

Legal aspects of the RfG code

**EURELECTRIC input for the 4th GC ESC
Ljubljana 9th December 2016**

EURELECTRIC's question

- EURELECTRIC's question was addressed by the European Commission at the 3rd GC ESC:
 - Can a Member State impose **more stringent requirements** by a separate legislation than imposed by the Requirements for Generators NC?

Answer provided by the European Commission

- The EC can offer a formal interpretation of legislation only on the basis of non binding "**interpretative notes**".
- These interpretative notes are prepared at EC initiative.
- The process is lengthy and require approval by the College of Commissioners before they can be adopted.
- Examples of “interpretative notes”:
 - Those concerning the implementation of the Directives in the Third Package (e.g. on the unbundling regime).
 - They cover key issues where the legal **text leaves room for interpretation. Guidance** is required to ensure the **correct implementation**.
 - EC states that they do **not consider that NCs** would require this type of **guidance**.

What is the next step, given the answer by European Commission?

- Since all items described in the RfG NC are considered having an impact on the **Cross-Border-Trade**.
 - A MS cannot impose more stringent requirements than those imposed by the RfG network code.

Can the GC ESC recommend that all stakeholders apply this principle and accept both informal statements of the European Commission?