

EREGEG Status Review for 2008 shows market opening is not delivering for energy consumers

Today Europe's energy regulators¹ published, alongside 27 national reports, an ERGEG Status Review of progress towards a well-functioning EU energy market².

- (a) **Competition in retail gas and electricity markets is almost non-existent**
- (b) **Insufficient unbundling is a big obstacle for competition and security of supply**
- (c) **Political interference endangers competition**
- (d) **The consumer is the energy regulators top priority in 2009**

(a) Competition in retail gas and electricity markets is almost non-existent

The main finding of the ERGEG Status Review is that, despite full market opening by the 1st July 2007 deadline, competition in retail gas and electricity markets is almost non-existent. The report points to a number of factors: narrow geographical markets with highly concentrated retail and wholesale markets; a failure by Member States to properly implement the unbundling requirements; the persistence of artificially low regulated prices; and some Member States' apparent lack of political commitment at present to regulatory independence or to European energy market integration. This leads to an unacceptable lack of choice for households and commercial customers in EU 27.

EREGEG Chair, Lord Mogg, commented "*Paying lip-service to the single-EU energy market objective is not enough. Member States must now demonstrate stronger political commitment to regional market integration which in turn will stimulate competition to the benefit of the end consumer*".

(b) Political interference endangers competition

Political interference in energy regulator's work was reported by some regulators as a significant concern³. Rising energy prices have tempted some countries to use political control⁴ over prices as a remedy for presumed insufficient competition. However, such political interference impacts not just on the independence of regulators, but is harmful to the development of a competitive energy market⁵.

Lord Mogg stated "*The tendency to put independent regulators under greater political control for example, to protect "national champions" acts against regional integration and the single EU energy market.*"

(c) Insufficient unbundling is a big obstacle for competition and security of supply

There has been no major changes with regard to the unbundling (or separation) of electricity TSOs, and few reported improvements in the unbundling of integrated gas companies⁶. At DSO level, despite some progress, "functional" unbundling remains an issue as some integrated companies have not established fully functioning distribution system operators capable of carrying out their business autonomously (e.g. lack of internal staff, own dedicated assets, etc)⁷. DSO unbundling is key for retail market competition as the DSO must be a "market facilitator" providing non-discriminatory services to all energy suppliers.

(d) The consumer is the energy regulators top priority in 2009

Commenting on the publication of their 2009 work programme⁸, the ERGEG Chair, Lord Mogg said "*The EU energy consumer is best served through a competitive, single EU energy market. This is why, in 2009, the EU energy regulators continue to drive regional market integration through our flagship Regional Initiatives project, and pave the way for a speedy implementation of the 3rd energy package proposals.*"

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Ends
(see Note for Editors on next page)

Notes for Editors:

1. The European Regulators Group for Electricity and Gas (EREGG) was established by the European Commission in 2003 as its advisory group on internal energy market issues in Europe. The Council of European Energy Regulators (CEER) was set up by regulators themselves in 2000 on their own initiative and is based upon the voluntary cooperation of the Europe's national energy regulators. See www.energy-regulators.eu.
2. Since 2005 each national energy regulator produces an individual country report (whose content is coordinated with the European Commission) on how the EU energy legislation is implemented and its practical results in the country. View the [2008 national reports](#) (for the 27 Member States) and the EREGG 2008 Status Review of the Liberalisation and Implementation of the Energy Regulatory Framework (ref:C08-URB-15-04).
3. The national reports show that the cornerstones of the liberalized markets (independence of regulators, market-based pricing and effective unbundling) are under political scrutiny. Political influence has not been exerted in a transparent way but through increased influence by ministries or parliaments on some national regulatory authorities, in terms of appointments or even individual decisions.
4. A "regulated end user price" is a price subject to regulation by a public authority, as opposed to a price set by supply and demand. The regulation can take different forms such as setting or approval of prices, price caps or various elements of these. As of June 2007 regulated end-user prices continue to coexist (with market prices) in many EU countries (9 for gas, 16 for electricity) and the 2008 national reports show there is a lack of competition in the retail market in these countries. A switch back to the regulated price was observed in some Member States e.g. in the electricity household sector in Spain. In some countries it is even irreversible to leave the regulated price thereby locking the customer to the incumbent. In its position paper on end user price regulation (2007) EREGG's message was clear "End-user price regulation in electricity and gas markets distorts the functioning the market and jeopardises both security of supply and the efforts to fight climate change. Therefore end-user price regulation should be abolished, or where appropriate, brought into line with market conditions." In 2007 EREGG called on Member State governments to rapidly progress towards a competitive market without regulated end-user prices and to publish (by 1 July 2008) a roadmap on how they were going to do this.
5. For example regulatory risk resulting from political interference undermines investors' confidence.
6. For example in Hungary the gas transmission licensee company was legally unbundled from its owner, MOLNyrt. Legal, functional and accounting unbundling is required for all Transmission System Operators (TSOs).
7. The 1st July 2007 was the deadline for "legal and functional" unbundling of Distribution System Operators (DSOs). Thus whilst Member States could delay the obligation to legally unbundle (i.e. to create a separate "legal" company) large DSOs (above 100,000 customers) until 1 July 2007, such an exemption did not exist with regard to the obligation to unbundle in "functional" terms. It is mainly the "functional unbundling" that is heavily disputed by major EU companies

8. See the European Energy Regulators 2009 work programme on www.energy-regulators.eu.
9. The European Energy Regulators' Regional Initiatives, launched in spring 2006, created 3 gas and 7 electricity regions in Europe as an interim step towards a single European market in gas and in electricity.

Table: Electricity and Gas regions of the Regulators' Regional Initiatives
(lead regulator(s) for the region are marked in italics)

Electricity Regional Energy Markets (REMs)	
Central-West	<i>Belgium</i> , France, Germany, Luxembourg and The Netherlands
Central-East	<i>Austria</i> , Czech Republic, Germany, Hungary, Poland, Slovakia and Slovenia
Central-South	<i>Italy</i> , Austria, France, Germany, Greece, and Slovenia
Northern	<i>Denmark</i> , Finland, Germany, Norway, Poland and Sweden
South-West	<i>Spain</i> , France and Portugal
Baltic	<i>Latvia</i> , Estonia and Lithuania
France-UK-Ireland	<i>Great Britain</i> , France, Republic of Ireland and Northern Ireland,
Gas Regional Energy Markets (REMs)	
North-West	<i>The Netherlands</i> , Belgium, Denmark, France, Germany, Ireland, Sweden and Great Britain, Northern Ireland and Norway (observer)
South	<i>Spain</i> , France and Portugal,
South-South East	<i>Austria</i> , <i>Italy</i> , Bulgaria, Czech Republic, Greece, Hungary, Poland, Romania, Slovakia and Slovenia

10. The European Commission's 3rd energy liberalisation package proposals (currently under negotiation in the European Parliament and Council) provide for :
 - the reinforcement of the powers and independence of national regulators;
 - An **Agency** for Co-operation of Energy Regulators (ACER);
 - The establishment of European Network of Transmission System Operators (**ENTSOs**) in electricity and gas; and
 - Effective unbundling (separation) of Transmission System Operators (TSOs) from supply and production facilities.