

I speak today as President of Eurogas, the association of the European Gas Industry. At the same time I am mindful being COO of the Gas & Power Division of ENI.

Eurogas very much welcomes this afternoon debate and we are pleased to provide a first reaction to the new proposal of the European Commission.

The new Gas directive offers opportunities to complete the liberalisation of the market, contributing to the security of supply and to a sustainable environment. However we believe that the effective implementation of Directive 55/2003 remains a key priority. The process surrounding the Directive, including the Madrid Forum, should be vigorously pursued.

It is a matter of concern that 20 cases of infringement are still open in respect of the 2003 Directive's implementation, and that powers and independence of National Regulatory Authorities are still widely different among the various Countries.

The big challenge Europe has to face is the increasing gas demand and the import dependence from today 61% to the expected 80 – 84% of the total demand in 2020.

Indeed in Europe the gas consumption is increasing while the internal production is decreasing. As a consequence, it will be crucial to guarantee secure supplies and both the increase of the infrastructure system and the development of the interconnection between different national markets. At the same time further exploration and production of Europe's indigenous reserves should be stimulated. Europe should remain an attractive market to gas suppliers and producers.

Our industry is confronted with the formidable challenge to respond in a secure and sustainable manner to the increasing demand for natural gas in the EU.

The influence of external production countries is becoming more and more important, so the dialogue and the relationship with them should be reinforced. Geopolitics of gas and electricity are very different. Both the Council and the European Parliament called for a distinction to be made in the treatment of the two sectors. This concern does not seem to be addressed in the proposed package.

We support the Commission's aims to achieve a fully functioning internal market. This requires policies focused on :

- non-discriminatory access and system operation
- stable regulatory framework conducive to support investment needs for Europe's supplies

- improved regulatory process
- improved TSO co-operation

It is of paramount importance that suppliers and shippers have unhindered access to network services under transparent and non-discriminatory measures. The Commission is proposing Ownership Unbundling as the solution to reach those objectives.

A first comment is that solutions to strengthen effective unbundling should be proportionate and take into account not only the need to improve market development and integration but also the need to have stronger European companies to negotiate gas supplies in the interest of European consumers.

Any proposal in respect of unbundling should be implemented as far as possible in the same way in terms of timescale and content, in order to guarantee a levelled playing field. Investment planning should take into account the needs and views of all gas market stakeholders. Decisions should be market driven.

The Commission provided an alternative to the OU, namely the ISO model. This will be studied. Better, lighter and well targeted regulation should be sought and the possibility of other feasible alternative solutions not excluded.

Some potential issues in the two Commission's proposals should be highlighted:

- Takeover risks, implying the weakening of the negotiating power of the European gas importers; in this respect, it appears that the Commission is aware of such risk and has tried to introduce provisions to cope with this. When we have the proposal, we have to evaluate if these measures would be effective.
- Looking at the European reality, there is no evidence of a substantial growth in investments in the Member States where OU is implemented or vice-versa.
- Furthermore, it has to be ensured that rates of return allowed to investors are commensurate with the risk involved.
- Furthermore, the proposed amendment of Article 22 may dilute its current beneficial provisions in respect of new investments.

Concerning new investments I would be concerned if the integration to the current Article 22 of the Directive, to provide a "temporary exemption" to the obligation for TPA in case of new trans-national interconnection, mandating the execution of a market test, the approval of its results by the relevant NRA(s) and the approval by the Agency for multi-State interconnections, may complicate the investment process.

Such doubt is made stronger if we consider that every request for TPA exemption and the associated decision from the NRA(s) must be notified to the Commission that has been given the power, in a 2/4 months period, to require the NRA to modify the exemption ruling or to revoke it. Even the terms for survival of exemption (2 years if not begun or 5 years if not terminated) appear quite tough considering the potential and unforeseeable delays that some of the more complex projects may entail, even when a full endorsement of all stakeholders is in place.

Another point that could contribute to regulatory uncertainty leading to disincentive to invest is the too vague concept of temporarily partial derogation from OU for new major investments. This vagueness inhibits investment planning at least until the derogation rule is clearly defined and approved. So its impact is an immediate disincentive on investments waiting for a clear and predictable framework.

Other crucial point would be a bureaucratic Record keeping of commercial transactions. The additional heavy burden on market participants should be checked against the expected benefits.

In fact, it would be paradoxical if these requirements should lead to a reduction in liquidity or depth of the market and even in a limitation for new entrants to access developing or established hubs.

Furthermore, the European Commission already has the power to gather all the trading information it requires from companies on a case by case basis.

We would like also underline several good principles we found in the package.

We appreciate the process that led to the choice of the creation of the Agency for coordination and harmonisation of National Regulatory Authorities, because it shows both consideration for a pragmatic approach in respect of the existing structure (ERGEG) and a serious ad hoc effort to analyze the cost/benefit balance of each possible solution.

So we favour this provision of setting up the Agency , but attention should be kept to the following points:

- With regard to the proposed solution for an improved regulatory co-operation, we shall consider further the scope of this Agency's proposed powers in particular to be clear where the boundaries will lie between the enhanced powers of NRAs and the new Agency.
- Possible overlapping with duties and competencies of competition authorities .

Concerning the duties and powers of the NRAs, we deem important to recall that the national Regulators should have the necessary resources and harmonised powers to carry out their duties effectively and correctly.

More substantially, we as industry cannot avoid being surprised observing the extent of the power for evaluation envisaged for the regulators in respect of investment decisions and the discretionary and broad features of certain sanctionary powers.

On the other side, we recommend the explicit exclusion of any residual principle and practice of price regulation.

We understand that effective regulation should apply to the domain of infrastructure investments, access and functioning. However the surveillance of the commercial dynamics of a free market, unless blatant distortions emerge, should not be subject to a systematic and cumbersome bureaucratic monitoring.

Another good proposal is the constitution of the "European Network for Transmission System Operators for Gas".

In principle, we support the proposed setting up of a more formal body of TSOs (GTE+). Improved co-operation between TSOs on their operations will deliver better services for gas suppliers.

We very much welcome, that there will be an obligation on the GTE+ to consult regularly with network users and other suppliers and with association representatives of the shippers as Eurogas.

Please allow me to draw some conclusions:

the issue of asymmetry among national implementations of general principles and the need for all Member States to proceed along a coherent timeline is not a theoretical or rhetorical exercise; in fact, in order for it to really function, any developed market needs to embed at its very core mechanism favouring, for example, the unconstrained access of new suppliers at any level of the chain, seamless customer switching, easy movement of the commodity from supplier to consumer along a national and trans national infrastructure.

Along the same path of general coherence and certainty is the need we all feel for harmonization of powers and for clearly defining independence of Energy Regulators; we are seeing a lively debate in respect of these themes, so we hope that the discussion on the third package of measures will help in

clarifying both the actors and the regulatory framework in which we will operate.

I think that any future legislation should aim at a well functioning internal market and at preserving the ability of energy companies to become globally competitive, to invest on time in all segments of the gas chain and to determine their portfolios and their long term strategies.

In this respect, we do see the need for EU External Policy to support Dialogue and Partnership under a general umbrella of reciprocity with producing Countries as a way to strengthen our security of supply.

Eurogas is looking forward to the coming debate. On Friday September 21<sup>st</sup> the Eurogas conference in Bruxelles will open this debate.