

COMPETITION POLICY AND AN INTERNAL ENERGY MARKET

BACKGROUND

Competition policies have played an important role in the EU energy sector since the 1990s when most of national electricity and natural gas market were nationalised or publicly controlled, and the first legislative package concerning energy market liberalisation was adopted.

In two sector enquiries conducted in 2007 and 2015, the European Commission found that competition remained weak in the energy sector as there was too much market concentration in most national markets, and little integration among

Member States' markets. In addition, the Commission underlined that not all of electricity capacity mechanisms, set up by some Member States in order to ensure a stable electricity supply, are necessary. Some of these mechanisms could be better designed to allow electricity flow across borders, and avoid customers overpaying for electricity.

In 2015 the European Commission launched the Energy Union Strategy with the aim of making a further step towards an integrated, interconnected and resilient energy market. This strategy also had the objective of achieving an important reduction of the pollution, and a decarbonisation of the economy (i.e. fostering the diffusion of electric vehicles).

FOCUS OF THE STUDY

The study provides an overview of the energy sector in the EU and the most imminent issues for competition policy with a view to achieve an effectively working internal market in this sector. More specifically, the study analyses the role of the competition law as regards the following issues;

- State aid, also in the context of energy generation;
- congestion management in the transmission and distribution of grid;
- capacity remuneration mechanisms;
- integration of balancing markets;
- level and effectiveness competition between suppliers;
- integration of new players (i.a. prosumers and aggregators), and
- energy poverty.

The text is accompanied by a **glossary** with a brief explanation of the most frequent technical terms. The study starts with a **market description** that illustrates the development of the European energy market



since the first attempts of liberalisation until its present state. The focus lies on an in-depth analysis of seven selected issues that have strong implication on the effectiveness of competition in this market. The analysis results in an overview, in which the seven issues are placed in a **policy triangle** (consisting of energy market law, competition law and consumer protection law) close to the respective legal field that seems most appropriate to solve the issue.

It concludes with **suggestions** on how the aforementioned issues could be better addressed by competition law instruments or in case this does not seem appropriate, it proposes instruments from other policy fields such as sector specific regulation, consumer protection policy or data protection rules.

KEY FINDINGS

1. Energy market and consumer protection regulations can solve issues which might potentially have negative competition effects.
2. Issues in seven different topics related to the energy market can be solved by enforcing **State aid** regulations with respect to national renewable energy stimulation mechanisms and capacity market design. However, State intervention should be made with minimal distortions to competition **Merger control and antitrust** concerning the level of competition between energy suppliers can also help address these issues.
3. There are tensions among energy policy objectives, consumer protection instruments, and the objectives of free competition in the EU internal energy market.
4. The Clean Energy Package has already addressed many competitions issues. Nevertheless, the actual effects on energy markets are not clear yet as the proposed measures still need to be discussed and adopted. Further changes in sector specific regulations could enhance competition and address the many market entry barriers in the retail market.

During the research work and prior to the publication of this study, the authors presented the concept and some **preliminary results** in the European Parliament's Committee in Economic and Monetary Affairs on 21 March 2017. The proceedings of this presentation include the approach of the study, the slides of the presentation and a brief summary of the discussion. The web stream is available at: <http://www.europarl.europa.eu/ep-live/en/committees/video?event=20170321-1330-COMMITTEE-ECON>

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Manuscript completed in December 2017

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Internal ref.: IP/A/ECON/2017-11



ISBN: 978-92-846-1081-5 (paper)
 ISBN: 978-92-846-1082-2 (pdf)
 CATALOGUE: QA-04-17-506-EN-C+N
 doi: 10.2861/74840 (paper)
 doi: 10.2861/085033 (pdf)