

Opinion of the European Economic and Social Committee on the

- ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity’
- ‘Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/55/EC concerning common rules for the internal market in natural gas’
- ‘Proposal for a Regulation of the European Parliament and of the Council establishing an Agency for the cooperation of energy regulators’
- ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity’
- ‘Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1775/2005 on conditions for access to the network for cross-border exchanges in natural gas’

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On 18 October 2007 the Council decided to consult the European Economic and Social Committee, under Articles 44(2), 55 and 95 of the Treaty establishing the European Community, on the

Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity

Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/55/EC concerning common rules for the internal market in natural gas

Proposal for a Regulation of the European Parliament and of the Council establishing an Agency for the cooperation of energy regulators

Proposal for a Regulation of the European Parliament and of the Council Amending Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1775/2005 on conditions for access to the natural gas transmission networks.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 4 April 2008. The rapporteur was **Mr Cedrone**.

At its 444th plenary session, held on 22 and 23 April 2008 (meeting of 22 April), the European Economic and Social Committee adopted the following opinion by 100 votes to 4 with 7 abstentions.

1. Conclusions and proposals

1.1 Conclusions

1.1.1 The EESC takes a positive view, overall, of the reasons that have prompted the Commission to present the third package on energy — a complex and difficult issue legally and economically, which has polarised opinion and reaction.

1.1.2 The EESC believes that the current situation in the energy sector cannot be drawn out any longer. Having launched the process of integration and deregulation, we are now in mid-stream and must decide what direction to take. The deregulation of the energy market has stalled, entailing high transition costs, which could be greater than the benefits derived. These costs

result from the lack of a harmonised EU regulatory framework and, in some cases, of a genuine willingness to liberalise and clear demarcation of responsibilities among the various players. This lack of regulatory certainty may lead to low levels of investment and competition in the sector. This has created a fragmented EU market, driven in some cases by former monopoly-holders. It is therefore necessary to strongly reaffirm the need for the deregulation process to press ahead vigorously.

1.1.3 The political aspect: the single market

1.1.3.1 The cornerstone of this strategy is achieving the *single European energy market*. The EU needs to devise a common

strategy to allow it to act promptly, unequivocally and with greater bargaining power at international level. There is a crucial need for cooperation between Member States, regulators and TSOs. Structural changes aimed at integrating system operation and system development at regional level need to be carried out. The individual Member States must pool their experience, knowledge and rules in order to act together and propose (impose) their own supply cost policy, and maximise competitiveness so as to secure fairer prices, while preventing financial speculation. There needs to be more unity among the Member States and they must comply with jointly agreed rules, in the interests of users/consumers, implementing previously agreed Community legislation at national level.

1.1.4 The economic aspect

1.1.4.1 The EESC believes that fair competition, properly regulated (the Commission's current proposal does not provide this), would facilitate increased alternative energy sources and investment in energy infrastructure. This would lead in turn to companies (such as SMEs, for example) increasing their productivity so as to obtain fair prices, while fostering transparency and reducing the risk of other companies having a dominant position.

1.1.4.2 One of the key aims of the third package is to encourage the investment that is needed in energy infrastructures and to coordinate the infrastructures at EU level. On this front the Commission's proposed measures are a step in the right direction. However, it must be ensured that they permit the necessary investment in production and instil confidence in investors. With respect to developing networks, the measures must provide for adequate planning that takes all stakeholders into consideration, and these plans must be implemented at the appropriate level within the deadlines set. EU-level controls on this investment will also be needed (by the Agency for the Cooperation of Energy Regulators). In the face of a fairly inelastic market, with companies operating in oligopoly conditions and certain States reluctant to delegate supply powers, operators and users lose confidence, leading to a liquidity freeze; these conditions should be removed.

1.1.5 The social aspect

1.1.5.1 Restructuring processes resulting from the effects of the third package should be supported by an employment policy, with full involvement of the trade unions and companies, by means of instruments such as corporate social restructuring and social shock absorbers at national and EU levels. It is comforting to note that in countries that have implemented ownership unbundling in transmission networks, there have been no adverse effects on employment.

1.1.5.2 Although the protection of vulnerable consumers will remain a strictly national matter, it is crucial that the Commission recognise the importance of such measures at international level. The Commission must also monitor their implementation to ensure that such measures are in line with the pre-requisites of an open competitive market. The concept of *energy poverty* should be established at EU level (minimum applied rate) and the public service and general interest obligations laid down in the current directives should be pursued.

1.1.6 Users (business and consumers)

1.1.6.1 A new energy policy strategy must therefore be conducive to promoting genuine competition between companies, in order to increase choice for users. The transmission networks must be accessible to all who want to use them. For the big energy-consuming companies, a European contract needs to be established for purchasing energy at standard prices (comparable prices or *law of one price*), eliminating State aid (which distorts competition). Consumers should also have their EU-established rights recognised and have the freedom to choose the supplier they want at the lowest possible price.

1.1.7 The EESC also considers that the Commission's proposal must be aimed to preventing inadvertent combined action to deep the status quo of the big monopolistic companies, focused to maintain their advantageous position, and by the trade unions, aimed to preserve employments

1.2 The EESC's proposals

1.2.1 Single energy market

1.2.1.1 To speed progress towards a single energy market, the Commission must amend the proposals of the third energy package to gain the power to act independently at international level, particularly regarding energy sources. To this end, the proposals on regional cooperation, set out in the package, must be viewed as a stepping stone on the way to achieving the ultimate goal of a single energy market. In addition, Member States should endeavour to integrate their electricity markets and system operators should operate in several Member States. The EESC believes that the third package's proposal on regional cooperation among network operators must by no means be considered a temporary substitute or alternative to the single market. It is crucial to have regional cooperation, based on *ownership unbundling*, among network operators that are effectively separate from production/sale. The recent regional initiatives promoted by the European regulators' group ERGEG should also be used to check the consistency of the regulation and of market rules.

1.2.2 Unbundling

1.2.2.1 The EESC maintains that the Commission should favour ownership unbundling, which is undoubtedly preferable to the independent system operator option in terms of encouraging investment. This would improve transparency and operator confidence, would increase the system's security and would allow to monitor monopolies, preventing discriminatory conduct, and optimising the use and maintenance of the networks.

1.2.2.2 Further consideration and analysis will be needed on the strategic implications of network ownership and on the need to guarantee independence in this regard inter alia in relation to possible third-country interests and including the choice relating to network ownership (public or private). The Commission's proposal on implementing ownership unbundling does not require the privatisation of transmission networks that are currently publicly owned.

1.2.2.3 There are not sufficient differences between the electricity and gas sectors (consider the examples of the USA, Denmark, the Netherlands, Portugal, the UK, Spain and Sweden) to warrant different treatment in terms of ownership unbundling. Ownership unbundling of production/sale and transmission is needed in both sectors. The discriminatory conduct that may derive from an insufficient degree of vertical separation is the same. Companies selling gas should not be interested in who transports the gas, they should only be concerned to deal with reliable and financially sound companies which will be able to sell their gas.

1.2.3 European agency

The EESC strongly believes that the European Agency for the Cooperation of Energy Regulators (ACER) must be given more powers to:

- play an independent regulatory role;
- monitor the activities of ENTSO and, together with ENTSO and the Standing Market Panel, assist the European Commission in drawing up a list of necessary rules to draft and approve technical and market guidelines and codes;
- establish criteria and approve technical and market codes;
- establish tariff-setting procedures and set tariffs for the compensation procedure for costs incurred by network operators in cross-border electricity transmission;
- draft guidelines on grid development principles and approve the 10-year investment plan proposed by ENTSO;

- present recommendations and opinions to the European Parliament, the Council and the Commission;

- consult market operators;

- coordinate the work of the national authorities; and

- promote transparency, including in the appointment procedures for its steering group.

1.2.4 National authorities

1.2.4.1 The national regulators play a key role in promoting competition and ensuring proper implementation of the directives at national level, particularly regarding compliance with the rules on the impartial use of the infrastructure. Their powers should therefore be harmonised and their independence of national and energy companies increased to enable them to monitor and prevent abuses of dominant positions. A more independent regulator will create confidence in the market and be able to cooperate more actively with ACER.

1.2.5 The European Networks of Transmission System Operators — ENTSOs

1.2.5.1 The EESC advocates a more effective coordination of national network operators to implement investment and optimise the infrastructure management needed to develop an integrated European grid. The agency should have a greater role than is envisaged, to propose, draw up, monitor and approve the codes, in order to ensure that the public interest is given due consideration. ENTSO's role should not exceed its skills and competences. Accordingly, ACER, should have the responsibility to draft guidelines and codes.

1.2.6 European networks and investment

1.2.6.1 The EESC believes that the EU should anticipate future developments in network use, through an investment programme aimed at creating a system of public and/or private EU-regulated European networks, accessible to all, both for transmission and energy use. To this end, it must be ensured that procedures for managing interconnections are really transparent, based on market systems, and thus maximise trade. Investment should be made where it brings socio-economic benefits from a regional perspective. All market stakeholders should be duly involved in the decision-making process concerning the development of codes and the 10-year investment plan.

1.2.7 Democracy and representation

1.2.7.1 The EESC maintains that, on the basis of current or forthcoming provisions, consumers should be represented on the board of the agency. The same applies to all other interested parties (workers, trade unions, companies) which, as well as being on the board, could also be represented on a special oversight body, so that there is maximum agreement on and involvement in new legislation, from its inception rather than in the final phases of its drafting.

2. Introduction

2.1 About ten years ago the Commission took the first steps (very belatedly) towards a European regulatory framework for a single market in electricity and gas. The Committee thus had the opportunity to express its views, occasionally at odds with those of the Commission, on an issue that over the years has become ever more important and controversial.

2.2 With the adoption of the third package of legislative proposals on the electricity and gas market, the Commission is seeking to complete the process, in an international context that has changed profoundly and is a source of new problems for all. Not all Member States are in agreement on the proposals and this in turn delay the adoption and application of the new proposals and jeopardises the completion of the European single market in energy.

2.3 The EESC's task is one of great responsibility: drafting an opinion on one of the most central (and controversial) issues of recent years — an issue on which hangs not only the single market in energy, but the fate of European companies in the sector, of Europe's consumers, and of non-EU companies.

2.4 The EESC takes a positive view of the impact assessment (q.v.) carried out by the Commission, which offers some good pointers on the efficacy of liberalisation and 'fair' competition.

3. The rationale of the Commission's proposals

3.1 To ensure that consumers be really free to choose their supplier from a wide range of possibilities and to enjoy the 'benefits' which that choice 'should' bring. The need to ensure these optimum conditions for users must be a common goal for third countries' companies operating in the EU.

3.2 To unbundle production and transmission from ownership and operation of the electricity and gas transmission networks. Moreover, a second option is described — that of 'Independent System Operator' — which allows vertically integrated companies to retain ownership of networks only if their fixed capital is managed by an independent body or another undertaking; this should encourage investments in infrastructure.

3.3 To provide effective measures against the market fragmentation along national borders, existing vertical integration and high market concentration which has in practice prevented genuine competition and the establishment of a single energy market.

3.4 To simplify cross-border trade, setting up an Agency with the task of coordinating national regulatory authorities and providing a level playing field for European companies operating in the sector; this should ensure that a genuine European network is set up to guarantee security and supply diversification. National authorities should become really more independent.

3.5 To encourage cooperation on the basis of new rules to be established by European network operators and ensure greater cooperation between the various domestic markets where supply is under threat.

3.6 To increase transparency by streamlining market rules and keeping consumers informed, so as to 'increase' user confidence in the intrinsic value of the free market (but has there really consistently been confidence thus far?).

3.7 Next year, to give consumers energy users' rights enshrined in a special (binding) 'Charter' including information on suppliers, the various market options, cutting red tape, fuel poverty etc (1).

4. The proposals for directives (electricity and gas)

4.1 Effective (legal and operational) unbundling in all the Member States of the electricity and gas supply and transmission system by creating not vertically integrated systems. This is a key element in resolving possible conflicts of interest and in:

- ensuring proper investment in a more efficient supply and transmission system, including improvements in the management of cross-border transfers;
- avoiding privileges or preferential treatment for companies and subsidiaries that are vertically integrated transmission and production systems;
- ensuring fair and transparent access to information for all market players and not only those connected with the company in question.

4.2 The creation of an Independent System Operator (ISO) represents a solution when dealing with vertically integrated companies with reluctance to embark upon an effective ownership separation. This operator may allow companies to retain ownership of the network, but does not allow them to run it. Independence can only be achieved within an effective regulatory system.

(1) See the EESC opinion on the *Communication from the Commission — Towards a European Charter on the Rights of Energy Consumers*, CESE 71/2008.

4.2.1 The independence of the network operator holds for both public and private companies, as does the ownership unbundling of the transmission network and production systems.

4.2.2 The main goal is for companies operating in the electricity and gas production and supply sector in all EU countries to operate completely separately.

4.2.3 The proposed directive provides for temporary derogations from ownership unbundling rules if companies invest in energy infrastructure.

4.3 The separation of supply and production from system operators is envisaged not just at national level, but throughout the EU. No energy production company is allowed to manage or own a transmission system in another Member State. Each operator entering and becoming a part of the system must demonstrate its independence from supply and production activities.

4.4 Ownership unbundling must lead to a properly functioning market and network, ultimately resulting in correct electricity and gas price setting, possibly followed by a price reduction, with obvious benefits for consumers and investors in the sector.

4.5 The Independent System Operator will function properly and the separation of ownership of the production and supply system be effective only in presence of the independent and operational regulatory authority. Regulatory authorities must be legally discrete and functionally independent from any other public or private entity and must act independently of any market interests. They must have full powers and be able to cooperate with one another across Member States in order to:

- verify that the various operators in the market meet their transparency obligations;
- ensure the efficacy of consumer protection measures;
- verify the sound operation of electricity and gas transmission;
- monitor the investment plans of transmission system operators and check they are mutually compatible;
- monitor for market abuses or dominant operators that frustrate correct price setting.

The external agencies (the CESR, Agency for the Cooperation of Energy Regulators) have a consultative role to play with the Commission on the implementation of the rules set out.

5. The proposals for regulations (creation of the Agency for the Cooperation of Energy Regulators, access to the network for cross-border exchange of electricity and access to gas transport networks)

5.1 Consolidation of internal markets, with common rules and approaches, is a core element in the development of the European energy market and in bringing about the cross-border exchanges needed. Current provisions (such as the technical rules, or grid codes, that electricity companies must operate under) need to be harmonised between the various countries. Thus far this does not appear to have been carried out with the help of ERGEG. This harmonisation can only be implemented by a separate, independent body, which the Treaty requires to be established as an Agency.

5.2 The Agency's main tasks should be to:

- improve management of cross-border situations;
- monitor the activity of electricity and gas transmission system operators;
- verify the efficacy of ten-year investment plans for networks;
- ensure that cooperation between operators is conducted effectively and transparently to benefit the single market;
- intervene with decisions on particular technical aspects and on applications for derogations;
- perform an advisory role on market regulation issues and support moves to improve practices adopted by national regulatory bodies.

5.3 The organisational structure will follow the typical model for Community agencies, with particular care given to guaranteeing the independence of regulatory functions. To this end, a Board of Regulators could be set up, in addition to the Administrative Board appointed by the director of the Agency, which would be responsible for all questions of regulation, as well as a Board of Appeal which would handle appeals against decisions taken by the Agency. The Agency may comprise at most 40 to 50 people and cost at most between EUR 6 and 7 million per annum, covered by Community grants.

5.4 The Commission has the role of guardian of the treaties and 'inspector of the inspector'. The Agency has decision-making powers and discretion only on specific technical questions. The Commission may decide to intervene to further cooperation or the correct operation of the market either in the light of information from the Agency or on its own initiative.

5.5 Efficient cooperation between transmission system operators is vital to achieve a true integration of the market. The only cooperation at present is voluntary and has failed to produce satisfactory results, especially when network incidents and black-outs have occurred. Integration of system operation at regional level would help to:

- define a coherent set of technical and market codes that are valid internationally;
- define technical codes where there is no genuine cooperation between networks;
- guarantee non-discriminatory behaviour in relation to network operation and development;
- facilitate market integration, thus enabling price convergence, lowering concerns over market concentration, stimulating liquidity etc.; and
- promote the funding and management of research and innovation.

5.6 The structures of cooperation between transmission system operators must be fully recognised at European level. Existing structures such as GTE and ETSO can be used or new central, permanent structures set up in terms of both organisation and practical instruments for network planning and management.

6. General comments

6.1 The main problem with networks, especially electricity networks, is not only that of liberalisation but that of enabling public and companies to use them. Thought could be given, for example, to European networks that are public or regulated by the Union and accessible to all.

6.2 The Commission should promote investment into the creation of a completely innovative transmission system that would enable the use of electricity at European level, using an intelligent interactive network. Similar to the internet, this network would harness smart meter technology and allow energy to flow in both directions.

6.3 This would greatly encourage investment and would lead to the creation of new jobs and make the old slogan 'power to the people' a reality: exchanging energy to meet everybody's needs with networks open to all, and the same rules applied throughout the countries of the Union without exception (as is already the case with the internet).

6.4 These are the reasons why one could move towards a complete separation of the electricity transmission system and to a choice between separation and 'independent system operator' for gas networks.

6.5 It will be difficult to meet the goals pursued by the Commission (reinforcing national authorities, boosting cooperation between transport operators (ISO, TSO), increasing market transparency, and so on) without overcoming narrow national mindsets, not only where networks are concerned, but also in terms of supply, investment and so on. Though this will not be enough to keep prices down, these are the only measures that can ensure better quality of service.

6.6 The concentration of oil reserves in just a few areas of the world (61,8 % in the Middle East, 11,7 % in Europe and Russia, 9,4 % in Africa, 8,5 % in South America, 5,1 % in North America and 3,5 % in the Far East (F. Profumo, Politecnico di Torino) should prompt the Commission to exercise a common policy that has to be more incisive towards these areas and in international organisations where agreements are drawn up and decisions taken. Otherwise, pure and simple liberalisation could become a trap for the unwary that is not enough to hold down prices, which are frequently pushed up as a result of monopolies that dictate conditions even to the politic body.

6.7 The EU must pursue regulated competition and transparency to make the economic system more competitive and transparent. The victories over Microsoft and Volkswagen are an encouraging precedent for competition, though not sufficient in themselves. At the same time, more effective measures should also be devised to mitigate the impact and consequences on employment, as well as measures and investment to make the economic system more dynamic and to create opportunities for workers and young people and hence reduce the need for 'protection'. Indeed, the reason why the most recent figures on Europe's economic growth are not encouraging (see the Commission's Communication) is not just the strength of the euro, but also the poor competitiveness of companies and the 'protection' many of them enjoy. The dismantling of monopolies undertaken in the wake of the Single European Act absolutely has to succeed, as any failure would ride roughshod over the interests of ordinary consumers because of the resultant market dislocation and the possible need once again to pump in public money to secure network survival, as has happened in the case of the British railway system.

6.8 The debate on this package must not be confined to the auditoria of institutions or to insiders. The Commission and the EESC must take the issue to the outside world and that argument must involve the public as consumers, workers and businesses, to prevent decisions being influenced solely by the big energy companies, which are often monopolies. (For example, a blog on the matter could be set up for the public, there should be open hearings in most of the Member States and in some European cities and the results brought together in a major public conference at Community level.) Moreover, the Commission's monitoring of the European regulatory agencies should also have a democratic dimension and should be corroborated by European Parliament checks.

7. Specific comments

7.1 Separation of ownership of the various activities in the chain — of supply and production from network operation — through ownership unbundling. These measures are a prerequisite for reducing barriers to market entry. The aim is to prevent integrated companies, carrying out several activities in the chain, being able to 'transfer' some of the costs of the liberalised activities to regulated activities and thus enjoy an undue competitive advantage over those carrying out solely the activities subject to competition. The Member States' adoption of the directives on the natural gas and electricity markets has not been uniform, in some cases enabling vertically integrated transmission network operation companies and production and supply companies to be formed.

7.2 Enhancing the powers of national energy regulators, which ensure both unbiased network operation and unbiased licensed infrastructure operation in general. This is essential for liberalisation (transmission, transmission and measuring in the energy sector; transport, transmission, measuring, storage and gasification, in the gas sector).

7.3 Key role of the Agency for the Cooperation of Energy Regulators, overseeing the activities of independent national bodies. Setting up a supranational regulatory body with authority to oversee the activities of the individual countries involved would lead to clearly-defined cooperation on regulation, reducing the disparities between the prospects of the EU as a whole and the prospects of individual countries, to facilitate solutions geared towards an integrated energy market.

7.4 Establishment of transmission system operators that are independent of the production system, cooperating together to deal efficiently with transmission issues. Transmission system operators from vertically integrated companies tend to favour associated companies, leaving new competitors severely under-informed. Investment within highly integrated companies is often distorted as the dominant company has no interest in improving the network as this would mainly benefit competitors. Formal, substantial separation of transmission operators would provide the same network access guarantees for all transmission undertakings, enabling the technological improvements to be made which are necessary to ensure more efficient running and, ultimately, lower prices for users.

7.5 Creating greater transparency and facilitating market access to increase the liquidity of the electricity and gas markets. There is a lack of information regarding reliability and timeliness on the market (between parties involved in the chain). The information imbalance between the incumbent companies and their competitors is marked. Greater transparency would minimise entry risks for new market players and also reduce barriers, boosting confidence in wholesale markets and therefore in price signals. In any case, a certain uniformity/correspondence of

information needs to be ensured, so that, without ever neglecting the importance of corporate strategic/business confidentiality, there is no room for inconsistent interpretations which jeopardise genuine market transparency.

7.6 Guaranteeing access to information for all market operators with a view to instilling trust and enabling the market to develop properly. Many operators have little confidence in the price formation mechanism. Gas import contracts are concluded on the basis of price indexes derived from a basket of oil-derived products, and so prices rigorously follow oil market trends. This relationship is reflected in wholesale prices, which are not formed via the market supply and demand mechanism, to the detriment of security of supply. As regards long-term import contracts, there are no clear trends towards price formation mechanisms based on market dynamics.

7.7 Establishing particularly detailed requirements to ensure transparency in electricity and gas production. Accurate short-term forecasts of supply and demand must be provided. These requirements should be met by the electricity producers; to this end, more power must be given to national regulators.

7.8 Introducing derivatives markets. Derivatives not only represent an effective means of price risk management but they are also a natural instrument for developing the electricity and gas markets. Although the electricity markets have been negotiating derivatives contracts directly or indirectly, with the result that some steps have already been taken towards uniformity, work still remains to be done. Clear disparities are present in the European natural gas market. Indeed, while a relatively high degree of liberalisation can be observed in some markets (e.g. United Kingdom), in other countries there is not even a cash market for natural gas (e.g. Italy).

7.9 Regulating storage fields to ensure that all storage that is available to third parties is offered to the market in a transparent and non-discriminatory manner that prevents capacity-hoarding.

7.10 Unambiguous criteria in the public domain establishing when and how third party access applies to storage capacity that is offered to the market.

7.11 Establishing transparent, detailed rules on access to LNG terminals that will allow identification of exempted infrastructure. Proper rules need to be established for implementation of the 'open season' procedure. This procedure, providing for a mechanism for reserving capacity before it is built, may not be sufficient to guarantee greater access for operators since, as part of the procedure itself, priority allocation of transport capacity on the national transport grid, has in any case, to be given to the gas pipeline or LNG Terminal builder company which is the holder of the exemption. Moreover, the procedure for allocating the remaining 20 % of capacity could be a barrier

to development of competition on the supply market, as it favours those trying to saturate this 20 % with long-term contracts to the detriment of both spot markets and flexibility of supply.

7.12 Identifying downstream bilateral long-term supply agreements that comply with EU competition law. The degree of competition on retail markets is very limited. The cumulative effect of long-term contracts, open-ended contracts, contracts with tacit renewal clauses and long termination periods could be a substantial barrier to competition. Contractual obligations binding industrial end-users and producers (incumbent companies) in the long term differ from country to country. However, there is growing demand for more competitive supply, from companies other than the incumbent companies; a pan-European supply is lacking and needs to be looked at seriously. The current level of competition (few suppliers) is particularly unsatisfactory in a number of Member States where concentration is high (Austria, Belgium). The constraints on how gas can be supplied to consumers, together with suppliers' restrictive practices at delivery points, raise numerous concerns as regards competition.

7.13 Urging the electricity and gas retail markets to complete the deregulation process. Only with a genuine retail market can Europeans benefit from competition. This means introducing simplified market access rules so that small producers and distributors can participate, encouraging market liquidity and making prices more competitive. Securing liquidity is essential to boost operators' confidence in price formation in both electricity marketplaces and gas hubs, in that, particularly where the latter are concerned, it makes it possible to break free of ties with products.

7.14 The key role played by deregulated electricity and gas markets in increasing public and business awareness of *intelligent*

energy consumption would allow cost savings and monitoring. That involves educating the public about energy sources currently available and alternative sources of energy development (renewable energy) to make them understand the vital importance of this commodity given the current shortage. Offering end users contracts which can be customised according to consumption patterns is essential in terms of both energy and the costs saving.

7.15 As responsible end users, the public will also have to be informed of whether regulatory institutions observe or abuse the rules, so that they can enforce their rights, not least through consumer protection associations.

7.16 Ensuring that demand is met even at peak times. In the case of electricity, problems arise in terms of generation capacity and of transmission network size, the capability of the network to transport the energy; in the case of gas, sufficient import and storage capacity needs to be in place. In any case, it is well known that import capacity is particularly limited, as transport of capacity is reserved by incumbent companies with contracts with terms of up to 20 years or more. This means that new projects and projects for restructuring/extending electricity and natural gas (gas pipelines) infrastructure must proceed with all speed at both European and national levels. Regasification plants are of primary importance: particularly in the Mediterranean, they play a key role as a link with the main producer countries (Libya, Algeria).

7.17 Increasing solidarity: EU countries need to promote, at both regional and bilateral level, cooperation agreements providing for mutual assistance and cooperation when an EU Member State finds itself with an energy deficit arising from circumstances for which it is not directly to blame.

Brussels, 22 April 2008.

The President
of the European Economic and Social Committee
Dimitris DIMITRIADIS
