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Non-discriminatory energy system operation

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Outline

- › Discriminatory incentives
- › Functionality of the obligation
- › Difficulties in practise
 - Example 1: Different treatment of shippers and distribution networks
 - Example 2: Priority access for renewables



Discriminatory incentives -1

- › Vertical integration is the biggest incentive for discriminatory system operation:
 - *“without effective separation of networks from activities of generation and supply (effective unbundling), there is an inherent risk of discrimination, not only in the operation of the network but also in the incentives for vertically integrated companies to invest adequately in their networks”*



Discriminatory incentives -2

- > ...But not the only one

- > Reasons to distinguish between system users
 - Efficiency considerations, increase profits, securing investments, exploit market power



Functionality -1

- › Articles 12 Directive 2009/72/EC and 13 Directive 2009/72/EC

- › VEMW and others (C-17/03) and Citiworks (C-439/06): specific expression of the general principle of equality of EU law
 - *“comparable situations are not treated differently unless such difference in treatment is objectively justified”*



Functionality -2

- › Equality does not exist as such
- › Citiworks (C-439/06): *“one of the essential measures in order to bring about the internal market in electricity”* (and gas)
- › Instrument to achieve equal competition between energy suppliers and its anticipated benefits



Example 1: Different treatment of shippers and distribution networks

- › Decision of the Competition Commission on Permission to Appeal (CC02/07)
 - Should shippers that transport gas on behalf of an industrial end-consumer connected to the transmission system, and distribution networks be treated in the same way regarding the arrangements for the offtake of gas?



Example 2: priority access for renewables

- › Article 16 (2b) Directive 2009/28/EC: *“Provide for either priority access or guaranteed access to the grid-system of electricity produced from renewable energy sources”*
- › Recital 60 : assurance to connected generators of electricity from renewable energy sources
- › Does not involve discriminatory tariffs or conditions, but plays a role only in the event of shortage of transport capacity



Conclusion

- › After unbundling: discriminatory incentives remain
- › Difficult to apply the non-discrimination rule in practice
- › Priority access: interesting example of interaction between energy policy aims



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Thank you for your attention

