

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 XI

FINAL PROVISIONS

*Article 47*

**Reporting**

1 The Commission shall monitor and review the application of this Directive and submit an overall progress report to the European Parliament and the Council for the first time by 4 August 2004, and thereafter on an annual basis. The progress report shall cover at least:

- a the experience gained and progress made in creating a complete and fully operational internal market in electricity and the obstacles that remain in this respect, including aspects of market dominance, concentration in the market, predatory or anti-competitive behaviour and the effect thereof in terms of market distortion;
- b the extent to which the unbundling and tariffication requirements contained in this Directive have been successful in ensuring fair and non-discriminatory access to the Community's electricity system and equivalent levels of competition, as well as the economic, environmental and social consequences of the opening of the electricity market to customers;
- c an examination of issues relating to system capacity levels and security of supply of electricity in the Community, and in particular the existing and projected balance between demand and supply, taking into account the physical capacity for exchanges between areas;
- d special attention will be given to measures taken in Member States to cover peak demand and to deal with shortfalls of one or more suppliers;
- e the implementation of the derogation provided under Article 26(4) with a view to a possible revision of the threshold;
- f a general assessment of the progress achieved with regard to bilateral relations with third countries which produce and export or transport electricity, including progress in market integration, the social and environmental consequences of the trade in electricity and access to the networks of such third countries;
- g the need for possible harmonisation requirements that are not linked to the provisions of this Directive; and
- h the manner in which Member States have implemented in practice the requirements regarding energy labelling contained in Article 3(9), and the manner in which any Commission recommendations on that issue have been taken into account.

Where appropriate, the progress report may include recommendations as regards, in particular, the scope and modalities of labelling provisions, including the way in which reference is made to existing reference sources and the content of those sources, and, notably, how information relating to environmental impact, as regards at least CO<sub>2</sub> emissions, and radioactive waste, resulting from electricity generation from different energy sources could be made available in a transparent, easily accessible and comparable manner throughout the Community, how the measures taken by the

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Member States to control the accuracy of the information provided by suppliers could be streamlined, and which measures could counteract the negative effects of market dominance and market concentration.

2 Every two years, the progress report referred to in paragraph 1 shall also include an analysis of the different measures taken in the Member States to meet public service obligations, together with an examination of the effectiveness of those measures and, in particular, their effects on competition in the electricity market. Where appropriate, the report may include recommendations as to the measures to be taken at national level to achieve high public service standards, or measures intended to prevent market foreclosure.

3 The Commission shall, by 3 March 2013, submit, as part of the general review, to the European Parliament and the Council, a detailed specific report outlining the extent to which the unbundling requirements under Chapter V have been successful in ensuring full and effective independence of transmission system operators, using effective and efficient unbundling as a benchmark.

4 For the purpose of its assessment under paragraph 3, the Commission shall take into account in particular the following criteria: fair and non-discriminatory network access, effective regulation, the development of the network to meet market needs, undistorted incentives to invest, the development of interconnection infrastructure, effective competition in the energy markets of the Community and the security of supply situation in the Community.

5 Where appropriate, and in particular in the event that the detailed specific report referred to in paragraph 3 determines that the conditions referred to in paragraph 4 have not been guaranteed in practice, the Commission shall submit proposals to the European Parliament and the Council to ensure fully effective independence of transmission system operators by 3 March 2014.

6 The Commission shall, by 1 January 2006, forward to the European Parliament and Council, a detailed report outlining progress in creating the internal electricity market. That report shall, in particular, consider:

- the existence of non-discriminatory network access,
- effective regulation,
- the development of interconnection infrastructure and the security of supply situation in the Community,
- the extent to which the full benefits of the opening of markets are accruing to small enterprises and household customers, notably with respect to public service and universal service standards,
- the extent to which markets are in practice open to effective competition, including aspects of market dominance, market concentration and predatory or anti-competitive behaviour,
- the extent to which customers are actually switching suppliers and renegotiating tariffs,
- price developments, including supply prices, in relation to the degree of the opening of markets; and,
- the experience gained in the application of this Directive as far as the effective independence of system operators in vertically integrated undertakings is concerned and whether other measures in addition to functional independence and separation of accounts have been developed which have effects equivalent to legal unbundling.

Where appropriate, the Commission shall submit proposals to the European Parliament and the Council, in particular to guarantee high public service standards.

Where appropriate, the Commission shall submit proposals to the European Parliament and the Council, in particular to ensure full and effective independence of distribution system operators before 1 July 2007. When necessary, those proposals shall, in conformity with competition law, also concern measures to address issues of market dominance, market concentration and predatory or anti-competitive behaviour.