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Press release

Monopolies Commission publishes Special Report on the situation of competition on the energy markets

- Monopolies Commission sees significant risks in the concept of an „Electricity Market 2.0“, which can have repercussions on market prices and the capacity level.
- Monopolies Commission recommends various measures to reduce the necessity of grid extension.

The German Monopolies Commission (Monopolkommission) has submitted its Special Report under Sec. 62 of the Law on the Energy Industry today, bearing the title: **“Energy 2015: A competitive market design for the Energiewende”** („Energie 2015: Ein wettbewerbliches Marktdesign für die Energiewende“). This Special Report examines the situation of competition on the electricity and gas markets and analyses the existing problems in the energy sector. The Monopolies Commission puts special emphasis on topics related to the design of the Energiewende (= Energy Turnaround).

The Monopolies Commission considers the planned evolution of the existing design of the energy markets directed towards an **“Electricity Market 2.0”** as a potential solution, which is however fraught with significant risks. “Only the consequent use of competitive instruments for the implementation of the Energiewende allows to effectively limit the costs of the Energiewende“, says the chair of the Monopolies Commission, Prof. Daniel Zimmer.

The Federal Minister for the Economy and Energy plans to guarantee the **security of supply** by building up a capacity reserve, a plan which the Monopolies Commission sees critically. Since a reserve entails considerable efficiency risks, it should be **subject to strict conditions**, limited in size, and only be used as a temporary instrument. The Monopolies Commission sees **critically** the plan to **transfer lignite-fired power plants into the capacity reserve**, which is being considered for environmental reasons. This technology-specific intervention will entail high costs, but it will not reduce CO2 emissions as these are pre-defined by the EU emission trade system.

In the concept of the Federal Minister for the Economy and Energy, potential problems of the market power of energy suppliers only play a marginal role in comparison with the dangers to supply security. The **market power indices calculated by the Monopolies Commission,** e.g. the Residual Supply Index (RSI), indicate that currently no problem of market power exists in electricity wholesale and that overcapacities reduce prices and the propensity to invest. That being said, the reduction of overcapacities, which will become an issue in the Electricity Market 2.0, may lead to a **reemergence of significantly higher market prices in the future**. The Federal Cartel Office and the Federal Network Agency, thus, have the challenging task to distinguish excessive prices exclusively due to market power from other pricing. A particularly **counterproductive** measure is in this context the **market power report** foreseen in the ministerial draft for

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an Electricity Market Law, which the Federal Cartel Office will have to produce. Due to its design, this report will exclude some companies from the control of abusive practices. This could entail higher prices and, in the long run, new overcapacities.

With regard to **renewable energies**, the Federal Government's plans go into the direction of abolishing the determination of subsidy levels by law, and of determining them instead through tendering procedures in the form of auctions. The abandonment of the existing subsidy system is linked to the hope of a stronger orientation towards competition and a concomitant reduction of costs. The Monopolies Commission welcomes the efforts to create a more competitive subsidy system through the change towards a tendering model. That being said, it cautions that the systemic change will not lead to notable improvements without adequate surrounding conditions. The Monopolies Commission takes a particularly critical view of the fact that the new tendering system continues to differentiate the auctions based on technology. By using **technology-neutral auctions** instead, competition would arise between the production technologies, making it possible to come to a more efficient production of elicitrity from renewable energies and to prevent a further increase of the costs borne by the consumers.

The addition of renewable energies makes it necessary, according to the existing plans, to substantially enlargen the supply grids. The extension of grids has frequently given rise to acceptance issues in Germany in the past. The Monopolies Commission advocates examining **alternatives to grid extension** more intensively than has been the case to date. For example, the addition of renewable-energy installations could be steered regionally, **e. g. via a regional renewable energy component** (EE-Regionalkomponente), which would influence subsidies taking into account the grid costs arising due to the addition. In addition, the grid extension should not be designed to transmit the theoretical maximum feed-in of renewable energies, which only occurs rarely. The Monopolies Commission's analysis shows that the **needed extension could be substantially reduced** if some of the renewable energy installations were switched off at a wholesale market price below zero and if redispatch measures were taken into account during the planning of grids.

Measures to increase competition on the energy markets

The Monopolies Commission proposes the implementation of the following energy-policy measures:

Wholesale

To bolster competition in electricity wholesale,

- The electricity market should be developed further with the aim of increasing the flexibility of demand and of the employed installations. The related proposals in the "Electricity 2.0" package of measures should be implemented in the short term.
- The Federal Cartel Office and the Federal Network Agency should implement abuse supervision and the prohibition of market manipulations in an appropriate manner by
    - Regularly reviewing measures and criteria for their actions with respect to whether power plant operators retain scope for individual price setting, and whether at the same time capacities are enlarged excessively or excess returns are generated;
    - Refraining from the Federal Cartel Office's regular review of market dominance, which was announced in the White Paper of the Federal Minister for the Economy, given that market dominance currently cannot be established in energy wholesale continuously;
- The Market Transparency Unit's and ACER's data records should be made available to researchers for study, with a time lag and on a competitively neutral basis;
- The systems for bottleneck management in the electricity and gas sector should be expanded, and a European internal market should effectively be established.

To bolster competition in gas wholesale,

- The European integration should be increased through the enlargement of market areas and through the harmonisation of the trade;
- A geographically and technological diversification of sources of supply should be pursued.

Environmental objectives of the Energiewende

To reach the objectives of the Energiewende in an economically efficient manner,

- The Emission Trade System (EU ETS) as a European instrument to reduce greenhouse gas emissionsshould be strengthened. The expansion of EU objectives by means of regional addition quota for renewable energies should be dismissed.
- The subsidy system for renewable energies should, for the time being, be designed as follows within the context of the current adaptations:
    - During the change of the subsidy system to a tendering model, technological neutrality should be respected and real competition be made possible by way of the auction design;
    - Electricity from renewable-energy sources should be integrated more into the market and subsidies for renewable-energy installations should be limited or discontinued if exchange prices are negative;
- The complete expiry of the subsidy system and a new focus on the EU ETS should be pursued in the long term.

Supply security during the Energiewende

The security of supply can be guaranteed if

- Grid imbalances are reduced through alternative mechanisms apart from grid extension. In particular, the need to extend grids can be reduced by
    - Examining further and preparing the introduction of a cost-neutral regional component imposed on the producers, which would be part of grid fees and which would create incentives for approaching production and consumption locations to one another;
    - Throttling down some renewable-energy installations when prices are negative;
    - Taking into account the possibility of a redispatch during the planning of grid extensions.
- The electriticy market is protected from functioning problems through a small capacity reserve, which is limited to ten years;
- A comprehensive capacity market is created in case a malfunctioning of the electricity market can actually be observed as recourse is taken to the existing reserve.

Grid concessions and incentive regulation

The regulation of electricity and gas grids should be improved by

- Including concessions for the operation of energy supply grids in the scope of application of the formal tendering process pursuant to §§ 97 ff. of the Act Against Restraints on Competition. In the decision on the award of a concession, the offered markdown on grid usage fees should be decisive. A provision to this end should be included in § 46 of the Law on the Energy Industry.
- Developing further the incentive regulation by use of the model of "ARegV 2.0" in conjunction with a differentiated regulation, as has been proposed by the Federal Network Agency, in order to secure the ability to invest also of those distribution network operators that are particularly affected by the Energiewende, and under maintenance of the existing incentives for cost efficiency and of the primacy of technological neutrality;
- Verifying the possibility to transfer to a more competition-oriented regulatory system at the beginning of the fourth regulation period;
- Increasing the transparency of the regulatory process by creating clear legal bases for the publication of information and the enlargement of disclosure obligations, while protecting trade and business secrets.