

II

(Information)

INTERINSTITUTIONAL AGREEMENTS

EUROPEAN COMMISSION

Communication from the Commission published pursuant to Article 27(4) of Council Regulation (EC) No 1/2003 in Case 39727 — CEZ**(Text with EEA relevance)**

(2012/C 202/01)

1. INTRODUCTION

1. According to Article 9 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty ⁽¹⁾, the Commission may decide — in cases where it intends to adopt a decision requiring that an infringement is brought to an end and the parties concerned offer commitments to meet the concerns expressed to them by the Commission in its preliminary assessment — to make those commitments binding on the undertakings. Such a decision may be adopted for a specified period and shall conclude that there are no longer grounds for action by the Commission. According to Article 27(4) of the same Regulation, the Commission shall publish a concise summary of the case and the main content of the commitments. Interested parties may submit their observations within the time limit fixed by the Commission.

2. SUMMARY OF THE CASE

2. On 26 June 2012, the Commission adopted a preliminary assessment concerning alleged infringements of ČEZ a.s. ('CEZ') on the market for generation and wholesale supply of electricity in the Czech Republic. This document is a preliminary assessment within the meaning of Article 9(1) of Regulation (EC) No 1/2003.
3. According to the preliminary assessment, CEZ is dominant on the market for generation and wholesale supply of electricity in the Czech Republic. The preliminary assessment expressed the concern that CEZ may have abused its dominant position according to Article 102 of the Treaty by pre-emptively booking capacity in the transmission network. CEZ' conduct may have resulted in preventing competitors from making new investments in electricity generation and thus preventing their entry into the market for generation and wholesale supply of electricity in the Czech Republic.

3. THE MAIN CONTENT OF THE OFFERED COMMITMENTS

4. CEZ does not agree with the Commission's preliminary assessment. It has nevertheless offered commitments pursuant to Article 9 of Regulation (EC) No 1/2003, to meet the Commission's competition concerns. The key elements of the commitments are as follows:
5. CEZ will divest one of the following generation assets in the Czech Republic to a suitable buyer to be approved by the Commission:

- (a) Pocerady lignite-fired power plant (1 000 MW); or

⁽¹⁾ OJ C 115, 9.5.2008, p. 47.

- (b) Chvaletice lignite-fired power plant (800 MW); or
 - (c) Detmarovice coal-fired power plant (800 MW); or
 - (d) Melnik III lignite-fired power plant (500 MW) and Tisova lignite-fired power plants (Tisova I — 184 MW and Tisova II — 112 MW); both power plants (Melnik III and Tisova) can be sold separately.
6. The commitments summarised above are published in full in English on the website of the Directorate-General for Competition at:

http://ec.europa.eu/competition/index_en.html

4. INVITATION TO MAKE COMMENTS

7. The Commission intends, subject to market testing, to adopt a decision under Article 9(1) of Regulation (EC) No 1/2003 declaring commitments summarised above and published on the Internet, on the website of the Directorate-General for Competition, to be binding. If there are substantial changes to the commitments a new market test will be launched.
8. In accordance with Article 27(4) of Regulation (EC) No 1/2003, the Commission invites interested third parties to submit their observations on the proposed commitments. These observations must reach the Commission not later than one month following the date of this publication. Interested third parties are also asked to submit a non-confidential version of their comments, in which any information they claim to be business secrets and other confidential information should be deleted and replaced as required by a non-confidential summary or by the words 'business secrets' or 'confidential'.
9. Answers and comments should preferably be reasoned and should set out the relevant facts. If you identify a problem with any part of the proposed commitments, the Commission would also invite you to suggest a possible solution.
10. Observations can be sent to the Commission under reference number 39727 — CEZ either by e-mail (COMP-GREFFE-ANTITRUST@ec.europa.eu), by fax (+32 22950128) or by post, to the following address:

European Commission
Directorate-General for Competition
Antitrust Registry
1049 Bruxelles/Brussel
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