Energy Community: functional unbundling toolbox

Milka Mumović, electricity and statistics expert
Where the DSO is part of a vertically integrated undertaking (VIU), the basic elements of the unbundling regime are the following

(a) legal unbundling of the DSO from other activities of the vertically integrated undertaking not related to distribution;

(b) functional unbundling of the DSO in order to ensure its independence from other activities of the vertically integrated undertaking;

(c) accounting unbundling: requirement to keep separate accounts for DSO activities;

(d) possibility of exemptions from the requirement for legal and functional unbundling for certain DSOs.

(Art 26 ED)
## Unbundling status

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<th>Transposition</th>
<th>Legal Unbundling</th>
<th>Compliance Program</th>
<th>Compliance Officer</th>
<th>Compliance Report</th>
<th>Rebranding</th>
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Unbundling – the purpose

DSO: a neutral market facilitator

Non discrimination of market participants: prevent market distortion through cross–subsidization and discrimination of other supply companies)

[Diagram showing the process of unbundling with steps such as Tariff, Costs Allocation, Costs evaluation and recognition, Unbundled accounts: disclosure & publishing, Cost allocation and tariff setting]
**Functional unbundling**

A DSO must have the necessary **human, technical, financial and physical resources** to act independently from the vertically integrated undertaking (VIU) in terms of its **organisation and decision-making power**.

**Functional unbundling must include:**

- Management separation
- Independence and effective decision making right of a DSO
- Separate identity in communication and branding
- Preservation of confidentiality of commercially sensitive information (non-disclosure in discriminatory manner)

*(Interpretative note on Unbundling regime)*
The compliance programme is a formal framework for ensuring that the entire network activities, individual employees and the management of the DSO comply with the principle of non-discrimination.

It shall explicitly define policies and procedures to be observed by management and staff. Such policies may consist, inter alia, of the following elements:

- active, regular and visible support of the management for the programme;
- written commitment of staff to the programme by signing up to the compliance programme;
- indication to disciplinary action which will be taken against staff violating the compliance rules;
- training on compliance on a regular basis and notably as part of the induction programme for new staff.
Accounting unbundling

- **No exception**
- **Minimum: balance sheet and income statement**
- **Accounting policies - compliant with disclosure requirements**
- **Mandatory audit of unbundled accounts**
- **Segment reporting and related party disclosures**

➤ Ensure that transactions with related undertakings and internally procured or provided goods and services are recognized at fair value.
Compliance officer

- Ensure independence: ToR, designation procedure, dismissal
- Nomination / dismissal to be approved by NRA
- Access to necessary information in DSO and related companies
- *Permanent and continuous* monitoring of the compliance program
- Reporting on the compliance program implementation / Measures
- Publication of Report
Management separation
- DSO management separate from other management of the VIU
- No conflicting interest of any the member of management
- Appointment procedure to avoid influence of related business
- Transparency of internal transactions

Independence and effective decision making right of a DSO
- DSO management to autonomously appoint key executive staff
- No direct or indirect influence on network planning, operation and maintenance
- Formal and clear decision making procedure
- Clear subordination lines in tasks related to network planning and operation
- Sufficient human, financial, physical resources to perform activities independently

Separate identity in communication and branding
- Identifiable DSO image [name, logo]
- Separate premises
- No common advertising

Preservation of confidentiality
- Procedural rules for handling with confidential data
- Rules for access to operational data
- Quality assurance system in place (for physical and IT access)
- Formal commitment of staff
Checklist for functional unbundling

- Separate company (energy law, act of establishment, registration, activities, license)
- Corporate status (corporate laws, energy legislation, statute)
- Roles, powers and responsibilities (corporate laws, statute, organisation chart, code of conduct, job descriptions, internal rules)
- Independance of management (energy laws, act on establishment, statutes, procedure of appointment, affidavit, work contracts)
- Independent decision making on network operation (statute, work procedures, code of conduct, internal and procedural rules)
- Additional measures - sector laws, compliance program, monitoring report, compliance report.
- Accounting unbundling (sector law, accounting rules, procurement rules, internal rules on financial management and control, accounting policies,
Following the conclusions of the 10th ECDSO-E meeting of 17 April 2018 and 49th PHLG of 26 March 2018, the network of compliance officers has been established. The objective is to improve the knowledge and to build capacities to implement the unbundling obligations.
Thank you for your attention!

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