



*European Economic and Social Committee*

**TEN/625**  
**Electricity market design**

## **OPINION**

European Economic and Social Committee

**Proposal for a Regulation of the European Parliament and of the Council on the internal market for electricity(recast);**

**Proposal for a Regulation of the European Parliament and of the Council on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC; Proposal for a Regulation of the European Parliament and of the Council establishing a European Union Agency for the Cooperation of Energy Regulators (recast);**

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

[COM(2016) 861 final – 2016-379-COD;  
COM(2016) 862 final – 2016-377-COD;  
COM(2016) 863 final – 2016-378-COD;  
COM(2016) 864 final – 2016-380-COD]

Rapporteur: **Alfred GAJDOSIK**

Consultation	European Parliament, DD/MM/2017 Council of the European Union, 19/01/2017
Legal basis	Article 194(2) of the Treaty on the Functioning of the European Union
Section responsible	Transport, Energy, Infrastructure and the Information Society
Adopted in section	16/05/2017
Adopted at plenary	31/05/2017
Plenary session No	526
Outcome of vote (for/against/abstentions)	185/2/2

## 1. Conclusions and recommendations

- 1.1 The EESC welcomes the Commission's proposal for a new market design, a risk preparedness regulation and the new organisation of the energy regulators' cooperation. They mark a further step from national regulated markets towards a market-based approach to electricity in the EU that guarantee security of supply at the lowest possible costs which meets the main interests of all European electricity consumers, including industrial, commercial and residential entities. However, this objective will only be achieved if there is a shift towards greater electrification of the economy, which is the most efficient and flexible way to implement it.
- 1.2 In accordance with previous opinions, the Committee highlights that well-functioning electricity markets are a precondition for fulfilling the goals of the Energy Union<sup>1</sup>. The EESC agrees with the Commission's view that for the market to function well, significant changes in the market design are necessary, particularly due to the increasing use of variable renewable electricity<sup>2</sup>. The integration of renewable energy in the existing market will not help. A new market is needed. The Committee considers the general outline of the market design package to be a good answer to the need for these changes, paving the way to a cost-effective and financially viable energy transition.
- 1.3 The EESC appreciates the general approach of the market design package, especially the goals of putting consumers at the heart of the energy market, of increasing electricity supply and strengthening regional cooperation. The respective adaption of the market rules and the regulatory framework is an important step towards a stable supply of clean energy to all European consumers at the lowest possible prices. This notwithstanding, on some points there is still room for further improvement. In particular, more specific rules are needed<sup>3</sup>.
- 1.4 Decarbonisation is one of the strategic objectives of the Energy Union and therefore the aim of boosting investment in decarbonising the electricity market is to be supported. However, the best way to drive this forward are equal and fair market conditions, beneficial for both consumers and the green transition. The full internalisation of the external costs of conventional electricity generation that includes climate change related damages and damages to human health is crucial for efficient and effective decarbonisation. Appropriate taxation is the best approach to steer investments towards green electricity.
- 1.5 The EESC strongly supports stipulating that all consumers, including industry, commercial enterprises and private households, have a right to generate, store and trade energy themselves and that local energy communities have a right to support, develop or rent community networks. More specific rules are needed, however, to make it possible to assert these rights and overcome existing obstacles (grid access, unfair and inappropriate grid charges, legal and administrative barriers etc.).

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<sup>1</sup> [OJ C 383, 17.11.2015, p. 84](#); [OJ C 264, 20.7.2016, p. 117](#)

<sup>2</sup> See also opinion TEN/626 "State of the Energy Union 2016" (not yet published in the OJ).

<sup>3</sup> See also opinion TEN/624 "Clean Energy for all Package" (not yet published in the OJ)

- 1.6 Furthermore, the objective must be for European consumers to get the opportunity to fully participate in the entire electricity market, and thereby in the trade and supply of electricity. Specific rules to put in place the necessary conditions for this are missing in the Commission's proposals. Decentralised trading venues and trading structures that open up possibilities for directly trading even small energy units need to be developed. While decentralisation of energy electricity supply and trading is a prerequisite for full integration of consumers in the market, decentralisation does not mean a fragmentation of European electricity market.
- 1.7 While the Commission correctly addresses the aim to strengthen short term markets, in the long run this will not be enough to base investment in renewable electricity on market mechanisms. For this, renewable electricity must get the chance to also be traded by means of forward and future trade on decentralised markets which will only become possible if balancing products are traded using flexibility options.
- 1.8 Since the problem in many European countries today is not lack of generating capacity but capacity surplus, capacity mechanisms for conventional electricity generation should only be used as a short-term solution if balancing products cannot provide the needed security of supply bearing in mind investment stability for all market participants.
- 1.9 The EESC recalls that the problem of energy poverty needs to be taken into account for the future policy towards a low-carbon society. Prosum can be one approach to tackling this problem as long as vulnerable consumers are enabled to get access to the necessary capital by public loans or the help of municipalities, regions or other entities such as NGOs.
- 1.10 The EESC highlights that given the typical smaller scales of electricity generation from renewable energy and from cogeneration in block power and heat plants, well functioning, modern and smart distribution grids are becoming increasingly important. National regulation must allow and encourage grid operators to undertake the necessary investments. Also, investments in improving the interconnection of national electricity grids are necessary. Both will help to secure energy supply and will create new workplaces in Europe.
- 1.11 The EESC highlights that the objective of ensuring a high level of security of electricity supply, in a market environment where consumers play a central role, demands the intensive use of Information and Communication Technologies (ICTs), new planning methods and new tools for operating the electricity system, which together will enable the real-time identification of consumer and network needs and require strong investment in research, development and innovation (see point 3.13).
- 1.12 In terms of flexibility, electro mobility, storage and other balancing options, the EESC supports the Commission's position to grant a prerogative to independent market actors to develop these important markets before grid operators are allowed to assume a role as manager or operator of the respective installations.

## 2. **Content of the Commission communication**

- 2.1 In its proposed package, the Commission points out: Achieving the objectives of the Energy Union presumes a thorough reform of the electricity market. The integration of renewable energy in the existing market will not help. A new market is needed.
- 2.2 The European Commission orients its new market policy around two principles:
- New market rules that reflect the main characteristics of renewable energy - decentralisation and flexibility - and that contribute to increasing security of supply and cost effectiveness must be deployed.
  - Consumers should be at the centre of the new energy market.
- 2.3 The Commission's proposal also focuses on the question of how to strengthen security of supply through a risk preparedness approach.
- 2.4 A fourth aspect is a reform of regulatory oversight redefining the role and competences of the Agency for the Cooperation of Energy Regulators (ACER).

As a sectoral opinion, this opinion will primarily evaluate the legislative texts according to the extent to which they fulfil the principles outlined in point 2.2. In the EESC's view, since this question is mainly settled in the documents on the internal market for electricity (COM(2016) 861 final and COM(2016) 864 final), this opinion focuses in particular on these two documents.

## 3. **General comments on market design**

- 3.1 For a decarbonisation of the whole energy system, including the heating and mobility sector, a correspondingly high proportion of renewable energy in electricity production is needed. Against this backdrop, the Commission's approach is fundamentally right: the European electricity market must be developed so as to be compatible with renewable energy. The EESC appreciates this clear approach as an important step for accomplishing a European electricity market that helps overcome the existing hurdles such as physical constraints due to the lack of interconnections, and regulatory and tax diversity between Member States.
- 3.2 An important initial consideration is that variable renewable energy is, by its very nature, decentralised; in other words:
- Wind onshore and photovoltaics facilities are, on average, considerably smaller than conventional generation units.
  - Energy from wind onshore and solar radiation is available virtually everywhere.
  - It can be planned in a way that is attuned to consumption if the right market incentives are in place as even if renewable sources cannot be controlled, it is possible to predict their availability with high precision.

The same characteristics often hold true for other technologies such as cogeneration in block heat and power plants which will play an important role as flexibility and balancing options in the future energy markets thanks to their high efficiency.

- 3.3 On the one hand, these characteristics give rise to specific advantages, which the European Commission mentions to some extent in its proposals for the new market design. However, the Commission's proposal could be more coherent and concise when it comes to orient the market rules around these advantages. In this context, attention is drawn to the EESC's respective views formulated in the opinion "Revision of the Renewable Energies Directive (TEN/622)"<sup>4</sup>. The fact that renewable energy and other decentralised technologies contribute to significantly increasing market liquidity is of particular importance to market design.
- 3.4 The new energy market will be characterised, as the Commission rightly emphasises, by much more generation units compared to the conventional generation structure that is characterised by very few power plants. As a consequence, there will be a significant increase in the variety of players involved in generating electricity. Making consumers more active participants plays a vital role here. Renewable electricity generation and cogeneration enable consumers to become producers, as the Commission has acknowledged in its proposal.
- 3.5 It is important to note that the idea of "making consumers active consumers" is to refer to all categories of consumers, including commercial and industrial energy consumers that can achieve considerable cost savings through investments in decentral generation technology designed for self-consumption. Activation of consumers will thus not only lead to more liquid electricity markets, but also to further economic impulses: Small and big enterprises can gain from competitive advantages, added value will be generated locally, new employment can be stimulated. On the other hand, many private households do not have the financial means that are needed for becoming a prosumer. Consumer-friendly loans and the active aid of municipalities and regions may help here.
- 3.6 However, the activation of consumers is hindered by three elements.
- 3.6.1 First, almost none of the external costs of coal-fired and nuclear power plants are internalised. Amongst these costs those for health damages and climate change caused damages in particular are to be considered. The non-internalisation of these costs puts renewable energy that does not cause comparable external effects at a significant competitive disadvantage. Given that it is above all renewable energy that allows consumers to become more active, we have to conclude that the limited participation of consumers must be politically desirable, or at least willingly tolerated. No effort is made in the entire winter package to rectify this distortion in the market. The distortion is even bigger since non-internalising the external costs of conventional electricity increases the need to massively subsidise renewable energy.
- 3.6.2 There is another reason why the decentral technologies such as renewable energy or block power and heat plants are at a systematic disadvantage compared to conventional power plants.

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<sup>4</sup> Not yet published in the OJ.

The existing design of wholesale markets favours large scale generation units. As the average renewable energy generation and block power and heat facilities are of considerably smaller scale and thus do not have the necessary economies of scale, they suffer from a competitive disadvantage.

- 3.6.3 Finally, many smaller players are unable to access the energy trading market due to legal restrictions, administrative rules, licensing and bureaucratic requirements. This affects private households as much as commercial and even industrial consumers.
- 3.7 With the political will to do so, these three shortcomings of the current electricity market could be rectified immediately. However, the EESC fears that the respective rules proposed by the Commission are not sufficiently clear.
- 3.8 Accurate taxation of CO<sub>2</sub> emissions, which constitute one of the most striking problems of the above mentioned external costs, is the least that needs to be done if the market distortion in favour of conventional electricity generation, as described in point 3.6.1, is to be eliminated. The EESC has called for this several times<sup>5</sup>.
- 3.9 The electricity market should be opened up for more decentralised structures, especially with regard to trading in order to compensate for the disadvantages mentioned in points 3.6.2 and 3.6.3.
- 3.10 Decentralisation must not mean fragmentation of the European electricity system. The Commission's assumption that electricity should be allowed "to move freely to where it is most needed" is fundamentally correct. However, strong investments are necessary to improve the interconnections of national grids and a refinancing model that does not burden consumers too much has to be developed.
- 3.11 Demand oriented electricity generation – also with the aid of flexibility and balancing options like battery storage, power-to-heat, power-to-gas and vehicle-to-grid – is the best approach to keep grid expansion costs to a minimum. This explains why prosum, direct transactions between electricity generators and consumers, and strengthening balancing responsibility as proposed by the Commission are important tools that help to provide security of supply.
- 3.12 The European Commission's proposal generally reflects these mechanisms. The EESC endorses this approach that will have a positive impact especially on under-developed electricity markets that suffer from heavy over-regulation in some Member States.
- 3.13 In this context, the Commission's proposal, however, widely ignores the potential of digitalisation. Digitalisation enables consumption and production data to be recorded electronically at a granular level, down to the smallest units (i.e. individual kilowatts). Recording specific and individual consumer profiles by means of smart meters – and, in future, via the internet of things – in conjunction with the variety of participants in energy generation – give, literally speaking, each consumer the opportunity to become his own balancing manager.

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<sup>5</sup> [OJ C 82, 3.3.2016, p. 13](#)

Education and training programmes are important for empowering as many consumers as possible to fulfil this role and thus removing the structural disadvantage (namely limited market liquidity) of decentralised forms of trade, like peer-to-peer transactions.

- 3.14 As a first step, the rules for balancing electricity (Articles 4 and 5 of the proposal for a Regulation COM(2016) 861 final) should be adapted so that energy measurement units can be recorded with a high degree of time precision. Specific short-term markets for trading these smallest quantities of energy should be established. Articles 6 and 7 of the proposal for a Regulation COM(2016) 861 final should be amended accordingly.
- 3.15 Regrettably, the European Commission has not proposed any initiative in this regard. Instead, Article 3 of the proposal for a Regulation COM(2016) 861 final states that market participation of consumers and small businesses is to be enabled by means of aggregators. Aggregators are mainly justified by portfolio effects and transaction costs. However, these would disappear if electricity trading were to be decentralised. Then electricity consumers and small businesses would have the chance to fully and directly participate in the electricity market if they want to play an active role and are capable to do this. It is telling that the European Commission makes no reference to the trade in electricity when it speaks of an "equal footing" in Article 3(1)(i).
- 3.16 In this context, direct transactions between generators and consumers seem to be particularly economically promising, because in one price signal they can reflect various price components that – in contrast to the current situation in many Member States – are largely shaped by the market. For example, the price signal of direct transactions can reflect a variety of factors, such as:
- a flat-rate contribution to funding network infrastructure;
  - a dynamic, transaction-specific contribution that reflects the use of ancillary services necessary for the specific transaction in the electricity grid;
  - a capacity premium to fund electricity generation, storage and conversion installations, subject to negotiation between the parties to the transaction.
- 3.17 Business models for decentralised trade in electricity are not just being developed in some Member States (e.g. the Netherlands and Estonia); there are in fact very ambitious models that are already being used in several markets outside Europe, for example in the United States and in Australia. This is clearly a global trend. Europe can only make the most of its export opportunities in global energy markets if European businesses develop convincing models for decentralised, digitalised electricity trading. But the European Union should also give its companies the opportunity to initially put these models into practice on their domestic markets.



**4. Specific comments on particular aspects of the proposal for a Directive COM(2016) 864 final, as well as on the proposals for a Regulation COM(2016) 861 final, COM(2016) 862 final and COM(2016) 863 final**

- 4.1 The EESC welcomes the European Commission's clear commitment to decarbonising the electricity market. Given the reasoning put forward in point 3.6, however, the restriction of priority dispatch, as set out in Article 11 of the proposal for a Regulation COM(2016) 861 final, makes it more difficult to attain this goal at least as long as there is no full internalisation of external costs from conventional electricity generation. While it is principally correct to set up technology neutrality as a basic rule for dispatch management, this presumes a level playing field. Due to the non-internalisation of the external costs of conventional electricity generation, there is no level playing field. Before seeking to seriously curtail priority dispatch as envisaged in the Commission's proposal, a full internalisation of external costs must be achieved.
- 4.2 It should therefore be stipulated that for a limited period priority dispatch should be retained in all Member States with a proportion of renewable energy of below 15%. Member States with a higher proportion should submit a corresponding dispatch framework to the European Commission for consideration. This dispatch framework should not distort the free market mechanism for low-carbon and cost effective flexibility options. The European Commission should examine this framework to assess whether it is able to support decarbonisation.
- 4.3 In any case, for an aligned policy, the de minimis values set out in Article 11(3) of the proposal for a Regulation COM(2016) 861 final should be replaced by the respective numbers provided (marginal notes 125 and 127 of the Guidelines on State aid for environmental protection and energy<sup>6</sup>) in order to allow small market participants to continue to have a chance of fair competition.
- 4.4 The rules on redispatching and curtailment according to Article 12 of the proposal for a Regulation COM(2016) 861 final constitute a further obstacle to the goal of decarbonisation. Since coal-fired power plants, in particular, have relatively high start-up and shutdown costs, operators of these power plants will factor these costs into their redispatching offers. Wind and solar energy installations do not have these costs. The result is that wind and solar energy installations are more frequently taken off the grid, which represents a setback for Europe in terms of decarbonisation. Therefore, market-based redispatching should be limited to non-renewable energy.
- 4.5 The EESC endorses the European Commission's view that market distortions are to be avoided in the interests of consumers. It encourages the European Commission to do more to prevent current and future market distortions. Capacity mechanisms for conventional power stations, as set out in Regulation COM(2016) 861 final, could lead to additional serious market distortions, as the European Commission admits itself. Capacity mechanisms must thus be seen as the last option for securing security of supply and as a short-term solution. There is an urgent need for much more specific rules governing when capacity mechanisms are permissible.

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<sup>6</sup> [OJ C 200, 28.6.2014, p. 1.](#)

- 4.6 It must be borne in mind that renewable electricity from intermittent sources (wind and solar radiation) as such cannot simply participate in capacity mechanisms and also cannot be traded on futures markets. While it is therefore correct to strengthen day-ahead and intraday trading, the specific cost structure of solar and wind energy (i.e. zero marginal costs) means that this will not lead to a refinancing of investments and renewable energy. Renewable electricity must get the chance to become tradable on the futures markets. The only foreseeable way to achieve this is if renewable energy is linked with balancing and flexibility options. As well as battery storage, this mainly includes technical options such as power-to heat and power-to-gas<sup>7</sup>.
- 4.7 However, there are in fact significant regulatory barriers at Member State level and, as a result, balancing products are currently not finding business models. The legislative texts on market design offer no solutions in this regard. At a minimum, text should be added to Article 3(1)(f) of the proposal for a Regulation COM(2016) 861 final to the effect that market rules and the dispatch framework to be set up by Member States should provide an incentive for the use of flexibility options. This can also help to resolve/avoid bottlenecks.
- 4.8 In this context, the EESC calls for clear priorities to be set. It should only be possible to make use of capacity mechanisms for conventional power plants if Member States are able to show that capacity bottlenecks cannot be rectified by means of balancing renewable electricity with the help of flexibility options. This obligation should be incorporated into Article 8 of the proposal for a Directive COM(2016) 864 final, and Article 14 of the proposal for a Regulation COM(2016) 861 final should be amended accordingly.
- 4.9 Such balancing concepts have two additional advantages. Because they make renewable electricity tradable on the futures market, they are currently the only option that promises that investments in renewable energy installations can be refinanced on the market. Secondly, they are locally oriented, making use of the fact that renewable energy is available virtually everywhere (see point 3.2) and thereby increasing the local added value of renewable energy.
- 4.10 Decentral production of electricity can discharge the grid if the right market based incentives are available. However, this is not the case. The calculation of network charges (Article 16 of COM(2016) 861 final), at least, should be amended so as to provide an incentive for generation in close proximity to consumers that reflect actual use. In general, the specific network costs of individual generation and consumption transactions can be ascertained by using smart meters; the principle of reflecting actual use suggests that they should be the basis for the calculation of network charges.
- 4.11 Electricity generation that is attuned to consumption is also facilitated by means of precise price zones. The EESC thus fully supports the views on the subject set out in Recital 14 and Article 13 of the proposal COM(2016) 864 final. But if the call made in point 4.10 is not implemented, the efficiency gained thanks to more precise price zones could be cancelled out and lost due to network charges being set in a way that does not reflect actual use. A European benchmark for energy taxation that strengthens price signals would be of additional help.

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[OJ C 82, 3.3.2016, p. 13](#)

- 4.12 More precise price zones should not be misunderstood as a turn away from the need of a well interconnected European grid network which is the best way to achieve high security of supply in a cost-efficient way.
- 4.13 As pointed out in 3.14, opening up the trade in electricity for consumers and prosumers is important for full participation in the energy market. Article 3 of the proposal for a Directive COM(2016) 864 final should therefore be clarified. Consumer participation, which is limited in Article 3(1) to generation, storage, and electro-mobility, must also include trading in electricity. In Article 3(2), the barriers to market entry should be defined more clearly. Following point 3.6.3 of this opinion, these barriers mainly comprise economies of scale and administrative hurdles.
- 4.14 One way of mitigating these obstacles is for Member States to establish special trading structures for small producers, consumers and prosumers. The Agency for the Cooperation of Energy Regulators should be responsible for monitoring the implementation of this requirement. Moreover, simplified accounting rules for small consumer-producer associations could be incorporated into Article 4 of the proposal for a Regulation COM(2016) 861 final. Finally, the word "trade" should replace the word "sell" in Article 15(1)(a) of the proposal for a Directive COM(2016) 864 final.
- 4.15 In terms of energy poverty (Recital 14 and Article 5 of the proposal for a Directive COM(2016) 864 final and Articles 28 and 29 of the proposal for a Regulation COM(2016) 861 final): the EESC has clearly stated several times that it is the problem of energy poverty that needs to be solved and that future policy actions towards a low-carbon society must take this problem into account. As such, the EESC supports the position that the Committee has pronounced in its previous opinion on this issue<sup>8</sup>. In this regard the EESC also supports the position of the Commission and specific proposals. However, the EESC highlights the view set out in previous opinions<sup>9</sup> that renewable energy and prosumption in particular can, in some circumstances, be a sustainable method to prevent lasting energy poverty if public loans and better access to capital with the help of local authorities such as regions or municipalities or private actors such as NGOs are provided to vulnerably consumers. The importance of the rules on active consumers and local energy communities set out in Articles 15 and 16 of the proposal for a Directive COM(2016) 864 final should also be understood in this context. Prosum as a potential way to avoid energy poverty should be specifically mentioned in Article 5(2) of the proposal for a Directive COM(2016) 864 final.
- 4.16 With regard to consumers' rights: the EESC welcomes the fact that consumer empowerment and protection has its own dedicated chapter in the proposal for a Directive COM(2016) 864 final. Article 10 should also explicitly state that consumers must have the right both to state specific preferences regarding their electricity supply and to ensure that such preferences are respected. Text should be added to Article 15(1)(b) to say that network charges must be specific, such that consumers can only be charged the specific network costs that have been caused by their own

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[OJ C 341, 21.11.2013, p. 21](#)

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[OJ C 198, 10.7.2013, p. 1](#); [OJ C 34, 2.2.2017, p. 44](#); [OJ C 82, 3.3.2016, p. 13](#)

individual activity, i.e. due to electricity generation, storage, consumption or trade. Also, the network charges system should incentivise activities that are "grid friendly" such as load shifting, self-consumption or storage. Member States must show how this calculation of network charges according to actual use is worked out. In this context, predictability is key for consumers in order to make the respective investments.

- 4.17 The EESC welcomes the fact that Article 16 of the proposal for a Directive COM(2016) 864 final defines local energy communities and grants them corresponding rights. The Committee itself called for this in its opinion "Prosumer Energy and Prosumer Power Cooperatives"<sup>10</sup>. That said, the charges referred to in Article 16(1)(d) need to reflect actual use – i.e. according to the same principle as set out in point 4.16 of this opinion in relation to Article 15 of the proposal for a Directive COM(2016) 864 final.
- 4.18 While approving that energy community are entitled to operate their own networks, the EESC argues that energy communities shall also be entitled to operate as a basic supplier. In those cases all respective duties shall be applied to them.
- 4.19 Articles 15 and 16 of the proposal for a Directive COM(2016) 864 final merit a warning: making consumers more active and creating local energy communities require renewable energy to be used. If the problems described in point 3.6 and the shortcomings in the Renewable Energies proposal<sup>11</sup> are not remedied, the process of making consumers more active, as well as local energy communities, will be considerably weakened – even jeopardised.
- 4.20 With regard to data from smart metering: as detailed in point 3.13 of this opinion, digitalisation represents a major opportunity. Meanwhile, it brings certain risks in terms of data protection and security. The EESC welcomes the fact that the European Commission tackles this in Articles 19-23 of the proposal for a Directive COM(2016) 864 final.
- 4.21 The EESC approves that the Commission grants the appropriate relevance to effective protection of the data that are generated in smart meters and that the EU-standard for data protection shall also apply to electricity consumption related data. However, data management, data ownership and open data are neglected. Article 23 should therefore guarantee that without any prejudice to data protection and privacy the data is made available to all interested parties in an anonymised and sufficiently aggregated form. For activating the whole potential of digitalisation, education and training that address digital illiteracy and consumers' exclusion are needed.
- 4.22 Regarding the role of network operators: Decentralisation generally means that distribution networks will gain strategic importance as does the interconnection of national grids. It is of crucial importance that Member States develop a framework that gives network operators effective and efficient incentives for investments in improving the European electricity networks. This will also stimulate economic growth and generate additional workplaces.

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<sup>10</sup> [OJ C 34, 2.2.2017, p. 44](#)

<sup>11</sup> See also opinion TEN/622 "Revision of the Renewable Energies Directive" (not yet published in the OJ).

Against this background, the EESC endorses the Commission's proposal to strengthen the competencies of the ACER that should oversee national policies with this regard.

- 4.23 Article 32, 33 and 36 of the proposal for a Directive COM(2016) 864 final gives distribution system operators conditional rights regarding the operation of flexibility options and recharging points for electric cars. While the EESC welcomes swift progress in terms of flexibility, electromobility and the market penetration of storage facilities, it is important that the prerogative for independent market players proposed by the Commission's proposal takes actual effect and is respected by distribution system operators and the national regulators. The same is true of the operation of storage by transmission system operators (Article 54 of the proposal for a Directive COM(2016) 864 final).
- 4.24 The establishment of a European organisation for distribution system operators (EU DSO entity), as set out in Article 50 of the proposal for a Regulation COM(2016) 861 final, should not result in an autonomous setting of network codes, as this will further strengthen the potential market power of distribution system operators. Competencies to develop an appropriate framework should be given to ACER and national regulators should be strengthened in this regard.

Brussels, 31 May 2017

Georges DASSIS

The president of the European Economic and Social Committee

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