Statement by Commissioner Vestager on sending a Statement of Objections to Gazprom

Brussels, 22 April 2015

***Check against delivery***

Today, the Commission has sent a Statement of Objections to Gazprom, one of Europe's main gas suppliers. It outlines our preliminary view that Gazprom is breaking EU antitrust rules by putting in place artificial barriers to trade between certain EU countries, preventing gas flows and competition across national borders.

Our investigation concerns eight European countries: Estonia, Latvia, Lithuania, Poland, Czech Republic, Slovakia, Hungary and Bulgaria. Gazprom is the dominant gas supplier in all these countries. In some of these markets, Gazprom is the only gas supplier the country has access to and relies on. Our preliminary conclusion in the Statement of Objections is that Gazprom is abusing this dominant position.

First, I will say a few words about the process that has led up to today's decision. The Statement of Objections is based on a thorough in-depth investigation including on-site inspections, which were carried out on premises of gas companies in September 2011. Then in 2013 and early 2014 there were discussions about commitments but they failed at the time.

When I took office last November, I asked my services to update the case file to reflect the most recent available data as a basis for my decisions on next steps.

What we outline in the Statement of Objections is our preliminary view that Gazprom's overall strategy is abusive. Gazprom has adopted a strategy to partition the EU Single Market, through different territorial restrictions, including in contracts with its customers and also through other measures. We consider that in contracts supplying the eight different countries, in different forms, Gazprom has been partitioning the market. For example, one of the measures under investigation would be that a customer of Gazprom in one country is contractually bound not to re-export gas to another Member State. All these clauses lead to one result and appear to have one purpose: Gas purchased in one country cannot be sold to customers in another country, which means that purchasers do not have access to gas in other territories at potentially more competitive prices.

The Commission also has concerns that, as a result of this market partitioning, Gazprom has been able to pursue an unfair pricing policy in five of the countries - Bulgaria, Estonia, Latvia, Lithuania and Poland. There is evidence that the prices Gazprom applied to its customers in these countries may be excessive when compared to Gazprom’s costs and to benchmark prices. These unfairly high prices could stem partly from the mechanics of Gazprom's formulae for indexing gas prices to oil product prices to its own benefit. The Commission does not consider that oil indexation as such is illegal but in the countries in question, we are investigating if the specific way that oil indexation was used contributed to unfair pricing.

Finally, there is also evidence that Gazprom used its dominant market position by making gas supplies to Poland (concerning the Yamal-pipeline) and in Bulgaria (concerning the South-Stream pipeline) conditional on obtaining unrelated commitments from wholesalers concerning gas transport infrastructure.

We think that this potentially abusive conduct has been pursued for quite a while and that it is ongoing. Gazprom now has 12 weeks to reply to the Statement of Objections. We will look carefully at all of Gazprom's arguments before taking any decision. Gazprom can also request an oral hearing to present its position. All roads are open at this stage.

This may be seen by some as a more political case than some of the other competition cases in my portfolio. But if you dig into past case files, you will actually find other companies, which we have investigated under EU antitrust rules, which also concern state-owned companies or companies with strong governmental influences.

This is also the second Statement of Objections in the energy sector that I have sent during my mandate: On 23 March, the Commission sent a Statement of Objections to Bulgarian Energy Holding (BEH), which also concerns agreements that may limit purchaser freedom to choose where to resell the
electricity bought.

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