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Europe's crab-like sidle towards a common energy policy

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With its January 10 package of proposals, the European Commission is trying to give the European Union the first fully-fledged energy policy of its 50-year existence. That it has never had such a policy is clear - only for political or military reasons did coal figure in the original European Coal and Steel Community, and nuclear in the Euratom treaty. That the EU now needs a wider reach over its member states' energy programmes is equally evident, given Brussels' central role in world climate change negotiations and potentially on the security of energy imports.

But it remains to be seen whether Brussels can use this growing external dimension of European energy policy to justify a more centralised approach internally in a sector where many (bigger) EU governments remain intensely nationalist. If the Commission fails in this, it will have to rely on what piecemeal authority it already has to act on certain aspects of energy – of which by far the potent are the general market-liberalising and anti-trust powers that Brussels can use against restrictive practices in the energy market as in any other sector. There is then an eventual risk of the Commission pushing these competition powers – for lack of any other tool – to the point that they begin to undermine, rather than bolster, wider goals of climate stability and energy security.

However, despite Europeans' widespread reluctance in recent years to bestow any new competences on their Union and its executive commission, Brussels has three things going for its quest for a common energy policy:

- Growing alarm about energy-induced climate change. Against this background, the Commission is calling for the EU to go beyond current Kyoto targets and commit itself by 2020 to cutting greenhouse gas emissions (below 1990 levels) by 20 per cent, or possibly 30 per cent if other countries join in. This may be too much for Europe's business lobby and too little for Europe's green groups, but no one questions Brussels's central role in Kyoto or post-Kyoto. However, the real novelty in Brussels' new package lies in the internal consequences of external climate change diplomacy. For the Commission is proposing for the first time *binding* targets of 20 per cent renewable energy in the overall energy mix by 2020, and of 10 per cent for biofuels.
- Rising anxiety about the reliability of fossil fuels imports. This worry has been almost entirely stoked by one supplier, Russia, whose disputes with Ukraine and most recently Belarus can be seen as almost inevitable teething problems

with transit countries that are gradually moving out of Moscow's political orbit. Nonetheless, it reinforces the rationale for the Commission's call to intensify EU talks with a whole range of other European, Caspian, central Asian and north African suppliers.

- Evidence of restrictive energy practices compiled by the Brussels' competition directorate. The Commission claims that the effect of two waves of market – liberalising legislation has in particular been thwarted by the way that many big, vertically-integrated companies have used control of their transmission wires and pipelines to protect their own energy supply businesses from new entrants. As a result, it claims, many incumbents have been able to make a mockery of liberalisation. Neelie Kroes, the competition commissioner, is already investigating several companies for possible market abuse – among them Eon and RWE of Germany, Gaz de France, Eni of Italy and OMV of Austria – and has warned that she has the possible power to force them to sell off their networks, highly unlikely that actually would be. But any such action would be piecemeal, and would have to stand up in court. So as a structural across-the-board measure to force wider change, the Commission says its "clear preference" is for new legislation requiring "ownership unbundling" – that is, total sale and separation of networks and grids from energy generation and distribution. However, its proposal includes the weaker option of letting companies put the operation and development of their networks under independent management, but with the proviso that this would require closer scrutiny from national energy regulators. Expect most EU leaders, when at their March summit they take a first look at the Commission's energy package, to choose this weaker option.

Overall, the big political question may be how far the Commission can defend the economic coherence of its approach – its claim that liberalisation is good not only for Europe's price competitiveness, but also for security of supply and environmental sustainability. If Brussels can sustain the argument that by making the best use of energy competition minimises imports and atmospheric pollution, then it might just get the common energy policy it seeks. But there is a danger for Brussels in over-doing this argument, just because competition policy is the only effective weaponry in its armoury. The Commission could come unstuck if it were to push liberalisation to the point of jeopardising development of low-carbon renewable and nuclear energy or disrupting long term gas contracts.