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Riccardo Celli, Christian Riis-Madsen and Philippe Noguès
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The Antitrust/Competition Practice at O'Melveny & Myers LLP

Tim Muris, Washington, D.C., tmuris@omm.com

Rich Parker, Washington, D.C., rparker@omm.com

Riccardo Celli, Brussels, rcelli@omm.com

John Cook, Brussels/London, jcook@omm.com

Nate Bush, Beijing, nbush@omm.com

Naosuke Fujita, Tokyo, nfujita@omm.com



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A New Energy Era in the European Union

Riccardo Celli, Christian Riis-Madsen and Philippe Noguès

O'Melveny & Myers LLP

A few months ago¹ Competition Commissioner Neelie Kroes announced that the European Union had entered a new energy era, and that such era required a new European energy policy. From structural remedies to new investigatory tools for national regulators, Neelie Kroes proposed an ambitious package of reforms designed to guarantee Europe affordable, sustainable and accessible energy supplies. However, while the announcement of these reforms has received a warm welcome by the national governments, the implementation of these new rules is far from being granted with the member states ready to show their claws to defend economic nationalism. Indeed, the past months have shown eagerness of some of these member states to defend their national champions as was illustrated in both the *Enel/Acciona/Endesa* and also in the *Gaz de France/Suez* cases, which many have interpreted as a way for the French government to fend off Italy's Enel appetite for Suez. However, this assertion is to be tempered with the UK voicing its strong support for an acquisition of state-owned British Energy specialised in nuclear energy by French incumbent *Électricité de France (EDF)*. It is therefore easy to see that the creation of a single European energy market as contemplated by Commissioner Kroes will require some intensive efforts from all sides.

The Commission is nevertheless dedicated to the creation of this single energy market within the European Union, and to do so, the Commission is making use of both its legislative and regulatory powers. From a legislative point of view, the Commission has put forward in its results of the Energy Sector Inquiry the main axes and reforms needed to improve competition in both the electricity and gas markets. Kroes' first proposal is to give all national regulators the power to monitor their energy markets while establishing close cooperation among these authorities. Second, and surely Commissioner Kroes' absolute priority, is to resolve the systemic conflicts of interest resulting from the vertical integration of Europe's strongest energy groups. Ownership unbundling and structural remedies are Commissioner Kroes' mantra nowadays. The third and last area where the Commission seeks solutions is in the area of long-term contracts that lock-in customers with their suppliers. Accordingly, to deal with these aspects, the Commission has proposed new legislation, currently under review and assessment by the other EU institutions and the member states.

The Commission is committed to move fast in these fields, and while legislation has not yet been passed, it is using the full spectrum of its existing regulatory powers to ensure that energy companies and member states are not in a position to hinder the process of opening and unifying energy markets. Both through its application of the European Merger Control Regulation and Regulation 1/2003, the Commission is closely investigating and requesting structural remedies to open the European energy market. In this respect, the proposed merger between Gaz de France and Suez, which was ultimately approved on 14 November 2006, was the first of the Commission's stepping stones designed to pave the route towards a more accessible competitive environment in the Energy sector.

Accordingly, this article will focus on the Commission's recent activity within the energy sector, outlining in particular its legisla-

tive and regulatory efforts in achieving an integrated energy market within the European Union.

Regulatory and political aspects

The Commission has announced that 2008 is a turning point for the electricity and gas sectors in Europe, with European wide integration being within reach. Such integration will be achieved only if the structural and regulatory issues, which the European market is faced with, are resolved. Turning back quickly to the findings of the Commission's Final Report on the Energy Sector Inquiry published in January 2007 which concluded that competition is not functioning properly in electricity and gas markets, the report highlighted three major structural reasons for the malfunctioning of the markets:

- the national markets are too concentrated;
- there are low levels of cross-border trade due to insufficient interconnector capacity and contractual congestion as spare capacity is not always released; and
- the vertical foreclosure of the electricity and gas markets due to insufficient unbundling of the production, supply and transmission activities.

Faced with these structural problems that hinder the ability for new entrants to access the newly liberalised markets, the Commission and the European Council have recently focused on the insufficient unbundling of network and supply activities, calling for both structural and regulatory solutions:

- from a structural standpoint, further steps so as to ensure the effective separation between the production and supply activities from the transport/transmission network, which would lead to independent investment decisions for infrastructures;
- from a regulatory standpoint, a substantial harmonisation and strengthening of the regulatory system which is currently in place.

With regard to the first point, the Commission has emphasised the conflicts of interest which exist when one and the same company sells gas, electricity, or both, while at the same time controlling the pipes and network its competitors need to access in order to reach consumers. This vertical integration has three negative impacts in the Commission's view:

- first, there is discrimination in the way access to the infrastructure is allowed, with the Transmission System Operator (TSO) granting its affiliated supply company preferential access to the pipes and cables;
- second, there is an issue of information leakage with sensitive and strategic information about competing supply companies, such as volume information, being passed on from the TSO to its affiliated supply companies; and
- third, and the most important in the Commission's view is the fact that this legal bundling hinders the TSO's incentives to invest in interconnection capacity and network capacity at the levels it could as such additional assets would favour competing supply companies rivalling their affiliated supply companies.

With these problems identified, the Commission, the European Parliament and European Council have called for the implementation of clear structural unbundling measures for the transmission networks. While the clear ownership separation, as already implemented by more than half of the member states in the field of electricity, and a growing number in the field of gas, is the Commission's preference, there is also a second option put forward, which consists of the entrustment of the operation and investment controls to an independent system operator (ISO). Although the latter is a more complex way to achieve the same aim, it allows the ownership of the network to remain within the same undertaking, usually the historical national operator.

A number of European countries, led by France and Germany, have voiced their disagreement with such ownership unbundling. The two countries have indicated they are ready to veto proposals for full unbundling, which would see Europe's energy companies having to relinquish electricity grids and gas distribution networks. In January 2008, these member states proposed an alternative measure to the Commission's two options discussed above, involving a legal separation of assets monitored by regulation. This third option was, however, clearly ruled out by Commissioner Kroes in February 2008 as not providing sufficient independence of the TSO's decision-making power.

With regard to the regulatory issue, the Commission and European Council have recently called for further harmonisation and strengthening of the powers and independence of national energy regulators, as well as the introduction of new cooperation mechanisms for such regulators. Such cooperation, which is destined to fill up the regulatory gaps that exist in certain situations, would principally be implemented through the creation of the Agency for the Cooperation of Energy Regulators, which would have binding decision-making powers.

Anti-competitive agreements and practices

In parallel with the launch of its third energy package, the Commission has actively demonstrated its pledge to use its full powers to strictly enforce the European competition rules and pursue the integration of the electricity and gas markets.

Hence, in 2007 and 2008, the Commission, with the help of the national competition authorities, carried out several rounds of inspections targeting energy companies such as Distrigaz and Electrabel in Belgium, E.ON and RWE in Germany, ENI in Italy and EDF and Gaz de France in France. In some of these cases the Commission has opened formal proceedings against such companies with the result of being offered formal commitments from the undertakings concerned.

In Germany, in order to settle the ongoing antitrust investigations in the gas sector where RWE was suspected to have abused its dominant position in the markets for the transport and supply of gas in west Germany through its control over the transmission network, RWE offered commitments to the Commission.² In line with the Commission's recent declarations regarding unbundling, RWE committed to sell its gas transmission system network in west Germany to an independent operator. The Commission is currently market testing RWE's proposals submitted in May 2008.

On 12 June 2008, in order to offset the Commission's concerns that it abused its dominant positions on the German electricity market by withholding available generation capacity and favouring its own production and supply affiliates as a TSO,³ E.ON offered a package of commitments. In particular, E.ON offered to divest generation capacity in Germany from different types of technology and

fuels (hard coal, gas, pump storage and nuclear) to remedy the Commission's concerns on the wholesale electricity market. In addition, E.ON proposed to divest its transmission system business consisting of its extra-high-voltage network. These commitments are currently being market tested, but here again it is clear that these follow the Commission's preferred solution regarding ownership unbundling.⁴

In Belgium, during the *Gaz de France/Suez* merger proceedings, Distrigaz saw the Commission open formal proceedings alleging that Distrigaz abused its dominant position on the Belgian gas market by foreclosing the market through its long-term downstream gas supply agreements with industrial consumers and electricity generators.⁵ In March 2007 Distrigaz proposed commitments to address the Commission's concerns about its long-term gas supply contracts in Belgium. Following these commitments, Distrigaz would ensure that on average 70 per cent of the gas it supplies to industrial users and electricity producers in Belgium would be contestable for competitors each year. In addition no contract with industrial users and electricity producers in Belgium covered by the commitments could have a duration exceeding five years. The Commission formally accepted these commitments and closed its proceedings in October 2007.⁶

Finally, in July 2007, the Commission also opened two formal antitrust proceedings, one against Electrabel and one against EDF, for abuses of their respective dominant market positions. The Commission believed that Electrabel and EDF may have introduced long term exclusive purchase obligations in their supply contracts with industrial consumers that make it difficult for new entrant electricity suppliers to win these clients in Belgium and France. As regards EDF, the Commission had some specific concerns regarding the announced contractual framework with Exeltium according to which EDF was to supply significant volumes of electricity to the consortium on a very long-term basis. EDF has acknowledged this concern and made substantial amendments to the contracts initially foreseen. In July 2008, the Commission welcomed the fact that EDF intended to secure an effective opt-out possibility 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.

This series of cases demonstrates the Commission's commitment to use existing competition rules to open the market. Furthermore, the fact that all of these cases so far have been solved (or are in the process of being solved) through commitments as opposed to a decision accompanied with remedies and fines are clear signs that the Commission is focused on solving the issue instead of punishing the companies. It should be expected that these early successes encourages the Commission to continue its enforcement activities in this area and further investigations are likely to occur.

Merger control

The creation of internal electricity and gas markets has inevitably made the management and assessment of mergers in these fields difficult, and sometimes controversial, mostly due to the concentration of the gas and electricity industries at the national level. The gradual movement of markets from being national in scope to becoming regional and then eventually Community-wide is a logical consequence of the internal market process which the Commission is currently pursuing. However, such process has proven difficult in view of the recent mergers which have been submitted to the scrutiny of the Commission, with each transaction being more and more costly in terms of remedies required to gain the Commission's approval.

The high costs to pay in energy mergers can be illustrated by the Commission's conditional approval of Suez's merger with Gaz de

France where the regulator insisted on far-reaching remedies that, in some cases, seem to go beyond what was actually necessary to ensure effective competition on the Belgian and French gas and electricity markets. In line with the Commission's goal of achieving unbundling of supply and network operations, the Commission ordered, among other measures, the combined entity to sell energy suppliers Distrigaz (through a reverse carve-out) and SPE,⁷ as well as relinquishing control of Fluxys, Belgium's gas TSO. Following an extensive investigation where the Commission found that the transaction would strengthen the companies' dominant positions and remove pressure for competitive pricing in the gas and electricity markets in Belgium and in France's gas market, the Commission obtained remedies which are consistent with Commissioner Kroes' preference for ownership unbundling of infrastructure assets.

Through this decision, which many see as the Commission's first effective application of the findings of the Energy Sector Inquiry, the Commission has set a high standard for the review and subsequent approval of further transactions in the field of energy.

This is clear when looking at the Commission's review of the hostile takeover attempt of Hungarian energy player MOL by Austrian oil and gas company OMV. OMV, which initially notified the transaction on 31 January 2008, ultimately abandoned its attempt to purchase MOL on 6 August after failing to agree on the scope of the required commitments with the Commission. In its assessment, the Commission concluded that the proposed transaction would significantly impede effective competition in a number of countries including Austria, Hungary, Slovakia and Romania, owing to major overlaps in refineries and filling stations. To overcome such hurdles, OMV offered an extensive set of remedies to the Commission including the sale of retail stations in various countries as well as a shared-refinery/cost centre model to address the Commission's principal concerns regarding the concentration of refining capacity in south east Europe. Concluding that these remedies would not be sufficient to solve the risk of foreclosure on the upstream market for refineries, the Commission requested further commitments in order for new entrants to be able to access this upstream market as well as the downstream market for retail stations. OMV considered that such additional commitments would be too far-reaching, and therefore unacceptable, and withdrew its notification on 6 August.

However, the Commission is taking a more friendly approach to transactions that implement the recommendations set out in its findings of the Energy Sector Inquiry. On 14 August 2008, the Commission unconditionally approved the creation of a joint venture, to be named Capacity Allocation Service Company for Central Western Europe (CASC) by Cegedel Net SA of Luxembourg, ELIA System Operator SA/NV of Belgium, EnBW Transportnetze AG of Germany, E.ON Netz GmbH of Germany, RTE EDF Transport SA of France, RWE Transportnetz Strom GmbH of Germany and TenneT TSO BV of Netherlands.⁸ It is important to note that all parties are electricity TSOs responsible for the operation of the high-voltage transmission grids in their respective control area. CASC has been set up to act as a service company which will be a single point to implement and operate services relating to the auctioning of power transmission capacity on the common borders between Belgium, France, Germany, Luxembourg and the Netherlands on behalf of the TSOs involved. The creation of CASC aims at implementing Regulation 1228/2003 of the European Parliament and Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity. The main benefit of harmonising the long-term auctions will be that market participants requesting cross-border capacities in the Central Western Europe region will

now approach one auction office instead of having to deal with a number of different offices and regulations. Such a one-stop shop was called for in the findings of the Energy Sector Inquiry.

Finally, the Commission is currently reviewing a similar joint-venture aiming to provide congestion management services for cross-border exchanges of electricity at the Danish-German border.⁹ The new entity, to be called the European Market Coupling Company, will be co-owned equally by TSOs E.ON Netz, Vattenfall Europe Transmission, Energinet.dk and power exchanges EEX European Energy Exchange and Nord Pool Spot. Here also, there is no doubt that the Commission will welcome the early implementation of its recommendations.

Infringement proceedings against member states

In the pursuit of its goal to create a European energy market, the Commission has also focused on taking action against member states themselves.

In the proposed acquisition of joint control of Endesa by Enel and Acciona, which was unconditionally cleared by the Commission on 5 July 2007, Enel and Acciona requested the Spanish energy regulator (Comisión Nacional de Energía – CNE) to approve the transaction in accordance with the relevant Spanish legislation. On 4 July 2007 the CNE approved the transaction subject to a number of obligations designed to keep Endesa an independent company in Spain. Hence, the CNE had to be informed of all the strategic decisions taken by Endesa's board of directors in regulated markets. The CNE had to have the right to revoke any board decision if Enel's vote in the board was necessary for the approval of such a decision, in order to avoid the additional risks that might derive from the special powers that the Italian state still has in Enel.

The Commission considered these conditions to be incompatible with Community law and in particular with articles 43 and 56 of the EC Treaty. It therefore sent Spain a preliminary assessment in which it expressed the view that Spain had infringed article 21 of the European Merger Control Regulation by adopting, without prior approval of the Commission, measures that unduly restricted a concentration of Community dimension and were not necessary for and proportionate to the protection of a legitimate interest. In parallel, Enel and Acciona lodged an appeal against some of the conditions of the CNE decision of 4 July with the Spanish minister for industry and tourism. The minister revoked and modified some of the CNE's conditions but the Commission nevertheless considered that the remaining conditions, as modified by the minister, were contrary to Community law and ordered Spain by decision of 5 December 2007 to withdraw these by 8 January 2008.

Spain did not comply with the Commission's decision, which resulted in the Commission launching a formal infringement proceeding against Spain in January 2008. By an Order of 30 April 2008, the Court of First Instance rejected Spain's request to suspend the Commission's decision of December last year, and, strengthened the Commission's case against Spain's ongoing protection of energy companies against foreign ownership. Nevertheless, the Commission is still currently powerless to force Spain to fall back in the line.

Member states' activities

In the wake of the Commission's increased determination and thorough review of energy transactions and behaviours, national competition authorities have also stepped up their activities in the investigation of mergers and antitrust violations within their jurisdictions.

In the Netherlands, Essent and Nuon notified their proposed merger to the Dutch competition authority (NMa) on 13 March 2007 with a view to creating the 10th largest energy company in Europe. The transaction was expected to be cleared without any undue delay as the NMa had published a report in 2007 examining such a scenario and in which it assessed that a merger of the two Dutch companies would give rise to competition concerns but would be approved subject to remedies clearly identified. According to the report, the newly established entity would be dominant on the wholesale market for electricity and electricity distribution to small consumers; the merger would also create a dominant player on the market for trade in short-term over-capacity. However the NMa report stated that such concerns would be mapped out on the Dutch production and wholesale market for electricity, and possibly on a Dutch-Belgian production and wholesale market for electricity by divesting production capacity in the Netherlands.

Although the parties offered a substantive package of commitments in line with the NMa's report, including the divestiture of production capacity, to overcome existing antitrust concerns, the NMa considered that such remedies would not be sufficient to prevent the creation of a dominant market position and requested additional commitments from the parties. After further discussions with the authority, Essent and Nuon considered that the price to pay for their merger was too high. Accordingly the merger process was called off in September 2007 by both companies after failing to agree on an appropriate package of remedies that would meet all of the NMa's concerns and would not deprive the transaction of its economic value.

In addition to this, national authorities have also used their powers to investigate and condemn antitrust violations in the electricity and gas sectors. Hence, in France, following a complaint by Direct Energie, the French Conseil de la Concurrence found that EDF had abused its dominant position on the market for the supply of electricity which foreclosed any potential competitor from entering the market. As a result, EDF offered a package of remedies made up of a volume of electricity to be sold to alternative suppliers in France through an auctioning process in order to foster competition from such suppliers in France. The French authority, after a thorough market test, formally accepted them by way of a decision on 13 July

2007.¹⁰ This decision has been challenged before the Paris Court of Appeal and the appeal is pending.

In the UK, the energy regulator, Ofgem, launched a formal investigation on 8 April 2008 against Scottish Power and Southern Energy, under section 18 of the Competition Act 1998 and article 82 of the EC Treaty. This decision was based on a formal complaint alleging abuses of a dominant position in the electricity generation sector arising from constrained capacity on the transmission network. This investigation is separate from the probe into the energy supply markets which Ofgem launched on 21 February 2008.

In Germany, the Bundeskartellamt has actively investigated the long term gas supply contracts of RWE and E.ON. In August 2008, the Bundeskartellamt rendered the commitments offered by RWE binding, under which RWE has agreed to sign two or four year contracts with local or regional gas companies. Like the commitments imposed on E.ON, RWE will be bound by the decision until 2010.

As is clear from these examples, the national competition authorities broadly follow the same line as the Commission and actively implement competition rules against their national energy companies.

The recent enforcement activities of both the Commission and the national competition authorities clearly show that they have started to implement the findings of the Energy Sector Inquiry with a focus on the unbundling of network and supply activities and the break up of long term contracts which foreclose the market. However, the question clearly arises if on some occasions the Commission's actions in the energy sector blur the frontier between competition enforcement and proactive deregulation. For instance, when looking at the remedies imposed in the *Gaz de France/Suez* transaction, one may wonder whether the reverse carve out of Distrigaz was meant to address the specific competition problems arising from the proposed merger or rather the unrelated concerns linked to the degree of concentration of the gas market in Belgium. While it is understandable that the Commission uses the tool at its disposal to further its policy goals, there is no basis for the application of different substantive tests in the energy sector and the Commission should keep in mind the integrity of the EU competition rules.

O'Melveny & Myers LLP

Blue Tower
Avenue Louise 326
1050 Brussels, Belgium
Tel: +32 2 642 4100
Fax: +32 2 642 4190
brussels@omm.com

Riccardo Celli
rcelli@omm.com

www.omm.com

O'Melveny & Myers has one of the world's pre-eminent antitrust and competition practices. Tim Muris, former Chairman of the Federal Trade Commission, and Rich Parker, former Director of the FTC Bureau of Competition, are co-heads of the practice group. With more than 70 experienced antitrust and competition lawyers based in our offices in the US (Washington, DC/New York/Los Angeles/San Francisco), Asia (Tokyo, Beijing, Hong Kong and Shanghai) and Europe (Brussels), few firms can match its consistent strength across these three major economic areas.

The Brussels office, established in 2004 by managing partner Riccardo Celli, covers EU and European national competition and regulatory law and advises clients on the complete range of competition/antitrust, regulatory and trade issues. The lawyers in Brussels are qualified in most EU member states, are experienced practitioners of the various national laws and procedures, speak the local languages, work closely with local authorities, and are accustomed to coordinating complex cross-border projects. These strengths enable O'Melveny to represent clients in multi-jurisdictional proceedings with resource, efficiency and shared expertise.

O'Melveny's antitrust/competition practice has significant experience in the energy sector, advising large multinational oil and gas companies on all aspects of regulatory, US and EU competition laws.

O'Melveny is recommended as a leading antitrust and competition law practice in the prestigious *Global Competition Review's* 'GCR 100' and several of its partners are recognised globally as leading experts in competition law, including Riccardo Celli and John Cook in the Brussels office.

In any event, in the current environment, energy companies should be aware that the price to pay for any contemplated transaction or settlement of a contractual relationship dispute in Europe, is increasing and that they will be requested to provide far reaching and clear cut commitments to squeeze past the Commission or the national competition authorities.

Notes

- 1 As of August 2008, date at which this article was written.
- 2 Case COMP/B1/39.402.
- 3 Cases COMP/B-1/39.388 'German electricity wholesale market' and COMP/B-1/39.389 'German electricity balancing market'.
- 4 OJ C 146/34 of 12 June 2008.
- 5 Case COMP/B-1/37.966.
- 6 OJ C 9/8 of 15 January 2008.
- 7 UK electricity producer Centrica announced on 23 July 2008 that it would increase its shareholding in Belgian generation and supply company SPE to a controlling 51 per cent. Centrica has exercised its pre-emption right over the 25.5 per cent interest in SPE currently held by Gaz de France through the acquisition of Gaz de France's 50 per cent stake in the 50/50 joint venture, Segebel SA. This will be added to Centrica's existing 25.5 per cent interest.
- 8 Case M.5154 of 14 August 2008.
- 9 Case M.4922 to be approved on 22 August 2008.
- 10 Decision 07-D-43 of 10 December 2007.

About the authors



Riccardo Celli

O'Melveny & Myers LLP

Riccardo Celli is the managing partner of O'Melveny's Brussels office and head of the firm's European Antitrust/Competition Practice. He has a double qualification as an Italian *avvocato* and a solicitor of the Supreme Court of England and Wales. Riccardo has practised in Brussels since 1992 and has extensive experience advising on EU, Italian and UK competition law, as well as regulatory law, particularly in the energy sector. He has represented many of the world's largest energy companies, including Norsk Hydro, BP and ENI in mergers, cartel investigations and article 81 cases, counselling in both upstream and downstream activities. He recently represented Norsk Hydro in obtaining merger control clearance in Europe for the merger of its oil and gas activities with Statoil.

Riccardo's expertise in competition law covers the entire range of issues faced by companies including: competition clearances for acquisitions and joint ventures (notifying and dealing with regulators; advising and coordinating multi-jurisdictional filings; advising on optimal transaction structures to achieve clearances, including assisting in preparing and negotiating possible commitments with regulators); anti-competitive practices, cartels and abuse of dominant position (avoiding competition infringements in contracts and general commercial behaviour; helping clients deal with competition investigations, 'dawn raids' and infringement proceedings; assisting companies that are victims of anti-competitive practices in making complaints to the competition authorities; preparing compliance programmes); and competition litigation.

Riccardo has spoken at many conferences and authored a number of articles on competition law and regulatory matters, especially in the energy sector. He is recognised globally as a leading antitrust/competition lawyer in many specialised publications. ■



Christian Riis-Madsen

O'Melveny & Myers

Christian Riis-Madsen is a counsel in O'Melveny's Brussels office. Christian is a member of the Danish and Brussels Bars. He focuses on EU and Danish competition law, and also the coordination of multi-jurisdictional matters.

Christian has extensive experience advising major corporations on all matters relating to competition law, especially merger control, joint ventures, cartel investigations, abuse of dominant position, and public procurement. His practice covers both the representation of companies accused of violating competition rules and complainants in mergers and cases under article 82.

Recent cases in which Christian has been involved include the unconditional clearance in 2008 of a merger that had been subject to a second phase review. During the merger investigation, the Commission also conducted a surprise on-site inspection relating to gun-jumping allegations. The Commission later found that these allegations were unjustified.

Christian has significant experience with the application of competition law and EU regulatory law to the energy sector. He has represented energy companies in mergers, in the GFU cartel investigation, and article 81 counselling relating to both up-stream and down-stream activities. He recently represented Norsk Hydro in the merger of its oil and gas business with Statoil. In addition, Christian has assisted EU member states with the implementation in national law of the EU Gas and Electricity Directives.

A native of Denmark, Christian speaks Danish, English, French, German, Norwegian and Swedish. ■



Philippe Noguès

O'Melveny & Myers

Philippe Noguès is an associate in O'Melveny's Brussels office. Philippe is a member of the Paris and Brussels Bars. He focuses on EU and French competition law, and on the coordination of multi-jurisdictional matters. Philippe advises in the fields of mergers and acquisitions, anti-competitive agreements, concerted practices and abuse of dominant position in relation to various industry sectors such as energy, aviation, mineral resources, automotive, and pharmaceutical.

Philippe was recently involved in the unconditional clearance of the merger between US carriers Delta Air Lines and Northwest Airlines. The European Commission clearance was obtained in August 2008 following extensive pre-notification discussions and a Phase I investigation. The transaction raised a number of interesting issues, most notably due to the fact that Delta and Northwest are both members of the SkyTeam alliance, currently being investigated by the Commission under article 81 of the EC Treaty.

Philippe also has experience with the application of competition law and EU regulatory law in the energy sector. Most notably he has successfully represented Suez during the *Gaz de France/Suez* merger proceedings in obtaining a conditional clearance following a Phase II review.

Philippe has authored a number of articles on competition law, especially in the field of leniency and in the energy sector. ■



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