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How best to complete the Single European Market for energy?

General Assembly of International Federation of Industrial Energy Consumers (IFIEC)

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Ladies and Gentlemen,

I am very pleased to be addressing the General Assembly of the International Federation of Industrial Energy Consumers. Today gives me the opportunity to share with you my thoughts on how to complete the single European market for electricity and gas. If you'll allow me, I will focus on the relationship between competition and competitiveness for the energy intensive industries – your industries.

The backdrop to today's event is of course the third liberalisation package for electricity and gas which the Commission will present after the summer. Energy providers are already speaking out loudly against further steps on unbundling. So to get what you want as users – rather than what suppliers want to give you – your views need to be heard just as much.

Your comments on the January energy package show that you are already well aware of this, and that you and I share the goal of better functioning energy markets. Other voices are also speaking up: the joint letter signed by eight Member States is certainly very interesting. But in a debate of this importance it is crucial that all voices continue to be heard.

Energy intensive industries

And your voice is important. Your industries create wealth and employment in Europe and have an important role in the manufacturing chain. We need such industries in Europe. And I know you are faced with many challenges, such as rising energy prices and a determination to substantially reduce greenhouse-gas emissions in our economy over the next decades.

It is clear that energy intensive industries attach great value to competitive and predictable energy prices. This is our aim too: this is what energy market liberalisation is about.

Energy prices

But let me be clear from the start: there are many variables involved in energy price setting. For instance, electricity spot market prices are influenced by available generation capacity, fuel prices, available interconnector capacity and, of course, the weather (what could be less predictable than that, I hear you think!). CO_2 is another relevant factor since the introduction of the Emissions Trading Scheme in 2005.

Given all these variables, it's perhaps not surprising that we can't always predict the movements of energy prices.

That said, when the European Union launched the energy market liberalisation drive ten years ago, we expected it would bring Europe's energy prices to competitive levels. And, at least initially, industrial electricity consumers did benefit from significant price decreases.

But in the last few years we all have experienced price rises pretty much across the board. And when I came to office, I found some of the movements in European energy prices puzzling. This was one of the main reasons why the Commission launched its sector inquiry into competition in electricity and gas markets two years ago.

Sector Inquiry findings

As you know, the European Commission's assessment is that competition is not functioning properly in electricity and gas markets.

The sector inquiry highlighted three major structural reasons for this:

1. national energy markets are too concentrated and lack liquidity;

2. there is an absence of cross-border competition; and

3. there is insufficient unbundling of network and supply activities.

All this means that European consumers – businesses and households - are not getting the secure, affordable and sustainable energy supplies they rightly expect.

So why is there little meaningful competition in many Member States?

In recently-liberalised energy markets, new players need access to energy supplies, to networks and to customers. By and large this isn't happening - at least not to the extent it should be. This is largely explained by the absence of cross-border competition and insufficient unbundling of network and supply companies.

Why ownership unbundling is needed

These are issues we need to resolve. Like you, I have a strong preference for ownership unbundling as the most effective solution. The Commission has called for separating once and for all the electricity and gas networks from commercial activities elsewhere in the energy value chain, and you have supported that call.

But more still needs to be done to explain to others just why we reach this conclusion. This includes communicating to the public of course, but also to those in the European Parliament and the Council who will co-decide on the next liberalisation package.

You understand the constant conflict of interest that the current system of "legal unbundling" creates. The vertically integrated company knows that it should develop the networks and facilitate third party access, but it also knows that this would be bad for its supply business.

This conflict of interest has suppressed investment in interconnection capacity and in network capacity, threatening both competition and security of supply.

All advocates of ownership unbundling need to keep making the case for it. The European Council – which brings together the 27 Heads of State and Government - has already been convinced of the need for structural change. It has called for

- further steps to ensure the effective separation of supply and production activities from the network,
- guaranteed equal and open access to encourage new market entrants, and
- independence of decisions on infrastructure investments.

The European Council also rightly identified a need for further harmonisation of the powers and the strengthening of the independence of national energy regulators, as well as the introduction of new co-operation mechanisms for regulators and TSOs.

Let me be clear: we need structural solutions to ensure that our energy markets deliver competitive prices. It is crucial that the third energy package creates all the right conditions for fully competitive energy markets.

Special measures

I know many of you think that this is all very well, but that you cannot afford to wait for a new legislative package tomorrow, when you have to compete globally today. So I'd now like to turn to some of today's issues which I know are of concern to energy intensive industries: regulated tariffs, state aid, abuse of dominance, the Emission Trading System, long-term contracts and finally buyer consortia.

1. Regulated tariffs

I'll start with the tariffs issue. We frequently hear calls for price regulation. If prices are too high, we should just put a cap on them.

However, in my view such regulation is neither sensible nor sustainable. Such state intervention blocks competition by pricing out new competitors. It also distorts market signals, risking underinvestment in production capacity as well as interconnecting capacity. Furthermore it is bad for energy efficiency and security of supply. And that is why it is in principle contrary to the existing Directives, except for where this is justified to protect vulnerable customers.

Regulated tariffs applied more widely tend to subsidise structurally loss-making activities and they risk triggering a subsidy race between Member States. A race to ever-higher subsidies is certainly not a good use of tax-payers' money, nor is it consistent with our European cohesion objectives, since not all Member States have the same volumes of disposable cash. Last but not least, artificially cutting the cost of energy would be completely contrary to the EU's strategic objective to combat climate change. The polluter pays principle must apply consistently and across the board.

For these reasons the Commission is taking action against regulated tariffs. Several infringement proceedings, based on the electricity and gas directives, are ongoing. State aid investigations are also in progress against subsidised electricity tariffs in Italy, Spain and France.

2. State aid

When we speak of intervention by the state, we of course need to consider state aid. Here my view is clear: we should focus support on measures that increase energy efficiency and reduce the environmental problems linked to energy intensive industries. Such incentives should of course be proportionate to the environmental benefit. And here too we should always ensure that the beneficiaries are not relieved from costs which, in accordance with the "polluter pays principle", they would normally have to bear.

Before the end of this year new Guidelines on state aid for environmental protection will be adopted. These Guidelines will follow our new economic-based approach. This means that, even more than is the case today, a proper balance will be found between support for genuine environmental measures and the need to minimise distortions of competition and undesirable spill-overs. A public consultation on the first draft of the guidelines has just ended this week. I look forward to reading your comments!

3. Dominance and abuse of market power

The third issue I'd like to address is the application of the anti-trust rules. In commenting on the January package, your Federation rightly underlined the need to protect consumers from abuses of market power. As Competition Commissioner, I can assure you that I take this role very seriously. As you may know, DG Competition is working on several cases covering such potential abuse in the energy sector. I am determined that companies who abuse their market power must not get away with it, and putting this into practice in the energy sector is a key enforcement priority. And I am always grateful to receive information when such behaviour is suspected.

4. ETS

Fourthly, let me say a few words about the CO2 Emissions trading scheme. I am aware that some consider this scheme as contributing to higher energy prices, and therefore harmful for industrial competitiveness. But in my view the scheme is an essential element for the EU to reach its climate goals in a cost effective way. And I am very pleased to note increasing international interest in linking up to our scheme.

At the same time I can assure you that the Commission is aware of the competitiveness issues. And these will be part of the overall considerations when the Commission makes its proposal for the post 2012 period. At this stage, it is too early to go into detail. Personally, I would like to see improvements are made to address the distortions of competition that arise from different allocation rules in different Member States, as well as action to address windfall profits caused by free allocation of emission.

5. Long term contracts

Finally, I know many of you see long term downstream contracts as a tool for securing energy at competitive prices. I can understand the attraction of such contracts, if you get them at the right price. And I have always said that long term contracts are not a competition problem per se.

However, sometimes long term contracts do pose competition problems. When concluded with a dominant supplier and covering a substantial part of the market, long term contracts risk foreclosing the market. This maintains the dominant supplier's grip on the market and raises the barrier for new entrants. Having no choice of supplier will, in the end, not be good for the consumer.

In my view, you as major energy users, and I as Commissioner for competition have a similar interest: having the right mix of long term and short term contracts. Our ongoing work concerning Distrigaz, the Belgian gas incumbent, is a good case-study. Our investigation looked into gas supply contracts between Distrigaz and a variety of customers including industrial users in Belgium. We asked Distrigaz to address our concerns that these long-term gas supply contracts would limit the scope for other gas suppliers to conclude contracts with customers and so foreclose their access to the market. This would also prevent customers from switching supplier.

The commitments offered by Distrigaz, which recently received favourable comments during their market testing, ensure that Distrigaz cannot tie more than 30% of its sales, or 20% of the market, for more than one year. Furthermore, Distrigaz cannot in principle sign contracts of a longer duration than 5 years. New investments in power plants are not included since, in such cases, contracts of longer duration may well be called for.

In my view, this sort of solution strikes the right balance. It provides reasonable scope for long term contracting in the downstream gas market, while also ensuring market openness.

6. Buyer consortia

Finally let me briefly mention electricity buyer consortia. As with the long-term contracts, we do not question the principle of such consortia, but the potential anti-competitive effects related to specific market circumstances. I am indeed concerned when they lead to the conclusion of long term contracts with incumbents with market power and these contracts, either alone or together with other similar contracts, lead to market foreclosure.

Therefore, I will be very vigilant from an antitrust perspective, with such projects if they are linked to dominant suppliers. If the contracts are concluded with other suppliers, they may be entirely positive as they may allow these competitors to get a real foothold on the market.

And here, once again, both your and my interests largely converge. Since in the end, only competition will bring you competitive prices.

Conclusion

Ladies and gentlemen, let me conclude.

I am convinced that the combined efforts being pursued by many market actors, such as new entrants on energy markets, effectively unbundled TSO's, national regulators, traders, power exchanges, energy buyers like yourself, and the European Union will improve the functioning of the energy markets, and thus lead us in the direction of competitive prices. Many positive signs are already emerging, leading to more liquid and interconnected markets.

But more needs to be done. I would like to urge you to participate in the debate on the third energy package in the coming months, by pressing the case for rules that lead to better competition. You all have an interest in a positive outcome of the new legislation!

As concerns the ongoing issues facing your industries today, I trust I have been clear. I do understand your concerns, but in addressing them I think we all need to keep at the front of our minds the fact that competition is the tool for delivering a better-functioning internal market, itself the key to the long-term resolution of the issues I have mentioned. I count on your support in achieving this goal.

Thank you.