

Brussels, 31st July 2008

Commissioner Kroes welcomes amendments in EDF/Exeltium announced framework

In 2007, the Commission initiated formal proceedings against EDF for possible breaches of the EC Treaty rules on abuse of a dominant market position (see [MEMO/07/313](#)). The Commission is investigating whether the supply contracts concluded by EDF with industrial consumers foreclose the French electricity market, thereby impairing access of new electricity suppliers.

In the above context, the Commission had some specific concerns regarding the announced contractual framework between EDF and Exeltium, a consortium of a number of large industrial electricity consumers in France. According to this envisaged arrangement, EDF was to supply significant volumes of electricity to the consortium on a very long term basis. The Commission was also concerned that a number of resale restrictions in the framework might have been of an anticompetitive nature.

The Commission notes that the undertakings have taken these concerns into account and have made substantial amendments to the contracts initially foreseen. The Commission welcomes the fact that the parties intend to secure an effective opt-out for the members of the consortium wishing to contract with other suppliers, thereby decreasing the potential foreclosure effect of the framework in the medium to long term. The Commission also welcomes the removal of the various resale restrictions from the contracts.

Subject to certain other resale restrictions affecting the contracts which are derived from the legal and regulatory provisions being removed through amendment of those provisions by the French authorities, the envisaged amendments to the contractual framework will address in a satisfactory manner the particular concerns raised by the Commission with respect to this specific contract, viewed in isolation. The electricity volumes covered by this contractual arrangement will, like those of all other EDF contracts, be taken into account in the overall analysis of the foreclosure of the French electricity market which is being carried out by the Commission in its ongoing general investigation.