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# Energy for a Changing World



## Proposals to establish one internal Energy Market

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# 3rd Package - background

## Preparatory work

- Benchmarking reports and Green Paper
- Progress report and Sector Inquiry of 10 January 2007
- Conclusion: Urgent need to strengthen competition and complete internal energy market

# 3rd Package - background

- Main shortcomings
  - Vertical integration
  - Lack of market integration
    - Lack of TSO cooperation
    - Regulatory gap
  - High degree of market concentration
  - Lack of transparency
  - Different powers and competences of national regulators energy regulators

# 3rd Package - background

- Positive reactions to Strategic Review
  - Spring Summit March 2007
  - EP Resolution July 2007

# The main areas of the legislation

- Effective unbundling of networks
- Transparency
- Cooperation of network operators
- National regulators
- EU Regulatory Agency
- Access to Storage and LNG
- Solidarity
- Retail market & consumer protection

# Effective unbundling

Two options

(1) Ownership unbundling of TSO

(2) Independent system operator (ISO)

# Effective unbundling

## *Option 1: Ownership unbundling*

- Supply companies must not have any interest in network operators
  - applies also vice versa
- In a nutshell: network operators can no longer be affiliated or be part of a group which is also active in supply, generation and production
- It remains possible to have minority stakes in both supply and network companies

# Effective unbundling

- Impact assessment based on experience in Member States with ownership unbundling
- No evidence for some negative assumptions:
  - On average, positive effects on investment, prices and market concentration
  - Example: share of congestion revenues that was reinvested in interconnection higher for unbundled network operators than for vertically integrated companies.
  - On average, no negative effects on technical operation, company value and credit ratings

# Effective unbundling

## *Option 2: Independent system operator (ISO)*

- Possible second-best approach: Member States may allow for derogation from ownership unbundling
- provided that an independent system operator ISO is designated
- Transmission assets may remain with the vertically integrated company
- But technical and commercial operation of those assets by ISO
- ISO has say on investment decision
- Requirement that ISO is fully independent from any supply or production interests.

# Effective unbundling

- Additional requirements in the case of ISO
  - to increased regulatory control because ISO create additional interface (between asset ownership and asset operation)
- Both options – ownership unbundling and ISO
  - Apply in the same way to gas and electricity
  - Apply equally to private and public companies
  - Require certification
  - Apply equally to EU and Third country companies

# Effective unbundling

- Three measures to control unbundling requirements in the case of 3rd country investments
  - Recital: gas/electricity transmission system sector is of high importance, therefore additional safeguards are necessary regarding the influence of third countries
    - **Without prejudice to international obligations**
    - **May be invoked before WTO to justify any additional measures**
  - Without prejudice to the international obligations, transmission systems or TSOs shall not be *controlled* by persons from third countries
  - Certification of third Country network owner: Reversal of proof for ownership unbundling

# Transparency

- Goal: better network access on the basis of equally distributed and equally timely information
  - Supply & Demand: forecast and realisation
  - Balancing information and costs
  - Availability of generation and gas in stock
- Information more comprehensive and should be published more timely

# TSO Cooperation

- Goal: TSOs to coordinate network management, planning and access conditions across borders
- Core measures:
  - Obligation on TSOs to cooperate at EU and regional level
  - Establishment of a European Network for TSOs
- Precise form of the cooperation left to TSOs
  - Likely that they will build on existing structures such as GTE and ETSO
  - Formal designation of proposed organisation by Commission decision (with help of the Regulatory Agency)

# TSO Cooperation

- Obligation to develop technical and market codes
  - to facilitate network operation and access regimes
  - codes will have a voluntary character
  - Codes can be made binding under comitology
- Coordinated operation of the network
  - in accordance with the agreed codes
  - through the development of common operational tools
- Coordinate the planning of network investments

# National Regulators

- Background
  - Current varying policy objectives regulators from different Member States
  - Especially problematic in the field of investments in new capacity
- Content
  - Designation of a single national regulatory authority
  - legally distinct and functionally independent from any other public or private entity
  - legal personality, budgetary autonomy, and adequate human and financial resources to carry out its duties

# National Regulators

- Clear mandate to cooperate at the European level
  - cooperation on cross-border issues with the regulatory authority or authorities of Member States concerned
- Enhancing statutory duties and powers
  - e.g. ensure compliance of TSOs, ISOs and DSOs with unbundling rules
  - review investment plans of the TSOs
  - extended monitoring duties

# National Regulators

Increased market oversight and record keeping:

- Generators (electricity) and system operators (gas) need to keep at the disposal of regulators the relevant data relating to all operational decisions
- Supply undertakings need to keep at the disposal of regulators the relevant data relating to all transactions in gas/electricity supply contracts and gas/electricity derivatives
- With respect to derivatives, Commission needs to adopt guidelines before requirement enters into effect

# Agency for Regulatory Cooperation

## Why do we need an Agency?

- European Agency for the Cooperation of Energy Regulators to close “regulatory gap”
- Agency is not a substitute for the national regulators, nor is it a European regulator
- Agency to complement the regulatory tasks performed at the national level
- Agency to have decision making power in clearly defined cases:
  - Individual decisions based on EU guidelines
  - Cross-border issues when Regulators ask or need assistance from the Agency
  - Art. 22 exemptions of cross-border infrastructure

# Agency for Regulatory Cooperation

The Agency shall ensure four goals:

- National regulatory authorities shall have a framework within which they can cooperate – including:
  - Possible review mechanism, on a case-by-case basis, decisions taken by national regulators that have a direct impact on the internal market
- Monitor and review the work of the EU TSO Cooperation
- Individual decision making powers are established for specific cross-border issues
- Preserve the current advisory role for regulators towards the Commission through ERGEG and give recommendations

# Agency for Regulatory Cooperation

## Organisation:

- Based on the standard rules and practices for Community regulatory Agencies
- Headed by an Agency Director
- However, will be unique in that it will have a separate Board of Regulators
  - to ensure the necessary independence of regulators also at the European level
  - Regulatory Board will be solely responsible for all regulatory matters and decisions
  - Will function beside an Administrative Board which will be responsible for the administrative and budgetary matters
- own Board of Appeal
- staff of around 40-50 people

# Access to storage and LNG

- Based on Guidelines for Good Practice agreed in Madrid (storage) and drawn up by ERGEG (LNG)
  - Minimum TPA requirements
  - Congestion management
  - Transparency
  - Secondary markets
- More clarity on storage offered to the market
  - Legal and functional unbundling
  - Define (MS) and monitor (NRA) ‘when technically and/or economically necessary to gain access to the system...’

# Solidarity Cooperation

- Only in Gas Directive
- It is proposed that Member States cooperate in order to promote regional and bilateral solidarity
- Cooperation intended to cover situations which are likely to result in severe disruptions of gas supply
- Examples of this coordination are
  - streamlining of national measures to deal with emergencies
  - elaboration of practical modalities for mutual assistance
- No excuse not to invest in security of supply infrastructure e.g. storage

# Retail market & Consumer protection

- Objective:
  - Establish real choice for final consumers
  - Creation of EU-wide retail market
  - Create energy awareness
- Measures:
  - Strengthen rights of consumers
    - Better access to information on consumption
    - Right to switch supplier any time
    - Settlement of bill one month after switch
  - More frequent reading of meters (smart metering)
  - Establishment of a Retail Forum
  - Stronger DSO Unbundling (mandate to draft guidelines)



**Thank you for your  
attention**



