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## Commission's competition services settle Marathon case with Gasunie

***The European Commission's competition department has decided to close its probe into the suspected refusal by Dutch gas company Gasunie to grant access to its pipeline network to the Norwegian subsidiary of US oil and gas producer Marathon in the nineties. Network access is a key plank of EU legislation to create a European single market for gas and any unjustified refusal to grant access is a violation of European competition rules. Marathon experienced difficulties in a number of European countries, but Gasunie, like Thyssengas in the past, has taken measures to improve transparency of its access regime and to better handle access requests. The investigation continues regarding the behaviour of three other incumbent gas companies in Europe, which had rejected Marathon's access request.***

Commenting on the settlement, Competition Commissioner Mario Monti said: "This second breakthrough in the Marathon case shows how competition policy can contribute effectively to ensure a fair and non-discriminatory access to national gas pipelines". He added: "Access to gas pipelines is key to the introduction of competition in the European gas markets to the benefit of industry users and, ultimately, the consumer. I want to thank the Dutch regulator for its good co-operation in this case and hope to continue this successful work with other national authorities, particularly in France and Germany, where progress in the access regimes is most needed".

The Marathon case concerns the alleged joint refusal to grant access to continental European gas pipelines in the nineties by a group of five European gas companies, amongst them N.V. Nederlandse Gasunie and Thyssengas GmbH, a German gas company with which the Competition Department reached a settlement in late 2001 (see [IP/01/1641](#) of 23 November 2001). The other companies concerned by the case are large German and French operators. The case was originally triggered by a complaint from the Norwegian subsidiary of US oil and gas producer Marathon.

The European gas directive of 1998 provides for a so-called Third Party Access (TPA) regime, i.e. a regime allowing gas suppliers and shippers to use the gas pipelines owned by the incumbent operators in the market. Refusal to grant access can be also, and has in the present case been, tackled as a potential abuse or a restrictive concerted practice (in the latter case when the refusal is carried out jointly).

Following lengthy discussions with the Commission, Gasunie has undertaken on behalf of its transportation arm Gastransport Services to increase transparency as regards access to its network, to better manage the capacity available and to speed up its handling of access requests. This has led the Commission to close the case since the commitments will contribute to a better functioning of the gas transmission market in the Netherlands.

The Commission co-operated closely with the Dutch energy regulator Dte in its handling of the case. Dte plays a very active role in the Dutch market and will continue to monitor Gasunie's access regime.

Following are the main commitments entered into by Gasunie:

- In order to improve the **transparency** of its access regime Gasunie will publish on its Internet site - in absolute figures - the contracted transport capacity at all entry and all major exit points of its gas network. It will also inform about the capacity still available. This commitment relates not only to cross-border points, but also to domestic/national entry/exit points and will make it easier for shippers to obtain information about available transmission capacity.
- As regards **balancing**, Gasunie will assist shippers with a flexible supply source to avoid getting into a situation of imbalances, which can occur if the input and withdrawal of gas into the system are not identical or deviate from the forecasted volumes. In this respect Gasunie will introduce a so-called online balancing system to avoid situations where suppliers/shippers are charged very high prices for the gas supplied by Gasunie to an unexpected increase/decrease in consumption by one of their customers.
- Finally, Gasunie undertakes to improve its **handling of access requests** by introducing online screen-based booking procedures, which will lead to the elimination of the, at times lengthy, response times. Online bookings are particularly relevant for short term trading.

In addition to these main commitments, Gasunie pledged to offer the possibility to link other pipelines to its own pipeline system. For further details, interested parties can consult Gastransport Services' website shortly.

It should be noted that following explicit requests from the Commission's Competition Directorate General as well as the Dutch regulator Dte, Gasunie has already improved its access regime. The improvements relate, in particular, to the introduction of short-term transport contracts for one day, the introduction of interruptible transport contracts for congestion scenarios and the introduction of a bulleting board allowing traders to bundle their access requests and balancing needs. The Competition Department welcomes Gasunie's early implementation of these commitments.

The Commission services also accepted Gasunie's commitment to maintain a so-called entry/exit system for its access regime. The advantage of such a system is that shippers are only obliged to book capacity at the relevant entry and exit points and do not have to pay for gas transports along - often fictitious - contractual transport routes, which do not coincide with the physical gas flows. In this respect the Dutch system is superior to the system applied in other EU Member States.

The commitments enter into force on 21 April 2003 and will remain in place until January 2007. A trustee, who will report regularly to the Commission services, will monitor compliance.

## **Background**

The investigation was triggered by a complaint against five European companies. The investigation continues with regard to the other three companies in France and Germany. The complaint was later withdrawn after Marathon and the European companies reached an out of court settlement, but DG Competition continued its investigation as the settlement did not remove the suspected infringements.