

# State aid: Commission opens in-depth investigation into British Capacity Market scheme

In [July 2014](#), the Commission found the Capacity Market scheme to be compatible with EU State aid rules. In particular, the Commission concluded that the scheme was necessary to guarantee security of electricity supply in Great Britain, was in line with EU energy policy objectives, and did not distort competition in the Single Market.

In November 2018, following an appeal of the Commission's 2014 decision by a company operating in the market, the General Court annulled the Commission's decision on procedural grounds (Case [T-793/14](#)).

The General Court did not rule on the compatibility of the Capacity Market scheme with EU State aid rules. Rather, the Court considered that the Commission should have opened an in-depth investigation to gather more information on certain elements of the scheme relating to the participation of energy consumers offering to reduce their electricity consumption in times of supply disequilibrium in the electricity market.

The Commission has appealed the General Court's judgement to the European Court of Justice. However, this appeal does not suspend the effects of the General Court's judgment, which means that the Commission has to reassess the compatibility of the Capacity Market with the internal market.

The UK has expressed to the Commission its intention to maintain the Capacity Market scheme. Therefore, in order to comply with the General Court's judgment, the Commission has today opened an in-depth investigation under EU State aid rules into the scheme. The Commission's investigation will focus, in particular, on the participation of energy consumers offering to reduce their electricity consumption in times of supply disequilibrium in the electricity market.

The opening of the in-depth investigation gives all interested parties the opportunity to submit their comments. It does not prejudice the outcome of the investigation.

## **Background**

The Capacity Market scheme aims to ensure security of electricity supplies in view of the projected increases in electricity demand and the upcoming closure of a significant share of generation capacity. In return for a steady payment for the duration of the capacity agreement (ranging between 1 and 15 years), successful bidders in the auctions are required to provide capacity at times of stress events on the electricity system or face financial

penalties.

As long as the UK is an EU Member State, it has all the rights and obligations of the membership. In particular, EU competition law, including EU State aid rules, continue to apply in full to the United Kingdom and in the United Kingdom until it is no longer a member of the EU.

If the Withdrawal Agreement agreed between the EU and the UK government, but not yet ratified, will enter into force, EU law will continue to apply to and in the United Kingdom after 29 March 2019, until the end of the transition period foreseen in the Withdrawal Agreement.

The non-confidential version of the decision will be made available under the case number [SA.35980](#) in the [State aid register](#) on the Commission's [competition](#) website once any confidentiality issues have been resolved. New publications of State aid decisions on the internet and in the Official Journal are listed in the [State Aid Weekly e-News](#).