



Antitrust: Commission opens investigation into German grid operator TenneT for limiting cross border electricity capacity with Denmark

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The European Commission has opened a formal investigation to assess whether German grid operator TenneT's limitation of capacity from Western Denmark into Germany breaches EU antitrust rules. The Commission and TenneT are engaged in constructive discussions on commitments to address those concerns.

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *"Energy should flow freely in Europe so that the electricity produced by a wind mill in one country can reach the consumers in another. Our investigation into TenneT is part of our efforts to ensure that electricity grid operators do not unjustifiably restrict the free flow of electricity between Member States, to the detriment of European energy consumers. Ensuring that electricity interconnectors remain fully open to cross-border trade is essential to achieve our overall objective of an efficient, sustainable and competitive energy market"*.

TenneT TSO GmbH (TenneT) is the largest of the four German transmission system operators that manage the high-voltage electricity network in Germany. Transmission system operators transport electricity from generation plants to large industrial electricity consumers and to regional or local electricity distribution operators, which in turn deliver electricity to households and other smaller industrial consumers.

The Commission's antitrust investigation will focus on indications that TenneT may be reducing the amount of transmission capacity available on the electricity interconnector at the border between Western Denmark and Germany.

If proven, this behaviour may breach EU antitrust rules, specifically on the abuse of a dominant market position ([Article 102](#) of the Treaty on the Functioning of the European Union), as it would amount to discrimination against non-German electricity producers and to a segmentation of the Single Market for energy.

The Commission has today also sent to TenneT its preliminary assessment setting out in further detail its competition concerns. The Commission and TenneT are in constructive discussions to design a set of commitments that could address these concerns. Any potential commitments would need to ensure that the maximum capacity of the interconnector between Western Denmark and Germany would be made available to the market, while preserving the security of the German high-voltage electricity network.

An opening by the Commission of a formal investigation does not prejudge its outcome.

Background

TenneT TSO GmbH's high-voltage transmission network stretches across Germany, from Schleswig-Holstein in the North to Bavaria in the South-East. TenneT TSO GmbH is a fully-owned subsidiary of the Dutch company TenneT Holding B.V. which fully controls TenneT TSO B.V., the company managing the high-voltage transmission network in the Netherlands.

Electricity transported on the transmission network is supplied to the distribution networks as well as to large industrial customers directly connected to the transmission network. Electricity transmission networks are interconnected, and therefore electricity transmission system operators also manage interconnections with other networks.

The Commission already addressed the issue of compatibility with EU antitrust rules of limits on cross-border capacity (import/export) in the [Swedish Interconnectors](#) case, where it adopted a decision in April 2010 rendering legally binding commitments offered by Svenska Kraftnät.

The investigation into TenneT complements the Commission's effort to address the systematic limitation of cross border capacity on electricity interconnectors across the EU. The Commission has proposed to update the Electricity Regulation as part of the '[Clean Energy for All Europeans](#)' package which is currently being discussed in Council and Parliament. Among other things, it aims at improving

the rules on cross-border capacity in order to maximise the capacity made available and to ensure that transmission system operators do not unnecessarily limit the volume of cross-border capacity.

Procedural background

[Article 102 of the Treaty on the Functioning of the European Union](#) prohibits the abuse of a dominant market position which may affect trade between Member States. The implementation of this provision is defined in the [Antitrust Regulation \(Council Regulation No 1/2003\)](#), which can be applied by the Commission and by the national competition authorities of EU Member States.

Article 11(6) of the Antitrust Regulation provides that the initiation of proceedings by the Commission relieves the competition authorities of the Member States of their competence to also apply EU competition rules to the practices concerned. Article 16(1) of the same Regulation provides that national courts must avoid giving decisions which would conflict with a decision contemplated by the Commission in proceedings it has initiated.

There is no legal deadline for bringing an antitrust investigation to an end. The duration of an investigation depends on a number of factors, including the complexity of the case, the cooperation of the undertakings with the Commission and the exercise of the rights of defence.

More information on the investigation will be available on the Commission's [competition website](#), in the public [case register](#) under the case number [AT.40461](#).

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