

**Opinion of the Advisory Committee on restrictive agreements and dominant position given at its meeting of 1 March 2010 regarding a draft decision relating to Case COMP/39.386 — Long Term Electricity Contracts in France**

**Rapporteur: Portugal**

(2010/C 133/03)

- 1.a The majority of the Advisory Committee shares the Commission's concerns expressed in the case under Article 102 TFEU with regard to EDF's exclusive long-term electricity contracts with large industrial customers foreclosing the relevant market. A minority abstain.
  - 1.b The Advisory Committee shares the Commission's concerns expressed in the case under Article 102 TFEU with regard to EDF's restrictions on resale included in its supply contracts with large industrial customers having the effect of decreasing the liquidity of the wholesale market.
  2. The Advisory Committee agrees with the Commission that the proceedings can be concluded by means of a decision pursuant to Article 9(1) of Regulation (EC) No 1/2003.
  - 3.a The majority of the Advisory Committee agrees with the Commission that the commitments offered by EDF are sufficient to meet the concerns identified by the Commission in its case relating to the foreclosure of the market for the supply to large industrial users. A minority abstain.
  - 3.b The Advisory Committee agrees with the Commission that the commitments offered by EDF are sufficient to meet the concerns identified by the Commission in its case relating to the resale restrictions contained in EDF supply contracts on the relevant market.
  4. The Advisory Committee agrees with the Commission that, in light of the commitments offered by EDF, there are no longer grounds for action by the Commission, without prejudice to Article 9(2) of Regulation (EC) No 1/2003.
  5. The Advisory Committee agrees with the Commission that the commitments offered by EDF are proportionate.
  6. The Advisory Committee asks the Commission to take into account all other points raised during the discussion.
  7. The Advisory Committee recommends the publication of its Opinion in the *Official Journal of the European Union*.
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