

LEGAL REGULATION OF BUSINESS AND INNOVATIONS AS A GROUND FOR BUSINESS AND SOCIETY DEVELOPMENT IN THE EU AND UKRAINE

CASE OF EU INTERNAL ENERGY MARKET AND EU ETS

Abstract

One might say that European energy innovation has started with the developing of a single energy market. First steps were taken in 1996 [1], with the accompanying rules for the creation of an internal market for electricity. The accompanying Directive in 2003 [2] dealt with shortcomings of the functioning of the internal market. Finally, with the adoption of the third energy package [3] electricity energy market was fully opened.

However not only the market players were affected. The institutional framework was also established. The Agency for the Cooperation of Energy Regulators (ACER) and the European Network of Transmission System Operators for Electricity (ENTSO-E) were established. ACER was mandated according to Regulation (EC) No 713/2009 to propose Framework Guidelines, based on which, ENTSO-E develops legally binding network codes (Regulation (EC) No 714/2009) for cross-border network and market integration issues, without prejudice to the Member States' right to establish national network codes which do not affect cross-border trade.

Therefore the third energy package marked an evolution of EU energy policy and which consisted of five primary documents: two Directives and three Regulations. The five crucial areas covered by the Third package were as follow: a) unbundling energy suppliers (including generation) from national network operators; b) strengthening the independence of national regulators; c) establishment of Agency for the Cooperation of Energy Regulators; d) imcreasing cross-border TSO cooperation and d) increase in transparency in retail markets. From a mutual point of view, the unbundling was the crucial and the most significant step forward in opening up an internal energy market. Unbundling meant that national

Transmission system operators, energy generation, production and supply activities were separated. Although EU targeted 2014 for the completion of the internal energy market, it still remains substantially off the completion, although major groundwork has been laid down and initiatives put in action. The said model is formed of the mix of different integration mechanisms and principles such as regional energy markets and market coupling.

The third energy package sets the stage for the consumers – making the better informed and able to select the retailers of the energy. In some markets, the consumers are shifting to become *prosumers* – consumers with production capacities who are able to buy and sell electricity into or from the grid, thus integrating the into whole market.

Under third energy package transmission system operators and distribution system operators are unbundled, and since they form a natural monopoly, they are regulated. From the regulation standpoint, it entails a difficulty since the company has to be incentivized to perform its activities in the most efficient way. Some frameworks impose price cap regulation, some frameworks regulate the rate of return companies can get from their investments. Over the whole EU all frameworks deprive the network operator the possibility to look for other or innovative solutions in which either the price cannot be set (unlawful proposition to the customer) or it is not able to determine the return on investment, because it cannot base the expected outcomes on hard evidence.

However it shall be noted that internal energy market project has led to more transparency, innovation and market activity, birth of new energy and financial products and has created a significant number of employment opportunities all over Europe, thus sustaining its core principle and founding ideas.

On the other hand, EU emissions trading system (EU ETS) is first of its kind and world's biggest major carbon market. EU ETS operates on a very simple principle – cap and trade, meaning that cap is set on the total amount of certain greenhouse gases that can be emitted by installations covered by the system and

within the cap, companies receive or buy emission allowances which they can trade with one another as needed. Over time the cap is reduced therefore increasing their value, and companies must purchase certain amount of allowance to cover their emissions. This scheme ensures the benefit of the companies and the public – emissions are cut where it's the cheapest option to do so, leading to lower carbon output and it promotes investment in clean technologies on the other hand. Currently, the caps are EU-wide and auctioning is default method to allocate allowances, however trading possibilities exist and are common.

Conclusions: Therefore it shall be noted that regulation can work as a stimulus to innovation. EU regulation is followed throughout all stages of innovation from research to commercialization. Flexible regulation in usually EU leads to more innovation. During the enforcement phase of regulation, the lower the costs of compliance and the administrative burdens, the more positive is the impact on innovation.

LITERATURE:

1. Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity;
2. Directive 2003/54/EC of the European Parliament and of the Council of 26 June 2003 concerning common rules for the internal market in electricity and repealing Directive 96/92/EC;
3. Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

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