

Directive 2009/72/EC of the European Parliament and of the Council
of 13 July 2009 concerning common rules for the internal market in
electricity and repealing Directive 2003/54/EC (Text with EEA relevance)

CHAPTER IX

NATIONAL REGULATORY AUTHORITIES

Article 39

Compliances with the Guidelines

1 Any regulatory authority and the Commission may request the opinion of the Agency on the compliance of a decision taken by a regulatory authority with the Guidelines referred to in this Directive or in Regulation (EC) No 714/2009.

2 The Agency shall provide its opinion to the regulatory authority which has requested it or to the Commission, respectively, and to the regulatory authority which has taken the decision in question within three months from the date of receipt of the request.

3 Where the regulatory authority which has taken the decision does not comply with the Agency's opinion within four months from the date of receipt of that opinion, the Agency shall inform the Commission accordingly.

4 Any regulatory authority may inform the Commission where it considers that a decision relevant for cross-border trade taken by another regulatory authority does not comply with the Guidelines referred to in this Directive or in Regulation (EC) No 714/2009 within two months from the date of that decision.

5 Where the Commission, within two months after having been informed by the Agency in accordance with paragraph 3, or by a regulatory authority in accordance with paragraph 4, or on its own initiative, within three months from the date of the decision, finds that the decision of a regulatory authority raises serious doubts as to its compatibility with the Guidelines referred to in this Directive or in Regulation (EC) No 714/2009, the Commission may decide to examine the case further. In such a case, it shall invite the regulatory authority and the parties to the proceedings before the regulatory authority to submit observations.

6 Where the Commission takes a decision to examine the case further, it shall, within four months of the date of such decision, issue a final decision:

- a not to raise objections against the decision of the regulatory authority; or
- b to require the regulatory authority concerned to withdraw its decision on the basis that that the Guidelines have not been complied with.

7 Where the Commission has not taken a decision to examine the case further or a final decision within the time-limits set in paragraphs 5 and 6 respectively, it shall be deemed not to have raised objections to the decision of the regulatory authority.

8 The regulatory authority shall comply with the Commission decision to withdraw their decision within a period of two months and shall inform the Commission accordingly.

***Status:** EU Directives are being published on this site to aid cross referencing from UK legislation. After IP completion day (31 December 2020 11pm) no further amendments will be applied to this version.*

9 The Commission may adopt Guidelines setting out the details of the procedure to be followed for the application of this Article. Those measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 46(2).