) Metered savings, whereby the savings from the installation of a measure, or package of measures, is determined by recording the actual reduction in energy use, taking due account of factors such as occupancy, production levels and the weather which may affect consumption. The generic approach is termed “ex-post”.***

***c) Scaled savings, whereby it may be appropriate to use engineering estimates of savings where establishing robust measured data for a specific installation is difficult or disproportionately too expensive e.g. replacing a compressor or electric motor with a different kWh rating than that for which independent information on savings has been measured.***

*d) the default values and lifetimes in points 3 and 4 where no national standard values and lifetimes have been established;*

*d) Surveyed savings, where consumers' response to advice, information campaigns, or smart metering is determined. This approach may only be used for savings resulting from changes in consumer behaviour. It may not be used for savings resulting from the installation of physical measures. Savings from installations should either come from the deemed saving catalogue or engineering methods. When deemed savings are chosen, the use of engineering methods are excluded.*

*2a) Principles to apply in the calculation of energy savings*

*In determining the energy saving for an energy efficiency measure, the following principles shall be respected:*

*a) Only savings that are additional to those that would be expected from an average product placed in the market can be counted. Due account of the following shall be taken in determining the additional energy savings:*

*i. the prevailing energy performance and energy label of fabric measures (walls, roofs, floors, windows and doors) in the existing building stock;*

*ii. prevailing regulations relating to minimum energy performance requirements of new buildings or vehicles or the removal of certain products e.g. the banning of certain incandescent light bulbs meaning that compact fluorescent light bulbs are the norm;*

*iii. EU minimum energy performance requirements for energy related products as defined by the EU Ecodesign Directive;*

*iv. prevailing market sales, and sales trends, of energy consuming products in the Member State where EU energy labelling criteria exist;*

*b) the activities of the obligated party must be demonstrably material to the achievement of the claimed savings;*

*c) due allowance shall be taken of the increased amenity, or rebound effect, resulting from the installation of measures, for example increased comfort arising from insulation measures;*

*d) the savings achieved in end-use can only if documented be claimed by more than one obligated party;*

*e) savings achieved as a result of other local, regional, national or international policies may not be included e.g. prevailing building regulations;*

*f) to account for climatic variations between regions, Member States may choose to adjust the savings to a standard value or to accord different energy savings in accord with the temperature variations between regions; the adjustment should be clarified and approved by the commission not later than three month after the implementation of this directive.*

*g) where measures result in changes in consumption of more than one fuel type, due account shall be taken of the primary energy content of that fuel as defined in Annex IV;*

*h) calculation of energy savings shall take into account the lifetime of measures;*

*i) where measures result in the accelerated replacement of equipment, products or building components, due account shall be taken of the duration of the energy savings compared to the energy consumption of the original equipment but only for the remaining lifetime of the original equipment;*

*j) actions by obligated parties, either individually or together, which aim to result in lasting transformation of products, equipment, or markets to a higher level of energy efficiency are permitted;*

*k) in promoting the uptake of energy efficiency measures, Member States shall ensure that quality standards for products, services and installation of measures are maintained. Where such standards do not exist, Member States shall work with obligated parties to introduce them.*

*The calculation of energy savings shall be revised at least each two years to take into account of regulatory and technological developments.*

**2b) Notification of methodology**

*Member States shall notify the Commission of their proposed detailed methodology for operation of the energy efficiency obligation schemes. Such notification shall include details of:*

- a) obligated parties;*
- b) target sectors;*
- c) the level of the energy saving target;*
- d) the duration of the obligation period;*
- e) eligible measure categories;*
- f) calculation methodology, including how additionality and materiality are to be determined;*
- g) measure lifetimes;*
- h) approach taken to address climatic variations within the Member State;*
- i) treatment of fuels with different carbon or primary energy content;*
- j) quality standards;*
- k) monitoring and verification protocols;*
- l) audit protocols.*

*The Commission may request that methodologies are modified, where they are likely to distort competition or where they are less rigorous than equivalent schemes in other Member States.*

*deleted*

*deleted*

*Section 3 of Annex V*

*Section 4 of Annex V*

***ANNEX V b***

***Minimum requirements for measurement  
and verification of energy savings under  
Article 6***

- 1. The energy savings potential is to be calculated per sector.***
- 2. Savings effects are to be calculated per suggested measure under a bottom up approach, distinguishing between existing, new and planned measures.***
- 3. The total savings effects of all measures are to be correlated to the national target, in line with the applied sectoral structure.***
- 4. Annual savings are monitored based on statistical data and compared to the target.***
- 5. When the monitoring shows deviations from the path for target achievement, measures are to be monitored individually and adjusted accordingly.***

**COMP 8**

**on Article 7 and Annex V a (new)**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 36-40, 829-906, 1636, ENVI 52-58

If adopted, AM 36-40, 390, 829-906, 1636, 1810, ENVI 52-58 fall

*Text proposed by the Commission*

*Compromise Amendment*

Article 7

Article 7

***Energy audits***

***Energy audits***

1. Member States shall promote the availability to all final customers of energy audits which are ***affordable*** and carried out in an independent manner by qualified or accredited experts.

1. Member States shall promote the availability to all final customers of energy\_ ***high quality*** audits which are ***cost-effective*** and carried out in an independent manner by qualified ***and/or*** accredited experts.

***Member States shall ensure, for the purpose of guaranteeing the high quality of the energy audits and energy management systems and the delivery of the adapted energy measures to each industrial facility, process or building, that these audits and systems include and observe the minimum criteria as set out in Annex Va.***

***Member States shall ensure that training programmes are available for the qualification of energy auditors, in order to ensure that a sufficient number of qualified and/or accredited experts are available.***

Member States shall develop programmes to encourage households and small and medium-sized enterprises to undergo energy audits.

Member States shall bring to the attention of small and medium-sized enterprises concrete examples of how energy management systems could help their business.

2. Member States shall ensure that enterprises not included in the second subparagraph of paragraph 1 are subject to an energy audit carried out in an independent and cost-effective manner by qualified or accredited experts at the latest by 30 June 2014 and every **three** years from the date of the previous energy audit.

Member States shall develop programmes to encourage households and small and medium-sized enterprises to undergo energy audits **and to subsequently implement the recommendations from these audits. These energy audits shall identify and quantify cost-effective saving opportunities in the short, medium and long term.**

**Member States shall ensure that small and medium sized enterprises, as well as organisations that have concluded voluntary agreements, are supported to cover totally or partly the costs of an energy audit and of the implementation of highly cost-effective recommendations from the energy audits, if the proposed measures are implemented.**

Member States shall bring to the attention of small and medium-sized enterprises, **including through their respective representative intermediary organisations,** concrete examples of how energy management systems could help their business. **The Commission shall assist Member States by supporting the exchange of best practices in this domain.**

2. Member States shall ensure that enterprises not included in the second subparagraph of paragraph 1 are subject to an energy audit carried out in an independent and cost-effective manner by qualified **and/or** accredited experts at the latest by 30 June 2014 and **at least** every **four** years from the date of the previous energy audit.

3. Energy audits carried out in an independent manner resulting from energy management systems or implemented under voluntary agreements concluded between organisations of stakeholders and an appointed body and supervised by the Member State concerned or by the Commission, shall be considered as fulfilling the requirements of paragraph 2.

4. Energy audits may stand alone or be part of a broader environmental audit.

3. Energy audits carried out in an independent manner ***on the basis of European harmonised standards such as EN 16001 / ISO 50001*** resulting from energy management systems or implemented under voluntary agreements concluded between organisations of stakeholders and an appointed body and supervised by the Member State concerned or by the Commission, shall be considered as fulfilling the requirements of paragraph 2. ***No market participant should be excluded from offering energy services.***

***3a. Audits may be carried out by in-house experts, provided that these are qualified and/or accredited, that they are not directly engaged in the activity audited, and that the Member State has put in place an independent control system based on an annual random selection of at least a statistically significant percentage of all the energy audits referred to in paragraph 2 to assure and check their quality and to impose sanctions if needed.***

4. Energy audits may stand alone or be part of a broader environmental audit.

***4a. Member States shall ensure that the recommendations of the energy audits and energy management systems implemented under this article do not exclude the same or similar measures to be used as a justification for existing or future incentive and support schemes. If necessary, the Commission shall adapt the European state aid guidelines in this field and the EU energy taxation directive accordingly.***



***4b. Member States shall use investment quality audits in order to assess and ensure the quality of buildings' Energy Performance Certificates as required by Directive 2010/31/EC. The Commission will provide guidelines for Member States to ensure the quality of their Energy Performance Certificates and of the energy efficiency improvement of the measures undertaken as a result of recommendations from these certificates.***

***4c. Member States should ensure that consumers have access to independent advice on their energy audit to prevent unnecessary work being carried out or exploitation of funding.***

***4d. Member States shall ensure that enterprises disclose in their annual report whether they have carried out an energy audit, whether it was undertaken by an in-house or an external auditor, and the name of the external auditor, if applicable.***

***4e. Where an accredited audit is provided, consumers should be able to transfer the results and recommendations of the audit to any accredited service provider in order to enable competition in the market.***

***The Commission shall establish guidelines to identify which financial incentives set up by Member States in favour of their enterprises will be compatible with the internal market rules and state aid rules.***

*Text proposed by the Commission*

*Amendment*

***ANNEX V a***

***Minimum criteria to be included in energy audits and energy management systems***

*The energy audits and energy management systems referred to in Article 7, shall observe the following guiding principles:*

*1. contain a clear energy policy at enterprise and site level, with action plans that include investments, budgets and operations, together with clear lines of responsibility and accountabilities for energy consumption and improved energy performance, reaching into top management levels;*

*2. have clearly defined objectives designed to improve and maintain the energy performance of enterprises as well as households at economically optimal levels while respecting environmental loads and technical feasibility. Energy audits for small and medium-sized enterprises (SMEs) and households are normally less complex than those for larger enterprises and larger buildings. However, the general quality criteria set out in this annex apply equally well to the energy audits for SMEs and households;*

*3. be based on up-to-date measured operational data on energy consumption and load profiles (for electricity), storable for historical analysis and for tracking performance. The audits shall have scopes based on energy flows into and out of the overall system boundaries of the enterprises, sites and buildings in question; they shall thus include total site energy consumption, as well as individual process, service and technical equipment and system consumption, together with classes of energy (steam, fuel, electricity), as well as past, current and projected energy and operational costs; data shall be adjusted for extraneous influences such as weather conditions, industrial throughput, etc.;*

***4. build, whenever possible, on life-cycle cost analysis (LCCA), instead of Simple Payback Periods (SPP), in order to take account inter alia of long-term savings, residual values of long-term investments and discount rates;***

***The selection and dimensioning of all new and replacement energy-using equipment, processes and other energy-saving measures shall include economic, behavioural and technical analysis, as well as proposals and plans for follow-ups and verification of the impacts of measures once they are implemented. Other possible non-energy gains, such as productivity increases and lower maintenance costs shall also be reported, as well as technical interactions and synergies between combined measures.***

***6. Energy audits and energy management systems and their recommendations shall build on reviews of enterprise, building, site, system and process status, comparing these to applicable benchmarking and best practice schemes, as well as to continually updated lists of Best Available Techniques (BAT in IPPC briefs, for example ) for the sector and sub-sector in question.***

***7. Measures currently used or proposed to improve energy performance shall in no way compromise existing health and safety regulations such as indoor climate and fire safety during implementation, operation and occupancy, or other regulatory constraints.***

***8. The use of EN ISO 50001 (Energy Management Systems) or pr EN 16247-1 (energy Audits) may be recognized as a means of fulfilling the requirements set out in Article 7 of this Directive, provided the standard's application in enterprises and buildings also meets the criteria set out in paragraphs 1 – 12 of this Annex.***

***The energy audits shall also:***

*1. be representative in order to collect reliable and relevant data and replicable, as well as proportionate, traceable and verifiable. Member States shall put in place a scheme to assure and check their quality and to impose sanctions if needed;*

*2. be of sufficient quality and include detailed and validated economic calculations for the proposed measures so as to provide potential investors (internal and external) and fiscal and financial authorities with clear information on potential savings, cash flows and net present values of the measures and packages of measures proposed, and the technical and financial risks involved.*

**COMP 9**

**on Article 8, Article 8 a (new) and Annex VI**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 7, 41-51, 119, 400-401, 907-985, 987-1023, 1025-1027, 1638-1738,  
ENVI 60-62, ENVI 102

If adopted, AM 7, 41-51, 119, 400-401, 907-985, 987-1023, 1025-1027, 1638-1738,  
ENVI 60-62, ENVI 102 fall

*Text proposed by the Commission*

*Compromise Amendment*

Article 8

Article 8

***Metering and informative billing***

***Metering, energy consumption and billing  
information***

1. Member States shall ensure that final customers for electricity, natural gas, district heating or cooling and ***district-supplied*** domestic hot water are provided with individual meters that accurately measure and allow to make available their actual energy consumption and provide information on actual time of use, in accordance with Annex VI.

1. ***When smart meters are installed***, Member States shall ensure that final customers for electricity, natural gas, district ***or other central*** heating or cooling and ***district or other centrally supplied*** domestic hot water are provided ***at no additional costs*** with individual meters that accurately measure and allow to make available their actual energy consumption and provide ***real time*** information on actual use, ***free of charge, and in a format that enables customers to better understand their energy use***, in accordance with Annex VI.

***Member States shall require that appropriate advice and information be given to customers at the time of installation, notably about the full potential of smart meters with regard to tariff structures, meter reading management and the monitoring of energy consumption.***

*When Member States put in place the roll-out of smart meters foreseen by Directives 2009/72/EC and 2009/73/EC concerning electricity and gas markets, they shall ensure that the objectives of energy **efficiency** and final customer benefits are fully taken into account when establishing the minimum functionalities of the meters and obligations imposed on market participants.*

In the case of electricity and on request of the final customer, meter operators shall ensure that the meter can account for electricity produced on the final customer's premises and exported to the grid. Member States shall ensure that if final customers request it, metering data on their real-time production or consumption is made available to a third party acting on behalf of the final customer.

*In accordance with Directives 2009/72/EC and 2009/73/EC concerning electricity and gas markets, **where the roll-out of smart meters is assessed positively, and to the extent that Member States put in place this roll-out**, they shall ensure that the objectives of energy **savings** and final customer benefits are fully taken into account when establishing the minimum functionalities of the meters and obligations imposed on market participants. **Minimum functionalities shall enable communication of smart metering components with devices or gateways used within the home or building in the provision of energy saving and demand-side management services.***

*Member States shall ensure that enterprises, including from the commercial sector, which have an electricity end-use consumption of more than 6000 kWh per year, have installed smart meters by 1 January 2015 at the latest, where technically feasible.*

In the case of electricity and on request of the final customer, meter operators shall ensure that the meter, **or meters**, can account for electricity produced on the final customer's premises and exported to the grid. Member States shall ensure that if final customers request it, metering data on their real-time production or consumption is made available **promptly to them or to** a third party acting on behalf of the final customer **at no additional cost and in an easily understandable format that they can use to compare deals on a like-for-like basis. The data shall be handled in a secure way and consumer privacy shall be protected in compliance with the relevant EU data protection and privacy legislation.**

In case of heating and cooling, where a building is supplied from a district heating network, a heat meter shall be installed at the building entry. In **multi-apartment** buildings, individual heat **consumption meters** shall also be installed to measure the consumption of heat **or** cooling for each **apartment**. Where the use of individual heat consumption meters **is not technically feasible**, individual heat cost allocators, in accordance with the specifications in Annex VI(1.2), shall be used for measuring heat consumption **at each radiator**.

Member States **shall** introduce rules on cost allocation of heat consumption in multi-**apartment** buildings supplied with centralised heat **or** cooling. **Such** rules shall include guidelines on correction factors to reflect building characteristics such as heat transfers between apartments.

In **the** case of heating, cooling **or hot water**, where a building is supplied from a district heating network **or from a central source servicing multiple buildings or businesses within a single building**, a heat **or hot water** meter shall be installed at the building entry. In **multi unit** buildings, individual heat **metering devices** shall also be installed to measure the consumption of heat, cooling **or hot water** for each **unit respectively**. Where **the costs of** the use of individual heat consumption meters **outweigh the benefits**, individual heat cost allocators in accordance with the specifications in Annex VI(1.2), shall be used for measuring heat consumption.

**Where** Member States introduce rules on cost allocation of, **and billing information for**, heat, **cooling or hot water** consumption in multi-**unit** buildings supplied with centralised heat, cooling **and/or hot water**, **such** rules shall include guidelines on correction factors to reflect building characteristics such as heat transfers between apartments.

2. In addition to the obligations resulting from Directive 2009/72/EC and Directive 2009/73/EC with regard to billing, Member States shall ensure, **not later than 1 January 2015**, that billing is accurate and based on actual consumption, for all the sectors covered by the present Directive, including energy distributors, distribution system operators and retail energy sales companies, in accordance with the minimum frequency set out in Annex VI(2.1). Appropriate information shall be made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Annex VI(2.2).

Member States shall ensure that final customers are offered a choice of either electronic or hard copy billing and the possibility of easy access to complementary information allowing detailed self-checks on historical consumption as laid down in Annex VI(1.1).

Member States shall require that if requested by final customers, information on their energy billing and historical consumption is made available to an energy service provider designated by the final customer.

2. In addition to the obligations resulting from Directive 2009/72/EC and Directive 2009/73/EC with regard to billing, Member States shall ensure that billing **information** is accurate and based on actual consumption, for all the sectors covered by the present Directive, including energy distributors, distribution system operators and retail energy sales companies, in accordance with the minimum frequency set out in Annex VI (2.1). **Where customers do not have smart meters, Member States shall ensure that they are able to carry out regular self-reading and that billing information on the basis of actual consumption is performed. Only when the final customer has not provided a meter reading for a given billing interval shall billing be based on estimated consumption or a flat rate.** Appropriate information shall be made available with the bill to provide final customers with a comprehensive account of current energy costs, in accordance with Annex VI(2.2).

Member States shall ensure that final customers are offered a choice of either electronic or hard copy billing **information and bills** and, **in the case of the installation of smart meters, have** the possibility of easy access to complementary information allowing detailed self-checks on historical consumption as laid down in Annex VI(1.1).

Member States shall require that if requested by final customers, information on their energy billing and historical consumption is made available to **the customer or to** an energy service provider designated by the final customer.

**When a smart meter is installed, Member States shall prohibit back billing.**



*Member States shall require that information and estimates for energy tariffs are provided to consumers on demand in a timely manner and in an easily understandable format enabling consumers to compare deals on a like-for-like basis, allowing consumers to switch their domestic provider of energy in a cost-effective manner.*

*Where appropriate, Member States shall encourage tariff structures that incentivise consumers to save marginal additional units of energy consumption.*

3. **Information** from metering **and billing** of individual consumption of energy as well as the other information mentioned in paragraphs 1, 2, 3 and Annex VI shall be **provided** to final customers free of charge.

3. **Billing and billing information** from metering of individual consumption of energy as well as the other information mentioned in paragraphs 1 **and 2** and Annex VI shall be **made available** to final customers free of charge, **within 2 hours or as quickly as is technically feasible.**

**3a. Member States shall require national regulatory authorities to test the accessibility and usability for consumers of energy bills on an annual basis. The findings shall be made publicly available.**

*Text proposed by the Commission*

*Compromise Amendment*

**Article 8a.**

**Consumer information and empowering programme**

**1. Member states shall develop a national strategy to promote and enable an efficient use of energy by small energy customers, including domestic customers.**

**2. For the purposes of paragraph 1, Member States shall include at least:**

**(a) the establishment of a single point of contact for advice and accredited providers, in accordance with Articles 13 and 14;**

*(b) a range of instruments and policies to promote behaviour change which may include:*

- fiscal incentives;*
- access to finance, grants or subsidies;*
- information provision;*
- exemplary projects;*
- workplace activities;*
- minimum standards for information on bills and lay-out for invoices;*

*(c) a programme to engage consumers and consumer organisations during the roll-out of smart meters through communication of:*

- cost-effective and easy-to-achieve changes in energy use;*
- information on energy efficiency measures.*

ANNEX VI

**Minimum requirements for metering of individual energy consumption and the frequency of billing based on actual consumption**

1. Minimum requirements for metering of individual energy consumption

1.1. Individual meters

When an individual meter is installed, Member States shall ensure that it is connected to an interface which **provides secure communication to the final customer, enabling the meter to export private metrological** data to the final customer or a third party designated by the final customer.

The interface shall provide **private** information enabling final customers to better control their energy consumption **and use the** information for further potential analysis. Such information shall at least indicate the current rate of consumption (e.g. kWh, kJ, m<sup>3</sup>) and related costs and be communicated in a format that promotes consumer action in energy efficiency.

**The National Regulatory Authority** shall **ensure that the interface** also **provides** public data that allows the final customer to consult and use the applicable time-of-use tariffs with real-time pricing, peak time pricing and peak time rebates.

ANNEX VI

**Minimum requirements for metering of individual energy consumption and the frequency of billing information based on actual consumption**

1. Minimum requirements for metering of individual energy consumption

1.1. Individual meters

When an individual **smart** meter is installed, Member States shall ensure that it is connected to an interface which **displays and securely transmits accurate consumption** data to the final customer or a third party designated by the final customer. **The data shall be handled in a secure way and consumer privacy shall be protected in compliance with the relevant EU data protection and privacy legislation.**

The interface shall provide information enabling final customers to better control **and reduce** their energy consumption. **This information can then be used** for further potential analysis **and advice by a third party designated by the final customer safeguarding the privacy of the latter.** Such information shall at least indicate the current rate of consumption (e.g. kWh, kJ, m<sup>3</sup>) and related costs and be communicated in a format that promotes consumer action in energy efficiency.

**They** shall also **provide** public data that allows the final customer to consult and use the applicable time-of-use tariffs with real-time pricing, peak time pricing and peak time rebates.

***The smart metering infrastructure shall support two-way communication interfaces for the provision of energy efficiency and demand side management services, such as home automation and demand response programmes that allow the final consumer to react to price signals and adapt energy consumption. Member States shall require that these interfaces are interoperable.***

***Member States shall ensure that interfaces are accessible to consumers with disabilities, where appropriate.***

The private data ***exported*** through the interface shall offer the final customer a possibility to consult his/her historic consumption levels (in local currency and in kWh, kJ or m<sup>3</sup>):

- (a) in the last seven days, day by day;
- (b) in the last complete week;
- (c) in the last complete month;
- (d) in the same complete month the previous year;
- (e) in the last complete year.

***The historic periods shall match the billing periods for consistency with household bills.***

The private ***consumption*** data ***securely transmitted*** through the ***two-way information*** interface shall offer the final customer a possibility to consult his/her historic consumption levels ***over a range of time periods*** (in local currency and in kWh, kJ or m<sup>3</sup>):

- (a) in the last seven days, day by day;
- (b) in the last complete week;
- (c) in the last complete month;
- (d) in the same complete month the previous year;
- (e) in the last complete year.

Complementary information on historical consumption (any day, week, month, year from the start-up of intelligent metering) and other useful information allowing for more detailed self-checks by the consumer (*e.g. graphic evolutions of individual consumption; benchmarking information, cumulative consumption/savings/spendings from the beginning of each contract, proportion of the individual consumption from renewable sources of energy and related CO2 savings, etc*) shall be made easily accessible either directly through the interface or via the internet.

#### 1.2. Heat cost allocators

**Heat** cost allocators shall be equipped with clearly legible displays allowing the final customer to consult the current rate of consumption as well as historic consumption levels. The historic periods displayed by the heat cost allocator shall match the billing periods.

#### 2. Minimum requirements for billing

##### 2.1 Frequency of billing based on actual consumption

In order to enable final customers to regulate their own energy consumption, billing on the basis of actual consumption shall be performed with the following frequency:

- (a) On a monthly basis for electricity consumption.
- (b) At least every two months for the consumption of natural gas. Where gas is used for individual heating, billing shall be provided on a monthly basis.

Complementary information on historical consumption (any day, week, month, year from the start-up of intelligent metering) and other useful information allowing for more detailed self-checks by the consumer shall be made easily accessible either directly through the interface *such as an in-home display* or via the internet.

#### 1.2. Heat cost allocators

**Where** heat cost allocators *are used, they* shall be equipped with clearly legible displays allowing the final customer to consult the current rate of consumption as well as historic consumption levels. The historic periods displayed by the heat cost allocator shall match the billing periods.

#### 2. Minimum requirements for billing

##### 2.1 Frequency of billing *information* based on actual consumption

In order to enable final customers to regulate their own energy consumption, billing *information* on the basis of actual consumption shall be performed with the following frequency:

- (a) On a monthly basis for electricity consumption.
- (b) At least every two months for the consumption of natural gas. Where gas is used for individual heating, billing *information* shall be provided on a monthly basis,

(c) With centralised heating and cooling, billing shall be provided on a monthly basis during the heating/cooling season.

(d) *At* least every two months for hot water billing.

Billing based on the measurement of heat consumption using heat cost allocators shall be accompanied with explanations of the numbers available through displays of heat cost allocators, taking into account the standard characteristics of heat cost allocators (EN 834)<sup>44</sup>.

#### 2.2. Minimum information contained in the bill

Member States shall ensure that the following information is made available to final customers in clear and understandable terms in or with their bills, contracts, transactions, and receipts at distribution stations:

- (a) current actual prices and actual consumption of energy
- (b) comparisons of the final customer's current energy consumption with consumption for the same period in the previous year, preferably in graphic form;
- (c) comparisons with an average normalised or benchmarked final customer in the same user category;

(c) With centralised heating and cooling **where individual meters are installed**, billing **information based on actual consumption** shall be provided on a monthly basis during the heating/cooling season. **Where billing is based on heat cost allocation, monthly harmonized bills shall be balanced at least yearly.**

(d) **Where technically feasible and appropriate, at** least every two months for hot water billing **information or, if provided by the same central system, with the same frequency as under (c).**

Billing **information** based on the measurement of heat consumption using heat cost allocators shall be accompanied with explanations of the numbers available through displays of heat cost allocators, taking into account the standard characteristics of heat cost allocators (EN 834)<sup>44</sup>.

#### 2.2. Minimum information contained in the bill

Member States shall ensure that the following information is made available to final customers in clear and understandable terms in or with their bills, contracts, transactions, and receipts at distribution stations:

- (a) current actual prices and actual consumption of energy
- (b) comparisons of the final customer's current energy consumption with consumption for the same period in the previous year, preferably in graphic form;
- (c) comparisons with an average normalised or benchmarked final customer in the same user category;

(d) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

(d) contact information for final customers' organisations, energy agencies or similar bodies ***that are independent and accredited***, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

***Member States shall ensure that a summary box containing the following information is included on the front of each gas and electricity bill:***

***(a) The exact tariff name;***

***(b) The amount of energy used;***

***(c) The rate of gas and/or electricity per kWh and how this is broken down on a daily basis;***

***(d) How the cost has been calculated;***

***(e) Any discounts the customer is benefiting from and when the discounts end;***

***(f) Any fees the customer will have to pay if he/she changes supplier***

2.3. Advice on energy efficiency accompanying bills and other feedback to final customers

2.3. Advice on energy efficiency accompanying bills and other feedback to final customers

When sending contracts and contract changes, and in the bills customers receive or through websites addressing individual customers, energy distributors, distribution system operators and retail energy sales companies shall inform their customers in a clear and understandable manner of contact information for independent consumer advice centres, energy agencies or similar institutions, including their internet addresses, where they can obtain advice on available energy efficiency measures, benchmark profiles for their energy consumption and technical specifications of energy using appliances that can serve to reduce the consumption of these appliances.

When sending contracts and contract changes, and in the bills customers receive or through websites addressing individual customers, energy distributors, distribution system operators and retail energy sales companies shall inform their customers in a clear and understandable manner of contact information for independent consumer advice centres, energy agencies or similar institutions, including their internet addresses, where they can obtain advice on available energy efficiency measures, benchmark profiles for their energy consumption and technical specifications of energy using appliances that can serve to reduce the consumption of these appliances.



**COMP 10**

**on Article 9**

**by EPP, S&D, ALDE, Greens/EFA, EFD, GUE**

Covers AM 52, 1030-1035, 1037

If adopted, AM 52, 1030-1035, 1037 fall

*Text proposed by the Commission*

Article 9

***Penalties***

Member States shall lay down rules on penalties applicable in case of non-compliance with the national provisions adopted pursuant to Articles 6 to 8 and shall take the necessary measures to ensure that they are implemented. The penalties provided must be effective, proportionate and dissuasive. Member States shall communicate those provisions to the Commission by [12 months after entry into force of this Directive] at the latest and shall notify it without delay of any subsequent amendment affecting them.

*Compromise Amendment*

Article 9

***Incentives and penalties***

***Member States shall lay down rules on incentives to give in particular small and medium sized enterprises and households the necessary means to carry out energy efficiency investments.***

Member States shall ***also*** lay down rules on penalties applicable in case of non-compliance with the national provisions adopted pursuant to Articles 6 to 8 and shall take the necessary measures to ensure that they are implemented. The penalties provided must be effective, proportionate and dissuasive. Member States shall communicate those provisions to the Commission by [12 months after entry into force of this Directive] at the latest and shall notify it without delay of any subsequent amendment affecting them.

**COMP 11**

**on Article 10, Annexes VII, VIII and VIII a (new)**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 53-58, 1038-1319, 1739-1775, ENVI 63-69

If adopted, AM 53-58, 1038-1319, 1480 (2nd part), 1480 (3rd part), 1485-1487, 1739-1775, 1806-1808, ENVI 63-69 fall

*Text proposed by the Commission*

*Compromise Amendment*

Article 10

Article 10

***Promotion of efficiency in heating and cooling***

***Promotion of efficiency in heating and cooling***

1. By 1 January **2014**, Member States shall ***establish and notify to the Commission*** a national heating and cooling ***plan*** for developing the potential for the application of high-efficiency cogeneration and efficient district heating and cooling, containing the information set out in Annex VII.

1. By 1 January **2015**, Member States shall ***ensure that*** a national heating and cooling ***roadmap*** for developing the potential for the application of high-efficiency cogeneration, ***including micro-cogeneration***, and efficient district heating and cooling, ***including the upgrade of existing district heating and cooling networks***, containing the information set out in Annex VII, ***is in place***.

***The roadmap shall consider different types of cogeneration on the basis of the specificities of different national demand and consumption patterns and shall take into account inter alia likely reductions in heating, cooling and hot water load arising from this Directive, from the implementation of Directive 2010/31/EU and from other measures, and the effect this decrease in energy consumption will have on future infrastructure needs.***

*The plans shall be updated and notified to the Commission every five years. Member States shall ensure by means of their regulatory framework that national heating and cooling plans are taken into account in local and regional development plans, including urban and rural spatial plans, and fulfil the design criteria in Annex VII.*

2. Member States shall take the necessary measures to develop efficient district heating and cooling infrastructure to accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat and renewable energy sources in accordance with paragraphs 1, 3, 6 and 7. When developing district heating and cooling, they shall to the extent possible opt for high-efficiency cogeneration rather than heat-only generation.

*By 1 January 2015 and every five years thereafter, Member States shall notify to the Commission and update their roadmap as referred to in paragraph 1. Member States shall ensure that efficient use of energy resources and the development of resource efficient heating and cooling systems are considered in local and regional energy strategies.*

*The national heating and cooling roadmaps shall take full account of the analysis of the national potentials for high-efficiency cogeneration carried out under Directive 2004/8/EC.*

*1a. For the purpose of the roadmap referred to in subparagraph 1, Member States shall carry out a cost-benefit analysis covering their territory in accordance with Annex VIIIa, based on climate conditions, economic feasibility and technical suitability, in order to identify and facilitate the implementation of the most cost-efficient solutions to meet heating and cooling requirements.*

2. Member States shall take the necessary measures to develop efficient district heating and cooling infrastructure including the upgrade of existing infrastructure and/or accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat and renewable energy sources in accordance with paragraphs 1, 3, 6 and 7. *Notably, authorisation and permitting decisions referred to in paragraphs 3, 6 and 8, shall be based on the national heating and cooling roadmaps.* When developing district heating and cooling, high-efficiency cogeneration shall to the extent possible be given preference over heat-only combustion units.

*With the exception of possible grants, the costs associated with the development of district heating and cooling infrastructure shall be borne by the users connected to such infrastructure through regulated tariffs.*

*2a. Member States shall encourage the introduction of measures and procedures to promote cogeneration installations, other than small-scale cogeneration units, with a total rated thermal input of less than 20 MW in remote, disadvantaged and/or electricity-poor areas, in particular where local resources are available, in order to encourage distributed energy generation.*

3. Member States shall ensure that all new thermal electricity generation installations with a total thermal input exceeding 20 MW:

*a) are provided with equipment allowing for the recovery of waste heat by means of a high-efficiency cogeneration unit; and*

*b) are sited in a location where waste heat can be used by heat demand points.*

Member States shall adopt authorisation criteria as referred to in Article 7 of Directive 2009/72/EC, or equivalent permit criteria, to ensure that the provisions of the first subparagraph are met. They shall in particular ensure that the location of new installations takes into account the availability of suitable heat loads for cogeneration *in accordance with Annex VIII.*

*4. Member States may lay down conditions for exemption from the provisions of paragraph 3 when:*

*a) the threshold conditions related to the availability of heat load set out in point 1 of Annex VIII are not met;*

3. Member States shall ensure that, *when a cost-benefit analysis in accordance with Annex VIIIa shows that the benefits outweigh the costs*, all new thermal electricity generation installations with a total thermal input exceeding 20 MW

are provided with equipment allowing for the recovery of *local* waste heat by means of a high-efficiency cogeneration unit.

Member States shall adopt authorisation criteria as referred to in Article 7 of Directive 2009/72/EC, or equivalent permit criteria, to ensure that the provisions of the first subparagraph are met. They shall in particular ensure that the location of new installations takes into account the availability of suitable *local* heat loads for cogeneration.

*b) the requirement in point (b) of paragraph 3 related to the location of the installation cannot be met due to the need to locate an installation close to a geological storage site permitted under Directive 2009/31/EC; or*

*c) a cost-benefit analysis shows that the costs outweigh the benefits in comparison with the full life-cycle costs, including infrastructure investment, of providing the same amount of electricity and heat with separate heating or cooling.*

*Member States shall notify such conditions for exemption to the Commission by 1 January 2014. The Commission may refuse those conditions or make suggestions for modifications in the 6 months following notification. In such cases, the conditions for exemption shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified conditions.*

5. Member States shall ensure that *national regulations on urban and rural spatial planning are adapted to the authorisation criteria referred to in paragraph 3 and are in line with the national heating and cooling plans* referred to in paragraph 1.

6. Member States shall ensure that, whenever an existing electricity generation installation with a total rated thermal input exceeding 20 MW is substantially refurbished or when, in accordance with Article 21 of Directive 2010/75/EC, its permit is updated, conversion to allow its operation as a high-efficiency cogeneration installation is set as a condition in the new or updated permit or licence, provided that the installation is sited in a location where *the waste heat can be used by heat demand points in accordance with point 1 of Annex VIII.*

5. Member States shall ensure that the authorisation criteria referred to in paragraph 3 *take into account* the national heating and cooling *roadmaps* referred to in paragraph 1.

6. Member States shall ensure that, *when a cost-benefit analysis in accordance with Annex VIIIa shows that the benefits outweigh the costs*, whenever an existing electricity generation installation with a total rated thermal input exceeding 20 MW is substantially refurbished or when, in accordance with Article 21 of Directive 2010/75/EC, its permit is updated, conversion to allow its operation as a high-efficiency cogeneration installation is set as a condition in the new or updated permit or licence, provided that the installation is sited in a location where *there is sufficient and long-term stable* heat demand.

The equipment of electricity generation installations with carbon capture or storage facilities shall not be considered as refurbishment for the purpose of these provisions.

**7. Member States may lay down conditions for exemption from the provisions of paragraph 6 when:**

**(a) the threshold conditions related to the availability of heat load set out in point 1 of Annex VIII are not met; or**

**(b) a cost-benefit analysis shows that the costs outweigh the benefits in comparison with the full life-cycle costs, including infrastructure investment, of providing the same amount of heat with separate heating or cooling.**

**Member States shall notify such conditions for exemption to the Commission by 1 January 2014. The Commission may refuse those conditions or make suggestions for modifications in the 6 months following notification. In such cases, the conditions for exemption shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified conditions.**

8. Member States shall adopt authorisation or equivalent permitting criteria to ensure that industrial installations with a total thermal input exceeding 20 MW generating waste heat that are built or substantially refurbished after [the entry into force of this Directive] capture and make use of their waste heat.

The equipment of electricity generation installations with carbon capture or storage facilities shall not be considered as refurbishment for the purpose of these provisions.

8. Member States shall adopt authorisation or equivalent permitting criteria to ensure that, **when a cost-benefit analysis in accordance with Annex VIIIa shows that the benefits outweigh the costs**, industrial installations with a total thermal input exceeding 20 MW generating waste heat that are built or substantially refurbished after [the entry into force of this Directive] capture and make use of their waste heat.

Member States shall establish mechanisms to ensure the connection of these installations to district heating and cooling networks. *They may require these installations to bear the connection charges and the cost of developing the district heating and cooling networks necessary to transport their waste heat to consumers.*

*Member States may lay down conditions for exemption from the provisions in the first sub-paragraph when:*

*(a) the threshold conditions related to the availability of heat load set out in point 2 of Annex VIII are not met; or*

*(b) a cost-benefit analysis shows that the costs outweigh the benefits in comparison with the full life-cycle costs, including infrastructure investment, of providing the same amount of heat with separate heating or cooling.*

*Member States shall notify such conditions for exemption to the Commission by 1 January 2014. The Commission may refuse those conditions or make suggestions for modifications in the 6 months following notification. In such cases, the conditions for exemption shall not be applied by the Member State concerned until the Commission expressly accepts the resubmitted or modified conditions.*

9. The Commission shall establish by 1 January 2013 *by means of a delegated act in accordance with Article 18* a methodology for the cost-benefit analysis referred to in *paragraphs 4 (c), 7 (b) and 8(b)*.

Member States shall establish mechanisms to ensure the connection of these installations to district heating and cooling networks.

9. The Commission shall establish by 1 January 2013 a methodology *in accordance with the basic guidelines as set out in Annex VIIIa* for the cost-benefit analysis referred to in *this Article*.

10. On the basis of the harmonised efficiency reference values referred to in Annex II (f), Member States shall ensure that the origin of electricity produced from high-efficiency cogeneration can be guaranteed according to objective, transparent and non-discriminatory criteria laid down by each Member State. They shall ensure that this guarantee of origin complies with the requirements and contains at least the information specified in Annex IX.

Member States shall mutually recognise their guarantees of origin, exclusively as proof of the information referred to in this paragraph. Any refusal to recognise a guarantee of origin as such proof, in particular for reasons relating to the prevention of fraud, must be based on objective, transparent and non-discriminatory criteria. Member States shall notify the Commission of such refusal and its justification. In the event of refusal to recognise a guarantee of origin, the Commission may adopt a decision to compel the refusing party to recognise it, particularly with regard to objective, transparent and non-discriminatory criteria on which such recognition is based.

*The* Commission shall be empowered to review, by means of delegated acts in accordance with Article 18, the harmonised efficiency reference values laid down in Commission Decision [the number of the Decision] on the basis of Directive 2004/8/EC for the first time by 1 January 2015, and every ten years thereafter.

10. On the basis of the harmonised efficiency reference values referred to in Annex II (f), Member States shall ensure that the origin of electricity produced from high-efficiency cogeneration can be guaranteed according to objective, transparent and non-discriminatory criteria laid down by each Member State. They shall ensure that this guarantee of origin complies with the requirements and contains at least the information specified in Annex IX.

Member States shall mutually recognise their guarantees of origin, exclusively as proof of the information referred to in this paragraph. Any refusal to recognise a guarantee of origin as such proof, in particular for reasons relating to the prevention of fraud, must be based on objective, transparent and non-discriminatory criteria. Member States shall notify the Commission of such refusal and its justification. In the event of refusal to recognise a guarantee of origin, the Commission may adopt a decision to compel the refusing party to recognise it, particularly with regard to objective, transparent and non-discriminatory criteria on which such recognition is based.

*Taking into account technical development and innovation, the* Commission shall be empowered to review, by means of delegated acts in accordance with Article 18, the harmonised efficiency reference values laid down in Commission Decision [the number of the Decision] on the basis of Directive 2004/8/EC for the first time by 1 January 2015, and every ten years thereafter.



11. Member States shall ensure that any available support for cogeneration is subject to the electricity produced originating from high-efficiency cogeneration and the waste heat being effectively used to achieve primary energy savings. They shall not differentiate between electricity consumed on site and electricity exported to the grid. Public support to cogeneration and district heating generation and networks is subject to State aid rules, where applicable.

*Text proposed by the Commission*

#### **ANNEX VII**

##### ***Planning for efficiency in heating and cooling***

1. The national heating and cooling **plans** referred to in Article 10(1) shall include:

- (a) a description of heating and cooling demand;
- (b) a forecast of how this demand will change in the next 10 years, taking into account in particular the evolution of demand in buildings and the different sectors of industry;
- (c) a map of the national territory, identifying:
  - (i) heating and cooling demand points, **including:**
    - **municipalities and conurbations with a plot ratio of at least 0.3; and**
    - **industrial zones with a total annual heating and cooling consumption of more than 20 GWh;**
  - (ii) existing and planned district heating and cooling infrastructure;

11. Member States shall ensure that any available support for cogeneration is subject to the electricity produced originating from high-efficiency cogeneration and the waste heat being effectively used to achieve primary energy savings. They shall not differentiate between electricity consumed on site and electricity exported to the grid. Public support to cogeneration and district heating generation and networks is subject to State aid rules, where applicable.

*Compromise Amendment*

#### **ANNEX VII**

##### ***Planning for efficiency in heating and cooling***

1. The national heating and cooling **roadmaps** referred to in Article 10(1) shall include:

- (a) a description of heating and cooling demand;
- (b) a forecast of how this demand will change in the next 10 years, taking into account in particular the evolution of demand in buildings and the different sectors of industry;
- (c) a map of the national territory, identifying:
  - (i) **significant** heating and cooling demand points.
  - (ii) existing and planned district heating and cooling infrastructure;

(iii) potential heating and cooling supply points, **including:**

**- electricity generation installations with a total annual electricity production of more than 20 GWh; and**

**- waste incineration plants;**

**- existing and planned cogeneration installations, classified according to Annex VII, and district heating installations.**

(d) identification of the heating and cooling demand that could be satisfied by high-efficiency cogeneration, including residential micro-cogeneration, and by district heating and cooling;

(e) identification of the potential for additional high-efficiency cogeneration, including from the refurbishment of existing and the construction of new generation and industrial installations or other facilities generating waste heat;

(f) measures **to be adopted** up to 2020 and up to 2030 to realise the potential in (e) in order to meet the demand in (d), including:

(i) measures to increase the share of cogeneration in heating and cooling production and in electricity production; and

(ii) measures to develop efficient district heating and cooling infrastructure to accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat and renewable energy sources;

(iii) **significant** potential heating and cooling supply points.

(d) identification of the heating and cooling demand that could be satisfied by high-efficiency cogeneration, including **a specific section on** residential micro-cogeneration, **where appropriate**, and by district heating and cooling; **setting of high-efficiency cogeneration targets for 2020 and corresponding intermediate targets and of district heating and cooling promotion areas which cost-benefit analysis have identified cogeneration potentia;**

(e) identification of the potential for additional high-efficiency cogeneration, including from the refurbishment of existing and the construction of new generation and industrial installations or other facilities generating waste heat;

(f) measures **which may be taken** up to 2020 and up to 2030 to realise the potential in (e) in order to meet the demand in (d), including:

(i) measures to increase the share of cogeneration in heating and cooling production and in electricity production; and

(ii) measures to develop efficient district heating and cooling infrastructure to accommodate the development of high-efficiency cogeneration and the use of heating and cooling from waste heat and renewable energy sources;

*(iia) measures to ensure that new thermal electricity generation installations and industrial plants producing useful heat are located in sites where a maximum amount of the available useful heat will be recovered to meet existing or forecasted heat and cooling demand;*

*(iib) measures to ensure that new residential zones or new industrial plants which consume heat in their production processes are located in sites where a maximum amount of their heat demand will be met by the available useful heat, as identified in the assessment, including the clustering of a number of industrial plants in the same location with a view to ensuring an optimal matching between demand and supply for heat and cooling;*

*(iic) measures to ensure that thermal electricity generating installations, industrial plants producing useful heat, waste incineration plants and other waste-to-energy plants are connected to the local district heating or cooling network;*

*(iid) measures to ensure that residential zones and industrial plants which consume heat in their production processes are connected to the local district heating or cooling network.*

(g) the share of high efficiency cogeneration and the potential established and progress achieved under Directive 2004/8/EC.

(h) an estimate of the primary energy to be saved;

(i) an estimate of public support measures to heating and cooling, if any, with the annual budget and identification of the potential aid element. This does not prejudice a separate notification of the public support schemes for a State aid assessment.

2. To the extent appropriate, the *plan* may be made up of an assembly of regional or local plans.

(g) the share of high efficiency cogeneration and the potential established and progress achieved under Directive 2004/8/EC.

(h) an estimate of the primary energy to be saved;

(i) an estimate of public support measures to heating and cooling, if any, with the annual budget and identification of the potential aid element. This does not prejudice a separate notification of the public support schemes for a State aid assessment.

2. To the extent appropriate, the *roadmap* may be made up of an assembly of regional or local *heating and cooling* plans.

*3. Urban spatial plans shall be designed to ensure that:* *deleted*

*a) new thermal electricity generation installations and industrial plants producing waste heat are located in sites where a maximum amount of the available waste heat will be recovered to meet existing or forecasted heat and cooling demand;*

*b) new residential zones or new industrial plants which consume heat in their production processes are located in sites where a maximum amount of their heat demand will be met by the available waste heat, as identified in national heating and cooling plans. To ensure an optimal matching between demand and supply for heat and cooling, spatial plans shall favour the clustering of a number of industrial plants in the same location;*

*c) thermal electricity generating installations, industrial plants producing waste heat, waste incineration plants and other waste-to-energy plants are connected to the local district heating or cooling network;*

*d) residential zones and industrial plants which consume heat in their production processes are connected to the local district heating or cooling network.*

**ANNEX VIII**

*deleted*

*Text proposed by the Commission*

*Amendment*

***ANNEX VIII a***

***Basic guidelines for use of cost-benefit analysis to be used under Article 10***

*Cost-benefit analysis shall respect a comprehensive set of guiding principles for project evaluation within the energy sector. The guidelines shall cover important aspects of the evaluation process such as the setting up a baseline scenario, identification of alternative scenarios, time horizon, and the use of sensitivity analysis. The guidelines shall also make use of the relevant welfare economic theory when it comes to the correct method for the valuation of both market and non-market goods and services.*

*The guidelines shall contain a set of projected energy prices. It is recommended that these prices are used when doing cost benefit analysis related to e.g. heat planning. They shall include projected annual prices for different kinds of energy input, output, taxes and the welfare economic price of air pollutants at least until the years 2020 and 2030. They are updated each year based on data from different data sources (among which are the International Energy Agency) and, model simulation while taking into account changes in government policies.*

*The guidelines shall also ensure that any solution chosen actually contributes to real reductions in primary energy savings terms and shall also be based on socio-economic criteria.*

*The geographical area covered in the cost-benefit analysis shall be sufficiently broad to avoid distortion in the assessment of any specific project.*

**COMP 12**

**on Article 12**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 61-66, 1330-1349, 1352-1406, 1795, ENVI 70-76

If adopted, AM 61-66, 384, 1330-1349, 1351-1406, 1795, ENVI 70-76 fall

*Text proposed by the Commission*

*Compromise Amendment*

Article 12

Article 12

***Energy transmission and distribution***

***Energy transmission and distribution***

1. Member States shall ensure that national energy regulatory authorities pay due regard to energy efficiency in their decisions on the operation of the gas and electricity infrastructure. They shall in particular ensure that network tariffs and regulations provide incentives for grid operators to offer system services to network users permitting them to implement energy efficiency improvement measures in the context of the continuing deployment of smart grids.

1. Member States shall ensure that national energy regulatory authorities pay due regard to energy efficiency in their decisions on the operation of the gas and electricity infrastructure. They shall in particular ensure that network tariffs and regulations provide incentives for grid operators ***and other energy services providers*** to offer system services to network users permitting them to implement energy efficiency improvement measures in the context of the continuing deployment of smart grids. ***In addition, Member States shall ensure that national energy regulatory authorities take an integrated approach encompassing potential savings in the energy supply and the end-use sectors.***

Member States shall ensure that network regulation, and network tariffs set or approved by energy regulatory authorities, fulfil the criteria in Annex XI, taking into account guidelines and codes developed pursuant to Regulation 714/2009 and Regulation 715/2009.

2. Member States shall, by 30 June 2013, adopt plans:

- a) assessing the energy efficiency potentials of their gas, electricity and district heating and cooling infrastructure, notably regarding transmission, distribution, load management and interoperability, and connection to energy generating installations;
- b) identifying concrete measures and investments for the introduction of cost-effective energy efficiency improvements in the network infrastructure, with a detailed timetable for their introduction.

3. Member States may permit components of schemes and tariff structures with a social aim for net-bound energy transmission and distribution, provided that **any disruptive effects on the transmission and distribution system are kept to the minimum necessary** and are not disproportionate to the social aim.

**For electricity**, Member States shall ensure that network regulation, and network tariffs set or approved by energy regulatory authorities, fulfil the criteria in Annex XI, taking into account guidelines and codes developed pursuant to Regulation 714/2009. **For gas, Member States shall ensure that network regulation, and network tariffs set or approved by energy regulatory authorities are developed pursuant to** Regulation 715/2009.

2. Member States shall, by 30 June 2013, adopt plans:

- a) assessing the energy efficiency potentials of their gas, electricity and district heating and cooling infrastructure, notably regarding transmission, distribution, load management and interoperability, and connection to energy generating installations, **including micro and small scale energy generators**;
- b) identifying concrete measures and investments for the introduction of cost-effective energy efficiency improvements **or measures aiming to facilitate the integration of renewable energy production** in the network infrastructure, **taking due account of transmission distances**, with a detailed timetable for their introduction.

**ba) assessing the opportunity of setting up a forward capacity market for the electricity market. This assessment should include a cost/benefit analysis of aligning each Member State's market to target a European market.**

3. Member States may permit components of schemes and tariff structures with a social aim for net-bound energy transmission and distribution, provided that **the tariff structures contribute to the overall efficiency (including energy efficiency) of the generation, transmission, distribution and supply of electricity** and are not disproportionate to the social aim.

4. Member States shall ensure the removal of those incentives in transmission and distribution tariffs that unnecessarily increase the volume of distributed or transmitted energy. In this respect, in accordance with Article 3(2) of Directive 2009/72/EC and Article 3(2) of Directive 2009/73/EC, Member States may impose public service obligations relating to energy efficiency on undertakings operating in the electricity and gas sectors.

5. Member States shall ensure that, subject to requirements relating to the maintenance of the reliability and safety of the grid, based on transparent and non-discriminatory criteria defined by the competent national authorities, transmission system operators and distribution system operators in their territory:

- a) guarantee the transmission and distribution of electricity from high-efficiency cogeneration;
- b) provide priority or guaranteed access to the grid of electricity from high efficiency cogeneration;
- c) when dispatching electricity generating installations, provide priority dispatch of electricity from high efficiency cogeneration.

4. Member States shall ensure the removal of those incentives in transmission and distribution tariffs that unnecessarily increase the volume of distributed or transmitted energy ***or those that might hamper participation of demand response, in balancing and ancillary services.*** ***Member States shall ensure that network operators are incentivised to improve efficiency in infrastructure design and operation, and consumer participation in system efficiency, including demand response depending on national circumstances.*** In this respect, in accordance with Article 3(2) of Directive 2009/72/EC and Article 3(2) of Directive 2009/73/EC, Member States may impose public service obligations relating to energy efficiency on undertakings operating in the electricity and gas sectors.

5. ***Without prejudice to Article 16(2) of Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources<sup>3</sup>,*** Member States shall ensure that, subject to requirements relating to the maintenance of the reliability and safety of the grid, based on transparent and non-discriminatory criteria defined by the competent national authorities, transmission system operators and distribution system operators in their territory:

- a) guarantee the transmission and distribution of electricity from high-efficiency cogeneration;
- b) provide priority or guaranteed access to the grid of electricity from high efficiency cogeneration, ***in particular when produced from renewable energy sources;***
- c) when dispatching electricity generating installations, provide priority ***or guaranteed*** dispatch of electricity from high efficiency cogeneration ***installations, in particular those using renewable energy sources;***

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<sup>3</sup> OJ L 140, 5.6.2009, p. 16



*ca) implement provisions to provide appropriate compensation for avoided network costs.*

*When providing priority access or dispatch for high efficiency cogeneration, Member States shall establish rules ensuring that priority access or dispatch for energy from renewable energy sources is not hampered.*

In addition to the obligations laid down by the first subparagraph, transmission system operators and distribution system operators shall comply with the requirements set out in Annex XII. Member States *may* particularly facilitate the connection to the grid system of electricity produced from high-efficiency cogeneration from small scale and micro cogeneration units.

In addition to the obligations laid down by the first subparagraph, transmission system operators and distribution system operators shall comply with the requirements set out in Annex XII.

Member States *shall* particularly facilitate the connection to the grid system of electricity produced from high-efficiency cogeneration from small scale and micro cogeneration units. *Member States shall in particular encourage network operators to adopt a simple notification "install and inform" process for the installation of micro cogeneration units to simplify and shorten authorisation procedures for individual citizens and installers.*

6. Member States shall take the appropriate steps to ensure that high-efficiency cogeneration operators can offer balancing services and other operational services at the level of transmission system operators or distribution system operators *where this is consistent with the mode of operation of the high-efficiency cogeneration installation.*

Transmission system operators and distribution system operators shall ensure that such services are part of a services bidding process which is transparent and open to scrutiny.

Where appropriate, Member States may require transmission system operators and distribution operators to encourage high-efficiency cogeneration to be sited close to areas of demand by reducing the connection and use-of-system charges.

6. Member States shall take the appropriate steps to ensure that, *where this is technologically and economically feasible with the mode of operation of the high-efficiency cogeneration installation, high-efficiency cogeneration operators and demand response aggregators* can offer balancing services and other operational services at the level of transmission system operators or distribution system operators. Transmission system operators and distribution system operators shall ensure that such services are part of a services bidding process which is transparent, *non discriminatory* and open to scrutiny.

Where appropriate, Member States may require transmission system operators and distribution operators to encourage high-efficiency cogeneration to be sited close to areas of demand by reducing the connection and use-of-system charges.

7. Member States may allow producers of electricity from high-efficiency cogeneration wishing to be connected to the grid to issue a call for tender for the connection work.

7. Member States may allow producers of electricity from high-efficiency cogeneration wishing to be connected to the grid to issue a call for tender for the connection work.

***7a. Member States shall ensure that transmission system operators and distribution system operators, in procuring resources for balancing and ancillary services, treat demand response providers, including aggregators, in a non-discriminatory manner, on the basis of their technical capabilities.***

***Transmission system operators and distribution system operators shall validate the execution of demand response measurement operations and the financial operations of demand response programmes.***

***7b. Member States shall promote access of demand response and their participation in balancing, reserve and other system services markets, if necessary by requiring national regulatory authorities and transmission system operators to define technical specifications for participation in energy market, on the basis of the technical requirements of these markets and demand response capabilities, including through aggregators.***

***The technical tender specification for demand response participation in the energy reserve markets shall include reasonable specifications which may include:***

- (a) minimum number of kW aggregated capacity needed for participation;***
- (b) baseline measurement methodology;***
- (c) minimum number of kW needed for participation per metered location (if any)***
- (d) duration of demand response activation;***
- (e) timing of demand response activation;***

*(f) notice time for activation of demand response;*

*(g) telemetry requirements;*

*(h) penalty requirements*

*(i) frequency of demand response activation*

*(j) intervals between activations*

*(k) tender duration timeframe*

*(l) option to bid on positive or negative capacity*

*(m) availability of payments;*

*When implementing capacity adequacy schemes, Member States shall ensure that the potential for contribution of demand response is fully taken into consideration.*

*7c. Member States shall develop, as part of their energy efficiency action plans as referred to in Article 19, a demand response action plan, which shall include detailed information on how demand response resources, including smart grids, will be deployed and integrated, in so far as is appropriate, into the regional electricity markets, especially but not limited to the tertiary reserves markets and the capacity markets.*

*Member States shall ensure that national energy regulatory authorities encourage demand side resources, such as demand response, to participate alongside supply in local or regional wholesale markets.*

*The Commission shall assess the demand response action plans referred to in this paragraph in accordance with Article 19 (5) and the following success criteria for demand response integration:*

*(a) market integration and equal market entry opportunities for generation and demand side resources (supply and consumer loads);*

*(b) demand response shall be permitted to use demand side loads in aggregate, meaning that aggregators may combine multiple short-duration demand-side resources (consumer loads) into one extended load reduction block, and sell or auction these, as appropriate into multiple organised energy markets, especially but not limited to, the tertiary reserves markets and the capacity markets;*

*(c) local and regional demand response programmes shall be allowed, to relieve local and regional systems from capacity constraints to optimise existing infrastructure use.*

**COMP 13**

**on Article 13 and 13 a (new)**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 67-69, 1407-1419, ENVI 77-79

If adopted, AM 67-69, 1407-1419, 1445, 1458, 1469, 1471, 1799, ENVI 77-79 fall

*Text proposed by the Commission*

*Compromise Amendment*

Article 13

Article 13

*Availability of certification schemes*

***Availability of certification and/or qualification and/or accreditation schemes***

1. With a view to achieving a high level of technical competence, objectivity and reliability, Member States shall ensure that, by 1 January 2014, certification schemes *or* equivalent qualification schemes are available for providers of energy services, energy audits and energy efficiency improvement measures, including for installers of building elements as defined in Article 2(9) of Directive 2010/31/EU.

1. With a view to achieving a high level of technical competence, objectivity and reliability, Member States shall ensure that, by 1 January 2014, certification *and/or accreditation* schemes *and/or* equivalent qualification schemes are available for providers of energy services, energy audits and energy efficiency improvement measures, including for installers of building elements as defined in Article 2(9) of Directive 2010/31/EU.

***1a. Member States shall ensure that existing national certification and/or accreditation schemes and/or equivalent qualification schemes for providers of energy services, energy audits and energy efficiency improvement measures that guarantee a high level of technical competence, objectivity and reliability are recognised as schemes referred to in paragraph 1.***

2. Member States shall make publicly available the certification schemes or equivalent qualification schemes referred to in paragraph 1 and shall cooperate among themselves and with the Commission on comparisons between and recognition of the schemes.

***1b. Member States shall ensure that the schemes referred to in paragraphs 1 and 1a are covered by a single certification / accreditation / qualification framework at the appropriate level, in order to provide transparency to consumers to ensure that these schemes are reliable and will contribute to national energy efficiency objectives.***

2. Member States shall make publicly available the ***certification and/or accreditation*** schemes or equivalent qualification schemes referred to in paragraphs 1 ***and 1a*** and shall cooperate among themselves and with the Commission on comparisons between and recognition of the schemes.

***2a. Member States shall ensure that the single point of contact referred to in point (-a) of Article 14 directs consumers to accredited and other qualified energy services providers.***

*Text proposed by the Commission*

*Compromise Amendment*

***Article 13 a***

***Information and training***

***1. Member States shall ensure that information on available energy efficiency mechanisms and financial and legal frameworks is transparent and widely and actively disseminated to all relevant market actors, including consumers, builders, architects, engineers, environmental auditors and installers of building elements as defined in Directive 2010/31/EU. They shall ensure that banks and other financial institutions are informed of the possibilities of participating, including through the creation of public/private partnerships, in the financing of energy efficiency improvement measures.***

***2. Member States shall establish appropriate conditions and incentives for market operators to provide adequate and targeted information and advice to energy consumers on energy efficiency.***

***3. Member States, with the participation of stakeholders, including local and regional authorities, shall develop suitable information, awareness-raising and training programmes to inform citizens of the benefits and practicalities of taking energy efficiency improvement measures.***

***4. The Commission shall ensure that information on best energy-saving practices in Member States is exchanged and widely disseminated.***

**COMP 14**

**on Article 14**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 70-73, 1420-1444, ENVI 80-82

If adopted, AM 70-73, 1420-1444, ENVI 80-82 fall

*Text proposed by the Commission*

Article 14

***Energy services***

Member States shall promote the energy services market and access for small and medium sized enterprises to this market by:

a) making publicly available, checking and regularly updating **a** list of available energy service providers and the energy services they offer;

*Compromise Amendment*

Article 14

***Energy services***

Member States shall promote the energy services market and access for small and medium sized enterprises to this market by:

***-a) ensuring a single point of contact is in place to provide basic information on energy services and to direct consumers to accredited providers of energy efficiency services and goods.***

a) making publicly available, checking and regularly updating **the** list of available **accredited and/or qualified** energy service providers **and companies** and the energy services they offer;

***aa) ensuring that the providers of energy efficiency services and goods referred to in point a) have the required levels of skills and training.***

***ab) taking appropriate measures to remove the regulatory and non-regulatory barriers that impede the uptake of energy performance contracting and other third-party financing models for energy saving measures;***



b) providing model contracts for energy performance contracting **in the public sector**; these shall at least include the items listed in Annex XIII;

c) disseminating information on available energy service contracts and clauses that should be included in such contracts to guarantee energy savings and final customers' rights;

d) encouraging the development of **voluntary** quality labels;

e) **disseminating information on** financial instruments, incentives, grants and loans to **support** energy service projects.

b) **encouraging public authorities to use energy performance contracting when carrying out building renovations and** providing model contracts for energy performance contracting **based on life-cycle cost and benefit analysis, while encouraging long-term contracts that provide greater energy savings**; these shall at least include the items listed in Annex XIII;

**ba) considering putting in place an independent mechanism, such as an ombudsman, that is capable of acting across industry sectors to ensure the efficient handling of complaints and out-of-court settlement of disputes arising from domestic household energy efficiency programmes involving multiple suppliers;**

c) disseminating information on available energy service contracts and clauses that should be included in such contracts to guarantee energy savings and final customers' rights;

d) encouraging the development of quality labels;

e) **encouraging the availability of** financial instruments, incentives, grants, and loans to **foster energy efficiency service projects and long-term investments in energy efficiency and disseminating clear and easily accessible information on these support schemes.**

**ea) laying down binding rules so that no distortions of competition arise to the detriment of small enterprises in emerging markets for energy services;**

**eb) supporting independent market intermediaries, networks and platforms that run programmes to stimulate market development on the energy efficiency services demand side as well as on the energy efficiency services supply side, and that link demand and supply of energy efficiency services**

*ec) supporting project facilitators which, in addition to market facilitators, give advice to public authorities on energy efficiency services tendering procedures, contract design, implementation of contracts and their monitoring for specific energy efficiency services projects.*

*ed) promoting the role of energy retailers and distributors on the energy services market.*

*ef) facilitating exchange of best practices for the promotion of the energy efficiency services market.*

**COMP 15**

**on Article 15**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 74-77, 1423, 1446-1471, ENVI 83-86

If adopted, AM 74-77, 1423, 1446-1471, ENVI 83-86, FEMM 16 fall

*Text proposed by the Commission*

*Compromise Amendment*

Article 15

Article 15

***Other measures to promote energy efficiency***

***Other measures to promote energy efficiency***

1. Member States shall evaluate and take appropriate measures to remove regulatory and non-regulatory barriers to energy efficiency, notably as regards:

1. Member States shall evaluate and take appropriate measures to remove regulatory and non-regulatory barriers to energy efficiency, notably as regards:

a) the split of incentives between the owner and the tenant of a building or among owners, with a view to ensuring that these parties are not deterred from making efficiency-improving investments ***that they would otherwise have made*** by the fact that they will not individually obtain the full benefits or by the absence of rules for dividing the costs and benefits between them;

a) the split of incentives between the owner and the tenant of a building or among owners, with a view to ensuring that these parties are not deterred from making efficiency-improving investments by the fact that they will not individually obtain the full benefits or by the absence of rules for dividing the costs and benefits between them;

b) legal ***and*** regulatory provisions, and administrative practices, regarding public purchasing and annual budgeting and accounting, with a view to ensuring that individual public bodies are not deterred from making ***efficiency-improving*** investments.

(b) legal, regulatory ***and fiscal*** provisions, and administrative practices, regarding public purchasing and annual budgeting and accounting, with a view to ensuring that individual public bodies are not deterred from making investments ***in improving energy efficiency and minimising expected life-cycle costs and from using energy performance contracting and other third-party financing mechanisms on a long-term contractual basis;***

*(ba) the ability of energy companies to offer energy efficiency services or the uptake of innovative energy performance contracting and other third-party financing models to deliver energy saving measures;*

*(bb) the purchase, installation, authorisation and connecting to the grid of small scale energy generators, with a view to ensuring that households or groups of households are not deterred from using micro technologies to generate energy.*

*(bc) without prejudice to measures targeting energy poverty, requiring energy distributors to review their tariffs to ensure that the cost of marginal additional units of consumption of electricity or gas is greater than the initial block of consumed units so as to encourage consumers to be more efficient and not consume more than they need*

*(bd) the possibility to constitute groups of independent SMEs so as to provide more holistic contract structures such as energy performance contracting.*

*(bf) restrictions in public support programmes with crowding-out effects that are a barrier towards implementation of energy efficiency services by market actors with a view to ensuring a level playing field in the market and further developing businesses providing energy efficiency services;*

*(bh) the encouragement of measures that target long term savings or structured programmes.*

*(bi) assessing whether variable rates of VAT on a rising scale would encourage greater energy efficiency as well as reduced energy consumption in the household sector without prejudice to energy poverty;*

***(bj) national policies and measures regulating multi-owner property decision-making processes with the aim of facilitating investment in energy savings and setting up funds for this purpose.***

These measures to remove barriers may include providing incentives, repealing or amending legal or regulatory provisions, *or* adopting guidelines and interpretative communications. These measures may be combined with the provision of education, training and specific information and technical assistance on energy efficiency.

2. The evaluation of barriers and measures referred to in paragraph 1 shall be notified to the Commission in the first supplementary report referred to in Article 19(2).

These measures to remove barriers may include providing incentives, ***establishing public funds for energy efficiency, to which all qualified service providers should have preferential access,*** repealing or amending legal or regulatory provisions, adopting guidelines and interpretative communications, ***or simplifying administrative procedures.*** These measures may be combined with the provision of education, training and specific information and technical assistance on energy efficiency.

2. The evaluation of barriers and measures referred to in paragraph 1 shall be notified to the Commission in the first supplementary ***national energy efficiency action plans*** referred to in Article 19(2).

**COMP 16**

**on Article 18**

**by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE**

Covers AM 79, 1491-1492, 1494-1495

If adopted, AM 79, 1491-1492, 1494-1495 fall

*Text proposed by the Commission*

Article 18

***Exercise of the delegation***

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 17 shall be conferred on the Commission for ***an indeterminate period of time*** from [the date of entry into force of this Directive].

*Compromise Amendment*

Article 18

***Exercise of the delegation***

1. The powers to adopt delegated acts are conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Article 17 shall be conferred on the Commission for a ***period of three years*** from the date of entry into force of this Directive.

COMP 17

on Article 19 – paragraph 2 – subparagraphs 1 a (new) and 2

by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE

Covers AM 82, 824-825, 1493, 1509-1512, ENVI 91, ENVI 93

If adopted, AM 82, 824-825, 1493, 1509-1512, ENVI 91, ENVI 93 fall

*Text proposed by the Commission*

*Compromise Amendment*

The Commission shall, not later than 1 January **2014**, provide a template *as guidance* for the supplementary *reports*. This template shall be adopted in accordance with the advisory procedure referred to in Article 20(2). *The supplementary reports shall in any case include the information specified* in Annex XIV.

*Without prejudice to Article 3, Member States may, taking into account the industry sectors which are exposed to a significant risk of carbon leakage as determined in Commission Decision 2010/2/EU, encourage voluntary agreements among industrial sectors or set separate targets such as primary or final energy intensity or sectoral energy intensities.*

The Commission shall, not later than 1 January **2013**, provide a template for the supplementary *national energy efficiency action plans as referred to in paragraph 2*. This template shall *comprise the minimum requirements set out* in Annex XIV. *Member States shall comply with that template in the presentation of their national energy efficiency action plans.*

## COMP 18

on Article 19 paragraphs 5, 7 a (new), 8 and 9

by EPP, S&D, ALDE, Greens/EFA, ECR, EFD, GUE

Covers AM 84-85, 1490, 1519-1533, 1547, 1551-1552, ENVI 88, ENVI 95, ENVI 97

If adopted, AM 84-85, 87-88, 1490, 1519-1533, 1440-1446, 1551-1552, 1547, ENVI 88, ENVI 95, ENVI 97 fall

### *Text proposed by the Commission*

5. The Commission's assessment of the first supplementary *report* shall include an assessment of the energy efficiency levels of existing and new installations undertaking the combustion of fuels with a total rated thermal input of 50 MW or more *and installations undertaking the refining of mineral oil and gas*, in the light of the relevant best available techniques as developed in accordance with Directive 2010/75/EU and Directive 2008/1/EC. Where this assessment identifies significant discrepancies between the actual energy efficiency levels of such installations and energy efficiency levels associated with the application of the relevant best available techniques, the Commission shall propose, if appropriate, requirements to improve the energy efficiency levels achieved by such installations or that the use of such techniques shall in future be a condition for the permitting of new installations and for the periodic review of the permits for existing installations.

The Commission shall *also* monitor the impact of implementing this Directive on Directive 2003/87/EC, Directive 2009/28/EC as well as Directive 2010/31/EC.

### *Compromise Amendment*

5. The Commission's assessment of the first supplementary *national energy efficiency action plans* shall include an assessment of the energy efficiency levels of existing and new installations undertaking the combustion of fuels with a total rated thermal input of 50 MW or more in the light of the relevant best available techniques as developed in accordance with Directive 2010/75/EU and Directive 2008/1/EC. Where this assessment identifies significant discrepancies between the actual energy efficiency levels of such installations and energy efficiency levels associated with the application of the relevant best available techniques, the Commission shall propose, if appropriate, *by 31 December 2015*, requirements to improve the energy efficiency levels achieved by such installations or that the use of such techniques shall in future be a condition for the permitting of new installations and for the periodic review *or updating* of the permits for existing installations.

The Commission shall *carefully* monitor the impact of implementing this Directive on Directive 2003/87/EC, Directive 2009/28/EC, *Decision No 406/2009/EC* as well as Directive 2010/31/EC.



***By 30/06/2013 at the latest, the European Commission shall come forward with a proposal to adjust the Effort Sharing Decision (Decision No 406/2009/EC of the European Parliament and of the Council).***

***As soon as possible but no later than the date of entry into force of this directive, the Commission shall present a report to Parliament and Council. This report shall examine, amongst others, the impacts on incentives for investments in low carbon technologies and the risk of carbon leakage. Before the start of the third phase, the Commission shall, if appropriate, amend the regulation referred to in article 10 (4) of Directive 2003/87/EC in order to implement appropriate measures which may include withholding of the necessary amount of allowances.***

***The Commission shall carefully monitor the impact of implementing this directive on industry sectors, in particular on those that are exposed to a significant risk of carbon leakage. The Commission shall propose, if appropriate, by 31 December 2015, measures to ensure that the provisions of this Directive do not impede the development of these sectors.***

*Text proposed by the Commission*

*Compromise Amendment*

***7a. By 30 June 2013, the Commission shall present an analysis and action plan on the financing of energy savings and energy efficient technologies with a view, in particular, to:***

***(a) better use of cohesion and structural funds and framework programmes;***

***(b) better and increased use of funds from the European Investment Bank and other public finance institutions;***

***(c) better access to risk capital, notably by analysing the feasibility of a risk sharing facility for investments in energy savings; and***

***(d) better coordination of Union, national and regional/local funding and other forms of support.***

8. By 30 June **2018**, the Commission shall report to the European Parliament and the Council on the implementation of Article 6. That report shall be followed, if appropriate, by a legislative proposal for one or more of the following purposes:

- a) to ***change the*** saving rate laid down in Article 6(1);
- b) to establish additional common requirements, in particular as regards the matters referred to in Article 6(5).

9. By 30 June **2018**, the Commission shall assess the progress made by Member States in removing the regulatory and non-regulatory barriers referred to in Article 15(1); this assessment shall be followed, if appropriate, by a legislative proposal.

The Commission shall make the reports referred to in paragraphs 1 and 2 publicly available.

8. By 30 June **2017**, the Commission shall report to the European Parliament and the Council on the implementation of Article 6. That report shall be followed, if appropriate, by a legislative proposal for one or more of the following purposes:

- a) to ***continue or set a new*** saving rate laid down in Article 6(1);
- b) to establish additional common requirements, in particular as regards the matters referred to in Article 6(5).

9. By 30 June **2016**, the Commission shall assess the progress made by Member States in removing the regulatory and non-regulatory barriers referred to in Article 15(1); this assessment shall be followed, if appropriate, by a legislative proposal.

The Commission shall make the reports referred to in paragraphs 1 and 2 publicly available.