

**LONG-TERM SUPPLY CONTRACTS IN  
EUROPEAN DECENTRALIZED ELECTRICITY MARKETS:  
AN ANTITRUST PERSPECTIVE**

A thesis submitted to the University of Manchester for the degree of  
Doctor of Philosophy in the Faculty of Humanities 2009

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**ABSTRACT**

The objective of this thesis is to assess the emerging strategy of the European Commission on long-term supply contracts in decentralized electricity markets with a view to better understanding and designing the role of EC antitrust law in the new regulatory regime. The central conclusion is that the European Commission increasingly tends to use the antitrust laws as a *quasi-ex ante* regulatory tool, and that we are up to a point where the lack of predictability could be more detrimental to market building and social welfare than the lack of economic analysis.

The first part aims to clarify the policy trade-offs faced by the European Commission in the light of economic theory and then analyze the specificities of the problem of long-term supply contracts in the European context. It shows that the policy prescription from economic theory and the 20 years of liberalization experience worldwide remains ambiguous and that antitrust policy should aim to reach a middle path where spot contracting would combine with a satisfactory share of longer-term supply contracts and vertical integration. It then argues that the European Union has taken a more chaotic reform path than in many other jurisdictions due to the prevalence of national politics and the lack of a legal basis for energy in the EC Treaty. The incomplete transition towards fully competitive and integrated markets complicates the problem of long-term supply contracts which must now be tackled differently, but not separately, within and across Member States due to the low development of interconnectors.

The second part of this thesis then reconstructs the strategy of the European Commission and pursues a substantive assessment. This thesis found that a new methodology to assess foreclosure effects in the context of liberalized markets is emerging but does not balance favorably between economic accuracy and predictability. In particular, a strong pro-entry bias can be depicted and the current development of the commitment procedure raises new difficulties. This thesis then demonstrates that EU law does not recognize the pro-competitive effects of cross-border long-term supply contracts and as a consequence organizes a market design for cross-border capacity allocation which does not allow for the grant of long-term priority access rights to interconnectors. It concludes that the only way forward is to better integrate competition policies on long-term supply contracts and merchant transmission investments.