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European Renewable Energies Federation

Brussels, 18 July 2016

Dear Commissioner Cañete,

We, the European Renewable Energies Federation, urgently appeal to you to be vigilant concerning the Impact Assessment development and inter-service consultation for the upcoming draft for a new Renewable Energy Directive.

There seems to be a tendency and pressure on the services of the European Commission to suppress a direct evaluation of various critical points for the Directive in the Impact Assessment.

As we have been working for many years in a fruitful, open and honest cooperation with key colleagues in DG ENER and other DGs such as REGIO and ENVI, we would like to underline our major concern in reference to this recent development.

We hope we have misunderstood some comments that DG COMP seems to confuse its role as guardian of the competition rules with the role and competences of DG ENER to structure and suggest energy policy instruments and pathways for renewables, including clarity on support policies.

In order to secure the European Union as a democratic place and with a forward looking objective we need to have clarity and good governance of the Commission's services here.

There are several major points which are in danger of being suppressed in the Impact Assessment:

- I. Priority Grid access and/or priority dispatch for renewable energy
- II. Evaluation of gap-filler/gap-avoider options in case the new binding EU target is not reflected in strong policies and pledges by the Member States
- III. A reflection on common rules and principles for the way forward until 2030, including clarity and guidance in this respect also on national support schemes and regional cooperation

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## I. Priority Grid access and / or priority dispatch for renewable energy

The EU Commission since 1999 has been carefully analysing how renewable electricity can access the grid and develop while

- a) over-capacity in electricity in the EU overall;
- b) regulated prices and subsidies to the incumbent energy utilities;
- c) missing internalisation of externalities and discriminatory regulation; and
- d) weak or unfair planning and permitting procedures

marked the obstacles to RES development and do mark them still - as the Commission itself outlined in its own evaluations in recent past.

Following the Directive 2001/77/EC on the promotion of renewable electricity, in which priority access was only recommended, a huge step forward was made with the Directive 2009/28/EC. While according to the former Directive (2001/77/EC) Member States were simply allowed to introduce such a priority or guaranteed access, the latter (Article 16.2, 2009/28/EC) makes it mandatory.

There is no evidence whatsoever that we should fall back and move away from this crucial mandatory rule. If the Commission sees enough points for a different view it clearly needs to reflect that in the Impact Assessment.

**Falling technology prices and increased market penetration help the further development of renewables. But without priority access and priority dispatch obligation, there will be a roll-back and a perverted merit order, where the old capacities or must run capacities from coal, nuclear and heavy oil will be dispatched first and renewables in the end, despite lower costs for many of the RES technologies.**

Investment security will suffer even in countries with advanced policies such as in Austria, Denmark, Germany, Portugal etc. because of the increase of capacity markets based on incumbent technologies - as we face it in the Union - and for which the Commission had expressed its wariness in the recent past, the need for priority access/dispatch for renewables is actually increasing.

The Commission has underlined the importance of renewable energy projects of cooperatives and citizens not only for target reaching but also for regional and local structural development. Without priority grid access or dispatch, all these projects

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cannot be securely financed, especially in an environment where auctioning seems to be the order of the day for new capacity under national support mechanisms.

The current RES Directive requires that EU countries take “the appropriate steps to develop transmission and distribution grid infrastructure, intelligent networks, storage facilities and the electricity system [...] to accommodate the further development” of renewable electricity, as well as “appropriate steps” to accelerate authorisation procedures for grid infrastructure and to coordinate approval of grid infrastructure with administrative and planning procedures.

The renewable power plants increasingly participate in balancing mechanisms to ensure grid stability and countries such as Germany could with rapidly increasing RES figures also even increase the reliability of their grids.

The upcoming RES Directive must also and further ensure that both transmission system operators as well as distribution system operators guarantee the RES transmission and distribution by allowing priority access to the grid system.

## **II. Evaluation of gap-filler/gap-avoider options in case the new binding EU target is not reflected in strong policies and pledges by the Member States**

As it seems, the new RES Directive will outline only an EU wide mandatory minimum target for renewable energy development until 2030. That is a complete novelty in energy law and concerning the development of renewables as well. We have always strongly criticised that the Member States thus shied away from assuming clear responsibility for the further development of RES in the EU.

At present, the European way forward are binding national targets for Member States until 2020. The National Renewable Energy Action Plans based on good guidance by the Commission have created a clear approach for investment checks and for renewable energy development in the EU 28.

If the Commission does not reflect on how gaps can be avoided or how gaps can be filled in case Member States do not deliver towards the achievement of the overall binding EU wide target, the Directive will not be worthwhile the paper it is written on.

Lessons can be learned as to how to use instruments such as the NER 300 pathway, the provisions for avoiding shortcomings as outlined under the Energy Efficiency Directive,

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clear priority and options for gap filling under the upcoming structural funds beyond 2020, etc. All this needs to be carefully reflected upon and legal objectives should be defined in the Impact Assessment and for the new draft RES directive.

### **III. A reflection on common rules and principles for the way forward until 2030**

We need in the Impact Assessment and in the Draft Directive guidance on best practices, stability of systems for the promotion of renewables and a flexible pathway which also enables the Commission with directive regulative and delegated powers. Examples for a good way forward such as the Seville process need to be evaluated on their adapted applicability in a rule book approach under the upcoming Directive.

The Directive needs to recommend on common principles for support mechanism structuring, integrating the experience of the past years in a forward-looking way, embracing market integration, market coupling and grid development. Such rule book approach and guidance would be a must both for SME projects and citizens involvement as well as for large investments.

The rule book approach should trigger and steer regional cooperation and cross-border planning and investments, increasing joint knowledge and legal clarity.

Direct marketing rules and principles, tendering design under technology specific auctioning schemes with thresholds for small projects with a stable and generous threshold as a rule for non-tendering support should be laid down.

The Directive should define a clear rule and principle excluding retroactive changes to support schemes and allow only for few and clear exemptions for changes which do not affect investment security. If stronger changes are necessary in exceptional cases clear compensation rules for stranded investment need to be established under the Directive.

In case the economic viability of projects would - in exceptional circumstances - nonetheless be endangered by such changes, measures providing compensation need to be put in place.

Clear rules should be developed on non-discriminatory support scheme design principles for the Member States' approach.

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The new Directive must foresee review clauses at the latest for 2025 in order to reflect on the various rules.

Aspects on clarity on guarantees of origin, balancing and integration and grid development etc. need to be reflected in a standardised rule book approach. These are energy policy elements and cannot be left in the hands of DG COMP for the reasons outlined above.

An Impact Assessment without a detailed chapter on rules and guidance to be integrated in the upcoming Directive is doomed to provoke failure of further renewable energy development in Europe.

We hope you take our worries and arguments seriously and ensure that they are reflected in the Impact assessment and in the upcoming Directive.

With kind regards,



Dr. Savvas Seimanides

EREF PRESIDENT