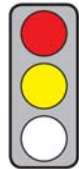


MAIN ISSUES

Objective of the Communication: The Commission presents its ideas on binding measures to create significant energy efficiency improvements.

Parties affected: All citizens, all companies, the public sector.



Pros: EU-wide standards for smart meters tend to bring about price reductions.

Cons: (1) Energy efficiency is not an independent policy target that would justify a planned-economy approach, for not all forms of energy consumption are harmful to the environment.

(2) It is all the more important that energy efficiency policy does not weaken the market's mode of action.

(3) Energy suppliers should not be held liable for the energy savings of their customers, as their influence on customer behaviour is minimal at best.

CONTENT

Title

Communication COM(2011) 109 of 8 March 2011: **Energy Efficiency Plan 2011**

Brief Summary

► Objective and method

- According to the Commission, energy efficiency is “Europe’s biggest energy resource” (p. 2).
- EU Member States are pursuing the legally non-binding goal of increasing energy efficiency by saving 20% of the EU energy consumption projected for 2020 (see [CEP Compass](#), S. 40 et sqq., *in German only*). The Commission estimates that with current measures only half of the set target will be achieved.
- The Commission sees a “considerable potential for higher energy savings” (p. 2), in particular in the public sector, with private buildings, with energy producers and suppliers, with other companies and products and in transport.
- The Commission wishes to exploit this potential and therefore proposes additional measures in two stages:
 - Stage 1: Member States define non-binding “national energy efficiency targets” and the corresponding action programmes. The Commission is to monitor their implementation and, by 2013, review whether they will deliver the EU-wide 20% objective.
 - Stage 2: Should the review show that the 20% target is not likely to be met, the Commission will propose legally binding national energy efficiency targets of individual volumes. This takes into account the starting point of individual Member States, their economic performance and measures they have already taken.

► Measures for private buildings

- The Commission calls upon Member States to encourage the refurbishment of private buildings.
- Moreover, it intends to propose a legislative act removing obstacles to the refurbishment of buildings. Such obstacles are created through “split incentives” between owners and tenants: although both benefit from energy-efficient building refurbishments, both are “reluctant” to pay for it (p. 7).
- The business model of energy service companies is to increase the energy-efficiency of the customers of such companies and to refinance their investments in efficiency measures, e.g. the refurbishment of buildings, through the savings achieved. According to the Commission, potential customers often lack both information on such services and confidence in their quality.
 - The Commission would like Member States to provide market surveys, lists of energy service companies and sample contracts.
 - Energy service companies need access to “innovative financing” (p. 8); according to the Commission, this includes the provision of liquidity, guarantees and credit lines.

► Measures in the public sector

- The Commission intends to oblige public authorities to take into account “high standards of energy efficiency” when acquiring goods (e.g. computers), services (e.g. heating or electricity) and works (e.g. refurbishment of buildings) (p. 4).
- The Commission further intends to oblige public authorities to:
 - refurbish in terms of energy performance at least 3% of their buildings (by floor area) each year, bringing the buildings up to the level of the best 10% of the national building stock;
 - buy or rent only buildings in the best available energy performance class.

- In 2011, the Commission wishes to propose a legislative act (either regulation or directive) for energy performance contracting.
 - “Energy performance contracting” means that energy service companies help to cover the higher investment costs for energy-efficient goods through monetary savings resulting from energy efficiency.
 - The legislative act should remove barriers to the spread of “energy performance contracting” such as vague legal framework conditions and missing energy consumption data for measuring efficiency.
- ▶ **Measures for companies generating or supplying energy**
 - The authorisation of new power generation capacities should depend on the use of the “best available technology”. The permit update of older installations is to be subject to an upgrade to the efficiency levels applicable to existing capacities.
 - The authorisation for new thermal power generation should be conditional on its being combined with systems allowing the heat to be used (“combined heat and power”, CHP) and if possible with district heating systems.
 - Electricity distribution system operators are to grant priority access for electricity from CHP.
 - National grid regulators are to give greater consideration to energy efficiency in all their decision-making and in monitoring gas and electricity grids and markets.
 - Member States should oblige power supply companies to:
 - induce their customers to bring about energy savings through energy efficiency improvements or to “buy” energy savings from energy service companies,
 - provide consumers with sufficient information regarding their own energy consumption (e.g. transparent bills, benchmark values, energy-efficient solutions).
- ▶ **Measures for other companies and products**
 - The Commission states that so far the manufacturing industry’s progress in energy efficiency has been greatest. Nevertheless, it still sees “worthwhile energy saving opportunities” here (p. 9).
 - Large-scale enterprises are to be obliged to introduce energy-audits and energy management systems.
 - Small and medium-sized enterprises (SMEs) are to receive tax rebates and subsidies for investments in energy-efficient technologies.
 - On the basis of the Ecodesign Directive (2009/125/EC; see [CEP Policy Brief](#), in German only), the Commission is considering:
 - introducing efficiency requirements for windows and “standard industrial equipment”, in particular for industrial motors, large pumps, compressed air, drying, melting, casting distillation and furnaces;
 - as well as setting stricter efficiency requirements for heating boilers, water heaters, computers, air conditioners, tumble driers, pumps, vacuum cleaners and further types of lighting.
 - The introduction of “smart grids” for electricity, heating, cooling and gas and of “smart meters” is to provide consumers with precise information regarding energy consumption and prices, thereby allowing consumers to adapt their behaviour and save energy in a target-oriented manner (p. 13 et. sqq.). To this end,
 - EU-wide standards for smart meters are to be introduced, and
 - EU-wide minimum requirements as to the form and content of information are to be set.
- ▶ **Transport sector**

In its White Paper on transport policy [COM(2011) 144; see [CEP Policy Brief](#)] the Commission sets forth a strategy for increasing energy efficiency in the transport sector with the following main areas of focus: introduction of traffic management systems for all transport modes, establishment of a “European Transport Area”, infrastructure investments and efficiency standards for vehicles across all transport modes.
- ▶ **Financing**

The Commission is considering improvements to the following EU programmes providing financial support to energy efficiency measures: EU Cohesion Policy, the Intelligent Energy Europe Programme (2007-2013)”, the European Economic Recovery Programme and the Framework Programme for research, technological development and demonstration (2007-2013).

Statement on Subsidiarity by the Commission

According to the Commission, experience has shown that obstacles to measures for improving energy efficiency cannot be removed at Member State level. Consequently, it deems a coordinated action under a coherent policy approach at EU level necessary [SEC(2011) 277, p. 22].

Policy Context

The manifold EU measures to increase energy efficiency are all intended to contribute to the reduction of energy consumption and thus to reduce dependence on energy imports, climate-damaging greenhouse gas emissions and energy costs. To this end, Member States must introduce National Energy Efficiency Action Plans (NEEAP) and by 2016 try to achieve a legally non-binding energy saving target of at least 9% (Directive 2006/32/EC; see [CEP Compass](#), p. 42 et sqq.). Energy-related products are to be designed to be environmentally friendly (“Ecodesign”), by complying, amongst other things, with the requirements for energy consumption

(Directive 2009/125/EC; see [CEP Policy Brief](#)). Energy labels attached to products should enable consumers to take into account energy efficiency when buying products (Directive 2010/30/EU; see [CEP Policy Brief](#)). Member States must set minimum requirements as to the overall energy efficiency of existing and new buildings (Directive 2010/31/EU; see [CEP Policy Brief](#)). The energy consumption of road vehicles must be taken account in public procurement (Directive 2009/33/EC; see [CEP Compass](#), p. 47). As reducing rolling resistance of tires contributes to increasing energy efficiency in road traffic, a labelling system should provide consumers with information as to the fuel efficiency of tires (Regulation No. 1222/2009; see [CEP Compass](#), p. 48). Combined heat and power systems (CHP) which use the heat created by the generation of energy, are to be promoted through proofs of origin for CHP electricity (Directive 2004/8/EC; see [CEP Compass](#), p. 48 et sqq.).

Options for Influencing the Political Process

Leading Directorate General: DG Energy
 Consultation procedure: Not provided.

ASSESSMENT

Economic Impact Assessment

Ordoliberal Assessment

Certainly improved energy efficiency can be regarded as an important “energy source”. However, **there is no reason to make higher energy efficiency an independent policy target**, since not all forms of energy consumption are automatically harmful to third parties, e.g. through environmental damage. Therefore, **the Commission should stop threatening to set binding planned-economy efficiency targets** for Member States, as this could trigger a dynamic that would push further and further into the background the economic efficiency of energy savings. For then it would no longer be the market players who decide which efficiency measures are to their benefit, and it would no longer be the market which discovers the most cost-efficient methods to save energy – it would be the politics of Member States and ultimately the EU Commission.

Instead, the mix of climate protection instruments should be better concerted and superfluous, or even counterproductive, tools should be eliminated. As a result of the expected energy price increase and climate protection, more energy efficiency is going to happen anyway.

It is all the more important that energy efficiency policy should not serve as a motive to breach market-oriented principles and thus to **weaken the mechanism of the market**. Energy service companies should not receive any support, e.g. in the form of guarantees from the public purse, as the financing of investments is an entrepreneurial challenge which, if funded by the state, would distort competition.

Equally incomprehensible is the proposal that Member States should promote energy service providers by drawing up lists of such companies. Even if it was true that potential customers have almost no information on energy service companies, it is the responsibility of the companies themselves – or of their trade associations – and not the state’s to change such a situation.

Impact on Efficiency and Individual Freedom of Choice

As the EU has already resolved ambitious energy efficiency targets, it is now important to achieve them at relatively low costs.

The obligation to refurbish in terms of energy performance at least 3% of public buildings each year would double the average annual refurbishment rate of public authorities throughout the EU. This **would burden the public purse dramatically – all the more so as fiscal consolidation is urgently needed**.

Even if we assumed that a large part of investments in energy savings would fully offset investment costs in the medium term, this does not solve the problem of a limited fiscal scope of action: excessive public borrowing in the past narrowed the scope for economically beneficial investments. Therefore, it can be expected that public authorities will rather sell parts of their own buildings or rent new room if that allowed for an avoidance of the refurbishment obligation.

For **energy supply companies**, energy counselling leading to energy savings for their customers, could become an attractive business field and, apart from that, create customer loyalty. However, they **should not be held statutorily liable for the energy savings of their customers**. Such a practice would shift responsibility away from the users to the **suppliers, who have no or at best minimal influence on the consumption behaviour of their customers**. Besides, such an obligation would lead to considerable measuring problems, as energy savings can be tracked only in reference to hypothetical energy consumption without any saving efforts.

The Commission is right in stating that the European industry has increased its energy efficiency tremendously in the past. The Emissions Trading Directive (2009/29/EC; see [CEP Policy Brief, in German only](#)) and the lately revised Directive on Industrial Emissions (2010/75/EU; see [CEP Policy Brief, in German only](#)) will presumably create further efficiency increases. Therefore, it is not comprehensible why new requirements have to be presented to the industry right now. New ecodesign requirements for industrial standard equipment lead, – as do binding energy audits for large-scale companies – to enhanced red tape without any recognizable added value, as it is in their own interests that industrial customers already take into account energy efficiency in production processes.

Subsidising small and medium-sized enterprises (SMEs) with regard to investments in energy efficiency eliminates the competitive advantages of more ingenious companies and thus distorts competition.

New ecodesign requirements for end products should also be stopped, as they place consumers in a straitjacket of rules (see [CEP Policy Brief](#) on the Ecodesign Directive 2009/125/EC). Instead, consumers should be increasingly informed as to their own energy consumption impact when using products [see [CEP Policy Brief](#) on the labelling of energy consumption of products (Directive 2010/30/EU)].

Smart meters deliver consumer-friendly information as to individual energy consumption and explain possible energy savings. Thus they could **improve energy consumption behaviour**. **EU-wide standards** for these devices increase competition in the internal market and thereby tend to **lead to lower prices**.

Impact on Growth and Employment

Politically forced innovations can create growth and employment in certain sectors. At the same time, it cannot be expected that politically steered decisions increase growth and employment in the European economy as a whole, especially not if industry is additionally burdened by red tape and higher costs.

The fact that not all Member States have the same amount of qualified personnel for energy-related refurbishment measures creates entrepreneurial opportunities for companies which employ a skilled staff; this could lead to growing employment and the spread of know-how. Policy measures which level out these competitive advantages counter this trend in those Member States in which companies with the necessary know-how are located.

Impact on Europe as a Business Location

Planned-economy efficiency requirements and their related administrative burdens reduce the quality of Europe as a business location.

Legal Assessment

Competence

Unproblematic. The EU is empowered to adopt measures regarding energy policy in order to promote energy efficiency and energy savings (Art. 194 TFEU).

Subsidiarity

The Commission refers to the fact that several Member States have had positive experience with efficiency measures such as the “energy performance contracting” model (e.g. Denmark, Germany and France; p. 5) and with solving the problems of “split incentives” for owners and tenants (p. 7). In other words, the Member States are perfectly capable of employing these instruments themselves. As it is not evident what the added value of EU action would bring, the respective EU measures infringe the principle of subsidiarity.

Proportionality

Currently not foreseeable.

Compatibility with EU Law

Unproblematic.

Compatibility with German Law

Unproblematic.

Conclusion

There is no reason to set higher energy efficiency as an independent policy target as not all forms of energy consumption are automatically harmful to the environment. Therefore, the Commission should stop threatening to set binding planned-economy efficiency targets for Member States. It is all the more important that energy efficiency policy should not weaken the market’s mode of action. Hence, companies should not receive any subsidies for energy efficiency investments. Energy suppliers should not be held statutorily liable for the energy savings of their customers, as their influence on customer behaviour is minimal to say the least. Consumer-friendly information as to individual energy consumption through smart meters improves energy consumption behaviour. EU-wide standards for these devices increase competition in the internal market and thus tend to result in lower prices.