

**Response to the
Communication from the Commission to the Council and the European Parliament
An Energy Policy for Europe**

1. The package of measures reviewing the supply and demand factors in EU energy markets is welcomed by IFIEC Europe. There is recognition that the complexity of energy delivery, demands for secure supply options and the expectations of different consumer groups, means energy policy can no longer be considered as a series of single issues. For IFIEC Europe, a competitive energy market is particularly important, as energy represents a significantly greater proportion of operating costs than for other consumers. While the internal market and the liberalisation process have not yet delivered effective competition, market dominance has been shown to reduce options for all consumers across Europe.
2. In particular, IFIEC Europe believes that this Communication identifies important measures needed to bring about the properly functioning energy market that has been the long term objective of Commission policy. IFIEC Europe has always supported this objective, as lack of competition has increased the vulnerability of IFIEC's members' to global competition. This Communication, in conjunction with DG Competition's Sector Inquiry on the Energy market, shows competitive energy supply and the associated markets are still far from reality. Swift and decisive action on a European level is needed to avoid further damage to the energy dependent economy.
3. Any new European energy policy should realise the potential of the market to bring real advantages to energy consumers. To do this, it is essential that:
 - 3.1. current legislation is enforced effectively;
 - 3.2. the measures the Commission proposes are introduced with urgency;
 - 3.3. further measures are considered to ensure that market flexibility moves in line with security of supply criteria, meeting the Lisbon Strategy objectives, choices in energy mixes and recognising changing social conditions in an evolving Europe.
4. IFIEC Europe urges the Commission to move forward quickly in five areas of concern.

Create one internal market

5. Creating effective internal European gas and electricity markets is crucial for real competition. Truly independent TSO's effectively co-operating in a European body are needed to realise these objectives, whether for gas or electricity. The Commission concluded that vertically integrated TSO's do not always have sufficient investment incentives. There is an inbuilt tendency to provide discriminatory access to grids in favour of sister companies, resulting in insufficient investments in interconnection and inefficient congestion management. IFIEC Europe agrees with this analysis and urges the Commission to remove these disadvantages. **Ownership unbundling** is the most evident way to bring the solution, as it guarantees non-discriminatory access to the grids for all users as well as the necessary investments in additional grid capacities, although actions will be needed in the short term to minimise the continuing effects of a non liberalised market. The ISO alternative will not necessarily remove these incentives and is therefore not a real alternative, as well as being a more difficult and bureaucratic regime to administer.

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6. Secondly, the current voluntary co-operation of TSO's is inadequate for effectively managing a European grid. Results are insufficient levels of accessible cross border capacity, little investment in additional interconnector capacity and high risk of serious incidents, such as that which occurred in the electricity supply on November 4th 2006. In addition, there will be a growing need to manage increasing volumes of electricity from renewables in European Grid, which will also require more sophisticated software and management processes. To meet these challenges, IFIEC Europe urges the Commission to create a **Eurogrid coordinator** to manage cross border flows in conjunction with European Grid Codes. The proposed "voluntary" or "consultative" TSO+ scheme, which the Commission raised as a possible option, is insufficient for creating a real internal market.
7. The reason for initiating this coordination on a regional basis for electricity is understood. There may be different cross border problems and varying investment needs regionally, but the single market must clearly remain the final objective. IFIEC Europe remains concerned that progress to this may become lost in debates over technical and other complexities unless firm management is applied to the process. With gas, the situation is different. Interim storage is possible and the cross border infrastructure is already progressing, as future gas supplies will have to come from beyond EU borders in greater quantities. The market need here is for more immediate data and supply information, but the need for third party access rights for consumers applies in both electricity and gas markets.
8. **European Grid Codes** for both electricity and gas supply will have a key role in identifying operational and data needs in a truly effective open market. The importance of measures like increased transparency cannot be stressed too strongly and IFIEC Europe places a high priority on both achieving these Codes and the means of ensuring they are implemented and enforced. If the ERGEG+ option means moving this forward in the short term, then this option is supported. A **European Regulator** with a defined role is probably the eventual option, but the need for legislation to bring this about means considerable delays and its creation cannot imply diversion from the principal short term needs. More immediate is the necessity to implement and enforce binding rules for regional supranational TSO's on cross border issues. Such a Code should ensure that Member States creating loop-flows should pay de-congestion costs to neighbouring grids that are affected, instead of the current result of receiving money for reducing Net Transport Capacity.
9. The Sector Inquiry indicates that implicit auctioning results in a better utilisation of interconnector capacity. IFIEC Europe agrees and supports implicit day-ahead auctions or equivalent measures. They should be promoted strongly to ensure that interconnectors are used to their maximum extent so that end users can benefit from the lower prices that result. The result must be to maximise the capacity available to the market. Transparency and cross border investment are essential to the success of the market and the regulatory role in these should be a priority.

Protect consumers from dominance and the abuse of market power

10. An important finding of the Sector Inquiry is that "market concentration has been identified as a major concern for the success of the liberalisation process". The measures needed to reverse this dominance need to be agreed quickly. IFIEC Europe also urges the Commission to consider whether competition law needs reconsideration. It appears that mergers have been approved, only for the findings of the DG Competition Sector Inquiry to suggest that market domination has increased.
11. An important part of the forthcoming debate will be both to agree why the current laws appear inadequate to meet the challenges. With the emphasis moving to regional markets, new criteria must emerge to include effective cross border capacity allocation arrangements. Effective measures will be needed to ensure that this does not lead to just a new form of oligopoly resulting in the same market constraints, only on an even wider basis. A possible remedy would be the application of enforced energy swaps on a regular basis between dominant generators, whilst permanent measures are being agreed and added to the law.
12. In the interim, it is not acceptable that consumers affected by this deficiency should continue to have to pay unreasonably high prices. Having identified the failures, energy intensive sectors cannot continue to have their competitiveness jeopardised by a lack of competition in the concerned energy sectors.

Remove the ETS effect on power market

13. The Commission has chosen not to include measures to resolve the major problems caused by the current system of the CO₂ Emission Trading Scheme in the carbon market parts of the energy package. IFIEC Europe regrets this, as the flaws in the operation of the EU Emissions Trading Scheme (EU ETS) have added to the competitive pressures faced by large industrial consumers in meeting global competition from those not having these and other imposed costs. The unreasonable costs placed on IFIEC Europe members have stemmed partly from the lack of competition in EU energy markets, which are allowing opportunity costs to inflate the electricity price. In addition, the current design of the system forms an important obstacle for supporting competition in the liberalised electricity market by favouring incumbents when allocating certificates on a historic basis and discriminating against new entrants. Allocation also hampers new entrants as they simply do not have historic emissions, so face additional unfairly loaded costs.
14. These detrimental effects are clear and undisputed. However the Commission does not seem to act sufficiently on this issue. IFIEC urges the Commission to deal with these unacceptable effects, which are in clear opposition to the Lisbon Strategy. The allocation system should be converted into a **production efficiency based allocation with ex-post corrections**. This would remove these detrimental effects, provide a fair and transparent CO₂-price and even strengthen emission reduction incentives. A system that equates reducing production as being increased efficiency is not acceptable if the Commission is to take the Lisbon Strategy seriously. Holding on to the current system will drive out industries to less efficient regions, causing a higher CO₂-emission per product output without achieving the desired global climate policy results.
15. The Commission's position on the important role that the nuclear option plays in the framework of climate change is also welcomed. This technology has the potential to make a major contribution to reduction of carbon emissions.

Enable long term contracts for industries

16. Risks of volatile future or "spot" prices present a large risk for most energy intensive industries, whose investment programmes are long term and involve substantial capital demands. Cost assurances over long periods are essential. The difference, of course, between consumers and the supply side is the ability to "pass through" all costs in a market lacking real competition; a luxury not available to energy intensive sectors. There is also some interdependency when 24 hour baseload efficiency factors are built into cost models, so reasoning exists for considering that the European energy consumer is in several markets, each with different characteristics. One of these could be based on long term contracts with defined criteria open to all to decide whether they best suit their style of energy demand and need not conflict with competition law.
17. "Interruptible Consumers" might also be developed, as exists in some member states already. These provide contracts with interruptible industries for immediate load shedding which may significantly help the grid and be an arrangement that could differentiate certain sectors in contract terms.
18. Unless there is rapid progress towards a truly open market, the pressures to consider such measures, even on an interim basis, will increase as global competition adds further pressure to EU energy intensive sectors.

Carbon reduction, efficiency and renewables policies

19. Energy intensive industries throughout Europe are aware of the risks climate change might imply for future generations and have shown more than ready to contribute to improving their energy efficiency and significantly reducing their greenhouse gas emissions. But neither Europe nor industry can solve this issue alone. An appropriate climate policy implies a global approach, commitment from all sectors (industry, households, transportation and energy producers), sufficient scientific base and technological breakthroughs. The Commission's goal to set an example for the rest of the world is noble, but its leadership is futile if not followed by the rest of the industrial world. Unilateral targets threaten to lead to significant economic losses for our continent without reducing global emissions.

20. Core parts of the energy policy proposals revolve around greater renewables use to achieve carbon reduction ambitions. IFIEC Europe believes that renewables have a role and that this should increase with better research and development programmes and may suit the demand patterns in some sectors. As currently focused, they do not match demand patterns for continuous process activities where baseload stability and security are primary factors. Having made the point that earlier targets were over ambitious, great care is needed not to repeat this mistake.
21. IFIEC Europe questions the basis of the “consumption -20%” target in the energy efficiency proposal. There is neither adequate data showing the feasibility of such a target across the relevant sectors nor assessments of the existing and future realisable technologies on which this is based. Without these and the expected costs to both user sectors and administrators, the EU just risks another unachievable goal.
22. Technology has to lead this trend and will need research and development programmes to identify those that are cost effective and reliable. EU industry cannot continue to carry the costs of ambitious programmes that fail to deliver due to having no technological base initially. Consumers should not be expected to pay for unrealistic political ambitions.

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