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Press release

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

- Monopolies Commission recommends regional network charge for renewable energy generators to limit costs of network expansion
- The EU emission trade system should be strengthened by including additional sectors to achieve greenhouse gas reduction targets
- Monopolies Commission calls for adjustments with respect to the awarding of concessions for network operation to relieve consumers

The energy turnaround (*"Energiewende"*) is a major challenge for the entire energy system in Germany, and requires targeted action. In its Special Report "Energy 2017: Avoid patchwork, targeted action required", which has been published today, the Monopolies Commission draws up proposals for the Federal Government from where to start. "We currently see few concentration problems in energy markets. However, the adjustment of the regulatory framework in the course of the energy turnaround represents a major challenge. A **consistent regulatory framework** may contribute to limit the costs of the energy turnaround, says the chair of the Monopolies Commission, Prof. Achim Wambach.

The market share of the four largest energy suppliers has decreased again compared to the year 2014. In the year 2016, it accounted for 54 percent (2014: 62 percent). Other market power indices, calculated regularly by the Monopolies Commission, such as the Residual Supply Index (RSI), likewise **do not indicate any problems with market power in electricity wholesale**.

One main focus of the Special Report "Energy 2017" is the implementation of the energy turnaround in Germany. The primary objective, **reducing greenhouse gas emissions,** should be attained by **reinforcing the EU emission trade system (EU ETS)**. For this purpose, additional sectors, *e.g*. the transport sector, should be included in the system. A well-functioning, **cross-sectoral EU ETS** would allow to phase out the subsidy system for renewable energies and facilitate the **coupling of sectors** *("Sektorkopplung"*), *viz*. the use of renewable energy resources in the sectors concerned. The funding of renewable energy plants (*e.g*. wind parks and solar modules), and the extension of grids due to the energy turnaround entail costs that **increasingly burden the electricity consumers** in Germany. The Monopolies Commission proposes measures which could limit this burden. Using **technology-neutral auctions** to determine subsidy levels for renewable energies allows for an inexpensive installation of renewable energy plants. Moreover, the introduction of regionally differentiated network charges for renewable energy generators *("EE-Regionalkomponente"*) would provide incentives for plant operators to account for possible network expansion costs in their choice of location. This would limit network expansion requirements and the network charges imposed on electricity consumers.

Municipalities are obliged to tender the operation of electricity and gas distribution networks in their territory. The Monopolies Commission has identified deficiencies in the tendering procedure, which frequently have the result that awards go to other applicants than the most cost-efficient ones. Municipalities should therefore also foster competition by means of a **discount to expected network charges** *("Netzdividende")*, which would ensure that the award goes to the applicant operating the network most efficiently. This would open options for electricity consumers to benefit from reduced network charges.

The Monopolies Commission is a permanent, independent expert committee, which advises the German government and legislature in the areas of competition policy-making, competition law and regulation. Its legal responsibilities encompass, among others, the preparation of a Special Report analyzing the development of competition in the electricity and gas markets. The Monopolies Commission has five Members appointed by the Federal President based on a proposal of the German government. Prof. Achim Wambach, Ph. D., is the chair of the Monopolies Commission.

Measures to increase competition on the energy markets

Wholesale

- In the gas sector, the decision whether to consolidate market regions should be tied to a positive result of a cost-benefit-analysis, which is based on a network model.
- To ensure efficiency and the security of supply in electricity wholesale, the Monopolies Commission recommends the following measures with respect to the Federal Government's concept of a capacity reserve ("*Kapazitätsreserve*"). The Federal Government should
  - limit the capacity reserve to a period of ten years;
  - make the capacity reserve contingent on a calculation of the Value of Lost Load (VoLL). The technical bidding limit at the electricity power exchange market and the price for balancing power in case of using the reserve should be determined by the Value of Lost Load.
- The Federal Cartel Office and the Federal Network Agency should publish the envisioned guidance note on the supervision of abuses and market manipulation in the energy sector in a timely manner.
- The Federal Cartel Office should base the definition of the market for electricity supply on (quarter-) hours and limit the definition of market dominance to those times where a supplier is able to influence the price significantly due to its market position.
- To establish transparency and legal certainty for energy suppliers, the Federal Cartel Office should define distinct and foreseeable criteria for the review of competition-related conduct in the envisioned guidance note.

Climate policy and the coupling of sectors ("*Sektorkopplung*")

- Policy makers should strive for an agreement on ambitious climate goals primarily at European and global levels.
- The European Emission Trade System (EU ETS) should be strengthened by effectively reducing the amount of available certificates, so as to sufficiently limit the total volume ("cap") of greenhouse gas emissions.
- The funding of renewable energy plants should be phased out and the reduction of greenhouse gas emissions should be entirely organized via the EU ETS.
- To increase the use of renewable energy resources in the transport sector and in heat generation, *i.e.* to increase incentives for sector coupling, the relevant sectors should be included in the EU ETS. For an interim period, the following measures should be adopted:
  - Electricity consumption should be relieved from the levy for the funding of renewable energy plants ("*EEG-Umlage*");
  - The system of energy and electricity taxes should be modified in favor of a greenhouse gas pricing signal.

Energy turnaround (*"Energiewende"*)

- When subsidizing renewable energies, technology-neutral auctions should be used to the largest extent possible so that the efficient ratio of installed capacity of different technologies can be identified in competition.

- Within the framework of the subsidy system for renewable energies, the so called reference yield model (*"Referenzertragsmodell"*) should be abandoned.
- When expanding the electricity grids, installing renewable energy plants in areas close to energy consumers should be considered as an alternative.
- Renewable energy generators should be subjected to a network charge *("EE-Regionalkomponente"*). This network charge should
  - allow to balance revenue potentials and network expansion costs, and thereby to efficiently direct the additional construction of renewable energy plants on the regional level;
  - be payed by renewable energy generators to network operators irrespective of the tendering procedure whenever the need to expand networks arises at the planned location. This would allow to allocate the costs of the energy turnaround with respect to grids in a manner that is more in accordance with the cause of cost.

Tendering concessions for distribution networks

- The joint guidance note of the Federal Cartel Office and the Federal Network Agency and the guidance notes and collections of sample criteria issued by the cartel and regulatory agencies of the Länder should be adjusted to the new § 46 of the Law on the Energy Industry. This would require, on the one hand, that the objective of cost efficiency be valued more, and, on the other hand, that the German legislature provide firm criteria to the tendering municipalities, which support this objective.
- As one criterion supporting the objective of cost efficiency, it is recommended to introduce a "discount on grid charges", which the network operators may offer as part of their bids for the tendered concessions.
- When applying the "discount on grid charges" as a competition parameter during tenders, the tendering municipality should retain liberty to define the basis of assessment for the discount.
- Where the parties agree on discounts on the calculated grid access charges in the concession agreements, the admissibility of such discounts could be clarified – *e.g.* by adding the following second sentence to § 17(8) of the Regulation on Electricity Grid Access Charges ("*Stromnetzentgeltverordnung*") and § 15(8) of the Regulation on Gas Grid Access Charges ("*Gasnetzentgeltverordnung*"):

  „Notwithstanding Sentence 1, the parties to a concession agreement are allowed to agree on discounts from regulated grid usage fees."

Regulation of grid access charges

- Efficiency incentives should be strengthened when the regulatory system is developed further given that the comparison of capital costs is currently lowering such incentives.
- The existing distortions in favor of capital-intensive investments under the system of capital cost comparison should be reduced.
- Efficient grid operators should be awarded an efficiency bonus regardless of the method used to determine their efficiency value. To this end, it should be examined whether to revise and extend the newly introduced bonus system to include stochastic frontier analysis.
- Potential hardship cases due to the readjustment of the regulatory system should be addressed in the individual case, not by flatly extending the interim threshold to the fourth regulatory period.