

LAW FIRM

European Commission  
DG Competition, Antitrust Registry  
B - 1049 - Brussels  
Belgium

3 RÅDHUSPLADSEN  
DK-8000 ÅRHUS C  
DENMARK  
TEL +45 70 12 12 11  
FAX +45 70 12 14 11  
DIR +45 38 77 43 11  
ERB@KROMANNREUMERT.COM  
WWW.KROMANNREUMERT.COM

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169978 ERB/jol  
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## FORM C - COMPLAINT PURSUANT TO ARTICLE 7 OF REGULATION (EC) NO. 1/2003

### 1. INFORMATION REGARDING THE COMPLAINANT AND THE UNDERTAKING(S) OR ASSOCIATION OF UNDERTAKINGS GIVING RISE TO THE COMPLAINT

*1. Give full detail on the identity of the legal or natural person submitting the complaint. Where the complainant is an undertaking, identify the corporate group to which it belongs and provide a concise overview of the nature and scope of its business activities. Provide a contact person (with telephone number, postal and e-mail address) from which supplementary explanations can be obtained.*

As regards a description of the complainant - Dansk Energi - reference is made to the enclosed [Annex 1](#), section 1.4 and 1.5. Further to this, it may be added that Dansk Energi safeguards the interests of its members in legislative affairs by liaising with public authorities on general issues and by collaborating with other organisations at both national and international level. Dansk Energi also safeguards the individual interests of its members in matters of principal importance as e.g. in this Form C complaint.

The contact details of Dansk Energi are as follows:

Dansk Energi  
Rosenoerns Allé 9  
DK-1970 Frederiksberg C  
Denmark

Tel. +45 35 30 04 00  
Fax +45 35 30 04 01  
de@danskenergi.dk

Contact person in relation to this complaint is:

Deputy Director Vilhelm Mørup-Petersen  
Tel.: +45 35 300 425  
Mobile: +45 22 750 425  
E-mail: [vmp@danskenergi.dk](mailto:vmp@danskenergi.dk)

Legal representative:

Attorney-at-law Erik Bertelsen  
Rådhuspladsen 3  
DK-8100 Århus C  
Denmark  
Tel.: +45 38 77 53 38  
Mobile: +45 20 19 74 12  
Fax +45 70 12 14 11  
E-mail: [erb@kromannreumert.com](mailto:erb@kromannreumert.com)

***2. Identify the undertaking(s) or association of undertakings whose conduct the complaint relates to, including where applicable, all available information on the corporate group to which the undertaking(s) complained of belong and the nature and scope of the business activities pursued by them. Indicate the position of the complainant vis-à-vis the undertaking(s) or association of undertakings complained of (e.g. customer, competitor).***

The undertaking which has given rise to the complaint is Svenska Kraftnät ("SvK"), which is the Swedish transmission system operator. Reference is made to the [Annex 1](#), especially section 3.3.1 and 4.4.

Information on the activities and areas in which SvK is active is provided in [Annex 1](#), section 3.1, section 3.3, and section 4.

The contact details of SvK are as follows:

Svenska Kraftnät  
P.O. Box 526,  
SE-162 15 Vällingby

Sweden  
Tel.: + 46 8 739 78 00  
Fax: + 46 8 37 84 05

2. **DETAILS OF THE ALLEGED INFRINGEMENT AND EVIDENCE**

***3. Set out in detail the facts from which, in your opinion, it appears that there exists an infringement of Article 81 or 82 of the Treaty and/or Article 53 or 54 of the EEA agreement. Indicate in particular the nature of the products (goods or services) affected by the alleged infringements and explain, where necessary, the commercial relationships concerning these products. Provide all available details on the agreements or practices of the undertakings or associations of undertakings to which this complaint relates. Indicate, to the extent possible, the relative market positions of the undertakings concerned by the complaint.***

Annex 1 gives a detailed description of SvK's regulation of the interconnection across Oresund ("Øresundsforbindelse"). It is submitted that this behaviour constitutes an abuse of SvK's dominant position and thus violates Article 82 of the EC Treaty. Reference is especially made to Annex 1, section 5 to 7, and to section 3 and 4 which further describe SvK's activities, the relevant markets and the legal framework.

An introduction and an executive summary are included in section 1 and 2.

***4. Submit all documentation in your possession relating to or directly connected with the facts set out in the complaint (for example, texts of agreements, minutes of negotiations or meetings, terms of transactions, business documents, circulars, correspondence, notes of telephone conversations?). State the names and address of the persons able to testify to the facts set out in the complaint, and in particular of persons affected by the alleged infringement. Submit statistics or other data in your possession which relate to the facts set out, in particular where they show developments in the market place (for example information relating to prices and price trends, barriers to entry to the market for new suppliers etc.).***

Reference is made to the annexes to this complaint:

Annex 1      Memorandum and complaint concerning Svenska Kraftnät's regulation of transmission capacity on "Øresundsforbindelsen".

- Annex 2 Correspondence between the Swedish and Danish Ministers of Energy (an unauthorized translation from Danish/Swedish to English has been prepared by Kromann Reumert and is enclosed)
- Annex 3 Report on the price formation in November 2005 in Eastern Denmark from Energinet.dk. (in Danish and English)
- Annex 4 "Development of a common Nordic balance settlement", Report 3/2006 from NordREG (Nordic Energy Regulators).
- Annex 5 "Markedsrapporten", no. 4 – January 2006 from Energinet.dk. (an unauthorized translation of the first page from Danish to English has been prepared by Kromann Reumert and is enclosed)
- Annex 6 "Markedsrapporten", no. 3 – December 2005 from Energinet.dk. (an unauthorized translation of the first page from Danish to English has been prepared by Kromann Reumert and is enclosed)
- Annex 7 "Markedsrapporten", no. 2 – November 2005 from Energinet.dk. (an unauthorized translation of the first page from Danish to English has been prepared by Kromann Reumert and is enclosed)
- Annex 8 "Markedsrapporten", no. 1 – October 2005 from Energinet.dk. (an unauthorized translation of the first page from Danish to English has been prepared by Kromann Reumert and is enclosed)
- Annex 9 Trading Capacity and Exchange on the Baltic Cable and the Øresundsforbindelsen, first Quarter 2006. Memorandum prepared by Dansk Energi 10th of July 2006.
- Annex 10 Power of Attorney.

***5. Set out your view about the geographical scope of the alleged infringement and explain, where that is not obvious, to what extent trade between Member States or between the Community and one or more EFTA States that are contracting parties of the EEA Agreement may be affected by the conduct complained of.***

This complaint regards the regulation of the interconnection between the two EU member states Sweden and Denmark, which affects the trade in electricity. Reference is made to [Annex 1](#), mainly section 3.1, section 4.4.7, section 5 and section 7.

3. **FINDING SOUGHT FROM THE COMMISSION AND LEGITIMATE INTEREST**

***6. Explain what finding or action you are seeking as a result of proceedings brought by the Commission.***

Based on the information provided in this complaint and the annexes, the Commission is asked to assess and conclude whether SvK has infringed Article 82 of the Treaty by abusing its dominant position. By its decision, the Commission should bring the infringement to an end using whatever legal remedy the Commission finds appropriate to ensure that SvK will refrain in future from repeating any act or conduct contrary to Article 82 of the EC Treaty.

***7. Set out the grounds on which you claim a legitimate interest as complainant pursuant to Article 7 of Regulation (EC) No. 1/2003. State in particular how the conduct complained of affects you and explain how, in your view, intervention by the Commission would be liable to remedy the alleged grievance.***

As regards the legitimate interest of Dansk Energi, reference is made to Annex 1, section 1.4 and 1.5, and bullet point 1 above.

Further to this, Dansk Energi has a legitimate interest in making this complaint as its members are highly affected by SvK's infringement of Article 82 in the EC Treaty. SvK's behaviour on Øresundsforbindelsen results in higher prices in Eastern Denmark and reduces the possibilities of Danish energy companies of exporting Danish produced electricity to Sweden. Reference is made to Annex 1, section 1.4, section 7.2.7 and to Annex 9.

4. **PROCEEDINGS BEFORE NATIONAL COMPETITION AUTHORITIES OR NATIONAL COURTS**

***8. Provide full information about whether you have approached, concerning the same or closely related subject-matters, any other competition authority and/or whether a lawsuit has been brought before a national court. If so, provide full details about the administrative or judicial authority contacted and your submissions to such authority.***

This complaint has not been sent to the Danish or Swedish competition authorities, nor is it subject to any court proceedings in these countries.

However, it should be mentioned that the complaint has also been delivered to DG TREN as the behaviour of SvK in our view also infringes the principles of the EC Treaty regarding the free movement of goods.

Finally, reference is made to the meeting between Dansk Energi and DG COMP on Tuesday, 4 July.

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*The information given in this form, and in the Annexes thereto is given entirely in good faith.*

Please do not hesitate to contact me if you have any comments or questions regarding the complaint.

Yours sincerely  
Kromann Reumert  
Erik Bertelsen

Jeppe Lefevre Olsen, assistant attorney  
Århus, Denmark, 20 July 2006