



Competition Law in the Energy Sectors

Competition Enforcement by the European Commission in 2017

Alexander Gee, DG Competition
4 December 2017

Role of Competition Enforcement

- *Single market in energy brings benefits:*
 - **competitive prices,**
 - **security of supply,**
 - **scope for clean energy.**
- *Competition enforcement essential role:*
 - **Antitrust: free flow of energy and foreclosure**
 - **Mergers: ensure competition at different levels of the energy chain**
 - **State aid: help manage the mutation of the electricity mix**

The Energy Union Framework Strategy

*"**Strict enforcement of the Treaty's competition rules** will help to prevent companies from distorting the internal energy market. Antitrust enforcement will ensure that energy can flow freely by addressing territorial restrictions in supply contracts as well as upstream/downstream and network foreclosure issues (including interconnectors). The Commission will also assess – through competition law enforcement – the evolution and formation of energy prices."*

25.2.2015

Overview Antitrust

- *Gas Supply in Central and Eastern Europe*
- *Romanian Gas Export Restrictions*
- *BEH Gas*
- *Greek Lignite*
- *Greek Wholesale Electricity Market*
- *Other cases*
 - French Hydro-Concessions
 - Ethanol Benchmarks



Gas Supply in Central and Eastern Europe

- *Aim: free flow of gas in CEE at competitive prices*
- *Procedure:*
 - **Inspections 2011**
 - **Opening proceedings 2012**
 - **SO issued 2015**
 - **Market test of possible Commitments March 2017**
- *Current Position*
 - **All options remain on the table**
 - **Continuing discussions with Gazprom to address concerns raised during market test**

Statement of Objections

Concerns:

- **Overall strategy to partition CEE gas markets**
- **This may have enabled Gazprom to charge unfair prices in some Member States**
- **Gazprom may have used its market power by making the supply of gas dependent on unrelated commitments on infrastructure**

Gazprom Commitments

1. Enable free flow of gas

- *Remove all contractual barriers*
- *Active steps to enable better integration*
 - **Remove all clauses that reduce incentives to resell gas**
 - **Facilitate market interconnections with Bulgaria**
 - **Create opportunities for more flows to Baltic and Bulgaria with swap-like operations**

Gazprom Commitments

2. Ensuring competitive gas prices

- *Changes to the price revision clauses in contracts*
 - **Prices linked to competitive benchmarks**
 - **More frequent and efficient price reviews**






Gazprom Commitments

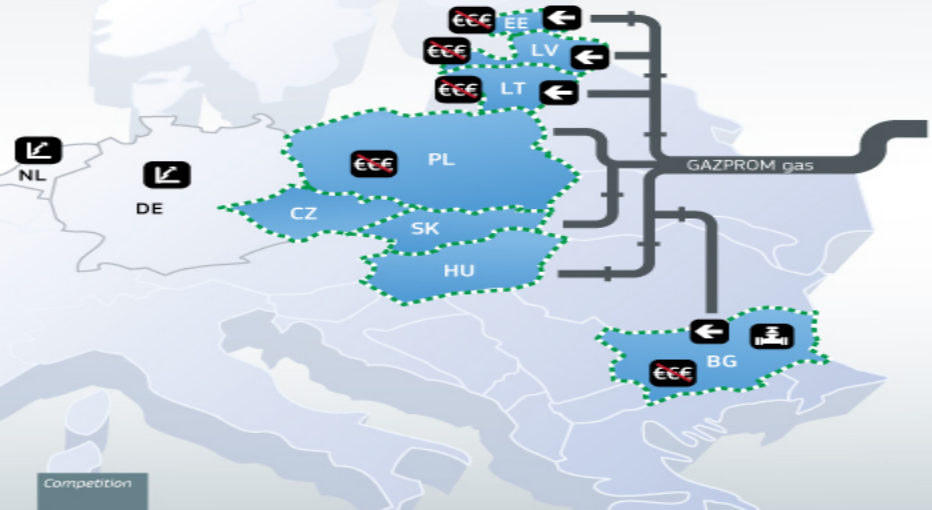
3. Removing demands obtained through market position

- *South Stream: Gazprom not to seek damages from Bulgarian partners*

Commitments Summary

GAZPROM's proposed measures to remedy competition concerns

-  Allowing cross-border flows of gas
-  Ensuring competitive prices, based on gas hub prices 
-  Enabling interconnections
-  Providing flexibility to divert gas to this delivery point



Romanian Gas Export Restrictions

- *1 June 2017: opening proceedings*
- *Concern that Transgaz has strategy to restrict gas exports from Romania implemented through:*
 - **interconnector transmission fees,**
 - **underinvestment or delays in infrastructure, and**
 - **un-founded technical arguments.**

BEH Gas

- *Opening proceedings 2013*
- *SO 2015*
- *Concerns that BEH may have:*
 - **Hindered access to key gas infrastructure**
 - **Refused to give access to transmission network, storage, capacity on import pipeline**

Greek Lignite

- *Procedure:*
 - **Commission decisions of 2008 and 2009**
 - **Modified commitments market tested 2011**
 - **Court judgments 2012, 2014, 2016**
- *Aim: to ensure access for competitors to lignite-fired electricity production (baseload).*
- *Stability Programme also addressing Greek electricity market. Co-ordinate both processes*
- *Supplementary MoU of July refers to Commitments*

Greek Wholesale Electricity

- *Inspections in February 2017 in companies active in the generation, transmission and supply of electricity in Greece*
- *No details given about the concerns except suspicions of an abuse of a dominant position.*

Other Antitrust Investigations

- *French Hydro-power Concessions*
- *Ethanol Benchmarks*

Brief Overview of State Aid

- *Capacity markets:*
 - **Strategic Reserve in Germany**
- *Renewables:*
 - **Spain**
- *Nuclear:*
 - **PAKS in Hungary**

Brief Overview of Mergers

- *GE/Baker Hughes*
- *EdF/Areva*
- *Wind:*
 - **Siemens/Gamesa**
 - **GE/LM**