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European Commission – Public Consultation on "Guidelines on Fundamental Electricity Data Transparency"

The Norwegian Competition Authority ("NCA" henceforth) refers to European Commission's public consultation on the "Guidelines on Fundamental Data Transparency" issued 22 July 2011.

1. NCA's position in the previous ERGEG's consultation

The NCA has already expressed some concerns regarding the level of detail and the frequency of data provision required by the draft guidelines to the European Commission's officer, Oliver Koch, in November 2010.

In particular, the NCA's comment was focused on four issues that should be carefully considered when assessing the impact of transparency requirements. First, the level of transparency proposed in the ERGEG's draft guidelines would grant a better understanding of market conditions, which might lead to an increase in unilateral market power; second, it could facilitate collusion by enabling firms to form a clearer common picture of the terms of the collusive outcome on the one hand, and to better monitor their competitors on the other hand; third, it might reduce single players' incentives to engage in data collection and analysis, and finally, it might lead to an overload of information for market players.

2. NCA's position on the current consultation

The NCA would like to focus on the competition aspects of the present hearing. The next paragraph present a comment related to questions 3, 4 and 5. The following three paragraphs are mainly related to question 5 and the requirement to publish producers' output on a regular basis.¹

¹ Paragraph 4.3.2.8 requires the publication of "actual unit by unit generation output (MW) detailed per generation unit of each production unit equal to or greater than 100 MW installed generation capacity, updated every hour". See ERGEG (December 2010), "ERGEG Advice - Comitology Guidelines on Fundamental Electricity Data Transparency", Ref: E10-ENM-27-03, page 14.

2.1 *Excess of information*

A general comment to questions 3, 4 and 5 regards the amount and the level of detail for the information required by the Guidelines on Fundamental Data Transparency. The information required to be published should give market players a deeper understanding of the electricity market in order for them to improve the quality of the decision process and act more efficiently. However, the Guidelines require the publication of a huge amount of data, not only in terms of the number of variables required, but also regarding the level of detail prescribed and the frequency of data release. A lot of resources would be required in order for market players to be able to process all the information provided. The NCA's concern is that part of the information to be disclosed according to the proposal might actually be irrelevant or redundant for market participants.

In the view of NCA, a critical evaluation of the data actually needed for the declared purposes is required. For market participants to have a deeper understanding of the functioning of the market, the provision of data on production, transmission and consumption aggregated per bidding area (and per generation type) should be sufficient.

2.2 *Unilateral Market Power*

The level of market power held by any electricity generator depends crucially on the market conditions and varies with them. Providing generators very detailed information about competitors, as proposed in the Guidelines on Fundamental Data Transparency, might enable them to exercise market power more effectively. In particular, being able to observe its competitors' output on a regular basis,² a producer might derive a clearer picture of the bidding strategies and the costs of their competitors unit by unit. Thanks to this and to all the information about the network, capacities and unavailabilities, the generator will be able to refine its forecasts of competitors' behavior and market conditions; as a consequence, the generator will be able to better predict the level of market power it is going to have.

This concern becomes more severe in electricity markets characterized by hydropower generation as hydropower producers can quickly adapt their output level³ and thus exercise market power in a very effective way.

2.3 *(Tacit) Collusion*

The information disclosure proposed in the Guidelines on Fundamental Data Transparency, in particular in paragraph 4.3.2.8⁴, might raise concerns regarding (tacit) collusion. The proposed increased transparency of strategically useful information might lead to – or strengthen – the coordination of firms' strategies and result in a (more) collusive outcome. The reason is twofold.

On the one hand, the level of transparency proposed in the Guidelines can facilitate collusion by allowing firms to form more similar expectations about future market conditions. Thanks to a wider and common set of information, firms can more easily form a common picture of the terms of their coordination and thus coordinate more easily.

In the case of hydropower generation, the proposed information disclosure has a stronger impact, as it can reveal the water evaluation of hydropower generators⁵ and thus their expected future prices. So in markets characterized by hydropower generation, the level of transparency proposed would ease firms'

² As required by paragraph 4.3.2.8 cited in a footnote above.

³ Unlike thermal producers, they are not constrained by ramping restriction.

⁴ See the citation in a footnote above.

⁵ The issue of disclosure of water evaluations will be addressed more in depth in the next paragraph.

coordination not only through the provision of past and current data, but also through the disclosure of future (expected) prices.

On the other hand, the information disclosure depicted in paragraph 4.3.2.8 implies that generators are able to perfectly observe the production level of each unit of their competitors on an ongoing basis. Such a high level of disaggregation and the real time publication of generation data would enable firms to monitor each other's behavior in an extremely detailed and rapid way. This would allow firms to quickly detect any deviating behavior from the collusive outcome. Given the daily market interactions characterizing the electricity market, deviations from the collusive outcome can also be quickly punished. The more so in a market characterized by hydro generators who are able to adjust their production level very quickly.

2.4 Market analysis and research (for hydropower producers)

In order to make optimal production decisions, hydropower producers need to forecast future energy prices, which represent their opportunity cost for the current production. They typically engage in data collection and analysis to make forecasts on future market prices and then derive an estimate of the value of water.

The information disclosure proposed in paragraph 4.3.2.8, i.e. the requirement to publish individual units' output, is likely to reveal the price evaluations of hydropower generators.⁶ The obligation to disclose such pieces of information might then dramatically decrease generators' incentives to collect and analyze fundamental data. Thus the market analysis performed by hydropower generators in the electricity market might consequently be reduced. This would worsen the quality of the strategies of the generators, which will more often be suboptimal, and consequently worsen the functioning of the market.

Moreover, the (indirect) disclosure of hydropower evaluation of future prices would also affect their activity in the financial markets. Once their evaluation of the water value is revealed, their activity on the financial markets becomes highly predictable and a lot less effective.

Yours sincerely

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⁶ In the Nordic market, a large share of the production is represented by hydro power plants with reservoir. In such a setting, the transparency requirements in paragraph 4.3.2.8 would de facto imply the transparency of firms' price estimates. Whenever the hydro power plant with reservoir is marginal, this is revealed by the fact that that plant is not producing at maximum capacity. Then one can easily conclude that the bidding price of that generator (or its water value) equals the area price in that zone. Hence the transparency requirements proposed by ERGEG would - in the case of hydro generators - mean revealing price expectations and forecasts of producers.