

EN
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Answer given by Ms Vestager
on behalf of the Commission
(22.2.2016)

On 22 October 2015, the Commission sent a Letter of Formal Notice to France (LoFN) concerning the granting of most of the country's hydro concessions to EDF. By this procedure based on Article 106 TFEU in conjunction with Article 102 TFEU, the Commission is required to ensure that all generators have the possibility to acquire access to hydro concessions in a transparent and non-discriminatory manner. This will benefit competition in the electricity market, investments, local communities and ultimately consumers.

The Commission is aware of the economic, legal, social, and environmental aspects of hydro generation. It respects Member States' powers to impose certain obligations on operators when granting concessions, which can strike a balance between competition rules and other legitimate interests. The status of workers in the electricity industry is also a national competence.

Member States have the power to choose the economic and legal model of hydro generation but must also respect EU law. France operates hydropower generation by granting concessions, which are public contracts under EU public procurement law. Consequently, France must comply with these rules. Other Member States have chosen other approaches (e.g. a "permit/licence/authorisation" system) where the applicable EU law may be different (e.g. the TFEU principles only or the Services Directive 2006/123/EC, instead of EU public procurement directives). However it does not necessarily exclude the operation of hydropower generation from the scope of EU law.