

Brussels Brief

A weekly overview of the regulatory, legal and political developments of the institutions and the issues facing the European Union



9 January 2009

The next issue of Brussels Brief will be sent on Friday 23 January 2009.

Key Developments

Chemicals: Commission Welcomes Voluntary Agreement on Safe Storage of Mercury

Laura Zadunayski

The European Commission has welcomed a voluntary agreement of the European chlor-alkali industry to ensure the safe storage of surplus mercury after the export ban takes effect in March 2011. This is the first voluntary commitment from industry to be formally acknowledged by a Commission Recommendation since the Commission laid down common rules and principles on environmental agreements in 2002.

In September 2008, legislation was adopted banning all exports of mercury from the European Union and calling for mercury that is no longer used in the chlor-alkali industry, or that is produced in other major industrial operations, to be stored safely. Faced with this obligation, Euro Chlor, the business association representing chlor-alkali producers in the European Union and the European Free Trade Association regions, has agreed to remove surplus mercury from decommissioned chlorine plants, to transport it to its final destination in approved sealed steel containers and to store it in deep underground salt mines. This will provide safe final disposal of mercury as there is no humidity or possibility of corrosion. The Commission will develop the specific technical criteria these locations will have to meet, as well as rigorous safety requirements to be observed at the sites.

Energy: Acquisition of British Energy by EdF Approved by Commission

Leigh Smith

On 22 December 2008, the European Commission approved the proposed acquisition by EdF of British Energy, subject to conditions. The acquisition is valued at approximately £12.5 billion.

The Commission was concerned that a combination of EdF, a French electricity generating and wholesale trading company, and British Energy, a British company active in the same

markets, would raise several serious competition concerns. These included (i) the ability of the merged entity to withdraw electricity supplies thereby causing an increase in electricity prices and (ii) the parties' ownership of a significant number of sites suitable for the next generation of UK nuclear power stations.

To remedy the Commission's concerns, EdF offered wide-ranging commitments, including (i) the divestiture of two power stations and a site in the UK suitable for building a nuclear power station and (ii) the sale of minimum volumes of electricity on the wholesale market for a given period of time. The Commission concluded that this remedy package was sufficient to allay its concerns. The transaction is expected to be completed in the first quarter of 2009.

Finance – State Aid: First Measures under Temporary Framework Approved

Jacques Pieters

On 17 December 2008, the European Commission announced that it had adopted a temporary framework that would allow EU Member States to alleviate the effects of the credit squeeze on the "real" economy (see Brussels Brief, 19 December 2008). Subsequently, the German Government proposed a number of measures based on Section 4.2.2 of this framework. These measures, which have now been approved by the Commission, involve interest reductions on loans by the main German Development Bank to small and medium-sized enterprises (SMEs) facing financial difficulties. The exact reduction in interest will be decided on a case by case basis. The loans may be granted for a maximum period of eight years, but all interest rate benefits will have to stop by the end of 2012, as stipulated by the Commission's framework.

Mergers: Commission Clears Planned Joint Venture Between Aéroports de Paris and The Nuance Group

Mélanie Bruneau

Under the EC Merger Regulation the European Commission has cleared the proposed joint venture between the French company, Aéroports de Paris (ADP), and the Swiss company, The Nuance Group (TNG). ADP is responsible for constructing, operating and developing all airport facilities in the Paris region, including those at the Paris-Charles de Gaulle

and Paris-Orly airports. TNG specialises in airport retailing and is also involved in airport catering services and on-board sales on planes and boats. The purpose of the joint venture is to operate fashion and accessories stores in public and reserved areas at the Paris-Charles de Gaulle and Paris-Orly airports. The Commission's investigation showed that the joint venture would not have a detrimental effect on competition in the markets for retail sales or retail trade concessions at airports, because the two companies have only a limited share of the European and world markets and have many other competitors. At a local level, ADP was already managing the commercial areas of the two Paris airports and this situation will not change after the creation of the joint venture.

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Next Week's Events

Monday 12 January – Friday 16 January 2009

COUNCIL MEETINGS

No Council meetings scheduled for next week.

COURT OF JUSTICE

Judgments

Approximation of laws

- C-140/07 Hecht-Pharma

- C-495/07 Silberquelle

- C-539/07 Commission v Italy

Environment and consumers

- C-259/08 Commission v Greece

Industrial Policy

- C-383/07 M-K Europa

Taxation

- C-281/07 Bayerische Hypotheken- und Vereinsbank

- C-502/07 K-1

Opinions

Environment and consumers

- C-427/07 Commission v Ireland

Taxation

- C-357/07 TNT Post UK

COURT OF FIRST INSTANCE

Judgments

State aid

- T-162/06 Kronoply v Commission

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