

The background is a satellite-style image of Europe at night, with city lights visible. Overlaid on this are numerous glowing blue lines that represent energy transmission paths, connecting various points across the continent and extending outwards.

DSO unbundling - legal requirements

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- 1. What is unbundling and why to unbundle?**
- 2. Legal basis in the Energy Community law**
- 3. Wht kind of unbundling?**

What is unbundling?

- ❑ (Transmission and distribution) networks (usually owned by incumbents) remain monopolistic - not economically feasible to duplicate them

*** In most CPs - one DSO - bundled with supply (and in many CPs with generation)*

- ❑ Starting from VIU – first: TSO unbundling and the rest (generation, supply and distribution) remained bundled

- ❑ For networks - requirement for regulation of access and prices

*** TPA is applicable to both DSO and TSO (Art.32 ED and GD)*

Why to unbundle?

- ❑ To prevent the operator of the distribution network from taking advantage of its vertical integration as regards its competitive position on the market

*** not to discriminate other suppliers by placing the supplier from its VIU in a privileged position*

- ❑ The incumbent supplier benefits from a significant competitive advantage *vis-à-vis* new independent entrants => it initially covers the entire market, has an established reputation and recognition by customers

**** Examples: Abusive distribution pricing, cross-subsidisation, unnecessary technical requirements, procedural and implementation delays ... can be used to disadvantage competitors in the end-user supply market.*

The concept of DSO unbundling

- ❑ The concept of unbundling - meaning that non-competitive activities (transmission and distribution) had to be separated from competitive activities (production and supply of electricity) – introduced by sectoral legislation (EU Directives)
- ❑ *First energy package* - only **management** unbundling and **accounting** separation of (transmission and) distribution activities from other parts of the company
- ❑ *Second energy package* – **legal** unbundling, i.e. required establishment of a separate company and **functional** unbundling, i.e. independence / effective decision making rights
- ❑ *Third energy package* – same as second + compliance officer requirement

*** *No requirement for ownership unbundling for DSO even in the TEP*

- ❑ Articles 26, 30 and 31 of ED and GD
 - ❑ Article 26 of Directives / MC Decision 2011/02/MC-EnC => CPs have to *de iure* transpose into national legislation & *de facto* to implement the requirement of functional and legal unbundling of national electricity distribution system operators, including the establishment of a compliance programme and compliance officer
 - ❑ TEP - legal provisions to be implemented by **1 January 2015**
- *** BUT DSO unbundling = requirement from Second energy package, with the exception of the requirement to introduce a compliance officer (BUT with requirement for compliance program)

What kind of unbundling (1)

*“Where the DSO is part of a VIU, it shall be independent **at least in terms of its legal form, organisation and decision making** from other activities not relating to distribution. Those rules shall not create an obligation to separate the ownership of assets of the distribution system operator from the vertically integrated undertaking.”*

- ❑ Accounting unbundling – requirement to keep separate accounts for DSO activities
- ❑ Legal unbundling – only for network activities / free to choose legal form
- ❑ Functional unbundling – effective decision-making rights:
 - ✓ have necessary resources (human, technical, physical and financial)
 - ✓ to operate, maintain and develop the network
 - ✓ Limits supervisory rights of VIU limited to annual investment plan and overall level of indebtedness but no in day-to-day decision-making

**** Exceptions from legal and f-nal unbundling: DSOs serving less than 100.000 customers or closed distribution systems*

Management separation

Independence and effective decision making right of a DSO

Functional unbundling

Separate identity in communication and branding

Preservation of confidentiality of commercially sensitive information by DSO

** To ensure compliance with principle of non-discrimination, DSOs must develop a **compliance programme** and appoint a **compliance officer**.

Responsible for:

- ✓ permanent and continuous monitoring
- ✓ application and effectiveness of the compliance programme
- ✓ evaluation of the effectiveness of the applied policies, procedures and measures
- ✓ annual reporting to NRA

Must be fully independent and must have access to all the necessary information, not only of the DSO but of any affiliated undertaking.

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*Thank you
for your attention!*

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