

"The European Commission's legislative proposals (3rd Package): Regulators' view"

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**Session 1: Effective Regulation and Unbundling** 

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# **Topics of this presentation**



- Background to 3rd Package
- Main areas of legislation
- The Commission's 3rd Package proposals on:
  - Ownership unbundling
  - The ISO model
  - Retail Markets
- Regulators' views current CEER thinking

## **Background to 3rd Package**



## Preparatory work by European Commission

- Benchmarking reports and Green Paper
- Progress report and Sector Inquiry of 10 January 2007
- Urgent need to strengthen competition and complete internal market

## Main shortcomings found

- Vertical integration
- Lack of market integration
- Lack of TSO cooperation
- Regulatory gap
- High degree of market concentration
- Lack of transparency
- Different powers and competences of national regulators energy regulators



## The main areas of the legislation

- Effective unbundling of networks
- Transparency
- Cooperation of network operators
- National regulators
- EU Regulatory Agency
- Access to Storage and LNG
- Solidarity
- Retail market & consumer protection

#### **Effective Unbundling**



#### Two options

- (1) Ownership unbundling of TSO
- (2) Independent system operator (ISO) -> "Deep ISO" model

# Option 1: Ownership unbundling

- Supply companies must not have any interest in network operators (and vice versa)
- In a nutshell: network operators can no longer be affiliated or be part of a group which is also active in supply, generation and production
- It remains possible to have minority stakes in both supply and network companies

## **Effective Unbundling**



- Option 1: Ownership unbundling (cont.)
  - Impact assessment based on experience in Member States with ownership unbundling
  - No evidence for some negative assumptions:
    - On average, positive effects on investment, prices and market concentration
    - Example: share of congestion revenues that was reinvested in interconnection higher for unbundled network operators than for vertically integrated companies.
    - On average, no negative effects on technical operation, company value and credit ratings

## **Effective Unbundling - ISO**



- Option 2: Independent system operator (ISO)
  - Possible second-best approach: Member States may allow for derogation from ownership unbundling provided that an Independent System Operator (ISO) is designated
  - Transmission assets may remain with the vertically integrated company
  - But technical and commercial operation of those assets by ISO
  - ISO has a say in investment decision
  - Requirement that ISO is fully independent from any supply or production interests.

## **Effective Unbundling - ISO**



- Option 2: Independent system operator (ISO) (cont.)
  - Additional requirements in the case of ISO
    - implies increased regulatory control because ISO create additional interface (between asset ownership and asset operation)
  - Both options ownership unbundling and ISO
    - Apply in the same way to gas and electricity
    - Apply equally to private and public companies
    - Require certification
    - Apply equally to EU and Third country companies



#### **Retail Market & Consumer protection**

#### Objective:

- Establish real choice for final consumers
- Creation of EU-wide retail market
- Create energy awareness

#### Measures:

- Strengthen rights of consumers
  - Better access to information on consumption
  - Right to switch supplier any time
  - Settlement of bill one month after switch
- More frequent reading of meters (smart metering)
- Establishment of a Retail Forum
- Stronger DSO Unbundling (mandate to draft guidelines)

## **Current CEER thinking**

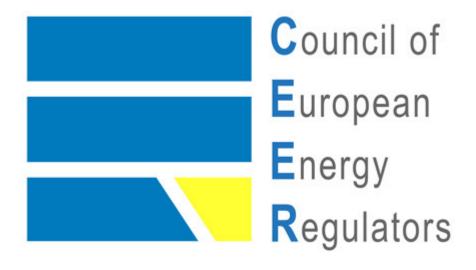


#### Unbundling / ISO

- Strong support for ownership unbundling as, in principle, most effective way to ensure market integration and avoid conflicts of interest between market segments (production, supply) and natural monopolies (networks)
- Acknowledgement that unbundling not a panacea many other impediments to network investments remain and need attention: licensing, environment concerns
- Serious doubts about possible effectiveness of ISO model requires much more intrusive regulation to ensure that operational decisions are not influenced by shareholders' own interests

#### Retail Markets / Consumer Protection

- Strong support for proposals and corresponding increased powers of NRAs to monitor retail markets and ensure service quality
- Ample debate on technical options for (and costs of) smart metering
- DSO unbundling presently not called for further debate needed



José Braz, ERSE (Portugal)