

Our date
2011-01-26

Our reference
AU-MPR-00001

Administrative officer
Olav Aamlid Syversen

Your date
2010-12-30

Your reference
10/02049-1

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Norwegian Ministry of Petroleum and Energy
Attn.: Johan Vetlesen
Postbox 8148 Dep
0033 Oslo
Norway

EU-EEA. Energy. Proposal for regulation on energy market integrity and transparency – (REMIT) – (COM(2010)726 final)

Dear Mr. Vetlesen,

Statoil wish to commend the Ministry of Petroleum and Energy's early call for reactions to the above proposal from the European Commission (EC). Statoil generally supports an early engagement of Norwegian authorities in respect of EU legislative processes pertaining to the European energy market.

In response to the Ministry's call and in the interest of completeness we attach Statoil's contribution to the hearing carried out by the EC ahead of putting forward their legislative proposal. We would also like to point the Ministry to the contributions of the International Organisation of Oil and Gas Producers, OGP, also attached to this letter.

In respect of the EC proposal for regulation, Statoil would like to bring the following to the attention of the Ministry:

- European energy markets are nascent with market participants' confidence in these markets on the rise. This is supported by findings of the European Securities Market Experts Group, CESR/CEBS and CESR/ERGEG and contrasts with the EC's argument of diminishing public trust in energy markets and their functioning. With this reality in mind, an disproportionate and overly complicated and burdensome oversight system, that stifle the continued development of energy markets, must be avoided;
- Ensuring full implementation of the third package will do more to deliver functioning markets with high levels of integrity than any further regulation of transactions in the wholesale energy market. Only in combination with a smart use of intelligently adapted existing financial and internal energy market legislation is it likely that the regulation does not lead to enhanced regulatory and legal risks to market participants with subsequent unintended effects on liquidity and the continued development of European energy markets:
 - The legislative instrument chosen by the EC is a regulation, directly applicable to commercial actors once entered into force. Because of this direct applicability a high degree of detail as well as consistency with applicable national and EU law is called for. Lack of sufficient detail and consistency will enhance regulatory risks for industry and make compliance difficult. Statoil believes that in terms of definitions, scope and delegation of powers the proposal of the Commission does not, in its current form, achieve an appropriate level of detail and consistency. It follows that industry will have difficulties in adapting operations so as to ensure compliance with the requirements of this regulation as well as proposed or to be proposed associated legislation such as EMIR, MiFID and MAD. Statoil intend to work to input to all these various legislative processes so that a consistent framework for the energy industry is achieved;

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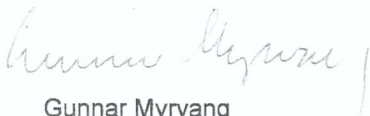
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- Related to the problem of lack of detail and consistency above is the reliance on delegated acts to make the regulation operational. In Statoil's view this could lead to the regulation becoming only gradually operational and for industry to possibly face a protracted process of adaptation with associated uncertainties and negative effects on market developments. As indicated by the EC's communication on the implementation of Article 290 TFEU (COM (2009) 673 final) there are uncertainties related to the procedure for adopting delegated acts and the EC is likely to enjoy a large measure of autonomy in this matter. It is at current unclear to Statoil how such delegated acts will be dealt with through the EEA process and the possibility EEA member states will have to contribute to shaping such delegated acts. It follows that clarity on this issue should be established in the course of the EEA process related to the proposed regulation.
- A differentiation between natural gas and electricity as well as a differentiation between upstream and downstream energy systems is important when establishing market oversight rules. Both differentiations need to be clearly instituted in the provisions of the proposed regulation. This relates in particular to the data provision and information requirements that the regulation aims to establish. In this regard Statoil believes it to be important that the regulation:
 - Continues the differentiation that internal energy market legislation consistently has established for upstream and downstream systems throughout the years. In particular, information release that would constitute a "*prejudice to the efficient, current and planned future production of hydrocarbons, including that from fields of marginal economic viability*"¹ must be avoided;
 - Accounts for operational specificities in production and transportation assets for gas and electricity and does not leave this to be established solely through delegated acts;
 - Make due use of information that flows to Member States as a result of the national transpositions of Directive (EC) 1994/22² so as to minimise the administrative burden to the industry;
 - Do not unduly impact the competitiveness of producers active in the EEA in comparison to third country competitors.

As stated in introduction, Statoil believes it important for Norwegian authorities to closely follow-up the development of this legislative initiative with the EC and Member States alike. Statoil stands ready to assist the Ministry as and when appropriate in such an effort.

Kind regards



Gunnar Myrvang

¹ Language found in Art. 34 Para. 2 (b) of Directive 2009/75.

² Directive (EC) 1994/22 on the conditions for granting and using authorisations for the prospection, exploration and production of hydrocarbons