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CESE – EESC

European Seminar : Which Europe of electricity ?

Séminaire européen : Quelle Europe de l'électricité ?

Monday 27th June 2005 - *Lundi 27 juin 2005*

European Economic and Social Committee (EESC)

Comité Economique et Social Européen (CESE)

Brussels – *Bruxelles* - Rue Belliard 99

Organised by - *Organisé par*

CELSIG

European Liaison Committee on Services of General Interest

Comité européen de liaison sur les Services d'intérêt général

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The 2003, June 26, Directive on the electricity internal market asks the European Commission to publish a detailed report before the January 1st, 2006. The report will describe progress accomplished regarding the creation of the electricity internal market and if none make new proposals.

The CELSIG organized future electricity market. The aim of the CELSIG was to allow each participant to comment on the implementation of this market.

The seminar, entitled “Which Europe of Electricity?”, was divided into two parts, a Review of the current situation and the Future prospects for the European Union. The panel members and participants were asked to react to two introductory reports and express their opinions. Conclusions of the seminar drew six axes for future action.

This folder contains various documents, including synthesis of the discussions that took place during the seminar.

Domaines / Fields	Critère d'évaluation / Assessment criterion	Critère d'évaluation / Assessment criterion	Critère d'évaluation / Assessment criterion	Critère d'évaluation / Assessment criterion	Critère d'évaluation / Assessment Criterion
Marché Intérieur / Internal Market	Echanges / Trade:	Echanges / Trade :	Prix / Price : Prix moyen européen en Euros du MWh sur les marchés de gros <i>European average price for 1 MWh on the wholesale market</i>	Prix / Price: Prix moyen européen des consommateurs 3,5 MWh en % du prix moyen consommateurs 24 GWh <i>European average price for 3.5MWh consumers as a % of the average price for 24GWh consumers</i>	Coûts / Costs: Coût de construction du marché de détail en Euros par consommateur domestique <i>Cost of setting up of the retail market (in Euros per domestic consumer)</i>
	Evolution des capacités d'interconnexion <i>Interconnection rate</i>				
	Volume des échanges intracommunautaires dans l'Union européenne en TWh <i>Volume of intra-union trade (TWh)</i>	Volume des échanges intracommunautaires en % de la consommation européenne <i>Volume of intra-union trade as a % of European consumption</i>			
Service universel- Obligation de service public / Universal Service-Public service obligation	Accessibilité / Accessibility : Prix de l'électricité 1,5 et 3,5 MWh en Parité de Pouvoir d'Achat dans les 120 régions européennes <i>Electricity price for 1.5 and 3.5MWh consumers in the 120 European regions in Purchase Power Parity terms</i> Taux de déconnexions <i>Disconnection rate</i>	Egalité de traitement / Equality of treatment : Ecart maximal en Euros entre les prix les plus bas et les plus hauts pour 1,5 et 3,5 MWh de consommation <i>Maximum gap between lowest and highest prices for 1.5 and 3.5 MWh consumers</i>	Dernier Recours / Last resort : Prix de la fourniture de dernier recours en % du prix moyen 3,5 MWh <i>Price of supply of last resort as a % of average price 3.5 MWh</i>	Durabilité / Sustainability Volume des émissions de CO2 dans la génération d'électricité en GTonnes <i>Volume of CO2 emission in electricity production in Tonnes</i>	Renouvelables / Renewable: Volume de génération d'énergie renouvelable en TWh <i>Volume of energy produced using renewable (TWh)</i>
Objectifs d'intérêt général européen / European General Interest goals	Service / Service : Critères de qualité <i>Quality criterion</i> Continuité du service <i>Service continuity</i>	Politique énergétique / Energy policy : Economie et maîtrise de l'énergie <i>Energy savings and energy control</i> Sécurité d'approvisionnement <i>Supply security</i>	Droit européen / European law : Evolution du droit et des normes <i>Evolution of law and standards</i>	Rôle des usagers-citoyens / Role of users-citizens : Dispositifs de participation <i>Involvement mechanisms</i> Possibilités de recours <i>Resort possibilities</i>	Rôle des autorités publiques / Role of public authorities : Coordination des autorités <i>Authorities coordination</i> Autorités de régulation <i>Regulation agencies</i>
Industrie Européenne / European Industry	Financement / Financing : Capacité d'autofinancement des entreprises en T.Euros <i>Self-financing capacities (T Euros)</i>	Investissement / Investment : Volume d'investissement des entreprises en T.Euros <i>Volume of company investment (T Euros)</i>	Sécurité / Security : Capacités de production en GW <i>Production capacities (GW)</i>	Compétitivité / Competitiveness: Productivité du travail dans les entreprises en kEuros par tête <i>Labour productivity within firms (k Euros a head)</i>	Emploi / Employment : Volume de l'emploi dans les entreprises en milliers de postes <i>Volume of employment within firms (thousands posts)</i> Evolution des qualifications requises <i>Evolution of required qualifications</i>

SCHEDULE	
9AM	Welcoming - <i>Accueil</i>
10AM	<u>Part one</u> : Review of the current situation <i>Première partie</i> : <i>Etat des lieux</i> <u>Chair - Présidence</u> : Raymond HENCKS (EESC - CESE)
	<u>Introductory report - Rapport introductif</u> : Steve THOMAS (PSIRU)
	<u>Panel</u> : - William WEBSTER (European Commission / <i>Commission européenne</i> / DG TREN) - Anne Malorie GERON (EURELECTRIC) - Ana AGUADO (ETSO) - Jan-Willem GOUDRIAAN (EPSU) - Dott. Mattia SICCA (FEDENERGIA - Confservizi) - Freek SPINNEWIJN (FEANTSA)
	Debate with the audience - <i>Débat avec la salle</i> -
1PM	Lunch at the EESC - <i>Déjeuner au CESE</i> -
2.30PM	<u>Second part</u>: Future prospective for the European Union <i>Deuxième partie</i> : <i>Perspectives pour l'Union Européenne</i> <u>Chair - Présidence</u> : Eva SCHULTZ (EUROCITIES)
	<u>Intructory report - Rapport introductif</u> : Pierre BAUBY (CELSIG)
	<u>Panel</u> : - Jorge VASCONCELOS (president of CEER - <i>président du CEER</i>) - Beatrix WIDMER (CEEP) - Gert DE BLOCK (CEDEC)
	Debate with the audience - <i>Débat avec la salle</i>
5.30PM	<u>Conclusions</u> - <i>Conclusions</i> : Jean-Claude BOUAL (CELSIG)

BEUC	European Consumers' Organisation - <i>Bureau Européen des Consommateurs</i>
CDR-COR	Committee of the Regions - <i>Comité des Régions</i>
CEDEC	European Federation of Local Public Energy Distribution Companies - <i>Confédération Européenne des Distributeurs d'Energie Publics Communaux</i>
CEEP	European Centre of Enterprises with Public Participation and of Enterprises of General Economic Interest - <i>Centre Européen des Entreprises à participation publique et des entreprises d'intérêt économique général</i>
CEER	Council of European Energy Regulators - <i>Conseil des Régulateurs Européens de l'Energie</i>
EESC	European Economic and Social Committee - <i>Comité économique et social européen</i>
CIRIEC	International Centre of Research and Information on the Public, Social and Cooperative Economy - <i>Centre International de Recherches et d'Information sur l'Economie Publique, Sociale et Coopérative</i>
EAPN	European Anti Poverty Network - <i>Réseau Européen de Lutte contre la Pauvreté</i>
EPSU	European Federation of Public Service Unions - <i>Fédération Syndicale Européenne des Services Publics</i>
ETSO	European Transmission System Operators - <i>Association européenne des gestionnaires de réseaux de transport d'électricité</i>
FEANTSA	European Federation of National Organisations working with the Homeless - <i>Fédération Européenne des Associations Travaillant avec les Sans-abri</i>
PSIRU	Public Service International research Unit - <i>Unité de Recherche Internationale de Services Publics</i>

First part

“Review of the current situation”

Session chair : Raymond HENCKS, EESC

Introductory report: Steve THOMAS, PSIRU

Panel :

William WEBSTER, European Commission, DG TREN

Ana AGUADO, ETSO

Anne-Malorie GERON, Eurelectric

Jan-Willem GOUDRIAAN, EPSU

Valeria ZINGARELLI, CIRIEC/Federutility

Freek SPINNEWIJN, FEANTSA

Introductory Report

Steve Thomas
PSIRU, University of Greenwich

1. *Introduction*

For most consumers, their primary concern with electricity is simply that supplies should be affordable and reliable, and they will judge the EC's Electricity Directive by how it seems to impact on these two measures. However, changes in these measures are far from easy to evaluate. Trends in system reliability are often obscured by the 'noise' from the variability caused by differing weather patterns and the normal annual variation in weather conditions will usually swamp any underlying annual change in system reliability. Price changes can result from a number of factors, amongst which, the efficiency of the companies is only one. Movements in fossil fuel prices generally have a much larger impact.

Ultimately, the Directives should be judged by just one criterion: Can the electricity industry, especially the generation part, be run better as a competitive market than as a regulated monopoly? If it cannot, all the other reforms required by the Directive, such as retail competition, unbundling of networks, introduction of autonomous regulators are pointless or their introduction does not require the massive restructuring the Directive has caused.

From the public's point of view, the Directive starts with a huge advantage in terms of its rhetoric. Who could be against 'consumer choice', 'reforms', 'liberalisation', 'breaking monopolies', 'opening up markets', 'introducing the discipline of private sector competition' and 'independent regulators'? And who would want 'centralised planning', 'publicly owned monopolies' and 'government interference'? It is clear that many policy-makers have not looked beyond this rhetoric and have not thought what issues the massive changes brought about by the Directive raise. Under the terms of 2003 Directive, the Commission must carry out a review of experience with the Directive and make recommendations about future Commission policy (see Annex). The aim of this Seminar is to contribute to this process and in today's discussions, it is important to look behind the rhetoric and to try to provide answer on four key questions that the Commission must address in its review:

- Can security of supply be maintained?
- Do the benefits of competition outweigh the costs?
- Can a free market be reconciled with the need to provide a universal service?
- Can environmental objectives be efficiently met?

2. *Outcomes*

Before addressing these questions, it is useful to summarise some of the outcomes, notably on prices, industrial structure, security of supply and economic sustainability.

2.1 **Price Movements**

Unlike other utility industries, such as telecoms, or water, where the main cost components are under the control of the provider, the largest element of the retail cost of power (typically at least 50 per cent) is the cost of generation and this is influenced by factors such as world fossil fuel prices over which generators have little control and the choice of technology. For example, if government decides to pursue nuclear power or renewables, this is likely to increase the cost of power. Typically, regulators, the Commission and governments have tended to attribute price reductions to the impact of the reforms, while price increases are presented as the result of other factors, such as the impact of world fossil fuel price reforms or the need to accommodate renewables.

The appropriate question on prices is therefore not whether prices have gone up or down, but whether they are higher or lower than they would have been if the system had not been reformed, or, more contentious but more relevant, whether prices are higher or lower than they would have been if alternative policies had been followed.

Constructing comprehensive ‘counterfactuals’ is a heroic and controversial exercise, but it is possible to decompose prices into their components to see how and why prices have moved. Most EU countries have relatively little experience since the reforms have been fully implemented, but Britain now has 15 years of experience to evaluate.

In Britain, prices for small consumers fell by about a third in real terms from 1990-2002. Against this, it should be noted that real prices were increased by 7 per cent in 1987/88 in preparation for the reforms, so, arguably, the net reduction was about 25 per cent. One large component of this was the removal of a subsidy for the nuclear power sector, which reduced prices by 10 per cent when it was abolished in 1996. However, both nuclear companies, especially the much larger, privatised British Energy have made heavy losses since then and the British government has had to provide assistance valued by the Commission at about €7bn to keep British Energy in business. The government also now underwrites the losses made by the plants owned by BNFL (about €220m per year). While the nuclear sector did improve its efficiency significantly from 1990-96, much of the 10 per cent price reduction seems more a transfer of costs from electricity consumers to tax-payers than an improvement in the efficiency of the companies.

The largest element in the price reductions was a 40-50 per cent cut in network charges imposed by the Regulator, leading to a reduction in overall prices of about 15 per cent. Again, while there were efficiency gains in the sector, the main factor behind these price cuts was the fact that the industry was sold for only about a third of its asset value. If a network company is essentially given the network rather than having to spend its own money building it, there is bound to be scope for price reductions but these price reductions will be temporary and will have been paid for again by tax-payers. For countries that did not privatise or sold the assets for their accounting value, there will be no scope for similar price reductions.

Little if any of the price reduction resulted from price cuts in the areas where competition was supposed to operate, especially generation. Like the network, the power plants were privatised for only about a third of their asset value so the capital repayment element of the generation cost was dramatically reduced. From 1990-2002 there were real reductions of 40-50 per cent in the price of fossil fuels. These cost reductions seem to have been absorbed either to pay additional costs or to bolster profits rather than being passed on to consumers as they would have done in an efficient market.

Since the start of 2004, pre-tax electricity prices have gone up by an average of 15 per cent, overtly to meet increases in gas prices, so that prices now are only about 10 per cent lower than in 1987 despite the significant transfer of costs from electricity consumers to tax-payers. There seems to be a ratchet effect on prices. When costs appear to go up, these are passed on to consumers and when costs go down, they benefit is kept by the companies.

If the Commission is to analyse prices properly, it needs to analyse price changes in the Member States in at least this depth if it is to draw worthwhile conclusions on the impact of liberalisation on prices. It must identify the factors behind price changes, not just the overall movement in prices, which by itself is meaningless.

2.2 Industrial structure

While movements in prices are difficult to analyse, the changes that have occurred in industrial structure are clear. Far from creating large fields of competing companies, the Directive has resulted in a massive concentration in the industry with three ‘big brothers’, EDF, RWE and E.ON growing rapidly outside their previous home territories. Most countries now have just two or three dominant companies with every prospect that the remaining small companies will soon be taken over. Even where national authorities try to take steps to prevent this concentration, their efforts are either ineffective or temporary.

There is also a strong trend towards integration of generation and retail. The advantages for companies are clear. Instead of selling their generation into a risky spot market, they supply to their own consumers who are usually under contracts of at least a year if they are industrial consumers or who are unlikely to switch if they are residential consumers. However, from a competitive point of view, it makes wholesale markets irrelevant and makes barriers to entry for new generators and new retailers insurmountable.

2.3 Security of supply

For the network, this is a contentious issue. No network can be entirely free of the risk of failure: attempts to achieve this would be prohibitively expensive. So a socially acceptable standard has to be set that balances the costs of improving security against the costs of failure. Network failures are complex matters that often have a simple immediate cause but require detailed investigations to determine the underlying factors. The Blackouts of 2003 were a clear warning that short-term cost-cutting whether it is to enrich shareholders or to meet unrealistic regulatory targets, for example not cutting trees under power cables, will have major social costs.

For generation, a shortage of investment is usually more clear-cut. There is no pattern across Europe. In some countries, such as Britain and perhaps now Spain and Italy, there has been wasteful over-investment as new companies try to enter markets that appear at least temporarily open. In others, where there is perceived to be a high risk either from a very concentrated market or a highly competitive market, for example, the Nordic countries, there has been little investment. There is little sign that the market will produce an optimal and smooth flow of investment.

2.4 Economic sustainability

The high, specialised technological demands of the sector mean that the companies have a special duty to ensure the sustainability of sector through training and R&D. This need was well recognised by the old monopoly structure. However, in the short-term, for an individual company, expenditures on training and R&D are discretionary and the investment could benefit competitors who have spent little on these items - the ‘free rider’ problem. There is clear evidence that R&D and training expenditure has plummeted since liberalisation and the industry is facing an ageing workforce with no means of renewing itself.

3. *Can security of supply be maintained?*

This is perhaps the key question. Because of the central role electricity plays in modern societies, no credible price reductions would be sufficient if the excellent record of security of supply the old regime built up was lost. There are two basic components to a secure supply, sufficient generation and a strong enough network.

3.1 Generation

Uniquely amongst major commodities, electricity supply and demand must match very closely at every instant if the system is not to collapse. Demand for electricity is relatively inelastic. For other commodities, depleting or building stocks, or substituting other products can be used to smooth out short-term shortages and surpluses. In free market, there is free entry and exit. For such a free market model in electricity to produce secure supplies at a reasonable cost, it must be assumed that, at all times, prices will be high enough to ensure that just sufficient generating capacity is profitable enough to remain in the market to ensure security of supply. Increases in wholesale prices at times when there is a need for additional generating capacity is becoming likely will stimulate sufficient new generation capacity, while lower generation prices at times of surplus will force inefficient generators out of the market.

Free market enthusiasts claim this Utopia can be reached, especially if real-time pricing is introduced so that consumers are exposed to the full impact of high wholesale prices and can adjust their

consumption patterns, making the demand for electricity more elastic. However, the unpredictable fluctuations in the price of electricity this would produce are unlikely to be acceptable to industry especially electric-intensive sectors, or to small consumers, especially poor consumers who must spend a high proportion of their disposable income on energy. So, it can be assumed that the perfect balance of supply and demand is unlikely to be always met, and that means there will have to be compromises to the free market ideal if security of supply is to be maintained. For example, there would have to be restrictions on entry and exit and perhaps limitations on generators' bidding behaviour.

Such restrictions seem well-meaning when proposed but at best, blunt competitive forces or at worst create distortions that are at least as bad as the problems they are meant to solve. For example, the provisions of the Directive require national official authorities to monitor supply and demand in generation and if a shortage seems likely, to commission the construction of sufficient new plant to avoid any shortfall. These provisions will only work if the authorities can predict entry and exit 5-10 years forward accurately enough, a calculation that can only be done with highly regulated entry and exit. They also do not consider the impact of such safeguards on competition. Why would any generator build a new plant to compete in a market when if they hold back, they will be able to bid for a contract to build a plant with comprehensive contractual cover?

The ideal model also assumes that generators will not manipulate the market. Experience in California, Italy, Spain and Britain shows this is not a reasonable assumption. From a competition perspective, generation and retail should be carried out by separate sets of companies, but this removes any responsibility on the generators towards consumers. This was one of California's errors. Faced with a choice of providing consumers with electricity at cost-related prices or making super-profits by exploiting the rules of the market, the generators opted for the latter. At least in this case, the abuse was blatant, cleverer companies will make their exploitation more subtle.

The response of Regulators and the Commission to problems of market manipulation is always to seek competitive solutions, such as breaking up companies with market power. But even as late as 2000, when no generator in Britain had a market share of more than 20 per cent, the Regulator was still complaining that prices were being fixed, so reaching a satisfactory Herfindahl-Hirschmann Index (the standard measure used by anti-trust authorities to determine whether a market is too concentrated) is not necessarily going to remove the risk. Also if, as argued above, a free market is not sustainable, breaking up one or two dominant companies into a large number of small companies, often without the financial strength to stay the course will be counterproductive.

3.2 The Network

In some respects, the strength of the network should not be affected by liberalisation. As before, the network remains a regulated monopoly. However, the more the Commission enforces separation of the networks, the less answerable to consumers that network companies will be, and the more likely they are to exploit the network for short-term profit.

Particular dangers are the use of incentive regulation, that is, any form of regulation that allows companies to increase their profits if they can make efficiency savings and the appointment of inexperienced regulators under pressure to make an impact. Networks need good, consistent maintenance. Failure to do this will not necessarily result in immediate reductions in service quality. How is the Regulator to distinguish between efficiency savings, and underinvestment and neglect of maintenance? Management techniques such as service quality indicators may only pick up the problem several years later, perhaps when the owner of the network has sold up and moved on, and when the network requires massive investment to bring it back to good condition. British experience with the privatised company that owned the rail track was particularly salutary in this respect. It is forecast to be 2014, before the reliability of the network will return to 1998 levels.

New autonomous regulatory bodies are under pressure to produce results and may be motivated to introduce performance targets that are not realistic perhaps to enhance their reputation or to punish a company for being uncooperative.

4. *Do the benefits of competition outweigh the cost?*

For most commodities, the costs of having a competitive field of suppliers are small and it can be assumed that the benefits of competition will far outweigh any costs. However, for electricity the costs are wide-ranging and often huge. The most obvious cost is the risk premium on construction of plants. A generation company is being asked to spend perhaps €1bn on a new plant for which, in a

proper market, there will be no guarantees on the volume sold or the price achieved. In a regulated monopoly, the real cost of capital is 6-7 per cent per year, but even in a weakly competitive market like Britain, the real cost of capital is likely to be at least 15 per cent. Advocates of competition talk about the transfer of risk from consumers to share-holders that competition brings and the discipline this will impose on generators, but will the benefits pay for these huge extra costs?

The other clear cost is the cost of acquiring new retail consumers. The best estimate of the total cost of retail competition for residential consumers in Britain was about €600m per year. The Directive requires that consumers who switch should not be charged and as a result, many will assume the process is cost free. Others talk about the transaction costs and try to estimate the opportunity cost for a consumer of searching for a cheaper supplier and doing the paperwork to switch. This however only a minor element (20 per cent) of the British costs and it is an opportunity cost rather than a real cost. The real costs are marketing (30 per cent), the IT cost of changing the consumer's registration to the new company (30%) and the cost of clearing up errors. In 2002, it was estimated that only 65 per cent of transfers in Britain were trouble-free and there is little evidence that things have improved. These costs are spread across all consumers so the 80 per cent of consumers that do not switch and do not get cheaper power have to pay for the 20 per cent who do switch. This might be a useful step in stimulating the market but it is hardly equitable.

5. *Can a universal service be ensured*

One of the strengths of the old system was that companies were given the duty to provide an equitable, reliable and affordable service to all consumers and had no economic incentive not to treat consumers fairly. In a competitive market, companies only have a duty to their shareholders to maximise profits. Companies must target the most profitable consumers and charge the highest prices the market will bear. This inevitably means small consumers, who do not have the skills or incentive to negotiate with their electricity supplier, will be charged disproportionately more than large consumers. Within the category of small consumers, poor consumers who have difficulty paying their bill will not be attractive to retailers and will do worst out of the process.

If we look around Europe, switching rates are generally far too low to put any competitive pressure on companies. In Britain, where switching rates are adequate, consumers are either unable to identify the cheapest supplier or are choosing their supplier on criteria other than price. Either way, this is a recipe for companies to exploit small consumers.

Companies will only accept obligations to provide a service to commercially unattractive consumers if they are paid to do so.

6. *Can environmental objectives be met?*

When the Directive was being designed, the assumption was that economic considerations were the over-riding policy priority. Now, while ensuring that electricity supplies are affordable is still important, reducing the emissions of greenhouse gases is becoming of comparable importance. So far, many countries have been able to achieve some reductions by substituting gas for coal. While some progress has been made with renewable technologies, particularly wind, R&D expenditure has fallen rapidly since liberalisation was introduced, because companies are wary of the 'free-rider' problem and because money not spent on R&D can now be kept as extra profits. If the impact of the switch to gas is simply to make short-term gains at the expense of depleting a finite resource and with little progress in developing long-term sustainable sources, these short-term gains will be worthless.

7. *How can these failings be addressed*

7.1 *How can governments ensure there is enough generation?*

For most countries, a return to national or regional monopolies in generation is politically not feasible. If the way forward with greenhouse gas emission reductions is through small scale sustainable sources, it is probably not desirable. One of the failings of the large centralised monopoly generators was their failure to exploit the potential for small sources of power such as co-generation, not owned by them.

The Single Buyer system was an option in the first Directive but in such a garbled and incomprehensible form that it was not taken up. Increasingly, countries outside Europe are going

back to this option because it does seem to give control over the amount and type of generating that is available while still allowing scope for competitive pressure on generators.

7.2 How can the integrity of the networks be guaranteed?

The blackouts of 2003 demonstrated that any weakness in the networks can have immediate and serious consequences for large numbers of people. Two issues are important:

- Ownership. One simple way to ensure that the network companies do not neglect the network to enrich their shareholders is to retain it or take it into public ownership. Particularly in Northern Europe, e.g. Denmark and Netherlands, governments are acknowledging the special role of networks by taking it into public ownership;
- Regulation. Incentive regulation has the attraction of giving the owners of networks explicit incentives to improve their efficiency. But is the risk that companies will make short-term cost reductions rather than long-term efficiency savings worth taking?

7.3 Should retail for small consumers be a regulated monopoly?

The 2003 Directive presents choice of supplier as a fundamental freedom that all EU citizens should have:

‘The freedoms which the Treaty guarantees European citizens — free movement of goods, freedom to provide services and freedom of establishment — are only possible in a fully open market, which enables all consumers freely to choose their suppliers and all suppliers freely to deliver to their customers.’

Given that electricity is an entirely standard product – by switching supplier, you cannot get ‘better’ electricity – this is a mystifying statement. All the evidence is that consumers want affordable, reliable supplies and given that there can be no pleasure in choosing electricity supplier, consumers are unlikely to want choice unless it can give them cheaper supplies.

There is an increasing volume of opinion that costs of retail competition for residential consumers far outweigh any benefits, at least with present technology. Adopting the Single Buyer option would also remove almost all the scope for price differentiation between suppliers.

For countries such as Britain, that have spent billions of Euros of consumers’ money introducing retail competition, abandoning it will require considerable political courage. However, if retail competition not only does not benefit small consumers but also puts the poorest consumers at risk, it is a decision that must be taken.

Annex Terms of the Review of the Directive

Article 28 of the 2003 Electricity Directive (2003/54/EC) requires that:

The Commission shall, no later than 1 January 2006, forward to the European Parliament and Council, a detailed report outlining progress in creating the internal electricity market. The report shall, in particular, consider:

- The existence of non-discriminatory network access;
- Effective regulation;
- The development of interconnection infrastructure and the security of supply situation in the Community;
- The extent to which the full benefits of the opening of markets are accruing to small enterprises and households, notably with respect to public service and universal service standards;
- The extent to which markets are in practice open to effective competition, including aspects of market dominance, market concentration and predatory or anti-competitive behaviour;
- The extent to which customers are actually switching suppliers and renegotiating tariffs;
- Price developments, including supply prices, in relation to the degree of the opening of markets;

- The experience gained in the application of the Directive as far as the effective independence of system operators in vertically integrated undertakings is concerned and whether other measures in addition to functional independence and separation of accounts have been developed which have effects equivalent to legal unbundling.

Where appropriate, the Commission shall submit proposals to the European Parliament and the Council, in particular to guarantee high public service standards.

Where appropriate, the Commission shall submit proposals to the European Parliament and the Council, in particular to ensure full and effective independence of distribution system operators before 1 July 2007. When necessary, these proposals shall, in conformity with competition law, also concern measures to address issues of market dominance, market concentration and predatory or anti-competitive behaviour.

First part : debate summary

The session opening gives Raymond Hencks the opportunity to remind the audience of the European Commission evaluation report expected before 1 January 2006. This report will deal with the state of implementation of the European electricity market. In connexion with it, R. Hencks emphasised the Commission's ambiguous position, which is judge in its own case in evaluating the European market.

Steve Thomas' introductory report tackles the electricity market liberalization issue from several points of view to which the panel and the audience react.

- About **price movements**, S. Thomas emphasised s that they are not necessarily connected to the alterations resulting from the sector reforms. According to him, the question is to know whether prices are lower than they would have been without liberalization. However, he states that prices have gone up by 17% in 2004 and that a 15% increase is forecast in 2005-2006. It is important to consider the factors for price movements rather than price movements themselves.

According to Anne-Marie Géron, representing Eurelectric, prices have slightly increased since 1998, but, if associated to inflation, they have decreased (an 11% drop for households and 18% for the industrial sector). Therefore, price reduction targets have been met and electricity prices even turned out to be more stable than natural gas and oil.

A-M. Géron, also, underlines that 70% of consumers are satisfied with the service which proves that liberalization is not necessarily synonymous to worsening and can go together with quality.

According to Freek Spinnewijn, representing FEANTSA, regulated competition may be satisfactory and may allow many people to have access to electricity because of public service obligations.

Valeria Zingarelli, representing Federutility and the CIRIEC, underlines that Italian prices are higher than anywhere in Europe, even if service continuity has been improved. Prices of energy production have increased, especially because of natural gas prices increase.

- According to S. Thomas, **industrial structure** is another angle to evaluate the internal electricity market. In fact, the market is being more and more concentrated and three big companies control the European market. This concentration might set barriers against potential new generators and retailers entry which could reduce the number of companies on the market. Moreover, S. Thomas considers a highly regulated market as not a market anymore in its economic meaning.

William Webster, representing the Commission, points out that numerous measures have been set up to allow Member states to intervene on the market (either incentive or safeguarding measures). He insists on the Commission's demand of network unbundling, through any which regulation they choose for it. Absence of discrimination, due to too strict or too controlled prices being the most important factor for the Commission.

Jan Willem Goudriaan indicates that EPSU has figures reporting the employment evolution in the electricity sector since liberalization started. Around 300.000 jobs were cut out since then which drives to recommend a better training of the actual employees. In fact, employees' training is not anymore provided by companies and the sector will suffer from the lack of training of its employees.

- **Security of supply**, according to S. Thomas, is another important issue. Moreover, security of supply depends on sufficient production and a solid network. About production, a real equilibrium between supply and demand is hard to find and market manipulation may rise. The "single buyer" solution was rapidly abandoned. An efficient and maintained network is essential for a good development of the electricity internal market.

As to W. Webster, security of supply is a major issue in the implementation of the internal market of electricity, and the Directive gives a clear framework on how to improve supply safety.

Speaking for ETSO, Ana Aguado indicates that the methods designed to ensure security of supply are called market methods.

A participant wonders which change can result from the market liberalisation as far as there is no EU energy policy. According to him, to be able to face the profound changes in the energy sector makes it necessary to settle a common policy. Absence of common policy keeps back the implementation of the energy internal market.

- The **costs of setting up the market** is another issue S. Thomas tackles. Competition has a cost for consumers. The **investments** implied by the market liberalisation are also to be taken into account.

W. Webster emphasises the important attention given to investments levels. Incentives and capacity building offers must help to make sure investment levels will be high enough, to prevent from volatile market. Returns on investment must be steady and high enough to foster long lasting investments.

Contrary to the Commission, A-M. Géron points out the lack of framework for investments.

For A. Aguado, investment capacities mainly depend on political decisions and have little to do with liberalization. Moreover, she considers that productivity gains announced by the Commission are still to be proved on the long term.

Question is asked by a participant of which research on energy would be necessary to guarantee electricity networks a better efficiency.

- On **universal service**, S Thomas mentions that electricity providers have a commercial logic that compels them to have economically reliable customers. Profit maximisation is now an important data for providers. Concerning the rates of customers changing providers, S. Thomas points out that even in Britain where the liberalization process is well fostered, the switching rates do not have any influence on competition. For the Commission, the possibility to choose a provider is an important aspect of the electricity market implementation, to introduce competition. Nevertheless, consumers must be aware of the electricity costs in order not to create uncertainty.

J-W. Goudriaan considers there is a large information gap between large companies and households. He thinks a strict regulation necessary in order to avoid market manipulation.

For F. Spinnewijn, many electricity providers avoid the poorest consumers and public service obligations is of little impact. About billing, he informs against unclear and sometimes not legal bills.

- S. Thomas considers that the **environmental objectives** must be included along with the implementation of the internal market of electricity. If, hitherto, greenhouse gas reduction has quickly been realized thanks to the switching from coal to natural gas, it is, henceforth, necessary to maintain high levels of R&D in order to develop renewable energies and allow gains reinvestment in sustainable development. Investment must concern long term electricity market.

A. Aguado underlines that a non common policy may become harmful for Member states, particularly for sustainable development.

A participant asks the question of fulfilling the Kyoto targets when nuclear power is going to be abandoned.

- About the **Commission's report**, W. Webster reminds the audience that the Commission does not have the monopoly in writing it. Answering a question, he specifies that consulting the various market actors is possible. He stresses that the liberalization process has just began and needs to be adjusted as and when required.

- A. Aguado underlines it is necessary to set up national reports in order to better evaluate the market.

- S. Thomas emphasises the importance of the indicators used for the evaluation, for they may sometimes be poorly reliable.

Second part

"Which prospects for the European Union ?"

Session chairman : Eva SCHULTZ, Eurocities

Introductory report: Pierre BAUBY, CELSIG

Panel :

Beatrix WIDMER, CEEP

Gert DE BLOCK, CEDEC

Introductory report

Pierre Bauby
CELSIG's Secretariat

At European level, the electricity sector is defined as a Service of General Economic Interest (SGEI).

Then, let's start from the definition of SGEI in the European Commission's White Paper, published on May 12th 2004:

"The term "services of general economic interest" is used in Articles 16 and 82 (2) of the Treaty. It is not defined in the Treaty or in secondary legislation. However, in Community practise there is broad agreement that the term refers to services of an economic nature which the Member States or the Community subject to specific public service obligations by virtue of a general interest criterion."

Which objectives and general interest aims are thus covered? They have a three-dimension aspect :

- to guarantee to each citizen the right to access basic goods or services
- to provide economic, social et territorial cohesion, to develop solidarity
- to take long term and sustainable development in its economic, social and environmental dimensions into account

If we try to define the electric sector evolution prospects for tomorrow's European Union, this definition leads us to ask 3 fundamental questions:

- 1/ Which public service obligations and which guarantees for citizen-users?
- 2/ Which long term supply security and which European energy policy?
- 3/ Which sector organization for more efficiency?

We shall study these three questions starting from the last one, since European legislations were originally set according to internal market prospects.

1/ Which sector organization for more efficiency?

The internal market construction logic puts into light large discrepancies existing in the 1980's between, on the one hand, national mode of sector definition and organization, each country having built his electric system according to its own history, traditions and institution, and, on the other hand, European integration logic.

Thus, introducing competition on a European level was conceived as means to break up boarders and to improve efficiency of sectors protected by monopolies. The successive Directives organized the gradual opening of the electricity market.

But which internal market do we need?

Under several aspects, the internal market of electricity has specific characteristics for various reasons:

- firstly, electricity is a particular good since it cannot be stored,
- its route on the network is not precise and can not be established (Kirchhoff Laws),
- electricity transportation over long distance is difficult and costly because of losses,

these three first elements lead to characterize electricity transportation as a natural monopoly, which is clearly stated today,

- then, electricity market has to face nature's obstacles (islands, peninsula), which limit exchanges, combined with the above ones, these elements drive to note that today there are mainly regional markets, made of large "blocks", and not one integrated market.

- plus that if, in the beginning, competition introduction brought new operators into the market, very soon re-concentration phenomena appeared:

- . mergers and acquisitions series (between 2000 and 2003, the 7 largest European electricity companies invested 80 billion dollars in mergers and acquisitions),

- . operators internationalisation, "newcomers" on a country market often being dominant operators in another country,

- horizontal integration is developing, especially between gas and electricity, but also more generally with the network's other activities,

so has appeared a European oligopoly including a few powerful operators, first in the electricity sector, then in gas and trans-sector, made of 7 groups: 3 large companies (EDF, RWE and E.ON) and 4 smaller ones (Suez-Electrabel, Vatenfall, Enel and Endesa).

Then, essential issues about the future of the "Europe of electricity" are stated:

- is one fluid and standardized internal market possible or only several regional markets?
- which role for infrastructure network and how to develop a trans-European network?
- how to regulate competition between trans-sector related oligopolies? How to evaluate a "dominant position abuse"?
- will regulation remain mainly national or are we going towards federal regulation, i.e. shared regulation competences between Member states and the Union?
- how to ensure a pluralistic and contradictory evaluation of the electricity system performances, as of the consequences of liberalization measures and of market complex alterations?

2/ Which long term supply security and which European energy policy?

Let's start from the EU's objectives for today and tomorrow:

- ensuring European energy supply security on long term, whereas the Green Paper on energy efficiency, just published by the European Commission, states that "*in 2030, based on today's consumption trends, EU will depend on importation for 90% of its oil needs and 80% for natural gas*"
- fulfilling the Kyoto targets on greenhouse gas emission reduction
- improving energy efficiency,
- developing renewable energy
- guaranteeing sustainable development

It is clear that if given up to competition and market forces, these objectives will never be met. There is, thus, a need for a common policy.

Trans-European networks and environment protection have articles in the present Treaties, but energy is not a common policy.

On the other hand, the Treaty establishing a Constitution for Europe sets energy as a shared competence and a whole section is dedicated to it, in which internal market operation, security of supply, energy efficiency and renewable energies are tackled. Member states still have their decision capacity concerning their own energy supply, but the European energy policy is instituted.

"SECTION 10

ENERGY

Article III-256

1. In the context of the establishment and functioning of the internal market and with regard for the need to preserve and improve the environment, Union policy on energy shall aim to:

(a) ensure the functioning of the energy market;

(b) ensure security of energy supply in the Union, and

(c) promote energy efficiency and energy saving and the development of new and renewable forms of energy.

2. Without prejudice to the application of other provisions of the Constitution, the objectives in paragraph 1 shall be achieved by measures enacted in European laws or framework laws. Such laws or framework laws shall be adopted after consultation of the Committee of the Regions and the Economic and Social Committee. Such European laws or framework laws shall not affect a Member State's right to determine the conditions for exploiting its energy resources, its choice between different energy sources and the general structure of its energy supply, without prejudice to Article III-234(2)(c).

3. By way of derogation from paragraph 2, a European law or framework law of the Council shall establish the measures referred to therein when they are primarily of a fiscal nature. The Council shall act unanimously after consulting the European Parliament."

3/ Which public service obligations and which guarantees for citizen-users?

Article 3 of the Directive has been enriched between the first (1996) and the second one (2003): energy efficiency and climate protection have entered in the field Public Service Obligation (PSO), national consumers must have an equal access to electricity suppliers, third parties access to networks is considered as part of PSO. Universal service is clearly defined: it is *"the right to be supplied with electricity of a specified quality within their territory at reasonable, easily and clearly comparable and transparent prices"*. Vulnerable customer protection is inserted and customers must have access to numerous information concerning the nature of electricity they are supplied with. At last, Member states must prescribe measures favouring economic and social cohesion, environment protection and measures against climate changes, and must inform the Commission of the measures settled to implement the Directive.

So, between 1996 and 2003, there has been a shift from capability to obligation. There are still sentences inviting Member states to implement various actions (*"Member States may impose on undertakings operating in the electricity sector"*, *"Member States may introduce"*).

Text is sometimes more commanding: *"Member States shall impose on distribution companies"*, *"Member States shall take appropriate measures to protect final customers"*.

Moreover, Member states must report some of their actions to the Commission. This was not compulsory in 1996: *"Member States shall, upon implementation of this Directive, inform the Commission of all measures adopted to fulfil universal service and public service obligations"*, *"They shall inform the Commission subsequently every two years of any changes to such measures"*.

Are these provisions sufficient and efficient?

First, we note that there is no real guarantee of access for every European citizen-user. Social cohesion and solidarities are not ensured. Territorial cohesion and equality of treatment seem threatened by the complete liberalisation planned for 2007. Long term targets and sustainable development are not guaranteed.

On these various issues, it appears necessary to fulfil the existing directives' provisions, which leads to ask a few key questions:

- is it worth opening the market to residential consumers in 2007, as far as we do not know if it would be a plus for them; at least, isn't it necessary to complete this opening with new guarantees for citizen-users?
- don't we need real European public service obligations and universal service, guaranteed everywhere and for everybody?
- don't we need, at the same time, more Europe for inter-connexion and the energy policy, and more respect towards energy, social, territorial, local, regional, national diversities?

Second part : debate summary

1. Eva. Schultz opens the debate by emphasising that Pierre Bauby's introductory report begins with a **definition of Services of General Economic Interest (SGEI)** that can be summed up in three points: guaranteeing to each citizen the right of access to universal goods or services, providing economic, social and territorial cohesion, insuring solidarity and taking long term and sustainable development into account.

If we want to evaluate the electric sector according to this definition, **three questions** arise:

- which public service obligations and which guarantees for citizen-users?
- which long term supply security and which European energy policy?
- which sector organization for more efficiency?

▪ **Electric sector organization**, shows there is a discrepancy between European requirements and national functioning modes. Opening to competition has been imposed on the electric sector and stress was set on search for energetic efficiency.

In his appraisal of the market, Gert De Block, representing the CEDEC, emphasises the importance of investing in networks, which is a necessary condition for the market to operate correctly. From his point of view it is important to make sure that networks benefit from the profits made by the producers. G De Block, as a participant, points out that small providers ought to merge in order to remain on the market.

▪ According to P. Bauby, the **internal electricity market** is a specific market, in which electricity transportation is a natural monopoly that favours regional markets. In reaction, some in the audience specify that the rising of regional markets weakens the development of the European electricity market. P. Bauby considers the market gives the illusion of attracting new producers, but reality is that it is getting more and more concentrated. This drives to the question of which electricity market would be more favourable to all the stakeholders: the possibility of having a unified market, developing trans-European network, end of oligopolies competition, and an adequate market evaluation.

G. De Block points out that there is no internal market because of some producers' dominant position. According to him, implementing the electricity market implies to set up an organization watching on a maximum concentration rate. Local distribution companies are a solution in order to limit oligopolies.

A participant asks which type of intervention would be needed to bring an oligopoly to end. Other participants underlines the need of unifying tariffs, especially for small consumers.

▪ The importance of a **common policy on energy**, in order to ensure European energy supply, to meet the Kyoto targets, to develop renewable energies, to ensure sustainable development and to improve energetic efficiency being stressed by P. Bauby's report, question is asked of the European Union means to fulfil these common policy objectives. Long term energy supply is clearly concerned as is also the importance of R&D financing.

For his part, G. De Block stresses the importance of better articulated short and long terms in setting up European policies. Energy consumption is also an important issue to be tackled in the common policy, since electricity producers do not want to see consumption lower.

▪ **Public Service Obligations (PSO)** are largely discussed. Between the first and the second Directive, new elements have been added such as: third parties access to network, energy efficiency, vulnerable customer protection, etc.) and universal service is now clearly defined. The terms used in the Directive give a more compulsory dimensions to the measures, whereas before they were a possibility.

A participant stresses that PSO have an immediate impact on cities and local situations, i.e. price and local taxes rising.

▪ According to P. Bauby, the **Commission's report** must consider the electricity market under all its aspects and the various actors of the market must go beyond the Commission's evaluation. It is also G. De Block's opinion, who wants to be party in the discussions. Both, they underline the necessity of standardized policies in order to better evaluate the needs of every actor. A participant points out the important role of the civil society in evaluating the market implementation. P. Bauby considers that control by civil society concerns the social and democratic aspects of the market and that is why civil society must be associated in the Commission's evaluation.

▪ The issue of the **regulators' powers** is emphasised several times during the session. According to Beatrix Widmer, representing the CEEP, market concentration control cannot be conducted by a European regulator, for it would have too much influence. This control must result from subsidiarity.

A participant considers that the electricity market opening is an opportunity for setting up a European energy agency in order to create more cooperation between Member states. Some say that harmonizing rules is also necessary to allow the implementation of the best solutions for the market. The opening process must go along with rules in order to create more cooperation between Member states and set up an efficient market.

To summarize the afternoon debates, P. Bauby draws **three key issues**:

- **Is the market opening to residential consumers in 2007 to be hoped as far as its benefit are to be proved?** This issue sends back to the Commission's evaluation and to the report to be held in December 2005: all the dimensions have to be taken into account (economic, social, environment, etc.)
- **Should public service obligations and universal service not be guaranteed everywhere and for everybody?** On this aspect, it is necessary to go beyond the Commission's evaluation.
- **Do needs for inter-connexion and a common policy not make necessary a stronger cooperation while respecting Member states diversity?** What is at stake is to produce more European integration, on the one hand, while respecting local disparities and differences between the Member state, on the other hand.

Conclusions of the seminar

Jean-Claude BOUAL
CELSIG's Secretariat

First, I will picture the general pattern in which this seminar is in keeping with. Secondly, and based on our debates today, I will draw six main lines for action, in order to take part into the debates with the institutions.

I. The CELSIG seminar, which was launched about a year ago, was decided when it clearly appeared that promises made to European consumers about electricity market liberalisation were not to be held, especially concerning prices. A first evaluation of the liberalization was necessary. In the coming months, other initiatives, workshops, seminars or conferences, will follow, organized by trade-unions, lobbying bodies, NGOs or institutions.

The CELSIG is a network putting together European actors worried by the evolution of services of general interest within the EU and working on the notion of services of general interest in Europe. These organizations or networks participating in the CELSIG may have different, even divergent points of view. This is all but normal since they come from various fields of intervention, and our debates always proved that differences do not stop from being able to bring forward common proposals. These common proposals are all the more richer they do not rub out the differences or divergences, but go beyond and impose nothing on the CELSIG participants, on the contrary their own proposals and reflections are enriched by the different views expressed.

Thus, it is normal that different positions were expressed today. This seminar was set up to launch the debates and initiate the sector evaluation by the various actors, not to settle once for all on every issue, which is clearly not possible. The purpose was to listen to each stake holder's opinion and argument, in order to enrich ones' own opinions.

Indeed, there is an "electricity issue" and more broadly an "energy issue" in the European Union. Recent publications by the European institutions prove it: the Commission's Green Paper on energy efficiency; Mechtild Rothe's report (European Parliament) on energy efficiency, with figured objectives until 2015 to be constraining; Anne Lapperouze's report (European Parliament) on pan-European gas and electricity networks, aiming at accelerating interconnection projects, increasing allocated financing and appointing coordinators for difficult projects; a report on the electricity liberalisation is to be issued by the end of this year by the Commission that has sent a questionnaire to gas and electricity sector main actors on the wholesale prices making. For their part, users are all the more worried about these issues they generally do not feel compelled, or little, to switch providers, despite the appeals resulting from the market opening.

Our debates, several times today, strongly tackled the issues at stake: energy problems are closely linked to the mankind very future; climatic changes originate in fossil energy consumption; inescapable resources exhaustion. These considerations set new questions for our civilisation since it is our production process and our ways of life which will be affected tomorrow. Internationalisation is not only economic, it is also an environmental, ecological and social process. It is a global issue. Aware of it, articulating short, medium and long term is an important issue in the energy sector, especially for electricity, but, it is short term and prices for an always increasing production that are tackled.

If energy market deregulation is now effective in all the Member states, liberalization does not keep its promises concerning prices and is often more synonymous of increase. NUS Consulting Group, the International energy and telecom cost Observatory, just published its annual study on electricity in 14 industrialized countries, into which 10 EU countries. Prices forecasts for the coming years are:

- France: the Observatory predicts a rise superior to inflation rates
- Germany: no doubt that within a year, prices will be 5 or 10% higher
- Belgium: more price increases are predictable in the next twelve months, because of taxes on electricity buying and oil prices increasing at world level
- Denmark: because of the putting up of electricity prices in 2005 and because efficiency improvements will slightly be felt, prices should be higher in the coming year

- Spain: combination of production costs within the Iberian market and investments in network efficiency, will put up prices in the short term but more competition will bring forth better prices
- Finland: in Nordic countries there is an increasing demand for electricity and Norway should not export electricity during dry seasons. Nuclear industry should meet the increasing demand, but the Finnish reactor OL3 should not run before 2009. Thus, next year, prices will be higher than inflation
- Italy: electricity prices will still go up as long as world oil prices will stand around \$50 a barrel and more. Current indicators show steep increases from this autumn
- Netherlands: they will probably see substantial price increase, from 5 to 7%
- United Kingdom: the electricity market is and will always be linked to oil prices. There will probably be no price decrease if these prices are still high. Nevertheless, the worst should be behind, since electricity prices should remain stable in 2006
- Sweden: in the long term, electricity prices should raise because of a strong demand on oil and coal scheduled for thermal energy production. Moreover, projects for emission exchanging permits within the EU, together with the efforts made to reach environmental targets should contribute to price increasing.¹

Reasons for electricity price increasing are numerous: oil, gas or coal prices, necessary network or production investments, higher taxes, setting up emission permits, drought, etc. All these factors combine and pave the way, whatever the market composition and organization and the primary energy sources are.

II. Now, considering our debates, I will come back on a few points tackled today, not to repeat but in order to try and draw main lines for action. These main lines could be the base for the CELSIG's contribution to the Commission's debate on the White Paper on energy efficiency, in order to take part and, if possible, influence the institutions' decisions, Commission, Council, Parliament.

1. **The EU needs a more asserted and offensive energy policy.** Success of the Lisbon goals largely depends on it. There has been attempts in this way with the Commission's communication and Green Paper on energy efficiency, but it is probably necessary to go beyond and have a broader view. Energy efficiency is not only a problem of industrial sector efficiency, reducing losses, improving interconnections where necessary, it is also a question of energy savings and industrial activities efficiency. To understand what implies such a policy, two examples in the industrial sectors are very convincing about eating up energy: building industry in its whole field (from material to heating) and transportation.

Two questions inevitably occur in the today EU context:

- Firstly, is there a political will to really tackle this issue, without underestimating the stakes, which, as underlined during the debates, are about way of life and civilisation issues, even about mankind capacity to live in good conditions tomorrow?
- Secondly, how is it possible to come to necessary decisions within a reasonable time, when the essential political competence is at Member state level (subsidiarity principle, the Union having no competence in this field) and that Member states do not have the right size to deal with these issues? It is only through its competences on environment and trans-European networks EU can interfere with energy policy, but unanimity on taxation issues limits the scope of its intervention. If once implemented, the Constitutional Treaty would allow progress since energy would be a shared competence (section 10-article III-256) and to consider pro-European policies.

In the same way, the idea was put forward of setting up a European energy agency. Considering the importance and urgency in the forecast context of global energy crisis, such an agency would be useful and allow the definition of a common energy policy. But, once again, the problem lies in the lack of legal base necessary for the setting up of the agency. The art will be to find a rooting in trans-European networks or environmental competences.

¹ More information on www.nusconsulting.com Also see the table on page 21

2. In the last few years, several European countries have suffered total or partial electricity black-outs. Networks have been blamed each time. Each time, the idea of setting up a European electricity public company was put forward as a possibility **to carry out services of general interest obligations on a European scale**, so overcoming the national obligations. Iconoclastic some times ago, this idea can easily be considered today, or at least the creation of a public company pool with European status. On the one hand, nothing is against it in the treaties and the European regulations. On the other hand, there is already at least one example with the common company in charge of implementing “Galileo”, even if, at time, its financial capital will be open to private sector and a public private partnership set up. It is the European public institutions initiative which, through a joint national and European venture, did allow this project to be launched. Why not setting up this type of project in the strategic field of energy? It implies a stronger and more concrete European integration, which is possible, it is up to political will.

3. If, according to the Charter of Fundamental Rights, services of general interest are means to guarantee fundamental rights, in a world where energy might be lacking, the right to energy is a key political issue. It paves the way for other fundamental rights such as housing, information (Internet, telephone), it questions the possibility of having larger solidarities between Europeans. **Broadening universal service** is a burning issue on the European agenda, **in order to ensure each European resident his right to energy**.

A new and broader field opens up for European institutions, in particular for the Commission and its report due by the end of 2005. It is necessary to switch from recommendation to Member states, as in the present Directives, to directions for the whole European territory,.

Three phenomena require a stronger implication from the public institutions at any level (local level for distribution, national and European for transportation, production and security of supply): tariffs increase, as said earlier, higher needs on almost the whole European territory and not only from new Member states; low switching rate despite offers. Therefore, exclusion risks are important. From now on, European, national and local public authorities must be carefully watching over the good implementation of the regulation on the whole European territory, which probably demands new provisions concerning regulation in this sector.

If market opening is to be effective for everyone in 2007, which is strongly questioned by many as we heard along the debates today, it cannot be done without strengthening the energy universal service. This opening must not be a head-long run in liberalizing, it must be preceded by a serious evaluation, larger than on prices. This democratic evaluation must be done with all the various stakeholders.

This topic is not specific to electricity and can also be used for postal services, which might be opened to competition in 2009.

4. Under this considerations, **regulation in the electric sector** takes another feature. If energy policy is essential for the internal market and the Union's future, new regional markets, larger than the traditional nation or intra-national wide, are emerging (Iberian market between Spain and Portugal “Mibel Mercado Iberico de l’Electricidad”; Nordic market “Nordel”; Central Europe market between France, Belgium and the Netherlands; transalpine market between Switzerland and Italy), can thus regulation remain at national level under the principle of subsidiarity? Does competition know the subsidiarity principle, can it be implemented within the frame (logic) of internal market? Under the market logic, nothing or nobody can stop a dismissed competitor, or even just non being suited, to require an arbitration from the judge, national then European. Because of lack of legal framework (secondary legislation), the treaty is the reference. The judge may take contradictory decisions (judgements Teckal and Stadt Halle) and he tends to apply competition rules that are precise and clear where the subsidiarity principle is general and vague. It is, thus, necessary to define what we mean by subsidiarity principle in the internal market frame. To speak clearly, to give "legal security" to this principle in a European law. Is the Regulators' Club (Florence Club) enough to face the new situation resulting from the first liberalization phase?

5. Today’s debates have strongly stressed the need for **developing research**. Research must concern the whole of electricity process, from production to distribution, and new sources of energy, especially renewable ones. A particular effort must be put on energy savings (sustainable development) and renewable energy. Public and private research must involve in partnerships.

6. Evaluation is a recurrent problem for all the service of general interest at Community level. We do demand that **every new step in liberalization is preceded by a democratic and strict**

evaluation of the former steps as of the foreseeable effects of the proposed step. A European evaluation is possible today since several Member states have completed the liberalizing process for several years already, which makes possible to review the situation.

Is it necessary to specify that a democratic evaluation means participation of all the stakeholders (users/consumers, public authorities, including the Commission, company workers and their trade unions, and company management) with a public debate, a contradictory expertise in the framework of an organization independent from the European Commission, which cannot be judge in it's own case. This is why we advocate for **setting up an independent Observatory of services of economic general interest** to carry out these evaluations.

Last but not least, **reports must be translated in the various EU languages.** If not, how can citizens use a report available only in English as it is the present situation with the annual report on horizontal evaluation of services of general interest? It is a question of good sense and democracy.

The CELSIG will take part into the debate on the Green Paper on energy efficiency which has been just published by the Commission since today's discussions give much material for it. They should also allow us to participate in the "Sustainable Energy Forum" the Commission is going to set up.

There is still much work to do. Thank you for your participation.

COMPARISON OF ELECTRICITY COSTS IN THE EU *

Position	Former position	Country	Cost in €kWh	Evolution* (%)
1	1	Italy	0.0949	+ 6.8
2	4	Denmark	0.0792	+ 16.4
3	2	Germany	0.0791	+ 5.5
4	3	Belgium	0.0759	+ 7.5
5	5	Netherlands	0.0712	+ 7.4
6	6	Spain	0.0672	+ 3
7	8	United Kingdom	0.0651	+ 24.2
9	9	France	0.0522	+0
10	10	Finland	0.0468	+ 0.7
12	12	Sweden	0.0421	+ 4.3

* compared to local currency

* From NUS Consulting Group Electricity Survey (2005)

List of participants

Name	First name	Organisation
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BAUBY	Pierre	CELSIG's secretariat
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GERMAIN	Pascal	CESRW
GERON	Anne Malorie	Eurelectric
GILBERTZ	André	Confédération Syndicale Indépendant du Luxembourg
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GUIEZE	Jean-Luc	Commission consultative des mutations industrielles
HACH	Sascha	CELSIG
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HOLTHAUS	Christian	VDEW
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SCHULTZ	Eva	Eurocities
SICCA	Mattia	FEDENERGIA CIRIEC
SPINNEWIJN	Freek	FEANTSA
THOMAS	Steve	PSIRU
THÔNE	Joël	CGSP/ADMI
VARIN	Katherine	CELSIG's secretariat
VIDIC	Elodie	CELSIG
WEBSTER	William	DG TREN
WIDMER	Beatrix	CEEP
WILBERZ	Eric	CREG
WOLF	Alain	CEEP
ZEGERS	Laetitia	CREG