

1 July 2013

**Union of European Petroleum Independents (UPEI)
response to:**

The European Commission Public Consultation

**A 2030 FRAMEWORK FOR CLIMATE AND ENERGY POLICY
[COM(2013) 169]**

4. QUESTIONS

4.1 General

Which lessons from the 2020 framework and the present state of the EU energy system are most important when designing policies for 2030?

- The Union of European Petroleum Independents (UPEI) is the umbrella organisation of the independent European oil trade, which represents approximately 45% of the European oil market. UPEI welcomes the Green Paper and the consultation as it reflects the urgent need for a longer term policy framework, in particular to provide the necessary conditions for investors. Before commenting on the details of the framework, UPEI would like to stress the importance of a long term, reliable, policy framework to provide predictability and stability to those engaged as operators within the EU energy market. This is essential for all stakeholders, businesses and investors. However, UPEI has concerns that the time frame of this Green Paper is not ambitious enough. 2030 is fast approaching. In addition, before measures and legislation based on the eventual 2030 strategy are adopted, more time will be lost. UPEI, therefore, urges the European Commission to adopt a policy framework that is longer term be it with the possibility of regular review.
- In addition, there are 3 overriding principles which should be taken into account in developing climate and energy policies: free competition must be maintained, to safeguard the functioning of the internal market, openness to technology or energy source should be guaranteed and new legislation should be assessed for its feasibility with regards to administrative and financial burden. This is particularly important for SMEs which play an important part in the competitiveness of the energy sector, both within the EU and beyond. Greater efforts need to be paid to creating a level playing field across the EU when legislating, rather than just setting

objectives without monitoring the way in which these are implemented by individual Member States. For example, in the biofuels sector trading between different countries has become very difficult due to the lack of harmonisation between national legislation.

- A binding target is more effective in achieving its objectives than a voluntary target, but it must be defined taking into account the real market environment and its ability to achieve the target, in particular with regards to the availability of technology and financing.
- There is a concern that based on recent experience with regards to the drafting of EU legislation, the gap between policy makers and the reality of the market is widening, particularly with regards to the situation of SMEs. Whilst the European Commission has adopted the SME test when legislating, the effectiveness of this test has not always been apparent in the resulting legislation.

4.2 Targets

Which targets for 2030 would be most effective in driving the objectives of climate and energy policy? At what level should they apply (EU, Member States, or sectoral), and to what extent should they be legally binding?

- Targets must be realistic and budgeted; otherwise they will have a negative impact on competition and may cause energy prices to rise further. The EU, in its monitoring of national policy frameworks, should not ignore the impact of differing national targets set by individual Member States which can result in market distortions which have a Europe wide impact. Whilst Member States maintain the right to set more stringent targets within their own countries, the EU should analyse the implications of such decisions – not only the advantages but also the possible disadvantages that may result EU wide, and conclusions should be fed into future policy making.
- UPEI believes that a single target for emissions at EU level would be the way ahead rather than a system of multiple targets. This would provide greater clarity in policy making and implementation.
- Whatever target(s) are finally adopted, when deciding upon the level of application (EU/Member State/sectoral) UPEI believes that not only the overall chance of meeting the target should be measured but ALSO the risks in terms of creating greater market fragmentation between Member States, in the way that legislation is transposed as well as with regards to the wide range of approaches adopted by Member States in terms of support mechanisms (subsidies). These differences in Member States often reflect different levels of political engagement and economic priorities which can significantly alter the market conditions between one country

and another. This is a real problem which we are experiencing today – for example with regards to biofuels, where a target has been set but there is a complete lack of a level playing field within which businesses can operate (see attached UPEI biofuels matrix).

- A broad approach to improving energy efficiency should be a top priority as a means of lowering GHG emissions and reducing dependency on energy imports. This, however, requires as much action in the field of public awareness as in terms of technology stimulation and legislation. One of the main instruments should be the promotion of regional/local energy policies, whereby energy efficiency, smart use of energy and local production (solar, wind, and (waste) gasification amongst others) will create synergies. It will also help to raise energy awareness at end customer and small industry level. Local dealers in fossil energy products should be stimulated to take part in this transition, making use of their local knowledge and customer base.

Have there been inconsistencies in the current 2020 targets and if so how can the coherence of potential 2030 targets be better ensured?

- The current targets have not so much created inconsistencies, but have rather led to confusion and mixed political signals. Whilst UPEI does not believe that multiple binding targets are the way forward, it equally believes that there is a risk attached to the existence in parallel of binding and non-binding targets as is the case today. This sends mixed signals to industry and to consumers. One binding target with a number of pillars addressing the means to achieve it would create a stronger and clearer signal and avoid splitting public opinion and industry with regards to the role that each has to play.

Are targets for sub-sectors such as transport, agriculture, industry appropriate and, if so, which ones? For example, is a renewables target necessary for transport, given the targets for CO2 reductions for passenger cars and light commercial vehicles?

- Whilst in principle action at sub sector level could be useful, in practice, this should be left to be determined at Member State level and the EU should avoid an approach of “one size fits all”. In addition, this should take the form rather of incentive measures than of additional binding targets. How to best set targets on emissions or renewables etc. can be discussed. However, the reality is that targets are omnipresent in EU legislation at many levels. . The latest example is the clean power for transport package where clear targets are being set for alternative fuel infrastructure. How this knock on effect of targets is handled is of great concern to UPEI. Decarbonisation is a commitment which UPEI supports; however, we must be mindful of the way it is achieved, in particular with regards to how the related financial burden is borne.

How can targets reflect better the economic viability and the changing degree of maturity of technologies in the 2030 framework?

- This question hits at the heart of the matter. In the Green Paper we are talking about targets for achieving global objectives. These targets then trickle down into individual legislative proposals e.g. the clean transport package. Here the targets which are being set for the creation of an infrastructure for alternative fuels are trying to stimulate investment by defining how the market should develop and ensuring that the infrastructure is in place. However, the technology is not yet mature (and, therefore costly) and, as a result public demand is not stable. Nevertheless, the private sector is being asked to invest on a massive scale and at high risk in terms of rates of return (especially given the absence of any clear front runner amongst the plethora of alternative fuels which must be catered for).
- Biofuels targets have also led to the introduction of an array of national measures which may work towards the achieving of national targets but are hampering EU trade in the sector which can only be to the disadvantage of achieving the overall stated policy objective in this sector.

How should progress be assessed for other aspects of EU energy policy, such as security of supply, which may not be captured by the headline targets?

- Security of supply is the top priority and is automatically addressed as we work to improve energy efficiency and the diversification of the fuel mix. However, the EU should be coherent in the way it addresses security of supply of individual energy sources (e.g. oil versus gas).

4.3. Instruments

Are changes necessary to other policy instruments and how they interact with one another, including between the EU and national levels?

- In general terms, it is important that EU Member States have a maximum of flexibility in the definition of instruments at their disposal. Technology specific instruments or legislation is not appropriate because it excludes certain businesses and companies from participation and generally leads to higher energy prices.
- There is a lack of coherence between the overall policy objectives for climate and energy and the use of other policy instruments, in particular energy research funding which has declined from 34% in FP1 to 7% in FP7, at a time when we are increasingly aware of the need for technological advance in order to meet various objectives e.g. generation of advanced biofuels, clean transport, etc. This financial trend should be reversed.

- EU Member States' Action Plans in the field of Renewable Energy should be assessed in greater detail and there should be wider diffusion of best practices at national and regional level as well as analysis of policies which can cause distortion of competition or which do not contribute to creating a level playing field within the EU.

How should specific measures at the EU and national level best be defined to optimise cost-efficiency of meeting climate and energy objectives?

- A long term, stable legal and legislative framework is essential for cost-efficiency optimisation. However, there must be greater recognition of the fact that the energy sector is confronted with a rapid evolution in technology and that this makes it very difficult to create a stable legal and legislative framework. We have to recognise the risks and costs associated with legislating on the basis of the best available science – which is not necessarily scientific... e.g. biofuels/ILUC. Similarly, we all agree that in transport, electrical engines and natural gas engines are so called zero emission engines. However, we must also be sure that when it comes to extraction to consumption, the same conclusions can be drawn when compared to traditional fuels. The EU aspires to be and should be a front runner in the move towards green energy and reduction in GHG, however, it must be able to walk before it can run in order not to have a negative impact on the economy as a whole.
- Legislation is necessary; however, we should guard against over regulation and opt for smart regulation which respects market forces and dynamics. There is inevitably a cost to all legislation and it is essential that these costs are effectively estimated in advance. SMEs in the European oil sector are still fulfilling and will continue to fulfil a vital role in supplying fuel and oil products on the market, responding rapidly to market fluctuations and preventing gaps in supplies. They are also receptive to innovations. However, whilst they are facing major challenges in the context of decarbonisation, they are also facing increased costs due to EU legislation. This cumulative trend cannot continue without threatening the viability of these SMEs. The SME test in legislating is welcome; however, we regret the lack of evidence on the ground that it is achieving its desired objective.

How can fragmentation of the internal energy market best be avoided particularly in relation to the need to encourage and mobilise investment?

- Greater transparency with regards to access to financial instruments is needed as well as greater harmonisation and standardisation of laws, including the transposition of EU directives by Member States.
- A long term, stable and predictable legal framework is essential for mobilising investment.

Which measures could be envisaged to make further energy savings most cost effectively?

- Greater stability, coherence and predictability of the EU legal framework are needed to avoid confusion to the industry and stakeholders. The administrative and financial burden of measures must be assessed more thoroughly, given the importance of SMEs in the EU energy market which ensure stability and security of supply in a highly fluctuating environment. The EU must recognise that shortcomings in EU legislation often translate into increased administrative and financial burden which is likely to drive up the cost of energy to the detriment of the European economy as a whole.

How can EU research and innovation policies best support the achievement of the 2030 framework?

- A technology neutral approach must be at the heart of EU research and innovation policies.
- Sufficient financial resources should be made available under the EU research funding programme to support technological development which must underpin the EU's stated objectives.

No amount of legislation can force consumers to make specific choices. Incentives and investment are essential to close the technology gap and bring down prices to enable consumers to make the choices. Availability of alternatives to fossil fuels alone will not drive change.

4.4. Competitiveness and security of supply

Which elements of the framework for climate and energy policies could be strengthened to better promote job creation, growth and competitiveness?

- Whilst decarbonisation is an unchallenged objective, the role of the fossil fuel sector in terms of jobs, growth and competitiveness must be acknowledged. Figures are frequently quoted with regards to renewable energy as a source of employment and growth. Are similar figures available with regards to the impact of a shift away from fossil fuels available and how this may negatively affect jobs, growth and competitiveness? In Spain, 2012 finished with a fall of demand for oil products of around 7% (the highest since the beginning of the economic crisis). If we add to this percentage the drop in consumption since 2008, the accumulated decrease reaches approximately 17.6%.
- To improve security of energy supply, Europe needs diversification of energy sources, but no technology or energy source should be discriminated against. Mineral oil is storable, it is an important aspect of security of supply for EU Member States and it is important for European companies to be competitive.

- Cost-benefits must be seriously analysed at EU and Member State level. In Spain, for example, a heavy bureaucracy was introduced in the context of biofuel certification systems. This burden is even more disproportionate since compulsory national targets for biofuels were reduced in February 2013 in order to moderate fuel prices, thus creating a double burden on companies which SMEs are finding particularly difficult to absorb.

What evidence is there for carbon leakage under the current framework and can this be quantified? How could this problem be addressed in the 2030 framework?

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What are the specific drivers in observed trends in energy costs and to what extent can the EU influence them?

- There are many drivers influencing energy costs. However, the one that the EU can best influence is how it legislates. Legislation is a contributor to increasing costs, e.g. biofuels, the fuel quality directive, energy taxation. The clean transport package currently under discussion will also have cost implications.

How should uncertainty about efforts and the level of commitments that other developed countries and economically important developing nations will make in the on-going international negotiations be taken into account?

- The EU should remain a front runner in this field and continue to drive the policy agenda on the global level. However, it must try to mitigate any imbalance in commitments from other developed companies by ensuring the competitiveness of its own industry when regulating and setting targets.

How to increase regulatory certainty for business while building in flexibility to adapt to changing circumstances (e.g. progress in international climate negotiations and changes in energy markets)?

- The constant state of evolution of the sector is a constraint for creating market stability and regulatory certainty. Therefore, legislators should take greater account of the reality of the market and offer incentives for its further development, rather than impose unrealistic objectives, expecting that the market will be able to respond given the current state of economic crisis and insecurity, and the extreme difficulty for private investors to access credit.

How can the EU increase the innovation capacity of manufacturing industry? Is there a role for the revenues from the auctioning of allowances?

- The best way to promote innovation capacity is not to impose artificial constraints on industry. Subsidies will always provide an advantage to some whilst putting others at a disadvantage.

How can the EU best exploit the development of indigenous conventional and unconventional energy sources within the EU to contribute to reduced energy prices and import dependency?

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How can the EU best improve security of energy supply internally by ensuring the full and effective functioning of the internal energy market (e.g. through the development of necessary interconnections), and externally by diversifying energy supply routes?

Energy efficiency is a key element to improve security of supply as well as diversification of the fuel mix. Investment in the full implementation of the internal energy market must remain a priority.

4.5. Capacity and distributional aspects

How should the new framework ensure an equitable distribution of effort among Member States? What concrete steps can be taken to reflect their different abilities to implement climate and energy measures?

- A single European target should be translated into general targets on Member State level whilst ensuring a balance in the efforts between Member States.

What mechanisms can be envisaged to promote cooperation and a fair effort sharing between Member States whilst seeking the most cost-effective delivery of new climate and energy objectives?

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Are new financing instruments or arrangements required to support the new 2030 framework?

- First and foremost the EU should exploit the existing instruments available to the full, before introducing new measures, and restore former levels of financing to EU research funding.
- Savings can also be made by smarter regulation and a better understanding of the market environment in which operators are working, particularly SMEs which have been particularly hit by the economic crisis and reduced access to credit. Member States should also be encouraged to dedicate funds.

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