

# Energy: internal market in electricity, cross-border exchanges, access to network. 'Electricity Regulation'

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The Commission presented a report on progress in creating the internal gas and electricity market.

The last step on the road to competitive energy markets was achieved on 1 July 2007 with the full opening of national retail markets. From a legal perspective, all European consumers are now able to choose their supplier and benefit from competition. However, this report shows that, in practice, **market integration is still far from a success**. With very few exceptions, electricity and gas markets in the EU remain national in economic scope with limited competition.

**Implementation of legislation:** all Member States have met the deadline of 1 July 2007 for full opening of their gas and electricity markets. Restrictions to free and fair competition have, however, developed through the coexistence of open market segments and end-user supply price regulation. Some Member States have still not properly implemented the legal requirements of the Electricity and Gas Directives. This concerns, in particular, core areas of market liberalisation, such as regulatory oversight, unbundling and regulated supply tariffs as well as the communication of Public Service Obligations. ERGEG's (European Regulators Group for Electricity and Gas) monitoring, in 2007, of the implementation of the Electricity and Gas Regulation shows inadequate compliance in areas of core relevance for the development of liquid markets such as transparency and primary capacity allocation.

**Market integration:** market integration has still not developed to a sufficient extent. This is demonstrated by price differences, regional monopolies and persistent cross-border congestion between Member States, for example. Energy prices for industrial electricity customers in the EU are starting to converge in the Central and North Western EU areas but still differ by almost 100% in some cases. Cross-border trade is a key source of competitive pressure on prices. The lack of independence of network operators continues to be a barrier to adequate investment. Lastly, legal differences between Member States remain a barrier to market integration.

**Concentration and consolidation:** market structures on a national scale are still very concentrated. In addition, incumbents control essential infrastructure facilities, further increasing their market power. Between 2005 and mid-2007, the number of independent suppliers on the electricity market increased in 40% of the Member States where data was available. In 7 out of 21 Member States, no independent supplier is active on the national gas market. Retail markets are not yet well developed, mainly because of limited access to gas supplies for new entrants. Alongside highly concentrated national markets, the tendency towards consolidation and concentration continues.

**Price trends:** customers in the EU-15 Member States benefited from cumulative price savings from electricity liberalisation to the order of €60 billion over the period 1998 to 2004. These savings were partly countered by price increases in later periods. As competition is still limited, competitive pressures on prices are correspondingly weak. Moreover, prices mirror general trends, notably in oil prices, which increased by more than 50% between 2005 and 2007. Since market opening in 1998, Member States with ownership unbundled TSOs have experienced more positive price developments than Member States where the TSOs were and are still related to supply companies.

**Independence of network operators:** functional unbundling is still not effectively implemented in all Member States. This applies both to electricity and gas and to transmission and distribution system operators. Insufficient independence of network operators is reflected in underinvestment in network capacities and, in particular, in inadequate cross-border capacities. Legal unbundling has not been sufficient to cope with this effect.

**Effective regulation by regulators:** despite the Electricity and Gas Directives requiring regulators to hold a minimum set of powers, the unequal levels of regulatory powers across borders have not improved. Non-compliance with European legislation is often met by insufficient or ineffective penalties in national legislation. However, the “regulatory gap” remains a barrier to coordinated decision making across borders, which cannot be solved by the existing model of voluntary cooperation by ERGEG.

**Customer dimension:** while the rates of **switching** for larger customers continue to rise, most small business customers and households still have limited scope to exercise their right to choose. Electricity switching is at a high level in Iberian countries, the Czech Republic and Nordic countries and above average especially for large industrial customers in Germany, Austria and Luxembourg. In most other countries, the annual switching rate for households is about 1% or below. The picture is similar for gas, with the exception of Italy, where the rate is above 1%. Moreover, retail competition is distorted by regulated supply tariffs. In terms of **service quality**, market surveys have concluded that the level of satisfaction with the quality of electricity and gas services provided is generally good. Concerns that the introduction of competition would lead to a decline in service standards or problems in the provision of universal service have proved unfounded. The report notes that the coexistence of open energy markets and **regulated energy prices** is quite common among EU Member States: it exists in one third of the gas markets for at least one market segment and more than half of the electricity markets. The negative effects of regulated energy prices remain a major concern.

**Security of supply:** European electricity outlook reports drawn up in 2007 by the Group of European Electricity Transmission System Operators (ETSO) and European Gas Transmission System Operators suggest that no particular risk of power shortage is expected in the medium term. However, in terms of gas supply in particular, the European Union relies increasingly on imports. Therefore, the diversification of routes or sources plays a key role in reducing dependence on today’s three major pipeline sources, Russia, Norway and Algeria. Electricity and gas networks are at the heart of a well-functioning European market. Obstacles still remain to the completion of the priority projects that have already been identified. For electricity, dependence on imports is lower. However, the dependence of power generation on gas, much of which is imported, is increasing.

To conclude, the report notes that despite some encouraging improvements, notably in cross-border coordination at regional level, major barriers to the efficient functioning of the market still exist:

- The insufficient implementation of European legislation remains a crucial factor. Improvement has to be driven by the Commission, Member States, regulators and industry together;
- At the same time, national regulators must be empowered with a view to ensuring proper implementation of legislation by stakeholders;
- Regulators themselves have to act on their own responsibility to encourage implementation of legal requirements. Harmonisation of regulatory best practice models across borders is certainly needed if practical barriers to cross-border trade are to be reduced;
- The industry must observe the legal requirements without compromise. Implementation of European legislation does not allow for negotiations;
- Lastly, regulated energy prices remain a major concern.

The Commission has therefore addressed these shortcomings in a legislative package, which it presented on 19 September 2007 (see also [COD/2007/0253](#) and [COD/2007/0197](#)).

