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# COMMISSION STAFF WORKING PAPER

## Summary of the Impact Assessment

*Accompanying document to the*

## Proposal for a Regulation of the European Parliament and of the Council

## establishing the Connecting Europe Facility Summary

{COM(2011) 665 final}
{SEC(2011) 1262 final}

This document provides the executive summary of the Impact Assessment Report on the Regulation establishing the Connecting Europe Facility (CEF) that will fund pre-identified transport, energy and information and communication technology (ICT). This new instrument was proposed by the Commission in its Communication "A Budget for Europe 2020 (hereinafter the MFF Communication), adopted on 29 June 2011, and its accompanying documents[1]. The CEF Regulation forms part of a package of legal instruments covering transport, energy and ICT, including also the sector-specific policy frameworks for the three sectors concerned[2] and the available financial instruments.

## 1. PROBLEM DEFINITION

As the MFF Communication acknowledged, the current EU framework for infrastructure funding is not adequate to provide an effective response to the challenge identified above. Funding of infrastructure is indeed fragmented among sectors, among programmes and among financing instruments, preventing thereby the full exploitation of possible synergies between sectors, programmes and financing instruments and reducing risks.[3] In this context, and in view to accelerate the infrastructure development that the EU needs, the Commission decided to propose the creation of a centrally managed common facility, the so-called CEF with a EUR 50 billion budget that will fund "pre-identified projects in transport, energy and ICT priority infrastructures of EU interest."

The creation of the CEF is aimed at aligning EU financing instrument for infrastructures in the sectors concerned on their respective policy objectives and, thereby, at contributing to simplifying sector specific rules under the constraints set by the policy frameworks.

The MFF Communication did not however define the operating rules of the CEF that will enable the facility to be a success in operational terms, i.e. the operating rules that will create the investment conditions conducive to accelerating the infrastructure development that the EU needs for its future sustainable competitiveness.

At the same time, and as highlighted in the MFF Communication, a transversal analysis of existing sector specific rules shows that, beyond the creation of the CEF, there is room for further simplification of operating rules between the three concerned sectors. Therefore, the potential for synergies across sectors in the CEF should be explored further.

In light of the above and drawing on ex post programme evaluations, stakeholder consultations and expert recommendations, the Commission has identified two main policy areas in which market and regulatory failures prevent EU funding to support adequately the development of infrastructures needed to achieve the objectives of the EU 2020 Strategy:

– Investment leverage: Existing procedures, methods and forms for granting EU funding are not conducive to sufficient investment leverage. Three main reasons for a continuing limited impact of EU funding have been identified: EU funding is not sufficiently focussed on projects with a real EU added value; the way co-funding rates are set today does not trigger the investment needed because co-funding rates do not correspond to project risks and are not proportionate to their complexity and

[1] COM(2011) 500 final and SEC(2011) 868. All documents are accessible at http://ec.europa.eu/budget/biblio/documents/fin_fwk1420/fin_fwk1420_en.cfm

[2] Legislative proposals laying down revised policy frameworks in the area of TEN-E, TEN-T and e-TEN respectively.

[3] SEC(2011) 868, p. 79.

EU added value; the existing forms (grants and/or, in some sectors, financial instruments) under which EU funding has been channelled to projects so far has not created an environment sufficiently conducive to private investment needed in each of the sectors.

– Project implementation: Existing conditions in the fields of funding application and support, of monitoring and evaluation and programme management for a fast implementation of EU co-funded projects are not adequate.

The Commission has carried out an analysis of possible future developments of these problems with unchanged policies, notably with the continuation of the 2007-2013 MFF in the field of energy, transport and ICT. This analysis indicates that in this context, the development of infrastructure of European added value is unlikely to happen by 2020. The involvement of the private sector will remain marginal, even on projects with long-term potential commercial interest. Major trans-European connections, including those with neighbouring countries, will remain missing, particularly for projects facing major technical difficulties or limited commercial interest for project promoters. This will therefore have detrimental impacts for instance on the functioning of the internal market, on accessibility and connections with the neighbouring countries. The impacts on environmental and climate change objectives are also likely to be insignificant with the continuation of the current policies.

## 2. ANALYSIS OF SUBSIDIARITY

Trans-European networks are covered under Article 170 TFEU, which specifies: “The Union shall contribute to the establishment and development of trans-European networks in the areas of transport, telecommunications and energy infrastructures”. The right for the EU to act in the field of infrastructure financing is set out in Article 171 which provides that the Union "may support projects of common interest supported by Member States, (…) particularly through feasibility studies, loan guarantees or interest-rate subsidies". Furthermore, the EU's competence in the area of energy is also enshrined in TFEU, Article 194. As regards trans-European networks, the Commission’s financing proposals have to be approved by the Member States, who are responsible for the planning and construction of projects.

In the Budget Review Communication, the Commission underscored the importance of employing the EU budget in order to "plug gaps left by the dynamics of national policy-making, most obviously addressing cross-border challenges in areas like infrastructure, mobility, territorial cohesion… - gaps which would otherwise damage the interest of the EU as a whole."[4] Member states tend to give principal priority to projects of primary national relevance when planning and funding infrastructure.[5] Yet, cross-border connections are essential if TENs are to become a reality and, not least, in an optimal configuration, that carries highest EU added value for the Unions citizens.

Subsequently, the Commission has clearly presented its position with regard to the role of the EU budget for supporting infrastructure development, in particular in the areas of energy, transport and ICT, in its MFF Communication: "…experience shows that national budgets

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[4] COM(2010)700, p. 5.

[5] See Impact Assessment Reports of revised TEN-T Guidelines, SEC(2011)xxx, of revised TEN-E Guidelines, SEC(2011)xxx and of e-TEN Guidelines, SEC(20111)xxx.

will never give sufficiently high priority to multi-country, cross-border investments to equip the Single Market with the infrastructure it needs. This is one more example of the added value of the EU budget. Indeed, the Commission further noted, "The costs for Europe of not investing sufficiently in its future network would be very high."[6]

The rationale for a European action in the field of infrastructure financing stems from the trans-national nature of the identified problem.

## 3. OBJECTIVES OF EU INITIATIVE

As defined in the MFF Communication, the overarching objective of the CEF is to accelerate the infrastructure development that the EU needs to reach the EU 2020 Strategy associated energy and climate change targets and, more generally, to achieve its future sustainable competitiveness. In order to meet this goal and in light of the problem identified in section 2 above, the general objective of the initiative accompanied by this IA is to establish optimal operating rules governing the use of funds under the CEF.

At the same time, as mentioned in section 4 of the MFF Communication, programmes and instruments such as the CEF included in the MFF Communication also have a focus on simplification of inter alia sector specific rules. Therefore, the proposed initiative should also exploit as much as possible synergies within each sector and between sectors taking into account the policy objectives laid down by the sector specific policy frameworks.

*Specific objectives (SO)*

In light of the above and on the basis of the problem defined in section 2 of this IA, the general objective of putting in place optimal operating rules of CEF can be translated into two specific objectives that are in line with the Staff Working Paper accompanying the 2011 Communication[7]:

**SO 1:** Define forms, methods and rules of financing to ensure maximal leverage of EU budget contributions in attracting public and private investments for projects with a European and Single Market dimension, in particular priority networks that must be implemented by 2020, and where European added value is most warranted including, where appropriate, those crossing the EU borders.

**SO 2**: Define monitoring and evaluation mechanisms that reward performance and penalise non-effective use of EU funds with a view to ensure the effective and timely implementation of the projects supported.

*Operational objectives (OO)*

These specific objectives can be translated, in their turn, in a number of **operational objectives**:

As regards investment leverage:

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[6] SEC(2011) 368, p. 78.

[7] Staff Working Paper, A Budget for Europe 2020: the current system of funding, the challenges ahead, the results of stakeholders consultation and different options on the main horizontal and sectoral issues SEC(2011) 868 final.

- *OO 1:* Define objectives and multi-level criteria for proposal evaluation in order to ensure that funding is channelled on actions implementing projects with high EU added-value.

- *OO 2: Define co-funding maximum rates for EU support for projects according to priorities set in terms of EU added-value and risk/market failures faced by the projects. Allow flexible use of these rates, in order to maximise the leverage of EU funding contributions.*

- *OO 3: Encourage the participation of specialised infrastructure investors by means of rules for the use of market based instruments, and by making available sufficient funds for support of innovative instruments.*

As regards project implementation:

- *OO 4: Define rules for proposal selection in order to ensure a competitive and transparent allocation of funds.*

- *OO 5: Establish a consistent framework for monitoring and evaluation to support decisions for continuing, discontinuing or recalibrating EU funding support (i.e. the "use it or lose it" principle, rules for ensuring that the competitive re-allocation of funds is made on transparent and highly competitive bases).*

- *OO 6: Set up an adequate institutional structure for the centralised management of the programme.*

## 4. POLICY OPTIONS

Finding the appropriate balance between coherence with sector policy objectives and maximisation of synergies will be key in defining CEF optimal operating rules. This appropriate balance only will ensure that CEF operating rules are optimal, i.e. that they are designed in such a way that a maximum value for money is attained.

The identified policy options, consisting of combinations of various degrees of harmonisation of investment leverage and project implementation, can be situated between two extremes; at the one extreme, minimum harmonisation of investment leverage and project implementation and at the other extreme, maximum investment leverage and project implementation. In between the extremes, there are several intermediary options, which consist of combinations of minimum and maximum harmonisation levels as well as of variable harmonisation levels.

These combinations are shown in table 1 below:

**Table 1: Identification of possible Policy Options**

| *Leverage*<br>*Implementation* | *L Min* | *L Max* | *L Var* |
|---|---|---|---|
| **I Min** | **L Min – I Min (Baseline under CEF)**<br>Distinct co-funding rates for each sector and type of projects<br>Distinct mix of innovative financial instruments for each sector<br>Distinct criteria for identifying EU added-value according to sectoral priorities<br>Distinct calls and selection procedures for each sector<br>Distinct sets of monitoring instruments and "use it or lose it" rules for each sector<br>Distinct management structure/executive agency for each sector | **L Max – I Min**<br>Common co-funding rates for all sectors for each type of projects<br>Common mix of innovative instruments<br>Common objectives and criteria for EU added-value based on overall Europe 2020 Strategy and Budget for Europe 2020 priorities<br>Distinct calls and selection procedures for each sector<br>Distinct sets of monitoring instruments and "use it or lose it" rules for each sector<br>Distinct management structure/executive agency for each sector | **LVar – I Min**<br>Common rates for certain types of projects (studies for instance), common rates as a function of the risk level faced by projects; specific rates for certain projects depending on sectoral policy priorities Distinct mix for each sector formed of:<br>- a common set of equity and debt instruments;<br>-different additional specific instruments<br>Common criteria based on overall Europe 2020 Strategy & Budget priorities but adapted where necessary to better target sectoral priorities within overall priorities<br>Distinct calls and selection procedures for each sector<br>Distinct sets of monitoring instruments and "use it or lose it" rules for each sector<br>Distinct management structure/executive agency for each sector |
| **I Max** | **L Min – I Max**<br>Distinct co-funding rates for each sector and type of projects<br>Distinct mix of innovative financial instruments for each sector<br>Distinct criteria for identifying EU added-value according to sectoral priorities<br>Common calls and procedures<br>Single set of monitoring instruments and "use it or lose it" rules<br>Single management structure (executive agency) | **L Max – I Max**<br>Common co-funding rates for all sectors for each type of projects<br>Common mix of innovative instruments<br>Common objectives and criteria for EU added-value based on overall Europe 2020 Strategy and Budget for Europe 2020 priorities<br>Common calls and procedures<br>Single set of monitoring instruments and "use it or lose it" rules<br>Single management structure (executive agency) | **LVar – I Max**<br>Common rates for certain types of projects (studies for instance), common rates as a function of the risk level faced by projects; specific rates for certain projects depending on sectoral policy priorities Distinct mix for each sector formed of:<br>- a common set of equity and debt instruments;<br>-different additional specific instruments<br>Common criteria based on overall Europe 2020 Strategy & Budget priorities but adapted where necessary to better target sectoral priorities within overall priorities<br>Common calls and procedures<br>Single set of monitoring instruments and "use it or lose it" rules<br>Single management structure (executive agency) |

| | | | |
|---|---|---|---|
| *I Var* | **L Min – I Var**<br>Distinct co-funding rates for each sector and type of projects<br>Distinct mix of innovative financial instruments for each sector<br>Distinct criteria for identifying EU added-value according to sectoral priorities<br>Common calls (and procedures) for projects with a cross-sectoral dimension (using an earmarked common funding line); Distinct calls for sector specific projects but common (ie fully harmonised) procedures<br>A core set of common/harmonised monitoring instruments and "use it or lose it" rules with specific instruments and adapted/target rules to take into account sectoral characteristics<br>Single executive agency as common management structure but with various degrees of delegation of tasks by the Commission services in each sector | **L Max – I Var**<br>Common co-funding rates for all sectors for each type of projects<br>Common mix of innovative instruments<br>Common objectives and criteria for EU added-value based on overall Europe 2020 Strategy and Budget for Europe 2020 priorities<br>Common calls (and procedures) for projects with a cross-sectoral dimension (using an earmarked common funding line); Distinct calls for sector specific projects but common (ie fully harmonised) procedures<br>A core set of common/harmonised monitoring instruments and "use it or lose it" rules with specific instruments and adapted/target rules to take into account sectoral characteristics<br>Single executive agency as common management structure but with various degrees of delegation of tasks by the Commission services in each sector | **LVar – I Var**<br>Common rates for certain types of projects (studies for instance), common rates as a function of the risk level faced by projects; specific rates for certain projects depending on sectoral policy priorities<br>Distinct mix for each sector formed of:<br>- a common set of equity and debt instruments;<br>-different additional specific instruments<br>Common criteria based on overall Europe 2020 Strategy & Budget priorities but adapted where necessary to better target sectoral priorities within overall priorities<br>Common calls (and procedures) for projects with a cross-sectoral dimension (using an earmarked common funding line); Distinct calls for sector specific projects but common (ie fully harmonised) procedures<br>A core set of common/harmonised monitoring instruments and "use it or lose it" rules with specific instruments and adapted/target rules to take into account sectoral characteristics<br>Single executive agency as common management structure but with various degrees of delegation of tasks by the Commission services in each sector |

Due to the high number of the resulting (theoretically) possible options, the nine scenario combinations have been submitted to an initial pre-screening, in order to assess their internal coherence as policy options, on the one hand, and their capacity to effectively address the identified problem drivers and corresponding specific policy objectives, on the other. In addition, their coherence with the Commission's aim of improving the effectiveness of the current financial framework by, inter alia, simplifying/harmonising to the extent possible current rules, has also been assessed. It became thus apparent that three of the nine theoretical combinations would not constitute viable policy options: two (L Max – I Min and L Min – I Max) for reasons of (lack of) compatibility between scenarios, i.e. for lack of internal coherence as policy options; and one other (L Min – I Min) for lack of effectiveness in attaining the objectives CEF has been established to reach.

## 5. ASSESSMENT OF IMPACTS

Taking into consideration the pre-conditions (budget, central management, the alignment of EU funding instruments within sectors including also market based instruments) of the creation of the CEF included in all the retained policy options of the current Impact Assessment of the CEF, it becomes evident that the CEF will contribute to significant sector impacts as well as to overall socio-economic and environmental impacts compared to the Business-as-usual scenario.

The positive impacts of the accelerated development of infrastructure through the creation of the CEF will be visible for all the policy options. However, their order of magnitude will depend on the effectiveness of the policy options to address the problem identified, the optimal operating rules of the CEF.

The analysis of impacts has shown that the different degrees of harmonisation between sectors of CEF operating have clear implications in terms of impacts. The latter, that are assessed as net changes compared to the CEF baseline (the L min – I min), are summarised in Table1 below.

**Table1: Summary table of impacts of the retained policy options under the CEF**

| *Impact on* | *OptionL Var – I Min* | *Option L Max – I Max* | *Option L Max – I Var* | *Option L Var – I Max* | *Option L Var – I Var* | *Option L Min – I Var* |
|---|---|---|---|---|---|---|
| Accelerated development of infrastructure of EU interest | + | - | - | + | ++ | + |
| ***of which:*** | | | | | | |
| ***Coherence with sector specific policy frameworks*** | + | - | - | = | + | + |
| ***Degree of synergies between sectors*** | = | ++ | ++ | ++ | ++ | = |
| Reduction of administrative costs | = | ++ | + | ++ | + | + |

Legend: – : negative impact
= : no change
\+ : positive impact
++ : very positive impact

## 6. COMPARISON OF OPTIONS

In light of the analysis of impacts, Policy options L Var – I Min, L Max – I Max, L Max – I Var and L Min – I Var are discarded. In general terms, the analysis shows that the policy options L Var - I Var and L Var – I Max are the most effective policy options in meeting the objective of defining optimal operating rules of the CEF that would allow to accelerate the development of infrastructure of EU interest.

While Policy option L Var – I Var would appear to be the best option from the perspective of coherence, Policy option L Var – I Max would offer higher efficiency. A choice between these two policy options would imply solving the trade-off between maximisation of synergies across sectors and maximisation of coherence within each with its specific policy objectives. Indeed, whereas Policy option L Var – I Max is more ambitious in terms of harmonisation between sectors, it offers also less coherence for each sector with its specific policy objectives.

For this reason, the present IA considers that both options are valid and that the trade-off between coherence with sector policy objectives and maximisation of synergies referred to above has to be addressed by the political decision makers.

## 7. MONITORING AND EVALUATION

The Commission will properly evaluate and review the Regulation 3 years after its adoption by the Commission. In addition, the Commission will constantly monitor the effectiveness of the Regulation with the tools which are already available, by means of Annual report by an Executive Agency, but also an annual EIB report on the use and effects of innovative financing instruments. An external Evaluation report on the institutional structure will also be conducted.