Electricity Regulation

in 34 jurisdictions worldwide

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1 Policy and law

What is the government policy and legislative framework for the electricity sector?

The current government policy and legislative framework are largely based on European legislation, in particular the 1996 Electricity Directive (the First Electricity Directive) and the 2003 Electricity Directive (the Second Electricity Directive), which have been implemented in the Netherlands through the Electricity Act 1998 (the Electricity Act). The Electricity Act contains the basis for Dutch policy with respect to the electricity sector.

The Electricity Act serves to ensure the three cornerstones of Dutch energy policy – reliability, sustainability and efficiency. It contains rules for the generation, transmission (transportation over the high-voltage grid), distribution (transportation over low-voltage grids) and supply of electricity. As the generation and supply of electricity are completely liberalised, the Electricity Act primarily deals with the non-discriminatory access to electricity grids.

Since its entry into force, the Electricity Act has been amended several times. Important amendments that entered into force in 2008 include the addition of the requirement that grid managers must have beneficial ownership of the grid, and of new provisions imposing full ownership unbundling of the distribution grids on vertically integrated energy companies. These include, among other things, a group prohibition stating that grid managers can no longer be part of the same group as companies engaged in production, trade or supply of energy. The group prohibition entered into force on 1 July 2008. Existing Dutch vertically integrated energy companies have until 1 January 2011 to comply with ownership unbundling requirements.

Further rules have been laid down in secondary legislation, like governmental decrees, ministerial decrees and in the codes adopted by the board of directors of the Dutch Competition Authority (the NMAs), such as the Tariff Code (containing the network rates structure), various technical codes (the Grid Code, the Measurement Code and the System Code, containing rules for the operation of, the transmission through and connection to the grid, for the measurement and exchange of data and rules regarding system services), and the Information Code (specifying responsibilities of market parties on exchanging information).

The implementation and enforcement of the Dutch governmental rules in the electricity sector have been entrusted to the minister of economic affairs (the minister) and to the NMAs. A special department of the NMAs, the Office of Energy Regulation, deals with the compliance with the energy laws, including the Electricity Act.

2 Organisation of the market

What is the organisational structure for the generation, transmission, distribution and sale of power?

The market for the generation and supply of electricity is fully liberalised. Two of the four large-scale generators have been acquired by foreign companies – Electrabel and E.ON. Currently, decentralised generation (mainly cogeneration) and imports cover approximately 40 per cent of total demand in the Netherlands. Many projects for new power plants have been planned by various market parties, which are scheduled to become operational before 2015. The first power plant – the Sloe power plant, a joint venture project between Delta and EDF – will already become operational in 2009. Although it is yet uncertain whether all projects will be realised, the generation capacity increase is expected to lead to an export capacity potential on the Dutch market as of 2009, which potential will increase in the following years.

As from 2009, cross-border long-term (yearly and monthly) capacity on the borders of Belgium, France, Germany, Luxembourg and the Netherlands will be auctioned by a joint venture auction office of the respective transmission system operators (TSOs), including TenneT TSO (TenneT), the Dutch TSO.

In addition, auctions are held for daily capacity on the Dutch–German, Dutch–Belgian and Dutch–Norwegian (the NorNed project) interconnectors. Capacity on the NorNed interconnector (a joint venture between TenneT and StattNet) is auctioned by NorNed auction.

The Electricity Act obliges the owners of transmission and distribution grids to appoint a grid manager for the management and operation of their grids and requires legal unbundling of the grid manager. As from 2011, full ownership unbundling will have to be implemented (see question 1). Legal unbundling, complemented by the requirement that each grid manager must have economic ownership of the grids managed by him, is accompanied by detailed provisions in the Electricity Act, which seek to ensure the organisational and financial independence of the grid managers and to prevent cross-subsidisation and the dissemination of strategic information. Each grid manager of a distribution grid and the manager of the transmission grid must have a management board with members who have no links with a producer, supplier or trader of electricity, and a supervisory board of which the majority of members is independent from the aforementioned market players. In addition, the Electricity Act prescribes a two-tier board structure for the manager of the transmission grid, which obliges this grid manager to have a supervisory board with more powers at the expense of the shareholders. TenneT has been appointed as the grid manager of the national high-voltage grid. All the shares in TenneT are held by the Dutch state. The national high-voltage grid consists of the grids which are intended for the transmission of electricity at a voltage of 110 kV or more and which are operated accordingly, as well as the interconnectors.

Currently (until ownership unbundling is implemented, see question 1) many of the distribution grids are owned by vertically integrated companies that are also active on the market for the supply of electricity and, in some cases, on the market for the generation of...
electricity as well (for example, Essent, Nuon and Delta). These vertically integrated companies have entrusted the grid management to a separate legal entity within their corporate group. In 2008, there were nine electricity grid managers. Prior to ownership unbundling and for transparency reasons, Eneco has renamed its grid manager group ‘Stedin’. Nuon has renamed its grid manager ‘Liander’ and has named the regulated part of its group ‘Alliander’. As of 1 January 2009, the new name of grid manager Essent Netwerk will be ‘ENEXIS’.

The sale of power in the Netherlands takes place on three markets that emerged after liberalisation of the Dutch electricity sector. These markets are the over-the-counter market (OTC), the Amsterdam Power Exchange (APX), and the imbalance market. The OTC market covers approximately 90 per cent of Dutch demand. The recently merged APX-ENDEX exchange combination provides clearing services for OTC-traded Dutch power futures and operates a spot market for day-ahead (physical) electricity trading.

The imbalance market is operated by TenneT and relates to the system of programme responsibility in the Netherlands, which has been developed to maintain the energy balance in the Netherlands. TenneT is responsible for maintaining this balance. Under the system of programme responsibility, a party that wants to supply electricity in the Netherlands must be acknowledged by TenneT as a ‘programme-responsible party’ and must enter into a programme responsibility agreement with TenneT. These parties must notify TenneT of their energy transactions one day in advance. When a party is unable to act according to its notified programme and creates imbalance, it will enter into an energy transaction with TenneT on the imbalance market to restore the balance, resulting in corresponding imbalance charges.

By far the largest suppliers in the Netherlands are the former incumbents Essent, Nuon and Eneco. However, since the opening of the market for the supply of electricity, these market parties have lost market share to new entrants, such as E.ON, Electrabel, Dong Energy, Oxxio (part of Centrica), and RWE, which have made various acquisitions, and because of increased imports of electricity.

5 Alternative energy sources
Does the government policy or legislation encourage power generation based on alternative energy sources such as renewable energies or combined heat and power?

In 2008, the previous subsidy scheme for generation of renewable energy and combined heat and power (co-generation) plants called the environmental quality of electricity generation (MEP) was replaced by a new subsidy system called the stimulation of renewable energy production (SDE) for renewable energy projects. Projects that had been granted MEP before 2008 still receive a subsidy for the period in question. The SDE subsidy scheme is laid down in a ministerial decree, which includes a system whereby a maximum subsidy budget is set annually for different production categories. The subsidy categories and corresponding subsidy amounts are laid down in separate ministerial decrees. The minister annually sets off any increase in the relevant energy price against the subsidy amount. Together with the publication of the subsidy amount, the minister also announces the method of granting the subsidy. Subsidy can either be granted in chronological order of application (first come, first served) or by way of a tender procedure. Because the budgeted subsidy caps for 2007 were exceeded due to significant increases in co-generation projects and because studies showed that co-generation projects should be financable without subsidy, the minister decided – contrary to earlier intentions – that as from 2008, no subsidy will become available for existing or new combined heat and power projects. However, in 2009 and 2010 there will be an evaluation as to whether a new subsidy form for cogeneration projects is necessary.

6 Authorisations to construct and operate transmission networks
What governmental or administrative authorisations are required to construct and operate transmission networks?

The Electricity Act gives the manager of the transmission grid the exclusive power to construct, repair and extend the national high-voltage grid. An exception exists with respect to the construction of interconnectors. The owner of the transmission grid must appoint a grid manager that must operate the transmission grid and fulfil the obligations under the Electricity Act. The appointment of a grid manager requires the approval of the minister. To ensure the independence of the grid manager, a grid manager must be organised in line with the rules on unbundling (see question 2).
Under the Electricity Act, TenneT, as the grid manager of the national high-voltage grid, has the overall responsibility for the safe and reliable transmission of electricity in the Netherlands. Furthermore, every manager of a grid is responsible for the reliability of its grid. If a grid manager does not comply with its statutory obligations, the government may order the grid manager to take specific measures to assure the reliability of the grid. If a grid manager does not comply with ministerial orders, the minister may appoint a trustee whose orders the grid manager must follow, or even withdraw the appointment of the grid manager and replace it.

Regulation of electricity utilities – distribution

11 Authorisation to construct and operate distribution networks

What governmental or administrative authorisations are required to construct and operate distribution networks?

Under the Electricity Act, grid managers have, in principle, exclusive power to construct, maintain, renew and operate electricity grids and provide for connections to their grids within the area allocated to them by the NMAs. There are only few exceptions to this exclusivity, for example, the construction and operation of so-called private networks and the provision of connections with a capacity of more than 10MVA. The owner of a distribution grid must appoint a grid manager, who must operate the distribution grid and fulfil the obligations under the Electricity Act and the codes.

The appointment of a grid manager requires the approval of the minister, who can also grant an exemption from the obligation to appoint a grid manager in the case of a private network. In order to obtain such an exemption, the owner of the private network must enter into a cooperation agreement with the manager of the local distribution grid. To ensure their independence, grid managers must be organised in line with the rules on legal, management and accounting unbundling. Independence of grid managers will further be ensured through ownership unbundling (see question 2).

At the time of writing, the ruling of the European Court of Justice in the Citiworks case (C-439-06) forced the minister, in cooperation with the NMAs, to re-evaluate the compatibility of the exemption for private networks from appointing a grid manager with EC law. The minister’s preliminary conclusion is that the exemption is not compatible with EC law. It is, however, still to be decided if and to what extent the exemption will be tightened.

12 Access to the distribution grid

Who is eligible to obtain access to the distribution grid and what requirements must be met to obtain access?

Just as in the case of the transmission grid, the system of regulated third-party access applies with respect to access of third parties to the distribution grid and the requirements thereto (see question 7).

13 Rates and terms for distribution services

Is there any tariff or other regulation regarding the rates or terms for the provision of distribution services?

Under the system of regulated third-party access as laid down in the Electricity Act, the maximum tariffs and the (technical) conditions for the distribution of electricity and the connection to the distribution grid are set by the NMAs. The transmission tariff is independent from the location at which the electricity is generated, the connection at which the electricity is put into the grid and the location of the connection at which the electricity is received (a ‘postage stamp’ tariff).

The (maximum) rates for the transmission of electricity and the connection to the transmission grid of TenneT are set by the NMAs on the basis of the ‘CPI-x’ formula. In this formula, CPI refers to the consumer price index and the x is an efficiency discount. Unlike in case of the managers of the distribution grids, a quality factor is not set for TenneT (see question 13).

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For each grid manager, the NMa determines the \( x \) factor and the \( q \) factor for a minimum of three and a maximum of five years. The maximum factor for small business users and households is subject to a licence. This supply licence is granted by the minister, who may attach conditions to the licence. The main condition attached to the licence amounts to a requirement to supply small business users and households, upon request, in a reliable manner and on reasonable conditions. The scope of the supply licence is nationwide, which means that the obligation to supply electricity in a reliable manner and on reasonable conditions exists with respect to all small business users and households in the Netherlands. A supply licence may be withdrawn when a supplier fails to meet its obligations under the Electricity Act and the supply licence.

Regulation of electricity utilities – sales of power

14 Approval to sell power

What governmental or administrative authorisations are required for the sale of power to customers and which authorities grant such approvals?

Only the supply of electricity to small business customers and households is subject to a licence. This supply licence is granted by the minister, who may attach conditions to the licence. The main condition attached to the licence amounts to a requirement to supply small business users and households, upon request, in a reliable manner and on reasonable conditions. The scope of the supply licence is nationwide, which means that the obligation to supply electricity in a reliable manner and on reasonable conditions exists with respect to all small business users and households in the Netherlands. A supply licence may be withdrawn when a supplier fails to meet its obligations under the Electricity Act and the supply licence.

15 Power sales tariffs

Is there any tariff or other regulation regarding power sales?

Since the opening of the market for the supply of electricity, customers have been free to choose their supplier and to negotiate the prices for the supply of electricity. Only under the light-touch licence regime for the supply of electricity to small business customers and households, may the NMa impose a price cap if a supplier applies an unreasonably high tariff.

16 Public service obligations

To what extent are electricity utilities that sell power subject to public service obligations?

With respect to the supply of electricity to small business users and households, a light-touch licence regime exists, which requires the licence holder to supply small business users and households, upon request, in a reliable manner and on reasonable conditions (see question 15).

Furthermore, generators and suppliers are obliged to promote the efficient and environmentally responsible production and use of electricity.

It is expected that as of 1 January 2009, a new capacity-based tariff for transmission on the distribution grid will be introduced in the small-scale users market (small businesses and households). Rather than on the basis of energy consumed by the user, as currently laid down in the Electricity Act, this distribution tariff is calculated based on the capacity of the user’s connection. This calculation method significantly simplifies the administrative process. This new tariff is part of a larger set of measures, such as the introduction of the ‘supplier model’ (see question 16) and the ‘smart meter’ (allowing for remote meter reading), all intended to significantly reduce the administrative burden on the small-scale users’ market.

Complaints. Under the supplier model, the distribution tariff is no longer invoiced by the grid manager. The introduction of the supplier model is part of a larger set of measures, such as the introduction of a new capacity-based distribution tariff (see question 13) and the ‘smart meter’ (allowing for remote meter reading), all intended to significantly reduce the administrative burden on the small-scale users’ market.

18 Scope of authority

What is the scope of each regulator’s authority?

The determination of Dutch energy policy is primarily the responsibility of the minister together with the minister of Housing, Spatial Planning and Environment. In this respect, the minister has to publish a policy document, the energy report, at least every four years, which is meant to give guidance on decisions to be taken by the Dutch government relating to energy in the coming four years. In particular, the energy report sets out the way in which the importance of a reliable, sustainable and efficient energy supply must or may be taken into consideration in the coming four years. The most recent energy report was published in June 2008. The energy report has to be discussed in parliament. Furthermore, the minister is charged with the overall implementation of the Electricity Act. He also has a number of specific tasks under the Electricity Act. He is, among other things, directly charged with the monitoring of the security of supply in the Netherlands, and with the approval and dismissal of the designation of grid managers, the setting of maximum supply tariffs for small business users and households in case a supplier applies an unreasonably high tariffs, and the granting of an exception to the obligation to appoint a grid manager in the case of a private network.

Under the Electricity Act, the NMa is charged with the supervision of compliance with the Electricity Act and secondary legislation and the implementation thereof. The duties attributed to it under the Electricity Act include setting the tariff structure and conditions for the transmission and distribution of electricity, setting the yearly (maximum) connection and transport tariffs for each grid manager, and advising the minister on the performance of his duties under the Electricity Act. The NMa is also entrusted with the handling of complaints by customers with respect to the way in which a grid manager fulfils his duties under the Electricity Act. The NMa enjoys considerable powers to sanction infringements of the Electricity Act. The NMa has the power to sanction an infringement of the Electricity Act by a binding order, an order sanctioned by periodic penalty payments and an administrative fine of up to 10 per cent of the annual turnover in the previous calendar year for certain violations of the Electricity Act or the codes. Apart from sector-specific regulations, the NMa is entrusted with the enforcement of general competition law in the Netherlands, on the basis of the Dutch Competition Act (see question 23). Guidelines on the way the NMa determines and imposes penalties in case of breach of the Competition Act and the energy and transport regulations, are laid down in the Penalty Code 2007.

The Office of Energy Regulation is department of the NMa, which has specifically been established for monitoring compliance with the energy laws, including the Electricity Act.
19 Establishment of regulators

How is each regulator established and to what extent is it considered to be independent of the regulated business and of elected officials?

The NMAs is a non-departmental public body, headed by a board of directors, which means that it is independent of the minister. The minister may however issue general guidelines that the NMAs has to take into account.

20 Challenge and appeal of decisions

To what extent can decisions of the regulator be challenged or appealed, and to whom? What are the grounds and procedures for appeal?

Decisions of the minister and of the NMAs under the Electricity Act are subject to administrative and judicial review. The Electricity Act and the General Administrative Law Act set out the procedure for administrative and judicial review and define the decisions that can be subject to review and the parties that may contest a decision of the minister and the NMAs. In principle, parties that do not agree with a decision under the Electricity Act must lodge a notice of objection against the decision. After that, they may appeal the decision to the highest administrative court in the Netherlands, the Trade and Industry Appeals Tribunal. In the case of a decision that imposes a fine or an order sanctioned by periodic penalty payments, however, parties have to file their appeal against the ruling on their objection with the district court of Rotterdam. Judgments of the district court of Rotterdam may be challenged with the Trade and Industry Appeals Tribunal.

Acquisition and merger control – competition

21 Responsible bodies

Which government bodies have the authority to approve or disapprove mergers or other changes in control over businesses in the sector or acquisition of utility assets?

Changes in control of supply, generation or trade companies are not restricted under the Electricity Act, as illustrated by the sale of large-scale generators in the Netherlands (see question 2), as long as the change of control does not result in direct or indirect change of control in a grid manager or in any change in (ownership) rights in an electricity grid. This means that privatisation of companies engaging in generation, trade or supply of electricity is currently possible. Under the Electricity Act, however, ministerial consent is required for all changes relating to the ownership of a grid or changes in the shareholdings of a grid manager. Currently, privatisation of the electricity grids or (shares in) the network manager is not permitted. This means that the minister may only give his consent if the ownership of a grid or the shares in a grid manager will be transferred to the current shareholders in electricity grids in the Netherlands (namely, the Dutch state, provinces or municipalities) or to other state-owned entities. An exhaustive list of shareholders that may hold shares in grid owners or grid managers is laid down in two ministerial decrees. In light of the above it is expected that pursuant to ownership unbundling of the distribution grids, state (owned) shareholders will sell their shares in the commercial companies. As a result, it is expected that a new wave of takeovers and mergers of commercial companies will take place (see update and trends).

The NMAs has the authority to approve or disapprove mergers or other changes in control over businesses in the Netherlands under the Competition Act.

22 Review of transfers of control

What criteria and procedures apply with respect to the review of mergers, acquisitions and other transfers of control? How long does it typically take to obtain a decision approving or disapproving the transaction?

Notification of mergers, acquisitions and other transfers of control (also called concentrations) must be made to the NMAs if the aggregate worldwide turnover of the undertakings concerned in the previous calendar year exceeds €113.45 million and the individual turnover in the Netherlands of each of at least two of the undertakings concerned was at least €30 million in the previous calendar year.

Filing is mandatory. Filing can take place as soon as a concrete intention to undertake a concentration as described above exists. A signed agreement is not required. The Competition Act provides for a two-phase filing procedure for mergers that fall under the scope of the Competition Act. After filing, the NMAs has to decide within four weeks whether a licence authorising the transaction is required (the first phase). If so, the parties must submit an application for a licence. The NMAs must decide on this application within 13 weeks. The four-week and the 13-week periods will be suspended from the day on which the NMAs officially requests further information from the notifying parties until the day on which such information has been received by the NMAs.

The NMAs will not give its approval if the concentration ‘could significantly impede effective competition on part of the Dutch market, especially if the impediment is the result of the creation or strengthening of a dominant position’.

The Competition Act prohibits the implementation of concentrations falling within its scope before they have been notified and a period of four weeks has passed without a decision being taken, or an approval or a licence being granted by the NMAs.

A breach of the obligations to notify a concentration and not to close the transaction before approval or a licence of the NMAs has been obtained, may result in a void transaction. Further, the NMAs may impose administrative penalties, such as an administrative fine up to a maximum of €450,000 or 10 per cent of the total turnover if the latter amounts to a larger sum for each party that had the obligation to notify and make an order, possibly backed by a periodic penalty payment, to end the infringement.

If the NMAs voices competition concerns regarding a concentration, the parties involved may propose remedies to remove the concerns. Such remedies may be proposed in both the four-week and the 13-week period (first and second phases).

23 Prevention and prosecution of anti-competitive practices

Which governmental or administrative authorities have the power to prevent or prosecute anti-competitive or manipulative practices in the electricity sector?

The NMAs is responsible for enforcement of the Dutch Competition Act, which forbids, among other things, undertakings from abusing their dominant position (article 24 of the Competition Act, the Dutch equivalent of article 82 of the EC Treaty) and restrictions of competition within the meaning of article 6 of the Competition Act (the Dutch equivalent of article 81 of the EC Treaty). In cooperation with the NMAs, the Consumers Authority (Consumentenautoriteit) is authorised to handle consumer complaints against companies that are in breach of the Dutch Civil Code or relevant legislation protecting consumers. The Consumers Authority is an office under the supervision of the Ministry of Economic Affairs. Please note that the Consumers Authority is not a regulator, only a supervisor.
**24 Determination of anti-competitive conduct**

What substantive standards are applied to determine whether conduct is anti-competitive or manipulative?

Dutch competition law contains prohibitions in relation to restrictions of competition and abuse of a dominant position. These prohibitions are laid down in articles 6 and 24 respectively of the Competition Act. Article 6 prohibits agreements between undertakings, decisions by associations of undertakings and concerted practices by undertakings that have as their object or effect the prevention, restriction or distortion of competition within the Dutch market, or a part thereof. Article 24 prohibits undertakings with a dominant position on the relevant market from abusing this position.

**25 Preclusion and remedy of anti-competitive practices**

What authority does the governmental body (or bodies) have to preclude or remedy anti-competitive or manipulative practices?

Agreements that are in breach of article 6 of the Competition Act are null and void.

In case of a breach of article 6, the NMa may impose administrative penalties. An administrative penalty may not be imposed if the natural person or legal entity in question may not be held responsible for the infringement. The NMa may impose a fine of up to the higher of €450,000 or 10 per cent of the turnover of the undertaking, or, if the infringement is committed by an association of undertakings, to the combined turnover of the undertakings that are members of the association in the financial year preceding the decision. A periodic penalty payment serves to reverse the infringement or to prevent a recurrence of the infringement. Every fine and order sanctioned by periodic penalty payments imposed by the NMa must be in line with the principle of proportionality. Personal sanctions can also be imposed on principals and de facto managers up to a maximum amount of €450,000.

**26 Acquisitions by foreign companies**

Are there any special requirements or limitations on acquisitions of interests in the electricity sector by foreign companies?

Currently, there are no such special requirements or limitations. The only limitation set in the Electricity Act exists in case of changes relating to the ownership of a grid or changes in the shareholdings of a grid manager, but this limitation applies for all parties other than the current shareholders of the grid managers, both Dutch and foreign (see question 21).

**27 Cross-border electricity supply**

What rules apply to cross-border electricity supply, especially interconnection issues?

The transmission capacity on the interconnectors available to market parties is allocated by TSO Auction through an auction process (see question 2). A party that wants to participate in the auctions must be registered at TSO Auction. The methodology for the auction to be carried out by TSO Auction has been set in the Grid Code. Other relevant rules are laid down in the Auction Regulations of TSO Auction. In line with the Grid Code, TSO Auction holds auctions for yearly, monthly and daily import and export capacity. The capacity a company can obtain on the Dutch borders is limited. The cross-border capacity that a programme-responsible party (including its group companies) may have at its disposal is currently limited to 400MW (but this limitation is expected to be changed soon). The cross-border capacity is awarded by TSO Auction on the basis of ‘the lowest accepted bid’, ‘first come, first served’ and ‘use it or lose it’ principles.

**Transactions between affiliates**

**28 Restrictions**

What restrictions, if any, exist on transactions between electricity utilities and their affiliates?

A grid manager is prohibited from giving a company in its corporate group any preferential treatment or granting it other advantages beyond what is customary in normal business practice. The following are in any event regarded as preferential treatment of a group company, or as granting privileges beyond those that are customary in normal business practice: (i) supplying a group company with data relating to customers who have submitted an application for connection to the grid or distribution; (ii) supplying goods or services to a group company for a consideration which is lower than the costs which may reasonably be attributed to such goods or services; or (iii) permitting the use by a group company of the name and logo of the grid manager in such a way that there is a danger of creating public confusion with regard to the origin of goods or services. The grid manager must include a statement with its annual accounts to the effect that transactions between affiliates comply with the foregoing. Also, there are financing restrictions. The grid manager may not encumber the network or future network revenues with security rights or use these as security for financing purposes, except to the extent that this is done for the benefit of grid management. The grid manager may also not accept personal liability for any group company debts (except for three specified exceptions).

Furthermore, as of 2011 there will be full ownership unbundling and consequently, the intra-group exemption from public procurement obligations will no longer apply.
29 Enforcement and sanctions

Who enforces the restrictions on utilities dealing with affiliates and what are the sanctions for non-compliance?

The enforcement of the Electricity Act, including the prohibition on preferential treatment of affiliates by a grid manager, is entrusted to the NMa. In case of non-compliance with the prohibition of preferential treatment, the NMa may impose an administrative fine of up to the higher of €450,000 or 10 per cent of the undertaking’s turnover. In case of non-compliance with the obligation to include a statement with its annual accounts to the effect that the financial relationships between the grid manager and the group companies comply with the foregoing, the NMa has the power to impose an administrative a fine of up to the higher of €450,000 or 1 per cent of the turnover of the undertaking. Furthermore, in each case the NMa may impose an order sanctioned by periodic penalty payments (see question 25).