Public Services in Europe:

Trends and Developments

Ten years of EPSU commissioned research from PSIRU: overview and selected works, 1994 – 2004

Edited by Jane Lethbridge and Robin de la Motte

Published for the 7th EPSU Congress – 14-17 June 2004, Stockholm

Public Services International Research Unit (PSIRU),
Business School, University of Greenwich, Park Row, London SE10 9LS, U.K.
Email: psiru@psiru.org Website: www.psiru.org *Tel*: +44-(0)208-331-9933 *Fax*: +44 (0)208-331-8665
Director: David Hall Researchers: Robin de la Motte, Jane Lethbridge, Emanuele Lobina, Steve Thomas
PSIRU's research is centred around the maintenance of an extensive database on the economic, political, financial, social and technical experience with privatisation and restructuring of public services worldwide, and on the multinational companies involved in these processes. This core database is financed by Public Services International (PSI – www.world-psi.org), the worldwide confederation of public service trade unions. Nearly all of PSIRU's research is published on its website, www.psiru.org .

TEN YEARS OF EPSU COMMISSIONED RESEARCH FROM PSIRU: OVERVIEW AND SELECTED WORKS, 1994 – 2004 1
1 INTRODUCTION 5
EPSU AND PSIRU 5
PSIRU – A BRIEF BIOGRAPHY 5
PSIRU'S RESEARCH METHODS AND APPROACH 6
2 WATER 7
EUROPEAN WATER INDUSTRY, 1994 7
EPSC WATER DATABASE, 1994 9
WATER FINANCE, 1996 10
THE PROBLEMS WITH PRIVATISING WATER, 1997 10
WATER MULTINATIONALS: RECENT TRENDS, APRIL 1997 11
PUBLIC PARTNERSHIP AND PRIVATE CONTROL - OWNERSHIP, CONTROL AND REGULATION IN WATER CONCESSIONS IN CENTRAL EUROPE, 1997 13
PRIVATISATION AND THE WATER INDUSTRY, 1997 14
WATER PRIVATISATION IN CEE, 1998 16
TRENDS IN THE WATER INDUSTRY IN THE EU, 1999 18
ITALIAN WATER INDUSTRY 1999: A PROFILE 19
WATER PRIVATISATION AND RESTRUCTURING IN CENTRAL AND EASTERN EUROPE, 2001 23
WATER PRIVATISATION AND RESTRUCTURING IN CENTRAL AND EASTERN EUROPE AND NIS COUNTRIES, 2002 25
EUROPEAN WATER INDUSTRY 2003: A BACKGROUND TO A DISCUSSION ON EWCS 27
3 WASTE MANAGEMENT 31
WASTE MANAGEMENT SECTOR IN 1997 31
Waste volumes declining 31
The EU's key waste management principals 31
Diversification of waste services 31
Consolidation and concentration 32
Structure of Municipal Waste Management 32
Privatisation 32
Forms of Privatisation 33
WASTE MARKETS 33
Central & Eastern Europe 33
Western Europe 34
Private/Public Market Share for Germany, Spain, France, Italy & the UK 34
MULTINATIONALS - THE MAJOR COMPANIES 35
Main Companies by Sales 35
Profits of Major Companies 35
Multinational Strategies 35
ENVIRONMENTAL EMPLOYMENT & UNIONISATION 36
Job Growth 37
Employment in the Multinationals 37
Multinationals Identified 37
CENTRAL AND EASTERN EUROPE 38
Industry issues in waste-to-energy industry 38
Employment Levels, Garbage collectors and related labourers 38
EUROPEAN WASTE MANAGEMENT INDUSTRY 2003 38
European legislation 38
Employment in waste management 39
Total employment in the pollution management eco-industries, EU 1999 39
Retreat of the US multinationals 39
Consolidation and concentration 40
Privatization 41
European waste management industry trends 43
4 ENERGY 44
EMPLOYMENT IN THE ENERGY SECTOR IN EUROPE 1996 44
EMPLOYMENT IN THE EUROPEAN ELECTRICITY INDUSTRY 1990/1-2001/3 45

PRIVATISATION AND DEREGULATION POLICIES IN CENTRAL AND EASTERN EUROPE 45
GAS INDUSTRY LIBERALISATION, RESTRUCTURING AND EMPLOYMENT IN THE EUROPEAN UNION 47
E.ON 52
RWE 52
Gaz de France 53
ENI/SNAM/Italgas 53
TRENDS IN THE ELECTRICITY INDUSTRY IN EUROPE 53
CRITIQUE OF CEER PAPER ON REGULATION OF ENERGY INFRASTRUCTURE 56
BLACKOUTS: DO LIBERALISATION AND PRIVATISATION INCREASE THE RISK? 57
EUROPEAN WORKS COUNCILS AND THE ELECTRICITY SECTOR 62

5 HEALTH AND SOCIAL CARE SERVICES 65

PRESSURES TO PRIVATISE 65
Demography 65
Financial Pressures 66
Capital Investment 66
FORMS OF PRIVATISATION 66
SURVEY RESULTS 69
Other services: Central and Eastern Europe 69
Multinational expansion 70
OVERVIEW OF THE EU LABOUR MARKET 70
Growth in health and social work employment 71
Employment Distribution - health & social work 71
Employment Growth – health & social work 71
Employment in the multinational companies 72
PAY AND CONDITIONS 72
Flexible Contracts and working hours 72
Hours of work 73
EU HEALTH AND THE LACK OF HEALTHCARE POLICIES 73
INTERNAL MARKET FOR SERVICES 74
MULTINATIONAL HEALTHCARE COMPANY TRENDS 2004 75
COMPANY PROFILES 76
SOCIAL DIALOGUE 78
TRADE UNION RESPONSES TO HEALTHCARE LIBERALISATION IN EUROPE 79

6 MUNICIPAL SERVICES AND PUBLIC-PRIVATE PARTNERSHIPS 81

LOCAL GOVERNMENT SERVICE PRIVATISATION AND MULTINATIONAL COMPANIES IN EUROPE 81
Summary 81
Analysis of data from Tenders Electronic Daily 81
2004 EPSU PPPS SURVEY 82

7 EUROPEAN WORKS COUNCILS 84

WATER – COMPANIES ELIGIBLE FOR EUROPEAN WORKS COUNCILS 84
WASTE MANAGEMENT - COMPANIES ELIGIBLE FOR EWCS 86
ELECTRICITY – COMPANIES ELIGIBLE FOR EUROPEAN WORKS COUNCILS 91
EWC ELIGIBLE 91
EWC ELIGIBLE AFTER ACCESSION IN 2004 91
HEALTHCARE – COMPANIES ELIGIBLE FOR EWCS 92
EWC ELIGIBLE AFTER ACCESSION IN 2004 93

8 ENGAGING WITH THE EU AND ITS POLICIES 94

EU COMPETITION POLICIES AND PUBLIC SERVICES 94
Public services in the EU treaties 94
Public services and subsidiarity 94
Make public services effective, conditionally: Article 16 94
Competition rules take precedence 94
Defence and security exempt from competition rules 95
Charter of rights 95
Directives concerning specific sectors: electricity and gas 95
Transparency Directive 95
Competition in practice 96

Responding to the Commission ... 96
Some issues ... 96
CRITIQUE OF THE EC PAPER ON HORIZONTAL EVALUATION OF SGI ... 96
Commentary ... 97
Assessment of performance of SGI ... 97
Impact assessment of liberalization directives ... 97
Wider social and employment data ... 98
Make democratic evaluation central ... 98
THE EUROPEAN COMMISSION'S GUIDE TO SUCCESSFUL PUBLIC-PRIVATE PARTNERSHIPS – A CRITIQUE ... 98
EU financing of infrastructure in central and eastern Europe (CEE) ... 98
Making ISPA funds available for the private sector, and promoting PPPs ... 99
WATER AND DG COMPETITION ... 99
EC INTERNAL MARKET STRATEGY – IMPLICATIONS FOR WATER AND OTHER PUBLIC SERVICES ... 100
Water: a business opportunity ... 100
A CRITIQUE OF THE EC GREEN PAPER ON SERVICES OF GENERAL INTEREST ... 101
"Inherent conflicts" between public services and the internal market ... 101
Part of series of wider initiatives ... 102
The central notion of "public services" ... 103
Why do public services matter? ... 103
Ignoring the European Parliament request for a framework directive ... 104
Conflicts with subsidiarity ... 104
Misleading and excessive claims on liberalisation of SGEI ... 104
A template for liberalization ... 105
Procurement: does corporatization mean compulsory tendering? ... 105
GATS: trading SGI for business abroad ... 105
Financing public services – solidarity or market distortion? ... 106

9 CONCLUSIONS ... 107

SECTORAL OVERVIEWS ... 107
CONCLUSION ... 107

10 ANNEX: COMPLETE LISTING OF EPSU-PSIRU COMMISSIONED RESEARCH ... 109

10.1 EPSU COMMISSIONED RESEARCH 1994-2004 ... 109
10.2 SELECTED RESEARCH ON EUROPE COMMISSIONED BY PSI, 1996-2003 ... 110

1 Introduction

EPSU and PSIRU

This booklet has been commissioned to provide EPSU affiliates with an account of some of the changes that have taken place in different sectors – water, waste management, energy, and healthcare, and in other critical policy areas for public sector workers over the last decade. These changes are traced through the research that EPSU commissioned, initially from the Public Sector Privatisation Research Unit (PSPRU), and over the last six years from the Public Services International Research Unit (PSIRU).

EPSU first commissioned research from the PSPRU in 1993/4 because it needed information to prepare for European Works Council negotiations in the water sector. PSPRU already had a database, which provided information on companies, pay and conditions, and labour conflicts. EPSU also valued PSPRU's critical perspective on the way private companies were entering public services and its work in challenging the myths that the private sector was better than the public sector in delivering services.

PSIRU had now grown beyond this initial work and covers several sectors (water, energy, healthcare, waste management) in depth. It is also recognised as a critical voice in relation to the role of the private sector in public services. One of the valuable features of PSIRU's work is that it is grounded in good empirical research.

The value of PSIRU's work for EPSU is that it has helped EPSU in its negotiations for European Works Councils and other developments. Its work has provided background research to inform EPSU policies. Most recently PSIRU's critical work on EU policies has helped EPSU and other organisations to challenge pan-European policies that will directly affect public sector workers. PSIRU is also increasingly recognised as an authoritative voice on the negative role of the private sector in public services, by a wide range of organisations, for example non-governmental organisations.

The importance of PSIRU's sectoral work has continued to grow and EPSU uses its sectoral reports to inform its own strategic work and for that of its affiliates. EPSU's need for PSIRU's company, sectoral and EU work will continue.

The need to challenge privatisation and liberalisation remains as important as ever even through the structure of public services has changed in some sectors and the expansion of multinational companies into public service provision, in some sectors, has not been as extensive as was expected. In the light of the implementation of policies to promote an internal market within the European Union and global trade agreements, there is a range of new issues, such as the impact of competition legislation, facing trade unions in the public sector.

PSIRU – a brief biography

The work of PSIRU originated in British trade union responses to the Thatcher government's privatisation policies in healthcare and local government in the 1980s. All health authorities and municipalities were forced to invite tenders from private contractors for the jobs of hundreds of thousands of healthcare and municipal workers. Laws protecting wages were repealed so that contractors could pay much lower wages, and EU legislation protecting workers transferred to employers was ignored – illegally, as the ECJ later ruled.

The priority for the unions was to protect workers by supporting the inhouse tenders submitted by each authority. An important tool for this was to get information on the companies bidding for the contracts – who owned them? What did their finances look like? on previous contracts, how much had they cut jobs and pay? did they have a record of failures and problems? Later, after contractors were established, information was used to gain bargaining rights for those employed by the contractors.

Collecting this information involved research resources, and the creation of a database to manage and collate the data. At that time a multiplicity of trade unions covered public service workers in the UK, but they decided to pool resources and employ researchers to maintain a shared database, first in healthcare, later in local government, and finally, in the early 1990s, central government, when it was named the Public Services Privatisation Research Unit (PSPRU). The information collected on companies was made available on request to local union branches, who mainly used it to argue in favour of the inhouse bids. The information on the database was also increasingly used to generate briefings on policy issues. The researchers involved in the development of the database between 1987 and

1998 included Jane Drinkwater, David Hall, Margie Jaffe, Julie Hallam, Colin Meech, Lynne Humphries and Geraldine Reardon.

The EPSU first commissioned work from the PSPRU in 1994. It was a survey of water privatisation across Europe, which was partly to establish which multinationals qualified for European Works Councils. The work commissioned by EPSU and Public Services International (PSI) grew rapidly, covering energy, healthcare, waste management and local government as well as water, and in 1998 a separate research unit was created for the international work, named the Public Services International Research Unit (PSIRU). The information accumulated by PSIRU for EPSU and PSI became the most detailed data on global trends in these sectors, and of increasing interest to others, and in 2000 PSIRU became part of the University of Greenwich, under an agreement which created a steering committee with representatives from PSI and EPSU. The members of this steering committee – Jan Willem Goudriaan, Alice Carl, and David Boys – were those most responsible for developing the work of PSIRU.

PSIRU has continued to maintain the database and the linked website, and has produced an increasing number of reports. It has gained an international reputation for expertise in public services and privatisation. The researchers involved have included David Hall, Emanuele Lobina, Steve Davies, Kate Bayliss, Sam Weinstein, Jane Lethbridge, Steve Thomas, Kirstine Drew, and Robin de la Motte.

www.psiru.org University of Greenwich, London, May 2004

PSIRU's research methods and approach

The research that is featured in this booklet has drawn on a variety of research methods and sources. Surveys of EPSU affiliates were used to provide a European-wide perspective on both changes in public sector workforces and the extent of privatisation and liberalisation in different sectors. Annual reports and other company publications have provided information on the developments of individual companies. Newspaper articles have provided an important alternative view to company developments. Material has also been drawn from academic, policy think-tank and other trade union research.

PSIRU's research is centred around the maintenance of an extensive database on the economic, political, financial, social and technical experience with privatisation and restructuring of public services worldwide, and on the multinational companies involved in these processes. Public Services International (PSI) the worldwide confederation of public service trade unions www.world-psi.org finances this core database. Nearly all of PSIRU's research is published on its website, www.psiru.org .

2 Water

What has been commissioned in water?
Accounts of privatisation and the expansion of private sector involvement in the public water sector of European countries, together with profiles of the large multinationals operating in the sector, form the basis of the commissioned work on water. The insights that are captured in these papers, present an account of changes taking place in the water sector in the past decade.

Recent papers show how EPSU and its affiliates have become aware of wider issues that have to be engaged with in order to safeguard the interests of trade union members. The impact of EU directives and single market/ competition legislation are being felt in the water sector.

Extracts from research reports on the water sector are presented in the following pages.

European Water Industry, 1994

Paper prepared by PSPRU for EPSC Conference, Brussels, 5-6 Sep 1994

This paper is the first report prepared by the Public Services Privatisation Research Unit (PSPRU) for the EPSC on the water industry. It presents information on:

- the structure and trends in European water industry
- the employers in the water industry
- comparative data on pay in the water industry
- EU directives and laws affecting the water industry

Water systems in EU countries are typically the responsibility of local municipal or regional authorities (with the exception of England). The actual management is in most cases carried out directly by the authorities themselves (or associations of them), but in some cases is delegated to public utilities or to private operators. The pattern has been summarised by the employers organisation Eureau, as shown in the table below.

Water management systems: percentage of population covered by each type (1992)

Country	Direct public management	Direct supramunicipal management	Delegated public management	Delegated private or mixed management	Direct private management
BELGIQUE	5		90	5	
DANMARK	67		33		
DEUTSCHLAND	35	20	30	15	
GREECE					
ESPANA	48	11	12	29	
FRANCE	23		2	75	
IRELAND	100				
ITALIA	72	23	1	4	
LUXEMBOURG	100				
NEDERLAND	15		85		
PORTUGAL	92		8		
UK	3	9			88
Average (weighted by population)	37	11	15.5	20.5	16

Source: Eureau

Policies and politics
The development of national policies on this issue is now a complex and political process. To take one example:

In **Lithuania**, the state decided in 1989 that certain enterprises, including water, were too important to be privatised. But three factors have pushed in the opposite direction:

- central government desire to attract foreign capital
- financial problems within the water industry, and
- active marketing by Lyonnaise des Eaux

The proposition that emerged in October 1992 was for a water company, jointly owned by Vilnius town council and Lyonnaise des Eaux*, which would manage the water and sewerage systems. This was opposed by trade union and political action, and in June 1993 the proposal was rejected by Vilnius town council. However, the issue continues to be the subject of political struggle. In May 1994 Lithuanian president Brazauskas publicly criticised the political attitude of Vilnius town council, specifically criticised them for rudely rejecting Lyonnaise des Eaux' proposal for a joint water-supply company, and suggested that the council might be abolished (BBC report 9/5/94).

Leading private water companies, 1993

Company	Country/ continent	Turnover	Division	Turnover
Lyonnaise des Eaux†	**Total turnover 1993:** of which	**93,556 m. FFr**.		
	France	53,977	Water	17,791
	Rest of Europe	16,809	Waste	6,095
	Middle East	874	Energy	10,526
	Far East/Australia	3,686	Civil engineering	24,516
	N. America	14,105	Road-building	9,038
	S. America	1,080	Property development	1,572
			Distribution etc	10,738
			Other	13,280
Generale des Eaux‡	**Total turnover 1993**	**147,609 m. FFR**		
			Water	37,838
			Energy	33,857
			Waste management	9,617
			Construction	42,426
			Property development	10,970
			Other	12,900
Bouygues	**Total turnover 1993**	**76,600 m. Ffr**		
			Construction	52,200
			Property	4,600
			SAUR services	4,000
			Other	15,800

* Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.
† Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.
‡ Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.

Severn-Trent	**Total turnover 1993/4**	**£998 m.**		
	U.K.	927	Water	787
	Rest of world	71	waste management	121
			Other	90

Thames Water	**Total turnover 1993/4**	**£1,093 m.**		
	U. K.	981	Water	871
	Europe	36	Process contracting	96
	Americas	48	Products etc	99
	Africa	4	Environmental services	18
	Asia/Pacific	25	Other	9

EPSC Water Database, 1994

PSPRU Report, November 1994

Summary – water companies

- Privatisation is now a pervasive trend in all countries in Western, Central and Eastern Europe
- the European and world market is dominated by the large French and British multinationals
- the companies are pursuing the privatisation and internationalisation of a range of public services
- they are increasingly seeking to influence and control political developments at all levels - international, national and local
- the database can provide detailed reports on the companies and their activities.

Summary – water industry:

- the water and waste water industries in Europe remain owned and run by public authorities in the great majority of countries.
- nearly 1 million people work in the water and waste water sectors of Europe, including Russia
- there are trends towards privatisation in many countries, although on a small scale (apart from France, UK and Spain)
- there are common factors working in favour of privatisation in all countries, including pressure on public finances and the need for investment to meet new EU standards

Summary – pay and conditions:

- Real pay rises have varied in the last 4 years, with net gains and losses being recorded in both public and private sector agreements.
- Reported agreements covered about 200,000 workers. A number have links between pay and the cost-of-living. Union claims also focused on the cost-of-living, with some focus on job security as well.
- Length of working week of manual workers varies between 40 and 36. Minimum holiday entitlement in nearly all countries is at least 20 days, and the maximum is 30 or more in a number of cases. Annual hours worked varied between 1,620 and 1,888. There is no international consistency in these conditions, even within the same private company.
- Most agreements provided for basic conditions such as maternity leave etc. There was noticeable variation in entitlements to family leave.
- Real pay levels in central and eastern Europe are far lower than in Western Europe. Comparison between similar occupations across different countries seems valid and possible.

Common Factors: EU policies affecting the water industry

Directives and policies of the EU on the environment are having a considerable influence on the water industry.(Directives on social and competition policy are also relevant and may be of importance to trade unionists faced with privatisation). The EU's environmental policies have produced a number of directives which have a major effect on the water industry. The two major ones are the Drinking water Directive (89/428) and the Urban waste water treatment Directive (90/415). Both of these require considerable investment in nearly all EU countries in order to meet the standards required. The Commission also wants to put forward a new environmental protection Directive which will require the use of best available technology for the protection of surface water.

These directives have a mixed effect on the water industry:

- On the one hand, the requirements for higher standards of water purity and provision of wastewater systems, create considerable economic demand for investment and expansion of systems.
- But governments may decide that the cost of these improvements should be borne by consumers or taxpayers, and so a "cheaper" solution offered by private companies (or harsher managers) may become politically attractive
- Public utilities are often far more restricted in their ability to raise funding for expansion than the private sector, and so these political limitations may also make private companies seem more attractive.
- Funding for environmental projects in central and eastern Europe may be spent on contracts involving private companies from western Europe for technical, financial and political reasons.

As a result, environmental legislation creates an increase in expenditure, but may at the same time result in increased tendencies towards privatisation.

Water Finance, 1996

PSPRU, PSI Water Conference October 1996

Cost comparisons between Swedish & English Cities, 1995
Purchasing Power Parities in US$

Water company	**Cost to customer**	**Cost of operation**	**Capital mainten-ance**	**Return on capital**
Stockholm	.28	.17	.03	.09
Manchester	.91	.40	.20	.31
Bristol	.83	.48	.19	.15
Gothenburg	.38	.11	.05	.21
Kirklees	.99	.52	.31	.15
Hartlepool	.73	.35	.08	.29
Helsingborg	.42	.42	.05	-0.05
Waverley	.82	.48	.22	.12
Wrexham	1.25	.57	.35	.32
Sweden average	**.36**	**.23**	**.04**	**.08**
UK average	.93	.48	.20	.23

Source: ITT

The problems with privatising water, 1997

Jan-Willem Goudriaan (PSI) and David Hall (PSPRU), January 1997

World leaders
The water industry has a handful of multinationals. Unusually, none of the main ones are North American.
The world of privatised water is overwhelmingly dominated by two French multinationals, **Generale des Eaux**[*] and **Lyonnaise des Eaux**[†]. These huge groups run private water concessions in France, and also in Spain, Italy, the UK, and some cities in central and eastern Europe. They now have major operations in every continent - eg in Buenos Aires, in Adelaide, in Casablanca.

[*] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
[†] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

A third French company, **SAUR**, owned by the construction company **Bouygues**, is also present in many countries, but is not as large as the others. A Spanish company, **Aguas de Barcelona,** is also internationally active, mainly in Latin America; it is itself 24% owned and effectively controlled by Lyonnaise des Eaux.
The UK Conservative government created 10 private water companies in 1989, but only a few have any significant presence outside the UK. **Thames Water** has acquired a number of concessions, mainly in Asia; **United Utilities** (formerly known as **NorthWest Water**), which has an international alliance with US construction company Bechtel, has gained a few contracts, mostly in North America; **Hyder** (formerly **Welsh Water**), **Anglian Water** and **Severn Trent** also have one or two overseas contracts.

All of the French groups are also present in the UK. Lyonnaise des Eaux now owns Northumbrian Water, which it took over in 1996. All three French companies own all or part of some of the smaller UK water-only companies. There are no true independent North American water multinationals. Nor are the European multinationals well established in the USA, where privatisation of water and waste water is still on a relatively small scale.

Competition
Competition is supposed to be the mechanism by which the benefits of privatisation are realised. But it is not a concept which the water companies are very familiar with. All the English water companies, for example, were given a regional monopoly for 25 years by the Thatcher government in 1989, without having to compete against each other or anyone else for the privilege. In France, nearly 80% of the water business is now shared between the three big companies. European Union legislation on competition has so far given exemption to water supply, so the home markets remain protected. When concessions are advertised for competition outside Europe, the water multinationals often form joint ventures in a series of fluid partnerships which reduce the amount of competition still further. In Argentina in 1993, for example, the concession for Buenos Aires attracted two bids - one from a consortium which included Lyonnaise des Eaux, Generale des Eaux, Aguas de Barcelona, and Anglian Water. Thames Water was left to put up the other bid, which failed.

Problems
The recent history of the water multinationals is full of all kinds of problems, court cases and rejections. The three major issues are corruption, competence, and rejection.

Corruption
Since June 1994, French magistrates have been investigating numerous allegations of corruption used by large companies to win public sector contracts. Executives of both Lyonnaise des Eaux and Generale des Eaux have been convicted of corruption, and further cases are pending. In mid-1996, no less than 5 out of 13 directors on the main board of Generale des Eaux were under investigation for corruption (mostly in connection with their jobs with other companies). Similar allegations recur elsewhere in the world, not only with the French companies.

Competence
For the UK companies, the overwhelming issue has been incompetence. Yorkshire Water so failed to maintain its network that in 1995-1996 it was forced to hire a vast fleet of lorries for months on end to get water to major towns. Nearly all other companies have also had problems in maintaining supplies, or avoiding pollution, or both. The English water companies have done more to undermine support for privatisation than any other group in the country. Most English people react with astonished disbelief when they hear that public authorities in other countries are seriously consideirng inviting the UK water companies to manage their systems.

Rejection
In many parts of the world, there have been successful local campaigns against privatisation of water and sewage. In 1995, the town councils of Lodz in Poland and Debrecen in Hungary rejected privatisation proposals from the French multinationals. In both cases, trade unions drew up clear alternative financing proposals. The councils then decided that they could carry out the necessary investment more cost-effectively by themselves. Elsewhere, in Aguas Calientes, Mexico, and Tucuman province, Argentina, local political reaction against water privatisations forced the companies into making drastic cuts in the price of water.

Water multinationals: recent trends, April 1997

PSPRU Paper for EPSU, 15 April 1997

There have been three general developments affecting the water multinationals in the last six months:

- Mergers and restructuring of the companies
- Continued international growth, but greater resistance internationally

- Greater problems from criticism and performance in both France and the UK

Common problems
The common problems facing the multinationals include:

- Domestic criticism in France. In January 1997 a report by the French national audit office, the Cour des Comptes, was extrememly critical of the country's water system. It said that there was too little competition, prices were too high, concessions lasted too long, works contracts were not properly advertised, and there were corrupt practices. It said that small local authorities were being left without support to deal with conglomerates wielding immense political, economic and financial power.

- Political change in the UK. The UK companies face the prospect of a new, Labour, government from May 1997, which has promised to impose a windfall tax on the water companies' profits. Tighter regulation is likely. Both of these factors will squeeze profits.

- Internat resistance. Following earlier resistance in central Europe and Latin America, there is now major resistance in Casablanca (Morocco) against a contract proposed for Lyonnaise des Eaux. There are also court actions and campaigns against privatisation in the Philippines, New Zealand, and North America.

- New Asian water companies. Water companies may be started in some southeast Asian countries to compete with the European-based multinationals.

Problems for the water multinationals

Group	Country	Date	Problem
Lyonnaise/ Generale/ SAUR	France	Jan 1997	Cour des Comptes criticises water management for expense, lack of accountability, competition, and corruption
United Utilities/Lyonnaise/ Generale/Thames	Philippines, New Zealand	Feb 1997	Opposition by trade unions, consumers, environmentalists to privatisation proposals
United Utilities	Thailand	Feb 1997	Write off £90m after failure to complete sewage system contract satisfactorily.
Generale*	UK	Feb 1997	Contaminated water supply in 3 Valleys (cryptosporidium)
Lyonnaise†	Morocco	Mar 1997	Casablance contract unsigned: controversy over price, investment
Generale	France	Mar 1997	Mayor of Cannes investigated over alleged bribe from Generale company
Thames etc	UK	Apr 1997	Warnings over leakages, expected windfall tax
Generale + Lyonnaise	France	1996	Court rules that company unlawfully increased water prices to cover cost of the Fr388m 'entry fee' paid to council to win the concession.
Generale	France	1996	GdE executives convicted of bribery to win Ile de Reunion water contract in 1990-91.
Lyonnaise	France	1996	Grenoble council take back control of water supply after LdE executive convicted of bribery to win contract
Thames	UK	1996	Sells subsidiaries and writes off £95m because of failure of international and other diversifications.
Yorkshire	UK	1996	Drought, failure to maintain water supplies, condemned for leakage record
Lyonnaise/Generale /SAUR	Central Europe	1993-1996	Privatisation proposals rejected by a number of towns including Debrecen (Hungary), Lodz (Poland), Sofia (Bulgaria), Vilnius (Lithuania)

* Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
† Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

Public partnership and private control - ownership, control and regulation in water concessions in central Europe, 1997

by David Hall, May 1997

This paper addresses three main issues concerning water concessions:

- the exercise of management control and regulation in joint ventures
- the economic aspects of the concessions
- relations between employees and the concessions

The principal conclusion is that in joint venture water companies involving municipalities and multinationals, the municipalities share the financial burden but effective control is invariably in the hands of the multinationals.

Sources

The report is based on a range of sources, including a series of interviews conducted with the managers from eastern European joint venture water companies, purely municipal companies, and multinationals, as well as with trade union officials. It also draws on a range of published sources including water company publications, and press and other reports. The report of the Cour des Comptes *"La gestion des services publics locaux d'eau et d'assainissement"* (Jan 1997) is of particular value in highlighting problems with water concessions in France, the 'home' of this model.

Overview

Water concessions to private companies ("gestion déléguée" in French) are most established in France - where nearly 80% of water supply is now carried out by private companies - and in the UK, where the privatised water companies enjoy 25-year concessions. To a lesser degree they also exist in Spain, where about one-third of the population are covered by private concessions, and to a small extent (about 7%) in Italy). Elsewhere in Europe, the overwhelming majority of the population are covered by publicly managed water systems.

It is worth emphasising that, outside the Czech Republic and Hungary, privatisation in any form is unusual. As in western Europe, and indeed the whole world, the majority of central and eastern Europe, water and sewerage services are provided by public authorities or companies owned by public authorities. At least two municipalities in central Europe have explicitly rejected forming a joint water venture with a multinational. They are **Debrecen** (Hungary) – which considered both Lyonnaise des Eaux[*] and Generale des Eaux[†], and then decided to operate through a wholly municipally-owned company – and **Lodz** (Poland) – which considered Generale des Eaux, and then decided to operate through a wholly municipally-owned company.[1]

Types of water concessions

In theory, there are three main types of concession:

- a concession in the strict sense ("concession" in French) when the private company has complete responsibility for operating the system, and making the necessary investments in the infrastructure, and takes responsibility for financing them at its own risk ("à ses risques et périls" in French). Build-operate-transfer (BOT) concessions are usually of this type.
- an operating concession ("affermage" in French), whereby the private company has to operate the business and carry out maintenance at its own risk, depending on revenue from water charges - but the commune remains the owner of the infrastructure, and is responsible for investment in the system.
- management contracts ("gérance" in French), in which the company is paid a flat fee to manage the system, without taking any responsibility or risk for investments.

In practice, concessions do not always fit neatly into a single category. In France, a recent study stated that the different versions were "très variées et très souples" - extremely varied and flexible. The concession in Budapest (Hungary) is an example in central Europe of a concession which is partly based on a fixed management fee, and partly on actual ownership and investment in the infrastructure.

[*] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.
[†] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.

Multinational presence
The multinational water companies are involved in 13 concessions in central Europe (as at May 1997). Seven of these are in the Czech Republic, four in Hungary, and two in Poland. There are as yet no concessions which have been awarded to multinationals in Slovakia, Romania, Bulgaria, or the Baltic states. Eight of these concessions involve Lyonnaise des Eaux; two involve Generale des Eaux; SAUR, Hyder (formerly known as Welsh water, one of the UK water companies) and Anglian Water (another UK company) are each involved in one. In addition there is a concession in Rostock (eastern Germany), which also involves Lyonnaise des Eaux. In none of these cases, with the exception of Budapest, was there any competitive tender carried out to select a multinational partner. In all other cases the municipalities negotiated an arrangement without any competitive process.

Ownership and control
In four cases - Pecs, Szeged and Budapest (Hungary), and Brno in the Czech Republic, the local authority (or local authorities) hold a majority of the shares. This reflects differences in national laws. In Hungary, the law insists that a local council must own a majority of shares if it participates in any joint venture, and this constrains the percentage that can be owned by the multinationals. In the Czech Republic, there is no such law, and the distribution of shares varies.

In three out of four of the Hungarian companies, and five out of six of the Czech companies, the multinational has effective control of the management board. In two of the Hungarian cases, this control is specified in the concession contracts, despite the fact that the municipalities own the majority of the shares.

There are general factors which affect the effective control of joint ventures between local authorities and multinationals. These concern the balance of economic and technical power between the two parties. This has been identified as a problem in France in the CdC report: "The communes have to negotiate with private partners with powerful technical resources….the negotiation and monitoring of contracts implies expertise and resources which the communes do not necessarily possess".[2]

Economics
The potential conflict between a municipality's incentive to improve its finances, and its role in delivering water at a reasonable price, is at the heart of many of the problems with water concessions. One example is the payment by companies of premiums in order to win the contract - like the one-off "droit d'entrée" in France, now banned; or the annual "canon" paid to some councils in Spain. The higher the payment, the better for the council's finances - but the worse for consumers' water bills. The CdC report says of this problem in France that "Contracting-out gets transformed from its service aims into an elaborate device for financing the authority's own budget at the expense of the consumer-taxpayer".[3]

Similar features are already apparent in central Europe. The water concession in **Budapest**, for example, was awarded to the concession which offered the greatest benefit for the city council's finances – although it involved a higher price for water consumers. The municipality of **Pecs** benefited from selling shares in the water company to Lyonnaise des Eaux, and used the proceeds to improve its central budget. In **Plzen**, the municipality were persuaded not to take a large shareholding in the water company, but instead to accept a larger rent for their assets, on the basis that this income was tax free whereas profits were not.

Municipalities are legally responsible for setting the price of water. In practice, however, it is clear that they have little option but to accept the recommendation of the water company. This was said repeatedly by managers of the companies and others. In some cases (Pecs, Szeged, Plzen) the concessions include clauses which automatically compensate the company if it makes a loss.

Privatisation and the water industry, 1997

prepared for the seminar at the Stockholm Water Festival, August 1997

This paper seeks to review major recent trends in privatisation or otherwise of the water industry. It looks at:

- Worldwide trends
- The multinationals
- political and economic issues
- public sector finances and the water industry

France: the Cour des Comptes report

The multinationals are perhaps coming under heaviest criticism in their own home countries, France and the UK. The sharpest official critique came in France. In January 1997, a damning report on the French water industry was produced by the French audit office, the Cour des Comptes. The report is of great interest to the rest of the world, as the French model of privatisation is being recommended (by the multinationals and others) as a model to follow throughout the world.

The report points out the existence of 'organised' competition: *'There is a high degree of concentration. That is not to say competition is absent, but it is organised competition,'* (Francois Logerot, author of the Cour des Comptes report). The system has not produced real competition - the core theoretical benefit of privatisation. By a process of mergers and takeovers, there are now only three companies in the field. The report also highlights the extent to which authorities avoid evaluation of bids according to public criteria, by "*repeated use of the negotiated procedure, nearly always with the same companies".*

Other practices associated with this kind of privatised concession make things worse. One is *"A tendency to extend existing contracts"* without subjecting them to tender, which has created *"substantial profit margins".* Another is the problem of long-run concessions lasting 30 years or more. In Dinard (Ille-et-Vilaine), *"CISE got the water contract in 1929, and its concession has been renewed up to 2005. The same company will have run the water system for 65 years without ever being subjected to competition."*

The lack of "transparency" is identified as a major problem by the report. The move to privatisation was rarely properly evaluated; contracts are ambiguous; sub-contracting goes to sister companies in the same group without competition; and procedures are exempted from procurement rules. As a result, says the report, *"The lack of supervision and control of delegated public services, aggravated by the lack of transparency of this form of management, has led to abuses".* For example:

- In the city of Metz, the water company did not submit any accounts for a period of 20 years
- *"A substantial mistake was made in the figures for the invoiced amounts when the joint water authority of the valley of Auzon (Puy-de-Dome) renewed its water concession. Only the company with the water concession at the time knew the true situation - and it finally won a renewal of its contract for 12 years"*
- In Bandol-Savary (near Toulon), where OTV (a Generale des Eaux* subsidiary) was contracted to build and run a new water treatment plant, the plant ended up costing at least 15.3 million Francs more than it should. The final insult was that OTV arranged to charge the council twice over for the same treatment, every year. To the amazement of the regional auditor, the company tried to defend this on the grounds that the procedure had been agreed with the council.

The report also highlights the corruption that has emerged from the system. A number of cases are still being investigated. The convictions that have resulted so far include:

- In Grenoble, the former mayor, Alain Carignon, and the executive of Lyonnaise des Eaux†, Jean-Jaques Prompsey, both received prison sentences for corruptly receiving and giving bribes to award the water contract to a subsidiary of Lyonnaise des Eaux.
- Two executives of Generale des Eaux convicted of corruptly bribing the mayor of St-Denis (Ile de Reunion) to obtain the water concession.

Water prices have risen at an average rate of 10% per year in France since 1992, but most of all where water has been privatised. The companies claim that most of this is due to the heavy investments required, but the report found many cases where price rises had no possible link with investments. *In the town of Egletons (Correze), the price of water was more than doubled by the private contractor in three years following privatisation, even though capital investment remained the responsibility of the local council.*

This was made worse by councils using the concessions as a roundabout way of improving council finances, so that privatisation *"became an elaborate way of boosting the council's budget at the expense of the consumer and taxpayer*". One way of doing this - now illegal - was to take 'entry payments' from the company getting the contract.

* Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
† Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

- in St Etienne, the council was paid 388 million Francs by Stephanoise des Eaux (jointly owned by Generale des Eaux and Lyonnaise des Eaux) to win the water concession in 1990. The company simply increased the water bills to get their money back, and so prices then rose from 3.52 Francs per cubic metre in 1990 to 8.50 Francs in 1996, with further rises to 12.0 Francs planned (until consumers won a court order stopping the practice).

Finally, the report repeatedly emphasises the disparity between the local authorities and the three giant companies. The system "left elected councillors on their own, without support, to deal with conglomerates wielding immense political, economic and financial power" (Le Monde, 28th January 1997).

Water privatisation in CEE, 1998

Report by PSPRU for PSI/EPSU Conference in Prague, 5/6th March 1998

Privatised water in Central and Eastern Europe (January 1998)

Country	Concession	Company	Multinational	Per cent owned	Competition with other companies?	Competition with public sector?
Bosnia	National	AWT (Bosnia)	***Generale des Eaux***	28		
Czech Republic	**Brno**	Brno VaK	***Lyonnaise des Eaux***	47	No	No
	Ostrava	Severomoravske VaK	***Lyonnaise des Eaux***	34	No	No
	Karlsbad	Vodarny Karlovy Vary	***Lyonnaise des Eaux***	44	No	No
	North Bohemia	SCVK	***Hyder***	35.6	No	No
	Southern Bohemia	VAKJC	***Anglian Water***	34	No	No
	Pilsen	Vodarna Pilsen	***Generale des Eaux***	98	No	No
Hungary	**Kaposvar**	Eaux de Kaspovar	***Lyonnaise des Eaux***	35	No	No
	Szeged	Szegedi Vizmu	***Generale des Eaux***	49	No	No
	Pecs	Pecsi Vizmu	***Lyonnaise des Eaux***	48	No	No
	Budapest	Budapest Water	***Lyonnaise des Eaux/RWE***	25	Yes	No
	Budapest	Budapest Sewerage	***Generale des Eaux/Berlin Wasser***	25	Yes	No
Poland	**Gdansk**	SAUR Neptun Gdansk	***SAUR***	51	No	No
Slovenia	**Maribor**		***Lyonnaise des Eaux***	50	No	No

Source: PSPRU database

There are now 13 cases of water privatisation in central and eastern Europe involving a multinational company as the main private shareholder. 11 of these cases are in the Czech Republic and Hungary. Details are shown in the table. In most cases the multinational has effective control of the management board[4].

Selected company profile: Hyder (UK)

Hyder is a large UK multi-utility company formed when Welsh Water, the regional water monopoly for Wales, took over SWALEC, the electricity distribution monopoly for south Wales. In 1996-1997 its turnover was £1,140.2m, and its pre-tax profits £208.2m. Hyder was however hit hard by the 'windfall tax' imposed by the new Labour government in the UK on the excessive profits of the privatised utilities. The company has raised a loan of $500m in the USA to pay this tax bill, for which it has been given a credit rating of A-[5], a reduction from its previous standing of A+.[6]

Hyder has cut the number employed on its water operations from 3397 in 1990, when the company was privatised, to 2744 in 1996. One way it has done this is through sub-contracting maintenance work. Even bigger job cuts have been made since the merger to generate savings: a total of 1,250 jobs are being cut.[7] The water company has introduced a personal pay system for its employees, but Hyder has continued to recognise and consult trade unions.[8]

Like the other UK water companies, Hyder's performance record is not outstanding. It has been guilty of polluting drinking water supplies more often than any other UK company.[9] It has installed over 10,000 'budget payment units' - two-thirds of the total installed by all UK companies - which mean that people unable to pay their water bills can cut themselves off by failing to put enough money in the meter. [10]

Hyder's strategy in the UK is to make itself a 'multi-utility' company selling water, electricity and gas to the same customers - although not telecomms services, which it has abandoned. [11] It has formed a unified management structure for these services. Unlike other UK water companies, it has retained and developed its construction and engineering business, both in the UK and abroad, and is now involved in major water engineering, road-building and railways projects.[12]

Internationally, Hyder is aiming to grow further both in water engineering and water operations work. Further growth in the Czech Republic through SCVK is an important part of this - SCVK's business is about half the size of Welsh Water's own customer base.[13] It is also well placed for growth in Poland, with a generous World Bank consultancy contract to advise the part-privatized Polish company Aqua, and with a nearby engineering business near Leipzig. It sees Germany as a the main potential EU market for privatised concessions, it is involved in constructing a large sewerage project in Greece, and also involved in a major construction work in Ireland.[14] Most recently, it has bought a 20% share in the China Water Company, based in Hong-Kong, which is developing new plants and concessions in China.[15]

Investment and finance
The issue of finance for investment is crucial to the debate about water privatisation.

- Substantial investments are needed in most countries - not just CEE - to repair old pipes and systems and reduce leakage rates. These needs are however increased by the standards of the EU.
- At the start of the 1990s it seemed improbable that public authorities in the countries of CEE could hope to borrow millions of dollars from international money markets at rates similar to those obtainable by multinationals. In 1998 however it seems that this is indeed possible.
- There are a number of multilateral financial institutions which provide loans for infrastructure investment. These are available to public sector projects as well as privatised operations.

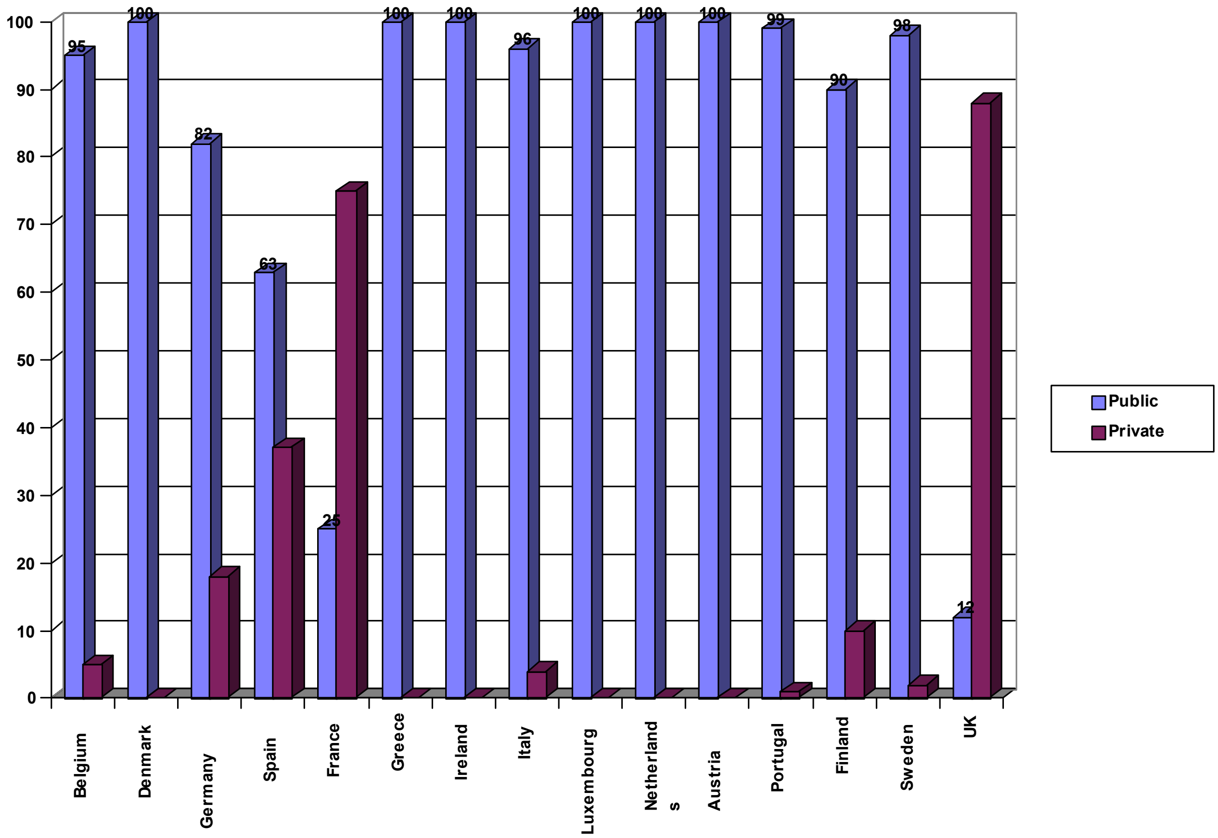
Most central European countries are hoping to join the EU in the next few years. EU standards for water and sewerage are very high, and this demands a high level of investment by countries which are hoping to join the EU in the near future. This also implies higher prices for water.

One of the traditional arguments for privatisation is that the multinationals can and do obtain more finance for investment, more easily. It is assumed that multinationals are investing their own equity, or accessing financial markets not open to public sector companies. The practice, however, is different – multinationals are reluctant to invest their own equity in water projects, because of low or uncertain profits; in practice use the same financial markets as public sector bodies; and often use loans and guarantees from multilateral public sector institutions, such as the EBRD or EIB. Moreover, municipalities in central Europe are now increasingly able to raise finance themselves. A number of municipalities - Lodz and Krakow in Poland, Ostrava in the Czech Republic - have been given international credit ratings.

Trends in the water industry in the EU, 1999

by David Hall, February 1999

Water supply in EU: public or private/mixed (percentage of population supplied by each type.)



Source: Eureau: Management Systems of Drinking Water production and Distribution Services in the EU Member states.

Major developments: France

There has been greater pressure on the private companies in France, for a number of reasons:

- The various corruption scandals, which continue to emerge (the latest investigation concerns a combined cartel-corruption system operated by the big three groups to share out construction contracts from schools in the Ile-de-France region, and give the political parties a 2% cut of the contract value)
- Stronger demands from the new socialist government of Lionel Jospin, which has imposed new regulatory requirements, and various municipalities which have insisted on 'savage' renegotiation of contracts. Generale des Eaux have complained that competitive retendering is squeezing their margins.[16]
- Greater public hostility to high prices and financial exploitation of water, which was strengthened by the criticisms of the Cour des Comptes report in 1997

Partly in response to this pressure, the groups have rationalised their operations in France.

Major developments: Germany

The largest proposed water privatisation in the EU is the sale of 49.9% equity in Berlin's water company, Berliner Wasser Betriebe (BWB).[17] The reason for the sale is the indebtedness of the local authority, not the inefficiency of the water company. The sale has been strongly opposed by the German trade union OTV, and a strong local campaign has been organised to prevent or delay the sale. Berliner Wasser Betriebe is itself internationally active. It is a partner of Vivendi in the Budapest sewerage concession, and is bidding for a number of other water operations internationally, including for example Panama.

Major developments: Italy
Firstly, the award of a private water concession by the municipality of Arezzo to a consortium headed by Lyonnaise des Eaux*. This is the first privatised concession awarded under the new legal structure introduced by the Legge Galli in 1994. Secondly, the emergence of corporatised municpal enterprises operating beyond their own home territories, in particular AMGA, which is 51% owned by the city of Genoa.

Major developments: Spain
There has been a complex struggle over the ownership and control of Aguas de Valencia, the company which has held the Valencia water concession for 95 years, whose main shareholder is Bouygues-SAUR. Valencia council has been seeking to retender the concession, strengthen the council's control over the water operation, and strengthen the local Spanish private shareholding in the company. SAUR has

- tried to persuade the council to extend the contract for another 50 years, without competition
- fought bitterly to prevent any competitive retender, even after a century
- claimed that the company now owns the water system, not the people of Valencia
- disrupted an attempt to transfer control of the company into the hands of Spanish shareholders.

In January 1999 the Spanish shareholders conceded that SAUR would retain effective control: SAUR now has 36.3% of the shares and appoints 6/15 of the directors; Boluda, the Spanish ally of Bouygues/SAUR, holds 13% of shares, and 4/15 directors.

Major developments: UK
In July 1998 Wessex Water was taken over by Enron, the USA energy company. This now forms the core of Enron's new water division, Azurix, the first time a USA company has ventured seriously into the international water business.

Italian water industry 1999: a profile

by Emanuele Lobina and David Hall, February 1999

Legal framework
Until recently, the Italian water industry has not undergone significant changes. With a few exceptions, water utilities are fragmented between hundreds of municipalities and are operated by municipally-owned enterprises. The presence of private operators, including domestic investors and foreign TNCs, is limited and in 1996 represented 4% of the national market.[18]

Recent developments have occurred in regulation, at central and regional levels, which affect the structure of the industry and the behaviour of operators. The most important of these is the *Legge "Galli"* (36/94), the national act of 5th January 1994 providing for the restructuring of the water industry, which was implemented by the first municipalities only in late January 1999; other developments include various legislative action and judicial decisions. The Legge "Galli" provides for the organisation of water supply and sewerage through the aggregation of municipal utilities into single territorial units. The national act, to be completed by regional legislation, does not require the privatisation of local utilities. However, it allows a considerable degree of freedom to municipal authorities in choosing the organisational structure of the prospective operator/s (publicly-owned enterprise, "corporatised" or with administrative status; public-private partnership; or delegation to the private sector). It also introduces a larger commercial freedom for the operator, e.g. in fixing tariffs to cover investment costs including VAT (in 1998, the average price of water in Italy was less than IT 800 lire per cubic meter as compared to IT 3,600 lire in Berlin[19]).

Arezzo privatization
The first restructuring under the *Legge "Galli"* took place in January 1999 in the territory headed by the municipality of Arezzo in Tuscany. The prospective operator, a public-private joint stock company, will enjoy a 25-year monopoly. The company will be 54% owned by the municipalities of the district and 46% by the private shareholder, a consortium comprising the French TNC Lyonnaise des Eaux†, the Genoan municipal enterprise AMGA, two local banks (Monte dei Paschi di Siena and Banca Popolare del Lazio e dell'Etruria) and Iride. The

* Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.
† Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

selected consortium had prevailed over two others, one led by the French TNC Vivendi/Generale des Eaux[*], one by the Roman municipally-owned enterprise ACEA. This is the only concession awarded so far under the *Legge "Galli"*.

Transnational presence
Vivendi/Générale des Eaux has established a small presence in Italy through stakes in a number of local companies. Those include:

- Acquedotto De Ferrari Galliera, Acquedotto Nicolay and SAP in Liguria;
- Acque Potabili in Piedmont and Liguria (in joint venture with the Italian TNC ENI-Italgas);
- Romagna Acque in Emilia Romagna (in joint venture with the Italian TNC ENI-Italgas and the municipality of Forlì);
- Compagnia Generale delle Acque in Veneto.

Suez/Lyonnaise des Eaux has a small presence in Italy through subsidiary undertakings. Those include: Aqua Toscana in Tuscany; Crea and Urbana. **SAUR/Bouygues** is present mainly through one subsidiary active on the Adriatic coast, Sigesa. The UK company **South West Water** owns a minority stake in SIBDA (Società Italo-Britannica dell'Acqua Srl), one of its few foreign subsidiaries. In 1995, **Severn Trent** entered a partnership agreement with Acoter, a water supply operation owned by 51 communes around Bologna. Nonetheless, Severn Trent Annual Report 1998 does not mention it among the company's international activities.[20]

Municipally-owned enterprises ('azienda municipale')
AMGA of Genoa was the first major Italian city utility to be partially privatised, when 49% was sold in October 1996. The company serves 300,000 people in the metropolitan area of Genoa, but has also extended its operations in Liguria and other Italian regions.[21] 1998 saw important developments concerning the debated question whether municipally- and other publicly-owned enterprises should be allowed to operate outside their original territory, the effect of a court decision and a national competition authority recommendation being to make this easier.

The Water Multinationals, 1999

David Hall, September 1999

Overview
Most of the world's water, like most of Europe's water, is provided by public sector bodies. It is generally agreed, even by the multinational companies themselves that this will continue to be the case. However, there are a number of local and central governments which have decided, for various reasons, to privatize water and sewerage operations. This privatized section of the water industry has come to be dominated by a tiny number of companies. The reasons for this are historical accident.

Historical accidents in France and the UK
For historical reasons, three private nationwide companies grew up in France, operating water concessions for a number of locval authorities. This happened nowhere else in the world, and so these three French companies – now called Suez-Lyonnaise[†], Vivendi[‡], and SAUR – were the only water companies in the world which were private, used to operating across a number of different public authorities, and with the size and capital resources to take advantage of the fashion for privatization which started in the 1980s.

In the UK in 1989, the 10 water companies were privatized, and given uncontested long-term monopolies, for political and ideological reasons, by the Thatcher government. Again, this was only possible because the UK, uniquely in western Europe, had restructured its water sector 15 years earlier, so that all the municipal operations had been merged into a small number of regional companies, state-owned but publicly accountable. Had this restructuring not taken place, there would not have been any large companies for Thatcher to privatize.

Unlike the French companies, however, the UK privatized monopolies had never had to compete, or negotiate, for concessions from political authorities. Neither had they ever had problems in making their operations profitable: the companies were given profitability as a political imperative, and even the regulator was told that his prime responsibility was to ensure the companies were profitable enough.

---

[*] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
[†] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.
[‡] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.

All continents, same companies
Because of these accidents, and the growth of privatization, there are now privatized water concessions in cities on every continent. In every region of the world, the great majority of these concessions are run by one of the two biggest French groups – Vivendi and Suez-Lyonnaise – with a smaller number, modestly in Africa, run by the third French group, SAUR. There are an even smaller number held by one or other of the UK companies – Thames Water, Anglian Water, United Utilities – but they have struggled to make an impression.

Suez-Lyonnaise des Eaux
Suez-Lyonnaise des Eaux (SLE) has a clear strategy to focus on utilities – energy, water, waste. It also operates in media, including TV and telecoms in France, but this is minor compared with Vivendi's media activities (see Vivendi). It still owns a very large construction division. The group expects most of its growth to take place outside France in the next 5 years. SLE has decided to increase to 100% its shareholdings in three key affiliates: Tractebel (until now 50% owned), Sita (until now 50% owned), and UWR (United Water Resources, previously 30% owned.). This gives it simple 100% control of all its core activities –energy, waste and water.

SLE is a global leader in all these three sectors;
- In water, it is the largest company in the world outside France (Vivendi is larger inside France)
- In energy, it claims to be (through Tractebel) the largest private power generator in the world
- In waste, Sita is one of the two largest companies in the world, outside the USA

In water, its stated strategy is to "control resources and entire water cycle". It plans to focus on markets in developed and emerging countries, and to extend its dominance into water treatment technologies.

Vivendi
Vivendi adopted its new name in 1998: it was previously known as Generale des Eaux. Like Suez-Lyonnaise, it is also focussing on core businesses. One of these is all the utilities combined together - water, energy, waste management, and public transport. The other is communications, which includes telecomms, television, internet, publishing and other media. Construction, organised under SGE, is treated as a third, less important business: Vivendi has stated that it intends to sell up to 50% of SGE. Vivendi has also indicated that at some stage it may float the utilities section as a separate company, and sell up to 30% of its shares (but this is a possibility, not a definite decision). The company is investing most money and effort in telecomms and media. It is however pursuing an aggressive expansionist policy in North America in all sectors, where it has made huge takeovers in water and waste management, following earlier acquisitions in energy and software (Cendant) in 1998.

Vivendi bought US Filter for over $6 billion in April 1999 - the largest acquisition ever made in the USA by a French company. This gives it a major presence in the water-related products, including bottled water, and also a strong position for expansion into municipal utility services of water supply and sewerage. It also incidentally gave it a strong position in other markets, including bottled water in Latin America .[22] This followed an earlier purchase of 16% of Consumers Water, the second largest water company in the USA. Vivendi also won the competition to buy shares in Berlin Wasser, obtaining 22.5% in a joint bid with German partner RWE. This was the largest water privatisation in 1999, and a very significant gain in Germany for Vivendi. Vivendi's various acquisitions in water, energy, waste management and telecoms have very considerably increased its debt, and the company's credit rating has been reduced because of the amount of money it has borrowed.

Bouygues/SAUR
SAUR International is 77% owned by Bouygues, a giant French construction company, and 22% owned by Electricite de France (EdF), the French state-owned electricity company. It is the third water company in France. It is active internationally, but especially in Africa. Unusually for a multinational, most of its business outside France is in Africa. By contrast, Vivendi and Suez-Lyonnaise have relatively small presences in Africa. In central and eastern Europe its sole presence so far is in Gdansk, the first privatised water concession in the region in 1992 (and still the only one in Poland).

Azurix
Azurix was created when Enron, the USA energy multinational, Enron bought Wessex Water, a UK water company, in June 1998. A year later, In June 1999, Azurix was floated on the New York stock exchange - Enron retains 35% of the company's shares. Enron is very active in energy privatisation worldwide. Azurix has found it difficult to establish itself as an international water company. Its first major concession won in its own right was for OSBA, province of Buenos Aires, in July 1999 – a 30year concession for which it paid $438m. Its greatest disappointment was failing to win the bidding for Berlin, despite offering the highest price. It has no presence in central and eastern Europe, but is tendering for concessions.

RWE

RWE is one of the largest companies in Europe and the world, a multinational group operating in a number of sectors, including energy, waste management, telecomms, construction and chemicals. It is the largest private energy company in Europe, and the largest waste management company in Germany. It is internationally active in a number of these sectors, especially energy. It is present in central and eastern Europe in a number of sectors, including energy and telecomms. It has a small number of water operations in Germany, which have not been growing - the turnover in the first three-quarters of 1998/99 was lower than in the corresponding period in the previous year. Its two major water concessions have come in partnership with the two French multinationals; In Budapest, where it is in a joint venture with Suez-Lyonnaise, which won the Budapest water concession; and in Berlin, where it partnered Vivendi in the successful bid for Berliner Wasser Betriebe (BWB). Indirectly, this gave it a further interest, as BWB was already a partner of Vivendi in a consortium operating the Budapest sewerage concession. RWE has a declared strategy of becoming a "multi-utility", to establish itself as a significant operator in water, gas, electricity, waste and telecomms.

Other

Anglian Water is the only UK company which has any presence in central and eastern Europe (or anywhere else in Europe). This is in the Czech Republic, where Anglian now control two water companies. Hyder sold its sole Czech holding in 1998. Severn Trent has now almost abandoned its international water activities. Thames Water remains active internationally, almost exclusively in Asia, where it has recently won contracts in Thailand and Malaysia. United Utilities has not been very active internationally since it won the concession for half of Manila (Philippines). None of the Spanish water companies are active in central and eastern Europe. A number of Italian companies are becoming active in international water operations. Most are owned wholly or in part by public sector bodies.

Water and privatisation in central and eastern Europe, 1999

David Hall and Emanuele Lobina, 26 September 1999

Major developments in 1999

- Termination of Vivendi's[*] concession by Szeged city council
- Municipalities assert themselves against multinationals: Szeged, Budapest, north Bohemia
- Takeover battles and share deals of water companies in Czech Republic
- Problems with prices – Czech Republic (south Bohemia), Hungary (Szeged, Budapest)
- Municipal companies access investment finance – Debrecen, Lodz, Szeged
- New tenders expected – Sofia, Praha, Poznan, Tallinn

Szeged: municipality dismisses Vivendi, creates municipal company, gets EU finance

The city council of Szeged has decided to terminate the concession to Vivendi's subsidiary, and take back the operation of the water company in-house.[23] This is the first time that a water privatisation has been reversed in central and eastern Europe. The key issue in Szeged is the extension of the sewerage system, which currently serves 65% of the population. The city council wants to extend it to provide 80-85% coverage. This work has already been financed by the city council taking out a loan, and obtaining government support. One of the advantages of getting rid of Vivendi is that the city council will be able to invite competitive tenders for the works, instead of being forced to give the job to Vivendi.[24] The development will also receive finance from the EU's pre-accession fund, ISPA. [25]

Debrecen: efficient municipal water company

In July 1995, Debreceni Vizmu (Debrecen Waterworks Incorporated Company) was created as a separate entity from the municipality, with a proper evaluation of assets. The company is now well-established, has financed and carried out major investments, and is operating efficiently. The table shows the financial performance of the company in the last two years of operation. Table 6 allows to compare Debreceni Vizmu's overall performance with that of three Hungarian privatised water companies. Those are Eaux de Kaposvàr and Pécsi Vizmu, both subsidiaries to Lyonnaise des Eaux[†], and Szegedi Vizmu. Overall, Debreceni Vizmu appears no less efficient than the privatised water companies.

[*] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
[†] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

Debreceni Vizmu, comparison with privatised water companies in Hungary, 1998

Company	**Debreceni Vizmu**	**Eaux de Kaposvár**	**Pécsi Vizmu**	**Szegedi Vizmu**
City	**Debrecen**	**Kaposvár**	**Pécs**	**Szeged**
Ownership and control	**Municipal**	**Private**	**Private**	**Private**
Population, '000s	222	73	183	174
Population served with potable water, '000s	220	73	170	174
Population served with sewerage, '000s	177	46	146	109
Length of pipeline, km	572	249	781	643
Length of sewer network, km	337	131	365	309
Total value of equipment used, HUF million	9,647	2,492	7,922	5,685
Full time labour	558	142	409	238
Average monthly wage per capita, HUF	80,095	67,093	74,456	75,260
Tariff for water per household, HUF/ccm, 31/12/98	97	78	130	75.3-73.9
Sewerage fee per household, HUF/ccm 31/12/98	60	52	77	53.1-53.3
Net income from water supply, HUF million	2,165	659	2,114	1,036
Total net income, HUF million	2,343	727	2,385	2,107

Source: Debreceni Vizmu, 1999

Other

The most marked development in the Czech Republic this year has been the trading of shares in water companies in a series of takeovers. This has been driven by two multinationals – Vivendi, which now owns a substantial section of the Czech water industry; and Anglian water, which has surprisingly decided to expand its presence in the Czech Republic.

The city council of Bielsko-Biala in southern Poland has restructured its water by setting up an arms length municipally owned water company, Aqua SA. The company has obtained World Bank finance for investment purposes. It has been the subject of a detailed case study in a survey of water companies published by the Netherlands environment ministry. [26]

There have still been no further privatisations of water in Poland since the privatisation of Gdansk water in 1992. In 1998 a comparison between the price levels of the restructured municipal operation in Lodz, and the privatised operation in Gdansk, showed that prices were lower in Lodz.

Comparative prices of water and sewerage, Lodz and Gdansk, February 1998

	Lodz	**Gdansk**
Water supply	0.93	
Sewerage	0.60	
Combined	1.53	2.41

Note: Zloty per cubic meter, for households (Source: Solidarnosc)

Water privatisation and restructuring in Central and Eastern Europe, 2001

By Emanuele Lobina, November 2001

Bulgaria: Labour problems following Sofia water concession to IWL

Sofijska Voda is the water company of Sofia, created following the privatised concession awarded in 2000 to International Water. The company is a joint venture, partly owned by International Water and partly owned by the municipality of Sofia. As it often happens with International Water, United Utilities will operate the infrastructure under a separate contract. However, UU Annual Report 2000 presented UU and IWL as forming a consortium which would operate Sofijska Voda. UU also presented Sofia as being part of its expansion strategy in Eastern Europe (UUAR2000, p. 26). In August 2000 the Bulgarian unions reported that there were major problems with International Water because they were refusing to agree to transfer contracts of employment, and wanted to put permanent employees onto fixed-term contracts.

In April 2001 these problems persisted. International Water was constantly postponing negotiations and refusing to sign a collective agreement protecting workers pay and conditions, while continuing to cut jobs.

Public Services International (PSI) protested to the company on behalf of the Bulgarian trade unions, and demanded urgent observation of ILO conventions 87 (freedom to organise) and 98 (collective bargaining)[27].

Bulgaria: Sofia water privatisation, lack of transparency and price rises
On 30th March 2001, the Bulgarian Federation of Consumers took court action requesting that Sofia city council's decision to increase water tariffs to consumers by 25.5% be revoked[28]. And that an injunction was issued to stop the concessionaire charging the augmented tariffs to consumers. The city council approved the hikes on 19th February 2001 upon a proposal submitted by Sofijska Voda. International Water argued that the increase was justified by the inflation rate and the introduction of a state fee, set at 17% of water tariffs[29].

However, consumers claimed that the increase decided three months after the concession award was against what provided for by the contract. This explicitly stated that tariffs would not be changed in the first three years of operation. And International Water succeeded in the bidding procedure against Vivendi* and Suez Lyonnaise† because it had undertaken not to increase water prices in the first three years.[30] Consumers also requested that the "*classified addendum*" to the contract should be disclosed and questioned the municipality promises that the privatise operator would "would replace and upgrade some 100 km of the town's water-and-sewerage network per year", dubbed as "*totally unrealistic*"[31].

Czech Republic: Vivendi/Anglian win Prague water - bid could double water rates
In January 2001, Vivendi Water was awarded a 13-year concession to operate water supply and sanitation in Prague (1.2m inhabitants), Czech Republic. Vivendi also acquired a 66% equity stake in Prague's water company PVK for EUR 174m. Anglian Water was part of the Vivendi-led consortium and would provide assistance on "the technical side of the contract".

Expected yearly revenues from the concession were estimated at EUR 110m. The agreed investment programme included "a rapid reduction in leakage", improving wastewater treatment, "an ambitious personnel training program" and introducing "modern" customer services. In June 1999, the EIB had issued a 15-year EUR 50m loan to the City of Prague to finance leakage reduction and improvements to the "efficiency and profitability" to wastewater treatment plants.

Vivendi expected price increases to be contained to inflation levels in three years[32]. However, Vivendi was bitterly criticised by competitors Suez-Lyonnaise, International Water/United Utilities for putting forward an excessively high bid, three times higher than experts' estimates, which would cause water rates to double from the current value of Kc 33 per cubic meter. Vivendi was also alleged to overprice the estimated costs of investments required to comply with EU legislation - Vivendi estimated that the reconstruction of a water treatment plant would cost $120m as opposed to $30m projected by both Suez and International Water[33].[34]

Vivendi justified the high bid with the strategic importance of the Prague concession as a base for further expansion in Central Bohemia. The first expansion would take place at the beginning of 2002, after completion of a restructuring aiming to reduce the number of plants from seven to three and cut its workforce. PVK would in fact cut 100 of its 2,000 employees and a further 100 workers would be dismissed in 2002[35].[36]

Estonia: Financial manipulations of Tallinn water by International Water
In January 2001, International Water, a 50-50 joint venture between Italian-based Edison SpA and the US-based Bechtel, together with United Utilities International acquired a 50.4% stake in AS Tallinna Vesi for EUR 80m. Tallinna Vesi provides water services to the Estonian capital Tallinn.

A large part of the proceeds from the sale would be used to support the Tallinn budget and would enable the municipality to avoid borrowing. The council decided to use more or most of the revenue from the sale to reduce the city council's borrowings: instead of the EKr280m originally planned, no less than EKr641.2m would now be paid into the municipal budget. The water company was to receive a corporate loan of C22.5m from the European Bank for Reconstruction and Development (EBRD), consisting of C15.5m to refinance an existing sovereign-guaranteed loan and C 7m of additional financing[37].

The privatisation was controversial due to financial manipulations of the water operations by the foreign operator, relating to surcharge for water drainage (The council never paid the water company for this when it was municipally owned), price increases (expected to rise 50 percent by 2005), dividends payment ($10m taken out of the company after 6 months in private hands) and the remuneration of the supervisory council (International Water proposed that

* Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
† Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

members of the supervisory council of Tallinn Water should each be paid $1,000 US dollars for participating in each meeting).[38]

International Solidarity in Water Public-Public Partnerships in North-East Europe 2003, *by David Hall & Emanuele Lobina, March 2003*

This paper looks at the restructuring of water and sanitation in north-east European– the Baltic states of Estonia, Lithuania and Latvia, Poland and the two major Baltic cities of Russia – St Petersburg and Kaliningrad.

The political, economic and environmental background to these developments was significant. From the late 1980s to the early 1990s, all these countries were in the process of ending the communist regimes. The political and economic structures were completely reconstructed, including the role of local government. Water and sanitation became municipal responsibilities. Virtually all households were already connected to both water and sewerage, but the networks suffered from degradation. Environmentally, there was heavy pollution of water courses, and of the Baltic Sea.

In the last ten years, many cities and towns in the region successfully restructured their water operations, while retaining public ownership and management. They have obtained long-term investment finance from development banks, enhanced their efficiency, improved the quality of water supplies and the treatment of sewerage. They have received international support in doing this. Support for capacity-building has come through public-public partnerships (PUPs) or twinning, with public sector water companies in Sweden and Finland, and finance has come from a mixture of aid and long-term loans from development banks.

These key features – restructuring within the public sector, long-term finance from development banks, and international solidarity and support through PUPs – provide further indicators of what can be achieved without privatisation.

Water privatisation and restructuring in Central and Eastern Europe and NIS countries, 2002

By Dave Hall, Emanuele Lobina, & Robin de la Motte, March 2003

Overview

Tactical manipulation of contracts, procedures, and accounting were one of the leading themes of 2002. In the Czech Republic, Vivendi pushed strongly for expansion, often using middlemen, and often encouraging municipalities to avoid a public tender. In Sofia and Tallinn, the International-Water-controlled utilities continued to exhibit manipulative behaviour. In Tallinn, the utility's capital reduction netted International Water a further €30m, in addition to the normal dividends. In Sofia there were issues regarding the use of an EBRD loan, and apparently illegal attempts to effectively subcontract the concession; there were also possible plans to force customers to buy unnecessary water pumps from the utility. Also in Bulgaria, the World Bank-funded water utility restructuring project suffered from allegations of corruption, with the head of the project management unit being dismissed.

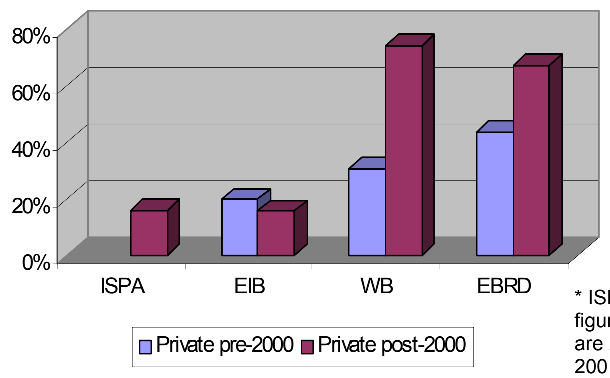
The overall balance between the public and private sectors did not however change dramatically in 2002, with no new major privatization deals, although there were a number of smaller ones. Some countries, such as Poland, saw a continuation of their tradition of public sector restructuring, with the private sector still making only small inroads. In others, such as the Czech Republic, the dominance of the water multinationals continued to grow, with International Water gaining its first concession, and expansion by Vivendi in particular. In Slovakia, restructuring of the industry in preparation for privatization led to suggestions it might soon be similarly dominated by the multinationals. In the rest of central and eastern Europe, developments were spotty, with relatively low levels of privatization increasing only slowly. An apparent new entrant to the region, E.On's Gelsenwasser subsidiary, recently gained two concessions in Poland and Hungary, and a management contract in Kosovo; but Gelsenwasser is soon to be taken over by RWE-Thames (as part of a complex deal between E.On and RWE to allow E.On's takeover of Ruhrgas). In contrast to central and eastern Europe, in the Balkans and NIS countries, private sector involvement remained at a low level during the 1990s, but since 2000 has started to grow, often in the context of World Bank pressure.

World Bank and EBRD: increasing support for privatization

The World Bank's privatization efforts in the region continued strongly in 2002, with its loan projects emphasising the private sector, with conditionality at least implicit. In Macedonia, the World Bank's project in Skopje involves a concession. In Albania, Uzbekistan and Tajikistan, the World Bank's latest projects brought private management contracts; and in Kosovo, a management contract went to Gelsenwasser. The Bank was not, however, always successful. In Bulgaria, the planned concession in the Varna and Shoumen regions was abandoned after opposition from the two municipalities involved. In Ukraine, the project in Lviv was initially conceived as a management contract but the private involvement was then reduced to an advisory contract – with the possibility remaining that this could lead to something further in the future. The project also ran into long-drawn out problems over the terms of the loan and the conditions attached to it (including purchasing only foreign equipment).

These developments in 2002 must be seen in the context of the World Bank's increasing push towards privatization in the NIS and Balkan states, where its involvement has been concentrated. Of the twelve water projects it has funded since 2000, five involve private operators (typically in the form of management contracts); a sixth was originally a management contract, now downgraded to an advisory contract. Of the 19 previous projects between 1993 and 2000, only 4 saw private involvement. No doubt the acceleration in part is due to the restructuring, consolidation, and legal changes taking place, which have made private sector involvement more feasible. (See chart on previous page for the increasing proportion of funding going to the private sector.)

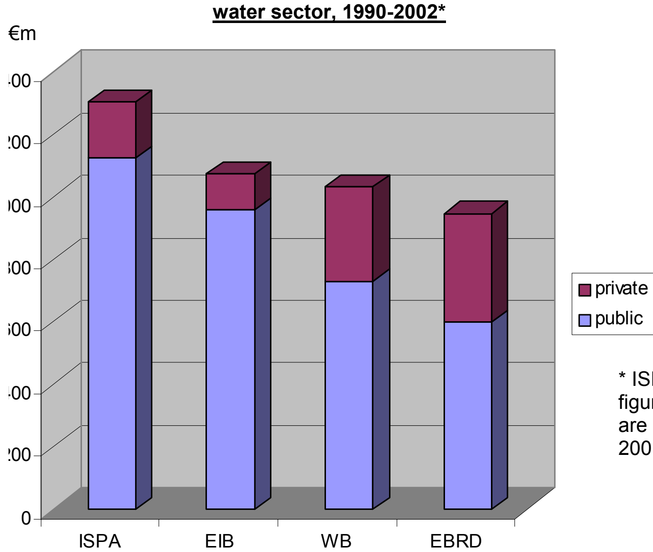
Proportion of multilateral funds going to the private sector, CEENIS water sector 1990-2002*



* ISPA figures are 2000, 2001 only

Source: PSIRU database

Multilateral financing for the CEENIS water sector, 1990-2002*



* ISPA figures are 2000, 2001 only

Source: PSIRU database

The EBRD has also strongly supported privatization, with about two-thirds of its funding since 2000 going to utilities controlled by foreign multinationals, and a number of others in part targeted at leading to privatization. By contrast, a much larger proportion of the grants and loans provided by the EU's ISPA, as well as the EIB, have suppported public sector restructuring.

ISPA in particular has also spread its funds quite widely, supporting nearly 80 different projects in 2000 and 2001 (the two years for which data are available), three times the average of the other multilaterals. And over 80% of this support went to public sector projects.

European water industry 2003: a background to a discussion on EWCs

A PSIRU Report for EPSU by Robin de la Motte, David Hall, and Emanuele Lobina, October 2003

The report provides an overview of developments in the European water sector, as well as profiles of the multinationals, including their major subsidiaries (with employment and contact information), and an overview of recent developments and strategy. The overview section for Veolia is presented here by way of example.

European Works Councils Directive 1994

The European Works Councils (EWC) Directive, initially adopted in 1994,[39] aims to improve the right of workers to information and consultation in transnational companies. It requires transnational companies to establish information and consultation agreements covering their entire European workforce, if they have not already done so. The content of these agreements is largely left to negotiation between management and employee representatives, but minimum requirements where management refuses to negotiate include the requirement of annual reports to the EWC on the company's business prospects, and the right to be informed about exceptional circumstances affecting employees' interests, such as closure or collective redundancy.

The EWC directive applies to companies,[40] or groups of companies,[*] with

- at least 1000[†] employees across the member states[‡], *and*
- at least 150 employees in each of two or more distinct member states.

These employment criteria represent a lower bound – *companies meeting them are obliged to establish an EWC*, but companies, which do not meet them may nonetheless choose to establish one voluntarily. In a number of instances companies have chosen to do so, whether it be for purposes of labour relations, prestige (to demonstrate Europe-wide coverage), or (in the case of UK during its optout) in the expectation of the future introduction of a legal obligation.

The European Commission (EC) and its various departments (DGs) have taken a number of initiatives in 2002/2003 supporting an increased role for the private sector in public services in general, and in water in particular. The combined effect is pressure from the EC for countries in the EU to restructure their sectors so as to facilitate private concessions in water services. There is currently no EC Directive on water as there is for other network services such as gas and electricity. However, a series of initiatives taken by the EC, for example, a report on the scope for introducing competition into water services was commissioned by the European Commission (EC) and published at the end of 2002, by DG Competition, as well as attempts by DG Trade to redefine environmental services, so that water is covered by GATS, and together with other activities, would almost serve as a directive in itself. These have had an influence on the environment within which companies operate in Europe.

Debt-laden multinationals change strategy

Following expensive and high-profile political and economic problems in developing countries (e.g. Argentina and Cochabamba, Bolivia), nearly all the multinational companies have been trying to sell parts of their water operations, in particular to reduce their exposure to the risks associated with developing countries, and also to reduce their accumulated debts. It is notable that the major parties interested in buying water assets recently have all been financial institutions. The major focus for expansion in the next few years appears to be Europe, in particular with opportunities possibly opening up through the EU initiatives mentioned above; the US (though this seems less promising for the multinationals than it did a few years ago); and China, whose massive market potential and investment needs override risk considerations comparable to other developing countries.

---

[*] A group of companies (undertakings) includes a controlling company and any companies it controls ("exerts a dominant influence over"), whether by virtue of ownership, financial participation or the governing rules of the controlled company.

[†] Based on the average number of employees, including part-time employees, employed during the previous two years calculated according to national legislation and/or practice. *http://europa.eu.int/comm/employment_social/soc-dial/labour/directive9445/9445euen.htm*

[‡] "Member states" means the member states of the European Union, but for the purposes of the EWC Directive includes since 1996 the rest of the European Economic Area (Norway, Liechtenstein and Iceland). The UK opted out of the EWC directive until December 1997. From 1995 to 2003 the EU had 15 members (Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxemburg, Netherlands, Portugal, Spain, Sweden, UK), with 10 more countries expected to join in 2004.

- Suez-Ondeo* announced plans for major reduction in their operations in January 2003,[41] and by mid-2003 had reduced its debts by €10bn compared to a year earlier.
- Bouygues-SAUR sold their major UK subsidiary, amid rumours of a wish to sell SAUR in its entirety;[42]
- Anglian's international water operations have been up for sale for over a year, without finding a buyer (except, in October 2003, its Chilean asset Esval);
- IWL is exiting the water sector in Europe almost completely, after failing to find a buyer for over a year; its partner's buyout of IWL's stakes is funded by the EBRD, a public institution.
- Only RWE-Thames and Veolia† do not have a strategy to sell major parts of their core water operations. Veolia has sold substantial manufacturing parts of its US subsidiary, US Filter, and plans to sell similar US water supplies assets. It has also been forced to withdraw as a result of regulatory or political action: Veolia sold stakes in two UK water companies in 2002, whilst acquiring a stake in a larger UK water and sewerage company; and its concession in Parana, Brazil, has been terminated.

The MNCs are now explicitly focussed on growth in politically and economically stable markets, which they consider to include Europe and North America; in addition there is the huge market potential in China, and also business with industrial customers.

Multinationals' global reach, 2002

The table below shows the latest available data on the global reach of the private water companies which are significant actors internationally. Financial data is for 2002, and customer figures are estimates as of September 2003, including IWL's exit in August 2003 from most of its activities, primarily by selling to its partner United Utilities.

Multinationals' global reach, 2002

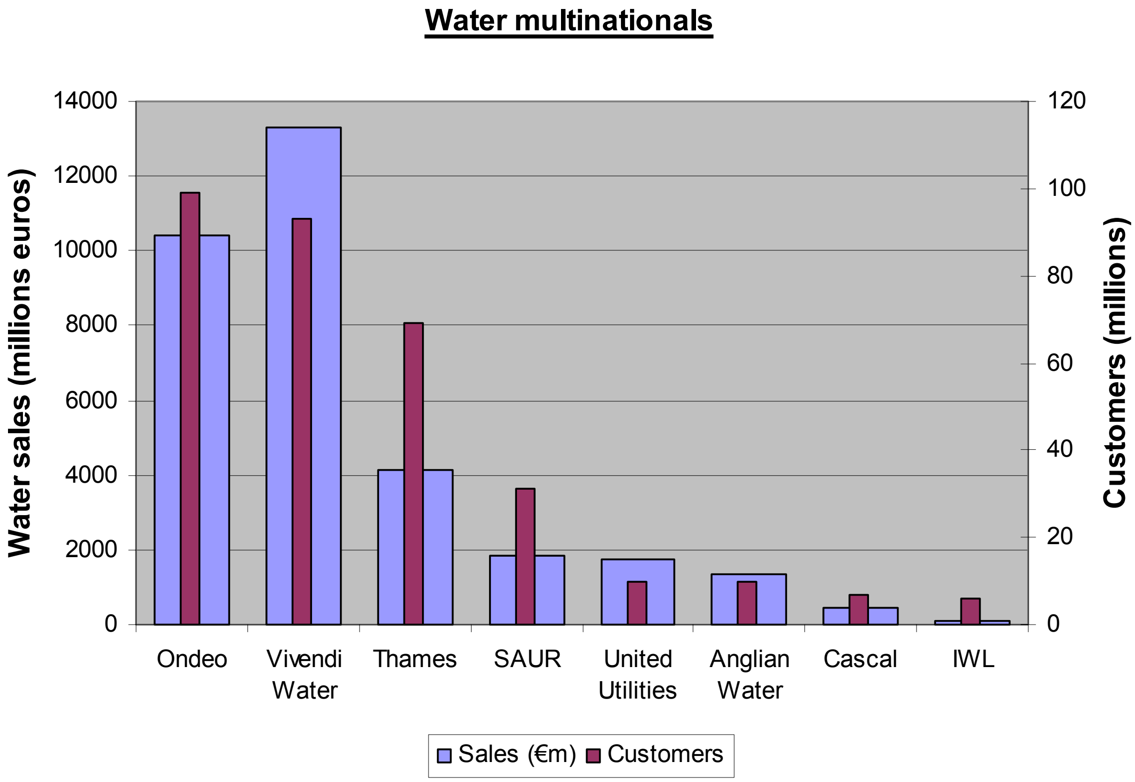
Parent company	Sales (€ m.)		Water division	Water Sales (€ m.)	Customers (millions)[43]
Suez	40218		Ondeo	10429	99
Veolia Environnement	30079		Veolia Water	13295	93
RWE	46633		Thames	4144	69
Bouygues	22247		SAUR	1837	31
United Utilities Group	2750		United Utilities	1760	10
AWG	2726		Anglian Water	1357	10
Nuon, Biwater	4728 300		Cascal-Vitens- Utilities Inc	430	6.7
Bechtel, Edison	10650 12640		IWL	100	5

Source: Company Annual Reports[44] and PSIRU estimates[45].

The chart below illustrates the table above, with water sales (wider, lighter bars) on the left-hand scale, and customer numbers on the right-hand scale.

* Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

† Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.



Veolia Water's Strategy

In April 2003, following Vivendi Universal's reduction of its stake in Vivendi Environnement to just 20% (as part of Vivendi Universal's debt reduction strategy), Vivendi Environnement changed its name to reflect this divorce[*]. The new name, Veolia, is inspired by the Greek god of wind.

In terms of corporate strategy, Veolia Water is seeking to develop synergies between equipment services and sales, and design, construction and operating services. This is a notable contrast to the strategy of some of the smaller multinationals, with Anglian and others selling assets to focus largely on public water services in key markets. This is a retreat from the expansionism of the nineteen nineties, where secure markets at home in the UK and France (increasingly squeezed by regulation and competition respectively) were used as a base from which to invest enthusiastically abroad. Companies frequently ended up paying too much or overlooking risks, for example of devaluation (eg in Argentina) or of political opposition to price rises (eg in Cochabamba, Bolivia); or simply overreaching themselves and overestimating the returns to be had.

Sectors

Parent company Veolia Environnement is active in (% of Veolia revenue)

- water (44%)
- waste management (20%)
- energy management and heating (15%)
- transport (11%)

Key companies in the respective sectors are Veolia Water, Onyx, Dalkia, and Connex.

In geographical terms, Veolia Water therefore says it expects in the medium-term to refocus on developed countries with well-controlled risk exposure. Italy, where consolidation and privatization of a large number of small public water companies is gathering pace, is a particular target, with Veolia hoping to build on a number of joint ventures with Enel.Hydro. Germany, where most of the market is also still in the public sector, is also thought to have growth potential, and Veolia has a foothold there, notably Berlin. In the Netherlands, it is part of the Delfland consortium, building a large BOT wastewater treatment plant. In eastern Europe, Veolia Water has key contracts in Bucharest, Budapest and Prague, which it hopes to hold up as flagships to gain more ground, perhaps in Slovakia. Outside

[*] As part of the separation, Vivendi's stake in Aguas Argentinas, including some liabilities, remain with Vivendi Universal.

Europe, its main targets are the US (particularly the unregulated market, where its operations are 4 times as large as those of the nearest competitor), and three key markets in Asia: China (a huge market targeted by all the multinationals), South Korea, and Japan. By omission from Veolia's stated ambitions, the rest of Asia, as well as the whole of Latin America and Africa, appear to be low priorities in the medium term, presumably due to the risks involved.

In the last couple of years Veolia has divested some assets, including minority stakes in two UK water companies (Bristol Water and South Staffordshire Water)[46]; although this may have been partly for regulatory reasons relating to its ambition to take over Southern Water, an ambition now apparently squashed by the regulator, limiting Veolia's share to 25%. It has also recently sold US assets worth €1bn, including an equipment manufacturing division of US Filter employing 1500 people, which went to private equity investors for $620m.

Veolia Water Systems was created in April 2001 as a merger of OTV-Kruger and US Filter's activities outside North America, including USF Rossmark in the Netherlands.

3 Waste Management

Extracts from the research commissioned on the waste management sector provide an analysis of the industry in Europe and how it has changed in between 1994 and 2003. It sets out how the demand for waste management, the diversification in the industry, and European Union policies have all influenced the process of privatisation and the multinational companies involved in waste management. In 2003, a profile of the industry shows the US multinational companies in retreat and public sector providers still playing a significant role in waste management collection.

Waste management sector in 1997

In 1997, companies operating in the waste management industry were susceptible to a number of key trends:

- Volumes of waste, which are in turn determined by demographic changes and cycles of industrial production and legislative efforts to curb waste
- Tougher environmental legislation and campaigning, leading to more capital and labour intensive forms of waste disposal
- Volatile markets and prices for recycled commodities, such as paper
- Seasonal elements, ie weather disruption

Waste volumes declining

While the European Commission (EU) has acknowledged that volumes of waste are still increasing, but as yet no reliable statistics are available, the long-term policy of the EU is to reduce waste volumes. The waste strategy as proposed by the European Commission sets a target of stabilising per capita waste generation by the year 2000 at its 1985 level. The EU's Fifth Environmental Program identifies the need to halt and to reverse current trends in waste generation, in terms of both volume increase and in environmental hazard and damage as one of the key tasks for the 1990's. To put this strategy into practice, the Fifth Program formulated a series of concrete objectives:

- Drawing up waste management plans in each member state; the aim of which is to steadily replace landfill disposal with incineration, encourage households to reduce and recycle their waste.
- Reducing dioxin emissions by 90% between 1985 and 2000;
- Stabilising waste production at the 1985 level by the year 2000;
- Recycling and reusing at least 50% of paper, glass and plastic by the year 2000;
- Banning the export of certain categories of waste with effect from 2000.[47]

The EU's key waste management principals

There are four key principles in Europe's common strategy for better waste management:

- The prevention principle: we should limit waste production by taking action at the source;
- The 'polluter pays' principle: the cost of dealing with waste should be met by the person or body that produced it;
- The precautionary principle: anticipation of potential problems;
- The proximity principle: waste products should be dealt with as close as possible to the source.

Diversification of waste services

EU member states are increasingly addressing waste disposal problems by focusing on ways to decrease disposal in landfill and incineration through economic measures e.g. taxes and duties, and/or recovery/recycling and treatment operations.
The measures proposed include:

- Selective refuse collection and taxed bin bags;
- Introduction of deposit systems for returnable packaging;
- Promotion of clean technology;
- Involvement of industry in the recovery and recycling of their used products;
- Creation of markets for recycled products.

Environmental considerations

There appears to be a contradictory element in the EU's environmental policies in regard to an increasing use of incineration or waste-to-energy plants, as recent studies have shown that incinerators can cause nausea, headaches, skin and eye irritation and significant mental stress to nearby populations. Health hazards like this are prompting citizens to campaign more vigorously against the building of new waste processing sites near their homes; a phenomenon sometimes referred to as the 'NIMBY' syndrome ('not in my back yard').[48]

Consolidation and concentration

Market observers and the companies themselves anticipate that the introduction of some or all of the above legislative measures in the industry will lead to consolidation in the industry for the following reasons.

- Overall decline in waste levels will lead to a reduction in capacity and result in the exiting from the waste markets of small and medium size companies
- Companies and municipalities will need to generate revenues through an unstable market for recyclable goods
- The reduction in landfill options will lead to a greater emphasis on incineration and recycling which will need greater capital investment
- Tighter emission regulations for incinerators will require greater capital investment, out of the reach of even some the largest multinationals, leading to joint ventures and multiple sources of funding, both public and private
- Increasing privatisation and or joint ventures with the private sector

In 1997, evidence of consolidation in the industry at the European level had already emerged. Waste Management Inc, formerly WMX Technologies, recently announced its intention to exit at least three national markets, Austria, France and Spain, as part of this process it has recently sold its French waste management business to one of its main rivals SITA, a subsidiary of Lyonnaise des Eaux[*].

Waste Management Inc's Spanish waste operations Ingenieria Urbana had been sold to CEPSA. CEPSA is jointly owned by two water companies, Lyonnaise des Eaux and Aguas de Barcelona, Lyonnaise also have a 24% holding in Aguas de Barcelona.

Browning Ferris Industries or BFI the second largest waste company in the world is also disposing of some of its European subsidiaries. It intends to sell Servizi Industriali Srl in Italy and leave the Italian waste market altogether, leaving Waste Management Inc as the dominant company in Italy.

Structure of Municipal Waste Management

Municipal waste management in all European states is a public sector responsibility and is delivered primarily by public sector workers. However there is a growing trend towards the use of the private sector for both collection and disposal. In some countries, Germany and France, municipalities have contracted out their waste services to such an extent that private sector collection is greater than or equal to directly employed staff. Across Europe waste collection services are carried out at all levels of local and regional government, and in a variety of ways. Inter-authority cooperation for waste collection services is common practice.

Privatisation

The public sector remains the dominant provider of municipal waste management services across Europe. However, the PSI/EPSU's research into the structure of the industry reveals that the private sector is gaining an increasing share of both the collection and disposal functions of municipal waste management.

The EPSU research has identified waste collection as the service increasingly subject to privatisation. Of 24 countries that responded to the survey, 20 identified increasing use of the private sector for municipal waste collection. 10 countries identified increasing use of the private sector for waste disposal. The EPSU/PSPRU survey results show that of the countries responding, listed in the table below, only the municipal waste management systems of Greece and Cyprus have not undergone privatisation.

[*] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

Table: Privatisation of waste collection and disposal by country

Country	Collection Public	Disposal Pubic	Collection Privatised	Disposal Privatised	Collection Public/Private	Disposal Public/Private
Austria	Yes	Yes	Yes	Yes	Yes	
Belgium	Yes	Yes	Yes	Yes		
Cyprus	Yes	Yes				
Denmark	Yes	Yes	Yes	Yes	Yes	
Estonia	Yes	Yes	Yes			
Finland	Yes	Yes	Yes	Yes		
France	Yes	Yes	Yes	Yes		
Germany	Yes	Yes	Yes	Yes	Yes	Yes
Greece	Yes	Yes				
Ireland	Yes	Yes	Yes	Yes		
Italy	Yes	Yes	Yes	Yes	Yes	Yes
Lithuania	Yes	Yes	Yes	Yes		
Magyar	Yes	Yes	Yes	Yes		
Netherlands	Yes	Yes	Yes	Yes		
Norway	Yes	Yes	Yes	Yes		
Poland	Yes	Yes	Yes	Yes		
Portugal	Yes	Yes	Yes	Yes		
Romania	Yes	Yes	Yes	Yes	Yes	Yes
Slovakia	Yes	Yes	Yes	Yes		
Spain	Yes	Yes	Yes	Yes		
Sweden	Yes	Yes	Yes	Yes	Yes	
UK	Yes	Yes	Yes	Yes	Yes	

Source (PSI/E PSU Survey & Report from the EU Committee of the Regions & Environmental Resources 1992)

Forms of Privatisation

- **Contracting out:** This is the most common form of privatisation used in the industry and is wide spread across the continent. It involves a tendering process between public organisations and private companies. The local authority remains the funding and directing authority for waste collection and disposal but the private sector carries out the function, thereby making profits from public sector finance.
- **Sales or externalisations:** In this example the municipality sells all of its waste collection and disposal facilities and engages the private sector on a long-term contract to provide the service. This is an increasing trend in the UK. Furthermore, local authorities are also selling shares in their municipal enterprises, to private capital.
- **Joint ventures or public private partnerships:** In 1995 Waste Management International, subsidiary of Waste Management Inc, set up a joint venture between two Finnish companies. One of the two Finnish partners is a company called Kiertokapula was jointly owned by five local authorities Waste Management took up a 34% stake in the undertaking.[49]
- **Build and operate:** Increasingly likely option for countries with an undeveloped waste industry, particularly with waste-to-energy plants and central and eastern European states (CEE) with privatisation programs. Public sources of funding may come from EU structural and cohesion funding and PHARE programs.

Waste Markets

Reliable official figures for all Western, Central and Eastern European countries are as yet unavailable. However the waste management market, including refuse and other services and equipment for municipal, industrial and hazardous wastes, in the EU as a whole, is predicted to reach £41bn by 2005.[50]

Central & Eastern Europe

It is generally accepted that at present waste volumes in Central and Eastern Europe will be smaller than those in the West due to lower levels of consumer production. However a greater commitment to environmental legislation and clean-ups from industrial pollution has led to a growing market.

The size of the environmental marketplace in Central and Eastern Europe is difficult to judge accurately. Recent estimates suggest the figures for Central and Eastern Europe are about £7 billion annually (1995), including all aspects of environmental action. Government spending on environment related projects in the Czech Republic, Hungary, Poland, and Slovak Republic alone now stands at approximately £2.5 billion per year (1995).[51]

Western Europe

In 1994 the total value of the five largest Municipal Solid Waste markets, including refuse collection, in the countries below was £16.42bn. 1995 figures are based upon annualised growth in the national market over five years 1989-1994.

Table: Market Value by Country

£Bn	1993	1994	1995	Growth %
Germany	7.46	8.2	9.02	10.1
Italy	3	3.1	3.23	4.2
France	1.8	1.93	2.03	5.4
Spain	1.53	1.66	1.80	8.6
UK	1.46	1.53	1.52	-1.9
Total	15.25	16.42	17.6	

Source: Market Line 1995

Private/Public Market Share for Germany, Spain, France, Italy & the UK

All the market shares for the private sector of municipal waste management are from 1993, we anticipate that this share will have grown, as there has been an increasing trend towards privatisation.

Table: Percentage Private/Public Share of Municipal Waste Markets

Country	Private Sector	Public Sector
Germany	60	40
Spain	58	42
France	50	50
Italy	50	50
UK	Unknown	Unknown

Source: Market Line 1995

- **Germany:** There is a clear trend towards privatisation in the waste management sector. Trade sources report that some 60% of public waste management is operated by private companies.
- **Spain:** The private sector held 58% of the total market value for municipal solid waste management. The municipalities and their public enterprises account for the remaining 42%.
- **France:** 50% of the total municipal solid waste market value is held by the private sector. Waste management services in France are dominated by two main large conglomerates Generale des Eaux[*] and Lyonnaise des Eaux.[†]
- **Italy:** About a half of municipalities, home to one third of the population, contract out waste management services to private firms. Private contractors tend to cater for the lower value-added segment of the market, that of small towns. On the other hand, there is a very large share of the market (about 40%) which is still served by direct management of the municipalities. The Italian law on public utilities embeds a strong encouragement to drop this arrangement, so that there is ample scope for growth for private operators and aziende municipalizzate.[52]
- **UK:** Private companies have been steadily increasing their market share in both refuse collection and waste management due to aggressive privatisation policies. However, there is a relatively small number of major players with annual turnovers of over £100m. The waste management industry comprises many small, often local, operators, as well as a significant number of niche suppliers providing specialist environmental services.

[*] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
[†] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

Multinationals - The Major Companies

Main Companies by Sales

The following table gives the largest waste management multinational companies currently operating within the European market.

Table: Worldwide Waste Sales

Sales £m	1994	1995	1996
WMInc	5,836	5,530	5,636
BFI	2,714	3,671	3,545
GdE	1,110	1,236	1,235
LdE	699	851	951
Rethmann	N/A	585	698
RWE	333	348	422

Source: Company Reports (GdE: Generale des Eaux; LdE: Lyonnaise des Eaux)

Profits of Major Companies

Profits in the industry are sensitive to economic cycles and weather conditions can be significant, both BFI and Waste Management Inc identified adverse weather as an element in their performance. Furthermore prices for recycled commodities add an additional uncertainty to incomes and profits.
All of the companies covered in this sector are making profits, except BFI who made a loss in 1996, no figures were available for Rethmann. Waste Management Inc as would be expected made the largest profits at £832m, which worked out at a profit margin of 14.76% and £13,396 per employee.

BFI reported a disappointing year recording losses of nearly £62m. The company blames restructuring charges, profit losses for the first time in its recycling business and the "tremendous swings in commodity prices, particularly paper".[53]

BFI also state that operating profit margins in international business continue to be lower than North American operations due to. (i) The overall mix of international operations has a lower concentration of high profit margin business. (ii) A higher level of takeover costs associated with international's annual operating results because these operations have been acquired more recently (iii) Difficulties attaining performance improvement in countries with unique market conditions (particularly Italy where the company encountered industrial action).[54]

Waste Management Inc's European performance backs this up, profits on European operations amounted to £30.2m, a profit margin of 3% on a turnover of £1.2 billion. Compared with a profit of just over £832m on a turnover of £5.6 billion, a profit margin of 14.76% for North America.

Table: Profits On All Waste Operations 1996

Company	Turnover £m	Profit £m	Profit Margin	Per Employee £
WM INC	5,636	832	14.76	13,396
BFI	3,545	-61	-1.7	-1,418
GdE	1,235	74	5.99	2,315
LdE	951	67	7.04	2,679
Rethmann	698	N/A	N/A	N/A
RWE	422	2	0.47	N/A

Source: Company Annual Reports

Multinational Strategies

Expansion: All of the companies covered in this report consider that takeovers mergers and joint ventures are necessary as part of their further expansion into the European market. Lyonnaise des Eaux, through SITA have acquired the waste French operations of Waste Management Inc and took a 50% holding in Miljoservice, the third largest waste operator in Sweden. Rethmann is focusing on international growth rather than internal growth from the German waste market.

However, both BFI and Waste Management Inc, who throughout the 1970's, pursued a high-growth strategy based on acquisition, have since stated that they expect growth to be obtained from internal operations by improving returns on invested capital rather than revenue growth.

One Stop Shop: Waste management multinationals are increasingly recognising that offering simple collection and disposal operations will not maintain their position in the European market. Companies that are able to offer public authorities a "one stop shop" for environmental services are more likely to succeed in winning contracts.

Companies who are in the position to offer a combination of collection, disposal and wastewater contracts may be able to offer greater efficiencies. Collection and disposal of wastes, including sludge from wastewater treatment may be used to fire a co-generation plant to heat municipal housing.

GdE at the moment is the most suited of the multinationals to fit this role. It has, recognised and emphasised the need to offer local authorities a total package of waste services to include collection, sorting, recycling, landfill, incineration and waste water treatments.

Public Sector: All companies consider privatisation, bidding for and winning public sector contracts, as an essential component to their internal strategies. Both BFI and Waste Management Inc recognise that municipal contracts are increasingly important as they focus on internal growth.

Moreover as waste management solutions become more technologically sophisticated, as alternatives are found to landfilling, so capital costs will increase. This will put more pressure on public sector finances making privatisation and the use of the private sector more likely.

Recycling: Due to environmental pressures and legislation all companies are concerned to develop and enhance their recycling capabilities. BFI in particular comment that recycling continues to be a fast growing aspect of the industry and it is now part of the core business.

New Technology: Increasingly, computerised systems are becoming essential to multinational operations particularly in the area of refuse collection. Waste Management Inc has invested in "decision-support" technology. This allows the company to implement an automated routing system for refuse and waste collection, data used in the technique includes customer addresses, pickup days, sizes of containers and trucks to service them, as well as drop-off sites and truck capacity.

Flexibility: Due to the uncertain nature of the industry most companies are in almost constant states of review and restructuring, both Waste Management Inc and BFI are currently undergoing major reviews. One particular feature is the model of best practice the companies try to monitor local, regional, national and international production methods in order to apply them as part of a general corporate strategy.

During 1996 Waste Management International, the company that performs all of Waste management Inc's waste operations outside of North America, "set up a small team dedicated solely to implementing key business improvement tools and process across the Group. Called Business Improvement 2000, this team introduced a number of focused initiatives to enhance sales, marketing activities, improve service delivery, expand customer services, and standardise management and administration systems".[55]

Environmental Employment & Unionisation

Official statistics, (Employment in Europe 1995) show that employment levels in the environmental industry in the European Union stood at 1.5m or around 1% of all jobs. This figure included 250,000 in water and 650,000 in instrument engineering. However, in terms of waste management 500,000 were in sewage and waste disposal and over 90,000 in recycling.

The main trends identifiable from the data are the following:

- Average annual employment across all countries was 214,521, of which 204,629 (95%) were male and 9,892 (5%) were female
- In three years jobs across the 12 countries grew by a total of 29,701, of which 28,833 (97%) were male. Average employment grew by 9,900 jobs per year of which 9,611 were male and only 289 were female
- Between 1992 and 1995 male jobs increased in Denmark, Spain, France, Greece, Luxembourg, the Netherlands, Portugal and the UK. However, male jobs declined in Belgium, Germany, and Italy
- Female jobs increased in Belgium, Spain, the Netherlands Portugal and the UK. However, female jobs declined in Germany, France, Greece and Italy
- Garbage collection and related labouring still remains an overwhelmingly male occupation

Job Growth

Jobs in the environmental industry have increased at a much higher rate across the European Union than the rest of the economy. Between 1985 and 1992 the rate of net job creation in the sector averaged 3% a year, over twice as much as in other sectors although the additional amount of jobs generated has not been very large. Around 2.5% of the total net addition to all employment between 1985-1992 has been in the environmental industry, which has provided work for an additional 250,000 people in member states.

A closer look at the industry shows that while jobs grew as a whole between 1985-1992 this has mainly been in the water industry and in sewage and refuse collection, employment in recycling only grew in France and Germany. The European Commission, (Employment in Europe 1995), predicts that between 1995-2000 an additional 250,000 environmental jobs will be created across the European Union. Recent activity trends in the waste management industry would suggest that there will be an increase in recycling employment.

One other factor involved with employment levels is privatisation, this is a growing trend in the public sector waste industry. This increased employment levels in the private sector but correspondingly reduced them in the public sector. However private operators tend also to reduce employment levels after privatisation.

Some 114,000 manual jobs, some from the waste sector, were lost from councils in Britain between 1988 and 1991. Much of the loss was due to the introduction of compulsory tendering without the social protection of the Acquired Rights Directive, which protects jobs at the point of transfer between the public and private sector.[56]

Employment in the Multinationals

Waste Management Inc shows the largest fall in employment due to the company's restructuring exercise, which included the divesting of some large parts of the organisation. Employment in the company is expected to continue to fall as the company completes the restructuring exercise.

Employment in Generale des Eaux and Lyonnaise des Eaux waste subsidiaries showed significant reported increases in employment, it is doubtful that this is all to job creation, some will be attributable to acquisitions and internal restructuring. RWE showed an increase of 914 jobs over the year.

Total number of employees in the five companies covered for their worldwide operations is 173,549.

Multinationals Identified

The table below contains multinational companies that the PSPRU has identified as being active in Central and Eastern Europe. Although Waste Management Inc has a registered company in the Czech Republic. There is no activity by SITA as yet in CEE, either. This means that the two largest waste disposal companies in the World, Waste Management Inc and BFI have yet to establish themselves in these newly developing markets.

Table: Multinationals in Central & Eastern Europe

Parent	Company	Country
Generale des Eaux[*]	Ipodec Onyx (Slovakia)	Slovakia
Rethmann	Rethmann Czech	Ceska republika
	Rethmann Hungary	Magyar
	Rethmann Poland	Polska
	Rethmann Slovakia	Slovakia
RWE	RWE (CZK)	Ceska republika
	RWE (FOR)	Magyar
Tractebel	Asmabel	Polska
	E.d.S Polska	Polska
	MZO-Asmabel	Polska
Waste Management Inc	Wheelabrator (Poland)	Polska
	WM (Czech)	Ceska republika

Source: PSPRU Database

[*] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.

Central and Eastern Europe

Industry issues in waste-to-energy industry

There are three key issues in the waste-to-energy industry. Firstly, the European Commission's position that preference should be given, where environmentally sound, to the recovery of material, or recycling, over energy recovery operations.[57]

Secondly the environmental opposition to waste-to-energy plants from organisations such as Greenpeace and local opposition from concerned citizens or the Not In My Back Yard syndrome. Finally the high costs associated with the construction of modern plants which may lead to some multinationals disposing of their plants or only operating projects under joint venture arrangements. For example, Waste Management International, subsidiary of Waste Management Inc, recently announced that they were selling their incineration plant in Hamm, Germany. The VEW group and the authorities in Hamm, Dortmund and Unna have agreed to establish a company to acquire the Hamm Waste incineration plant for £83.15m. VEW plans to invest £43.24m which corresponds to its 52% stake in the new venture. The three public authorities will hold 16% each.[58]

This therefore raises a number of issues and concerns about the nature of waste to energy projects for local authorities, as they are responsible for the collection and disposal of wastes. Some of which are likely to be the following.

- What are the operating bases for waste to energy contracts? Build operate and transfer, build and operate or just operate?
- If the cost of new waste to energy plants are prohibitively high, what guarantees are multinationals likely to demand in return for their investments
- Financing and ownership, who is financing the projects and who bears the risk?
- Waste collection, will the multinational also demand waste collection contracts to secure further business and a guaranteed supply of fuel
- Energy sales: On what basis are the supplies of energy arranged, who is charged
- Profits: How are profits from the plant distributed
- What is the future for waste-to-energy plants given the environmental opposition to them

Employment Levels, Garbage collectors and related labourers

Average employment level across the EU 1992-1995 was 214,521, of which 204,629 (95%) were male and 9,892 (5%) were female. Italy had the highest average employment level at 71,060 of which 67,520 (95%) were male and 3,540 (5%) were female. The lowest recorded figures were Luxembourg with an average of 104 jobs all male.

Table: Average Percentage Ratio of Male to Female Employment

	1992	1993	1994	1995	Total
Male	94.5	95.8	95.4	95.8	95.4
Female	5.5	5.2	5.6	5.2	5.6

European Waste Management Industry 2003

The European waste management industry has been subject to spectacular and rapid change over the last decade and this process continues.

European legislation

The drivers of change have been the waste directives from the European Union. Edie reported that 2002 'saw waste industry sales booming from EU waste directives, with composting, recycling and biological treatment services doing particularly well'[59]

The most important directives are as follows:

- Waste Management Framework Directive (75/442/EEC)
- Incineration Directives 89/369/EEC and 89/429/EEC on the prevention and reduction of air pollution from MSW incineration plants.
- Directive on the incineration of waste (2000/76/EC)
- Directive on the Landfill of Waste (99/31/EC)

- Hazardous Waste Directive (91/689/EEC)
- Hazardous Waste Incineration Directive (94/67/EEC)
- Integrated Pollution Prevention and Control (IPPC) Directive (96/61/EC)
- Directive on Air pollution from industrial plants (84/360/EEC)
- Air Quality Framework Directive (96/62/EC)
- Draft Water Framework Directive (COM(97)49-final)
- Environmental Impact Assessment Directive (85/337/EEC)
- Directive on Access to Environmental Information (90/313/EEC)
- Directive on Packaging and Packaging Waste (94/62/EC)

Employment in waste management

Waste management is a labour intensive industry. Around 65% of the environmental jobs (see table below for categories covered) in the EU were in the waste management sector. This reflects the labour requirements of waste collection and transport, as well as the relatively low wage rates.[60]

Total employment in the pollution management eco-industries, EU 1999

	Operating related	%	Investment related	%	Total Direct (jobs)	%
Air Pollution control	30,300	3	80,700	21	111,000	8
Waste Water Treatment	209,100	20	218,500	56	427,500	29
Solid Waste Management	696,300	65	64,000	16	760,300	52
Remediation and Clean Up	15,100	1	8,000	2	23,100	2
Noise & Vibration	21,800	2	7,000	2	28,800	2
R&D	25,900	2	2,400	1	28,200	2
Environmental Administration	66,500	6	9,100	2	75,600	5
Total (Jobs)	1,065,900 (73%)	100	389,600 (27%)	100	1,454,500	100

Note: Totals may not add due to rounding. The analysis does not take account of German monitoring and analysis expenditure. Environmental administration includes both public and private sector employment.
Source: Ecotec

Retreat of the US multinationals

The two largest waste companies in the world remain Waste Management Inc (WMI) and Allied Waste. They formerly had a genuine global dominance of the industry. However, they no longer have a presence outside North America and their claim to be world leaders rests on the size of their share of the North American market only. Their retreat has been dramatic.

By the end of 2000, WMI had completely withdrawn from Europe, and almost completely retreated worldwide to its North American base (see Annex 1 and 2). It used to have operations in most major European countries but it sold all of its European subsidiaries to its former rivals, and rapidly withdrew from everywhere else as well.

This follows the equally dramatic withdrawal of Allied Waste/BFI from the rest of the world to North America. BFI had been world and North American Number 2. It was taken over by Allied Waste in 1999. The new merged company continued the divestment programme begun by BFI before the merger. BFI sold most of its non-North American operations to Sita in 1998. Part of the deal was that BFI acquired a 20% holding in Sita. Following the 1999 merger with BFI, Allied Waste sold its Sita holding to Suez Lyonnaise (Sita's parent).

Both the big US companies were taken over by smaller US companies, and for similar reasons. These included problems with the US competition authorities, a view that the companies were too stretched, had built up too much debt and, in WMI's case, was facing shareholder lawsuits as well. They are now beginning to be placed under pressure in their home market, for example by the 1999 purchase of Superior by Vivendi Environnement (Superior was No 4 in the US).

Consolidation and concentration

At the 2001 conference of the UK Chartered Institution of Wastes Management, Dr Cathy O'Brien the new president noted that 'the speed of change within the waste management world has been faster in the last 10 years than the previous 90 and the rate of change at the moment seems exponential'[61]. This change has seen a process of consolidation or shakeout in the waste market and a trend towards concentration across Europe. This process of 'market maturation' has often been helped along by pro-privatisation policies from the governments of member states. Thus different forms of privatisation contributed to, and ran in tandem with, a process of rationalisation and concentration in the UK waste management industry.

According to the Suez Annual Report 2001, "the waste management market has significant growth potential, particularly in Europe where consolidation is much less advanced than in the U.S. market. In the U.S., the market share of the three largest players exceeded 60% in 2000 while for the same period in Europe this figure was estimated at 30%. Moreover, Europe is developing its own environmental model, distinguishing itself from the American model. It is becoming increasingly civic-minded (raising recycling targets, increasing pressure on landfill operations), which suggests opportunity for sustained organic growth." The company also pointed to "the opportunities created by increased recourse to private partners by municipalities" and the demand from industrial customers for global solutions to their waste management problems."[62]

That this process identified by Suez is continuing can be seen by the fact that two of the second tier UK waste companies (WRG and Hales) are up for sale and their purchase is likely to signal a further consolidation by multinationals. The purchase by RWE Umwelt of Trienekens and Rethmann's acquisition of Lobbe's Polish operations illustrate the same point.

Waste Companies: Employees

Waste Company	Number of employees			
	Total	Home Country	Other EU/EEA/accession	Other countries
Onyx	70,795	29,903 (France)	16,478	24,414
Sita	70,000	13,200 (France)	30,800	26,000
RWE Umwelt	14,406	13,090 (Germany)	1,316	
FCC	54,881 (not all waste management)			
Cleanaway		8,000 (UK)	4,700	2,000 (Australia)
Rethmann	7,677	5,943 (Germany)	1,734	
Alba	5,228			
Cespa	13,000			
Biffa	4,005			
Van Gansewinkel	3,500			
CNIM	2,457			
Befesa	1,560			
Ragn-sells	1,900			
Lassila & Tikanoja	4,848			
Shanks	4,610	1,963 (UK)	2,631	
ASA	1,722	454 (Austria)	1,268	
Saubermacher	1,100			
Altvater	5,800			300
Becker	1,800			
Urbaser	24,000			
Groupe Nicollin	3,000			
Lobbe	2,500			

Waste Company	Number of employees			
	Total	Home Country	Other EU/EEA/accession	Other countries
Rumpold				
AGR	2,771		200	
AVR	2,253			
Essent	812 (environment) 12,245 (total)			
Indaver	746			

Source: PSIRU database

Privatization

One of the reasons for the growth in the market has been the drive to privatise the municipal waste service. However, even in the UK, not all municipal collection or disposal/treatment contracts have yet been privatised. Onyx estimate that in 2001 private companies had 35% of refuse collection contract volume market share, and that municipal Direct Service Organisations (DSOs) retained 65%[63]. These figures apply to England only but there is no reason to believe that the UK as a whole would be much different.

It is remarkable that after over a decade of contracting out, public sector providers continue to play such an important role in collection. Interestingly, Kevin Hurst of Onyx predicts that with fewer players and less choice, he estimates a 5% swing to DSO control of refuse collection contracts, with a 70/30 split by 2006[64].

In Germany, the Advisory Council for the Environment argued that while privatisation would be welcomed for 'the logistics services collection and transport', it feared that privatising 'the treatment and landfilling of waste, i.e., the operation of incineration facilities and landfills… would cause new problems rather than resolving current problems'.[65]

Despite the claims made by supporters of waste management privatisation (which include the World Bank), there is considerable doubt about whether it has resulted in improvements in the quality of service provision. Even in the UK, where both the main political parties have enthusiastically embraced privatisation, there is little to support this. As the government's Audit Commission recently noted: 'Overall there is no evidence that in-house or contracted out waste services are necessarily better or worse, but there is evidence that the local authority will provide better quality services if these relationships are well managed'.[66]

Some researchers have argued that while compulsory competitive tendering (CCT) may have delivered services at a lower cost (largely by cutting jobs, pay and conditions), it 'dumbed down' delivery: 'Service improvements often occurred only when contracts were re-negotiated. Improvements were all too easily disjointed, punctuated rather than continuous'. They claim that because CCT worked against innovative approaches to service delivery (except in the area of cost control), it resulted in services becoming 'frozen' in the late 1980s – hence 'the UK's performance in waste minimisation and recycling lags behind the rest of Europe'[67].

The report from Cardiff Business School warns that 'local authorities should be wary of externalisation that renders them so 'hollowed out' that they are left entirely at the mercy of an imperfect market place'[68].

Vertical integration and multi-utilities

The changes in the market outlined above have taken place side by side with the move towards a more integrated approach from the private sector companies. This has been a pattern across Europe.

The major companies share a view on the future direction of the waste management industry. Both Vivendi Environnement (parent of Onyx UK) and Suez (the parent of Sita UK) have put similar models before their respective investors. Vivendi has outlined its vision of the changing nature of what it calls the 'new environmental services industry'[69]. This new industry does not just refer to waste management, although it is an important part of the picture. Vivendi identifies three key trends:

- Increase in environmental standards
- Privatisation/deregulation and globalisation/outsourcing
- One stop shopping

Vivendi argues that these trends will push the industry into a new model characterised by:

- Attractive and growing markets
- Long term contracts and predictable cash generation
- High level of technical expertise
- Global multi services offering the key

Vivendi regards itself as ideally placed to make major gains in the 'new industry' with its operations in water, waste, energy services and transport (plus the holding in Spanish utility, FCC).

Rival French multi utility, Suez, has a similar vision. Although Suez is not involved in transport it competes with Vivendi in water, waste and energy services. Its waste unit, Sita has already put into practice the thinking behind Vivendi's vision with the establishment of Sita One, a one-stop shop for major multinational customers operating in Europe. In January 2003 it announced a major re-organisation, the second in less than two years.

In 2001 it created Suez Industrial Solutions (SIS), a joint subsidiary of the Energy, Water and Waste Services divisions, in an attempt to create an integrated, coherent Group response to the perceived needs of a changing market. SIS was supposed to organise and unify the Group's resources, "by coordinating its industrial development policy, and by taking direct responsibility for supervising the Group's major multi-services contracts"[70].

On a smaller scale, the other European-based competitors are attempting to follow suit in the sense of creating groups which offer a full range of waste management services. For example, RWE Umwelt report that the full takeover of Trienekens, (a company it owned 50% of until 2002) is able to 'expand our expertise and the degree of coverage of our core waste management and recycling business: the collection and transportation, the sorting and recycling, the utilization or disposal of all kinds of wastes, and the marketing of the secondary raw materials obtained – these comprehensive nationwide services offered by the new RWE Umwelt encompass all the value added stages with regard to domestic and hazardous wastes.'[71]. RWE Umwelt also aims 'to work within the RWE Group on innovative offers for the supply of utilities and waste management services from a single source and tap into any remaining potential for intragroup quantity sales.'[72]

There are some concerns among environmentalists about industry's support for 'integrated waste solutions'. For example, the European Environment Bureau is worried that this will ultimately lead to the cheapest and easiest solution rather than the most environmentally appropriate[73]. They fear that incineration will become the main focus of waste management rather than waste prevention.

Poor results, re-organisations and some acquisitions

Several of the largest waste companies have reported poor results in the last year. This has led to re-organisations, re-appraisal of company strategies in terms of the world markets and a focus on core business. After revealing major losses, in January 2003, Suez[*] announced its 2003-2004 Action Plan. It concentrated on:

- more streamlined organisation
- the creation of a new division - Suez Environment Local Services – bringing together the municipal operations of Sita and Ondeo (its water subsidiary)
- a parallel creation of Suez Environment Industrial Services, which brings together the waste and water operations for industrial customers
- a target of drastically reducing debt
- disposal of non-core assets
- a cut in investment
- a reduction in exposure to 'emerging countries' by more than a third (and instead a concentration on markets in the EU and North America)[74]

Suez conceded that 2002-03 had resulted in unfavourable economic conditions resulting in 2002 being 'marked by crises'[75]. Some of this was as a result of losses in Latin America (Argentina and Brazil). The company's response was to announce that it would 'concentrate on the soundest markets providing the most recurrent revenues (the European Union and North America), starting from the Franco-Belgian domestic base' and 'reduce emerging country exposure by one-third, in terms of capital employed'. Suez also resolved to 'increase the technical expertise content of activities, reduce collections, develop treatment and strengthen hazardous industrial waste treatment' and to 'increase the profitability of Sita's, German, and British subsidiaries'.[76] One area identified for 'targeted development' was central Europe, and in particular – Poland.[77]

[*] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

Vivendi re-organises too
In January Vivendi* Environnement re-organised its Management Board and in March announced that it would be renaming itself. It intends to keep the initials VE, and the second word will remain 'environnement'. The first word of the new name will be revealed in April.[78] This is intended to symbolise the separation from former parent Vivendi Universal and the end of the financial problems associated with that relationship. The company reported that the previous year had been a 'difficult environment'[79]. Like Suez, the company is emphasising its operations in 'secure geographical coverage'.

RWE to withdraw from waste management?
In February 2003, RWE's Annual Report noted that the company had had a difficult time ('not an easy year') with increased competition combined with falling prices and a poor public image for the industry[80] (this was partly as a result of a political funding scandal involving Trienekens). During 2002, RWE Umwelt bought the 50% of Trinekens that it did not already own, consolidating its position as the leading German waste company, but significantly adding to its debt. The company pointed out that this acquisition meant that it was bow able to offer a fully integrated service in both domestic and hazardous waste. RWE also announced that it would be concentrating its activities on Germany in the near future and allowing its international operations to grow organically.[81]

Press reports have speculated that the parent company may sell its environmental services unit RWE Umwelt. The company denied this but as it had also previously denied any re-organisation was planned and later confirmed it, there are some concerns about the future of jobs in the environmental services unit.[82] The instability and volatility of the industry is reflected in the fact that earlier in 2002, RWE Umwelt was being talked of as possible 'hunter', in search of expansion – perhaps in the UK or the Benelux countries – but is now the subject of rumours that it will become one of the 'hunted'. In March 2003, RWE AG's new chairman Harry Roels said he plans to develop a new structure for the company by the middle of the year.[83]

European waste management industry trends
The European waste management market continues to be the subject of change and restructuring as a result of the impact of various factors identified earlier. Liberalisation and privatisation has led directly to the current situation in which the industry is increasingly dominated by a relatively small number of large companies. They are attempting to continue their growth through a combination of acquisition and the push to privatise the remaining municipally-owned service providers. Therefore there is every likelihood that there will be further consolidation in the next period.

Industry trends across Europe have seen:
- Continued push for privatisation
- Retreat of US multinationals
- Environmental pressures
- Concentration
- Growth of European multi-utility multinationals
- Vertical integration

The major companies are, however, not satisfied with the changes to date. Referring to the European waste management market as a whole, Sita's Director of Strategic Development called for a further round of reforms:
- Implementing a level playing field for public-private competition
    - Rationalisation of taxation (VAT)
    - Compulsory Competitive Tendering (CCT)
    - Imposing clearer accountability on municipalities
    - Prohibiting municipal involvement in industrial markets
- Deregulation of national waste industries
    - Legal questions on the status of public services?
    - A need for European Commission intervention?
    - High level of enforcement would be required at all levels[84]

Similar demands have been made by RWE – particularly in terms of tax, but also to remove industrial waste from municipal responsibility. These represent increasingly obvious attempts by the companies to reduce the amount of risk that they face and to secure their position in European markets.

* Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.

4 Energy

The research commissioned on the energy sector began with an examination of the workforce, followed by an analysis of the energy sector in Central and Eastern Europe. This led to a more detailed study of trends across Europe. This study provided an overview of multinational involvement in the sector, an account of the effects of privatisation and an indication of how technological issues, influencing production and supply of energy, also influence the industry. A paper on the gas industry provides a more detailed profile of this segment of the energy industry. A later paper analysed to what extent blackouts can be seen as a result of privatisation and liberalisation. A 2004 European Works Council study presents an up to date picture of multinational involvement.

Employment in the Energy Sector in Europe 1996

Between 156,00 and 212,000 jobs were lost in the energy sector in Western Europe between 1990 and 1995. This loss was greater than the average across all sectors of the economy. The UK accounted for half of all the jobs lost, with cuts of between 30% and 42%. Women were probably worst affected by the job losses. Political pressures, computerisation and privatisation were the main causes of the job losses.

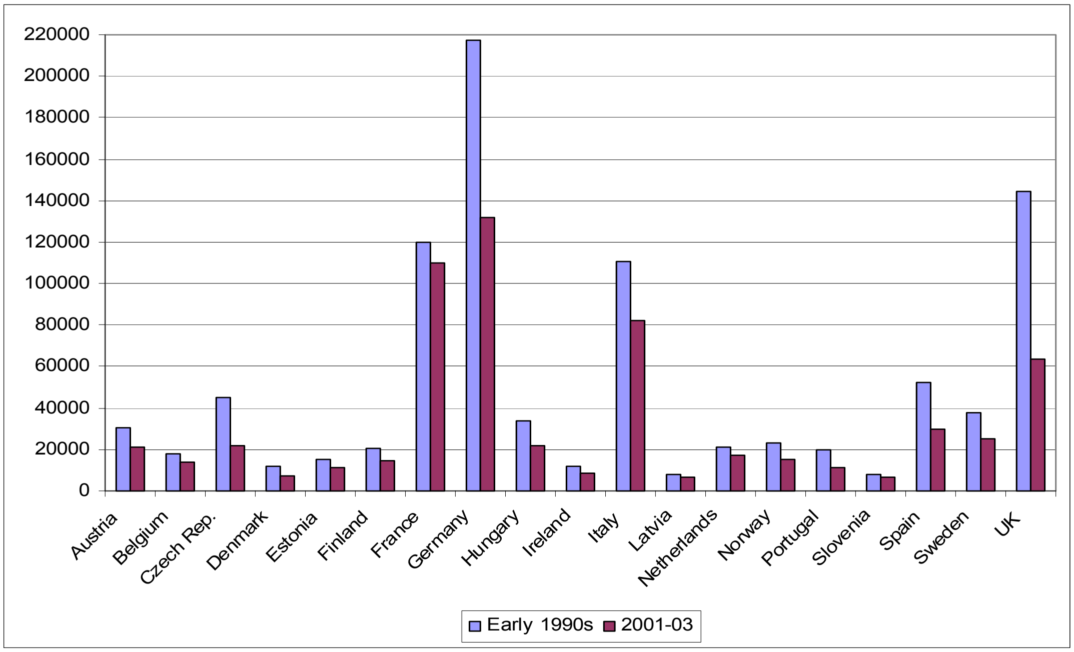
The reduction was worse in electricity than gas. Indeed in some countries, e.g. Spain, Italy, employment in gas has shown an increase. The job loss in the UK is far worse than any other country over the period, in both electricity and gas. Further substantial job losses have taken place since 1995.

The factors affecting the level of jobs in the industry include:

- Technical changes in the industry, e.g. in generation methods, and interconnection of grids
- New computerisation of administration;
- Political and commercial pressure to reduce costs;
- The growth in international activity and trading of energy - which may increase jobs in some areas, eg gas, as new pipelines are built, and decrease it in others, eg power generation, where local capacity may be reduced in response to imports;
- Privatisation on the UK model, which leads to job losses both in the initial privatisation exercise, and from subsequent takeovers and restructuring, in order to generate cost savings to pay dividends. This is certainly the key reason for the difference between the UK and other countries.

The graph below shows employment trends in the industry over the decade 1991- 2001/3. This shows that Germany and the Czech Republic, the size of the workforce dropped by 40% and that in Norway, Portugal, Hungary, and Denmark the workforce dropped by between 30% and 39%.

Employment in the European Electricity industry 1990/1-2001/3



Source: EPSU Survey and Research, updated 2004
The figures mainly reflect changes in employment between 1990/91 – 2001/2. The main exceptions are Latvia and Slovenia where the earliest figures are from 1992 and Estonia, Hungary and the Netherlands where the earliest figures are from 1995.

Privatisation and deregulation policies in Central and Eastern Europe

There were a variety of developments in the region in 1997. They took place against the background of other developments, including the European Energy Charter and the European Union's (EU) new directives on energy liberalisation.

Some common themes are:

- A greater push for liberalisation, rather than just privatisation
- Opportunism by the multinationals - finding ways to buy into the markets
- Conflicts over price rises and profitability

Hungary has gone much further in privatising production and distribution than any other country. It has multinationals present and managing all the gas and electricity distribution companies, and most of the smaller power generators. The trade unions have negotiated important protection for employees. There have been conflicts over the tensions between prices, profits and pay. (see below for further details)

The **Czech Republic** has sold shares in the main generator, CEZ, but to private citizens, not to a multinational. The company remains state-controlled and runs the grid. The government has decided in principle to privatise the distribution companies, but has failed to agree the precise mechanism for doing so. Despite this, the German company RWE has started buying 10% stakes in Czech distribution companies.

Poland has so far seen little privatisation, but has just enacted a new energy law which envisages moving to a free market, with third party access (TPA) and an independent regulator, over a two year period. In the meantime, some local privatisation intiatives are being tried.

Slovakia has largely ignored privatisation, and has instead raised finance direct from the international money markets for investments in electricity and gas.

Privatisation of distributors
In the **Czech Republic**, there is a disagreement between ministries over the best formula for selling shares in distributors to multinationals. The companies have already been decentralised - 34% to municipalities, and 15% in a coupon privatisation, with the rest still held by the state. The Czech energy trade union has argued that there is no need for general privatisation of the distributors.

While the debate goes on, the German group **RWE** has already bought stakes in two distributors. It has acquired a 10.33% of regional electricity company Stredoceska Energeticka (STE), and 11.7 percent in Prazska Plynarenska, the gas utility for Prague.

In **Poland,** according to one report "*the government is proceeding with several pilot schemes, such as the sale of energy distributors in Gliwice and Poznan" (FT 26.3.97)*

Generators and heating companies
Generating companies, including independent power producers (IPPs) and heat and power companies, have been more open to multinational companies.

In **Hungary, Powergen (UK**) has bought an independent generator at Csepel, and **AES (USA**) has also bought a power station. This is more remarkable, as UK and USA companies showed no interest in the main privatisation of distributors in Hungary, due to their concerns over the rate of return.

In the **Czech Republic**, **NRG (USA)** is investing in an IPP. The plans involve investment of $400m, said to be one of the largest American investments in the Czech Republic. (The same company is also involved in a joint venture in Estonia, to run - and clean up - an oil-shale generator which is at present a bad polluter).

Poland is perhaps seeing most of this kind of investment. **Enron** (USA) has just entered into a build-and-operate deal in Nowa Sarzyna, with a 20-year supply contract signed with the Polish electricity grid company PSE. The plant will generate 116MW of heat and power, and the investment will be $120m. Two local heat and power companies are actively seeking foreign investors. **Krakow,** which tried to privatise its heat and power company two years ago, is now trying again, with EdF one of two remaining bidders. The heat and power company of Bedzin is being floated on the stock market. The Polish government has also asked for tenders to build new gas-fired power stations along the line of the new gas pipeline form Russia.

Prices, profits and pre-payments
Increasing energy prices to cover costs has already been a painful process in many countries. With privatisation comes the requirement that prices should generate profits as well. The stresses created by this are clearly seen in **Hungary**, where the multinationals are aggrieved with the government for failing to allow prices to rise sufficiently to make the profits they expect. The dispute between the government and the companies over the proper level of prices, and the rate of profit, continues. There is also a dispute as to whether the companies are allowed to sell their shares to other private investors.

The World Bank itself in a recent report acknowledges the real difficulties in this process: "there are various reasons why energy sector reforms have dragged. These include a reluctance to raise the average price level in case this contributes to inflation; a reluctance to raise residential prices for social and political reasons and little demand for foreign investment to supply new capacity and thus little incentive for regulation and efficient pricing."[85]

A further example of energy companies looking at charges to customers comes from Poland, where one company is experimenting with pre-payment meters:

> "The power company serving the Zoliborz district of Warsaw has installed 30 experimental electricity meters requiring pre-payment in the homes of volunteers. The intention is to see whether being able to see their credits diminish before their very eyes will encourage users to switch off appliances when they are not necessary......The pilot scheme is designed to see the order of savings that such a system can generate. Thereafter, it will be a matter of deciding whether a more convenient method of recharging the keys is possible, and whether it would make sense to apply similar methods to businesses, factories, schools and hospitals." (FT Bus Rep 31.3.97)

Finance
Financing of investments remains a key issue, and the main argument advanced for privatisation. Energy is a capital-intensive industry, and large amounts of capital are needed to finance building new power stations, for example. However, there are three questions to be asked about the financial contributions of privatisation:

- Most of the finance is in practice raised in, and guaranteed by, the local country itself
- Extra finance can be obtained direct from international money markets
- The proceeds of privatisation may not be invested in the industry at all

In **Poland**, however, an official report has estimated that the investment needs of the industry can mostly be met from internal resources, with bank credits providing some of the rest: “Representatives of the power generating sector believe that the sector will be able to finance at least 70% of outlays needed for modernisation from its own sources........ External sources of financing needed to finance the modernisation of the power industry, including transmission and distribution, require credits from Polish and foreign banks. However, such credits are available on condition that the venture is considered safe and profitable.... However, the amount of credits which can be raised from this source is restricted.” *(PAP Business News 13.2.97)*

Multinationals may therefore contribute only a small proportion of the total investment. The Belchatow plant in Poland needs a new 800MW, $1 billion plant. It is in talks with no less than four multinationals about this - US firms Southern Electric and Community Energy Alternatives Inc, Japan's Marubeni Corp and Sweden's Vattenfall. But they would only be adding the last piece: *“under a preliminary plan Dollars 200 million of investment would be financed through the new firm's new capital while the remaining Dollars 800 million would be covered by a syndicated loan or debt issues.”*. And even that equity investment would be supported by financial guarantees from within Poland: *“to reduce the risk for investors the new company would seek to secure long-term energy supply contracts” (Reuters 15.4.97)*

Multinationals may not be necessary at all to raise the final tranche of financing. **Slovakia** regularly raises project finance direct from international banks, without using privatisation as an intermediate phase. The European Investment Bank (EIB) recently guaranteed *“an ECU 70 million loan to the Slovak power utility Slovenske Elektrarne (SE)...for the refurbishment of a power plant at Vojany in Eastern Slovakia.” (EC press release 12.3.97).* This follows a similar loan raised by the Slovak gas utility SPP, and one raised by the Czech electricity company CEZ, and one raised by the Slovak water authorities in 1995.

The other problem with privatisation is that the money paid for privatised shareholdings may be used simply to enhance the budget of the government or utility which is selling the shares, rather than invested in the industry.

Effects on employees

One way of lessening the effects on employees is to include a job-protection clause in the privatization contracts, as was done in Hungary.

In a number of cases employees have been issued with shares as part of a privatisation process. In the Czech Republic, and in Hungary, some shares were issued to employees. In **Poland**, the new energy law reportedly provides for a remarkably high level of employee shares, as a result of union resistance: *“The need to buy off union opposition is the main reason why the privatisation of highly unionised state companies provides for 15 per cent of the stock of the newly privatised company to be distributed free to the workforce” (FT 26.3.97).*

Gas industry liberalisation, restructuring and employment in the European Union

Steve Thomas, David Hall, and Vladimir Popov

In all EU countries, the electricity industry is well developed and mature, with all potential consumers connected to the network and limited demand growth, but in several EU countries the gas industry is still immature. The UK and the Netherlands, because of their indigenous gas supplies, stand out as far more dependent on gas (both primary and delivered energy) than the other EU countries. The gas industries in Sweden, Portugal, Greece, Finland and Spain are little developed and discussing liberalisation in these countries makes little sense at this stage in their development. In addition, in Ireland and Denmark, relatively little gas is used by final consumers (most goes into power stations) and in these countries liberalisation must be a lower priority than extending the gas network. Countries like Spain, Ireland, and Germany, with high levels of investment per unit of gas consumption are expanding their networks. In countries like the Netherlands, the UK, Denmark and Belgium, there appears to be little system expansion.

Gas is a finite natural resource, unevenly distributed often in politically unstable areas. It is therefore important to understand the resource context in order to determine whether a free market in gas purchasing is viable in the long term. Gas demand is growing rapidly in Western Europe, by 40% in the last decade, driven by the availability of cheap new supplies and by the environmental advantages of using gas rather than other fossil fuels for power generation. Supply to Europe is dominated by five producing countries, Norway, Netherlands, UK, Algeria and

Russia. At present, supply appears to be plentiful and secure, and there is relatively little public debate in Europe about future sources of gas.

Privatisation

While sale of publicly owned utility assets to the private sector was nothing new, the UK privatisation programme saw the emergence of a new organisational model for utilities designed to facilitate the introduction of competition. The 'British Model' has evolved over time, but the main elements are:

- Creation of a wholesale market;
- Provision of choice to final consumers allowing them to choose their retail supplier;
- Third party access to the network so companies operating in the wholesale market and companies competing to supply final consumers will be able to use the network.

The 'British Model' formed the bases of the European Union's Electricity Directive of 1996 and Gas Directive of 1998. Despite the imminent need for new supplies of gas, European Union policy is more focused on liberalising the gas industry. The EU Gas Directive was passed in 1998 and should have been translated into national law by each member states by August 2000. The Gas Directive follows closely the 1996 Electricity Directive. The main planks of these Directives are that:

- All consumers should be able to choose their retail supplier for gas and electricity;
- Single European wholesale markets for gas and electricity should be created;
- National gas and electricity industries should be re-organised to ensure non-discriminatory access to gas and electricity grids and distribution networks; and
- Independent national regulators should be set up with wide powers to set monopoly prices, ensure access to networks and monitor competitive markets.

Creating a competitive market for a network delivered commodity such as gas requires a great deal more than simply removing the legal monopoly privileges for the incumbent supplier. For a network delivered commodity such as gas, there are a number of features that must be present to ensure efficient market operation. These include:

- Non-discriminatory access to the network;
- An effective, independent regulatory body to ensure owners of monopoly facilities do not abuse their market position and to ensure markets are operating efficiently;
- An efficient wholesale gas market that allows competitors access to gas supplies; and
- An efficient retail gas market that gives consumers a real choice of supplier and allows them to switch supplier cheaply and easily.

However, for small consumers, the issues are much more complex. Even in Britain where retail gas competition has been in place for more than four years, British Gas still has two thirds of the market despite generally being the most expensive supplier in the market. Those that have switched generally buy their gas from their local electricity supplier. The lessons from this experience seem to be that small consumers have little interest in choosing their gas supplier; they lack the confidence to switch and cannot easily identify the cheapest option. They may be uncomfortable buying what they see as a key purchase from a company they have had long dealings with and which they trust. The issue of 'cherry-picking' – only targeting rich profitable consumers – has not been addressed in any convincing way. Large consumers could use their market power to lever good prices from gas suppliers, perhaps at the expense of small consumers.

Strategic issues

While the Commission recognises some of the practical barriers to introducing a market, the bigger question, is a competitive gas market a better way than a monopoly to provide consumers with a supply of gas, is not addressed. It seems to be tacitly assumed either that operating a competitive market is cost-free or that any costs are inevitably much lower than the benefits. The traditional elements of energy policy, ensuring security of supply and meeting public service obligations seem to have a much lower policy priority. Some of the key issues that are emerging are: security of supply, public services obligations, network expansion and costs of competition

Mergers, takeovers and restructuring

Companies: Since the passing of the electricity and gas Directives, the EU's energy companies have been involved in a wave of restructuring of the electricity and gas sectors. The only restructuring formally required by the Directives is the unbundling of the Transmission System Operator (TSO), although an accounting separation is all that is obligatory but this has been only one aspect of the corporate restructuring. The most important element has been the mergers and takeovers in the German energy industry, which have consolidated the positions of RWE and E.ON, and which have had repercussions on gas and energy companies throughout Europe.

Gas and electricity companies are now beginning to operate in both sectors. The main example is E.ON's bid for Ruhrgas, but it can also be seen in the moves by Enel and ENI (in Italy) and Endesa and Iberdrola (Spain) to move into both gas and electricity. As a result of the opening of the market in the UK, gas and electricity suppliers now operate in both sectors, often offering joint packages. In some cases this gas-electricity combination already existed, for example in Fortum (Finland), formed from a merger of IVO and Neste in 1996, in Tractebel, owner of both Electrabel and Distrigas; and in the 'twinned' partnership between Electricité de France (EDF) and GDF in France, which includes a high proportion of shared jobs. The largest companies are expanding into other utility sectors such as water and waste. RWE and E.ON are seeking to expand into water, RWE already has a strong position in waste management; ENI/Italgas is expanding into water, and Suez is already a dominant multinational in both water and waste.

Gas companies by EU country

Country	TSO and owner	Supply and distribution
Austria	OMV	OMV,
		Regional utilities
		Ruhrgas
Belgium	Distrigas (Suez-Tractebel)	Distrigas
		Inter-municipal distributors (joint with Tractebel)
Denmark	Dong	Dong
Finland	Gasum	Gasum
France	GDF	GDF
Germany		Ruhrgas
		E.ON
		RWE
		Wingas
Italy	SNAM Rete	SNAM, Italgas (ENI)
		Enel, Montedison
Netherlands	Gasunie	Gasunie, municipal distributors
Spain	Enagas	Enagas
		Endesa
		Iberdrola
UK	Transco (Lattice)	Centrica
		Eastern (TXU), London (EDF), Powergen (E.ON), Innogy (RWE), Scottish Power, Scottish & Southern

Table 14 Connections with electricity and other sectors

Group		Gas operations	Electricity operations	Other utilities
E.ON	D	E.ON Energie *?Ruhrgas*	E.ON Energie	Water (Gelsenwasser), telecoms
RWE	D	RWE Gas	RWE Energie	Water (Thames Water); Waste (RWE Entsorgung)
GDF	F	GDF	*EDF*	
Suez/Tractebel	F/B	Distrigas	Electrabel	Water (Ondeo/Lyonnaise); waste (Sita), telecoms
Fortum	FIN	Gasum	IVO	
ENI	I	Italgas/Snam	Enipower	Water (Eniacqua)
Enel	I	Enel Gas	Enel	Telecoms (Wind)
Nuon	N	Nuon etc	Nuon	Water (Cascal)
Endesa	E	Endesa gas	Endesa	Telecoms (Auna), water (Interagua etc)
Iberdrola	E	Iberdrola gas	Iberdrola	
Centrica	UK	British Gas	Centrica	Telecoms (One-Tel)

While gas and electricity operations are being merged, other non-utility activities are being spun off. Both RWE and E.ON are divesting themselves of manufacturing operations, and the oil companies, which have often been closely linked to the downstream gas industry, appear to be withdrawing from involvement in the business of selling gas. The decision by BP to sell its stake in Ruhrgas to E.ON is the strongest sign of this, and it will be interesting to see whether Shell and Exxon retain their ownership of their portions of Gasunie.

There now appears to be emerging a small number of companies, generally 'multi-utilities', that seem increasingly likely to dominate European, and perhaps global utility markets. The European Commission seems relaxed with this development despite the fact that there is a serious danger that a small number of companies could result in an uncompetitive oligopoly – the antithesis of what the Directives were overtly aimed at achieving.

The 10 largest European energy companies 2000/2001

Rank	Company	Power sales in TWH	Gas sales in TWh
1	Gasunie		794
2	Snam		695
3	E.ON	318	350
4	Ruhrgas		582
5	Centrica	21	560
6	Gaz de France		522
7	Electricité de France	491	
8	RWE	255	220
9	Enel	244	
10	Vattenfall	141	

Source: Metz, personal communication

Incidental and International dimensions of restructuring
This restructuring arises partly from decisions where gas is not the primary consideration. The merger of the two German utilities, RWE and VEW, for example was principally driven by the electricity market considerations, but created a large gas company as a 'spillover' effect. The same consequence can be seen with E.ON's takeover of Powergen – E.ON's new presence in the UK gas market is again a 'spillover' from an electricity takeover. In Italy, the Enel-Camuzzi merger was however driven by Enel's wish to establish itself in gas as well as electricity.[*]

Transmission grid companies owned by multinationals

Country	Transmission company	Multinational shareholder	Home country	% shares owned	Date of purchase
Czech Republic	Transgas	RWE	Germany	97%	January 2002
Slovakia	SPP	Ruhrgas	Germany	49%	March 2002
		GDF	France		
		Gazprom	Russia		
Slovenia	Geoplin	Ruhrgas	Germany	5.2%	-

Takeovers of gas companies by multinationals from another EU country are less common with gas companies than in electricity. An exception is the bids by RWE for gas distribution companies in the Netherlands. The largest concentration of international takeovers is in fact in central Europe, where EU companies have successively taken control of the distribution companies of the Czech Republic and Hungary, and in the last few months have acquired the transmission companies of the Czech and Slovak Republics.

Public sector presence
While the private companies are the driving force behind the restructuring, the public sector remains a presence, not only in the cases of the state-owned gas companies such as GDF. As a result of the changes brought about by the RWE-VEW merger, German municipalities, which held large stakes in VEW, now have a 20% stake in RWE Gas. In the Netherlands, one of the municipal energy utilities, Essent, has proposed a joint venture with a supply section of Gasunie, specifically to exploit international opportunities. Centrica (UK) has joined a 50-50 venture with a group of Belgian municipalities to form an energy supply company, Luminus, which will takeover the sales in Belgium and look to international expansion.

[*] Il Sole 24 Ore 17/10/01 "Enel acquires 40% of Camuzzi (All 'ENEL il 40% della Camuzzi)

Employment

As the table shows, the experience in the three largest countries appears to be very different.

Employment changes since 1997/98

	Before	Latest	Basis	Source
Germany	42,000 (1998)	36,000 (2001)	Sector (RWI est)	RWI
France	24825 (1998)	28105 (2000)	GDF (France only)	GDF
UK	31,222 (1997)	32,264 (1999)	Transco+Centrica (excluding international and AA)	Ecotec

Profiles of selected gas and electricity utilities

Ruhrgas dominates the gas sector in Germany. Its activities outside Germany are concentrated in the Baltic region and central Europe. It has stakes in gas companies in Sweden, Finland, Latvia, Estonia, Poland, Hungary, Czech Republic and Slovenia. It has a 5% shareholding in the Russian company Gazprom (see below).

EURO Millions

Year			Sales	Profits	Employees	Paybill	Ave pay p.a.	Profits per employee p.a.
2000	Total		10,518.0	399.00	9,455	556.00	58,805	42,200
2000	Region	Germany:	9,184.0	347.00	2,581	231.00	89,500	134,444

E.ON

EURO Millions

Year		Sales	Profits	Employees	Paybill	Ave pay p.a.	Ave profit per employee p.a.
2001	Total	79,664.0	3,553.00	151,953	6,909.00	45,468	23,382
2001	Energy	18,449.0	1,571.00	39,560	39,712		
2000	Total	93,240.0	6,802.00	186,788	36,416		

E.ON is one of the two large electricity companies in Germany and is also a large distributor of gas. It is actively expanding its electricity and gas interests throughout Europe. It has made a bid to buy control of Ruhrgas, which would make it the dominant gas company in central Europe. E.ON is itself the result of a merger between two large German groups whose subsidiaries included the energy companies Bayernwerk and Preussenelektra. E.ON is expanding by acquisition in electricity, most recently by buying the UK generator Powergen, as well as in gas. E.ON has held shares in Czech and Hungarian electricity and gas distributors since 1995. In the Czech Republic E.ON's gas interests are concentrated in the same areas as its electricity interests.

RWE

EURO Millions

Year			Sales	Profits	Employees	Paybill	Ave pay p.a.	Ave profit per employee p.a.
2001	Total		62,878.0	2,238.00	169,979	7,189.00	42,293	13,166
2001	Sector	Energy	22,461.0	1,987.00	59,737	33,262		
		ofwhich gas	3,335					

RWE is one of the two large German electricity companies, and is also now the second largest gas distributor in Germany, as a result of the takeover of VEW and the absorption of gas company WFG. It supplies gas to approximately 1.7 million customers in Germany (220 TWh) and about 2 million customers abroad (60 TWh). It has expanded into the Dutch gas market by acquisition. RWE has moved strongly into gas in Central and Eastern Europe (CEE). RWE has become a large multinational water operator by buying the UK company Thames Water. It is also the third largest waste management company in Europe.

Gaz de France

GDF is the French state-owned gas company, closely linked to the state electricity company, EDF, with which it shares a common and coordinated growth strategy (the two companies share many of their employees in France and often bid together in foreign projects). GDF serves more than 9.6 million customers in France and 1.5 million customers in other countries. Through its subsidiaries, the company is present in some 20 countries on all continents. Unlike many other gas companies, GDF has almost no natural supplies of its own. The company intends to increase its involvement in the production/upstream sector (abroad). GDF also intends promoting and developing business in cogeneration and NGV (Natural Gas for Vehicles), both in France and abroad.

EURO Millions

	Year		Sales	Profits	Employees	Paybill
	2001	Total	14,400.0	1,767.00		

ENI/SNAM/Italgas

Italgas
EURO Millions

Year	Sales	Profits	Employees
2000	3,215.00	433.00	11,027.00
1999	2,698.00	275.00	11,468.00

ENI is the semi-privatised Italian state energy holding company. It owns 100% of SNAM, the Italian gas transmission company, which has now spun off the transmission operator Rete Gas Italia. SNAM in turn owns 40% of the shares in the gas distribution company Italgas. Italgas is now a company floated on the stock exchange, 40% owned by SNAM/ENI. It distributes gas in 1,465 Italian municipalities. Italgas has been active internationally, especially in the Balkans.

The oil and gas companies in Central and Eastern Europe can be divided into Gazprom and Western oil companies. Gazprom has a particular interest in investing in the West European gas industry, partly to help safeguard the market for its gas and partly to add value to its gas exports. Liberalisation of gas markets gives the Western oil companies, especially Shell, Exxon and BP to move downstream with their gas businesses.

The European gas industry is undergoing dramatic changes, most obviously because of the EU's Gas Directive of 1998, which requires Member States to restructure their gas industries so that they operate on competitive lines. Many of the strongest electricity companies are now entering the gas market. For example, E.ON, Germany's largest electricity company is attempting to take over Ruhrgas, Germany's largest gas utility. While it is early to assess the results of the Gas directive, the impact of the similar electricity directive is now fairly clear: concentration of companies on the one hand; some competition – and reduced prices – for industrial customers; but little competition, and no significant price reductions for domestic consumers. The Barcelona summit enshrined a temporary limitation of liberalisation which included a distinction between domestic consumers, which are allowed to remain excluded from liberalisation for the time being.

Trends in the electricity industry in Europe

David Hall and Emanuele Lobina, March 1999

IPPs (Independent Power Producers)
One result of liberalisation is to further encourage the growth of Independent Power Producers (IPPs). In effect, the liberalisation measures start to make most power stations into IPPs, by forcing them to compete for custom with other generators. IPPs may not necessarily be owned and run by specialist electricity companies. Financially, they are vulnerable to fluctuations in the price of electricity traded from day to day, and so usually make long-term sales contracts, either with distributors, or with large industrial customers, to ensure a predictable flow of income.

Disposals
The effect of liberalisation is reinforced by direct measures by governments, ordering dominant companies to sell generators in order to increase the number of different generating companies. This happened in Spain, for example, where Union fenosa was required to sell 25% of its generating capacity, which it sold to national Power of the UK. It has also happened in the UK, where both Powergen and National Power have been required to sell some of their power stations.

Gas direct

It is now becoming increasingly common for gas companies to become directly involved in electricity generation by setting up gas-fired IPPs. Both Italgas and British Gas, for example, have sought to do this. Shell, which is a gas and oil producer, is a partner in IPP company Intergen, along with Bechtel, a US construction company.

Finance

IPPs are becoming increasingly common in central and eastern Europe as well, where they are seen as a way of financing expensive infrastructure development. This was emphasised recently when a purely financial consortium won an IPP tender in Bulgaria, with no energy company involved.

Issue: organising

One key issue for trade unions is the difficulty of organising in 'greenfield', usually private, companies. Where companies have EWCs it may be possible to use these to help organise IPPs.

CHP/Cogeneration, waste-to-energy

Another marked trend is the growth of combined heat and power (CHP) plants, also know as co-generation plants, and plants which generate energy from waste through incineration. In practice, a number of plants are both - waste-fuelled cogeneration. These developments are being encouraged by a combination of factors:

- Energy efficiency policies - because CHP is much more efficient than traditional electricity generators
- Environmental policies - because incineration is being encouraged as an alternative to landfill.
- Liberalisation of the electricity market, which makes it easier to set up CHPs.

The electricity companies are seeking to expand in this area, but there are other sources of competition, most notably form the energy divisions of the two French multi-utility companies: Suez-Lyonnaise and Vivendi. These companies are well-placed to exploit these sector because they already have established heating and energy divisions and major waste divisions, which are the biggest in Europe. They are well-established multi-utilities providing services to public authorities.

Suez-Lyonnaise: Elyo-Cofreth

This company effectively controls 50.1% of Tractebel, the Belgian energy company, but also has an energy division, Elyo, involved in cogeneration, heating and air-conditioning systems, waste-to-energy and electricity distribution, as well as facilities management, for private and public sector clients. In 1997 Elyo had a turnover of FFR 11 billion, and 18,000 employees. Apart from France and Monaco - where it has run the multi-utility SMEG for over a century, providing electricity, gas, heating and waste services - it operates in Germany (through Schmeink Cofreth), Spain (Gymsa), UK (Elyo Cofreth), and Italy (Petrol Company).

Vivendi: Dalkia

The energy division of Vivendi is now called Dalkia (previous names were Esys-Montenay and Generale de Chauffe), and is active in 22 countries. Dalkia claims to be the European leader in district heating, with 243 systems, and also operates 600 Cogen plants with a total output of 3,000 MW. It also has a number of waste-energy operations, in synergy with its waste management division, CGEA/Onyx. In 1997 it had total turnover of 17 billion FFR, with 19,000 employees.

Issue: organisation

A key issue with the development of CHP or Cogen facilities is organising the workforce. The fact that they are usually relatively small and self-contained makes this harder. However, both of the dominant multinationals have well-established EWCs, which could serve as channels for information on new operations.

Trading

A whole new activity created by liberalisation is energy 'trading'. This involves the direct sale of electricity to end users, wholesale or retail, through market traders who may be generators themselves, or may simply buy electricity as needed from generators. The trading itself is thus separated from the 'wires' business of the grid and distribution networks, who are simply paid a carriage fee to transport the agreed sale to the end user.

Vertical and horizontal integration

One result is that power generators have a sharp incentive to reclaim customers. This led in the Nordic countries to continuing takeovers of local distributors (usually municipal) by the generators (usually state), thus creating vertical reintegration of the kind that neo-liberals said was inefficient. In the UK, the generator National Power recently bought 2.2 million domestic customers from a local distribution company, (but the distributor retained ownership of the network). [86] The emphasis on trading is also leading to multi-utilities, with companies seeking to offer both gas

and electricity to their customers: National Power again provided an example in March 1999 when it bought a gas supply company, Calortex, with 3% of the UK market. [87]
But liberalisation also means that large industrial consumers are able and willing to go 'shopping' for electricity, even outside their own country, which can lead to large supply contracts being switched away from traditional producers.[88]

Scandinavian traders
Scandinavian energy companies have started using their trading expertise in other countries. The Swedish company Sydkraft (18% owned by Preussenelektra) are setting up a trading joint venture with HEW (Hamburg - 12.5% owned by Preussenelektra, and 12.5% by Sydkraft) in the Netherlands.[89] It has also entered a joint venture with Copenhagen municipal electricity company, and two other Danish municipal companies.[90] This is part of Sydkraft's general aim to increase participation in trading. [91]

When the Spanish market was opened to trading in 1998, the second firm to win a trading license (after Enron) was the Norwegian company Hafslund. Haflsund is one of three 'market-makers' in the Nordic pool, along with Enron, and is 20% owned by Swedish state company Vattenfall, and the rest by municipalities. It is operating in Spain through SKS, a new company which is 60% owned by the Norwegian company Hafslund, and 40% by the management.[92]

Enron and others
The biggest trader is undoubtedly Enron - a market-maker in the Nordic pool, and in the UK, and the first trader in Spain, as well as being an aggressive trader in the USA. Most electricity companies want to enter this field, including: Tractebel, which has a large trading operation in the USA, and has been trading in Scandinavia since summer 1998 - and Eastern Group of the UK, which has been awarded a trading licence in Germany.

Issues: organising; destabilising
Organising staff in trading organisations may be very difficult, because they will be primarily financial-style traders, paid by very high bonuses. A more general concern for trade unions will be the regulation of trading, which can destabilise other elements in the energy system quite seriously. One extreme example of this was the crisis in the mid-west USA in June 1998, sparked off when two small traders went bankrupt: some electricity utilities went bankrupt, some made losses of up to $51m, and one trader - Enron - made profits of about $50m.[93]

Public sector presence
Public sector companies remain in a strong position in much of Europe, although governments continue to consider selling shares in state companies.

In the Nordic market, the state-owned companies of Stadtkraft, Vattenfall, and Fortum/IVO are the dominant operators. Fortum was formed last year by merging Finland's state electricity company IVO with the state oil and gas company Neste. The government has now sold 2% of shares to private investors. The French state company EdF retains an extremely strong presence internationally. The new energy law will alter its legal constitution, but it will remain state-owned.

In Italy, the government has now decided to defer the proposal to privatise the state company ENEL - 'liberalise first' is the message - and the proposed breakup of ENEL is also being deferred. In Ireland, the government has said for the first time that it is considering the sale of shares in ESB as one possibility. [94]

Municipalities retain a strong role in a number of countries - for example in the Netherlands, where the consolidation of the utilities has so far not involved much privatisation (with the exception of UNA).

Gas trends
The liberalisation of the gas market, and the importance of international transit arrangements, is leading some of the major gas companies to develop concerted international strategies that involve expanding upstream to obtain supply, or downstream to profit from sales to the consumer.

The key companies involved are:

- **Gas de France** - the state-owned counterpart to EdF, which has expanded remarkably into central Europe (distribution in Czech Republic and Hungary) and into Scotland (pipelines) and Italy (heating and air-conditioning services)
- **Ruhrgas** - which is extending its pipeline network with Russia westwards, and also making a joint venture with Italgas for a North-South pipeline to link up with Italy and Norway

- **Italgas** - which is investing in gas in Libya and Egypt, and in pipelines to bring Libyan and Tunisian gas to the Balkans
- **Gasunie and Distrigas (Tractebel)** - which plan to market more gas in the UK, using the Interconnector
- **Gazprom** - which continues to extend its pipelines westwards, and to enter an increasing number of downstream deals.

Critique of CEER Paper on regulation of energy infrastructure

Steve Thomas, June 2003

In March 2003, the Council of European Energy Regulators (CEER) issued a Position Paper, 'Principles on regulatory control and financial reward for infrastructure'. This was in response to a request by the European Commission to the CEER to put forward guidelines on 'how to regulate and financially reward the construction of infrastructure, taking into account the provisions of article 7 of Directive 2001/77/EC in relation to electricity produced from renewable energy sources.'

First, although CEER describes its report as a 'Position Paper', in the document, it is made clear that it has not been approved by the CEER Board. It is not therefore clear how this can be described as a CEER Position Paper.

Second, it should be noted that no reference whatsoever is made to renewable energy sources in the Position Paper. Most of the Position Paper concerns the duties of Transmission System Operators and on international transmission connections, and there are detailed references to natural gas networks. Since most renewable electricity sources are small in scale, less than 10MW, and, for practical reasons, feed directly into their local distribution networks rather than the national high-voltage grid, the Position Paper does not seem relevant to the question asked of the CEER. The CEER also puts forward 'principles' rather than 'guidelines' justifying this on the basis that the principles would form the basis for discussions with the European Commission and other interested parties and that guidelines would be produced in a second phase after these discussions and after the principles are approved by the CEER Board.

Third, the Position Paper concentrates almost exclusively on how investment in new transmission capacity should be handled. This is understandable given the concentration on infrastructure development. However, it should be noted that in the cases where transmission systems in a liberalised system have failed, for example in Argentina in 2002[*] and New Zealand in 1998[†], it was due principally to failure to maintain existing assets effectively. Some recognition in the Position Paper of the importance of maintenance would have been welcome.

Finally, it should be noted that the problem of investment in transmission is one substantially created by the process of liberalisation. As the Position Paper acknowledges 'In a non-liberalised market where there is only one vertically integrated company, that company has natural incentives for network reinforcements.' In short, integrated companies have a strong incentive to make sure there is sufficient investment in infrastructure to ensure that their own consumers are reliably supplied.

Liberalisation breaks that chain of responsibility to consumers. The Commission and the CEER do not appear to acknowledge that there could be any doubts that a liberalised model of electricity supply industry is superior to the non-liberalised model. There are many arguments that need not be rehearsed here about how efficient wholesale electricity markets have actually been and whether retail competition really does bring benefits to consumers, especially residential consumers. However, it should be noted that there are strong grounds for arguing that in such a capital-intensive network industry with such an overwhelming need for reliability, a monopoly system would be more efficient. In a properly regulated, centrally planned system, wasteful duplication of investment could be avoided and central planning would allow the necessary long-term investments to be made to ensure that supply and demand would balance.

It is not clear why the CEER apparently so blatantly fails to answer the question that it was asked by the Council to the Commission and the European Parliament. Nor is it clear how the document presented can be a Position Paper when the CEER Board has not approved it. Nevertheless, it seems the CEER regard this as an important policy statement on the development of transmission networks for electricity and gas and it therefore deserves careful consideration.

[*] In November 2002, a failure at a substation cut power to 13 million consumers for more than 4 hours.
[†] In February 1998, four cables supplying Auckland failed leaving power supplies to the city severely disrupted for a month.

The clearest point to emerge is how far the liberalised industry has diverged from the ideals that were attributed to it. In the original vision, investment decisions were to be taken by companies, acting on entrepreneurial bases with no intervention by public authorities. In this way, the risk of new investment would fall on the developer, not as it had traditionally done, on consumers. The CEER still subscribes to this rhetoric and the document is littered to references to the need for price signals to provide the main impetus for new investment. However, if we examine in detail the mechanisms actually being proposed are dominated by central planning and by aspiring to avoid 'regulatory risk', the risk of new investments clearly remains with consumers, not the shareholders of the companies. The European Commission also acknowledges that market forces and commercial decision-making will not be sufficient to ensure appropriate investment in the transmission system. In the amendments to the 1996 Electricity Directive that were put forward by the Council to the Commission in November 2002, Recital 22 states:

In the interest of security of supply, the supply/demand balance in individual Member States should be monitored, and monitoring should be followed by a report on the situation at Community level, taking account of interconnection capacity between areas. Such monitoring should be carried out sufficiently early to enable appropriate measures to be taken if security of supply is compromised. The construction and maintenance of the necessary network infrastructure, including interconnection capacity, should contribute to ensuring a stable electricity supply.

What becomes apparent from the Position Paper is that the vision of entrepreneurial companies risking shareholders' money making commercial investment decisions is not realistic. Without guaranteed returns on investment (minimisation of regulatory risks) and public processes to identify the necessary investments, private companies cannot be relied upon to expand the network in an appropriate way.

The Position Paper is devoid of any practical examples and is not supported by any evidence from experience of actually operating transmission networks in a liberalised market. Without well-founded supporting evidence, the recommendations of this document cannot be adopted with any confidence.

Blackouts: Do liberalisation and privatisation increase the risk?

Steve Thomas and David Hall, December 2003

Electricity blackouts can be serious events that cause human suffering and economic disruption. Even in the best-run systems, there will be a risk of black-outs because of human error and extreme weather conditions. However, it is important to designate a security standard that strikes a good balance between security and cost and that this standard is maintained. For example, in Britain, the standard for generation is that there should be enough generating capacity that there should only be blackouts due to shortage of generation in 8 winters per 100 years. There is no performance standard for the networks despite the fact that blackouts due to network failure are much more common than those due to generation shortage.

The traditional, publicly-owned, monopoly cost-plus system was generally effective at meeting the required security standard. Because, for private companies, profit was regulated and for publicly owned companies, profitability was not the key objective, there was no incentive not to spend enough money on investment and maintenance to ensure the designated standard was met. Companies could be given a duty to ensure the security of the network and to ensure there was enough generation capacity.

This system was criticised as being inefficient because there was no profit-driven motive to minimise costs: any savings the company made were passed on to consumers. The liberalised model addresses this problem by making generation a competitive activity and by introducing incentive regulation for the monopoly network. Under incentive regulation, companies can keep cost savings as extra profit. It was assumed that a combination of market forces for generation and regulated performance targets for networks would be sufficient to prevent deterioration in system reliability.

There are serious grounds to suggest this will not be the case. Activities in the electricity industry are now being bought and sold frequently and there must be a risk of a 'take the money and run' philosophy. Cutting back on maintenance may not be reflected in poorer performance for several years, by which time, ownership of the facility could have changed more than once. For example, in Britain, the Eastern distribution network has had five owners in only eight years, while ownership of some power stations has changed three or four times in the same period. Currently in Britain, about 40% of the generation capacity is owned by companies that are bankrupt or close to bankruptcy. This is clearly not a recipe for responsible stewardship of long-lived assets.

For a more detailed discussion of the potential problems, it is necessary to consider generation and network activities separately.

Network activities

In some respects, liberalisation does not fundamentally change the way in which network activities operate. They remain regulated monopolies. However, under the EU Directive, they must be effectively fully separated from the competitive activities generation and retail supply. Distribution and transmission companies should have no commercial interests in the competitive activities, generation and retail supply. The network companies are often unknown to consumers. So the chain of responsibility that existed in the old system is broken that meant that electricity companies had a direct responsibility to the final consumer.

There is at least one other important change in the nature of the transmission and distribution activities. Transmission and distribution companies now have to deal with multiple users of their system who they have no influence or control over. While one or two cooperating companies controlled the electricity industry for a given region (a generation and transmission company, and a distribution and retail supply company), potential system problems could be more easily avoided. Transmission and distribution companies have limited scope to order generators or retailers to carry out actions to ensure system security.

The change in the new system that was meant to address the alleged inefficiencies of the old system, the introduction of incentive regulation, may also be its weakness. Under incentive regulation, companies are allowed an approved level of investment and expenditure on operations and maintenance (O&M), typically for a five year forward period, and if they can make savings on these allowed levels, they can keep the savings as additional profit. This creates a strong incentive on companies to make such savings to increase their profits regardless of whether there will, in the long-term, be a detrimental effect on service.

Other problems that may be cause problems to system reliability are contracting out of major activities and cut backs to training. These may lead to skilled workforces being eroded. The UK Skills Dialogues programme looked at the skill needs for the gas, water and electricity industries[95] and found a number of problems, for example:

- difficulty across the gas, water and electricity sectors in attracting young people into the industry to replace the aging workforce;
- the short-term regulatory framework of investment and contracting in the gas and water industries acts as a disincentive to invest in skills and training; and
- there are concerns that poaching is a disincentive to investment in training.

To deal with the potential problems, countries in the EU are introducing performance standards for the system that distribution and transmission companies must meet.[96] For example, faults leading to a loss of supply must be rectified within a specified time. These performance standards raise a number of issues:

- Will it be possible to find a set of indicators that are comprehensive enough to ensure they really reflect system performance? It may be possible for a company to carry out measures that ensure performance standards are met but do not ensure good system performance;
- Will inadequate investment and maintenance be picked up quickly enough by the performance indicators before significant damage is done to the system? As was demonstrated with the British rail network, the costs of rehabilitating a damaged network can be huge. If a company under-invests or maintains equipment badly, serious damage may be done before it is picked up by the performance standards;
- What sanctions should be taken against companies that fail to meet standards? If fines are not substantial, companies may find it more profitable to pay the fine than to rectify the problem. If fines are substantial they may jeopardise the ability of the company to rectify the problem. It will also take strict regulation to ensure that fines do not ultimately end up getting paid by consumers rather than the company shareholders.

These problems are now being addressed in Britain by a new programme, the 'information and incentives' programme.[97] This will try to measure the real reliability of networks rather than through imperfect indicators. It will require new equipment to be installed to monitor the network fully. Under this scheme, the income a distribution or transmission company will receive will vary according to how reliable the system is. This new scheme is still at an early stage and we will have to await its implementation to see if it can solve the three issues listed above.

While there have been huge changes to Europe's electricity industry, reforms to most European electric systems are still far from complete. Separate transmission companies have been being created in most countries. A strong transmission network is key to the reliability of electricity systems and a major failure in the transmission system could lead to major national consequences. Regulation of transmission needs therefore to be particularly strict, monitoring closely to ensure that promised investments are carried out and that any savings the company makes in O&M costs will not jeopardise security standards.

A number of countries in Europe have taken deliberate decisions to keep, or to bring the transmission network into public ownership. For example, in the Netherlands, the transmission network is now owned by a new nationally-owned company, TENNET. In other countries such as Finland, Sweden, Norway, France, Italy, Greece and Ireland the transmission system is still either publicly owned or publicly controlled. By owning (or controlling) the system, governments will be able to ensure that its development is not subjected to the vagaries of corporate finance and fits in with national priorities.

Distribution is, in economic terms, a much larger activity, perhaps representing five times the turnover of transmission. Failures in the distribution system are likely to have less widespread consequences than a transmission system but can nevertheless be serious. Distribution remains largely integrated with retail supply and only in Britain, has there been a corporate separation of distribution and retail supply. As with transmission, strict performance indicators and close monitoring to ensure that agreed investments are carried out must be imposed.

Overall, there must be confidence that the reformed regulatory systems have the resources, capability and political power to enforce their decisions so as to prevent deterioration of the networks in a restructured electricity industry.

Generation

The issues with generation are very different. In the past, generation was a regional or national monopoly and it was easy to impose a requirement that the company should maintain enough plant to ensure that there is sufficient generation capacity. If generation is made a market, there must be free entry and exit for generators and no company can be given a duty to ensure there is sufficient capacity. Supply will be sufficient to meet demand only if enough power stations are profitable to meet demand. Power stations that lose money will be closed down. There seems to be no reason why this happy coincidence should always apply. To meet demand securely, it is necessary to have available power stations that might only be required once or twice a decade. If there is a run of warm winters, these rarely used power stations will not be required at all, will lose their owners money and are likely to be closed down.

In most markets there are cycles of over-investment (when there is insufficient capacity and prices are high) followed by under-investment (when there is over-capacity and prices are low). For most products, this does not matter. If prices are forced down by over-capacity, producers and users can use the extra capacity to build up cheap stocks and if prices are forced high by under-capacity, users can run down their stocks and can often use substitutes. New capacity can generally quickly be built in response to shortages. Clearly this does not apply to electricity, which cannot be stocked, for which there are generally no substitutes and where new investments in power stations may take more than five years to be completed.

Generating companies usually profit from shortages of capacity. The price will be forced up by shortages and their profits increased. In the case of California, it seems that some companies deliberately created a shortage by withholding capacity. This has also happened in Britain although with less severe consequences. However, it does not require corporate malpractice for shortages to be created. If demand is growing, no generating company has a responsibility to build the required new capacity. The generators' responsibility is to maximise profits for their shareholders. Building new generating capacity is economically risky and will tend to reduce the price of power paid to companies' existing power plants.

The logic of the EU reforms is that the companies that generate electricity should not only not own the network, they should also not be involved in selling electricity to final consumers. If 'integrated' companies dominate the generation market, the wholesale market will be largely meaningless because generators will generate power for their own consumers and bypass the wholesale market. However, the EU has not enforced the logic of its reforms and in many EU countries, generation and retail supply are fully integrated. This has already happened in Britain where, initially generation and retail were kept separate. However, following a reversal of government policy on this in 1998, just six companies that generate electricity and supply to their own final consumers now dominate the industry.

A major objective of the electricity reforms, the creation of a strongly competitive wholesale electricity market, will be lost if integration of generation and retail supply becomes the rule. However, one advantage of this type of integration is that integrated companies will have an incentive to have enough capacity at their disposal to ensure their own customers are supplied. However, it is questionable whether replacing a properly regulated monopoly with the type of unregulated oligopoly described above is really in the interests of consumers.

The European Commission is increasingly emphasising the need for super-national markets and ultimately a single European electricity market. It stated recently 'The objective is quickly to achieve a simple, objective, transparent, non-discriminatory trading system reflecting costs in order to create a real internal energy market instead of fifteen liberalised but still overfragmented markets.'[98]

A competitive wholesale electricity market must not only lead to prices that reflect the production costs, it must also generate sufficient investment in new capacity to ensure the security of supply. If a competitive and sustainable wholesale electricity market that meets these requirements is not achievable, retail competition and de-integration of the network activities are pointless. It would be better if this was acknowledged now rather than trying to pursue an unachievable dream that will end up as an uncompetitive oligopoly.

Generating capacity adequacy in the UCTE region January 2003 (GW)

	Installed capacity	Guarantee capacity	Load	Remaining capacity	% Remaining capacity/ Load	Net export capacity	Net import capacity
Austria	16.9	12.4	8.4	4.0	48		
Belgium	15.6	12.9	12.3	0.6	5	5	4
France	111.2	83.1	71.1	12.0	17	9	0
Germany	108.3	79.3	73.4	5.9	8	10-15	10-15
Greece	10.1	7.0	7.5	-0.5	0	0.5	1
Italy	79.6	52.3	51.2	1.1	2	0	6.5
N'lands	20.1	17.1	16.4	0.7	4	4	4
Portugal	9.6	8.2	7.0	1.1	16	1	1
Spain	54.4	39.9	33.4	6.5	19	2.5	2.5
Switz	18.1	13.1	9.1	4.0	44	3-6	3-6
Czech	15.3	10.5	8.8	1.7	19	3	3
Hungary	7.8	6.0	5.1	0.9	18	1	1.5
Poland	34.2	27.9	20.8	7.1	34	2	3
Slovakia	8.0	5.1	4.1	1.0	24	3	3
Slovenia	2.7	2.2	1.8	0.4	22	1	0.5

Source: http://www.ucte.org/pdf/Publications/2002/Forecast_2003_2005.pdf

Notes

1. Data are available only for countries that are members of UCTE and exclude Finland and the UK.
2. The data are forecasts for 11.00AM, the third Wednesday in January 2003 (assumed peak demand time) and were published in December 2002.
3. All countries are winter-peaking systems.
4. Net transfer capacities are estimated from a graphical presentation.

International experience with blackouts in 2003

In the summer of 2003 a series of major blackouts affected OECD countries: USA and Canada in August, followed by UK, Sweden and Denmark and finally the whole of Italy in September 2003. This followed on from were massive blackouts in California in 2001, and in Auckland, New Zealand in 1998.

In addition, France, Ireland, Japan, Netherlands, and New Zealand have all issued official warnings over the possibilities of power cuts during the course of 2003, due to anticipated shortages of power capacity for a variety of reasons: in France it was due to nuclear plants being closed because the hot summer made it difficult to cool the reactors; in Japan it was due to the closure of nuclear plants for refurbishment to meet safety standards; in New Zealand, due to capacity shortages expected as a result of shortage of gas supply; in Ireland and Netherlands the warning was related to general lack of generating capacity.[99]

The blackouts of 2003 and their predecessors involved failures of networks and/or capacity shortages. There are common features of some of the factors involved. The UK blackout in London was caused by component failures and errors in a local distribution system. The following discussion concentrates on the USA blackout and to a lesser extent the Italian blackout.

Stresses of trading electricity over long-distance transmission lines

The report by Swiss authority SFOE identified some of the same factors as causes of the Italian blackout of September 2003: lines clashing with trees, and an increased use of inter-connections and long-distance transmission which increased the complexity, vulnerability and instability of electrical systems even at night during a period of minimal demand. [100] It identified a simple conflict: "The underlying causes of the incident that occurred on 28 September 2003 are the unresolved conflict between the trading interests of the involved countries and operators and the technical and legal requirements for safe and reliable operation of the networks." [101]

UCTE, the European transmission grid body, also made a number of observations highlighting the stress on international transmission systems, the lack of spare capacity, and the lack of enforceable standards. Firstly, it noted that the tripping of the connection lines had consequences for neighbouring countries' grids that were interconnected, and that there was a possible lack of regional cooperation; secondly, it observed that the Italian blackout "results from already well-known and still unsolved structural issues transmission system operators (TSOs) are facing in Europe"; thirdly, it commented that UCTE had "have repeatedly warned over the especially tense situation in Italy with a structural dependency on bulk electricity imports". Finally it called for European-wide regulation using enforceable security and reliability standards. [102]

Lack of incentive to invest in network

Under a liberalised system "few companies want to spend money on assets where the return is low or uncertain, especially if the market is unwilling to compensate for reliability private companies". In the USA, S&P warn that if companies "make, or are forced to make, large infrastructure investments in transmission upgrades without clear assurances about capital recovery, credit quality will suffer." [103] The same is true in Europe: the European Investment Bank (EIB) states that the private sector cannot be seen as a major source of funding for investment in networks: "it should be recognised that the bulk of finance, notably for major cross-border projects, will have to come from public sources (whether via grants or guarantees)…. the role and responsibility of governments remain crucial in this respect".[104] The reliability of an electricity system remains fundamentally a public good.[105]

Underspend on systems and training

The factors identified by the official enquiry into the USA blackout included: inadequate tree-cutting, inadequate operator training, failure to ensure operation within secure limits, failure to tell neighbouring systems about emergencies, failure to see what was happening in other regions, failure and lack of backup of computer systems.[106]

Some of these factors have already been observed in European systems and elsewhere. The problem of training, for example, identified as a key issue by the USA report, is now a problem throughout Europe. A report on training in the UK noted that the utilities had been cutting their labour force and failing to train new entrants, so *"their remaining workforce has been steadily moving towards retirement. This pool of skilled and industry-knowledgeable workers will soon be lost to the Utilities, with no stream of young people to take their place."* There was also a shift in employment of workers from the utilities themselves to contractors: but contractors, under pressure to cut costs: "*are not investing in skills to the extent of the pre-liberalised Utilities, and the sustainability of the industries is threatened"* [107].

Shortage of generating capacity: planning, gaming and other reasons

Many of the blackouts are either caused by, or started by, shortages of generating capacity. As the table below shows, many countries in the EU have low reserve generating capacity. This low reserve then leaves less margin in event of failures: the Sweden/Denmark blackout was caused by two nuclear plants going offline, and the network failing because the connection to Germany for alternative sources of electricity was not available. [108] The danger of blackouts in other countries has arisen because of weather conditions, safety requirements, or other factors.

More long-distance transmission capacity?

A conclusion drawn by some organisations is that the long-distance transmission system needs modernisation and extension, requiring large amounts of investment. This seems to be the main response of the USA government, and European bodies. For example, the UCTE recommends "Removing administrative barriers for the construction of transmission infrastructure" ; the EC's DG TREN also believes that "Europe needs more infrastructure for competition and security of supply reasons…TSOs must be either instructed or incentivised to make the necessary investments";[109] and the EIB declares itself ready to finance whatever expansion is required. [110]

Less trading, more decentralisation

A different approach advocated by environmentalists is to reduce the risk posed by long-distance transmission and trading, and instead develop electricity systems that are more decentralised. Instead of increased public investment in cross-border transmission capacity, policies should concentrate on reducing demand, which will of itself improve the adequacy of existing levels of capacity, and by promoting more decentralised generation near the point of consumption, which reduce the costs of transmission across high-voltage grids.[111] This has also been advocated in the USA as an alternative to investment in transmission lines.[112]

Tighter regulation
The National Electricity Reliability Councils's (NERC) conclusion from the report on the USA-Canada blackout on 14th August was firm: "As unfortunate as the blackout was, our analysis indicates that it was also preventable and clearly demonstrates the immediate need for mandatory standards." [113] The UCTE took the same view after the Italian blackout 9see above): "the transformation of UCTE rules into a set of enforceable common security and reliability standards, to be observed by TSOs and network users." This approach appears to propose a very strong form of regulation for network operators.

Conclusions
The restructuring of the electricity industry should be subject to public interest considerations. There needs to be regulatory machinery which can limit market forces and commercial considerations by reference to public interest issues (i.e. not just competition policy), even though it involves limiting the management of the companies.

There should be a public interest re-assessment of the use of cross-border transmission lines for electricity trading. If generating capacity and system reliability can be more effectively met by national measures, then further cross-border transmission capacity for trading may be unnecessary. The facilitation of trading should not by itself be a justification for such investment.

Transmission operators should be subject to stringent security and reliability standards, enforced by a regulatory authority with a public interest mandate, and/or through public ownership of the grid.

Regulators should impose strict conditions on distribution companies as part of their license:

- requiring companies to demonstrate how their future investment and maintenance plans will assure reliability, and monitoring these programmes to ensure the companies' compliance.
- an obligation to employ and train a skilled workforce to carry out the work
- a prohibition on contracting-out of core functions, including network maintenance and customer service

Regulation of distribution and transmission should be based on open and public procedures which encourage and address representations from stakeholders and citizen groups

European Works Councils and the electricity sector

Steve Thomas, 2004

Since the early 1990s, the European Commission has sought to liberalise the electricity industry and later the gas industry. An Electricity Directive was passed in 1996 (96/92/EC) and a comparable Directive for gas ((98/30/EC) was passed in 1998. These measures were strengthened and accelerated by new Directives passed in 2003 (2003/54/EC for electricity and 2003/55/EC for gas).

Essentially the Directives had five main elements:

- Development of transparent national wholesale markets for electricity and gas;
- Development of international trade in electricity and gas so that the national markets would tend to converge;
- Introduction of retail competition in supply of electricity and gas to final consumers;
- Corporate separation of monopoly (network) activities from competitive activities (wholesale and retail supply); and
- Introduction of independent regulatory bodies.

From a corporate point of view, this led to a number of developments and opportunities. For the first time, network energy companies could become international in scope owning significant utility businesses outside their home country and nearly all major utilities have tried (sometimes unsuccessfully) to expand their geographic scope.

The four main activities in the electricity business, generation, high-voltage transmission, low-voltage distribution and retail supply were also redistributed. Previously, in some cases, fully integrated companies that carried out all four activities supplied electricity. In other cases, generation and transmission, and distribution and retail were integrated. Now an independent company generally carries out transmission, while pressure is increasing for independent distribution companies. For gas, production has often been a separate activity usually carried out by oil multinationals that have little interest in 'downstream' activities. The division between the national network and the local network is often not so clear as with electricity although logically, the high pressure national network that takes gas from production or import points to centres of demand can be separated from the local low pressure network that takes gas to final consumers.

While the Directive does not require entirely independent ownership of networks, it does impose strict enough internal corporate separation that any possibility of technical or economic synergies between, say, distribution and retail supply, cannot be realised. So, it is likely that ownership of networks will increasingly be separate from ownership of competitive activities. For example, in Britain, the National Grid Company is entirely independent and in half of the distribution regions, a company other than the incumbent retail supplier owns the network. However, corporate interests that see strong commercial advantages to integration are pressurising generation and retail supply to integrate.

The Directives place no requirements on countries to privatise, but the impact of the Directives is to strongly favour private ownership. The more electricity and gas become products supplied by competitive markets, the less the scope for public authorities to introduce distinctive (local) policies that are tailored to local needs. In this situation, public authorities may see more benefit in selling these businesses and using the proceeds in programmes that can make a distinctive contribution to their constituents. There has also been a strong trend towards takeovers and mergers of locally-owned companies to try to win scale economies and to achieve 'critical mass' so the companies can compete in the market. This has tended to make ownership of locally-owned companies more remote from their former base, again tending to lead to privatisation.

There is pressure to break up nationally-owned, integrated monopoly companies to allow competition and to separate the networks. Member States have generally chosen not to replace these monopolies with a number of nationally owned companies, some competing against each other. There is also pressure to privatise what remains of the national monopolies to give them greater commercial freedom in international markets.

Company overview

The companies examined fall into five main categories:

- Former nationally-owned monopoly companies (e.g., EDF, ENEL and EDP);
- Former nationally-owned companies that had a strong or dominant share in their home market (e.g., Vattenfall, Fortum and Endesa);
- Privately-owned companies or companies that have some public ownership but that function essentially as private companies (e.g., RWE, Suez/Electrabel, E.ON, and Iberdrola);
- Former locally-owned companies (e.g. Essent and Stadtwerke Leipzig); and
- New entrants from outside the member states, primarily from te USA (e.g., AES).

The first three sets of companies have been most prominent in expanding internationally, with national governments in their home territories apparently seeing them as 'national champions' that can bring national benefits by expanding into foreign markets. Locally-owned companies often lack the scale and the commercial freedom to compete for international business. American companies did move strongly into Europe, especially the UK, as markets began to open, but these ventures were often ill-conceived and most American entrants are now selling their non-US businesses or at least not expanding further.

RWE

RWE has long been the largest electricity company in Germany and is now of comparable size to its main German rival, E.ON. It consolidated its position in 1999 with the merger with VEW, another of the large German electricity companies. It is active in energy in Germany, the UK, Austria, the Czech Republic, Hungary, Slovakia, Poland and The Netherlands.

At the end of December 2003, RWE employed 127,000 people. In its energy businesses, RWE Power division employed 18,000, RWE Energy 51,000 and RWE Innogy 9000. Its other main divisions are RWE Thames Water (17,000), RWE Umwelt (6,000) and Heidelberger Druckmaschinen (14,000). In March 2004, it sold its stake (56.1%) in Hochtief and international construction business and its Heidelberger Drucksmachinen (printing machine manufacturer) and its RWE Umwelt businesses are for sale. It expects to focus on energy and water only.

The RWE Power division is involved in operating power plants, primarily in Germany (15,500 people) and Hungary (MATRA, 51%) 1942 people. Its other foreign activities are small, mainly in Portugal (75 people).

RWE Energy sells energy and water to final consumers. Apart from Germany, its main activities are in companies it controls in Hungary ELMU (55%, 1942 people) and EMAZS (54%, 1242 people), the Czech Republic where it owns Transgas and 6 regional utilities (5824 people), Poland where it controls STOEN (85%, 1641 people) and the Netherlands (Obragas, 90%, 137 people). It has minority shares in other companies in Hungary, Czech Republic, Slovak Republic and Austria. Its RWE Innogy business operates only in the UK where it employs 9358 people.

EDF

EDF is France's dominant electricity company and is also the largest electric utility in the world with major holdings throughout Europe and Latin America. Its main activities in Europe are in the UK and Germany. In the UK, it owns the London electricity business which incorporates the London, Seeboard and Eastern distribution, London, Seeboard and SWEB retail and it owns about 5000MW of generation. In Germany it has a controlling stake in EnBW, a company formed in 1997 from the merger of Badenwerk and EVS. Through its EnBW holding, it owns a stake in the Spanish utility Hidrocantabrico (controlled by EDP), ESTAG (Austria) and the Italian company, Edison. Its Italian holdings are complex and EDF is restricted from in its activities in Italy because the French electricity market is not fully open yet. If this problem is resolved, its Italian holdings would be the basis for a major business there.

Electrabel

Electrabel is the largest power company in the Benelux region, being the dominant company in Belgium, but having a strong position also in the Netherlands. It has recently taken significant positions in France and Italy. In total, it employed 13,777 people at the end of 2002. Its main shareholder is Tractebel (100% owned by Suez[*]), the energy arm of Suez with 50.1% of its shares, while most of the rest of the shares are traded on the stock exchanges.

Tractebel has some energy assets in Europe as well as outside Europe. In December 2002, it was decided that the European assets would be transferred to Electrabel. Important energy assets include Tractebel's shares in Distrigaz (47%), the main Belgian gas company and Fluxys (47%) the Belgian gas network company, although Tractebel's main electricity activity in Europe is consultancy, services and engineering. But in February 2004, following Tractebel taking a controlling interest in Electrabel in May 2003, the plan was abandoned. Outside Belgium, Electrabel's main activity in electricity is generation. It has 4.7GW of capacity in Netherlands, and 4.8GW in France, partly through its control of CNR, its control of SHEM and its share of two nuclear plants. In Italy, it owns 2.0GW, Hungary, 2.1GW, Poland 1.7GW, Luxembourg 0.4GW, and in Italy, Spain and Portugal it has plant under construction.

[*] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

5 Health and social care services

Much of the commissioned research on health and social care services involve accounts of privatisation and the expansion of private sector involvement in the public health and social care sector of European countries. More recently, work on national health systems within Europe, social dialogue and specific trade union reactions to deregulation provide different perspectives and new ways of understanding the changes taking place in the healthcare sector. These topics show how EPSU and its affiliates have become aware of wider issues that have to be engaged with in order to safeguard the interests of trade union members. Perhaps the most important is recognising how EU directives and single market legislation are being felt in the healthcare sector even through this sector is technically the responsibility of national governments according to the principle of subsidiarity. The insights that are captured in these papers, present an account of changes that have taken place in the health and social care sector in the past decade.

The early reports provide useful information about collective bargaining agreements and the extent of private sector involvement in the healthcare sector almost a decade ago. Systematic searches of the European Commission TED database and surveys of EPSU affiliates enabled a picture of the extent of private sector involvement in the public sector to be built up. Drawing some of the company profiles together shows to what extent some private sector companies have become a dominant influence in the public healthcare sector as well as illustrating the forms that privatisation takes in the healthcare sector.

Pressures to privatise

Public, private and non-profit providers provide healthcare services in many countries in Europe. There is a wide range of models in use. For example, in some countries, private providers have been delivering services to the public sector for many years. Patients are reimbursed by the state. In other countries, charitable and voluntary providers are significant providers of healthcare. Health services are managed at local and national levels.

The term social care services covers a range of welfare services providing care for older people, people with physical or mental disabilities and children. These services include the provision of residential institutions, daycare services, general social work services and the provision of services for people in their own homes for example, meals-on-wheels and domestic help. Generally, in most EU countries the responsibility for the provision of social services lies at local authority or municipality level although the distinction between health care and social care is unclear as there are large areas of overlap**.**

Table: Types of social care provision

Type of provider	Services
Direct provision by municipality	Residential home or home help services are directly provided by the municipality. The municipality directly employs the staff or through municipally owned companies and finances the provision of the service.
Independent sector provision	The independent sector is made up of: Private for profit companies which range from small local companies operating in one country only to large companies running a number of homes in more than one country. Voluntary and not-for profit organisations, which include religious organisations, charities and local authority trusts.
A combination of municipal and independent sector provision	

There is a growing pressure to look for ways of reducing healthcare expenditure. At the same time demographic changes and the increase in average life expectancy mean greater demands being placed on health care systems.

Demography

Demographic factors are important for understanding the demands, which are put on health systems at present as well as the implications for the future. In most western European countries the average life expectancy is increasing. As people live longer the resulting ageing population will put greater demands on the health and social care system as older people often require more medical care. In countries where the birth rate is declining, further strain is placed on the funding system as there are fewer workers contributing to the national funds. The increasing older population, which is generally exempt from healthcare contributions, often have a greater demand for services.

Demand for social services is growing at a rapid pace with the increase in the numbers of older people and their use of residential care services and home care services.

Although the average life expectancy has fallen in some Central and Eastern European countries, the World Health Organisation (WHO) reported that long-term trends in population growth tend to converge. According to earlier United Nations projections, future increases in the population of the Region will take place mainly in some Newly Independent States and Turkey.

Financial Pressures

At the same time as demographic changes bring increased demands on health care systems, there is a growing amount of pressure from governments to look for ways of reducing public expenditure on all public services, including health expenditure. The main drive behind this comes from the Maastricht criteria.

The Maastricht treaty states that *"Member states shall avoid excessive government deficits"(Art 104c.1)*. Absence of an excessive deficit is also one of four convergence criteria for admission to European Monetary Unit *(Art 109j.1)*. As a way of reducing government deficits, government authorities are turning to private sector provision to avoid public expenditure. This has resulted in a greater number of contracts being awarded to the private sector.

Capital Investment

Another pressure on healthcare systems is the lack of capital available for investment in the upgrading of hospitals and care homes, which again forces them to look to the private sector for such capital investment. This is now an increasing trend in Spain and the UK where public and private partnerships are being developed under Private Finance Initiative (PFI) schemes.

Forms of Privatisation

Privatisation in healthcare is taking various different forms.

- **Contracting out**: This is the most common form of privatisation used and is widespread across the continent.
- **Sales or externalisations:** In this example the municipality/hospital sells a discrete unit, for example pathology laboratories, and engages the private sector on a long-term contract to provide the service. One example of this is in Sweden where Nova Medical, a subsidiary of Bure Halsa och Sjukvard, is to acquire Ostersund hospital's pathology and cytology unit.
- **Joint ventures or public private partnerships:** an example of this form of privatisation can be found in Estonia. Here two joint ventures with Norwegian and Danish pharmaceutical companies have been set up.
- **Build Own Operate:** An current example of a Build Own Operate (BOO) project is the Pta 6,000million public hospital in Alzira, Spain, in which Adeslas health insurance company, in conjunction with Dragados, Bancaja, CAM, Caja de Ahorros de Carlet and Lubasa are bidding for the project.

Private sector involvement in healthcare provision

In 1997, the following trends and developments were identified in the healthcare sector:

- Two of the world's major cleaning and catering contractors ISS and Sodexho already hold a large number of support service contracts with healthcare institutions across the EU. Over the years these companies have developed and expanded mainly through the acquisition of smaller specialist companies, and now offer a range of services to hospitals and clinics including cleaning, portering, catering, laundry, linen, and car park management.

- ISS and Sodexho's have been expanded further into the healthcare sector. This expansion is taking two forms, firstly through the purchase of private nursing home companies and secondly through the winning of contracts with municipalities and county councils for the management of public sector owned cares homes.

- A further development is the movement of private medical insurance companies into the provision of private hospitals and care homes. The most notable ones being Adeslas (Spain), Bupa (UK) and PPP (UK)(through its joint venture with Columbia).

- A fourth development is that companies who are well established in their home country, have expanded into the international healthcare sector. For example, the Swedish company Bure has in recent years been acquiring nursing home companies in Sweden and has recently bought shares in Norway's largest private hospital. In 1997 Bure also entered the UK in a Private Finance Initiative project with a London Hospital.

Table shows the companies who, in 1997, owned and ran private hospitals and/or care homes in more than one country and the countries in which they are active. Table 3 below lists the companies which have a number of healthcare support service contracts and the countries in which they are active.

Table : Private hospitals and care home companies in 1997

Country	ISS	Sodexho	Paracelsus	Columbia/ PPP	Bupa	AgBar/ Adeslas	CinVen	Bure
Austria	X	X	X					
Belgium	X	X						
Denmark	X	X						
Finland	X	X						
France	X	X	X			X	x	
Germany	X	X	X					
Greece	X							
Iceland								
Ireland	X	X			x			
Italy		X					x	
Netherlands	X	X						
Norway	X	X						x
Portugal	X						x	
Spain	*	X		X	x	X		
Sweden	X	X						x
Switzerland	X			X				
UK	X	X	X	X	x		X	x

Table : Support service companies

	Principally cleaning		Principally catering		
Country	**ISS**	**Rentokil**	**Sodexho**	**Compass**	**Marriott**
Austria	X		x	X	
Belgium	X	X	x	X	
Denmark	X		x	X	
Finland	X		x		
France	X	X	x	X	
Germany	X	X	x	X	
Greece	X			X	
Iceland					
Ireland	X		x	X	
Italy		X	x		
Netherlands	X	X	x	X	
Norway	X		x	X	
Portugal	X			X	
Spain	*	X	x	X	
Sweden	X	X	x	X	
Switzerland	X			X	
UK	X		x	X	x
Albania					
Belarus					
Bosnia					
Bulgaria					
Croatia					
Czech Republic	X		x	X	
Estonia			x		
Georgia					
Hungary	X		x		
Latvia					
Lithuania					
Moldova					
Poland	X		x		
Romania					
Russia			x		
Slovakia	X				
Slovenia	X		x		
Ukraine					
Yugoslavia					

*50% holding in SAEL

Departures from Healthcare

In 1997, although some new companies had entered the healthcare market, there had also been some unexpected departures (see Table below). The two large French water companies Generale and Lyonnaise des Eaux had both sold their health care interests. Generale des Eaux now plays no part in the health care sector and has also sold its interest in the catering company Generale de Resturation. Lyonnaise des Eaux still maintains an interest in the sector through its 25% holding in Aguas de Barcelona.

Table : Multinational private hospital companies leaving the market in 1997

Company	Home country	Withdrawn from countries:
AMI	USA	UK (1991)
Generale des Eaux[*]	France	UK (1997) France (1997)
Tenet	USA	UK (1995)
Lyonnaise des Eaux[†]	France	France
Compass	UK	UK (1995)

Survey results

In 1997/6, in a survey of EPSU affiliates, Sweden, Norway and the Czech Republic, respondents all identified ISS, Sodexho and Compass subsidiaries as active in the healthcare sector. In the Czech Republic, Sodexho and ISS had not reached a collective agreement with the trade unions, whereas in Sweden these companies had signed collective agreements. Four private companies involved in residential care in Germany were also reported not to have signed collective agreements.

In 1997 few affiliates gave information on contracting-out of support services. The Czech Republic reported a small amount of contracted-out catering, and Turkey reported that 30% of catering, cleaning and laundry was contracted out. Both Finland and Turkey reported that a significant proportion of health service IT work was contracted out.

Table : Percentages of support services contracted-out

Country	Clean		Cater		Laundry		General FM		IT FM	
	% inhouse	% contract	% inhouse	% contract	% inhouse	% contract	% inhouse	% contract	% inhouse	% contract
Czech rep	0	0	95	5	0	0	0	0	0	0
Cyprus	100	0	100	0	100	0	100	0	100	0
Finland	100	0	100	0	0	60	0	0	0	80
Turkey	70	30	70	30	70	30	100	0	60	40

Source: EPSU questionnaire

Other services: Central and Eastern Europe

The results of the survey also confirmed other evidence that in Central and Eastern Europe multinational companies had been successful in taking over pharmaceutical manufacturing and wholesaling. However, although retail pharmacies, spas and care homes had been privatised, they were in the hands of local companies, not multinationals.

Table: Changes in ownership of pharmaceutical wholesaling, manufacturing and retailing

	Retail pharmacies			**Pharmaceutical manufacturing**			**Pharmaceutical wholesaling**		
Country	**Local private**	**MNCs**	**Public sector**	**Local private**	**MNCs**	**Public sector**	**Local private**	**MNCs**	**Public sector**
Albania	y	Y	Y	Y	y	Y	Y		Y
Czech Republic	100%				Y			Y	
Croatia	Y		Y			Y			Y
Latvia								Y	
Lithuania	Y					Y		Y	
Norway	y		Y	Y	Y		Y	Y	Y
Romania	y		Y	Y		Y	Y		Y
Turkey	y		Y	Y	Y		Y	Y	

[*] Generale des Eaux (GdE) was for a time called Vivendi. Since May 2003 it is known as Veolia.
[†] Lyonnaise des Eaux merged with Suez in 1997 to become Suez-Lyonnaise. It later also adopted the brand 'Ondeo' for its water and waste division.

Private sector provision of social services

In 1996, multinational companies had begun to make in-roads into the provision of social services. Five companies were identified as operating in the social care sector in two or more countries in the EU. Most of these companies were relatively new to the social services sector and entered the market through either setting up specific care divisions or by buying existing care companies.

The companies already involved in the provision of social services see it as a growing sector and some were eager to expand further into this sector. There were five multinational companies identified as being active in social care services in 1996: Bure, ISS, Marseille Kliniken, Sodexho and Sun.

The involvement of the private sector appears to be the most prevalent in the UK, Scandinavia and France. This evidence comes from the TED (Tenders Electronic Daily) database of contracts awarded for social care to private companies, as well as from company annual reports. The TED database shows that there have been a number of contracts awarded under the heading Health and Social Work Services. Under this category the most frequently tendered services are that of residential homes for the elderly and/or handicapped, children and meals-on-wheels services.

Residential Care

It is in the residential care sector that the multinational companies have tended to concentrate and in which they have had the most success. The majority of contracts won are for the running of residential care homes mainly for the elderly.

Home Care

Evidence from the multinational companies involved in these services also indicates an involvement in providing home help services to elderly people in their own homes. Contracts for meals-on-wheels are also recorded on TED, but very few are being awarded to multinational companies.

Multinational expansion

All the evidence has shown that the provision of residential care homes is the area in which the private sector has the largest penetration. This is both through the winning of contracts for the placement of local authority funded residents in privately owned homes and also through the winning of contracts for the management of local authority/municipality owned homes.

The countries, which have advertised social services contracts on TED are Finland, France, Germany, Italy, Luxembourg, Belgium, Netherlands, Norway, Sweden, Spain, Ireland and Denmark. Italy and Sweden show the most social services contracts awarded on the TED database. However, the majority of the Italian contracts were awarded to co-operatives.

The contracts found on the TED database, however, are patchy as different countries compliance with the Services Directive varies. This is highlighted by the fact that very few social services contracts can be found on the TED database for the UK. The PSPRU database for the UK, however, shows 214 social care contracts have been tendered. The wider evidence shows that the countries where contracts have been awarded to the private sector most frequently are Sweden, Denmark, Norway, France and the UK.

Many of the countries in central and eastern Europe as well as some western European countries have not been found to have awarded any social services contracts. In the case of central and eastern Europe this may be because the social care systems have not operated in the same way as some of the western systems. For example, in the Czech Republic and Republic of Moldova non-medical care of patients took place in mainstream hospitals. In the Republic of Moldova there are seven homes for the elderly but no other public community care institutions like nursing homes or day-care centres. In the Czech Republic there is a significant gap in services as nursing homes are generally not available. (*Source WHO HiTs)*

Overview of the EU labour market

From 1992-96 there was a significant decline in overall employment across the European Union. However, during this period, there was also job growth in a number of service areas of the economy. In particular, 'Employment in Europe' cites services "involving the provision of collective services such as water, health care and sanitation, education and public administration and/or ones with a significant amount of central, regional or local government involvement, such as recreational services and telecommunications".[114]

Changes to the structure of the labour market across the EU 1992-1996 primarily focused on the decline in male jobs in the manufacturing and agriculture and the rise of female employment in the service sector. Moreover, another key feature in the labour market has been the replacement of full time jobs by part-time ones.[115]

Growth in health and social work employment

- Total employment in the EU, for health and social work, grew by 4,297,028, of which 3,371,345 (78%) was growth in female employment and 925,682 (22%) in male.
- Total employment for social work professionals, in the countries covered, grew by 110,683. Of which female employment grew by 92,994 (84%) while male employment grew by 17,688 (16%).
- Total employment for personal care and related workers, grew in the countries covered, by 701,154. Of which female employment grew by 633,857 (90%) while male employment grew by 67,296 (10%).
- Employment in all of the three categories covered is predominantly female. However, the ratio of females to males increases, as the occupations become less skilled.
- For example female to male percentage ratios for social work professionals are on average 77% to 23% respectively. However, for personal care and related workers the percentage ration rises to 90% to 10%.
- However, female employment growth for Social work professionals outstripped the average female to male ratio of employment

Employment Distribution - health & social work

Table : Health and social work

	Total Employment	No. of Female	No. of Male	Female average employment %	Male average employment %
1992-96	53,283,623	39,817,812	13,465,811	74.72%	25.28%
1995 only	13,367,789	10,157,772	3,210,017	76%	24%

Source: Eurostat 1997

Total employment in the five years covered in the table was 53,283,623 of which 39,817,812 were women workers and 13,465,811 were male workers. Total average employment was 7,963,562 women and 2,693,162 men. This represents a distribution of female to male employment of 74.72% to 25.28% and this ratio remained constant during the period 1990-1996.

Total average employment under this category in the EU is 10,656,724. Total average female employment in the EU is 7,963,562, (75%) total average male employment is 2,693,162 9 (25%). Germany, the UK and France have the highest levels of employment under this NACE category.

Employment Growth – health & social work

Total employment in the EU, for this sector, grew by 4,297,028, of which 3,371,345 (78%) was growth in female employment and 925,682 (22%) in male. Male employment growth occurred in Austria, Belgium, Germany, Denmark, Spain, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the UK. It declined overall in Finland and Sweden. There was overall female employment growth, over the years data has been collected, in Austria, Belgium, Germany, Denmark, Spain, France, Finland, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the UK. It declined only in Sweden.

Average overall growth per year in the EU was 616,856, of this total average female growth was 535,687 (87%), and average male growth was 81,169 or (13%).

Employment data and pay and conditions

The 1997 EPSU survey results on employment highlighted trends in trade unions, the gender breakdown of the labour force and the extent of private sector input.

- **Trade union organisation**: In central and eastern Europe, unionisation was high in some countries (Croatia, Latvia and Romania, all between 55% and 75%), but low in others - Lithuania, Albania and the Czech Republic range between 18% and 33%. There is a high level of unionisation in Greece, Sweden and Norway. Turkey has 43% and the report implies that about four-fifths of union members are men, much higher than the male proportion of the workforce.

- **Gender**: The survey showed that a large majority of healthcare workers are women except for Greece and Romania, where about 40% are male, a higher proportion than elsewhere.

- **Private sector**: The private sector is a significant employer of health workers in many parts of Europe. In both Germany and France, the proportion of healthcare employees in the private sector is around 30% - with a further 25% in Germany employed by mixed public/private (or charitable) bodies. In Norway, Sweden and Finland, between 10 and 14% are employed by private employers; in the Czech Republic and Turkey the percentage is around 30%, but in Romania and Albania nearly all workers are in the public sector.

Table: Health workers - Trade union membership, gender breakdown, and % in private sector (1997)

Country	Total employed	TU %	Male %	Female %	Private %	Mixed %
Albania	28,475	25.3			2.3	
Czech Republic	190,000	32.6			21.1	
Croatia	71,500	69.9				
Germany	2,000,000				30.0	25.0
Greece	84,000	89.3	40.0	60.0		
France	1,072,517				28.7	
Latvia	32,216	75.3				
Lithuania	99,605	18.8	15.5	84.5		
Norway	180,000	80.6	15.6	84.4	11.1	
Romania	300,000	55.0	39.5	60.5	4.7	2.0
Finland	123,868				14.3	
Sweden	220,000	96.8	5.5	94.5	10.0	
Turkey	38,626	43.6			20.6	

Employment in the multinational companies

In 1996, private sector companies already employed large numbers of workers. The table below shows the total number of employees employed in healthcare multinational companies, who are involved in privatised contracts in the health sector.

Table: Private Sector Employment

Company	Number of Employees 1996
Bure	2,076
Cinven	15,000
Columbia	285,000
Compass	107,843
ISS	103,400
PPP	2,409
Rentokil	107,767
Sodexho	141,118

Source: Company annual reports

Pay and Conditions

In 1997, survey questionnaires were sent to over 100 Trade Union organisations in Europe. Responses were received from the following countries: Albania, Czech Republic, Croatia, Cyprus, Denmark, Germany, Greece, France, Latvia, Lithuania, Norway, Romania, Finland, Sweden, Turkey.

Flexible Contracts and working hours

- The use of some form of flexible contracts was indicated in all the countries that returned the questionnaires with the exception of Greece.
- Part time and temporary contracts were in use in Croatia, Czech Republic, Lithuania, Finland, Germany, Norway, Sweden and Albania (private sector only) and also in Denmark (part time) and Cyprus (temporary).
- Seasonal contracts were in use in Albania, Lithuania, Cyprus, Denmark, Sweden and Germany.

- 24 hours standby contracts were used in Turkey, Albania, Czech Republic, Cyprus and Norway. Zero hours is being used in Germany, Lithuania and Czech Republic.

Flexible Working Time

- Flexible working either daily or weekly flexitime is used in Albania depending on the work organisations, in rare cases in Lithuania and by a shift system in Germany. Daily flexitime is operated in Norway, Sweden and Finland. Monthly time exchange is only used in Turkey and Germany.
- The accumulation of annual leave can be used in Norway, Sweden and Turkey. In Norway 2 weeks can be accumulated. In Sweden leave cannot be accumulated over more than 5 years by law.
- Job sharing takes place in Finland and Lithuania.

Hours of work

Details of hours worked are set out in the table below. The shortest working weeks are in Norway, Denmark and Cyprus (37 -37.5 hours). The longest is 45 hours, in Turkey. All countries reported that weekly hours are the same for all grades of worker, but nurses in Norwegian local authorities have shorter hours than nurses employed under the state agreement.

Table: Hours of work per week (1997)

Country	Hours
Norway (communes)	35.5
Denmark	37
Cyprus	37.5
Norway (state)	37.5
Finland	38.25
Germany	38.5
Albania	40
Croatia	40
Lithuania	40
Czech Republic	42.5
Turkey	45

EU Health and the lack of healthcare policies

Historically health competences at EU level have been developed to promote a common market. Other aspects of health policy have evolved as a result of policy developments in related fields. Health policy has traditionally been caught between the EU Treaties implemented through European legislation and the European Court of Justice (ECJ), and policy making which has been consensual between member states. Recently, the ECJ has had an influence on health policy in the fields of health care, medicines, environment, workplace health and safety and pharmaceuticals/ distribution. Health care has been most strongly influenced by the concept of subsidiarity with national governments considering national health care systems to be their own responsibility.

The Single European Act of 1986 established an extension of the Community actions in relation to health although health policy was not treated as a separate policy area. It did extend the scope of occupational health and safety, and environmental and consumer protection.[*]

The Treaty of European Union (Maastricht Treaty) of 1992 amended the Treaty of Rome with a formalisation of the powers relating to health care. Article 3(o) "*contributes to the attainments of a high level of health protection*". Article 129 dealt with public health and the prevention of disease and provided a framework for working towards health protection. Article 3(b) established the principle of subsidiarity especially in relation to health care, which has effectively limited the Community's role in health.

The Treaty of Amsterdam resulting from the Intergovernmental Conference of 1997 and finally ratified in 1999 has a specific Article 152 relating to public health.[†] It states

[*] Article 129 Maastricht Treaty http://europa.eu.int/en/record/mt/title2.html
[†] Article 152 Amsterdam Treaty http://europa.eu.int/scadplus/leg/en/lvb/a16000.htm#a16003.

> "Community action, which shall complement national policies, shall be directed towards improving public health, preventing human illness and diseases, and obviating scourges of danger to human health".

It also states

> "Community action in the field of public health shall fully respect the responsibilities of the Member States for the organisation and delivery of health services and medical care".

There was also a reassertion of the subsidiarity principle in relation to health care systems.

As a result of agreeing Article 152, a new Directorate was set up for Health and Consumer Affairs, which drafts proposals for legislation. The European Parliament deals with health issues through the Committee for Environment, Public Health and Consumer Protection. Health policy actually cuts across all directives and there is no coherent health policy strategy.

Healthcare and competition policy

One of the major issues facing national healthcare systems is whether healthcare institutions are subject to competition law. The key question is whether they engage in economic activity. Each activity has to be judged on its merits. However, the results of health care reforms often mean that with the introduction of market mechanisms and decentralisation, healthcare institutions are more vulnerable to being considered subject to competition law.

Subsidiarity has been an important principle for European health services but the impact of several EU Directives e.g. movement of professionals, insurance, is beginning to influence national health systems directly. Several rulings by the European Court of Justice have made national governments aware of the implications of greater consumer choice. If this is combined with the effect of increasing demand for healthcare services, often seen through increased waiting lists, then cross-border health care is likely to increase in the future. EU competition policy is also beginning to affect healthcare systems that have introduced business approaches and techniques and so can be less obviously defined as services of "general interest".

Internal market for services

In January 2004 the European Commission presented a Directive Proposal on services in the internal market, which aims to provide a legal framework to eliminate obstacles for the establishment of service providers and barriers to the free movement of services.[*] This has several implications for the healthcare sector. Positively, it is expected to improve access to outpatient care because of simplifying the process of reimbursement of healthcare delivered to a patient in another Member state although some measures will have to be taken to avoid disparities between healthcare systems in certain countries.

In relation to the posting of workers, Member state governments will have limited scope to influence the labour standards of workers who are employed in their country by a company from another country. The proposal is for the government of the country of origin of the company to try and influence labour standards and legislation because "*a provider must, as a general rule, only be subject to the law of the country within which it is established*". This will limit the power of governments to take action against undocumented migrant workers if they are recruited by an agency based in another EU country. This may have implications for the recruitment of health and social care workers.

Perhaps the most complex issues for the healthcare sector relate to the registration of professionals. The aim of the Directive Proposal is to simplify the barriers to service providers being able to operate in different countries. It suggests that this will involve taking down existing barriers and develop ways of modernizing national regulatory systems. However in some exceptional circumstances, Member States may take some action in relation to a service, from a provider established in another member state, relating to exercising a health profession.

[*] Proposal for a Directive of the European Parliament and of the Council on services in the Internal Market http://www.labourline.org/DocumentYY.htm&numrec=031269668944140

Multinational healthcare company trends 2004

In 2004, there are several global companies, such as Compass, ISS, Sodexho, Rentokil-Initial, and Aramark, which deliver a range of support services for several sectors, including the healthcare sector. They deliver services such as catering, cleaning, buildings management, portering, reception. In the case of ISS and Rentokil – Initial, there is evidence of these larger companies buying small companies that had previously provided services to the healthcare and other sectors. A process of consolidation has been taking place over the past decade. [116]

Aramark, Compass, ISS, Sodexho and Rentokil-Initial all have European Works Councils. These companies are active in the health and social care sectors to varying degrees. ISS and Sodexho both have extensive activities in these sectors. It is important to monitor whether any of these companies are expanding into health and social care. For example, there are indications that Aramark is beginning to expand into the social care sector in the UK.

Health care companies

A relatively small group of companies deliver healthcare in more than one country in Europe. Capio is a Swedish healthcare company that is expanding in Northern Europe and France. It focuses mainly on different ways of delivering acute care. The company also runs residential homes for older people but this is not an area of expansion. BUPA is involved as both a health insurer and healthcare provider in the UK and Spain, with health insurance activities in Ireland. It has expanded in the past decade into residential care for older people and this has been a major source of growth as well as nursery care. Day nurseries are the fastest growing small business sector in the UK with for-profit providers starting to expand their share of the market.[117]

Gambro and Fresenius are both renal care companies that started by manufacturing products and equipment for kidney dialysis but have expanded in the last decade into managing dialysis clinics. The global renal care industry is highly competitive. Both Gambro and Fresenius are exploring possibilities for home based renal care. Fresenius is also moving into hospital management and cancer treatments.

There are several issues facing companies providing healthcare directly.

1. Companies view their relationships with government/ public healthcare sector as crucial to future company growth. Some companies are building up their experience of working with the public sectors.

2. Many companies involved in delivery of residential care for older people or people with disabilities are finding it difficult to make profits from this type of service. This is leading to some companies withdrawing from the sector or deciding not to expand. In some Scandinavian countries, residential homes have handed back to municipal control.

3. There are several examples in Europe of governments contracting private companies to manage a public sector hospital. In some countries this also involves the private company in building the hospital e.g. Private Finance Initiative in the UK. Examples of hospitals where private healthcare companies have been contracted to run hospitals in the public sector are:

    - St.Goran's Hospital, Stockholm, Sweden – Capio
    - Ribera Hospital, Valencia, Spain - ADESLAS
    - Omegna Hospital, Piedmont, Italy – Generale de Sante
    - Hospital Amadora, Sintra, Portugal - Jose de Mello Saude

4. Private healthcare companies see the introduction of a system of Diagnostic Related Groups (DRGs), a system of costing and pricing episodes of patient care by governments, as a way of gaining parity with public sector providers.

5. Expansion into Central and Eastern Europe by healthcare companies has been slow. Companies have found that the market for private healthcare is relatively small with the slow growth of middle income groups. Companies involved in facilities management have expanded more rapidly into Central and Eastern European markets.

6. The national regulatory environment is an important factor influencing the decision making of companies. An unstable or uncertain regulatory environment may leave companies undecided as to whether to invest, e.g. Eastern and Central Europe, Netherlands.

Company profiles

From Bure to Capio
The establishment of Bure healthcare in 1994, its flotation in the Swedish Stock Exchange as Capio in 2000 and its subsequent expansion illustrates how a private healthcare company has benefited from public healthcare policy changes over the past decade.

BURE was set up in 1994 as a healthcare provider by an investment company supported with Swedish government funds. In 1996 Bure's involvement in the care sector was undertaken through its health care division: medical services which provide laboratory services and distribution of health care products, and healthcare services which undertake occupational health care, specialist health care and geriatric care.

Bure health care expanded rapidly, mainly through the take-over of county council-owned administrations and the acquisition of private health care companies in health and social care. By 1997, Bure Specialist Care's customers were mainly Swedish municipalities and county councils, which through care agreements purchase services on a long-term basis. Collaboration with municipalities and county councils was an important part of Bure Health Care's strategy (Annual Report 1996). Bure continued to expand until it was floated on the Swedish Stock Exchange in 2000 and became a public limited company called Capio.

Capio is a now aiming to become a trans-European healthcare company. Since 2001, it has acquired several healthcare companies in the UK, Finland and France. In July 2001, Capio bought the UK Community Hospitals Group. In August 2002, Capio bought the Scandinavian Heart Centre in Gothenburg from Gambro, a renal care company. In September 2002, Capio acquired France's second largest private health care provider, the Clininvest Group. Clininvest runs 16 hospitals in several regions and had a annual turnover of €120 million.

In December 2002, Capio-owned Actica Omsorg has sold its 28.3% interest in Bokbacken Fastigheter AB to Kungsleden which thereby becomes the sole owner of Bokbacken Fastigheter AB. An agreement has also been reached whereby Actica will be able to lease space in future Kungsleden elder-care buildings. An agreement to work together to take advantage of future opportunities in elder care has also been prepared and the main aim is to jointly offer municipalities integrated solutions for retirement homes, covering both the property ownership and the operations.

In June 2003, Capio sold the Polish laboratory medicine operation Nova Medical Polska to Medicover, a company also listed on the Stockholm Stock Exchange. This was presented as a strategic decision to concentrate its diagnostics operations in the markets where the Group already has or is currently establishing healthcare operations.

In February 2004, Capio was named a preferred bidder to run several ‘spine clinics’, part of the new Treatment Centres in the UK. In October 2003, Capio was not on the shortlist of companies that the Department of Health announced it would contract to build and run the Treatment Centres, including providing clinical care. Capio has managed to persuade the Department of Health and local Primary Care Trusts since then, that it could provide the ‘Spine clinics’ at a cheaper price. In April 2004, it has just secured a contract to deliver more healthcare to the NHS. Also in February 2004, Capio sold its occupational health division, Capio Previa (1400 employees) to Segulah II, a Swedish private equity company. [118]

ISS
International Service Systems ISS is a Danish company providing facilities services including cleaning, catering, and services for hospitals and older people’s care homes. It works in a range of sectors and operates through the following divisions:

- Cleaning and maintenance - office cleaning for private and public sectors
- Services for the health sector - targeted at hospitals and other institutions within the health sector
- Services for the food industry

Other business areas include: Canteen/catering services; energy/industrial high tech services; property services, care services and after-damage service.

Its growth in facilities services in the healthcare and older people’s care sector since the late 1980s has been focused on the contracting of services to the public healthcare sector, particularly cleaning. In April 1997 ISS Care Service won a contract to run two care centres for the elderly and handicapped worth 150 million Swedish crown. The three-year contract with the local authorities covered the running of homes in the Stockholm. At the same time acquired another home for the elderly in the district. [119]

In the mid 1990s, the care market for older people and other groups of people requiring personal and domestic services in institutions and their own homes was developed by ISS in Scandinavia. The development was driven by mounting government anxiety in many countries about how to contain the rising cost of care in the public sector. The rising proportion of older people in need of care services relative to the population as a whole is of particular concern. By setting up dedicated companies that provide overall management of facilities for the elderly, besides delivering direct patient care, cleaning, meal services, gardening, shopping and other household services, ISS is establishing a significant presence in the care market.[120] ISS Care Service has positioned itself within a short period as one of the leading players in this field.[121] ISS also provides services in Sweden for about 1,000 elderly people in their own homes.[122] Complaints were made about the standard of care in older people's facilities in Sweden in 1997.

Since 2000, ISS has made a large number of acquisitions. In the health sector, it has acquired a number of older people's facilities and medical facilities but in some cases it has also divested of these recent acquisitions in the health care sector. In 2002, the CarePartner division, which delivers medical facilities and older people's care in Denmark, Sweden, Norway and Finland was reviewed. In November 2002, ISS supported a management buyout for its Elderly Care services, whilst retaining 49% of the shares. The ISS Healthcare division was set up to focus on the expansion of direct healthcare.

By 2002, facility services represented 87% of ISS sales. Some of these are delivered in the hospital sector. Healthcare services, e.g. psychiatric care, contribute 3.4% of sales.

Create 2005 is a new 5 year vision launched in November 2000. It develops service concepts from multi-services to facility services, which is leading to integrated facility services. Separate business areas are being managed across country borders. The development of the facilities services package is most developed in the UK. Specialisation of cleaning concepts is most developed in Germany.[123] ISS has also lost several contracts with the public sector in Denmark due to poor standards of delivery. [124] ISS is also active in 11 Private Finance Initiatives (PFI) in the UK as both a provider of facilities management services and as an investor. These contracts will ensure its presence in the NHS for many years to come.

Sodexho

The Sodexho Group works in the following sectors: business and industry, defence, correctional services, healthcare, education, older people as well as in remote sites. It also manages vouchers and card schemes.

In December 1995 Sodexho began operating in Sweden and Norway through the acquisition of a Swedish company, Partena. Partena's care division employed nurses and provides local authorities with outsourced care and services for the older people and people with disabilities. Partena Care won contracts from Helsingborg, Stockholm (11 facilities) and Vasteras (four facilities).[125] It also won contracts for Social work services with Bromma Stadsdelsnamnden authority in February 1997 and Horsholm in Denmark. The company also managed retirement homes and delivers meals to older people in Helsinki.[126]

In 2003, Sodexho continue to provide a range of services (often described as multi-service) to hospitals and to older people's care homes. These services may include, catering, cleaning, housekeeping, building maintenance and management of paramedical staff. Services delivered within the health care sector provide 19% of revenue (Annual report 2002-3). Sodexho sees opportunities in global multi-site, multi-service contracts. It is developing partnerships with public and private sector organisations in order to deliver services. In the UK, Sodexho is a partner in 11 private finance initiatives in the healthcare sector.

The company has six strategic objectives:

- Accelerate organic growth
- Improve human resources planning
- Improve operational management
- Improve cash flow
- Reinforce control
- Encourage transparency and communication

Generale de Sante

Generale de Sante is a leading private healthcare company in France with 10% of the market. The company's aim is to be "a key player in the private hospital sector in France". Generale de Sante provides mental health, oncology and radiation therapy, subacute care (e.g., alcohol abuse and obesity treatments) and rehabilitation services as well as diagnostics and home healthcare for elderly or disabled persons.

Generale de Sante works in partnership with the public hospital sector. This involves the creation of cooperative structures, Public Health Cooperation Associations, dividing their activities between a hospital and a clinic located on the same premises, notably in Gassin (Var), Dunkirk (Nord), and Avicenne (Ile-de-France).

Generale de Sante and General Healthcare were founded by the French water company Generale des Eaux. In 1997, Cinven bought the health care interests of Companie Generale des Eaux which were two separate businesses: General Health Care and Generale de Sante. Cinven merged General Health Care with Amicus in December 1997, and then sold the merged company to BC Partners. It continued to develop the Generale de Sante business until 2001 when it was floated on the French stock exchange. The cost of buying General Health Care, Amicus and Generale de Sante was €1.77 billion. The combined value of the sales of these three companies was €3.2 billion, which was almost double the value of the original investment. Cinven retained an interest in General de Sante until June 2003 when it was sold.

Cinven has held 44% of the shares of Sante Luxembourg (Vivendi Universal 20% and ABN AMRO and Capital France), which held 38% of General de Sante shares. There was an agreement after flotation in 2000 that Sante Luxembourg would hold shares for three years. In June 2003, Sante Luxembourg shares were sold to Sante Holdings, an Italian holding company owned by Antonino Legresti.

In 2002, Generale de Sante made a strategic decision to withdraw from the nursing home sector because the company felt the sector was too crowded, too expensive to develop and achieve a critical mass, and there was a lack of synergy between nursing homes and the rest of Generale de Sante work. The company's main focus will now be on healthcare.

The company now considers that there are increasing transfers of work from the public sector to the private sector that it can benefit from. The private sector is also gaining in market share from the public sector. The company views the increasing social security deficit of the public sector as something that together with the introduction of diagnostic related group payment system will enhance the public- private transparency from which Generale de Sante will benefit.

In 2003, Generale de Sante main aims were to have 20% of the market share within 5 years, to pursue developments in Italy and to increase profitability. At the end of 2003, the company was in the process of selling its Canadian residential care homes.

The new majority shareholder of Generale de Sante is Sante Holdings, chaired by Antonino Legresti, a cardiologist and healthcare entrepreneur who was acquitted in 1997 for a fire in a "iperbarica" chamber of a clinic in Milan which caused the deaths of 11 people. However a recent supreme court ruling annulled his acquittal (17.12.2003).

In December 2003, the Board of Directors decided to recommend to share holders that the company adopts a new system of corporate governance and the changing of the articles of incorporation required. The new system of corporate governance will involve setting up a Supervisory Board – responsible for management supervision and a Management Board, responsibility for corporate, managerial and executive functions. This change has been precipitated by the change of ownership. The director of Sante Holdings, Antonino Ligresti, will stand for election to the Supervisory Board at the shareholders meetings, "with a view to becoming Chairman".

Social dialogue

EPSU has been involved in working with European wide hospital employer organisations to set up a formal social dialogue process in the hospital sector at EU level. In 2003 a paper was commissioned by the Joint Representative Taskforce to present the case for social dialogue in the hospital sector at European level. It examined the experience of the International Labour Organization (ILO) in its work to develop social dialogue in health services, the recent actions taken to develop social dialogue in the hospital sector at a European level, national examples of social dialogue, and the potential for social dialogue in the accession countries. It concluded with some recommendations.

The case for social dialogue in the hospital sector

- ILO experience offers a framework of how social dialogue can contribute to the hospital sector and some guidance about how to approach the development of social dialogue.

- EU level has a supportive policy environment for social dialogue increasingly in social policy issues. Many health issues facing Europe require the involvement of all social partners in order to ways of resolving these issues

- The process of developing an informal social dialogue process in the hospital sector has led to a group of committed social partners that are willing to work together to identify possible social dialogue topics.

- Examples of social dialogue at local level show that effective social dialogue at hospital level can lead to improved service delivery and better working conditions for health workers

- The Accession States are slowly developing social dialogue institutions and legislation. Much capacity building will be needed to develop effective social dialogue in the hospital sector although there is a growing awareness of the need for social dialogue in this sector.

- At international and EU level, there is experience and guidance for the development of social dialogue in the hospital sector. There is also a growing experience among the key social partners at EU of working together which will form an important foundation for a more formalised social dialogue process in the hospital sector. This will contribute a powerful dialogue that will enable a range of issues to be addressed within the hospital sector. With national health systems increasingly being affected by EU legislation, the hospital sector at local and national level will benefit from an effective form of social dialogue at the EU level.

Trade union responses to healthcare liberalisation in Europe

Examining the responses of trade unions to deregulation raises questions about what the most effective ways of challenging a process that is affecting all countries in Europe and that is also being influenced by European Union-wide competition legislation. Are national trade union responses or pan European wide approaches most appropriate? There is considerable debate about the role that trade unions should take in challenging capital that is increasing mobile.

Recent research commissioned by the European Trade Union Institute has tried to address the issues faced by trade unions in Europe. Some of the debates include trying to define the role of trade union actors in the internationalisation of the economy when most trade unions are organised nationally or how "to develop a common policy option on the European and international level" (Hoffman 2003, Jacobi and Kowalsky 2002). Exploring the need and logistics of European wide collective bargaining has also emerged through these discussions. Dolvik and Waddington (2002) discuss some of the challenges faced by European trade unions "arising from the growth and diversification of employment in private sector services" and relate them to processes of trade union renewal.

Trade union responses to liberalisation were approached by examining actions of:

a) National health service trade unions alone
b) Health trade unions working with other trade unions nationally
c) Trade unions and social movements nationally
d) European level trade unions

These are not mutually exclusive categories but this framework helped to illustrate some of the issues involved in trade unions challenging liberalisation. Trade unions have used a variety of approaches/ techniques to challenge the results of liberalisation at national/ local level. These include:

- Campaigning at local, regional and national level
- Lobbying politicians, professional organisations, other interest groups
- Involving the public through leafleting, public meetings
- Developing alternative health policies
- Strike action - right to strike for health workers available in some countries
- Making legal challenges to changes in the organisation of health care delivery

The paper concluded that liberalisation and deregulation are gradually evolving processes. Trade union challenges against the impact of deregulation and liberalisation in Europe will have to adopt a range of approaches at local, national and European wide level. Different approaches will need new types of skills and expertise. These range from monitoring and regulation, legal challenges to operating within a context of social dialogue. The importance of operating within alliances will become increasingly important.

Trade unions at national and European level will also have to educate their members about the complexity of health care policy as it affects national health systems and the range of different types of action that will be needed to work towards a health care systems that both meet the needs of users and health workers. The use of alternative policy documents such as EPSU/ ETUC "Quality health care for all" that address the need for policy within a European context, will help this process.

More research and campaigning are needed to identify measures to protect and strengthen the public health sector. In Italy, some doctors currently have contracts that are exclusively to work in the public health system. Exclusive public sector contracts and other incentives to remain in the public sector will be needed when more private health care companies are seeking to recruit health staff. Incentives may be both financial and non-financial but need to be in place as soon as possible to retain public health sector staff.

There are an increasing number of studies that have looked at mortality and morbidity rates in public and private health care sectors. These results will become increasingly important in future to demonstrate the safety rates of different types of health care provider. This type of research can form the basis for campaigns supported by broad based alliances.

One of the arguments that are used to limit funding for the public health sector is that the money will "only" go towards health worker pay. This issue of the high labour costs of health services needs to be explored by campaigners in relation to the "added" value that well paid health workers contribute to health services. In the development of alliances between trade unions and other civil society groups this is perhaps one of the most important issues to be addressed.

6 Municipal services and Public-Private Partnerships

Local government service privatisation and multinational companies in Europe

PSPRU, February 1997

Summary

- The privatisation of local government services takes two main forms, the most common procedure is contracting out, the other is the sale of shares in municipal companies.
- The privatisation of public services provided by local authorities across Europe is a voluntary process, except for the UK, Spain and the Slovak Republic.
- Italy, France, Spain and Sweden were the countries with the largest number contracts downloaded from TED, along with the UK these countries appear to have the most privatisation of local government services in Europe.
- The services which are directly provided to the public that are most commonly privatised are, Public Transport, Education and Training, Ground Maintenance and Sports and Leisure.
- There are a wide variety of support services, (internal departments and functions), being privatised. The most common being, building cleaning, financial services, repair and maintenance, catering and computer related.
- This report identifies 157 multinational companies. Preliminary indications are that multinationals are mainly present in support service contracts. The ownership of a further 1,000 companies have yet to be researched.
- **Bulgaria:** The extent of the sale of municipal enterprises and the privatisation of local authority services is at present unclear. However, the privatisation process in Bulgaria is regulated by the 1992 'Transformation and Privatisation of State-Owned and Municipal Enterprises Law'. This law favours market privatisation.
- **Poland** appears to be in the process of establishing a new structure for municipal administration and services the extent to which any services are privatised is unclear. USAID will allocate at least $45m dollars for the development of local government in Poland by 2000
- **Slovakia:** There is significant US involvement in the development of local authorities in Slovakia. The questionnaire returned by the Slovakian embassy in the UK shows that, as a result of both national law and local authority policy, municipal services have been privatised.
- From 1990-94, overall jobs in Public Administration, national defence and compulsory social security across the EU increased by 840,000 or 1.6%. Female employment increased by 722,000 or 1.38%. Male employment increased by 118,000 or 0.22%.
- During 1992-94 overall employment in 'other services' across the EU increased by over 4.8 million. Of which Male employment increased by over 2.2 million and female by over 2.6 million. (Other Services are education; health and social work; other community, social and personal service activities, this includes sewage and refuse disposal sanitation workers; households with employed persons; extra territorial organisations and bodies).

Analysis of data from Tenders Electronic Daily

Total number of contracts for analysis is currently 8,793, of which 7,841 have been downloaded from Tenders Electronic Daily database (TED) and 952 have been extracted from the PSPRU database. There was no data available on Greece. The countries with the largest volume of contracts awarded to external contractors are, Italy, France, the UK, Spain and Sweden.

Country	Contracts
Austria	84
Belgium	206
Denmark	553
Finland	112
France	1,857
Germany	508
Iceland	9
Ireland	36
Italy	1,933
Netherlands	195
Norway	145
Portugal	63
Spain	1,075
Sweden	1,065
Total Contracts from TED	**7,841**
UK*	952
All Contracts	**8,793**

*** Source: PSPRU database**

The information on the type of service to be contracted out has been separated into the following categories.

- **Public services, (services delivered directly to the general population)**
- **Support Services (internal functions of the local authority)**

1,167, or 15% of all of the contracts downloaded from TED, related to direct public services, while 6674 related to support services. The four categories of public transport, education and training, sports and leisure facilities, and ground maintenance and social care, account for 1,094, or 94% of public service contracts. The main support services involved are building cleaning, financial services, catering, building maintenance, computer-related, engineering and engineering related and architectural services.

While it is acknowledged that many of these services have always been in private hands, some may well not have been. This could possibly reflect the structural changes within local authorities as political decisions have been made to introduce private sector accounting and management methods. Many local authorities within countries and across Europe have separated internal departments with the intention of measuring their efficiency by 'market testing' their cost against a private sector tender. This can often lead to the full privatisation of that particular service.

2004 EPSU PPPs Survey

Robin de la Motte, March 2004

Responses to the survey were unfortunately lacking from major countries with significant PPP programmes and/or plans – in particular, the UK, Germany and Italy. This should be borne in mind in the subsequent discussion of responses received.

Respondents:
CFDT (France)
CGT (France)
DKK (Denmark)
Fagforbundet (Norway)
FSP-UGT (Spain)
GdG (Austria)
Kommunal (Sweden)
KTV (Finland)
OSZ (Czech Republic)
ROTAL (Estonia)
Tehy (Finland)

A general reported pattern was that PPPs are in most respondent countries being piloted largely by local authorities, although these may have the implicit or explicit support of central government. Austria is a partial exception to this, with the federal government reported as the driving force behind most PPPs there. PPPs feature more heavily in the Czech Republic, Estonia, Spain and Denmark, while the Nordic countries of Finland, Norway and Sweden have only a few examples. In France and the Czech Republic the central government has recently adopted policies supporting PPPs.

The most common examples of PPP, particularly in countries where there is relatively little privatization, are in construction/maintenance of public buildings or transport systems (roads/rail). Transport features most heavily, and is mentioned for the Czech Republic, Finland, Sweden, Norway, and Denmark, and an example is under discussion in Estonia. Water and waste PPPs feature in the Czech Republic, Estonia, and Spain, whilst social services PPPs are found in Finland and Spain. Specific examples of education PPPs (though not widespread use) are found in Finland, Estonia and the Czech Republic. Denmark's PPPs are concentrated in contracting-out of specific services such as road and park maintenance, hospital services, and catering.

Reported experiences with PPPs vary, with Finland and Spain in particular finding PPPs a problem:

- KTV (Finland) reports that in the case of the school PPP in Espoo, the municipal collective agreement was shelved and employees received shorter annual holidays and lower pay. Moreover, the price charged to the town for the library was so high that the town could not afford to buy enough new books, compared to the town's other libraries.
- Tehy (Finland) reports that collective agreements in the private health and social care sector (it has three – one in health, two in social care) are roughly the same as for municipal control. However, short fixed-term employment contracts are often involved because of the risk that municipalities may switch providers. This can lead to workers becoming unemployed and losing skills, leading to a deterioration of the service.
- FSP-UGT (Spain) says it has some influence on contract conditions. It says that despite this, PPPs endanger employment (there have been dismissals), and often result in reduced quality and increased cost – though where users do not pay fees this may not be obvious to the public.

On the other hand, the experience in France is mixed, and in Denmark it is even positive:

- CFDT (France) says that PPPs lead to strong increases in local taxes, and a reduction in the budget for other sectors. It also observes a pattern in which white collar workers are often better paid in the private sector (for an equivalent job), while blue collar workers are paid less and enjoy less rewarding career prospects. In some sectors (such as care for children and the elderly), job insecurity is high.
- DKK (Denmark) notes that experience with service and catering PPPs is positive compared to traditional outsourcing, with contract guarantees and more co-decision; but that the risk remains of state shares being sold, producing an environment much like outsourcing. DKK has also drafted an agreement on contract conditions in PPPs.

The unions' PPP-related resources vary somewhat:

- DKK collects guidelines and experiences in PPPs and new organizational structures generally, on a website, www.medarbejderportalen.dk. This is a joint project for all organizations in the municipal sector. Guidelines and recommendations are planned from an evaluation of the experiences gathered.
- Tehy has an information package for local branches, on the provision of social and healthcare services by the private sector.
- OSZ has translations for internal use of several documents (including the European Commission's Guidelines for successful PPPs).
- KTV was involved in a project which clarified the use of concessions in technical management in the municipal sector.
- Fagforbundet has had a database (though not regularly updated).
- FSP-UGT has done some work on PPPs (though not systematic).

Only Tehy and FSP-UGT mention campaigns on PPPs – in the case of Tehy, a general campaign for good quality public services. In the case of FSP-UGT, there has been a general opposition to PPPs, including publication of leaflets and posters and the raising of awareness amongst workers. Elimination of PPPs has also been an issue in union elections.

In additional comments, OSZ (Czech Republic) noted central government plans for a legal and institutional framework for PPPs, including a dedicated centre at the Ministry of Finance, and expressed fears that this "hidden privatization" would endanger accessibility and prices, lead to heavy long-term debt and higher risks for the public sector, and that public administration bodies would not be in a position to effectively negotiate or manage PPP projects. Both CGT and CFDT (France) said that the situation in France was different from that in other countries, with the French government only recently introducing laws, regulations and pilot projects to introduce the type of PPPs seen elsewhere (such as in the UK).

7 European Works Councils

The first research that EPSU commissioned in 1993 was in preparation for negotiations on European Works Councils in the water sector. PSIRU has continued to provide research on companies to inform EWC negotiations in the water, waste management, energy and healthcare sectors. The tables that are set out below provide the most up-to-date information about the companies that are elegible for European Works Councils or will be elegible in 2004 after countries in Eastern and Central Europe have joined the European Union.

Water – companies eligible for European Works Councils

Company (company's major owner)	**Major presence in Europe**	**Employees**			**EWC**	**Notes**
		Worldwide	Europe	Other		
EWC Eligible						
Aguas de Barcelona (Suez)	Spain	35772*			Suez	* all sectors; 33% of revenue is water
ALcontrol	UK, Netherlands, France, Sweden		1300	700 (UK)	*Eligible; no known EWC*	European laboratories group testing water, air, etc
Berlinwasser (Veolia,RWE-Thames,Berlin)	Germany, Hungary, Poland	6506		5391 (Berlin)	Veolia, RWE-Thames	2002
Cascal-Vitens-Utilities Inc (Nuon, Biwater)	Netherlands, UK	10,000 (Nuon), 2500 (Biwater), 872 (Cascal)	256 (Cascal)	7000+ (Netherlands, Nuon) 700 (Germany, Nuon) 224 (UK, Cascal's Bournemouth Water) 1250 (Netherlands, Vitens)	*Nuon should be eligible; no known EWC*	Vitens (36.1%) and Utilities Inc (100%) are subsidiaries of Nuon. Cascal is a separate 50-50 joint venture with Biwater.
Macquarie Bank	UK			395 (South East Water, UK)	No	Australian investment bank, investing in variety of European infrastructure, including South East Water in Oct 2003
RWE-Thames (RWE)	UK, Germany, Spain, Poland	16848*		**6546 (UK) **1627 (Germany, Europe, Middle East, Africa)	RWE-Thames	*3/2003 **31/12/2002
SAUR (Bouygues)	France, Spain	23000		6500 (France)	Bouygues	2002
Severn Trent	UK, Italy	14372* 4780**		4662 (UK)	Severn Trent	* total * water and

Company (company's major owner)	**Major presence in Europe**	**Employees**			**EWC**	**Notes**
						sewage 31/12/2002
Suez Ondeo (Suez)	France, Germany, Spain, UK, Czech Republic	45000			Suez	2002, PSIRU estimate
Veolia Water (Veolia Environnement)	France, Germany, Spain, UK, Czech Republic	77628	52566	27,041 (France) 25,525 (Europe, excl. France)	Vivendi Universal	2002. Formerly Vivendi Water.
EWC-eligible after EU expansion 2004						
Anglian Water	UK, Czech Republic	12780		3588 (UK water) 3006 (outside UK)	Eligible 2004	Note that Anglian is trying to sell its non-UK assets
Earth Tech (Tyco)	UK, Czech Republic	8500		450 (UK) 330 (Czech Republic)	Eligible 2004	US-based construction and engineering firm
Gelsenwasser (Cities of Bochum and Dortmund)	Germany, Poland, Hungary	3311			Eligible 2004	2002 figures; water is about half of Gelsenwasser's turnover.
United Utilities	UK, Estonia, Bulgaria, Poland	13802*		4269** 564 (Estonia) 1000 (Bulgaria) 640 (Poland)	Eligible 2004	* UU PLC total, inc electric and telecomms ** multi-utility (water/electric) division 2002 figures

Waste management - companies eligible for EWCs

Company	Global Turnover *	Address	Parent	EU, EEA and accession countries in which company is active
Onyx	€6139m **	169, av. Georges Clémenceau, NANTERRE cedex – France PO: 92 735 01 46 69 30 00 01 46 69 30 01 http://www.onyx-environnement.com/	Vivendi Environnement	Czech Republic, Denmark, France, Germany, Hungary, Ireland, Italy, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, UK.
Sita	€5700m	132, rue des 3 Fontanot 92 000 NANTERRE FRANCE +33.1.42.91.63.63 +33.1.42.91.68.68 dirdrh@sitagroup.com www.sitagroup.com	Suez	Belgium, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Luxembourg, Netherlands, Poland, Portugal, Romania, Spain, Sweden, Switzerland, UK
RWE Umwelt	€2179m	Greefsallee 1-5 , 41747 Viersen Germany +49 (0)2162/3 76-0 +49 (0)2162/1 54 67 info@rweumwelt.com http://www.rweumwelt.com	RWE	Austria, Belgium, Czech Republic, Germany, Greece, Hungary, Italy, Luxembourg, Netherlands, Poland, Portugal, Spain, Switzerland, UK
FCC	€2003.5m (environment)	Fomento de Construcciones y Contratas Balmes 36 08007 Barcelona SPAIN +34-93-496-49-00 +34-93-487-88-92 www.fcc.es	Part owned by Vivendi Environnement	France, Portugal, Spain, UK
Cleanaway	€1444m (£984m)	Cleanaway (worldwide) 5th Floor Bellerive House 2 Muirfield Crescent London E14 9SZ UK 44 207 512 4301 44 207 512 4022 http://www.cleanaway.com	Brambles (Australia)	Estonia, Germany, Switzerland, UK
Biffa	€726m (£494.8m)	Biffa Waste Services Ltd Coronation Road Cressex	Severn Trent	Belgium, UK

Company	Global Turnover *	Address	Parent	EU, EEA and accession countries in which company is active
		High Wycombe HP12 3TZ UK (+44 1494) 521221 http://www.biffa.co.uk/		
Rethmann	€698m	Rethmann Entsorgungs AG & Co Brunnenstrasse 138 D-44536 Lünen Germany +49(0)2306/106-0 +49(0)2306/106-100 info@rethmann.de http://www.rethmann.de/		Austria, Belgium, Czech Republic, France, Germany, Hungary, Netherlands, Poland, Slovakia, Switzerland, Turkey, UK.
Alba	€653m	Alba AG & Co. KG Franz-Josef-Schweizer-Platz 1 16727 Velten bei Berlin Germany 030 351 82 326 030 351 82 497 AlbaAG@alba-online.de http://www.alba-online.de/		Bosnia, Germany, Poland
Cespa	€513.9	Compania Espanola de Servicios Publicos Auxiliares, S.A. Gran Via de les Corts Catalanes 657 entresuelo 08010 Barcelona Spain 00 34 93 247 91 06 00 34 93 265 75 47 cespagr@cespa.es http://www.cespa.es	Sita (50%), Agbar (50%)	Portugal, Spain
Van Gansewinkel	€457m	Van Gansewinkel Groep BV Cranendonck 4, 6027 RK Soerendonk Postbus 2662, 6026 ZH Maarheeze Netherlands +31 (0)495 596979 +31 (0)495 592250 Info@vangansewinkel.com http://www.vangansewinkel.com/	45% owned by Essent	Belgium, Czech Republic, France, Poland, Portugal
CNIM	€440m	Constructions Industrielles de la Mediterrannee 35, rue de Bassano		Czech Republic, France, Italy, UK

Company	Global Turnover *	Address	Parent	EU, EEA and accession countries in which company is active
		75008 Paris France (+33) 1 44 31 11 00 (+33) 1 44 31 11 30 info@cnim.com http://www.cnim.com		
Befesa	€403m	Befesa Medio Ambiente Fortuny, 18 28010 – Madrid 91.308.40.44 91.310.50.39 befesa@befesa.es http://www.befesa.es/	Abengoa	Portugal, Russia, Spain, UK, Ukraine
Ragn-sells	2,8 billion Swedish kronor (approx €280m)	Ragn-Sells AB Box 952, Vaderholmen, 19129 Sollentuna, Stockholms Kommun Sweden +46-8-625 47 00 +46-8-612 65 92 info@ragnsells.se http://www.ragnsells.se/		Denmark, Estonia, Norway, Poland, Sweden
Lassila & Tikanoja	€267.2m	Lassila & Tikanoja P.O. BOX 26 FIN-00101 Helsinki FINLAND + 358 10 636 115 +358 10 636 2899 info@lassila-tikanoja.fi http://www.lassila-tikanoja.com/		Estonia, Finland, Russia
Shanks	€166m (£113m)	Shanks Group Plc Astor House, Station Road, Bourne End, BUCKINGHAMSHIRE. SL8 5YP UK 01628 524523 01628 524114 info@shanks.co.uk www.shanks.co.uk		Belgium, Netherlands, UK
ASA	€126m	A.S.A. Abfall Service AG Hans-Hruschka-Gasse 9 A-2325 Himberg Austria	EDF of France (51%)	Austria, Bosnia, Croatia, Czech Republic, Hungary, Poland, Slovakia
Saubermacher	€87m	Liebenauer Hauptstrasse 2-6 A-8041 Graz		Albania, Austria, Croatia, Czech Republic, Greece, Hungary,

Company	Global Turnover *	Address	Parent	EU, EEA and accession countries in which company is active
		Austria +43 316 26 18 74 +43 316 26 34 53 office@saubermacher.com http://www.saubermacher.at/		Slovenia
Altvater	n/k	Altvater Service Bünder Straße 32051 Herford Germany +49(0) 5221 598 537 +49(0) 5221 598 97 53 http://www.altvater-umweltservice.de	Sulo	Czech Republic, Germany, Poland, Ukraine
Becker	n/k	Jakob Becker GmbH & Co KG An der Heide 10, 67678 Mehlingen Germany +49 6303 6015 +49 6303 5666 info@jakob-becker.de http://www.jakob-becker.de/		Austria, Croatia, Czech Republic, Germany, Hungary, Poland, Romania
Urbaser	n/k	Urbaser SA Avda. de Tenerife, 4-6 San Sebastian de los Reyes Madrid Spain	Dragados	France, Portugal, Spain, UK
Groupe Nicollin	n/k	37 rue Carnot 69192 SAINT FONS France 04-72-89-05-60 04-78-70-49-59 http://www.groupenicollin.com/		Belgium, France, Portugal
Lobbe	n/k	Lobbe Holding GmbH & Co Bernhard-Hülsmann-Weg 2 D-58644 Iserlohn Germany + 49 / 23 71 / 8 88-0 + 49 / 23 71 / 8 88-108 info@lobbe-holding.de http://www.lobbe.de/		Austria, Belgium, Germany, Greece, Poland, Portugal, Slovakia, Spain, Switzerland
Rumpold	n/k	Rumpold AG 8793 Trofaiach Roseggergasse 4		Austria, Czech Republic, Croatia, Slovenia, Hungary.

Company	Global Turnover *	Address	Parent	EU, EEA and accession countries in which company is active
		03847/2332-0 03847/2332-149 info@rumpold.at http://www.rumpold.at/		

* latest available figures
** excluding FCC
Source: PSIRU database

Electricity – companies eligible for European Works Councils

EWC eligible

Company name	Major presence in Europe	Workers			EWC
		Worldwide	Europe	Other	
Fortum	Finland, Sweden, Poland, Norway, Estonia, UK	14,000 (8,300 in electricity & gas)	12,426	692	Y
Vattenfall	Sweden, Germany, Finland, Poland, Estonia	34,248	34124	124	Y
E.ON	Germany, UK, Finland, Sweden, Netherlands, Czech Rep, Slovak Rep, Hungary	108,000	100000	7000	Y
RWE	Germany, UK, Sweden, Netherlands, Slovak Rep, Czech Rep, Hungary	78,000 (in energy)	78,000	0	Y
EDP	Portugal, Spain	14,000	10,000	4000	
EDF	France, Germany, UK, Italy, Austria, Hungary	172,000	155,000	17,000	Y
ENEL	Italy, Spain	57,000 (in energy)	57,000	0	
Endesa	Spain, Italy, France	26,000	14000	12000	
Centrica	UK, Belgium	23,000 (in energy)	21000	2000	
Essent	Netherlands, Germany	10,000 (in energy)	10,000	0	
Nuon	Netherlands, Germany	10,000	10,000	0	
AES	UK, Italy, Czech Rep, Netherlands, Hungary	36,000	n.a.	n.a.	

EWC eligible after accession in 2004

Company Name (company's major owner)	Major presence in Europe	WORKERS			EWC
		Worldwide	Europe	Other	
Stadtwerke Leipzig	Germany, Poland	1400	1400	0	
MVV	Germany	6000	6000	0	

Healthcare – companies eligible for EWCs

Company name (company's major owner)	Major presence in Europe (countries)	Workers			EWC
		Worldwide	Europe	Other	
Aramark	UK, Czech Republic, Belgium, Spain, Hungary, Ireland	200,000	39,800 (non-US)	-	Yes
BUPA	UK, Ireland, Spain	9,120	9,120	-	No
Capio	Sweden, Finland, Norway, Denmark, UK, France, Switzerland	10,808	10,808	-	No
Compass	France, Germany, UK, Switzerland, Spain, Netherlands, Sweden	375,000			Yes
Fresenius	Austria, France, Germany, Sweden, UK, Italy, Spain, Belgium,	63,638	26,091 40%	28,637 North America 6,363 Latin America 2,545 Asia- Pacific	Yes
Gambro	Belgium, France, Germany, Hungary, Italy, Luxembourg, Netherlands, Poland, Portugal, UK	20,900	7,106 (34%)	11,495 United States (55%) 2,299 Rest of world (11%)	Yes
ISS	Denmark, UK, Sweden, Austria, Belgium, Croatia, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, UK	248,500	203,528 (81.9%)	44,972 rest of world (18%)	Yes
Rentokil-Initial	Austria, Belgium, Czech Republic, Denmark, Finland, France, Germany, Greece, Italy, The Netherlands, Norway, Portugal, Ireland, Spain, Sweden, Switzerland, UK	92,447			Yes. Covers countries of EU, Norway and Switz-erland
Sodexho	Austria, France, UK, Belgium, Finland, France, Germany, Hungary, Italy, Luxembourg, Netherlands, Spain, Sweden, and the UK.	308,315	132,575 (43%)	117,119 United States (38%) 58,579 Rest of world (19%)	Yes

EWC eligible after accession in 2004

Company Name (company's major owner)	Major presence in Europe	WORKERS			EWC
		Worldwide	Europe	Other	
Euromedic International	Hungary, Romania, Bosnia Herzogovina, Croatia	-	1,000	-	No
Medicover	Estonia, Czech Republic, Hungary, Poland, Romania,	-	1,200	-	No

8 Engaging with the EU and its policies

EU competition policies and public services

David Hall, December 2001

This paper provides some background on the position of public services under the EU at present. It examines a range of provisions:

- Relevant articles in the treaty itself
- Directives concerning specific sectors, and the transparency directive
- The procurement directives
- Wider pressures

It also looks at the experience with liberalisation and its relevance for the issue of the role of public services in the EU.

Public services in the EU treaties

Public services or services of general interest are not central to the EU treaties. The objectives of the EU are primarily concerned with trade rules and policies. These include the specific objectives of 'prohibition' of customs duties, the achievement of 'a common commercial policy', the 'abolition… of obstacles to the free movement of goods, persons, services and capital', and 'ensuring that competition in the internal market is not distorted'. Member states may be required to harmonise their laws but only 'to the extent required for the functioning of the common market'.[127]

Public services and subsidiarity

By contrast the area of public services are supported only by the general commitment to 'the strengthening of economic and social cohesion, together with the specific but limited undertaking to make 'a contribution' to high level of health protection, and again 'a contribution' to education and training.[128] In effect, these and other public services not featuring in stated EU objectives[129] are covered by the principle of subsidiarity.

As stated in the treaty this principle is that 'In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.' [130]

Make public services effective, conditionally: Article 16

The one section of the treaty that provides a positive declaration concerning public services is Article 16. This uses the terminology of 'services of general economic interest', and declares that the EU and the members states 'shall take care that such services operate on the basis of principles and conditions which enable them to fulfill their missions'. This does not appear to commit states or the EU to any particular services or any particular scale or level of provision, but simply to making them work effectively. It is made on the basis that these services form part of shared values and contribute to 'social and territorial' cohesion (not, as in the objectives in Article 2, 'social and economic' cohesion.[131]

Even this commitment to helping services work effectively is "Without prejudice to Articles 73, 86 and 87" of the treaty. Articles 86 and 87 concern public undertakings and state aid (Art 73 concerns transport), and these have very specific declarations.

Competition rules take precedence

Article 86 states that for public undertakings concerned with services of general interest, member states 'shall neither enact nor maintain in force any measure contrary to' the Treaty, especially the competition rules' It adds the more open statement that undertakings operating such services are subject to the competition rules 'insofar as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them'.[132]

Article 87 imposes a blanket limitation on state aid to undertakings 'in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, insofar as it affects trade between Member States, be incompatible with the common market'. It then proceeds to give exceptions - three categories of aid which 'shall be' compatible with the market: 'aid having a social character, granted to individual consumers', aid for natural disasters and for former east Germany; and five categories which 'may be compatible' – economic development, projects of European interest, economic activity, cultural support, and other.[133] (article 73 in effect adds another for transport – aid which is necessary 'for the discharge of certain obligations inherent in the concept of a public service').

Defence and security exempt from competition rules

The treaty provides one simple exemption to the competition rules, however: national security. In this area, 'any Member State may take such measures as it considers necessary for the protection of the essential interests of its security which are connected with the production of or trade in arms, munitions and war material; such measures shall not adversely affect the conditions of competition in the common market regarding products which are not intended for specifically military purposes'.[134]

Charter of rights

The charter of fundamental rights of the EU, finally agreed in 2001, mentions public services, but does not make any commitment to a general European right to public services. Instead it simply 'recognises and respects access to essential public services as provided for in national laws and practices, in accordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union'.[135]

This statement clearly follows the assumption that public services are a subsidiarity issue, and so the only function for the EU is to 'recognise' whatever services each country provides. It is implied that the EU's interest in public services is to promote 'social and territorial' cohesion. The EU emphasises that the Charter does not create any new rights, simply summarise the rights enjoyed as a result of the EU's operations.

Directives concerning specific sectors: electricity and gas

The Electricity Directive 96/92/EC[*] requires the progressive opening of electricity markets to competition. It includes a clause which allows for public service obligations, but it is strictly curtailed: "Article 3(" 2)…. Having full regard to the relevant provisions of the Treaty, in particular Article [86], Member States may impose on undertakings operating in the electricity sector, in the general economic interest, public service obligations which may relate to security, including security of supply, regularity, quality and price of supplies and to environmental protection. Such obligations must be clearly defined, transparent, non-discriminatory and verifiable; they, and any revision thereof, shall be published and notified to the Commission by Member States without delay. As a means of carrying out the abovementioned public service obligations, Member States which so wish may introduce the implementation of long-term planning…..]".

The Gas Directive 98/30/EC[†] follows the same principles as the Electricity Directive. It requires that enterprises be allowed equal treatment in access to the market, s objective is "achieving a competitive market in natural gas" requires the opening of the market: "Article 3: Member States shall ensure, on the basis of their institutional organisation and with due regard for the principle of subsidiarity, that, without prejudice to paragraph 2, natural gas undertakings are operated in accordance with the principles of this Directive with a view to achieving a competitive market in natural gas, and shall not discriminate between such undertakings as regards either rights or obligations."

Transparency Directive

The Transparency Directive, first introduced in 1980 and amended in 2000, requires the maintenance of clear and distinct accounts, as its name suggests. However, this is not a general requirement on all undertakings carrying out services of general interest. It is a directive concerned to enforce the provisions in article 85 and 86 against state aid being used anti-competitively. In effect, it is framed so that transparency is forced on public undertakings to disadvantage them in competition with private companies – it is not required as a public right in respect of public

[*] **Directive 96/92/EC of the European Parliament and of the Council of 19 December 1996 concerning common rules for the internal market in electricity**
Official Journal L 027 , 30/01/1997 p. 0020 – 0029
http://europa.eu.int/eur-lex/en/lif/dat/1996/en_396L0092.html

[†] **Directive 98/30/EC of the European Parliament and of the Council of 22 June 1998 concerning common rules for the internal market in natural gas**
Official Journal L 204 , 21/07/1998 p. 0001 - 0012
http://europa.eu.int/eur-lex/en/lif/dat/1998/en_398L0030.html

services. From the point of view of the public this directive fails to meet a real need – for transparent accounting of all public services. For example, transparency has been identified as a major problem with the privatised water concessions of France, which represent a very substantial section of municipal services in that country. Private sector operators can and do exploit the profits from non-competitive contracts, state subsidies and monopolies to give themselves a commercial advantage. This behaviour is normal practice for private sector companies, especially those which are diversified across sectors and across countries.

Competition in practice

There is a fundamental belief running through all these provisions that the liberalisation of these sectors will create competition, and there is a further assumption that this liberalisation and competition will benefit consumers. These assumptions are questionable, in the light of experience since the adoption of these directives,. This section sets out some of the experiences with the movement of prices and concentration of ownership under the Electricity Directive; the emergence of multi-utility multinationals dominating the three key sectors of water, energy and waste management; and problems of restructuring and exiting from dysfunctional liberalised services.

Responding to the Commission

The European Commission's communication on Services of General Economic Interest [136] has been the starting point of the current debate. The communication itself does not move far from the existing position. Public services remain as options which member states may choose to deliver, as long as they are not incompatible with the single market.

The Langen report from the European Parliament [137] partly seeks to extend the importance of the market above that of public services - for example, it calls for compulsory tendering of council services wherever a private sector bidder is available, and urges the extension of privatisation of water services. [138]

The ETUC/CEEP charter for public services [139] by contrast outlines a set of demands for a review of Article 16 and a new positive charter or directive "Asserting SGEI's legal basis and ensuring the legal security of those concerned by developing, in the Union Treaty on the occasion of its 2004 revision, the principles and objectives of Article 16".

Some issues

- EU-wide service obligations – the blanket exemption for security in Article 296, and the Postal Services directive, show that it is possible to lay down EU-wide obligations to provide public services (although their role in that directive is to act as a maximum beyond which the market must operate).

- Subsidiarity and democracy – the current market-based rules restrict the rights of a country, and even more so a commune, to determine and decide their own structure for public services.

- History – the EU should address historical experience and the reasons for it. Public services have been developed under state or municipal control, with public financing and cross-subsidy, because of specific historical experiences. In many cases, e.g. water, the private companies which are the rare dinosaurs left over from a 19th century model rejected in most countries.

Articles 86 and 87 – these articles impose continuing current limitations on public services provided by the public sector. A review of Article 16 should also include a review of these articles.

Critique of the EC paper on Horizontal Evaluation of SGI

David Hall (PSIRU, University of Greenwich) and Dexter Whitfield (Centre for Public Services), *September 2002*

> This report is a critical commentary on the EC paper "A Methodological Note for the Horizontal Evaluation of Services of General Economic Interest" (HE).[140] It includes reference to the commission's earlier report "Market performance of network industries providing services of general interest: a first horizontal assessment" (MPNI).[141] That report was in effect a prototype of the kind of evaluation the main paper is proposing.

This critique provides a critical commentary on the framework of the HE paper and on the methodology proposed. Highlighted here is a response to the paper with proposals which attempt to build on the positive issues which were included in the original demands:

- the principle of regular EU-wide evaluation of the contribution made by SGI
- an assessment of the impact of liberalisation required by directives on some SGEI
- basing this process on democratic debate and the participation of stakeholders.

Commentary

The HE paper is a confused and confusing document. It refers to a number of requests from European Councils and the parliament for evaluation of the impact of services of general interest – a wide remit – but then proposes a methodology for annual horizontal evaluation of a number of network industries – a narrower remit. These include electricity, gas, telecoms, post, rail, air transport, passenger road transport; but exclude water, broadcasting, waste management; and also excludes other public services such as health, education, social services, justice.

The stated objectives of the HE paper vary in different places. They include both narrow assessments of the extent to which competition has been introduced, but also, in a number of places, assessing the impact of liberalisation on services; as well as the more general assessment of the value of SGI to the EU. The paper refers to commitments to public debate and use of democratic forums of the EU, and consultation with stakeholders. But the methodology proposed includes only surveys of consumer opinions and ad hoc consultation of stakeholders on selected issues.

Assessment of performance of SGI

The central role of the Horizontal Evaluation (HE) should be to provide an assessment of the performance and impact of the Sservices of General Interest (SGI) themselves. This was the original stated objective of the Nice and Laeken councils, and the European Parliament, and should be made the central objective, not mixed with others or replaced by a different agenda preferred by the Commission.

Such an assessment should cover all SGI, not only network industries, and so should include for example water, waste management and other Services of General Economic Interest (SGEI). The assessment of health and education could also be attempted in principle, but may pose special difficulties of their own. However their exclusion should be argued, not assumed.

This assessment should also concern a full range of economic and social contributions of SGI, evaluated against the treaty provisions on SGI, and other treaty aims e.g. as stated in articles 2 and 3, as well as the general objectives of the services themselves, their importance to economic activity, and the full range of social impacts, including equality, quality of employment etc.

Impact assessment of liberalization directives

The HE should also include the distinct task of impact assessment of existing directives introducing liberalisation into SGI. This was another clear intention of the original requests. Liberalisation should not be exempt from public examination as it was in the MPNI ("It is too early…etc" : see above). It should be clearly subject to a full and rigorous impact analysis, as is promised for all future policies, projects or programmes, including new Directives, in the policy making process (in the EC paper Action plan "Simplifying and improving the regulatory environment" Brussels, 5.6.2002 COM(2002) 278 final).

The impact assessment should not be confused with the routine measurement of the implementation of the directives, e.g. the proportion of market opening, which is already carried out. The HE should ensure that administrative information about market opening in compliance with directives, for example, is not confused with real data on the extent of effective competition and consumer choice: 100% market opening may coexist with very little competition or choice.

Finally, this impact assessment must include explicit counter-factuals, so that it is clearly evaluated in terms of what would have happened in the absence of these directives, or if alternative directives had been adopted (for example, requiring decentralisation and maximum subsidiarity of policy making on energy structure, without centrally defined requirements on the role of the market). These counter-factuals could also include reference to international experience and experience over time, so that the process could incorporate learning from the past experience of European nations and the practices of others.

Wider social and employment data

Both the performance assessment of SGI and the impact assessment of the effects of liberalisation need to be wide ones which integrate social, employment and labour market, equality and environmental with economic assessment. There is a need for a much wider range of data to be examined, concerning the distribution of the impact of energy liberalisation (fuel prices for different groups), accountability mechanisms (e.g. rail contracting), employment-related data (energy), contract changes (e.g. water).

Make democratic evaluation central

The paper's proposals do not live up to its declared aim of creating democratic debate. Both evaluation of SGI and impact assessment of the liberalisation directives should be clearly structured around a democratic process, whose elements are mentioned but not used in the HE report:

- *an organised public debate within the various existing forums* – it is important that there is widespread debate especially on SGI because the values used to evaluate the performance of the services, and the impact of the directives, are values based on democratic organisation not on market forces
- *a permanent mechanism for the monitoring of citizens' opinion* – which must be far more than passive responses to market research of consumer satisfaction. There should be a clear process which requires annual submission of questions on SGI to specific bodies and stakeholders, and provision for public meetings and debate in member states. The ETUC/CEEP proposal for a European observatory on SGI should be taken up as part of this.*the debate should provide guidance for the annual horizontal evaluation, and the evaluation should itself be the subject of debate* – the outcomes of these debates need to be reported and collated and used to drive the HE processes. This is very different from market research on consumer perceptions.
- Encouraging the expression and contribution of staff views to the process should be an explicit element in consultations.

The European Commission's Guide to Successful Public-Private Partnerships – a critique

Robin de la Motte and David Hall, May 2003

The 'Guide to Successful Public-Private Partnerships' published by the EC is a guide to promoting more public-private sectors partnerships in Central and Eastern Europe. Presented as advice, it is more a tool for pushing public-private partnerships and obtaining grant aid through the ISPA scheme for accession countries. A critique of the key elements of the guide follows below.

EU financing of infrastructure in central and eastern Europe (CEE)

EU financial institutions play a key role in favouring private or public sector operation of infrastructure projects in CEE. The key sources include the two development banks – the European Bank for Reconstruction and Development (EBRD) and the European Investment Bank (EIB) – and the European Commission's own aid programme's for accession countries, especially ISPA.

The EBRD in particular has strongly supported privatization, with about two-thirds of its funding since 2000 going to utilities controlled by foreign multinationals, and a number of others in part targeted at leading to privatization. The EBRD has done so partly through the use of tied funds, whereby tranches of funding for environmental projects in CEE were tied to the use of either Suez, Vivendi or IWL. By contrast, a much larger proportion of the loans from the EIB have supported public sector restructuring. Both the EIB and EBRD are EU institutions, but autonomous from the European Commission.

The other key source of funding is the EC's own ISPA grants facility[*], aimed at funding the investment needs of accession countries, which is administered by the Commission itself. So far only a small part of these funds have been directed to private sector projects, and the rules governing EC aid have made it difficult to use ISPA money to

[*] ISPA is focussed on transport and environment, whilst similar facilities, also managed by the Commission, exist for agriculture and rural development (SAPARD) and general pre-accession investment (Phare).

support PPPs. One example was in the town of Timisoara in Romania, where ISPA funding was 'captured' by a water privatisation assigned to Suez under the EBRD's linked financing programme. The project had to be unscrambled to avoid breach of ISPA rules.

Making ISPA funds available for the private sector, and promoting PPPs

The European Commission's *Guide to Successful Public-Private Partnerships* * is produced specifically in the context of the ISPA programme, to make it more easily available to private sector projects: *"It seeks to address the issue of developing successful PPP projects in the candidate countries on a general level with specific reference to grant financing of transport and environmental infrastructure projects"(p.7).* It can be presumed that this addresses concerns of the private companies, that the ISPA rules were making it less attractive for accession countries to use the private sector in projects that are eligible for ISPA funding.

However, discussion of this issue is relegated to ten pages in Part 4 of a 100-page document, and it is made clear from the beginning that the document is meant to support and facilitate PPPs, even going so far as to state that *"The European Commission has an interest in promoting and developing PPPs within the framework of the grants it provides"* (p.7), which comes close to breaching the principle that the EC is neutral on public or private provision of public services. Although the document includes a disclaimer which makes it clear that it is not an EC policy document,† the document is at least indicative of certain strands of Commission thinking.

The document pays only lip service to the existence of public sector alternatives. The result of the framing of the document as a Guide to PPPs, and nothing else, and its context (no similar documents which cover the public sector) sets a " framing trap", where the way in which a problem is posed frames the way in which it is solved. In this case, the Guide encourages a conception of the problem as "how can partnerships with the private sector be managed successfully", not "how can necessary infrastructure investment be brought about", even though the latter is explicitly a major justification for the existence of the Guide and its focus on PPPs (p.3). The difference between these problems and the range of solutions implied is obvious.

The Guide does consider some of the risks associated with PPPs, but focuses on risks to the projects rather than to the countries. For example, the section on risks (p52) has the approach of consultants advising foreign investors, with, for example, subsections on regulatory risk (the risk that governments renege on commitments) and 'public acceptance risk' (the risk that public protests may undermine projects or even lead them to be cancelled). A large box (p.51) on a UK protest against a private waste incineration project is inserted not as an indicator of the problems and unpopularity of such projects, but as an example of public acceptance risk! Thus democratic activity by citizens is itself seen as a risk to PPPs.

Water and DG Competition

David Hall, May 2003

Although there had not been a Directive for the Water Industry, there have been a number of initiatives that together could be described as having the same influence as a more industry specific Directive. One of these initiatives was a report on the water sector, commissioned by DG Competition. The significance of the report is set out below.

At the start of 2002 DG competition commissioned a report into the water sector, which was delivered in December 2002.[142] It received little publicity or public debate, and was carried out without consultation of major stakeholders, for example trade unions. The report however is of importance for a number of reasons:

- it indicates that DG Competition is taking a direct interest in the water industry, with a specific view to increase liberalisation in this sector
- the report itself works on unsupported assumptions about the superior efficiency of the private sector, and the intrinsic anti-competitiveness of the public sector provision
- largely ignores the evidence of the lack of competition in this sector, and the problems encountered with private sector participation

* European Commission, Directorate-General Regional Policy, "Guidelines for Successful Public – Private Partnerships", March 2003, http://europa.eu.int/comm/regional_policy/sources/docgener/guides/ppp/ppp_en.pdf

† "These Guidelines have been prepared by the services of the European Commission. They are the result of independent review and do not necessarily reflect the views and opinions of the European Commission as a whole nor attempt to define current or future policy."

- confuses questions of vertical integration with the procurement of contracted-out services, pricing policies with metering, and subsidization of, or by, water revenues
- expresses resentment at ECJ decisions which have prioritised public service roles over the extension of the competition rules
- ends by implying a continuing agenda from DG competition to transform the sector, and to do so by focusing consulting providers, and businesses seeking opportunities, rather than consumers in general, or environmental organizations, or workers in the industry

The conclusions to draw from the document are:

- The report itself provides no coherent case for intervention by DG Competition. There are conflicting views on the conditions for competition which can either be seen as warnings against the effect of trying to impose a competition regime or as encouragement for DG Competition to take radical action.

- The report does recommend that sharing information on finances and performance would increase competitive pressures on the industry". However, it is misleading to treat information sharing as a benefit linked to competition because in countries with water systems that are 100% publicly owned, information is gathered which leads to a high level of efficiency. Competition is not necessary to improve the way that information is shared.

- The report has kept a distance from shareholders. No interests representing consumer, labour or environmental interests are listed. All the shareholders that the report recommends should be consulted are large industrial consumers or vulnerable groups such as people with disabilities or pensioners.

- DG Competition sees itself as needing to act in the water industry in the interest of providing a competitive environment for the private sector, and to subordinate the public service role of water.

EC internal market strategy – implications for water and other public services

David Hall, May 2003

Water: a business opportunity

The paper says that water is a sector where 'new proposals' may be necessary, to open up the market opportunity whose potential is being limited by widespread municipal providers. A box emphasises the size of the business prospects, by stating that water sales in the EU are larger than the gas industry, as though this proves some necessity to privatise or liberalise (education and healthcare are even bigger – should they then be subject to the same liberalisation regime?). However, whereas gas is a commodity which is traded across borders in large quantities, cross-border trade in water remains minimal, so size alone cannot be used to infer EU-wide competence. 'Fragmentation' is a repeated complaint: *"the competition situation in the water sector ... remains fragmented"* , the sector is "*fragmented and dominated by local monopolies*". This is due to the fact that water is run by municipalities in nearly all EU countries: it might be described, more positively, as local or 'community-based'.

DG Markt is certain that private sector competition for water business would result in some improvement, but is uncertain about the evidence. The paper argues that, without support, *"there are potential gains to be had from modernisation"* (where 'modernisation' is clearly a euphemism for privatisation). The paper offers the naïve suggestion that there must be some market imperfection because water prices vary across Europe: *"Performance and pricing vary considerably from one Member State to the next, which can often not be explained by reasons such as water availability or other objective external factors (e.g. the weather)"* and *"annual water charges vary from €350 in Berlin to €50 in Rome (with no charge at all in Ireland)"*.

It is not clear what DG Markt concludes from this. Do they think that it is possible to create a market which leads to price convergence by enabling people to choose their water supplies from different countries, through water being piped – or perhaps flown? – from Rome to Germany? Do they think that the Irish, who pay for their water supply through taxation, should be forced to pay for it differently – a proposal that was discussed and rejected in the formulation of the Water Framework Directive?

The politician at the head of DG Markt, Commissioner Bolkestein, had previously signalled his intention to open up water for private enterprise, and to expand the role of so-called 'public private partnerships' (PPPs) in public services, in two speeches in November 2002. On 7th November, a speech [143] headed 'Nuclear Energy' included a section on water which warned that liberalisation was a good thing and an inexorable trend, even in water, although some countries such as the Netherlands were not following that trend, and *"Worse still, some people want to have nothing whatsoever to do with it."* However, Commissioner Bolkestein was certain about the future: "The market presses on, also in the water sector… The current trend will also take on a European dimension one day…As soon as [the Water Framework Directive (WFD) is implemented], we shall be better placed to look at water as a cross-border product. The Framework Directive provides for cross-border trade in water if certain ecological standards are observed." However, the WFD can surely not be used as a reason for treating water as an issue of cross-border trade, and therefore within the scope of the internal market rules. There is no significant international trade in water, and the WFD itself is not concerned with trade issues, but with environmental management.

A critique of the EC green paper on Services of General Interest

David Hall, September 2003

The relationship between public services (or services of general interest – SGI [144]) and the treaty of the European Union (EU) has become an increasingly important issue. There are two general issues, both of which also concern the role of democratic politics in the EU:

- whether public services, provided through national and local democratic mechanisms, have equal or greater priority within their sectors than the competition principles of the EU internal market
- the issue of subsidiarity: whether EU law and policies should override or supplement national or local decision-making on public services.

The green paper [145] is the contribution of the European Commission (EC – or Commission) on these issues. Despite making a number of important points, the Green Paper fails to deal with the fundamental questions at stake. This is partly due to its unwillingness to recognise conflicts between the internal market and competition on the one hand, and the delivery of public services on the other. It is also partly due to deliberate self-limitation, because the Commission has chosen not to draft a new directive as requested, but to offer a paper which asks a series of questions.

This paper offers a critical review of how the green paper deals with the issues. In conclusion, it suggests that the paper, together with other recent initiatives, indicate that the Commission wishes to extend the liberalisation of the internal market further into public services, and that it is willing to use both the internal market and competition rules of the EU, and the GATS negotiations of the WTO, in order to do so, even where these cause conflicts with states' preferred policies on public services.

"Inherent conflicts" between public services and the internal market

The failure of the paper to recognise conflicts between the internal market rules and public services is its most striking omission. These conflicts have arisen because of the continued development of the internal market and competition policies of the EU. These have had increasingly significant impact on the structure of SGI in member states, through four main mechanisms:

- liberalisation directives prohibiting integrated public sector monopolies – for example in energy, postal services, and rail;
- legal challenges to the funding of public services, for example public transport, based on the treaty's restrictions on state aid;
- legal challenges to direct provision of services by public authorities, or to restriction on provision of services within a country (for example healthcare), based on competition rules;
- liberalisation of trade in services (GATS) at the WTO, where the EC may enter negotiations which can lead to services, for example water, being opened to private competition on behalf of member states.

These conflicts have caused widespread concern and debate, in the European Parliament, in the meetings of the EU council of ministers, at national level, amongst interest groups, researchers, the general public – and in the debates on the proposed new constitution.[146]

Healthcare, for example, have been affected in unforeseen ways by court rulings under EU competition law. Although healthcare systems are said in the treaty to be clearly a national responsibility, the EU treaty has created a complex set of relationships. There are specific EU-level responsibilities for occupational health and safety, medical qualifications, and public health – but as complementary to national systems.

Other parts of EU law affect healthcare systems, however. The availability of cross-border care, regulated under most national health systems, has been the subject of court cases under the 'free movement of goods and services'; health care providers may be subject to competition law; the pharmaceutical industry is subject to the internal market, while the price of pharmaceuticals is a key element in national health systems; the role of health insurance schemes is affected by the EU insurance directive.[147]

The impact of these overlaps was the subject of a research project, funded by the EC itself.[148] It concluded that there was a contradiction between EU internal market and healthcare provisions, but that the two were inextricably intertwined: *"in political terms, there appears to be a contradiction between the purpose of the single European Market (SEM) and the manner in which statements in article 152 are widely interpreted…"* [the principle of subsidiarity of health services]. *"the relationships between health services ….and the SEM are intertwined in such a complex manner that it is virtually impossible to separate them"*. It concludes: *"the basic policy choice at European level concerns how best to resolve the inherent conflicts between the SEM and health policy"*. [149]

The green paper, by contrast, cannot even start to discuss how these "inherent conflicts" might be resolved, since it is not prepared to acknowledge the existence of such contradictions. The nearest it gets to doing so is when it acknowledges that the EC has not given priority to securing public services for citizens, because it is taking *"specific direct measures to enforce Community rules in the areas of competition and State aid. This could give the impression of an imbalance in Community action that could ultimately affect its credibility"* (para 33). This is correct in identifying an imbalance, but it is more than a problem of image – it is a real imbalance in the treaty, the directives concerning services of general economic interest (SGEI), and, now, in the Commission's approach to the question of a draft directive.

The Commission's wish to avoid recognising conflict perhaps underlies one of the questions the paper says it raises: *"any measures that could contribute to increasing legal certainty and to ensuring a coherent and harmonious link between the objective of maintaining high-quality services of general interest and rigorous application of competition and internal market rules"* (para 13) . This search for a 'coherent and harmonious link' may be doomed to failure if there are fundamental contradictions between the objectives of public services and internal market rules.

Part of series of wider initiatives

This green paper should not be seen in isolation. Since the end of 2002, various directorates of the European Commission have produced initiatives which are intended to extend the use the role of the private sector in public services, especially water. In addition to the green paper, the initiatives include:

- A report on the scope for introducing competition into water services was commissioned by the European Commission (EC) and published at the end of 2002, by DG Competition. It finds little evidence of how competition could benefit the sector, but nevertheless encourages more PPPs. [150]
- An EC *Guide to Successful Public-Private Partnerships* was produced by DG Regio in March 2003 specifically in the context of the ISPA programme, to make its funds more easily available to private sector projects. In is in effect a guide on how to push through PPPs, and in the process collect ISPA grant money, not a guide on how to make best decisions on infrastructure projects.[151]
- The EC's DG Markt published the EU "Internal Market Strategy Priorities 2003 – 2006", in May 2003[152]. The paper identified services of general interest, and water in particular, as sectors where the DG wants to open more of the market to private sector operators. Commissioner Bolkestein had already said in a November 2002 speech that he wants to open the water sector to competition. [153]
- The EC's trade section, DG Trade, handles the EU's negotiations in the World Trade Organisation's (WTO) general agreement on trade in services (GATS). DG Trade has made two sets of proposals concerning water: first, to redefine environmental services, so that water is covered by GATS; and second, requests to many countries to open their water services. These requests were unofficially leaked, and have been published along with a critique.[154]
- An 'EU Water Initiative' (EUWI), a combined initiative from DGs Development, Research, Environment and External Relations, was launched in 2002 at the WSSD in Johannesburg, as an EU contribution to the objectives of sustainable water management, water security, and the millennium goal targets for extending water supply and sanitation.[155] EUWI partly aims to support the business activities of EU multinational companies by providing aid and subsidies to reduce or remove the risks they have experienced in developing countries. This was developed in close consultation with the companies.[156]
- The EC has promised to issue a paper on PPPs in Europe before the end of 2003. This is expected to set out EC thinking on the question of tendering of activities assigned to companies owned by public authorities. It will also concern the rules on concessions: a previous "draft Commission interpretative Communication on concessions under Community law on public contracts" was issued in 2001.[157]

The central notion of "public services"

The green paper is reluctant even to acknowledge the concept of "*public services*", which it rejects as being 'less precise' than the notions of SGI and SGEI (para 19). This is unconvincing. The paper itself uses it as the more central concept when it defines SGEI as covering *"any economic activity subject to public service obligations"* (para 17); it correctly states that the term SGI is not in the treaty, but is extrapolated from SGEI, which is in the treaty (para 16). The paper itself also uses the phrase "public service" throughout when describing broadcasting and when describing the obligations inserted in directives as "public service obligations". The notion of 'public service' is commonly used elsewhere to explain the more awkward concepts of SGEI or SGI - for example by the European Parliament in explaining the Citizen's Charter right of access to SGEI – "the phrase SGEI applies to the provision of public services…for the population as a whole"[158] – and it is used in EC regulations.[159]

The green paper correctly declines to define public services by a list of services. It points out that the boundary of economic activity changes over time for various reasons, and so *"it would neither be feasible nor desirable to provide a definitive a priori list of all services of general interest that are to be considered «non-economic»"* (para 45) .

Why do public services matter?

The green paper makes a number of interesting contributions towards identifying why public services are important. It opens by referring to shared values, the quality of life, economic development, rights and democratic governance (paras 2-4):

> "They are a part of the values shared by all European societies and form an essential element of the European model of society. Their role is essential for increasing quality of life for all citizens and for overcoming social exclusion and isolation. … the efficiency and quality of these services is a factor for competitiveness and greater cohesion, in particular in terms of attracting investment in less-favoured regions…also a condition for the smooth functioning of the Single Market and for further economic integration ….these services are a pillar of European citizenship, forming some of the rights enjoyed by European citizens and providing an opportunity for dialogue with public authorities within the context of good governance."

Later, the notion of 'public interest' is used in explaining that the concept of universal service (para 53) "has allowed public interest requirements to be addressed in various domains, such as economic efficiency, technological progress, environmental protection, transparency and accountability, consumer rights and specific measures regarding disability, age or education. The concept has also contributed to reducing the levels of disparity in living conditions and opportunities in the Member States." It treats this 'general interest' as the fundamental reason why the state has to deal with 'market failure': "…it has always been the core responsibility of public authorities to ensure that such basic collective and qualitative needs are satisfied and that services of general interest are preserved wherever market forces cannot achieve this".

The paper also refers to a specific notion of a 'European general interest': "These industries have a clear Community-wide dimension and present a strong case for developing a concept of European general interest." (2.1, para 32). The reference here to "*a concept of European general interest"* has been used by the EC at least since its communication on SGI in 1996 [160], to refer to these sectors where liberalisation directives have been accompanied by clauses on public service obligations.

Finally, the section of the annexe on evaluation contains an interesting acknowledgement that a technical report from the Commission cannot substitute for or summarise the politics of a public debate on SGI: "the Commission cannot encompass, summarise and present a consolidated view representing all the often diverging views of the different interested parties on the performance of services of general interest". However, this paper then simply repeats the identical fine words used in its evaluation paper in 2002 about public participation, as proposed by the parliament (annex, paras A72 and A73: see also evaluation paper, 3.1.d [161]). This green paper, like the evaluation paper itself, contains no proposals that would make these aspirations a reality:[162] but the paper as a whole would be greatly improved if similar democratic principles were also applied to the discussions on GATS, liberalisation, and regulation.

These fundamental points could serve as a working description of why public services matter. They could then be set alongside a similar statement of reasons why competition and the internal market matter; and it would then be possible to discuss how to assign relative priority to these sets of principles in cases of conflict.

But the paper does not do this. It does hint at the conflict involved in the role of the state in a market economy (para 4): "ensuring, on the one hand, the smooth functioning of the market and compliance with the rules of the game by all actors and, on the other hand, safeguarding the general interest, in particular the satisfaction of citizens' essential needs and the preservation of public goods where the market fails." But it then continues by describing the creation of the internal market and the later liberalisation of SGEI, and the benevolent effect of these liberalisations, and so *being liberalised* becomes a key function and a core virtue of public services.

Ignoring the European Parliament request for a framework directive

A preliminary point is that Commission has not done what it was asked to do. The paper notes that: "The European Parliament suggested the Commission should present a proposal for a framework directive on services of general interest and the Council also asked the Commission to look into this question" (para 9). The paper does not however offer a draft framework directive. Instead, it says that it will 'launch a debate', on four issues, (para 12) only one of which concerns "a possible framework directive". The paper gives no reason for mentioning, and then ignoring, explicit requests from both the parliament and the council.

The Commission has previously acted in the same way to ignore or revise specific requests from the parliament and the council of ministers concerning public services. Instead, the green paper states that it will deal with four issues, without explaining where they come from (para 12):

- "the scope of possible Community action that implements the Treaty in full respect of the principle of subsidiarity" (discussed in part 2.2 of the paper, paras 38-42)
- "the principles that could be included in a possible framework directive or another general instrument concerning services of general interest and the added value of such an instrument" (discussed in section 3)
- "the definition of good governance in the area of organisation, regulation, financing and evaluation of services of general interest in order to ensure greater competitiveness of the economy and efficient and equitable access of all persons to high-quality services that are satisfying their needs" (discussed in section 4)
- "any measures that could contribute to increasing legal certainty and to ensuring a coherent and harmonious link between the objective of maintaining high-quality services of general interest and rigorous application of competition and internal market rules" (see above).

The fourth issue seems a heartfelt wish rather than a realistic policy issue – the wish to find that competition and the internal market will of themselves be sufficient to generate good SGI, through a metaphysical 'coherent and harmonious link'. This question does not seem to be discussed anywhere in the paper - section 5 of the paper, where it might be expected, is concerned with trade and development policies and globalisation, mainly GATS. [163] The rest of the paper does not however reach any specific conclusions on these issues, but asks questions in relation to them.

Conflicts with subsidiarity

The paper acknowledges the Amsterdam treaty's recognition of SGI as amongst the EU's 'shared values', referring to the 'European model of society', and recognises the diversity of practice in member states and regions (para 11): "The European Union respects this diversity and the roles of national, regional and local authorities in ensuring the well-being of their citizens and in guaranteeing democratic choices regarding, among other things, the level of service quality".

But this recognition needs to be offset against the fact that the EC currently treats the internal market as taking priority over SGI decisions. This sense of priorities cannot be described as a particularly European value, rather a shared value of global and continental trading zones: the same priority of trade ahead of public services can be seen in for example NAFTA, and globally in the GATS provisions of the WTO.

Misleading and excessive claims on liberalisation of SGEI

The green paper gives a misleadingly harmonious picture of the history of the creation of the liberalisation directives. It claims that (2.1, para 32) "At the same time, the Community has adopted a comprehensive regulatory framework for these services which specifies public service obligations at European level and includes aspects such as universal service, consumer and user rights and health and safety concerns."
This is an historically incorrect account. There was lengthy and acute period of disagreement between the EC, industry, unions, member states and the parliament as a result of which the Commission was reluctantly persuaded to address service issues in order to get agreement to the liberalisation directives. The paper also makes excessive claims for liberalisation, in respect of its developmental role and its effect on prices and services.

Para 5 more cautiously claims that "there is, based on the available information, no evidence supporting the thesis that liberalisation has had a negative impact on their overall performance, at least as far as affordability and the provision of universal service are concerned": and it claims that the EC has always promoted "controlled" liberalisation to protect the general interest. (This claim of 'controlled' liberalisation is also used in the context of GATs discussions by Commissioner Lamy.)

Again, this can be challenged. In electricity, the successive bankruptcies of UK electricity generators TXU, British Energy and AES-Drax, accompanied by the concentration of generation in 4 or 5 vertically integrated groups is hardly a success story for liberalisation. There is also strong evidence that rail liberalisation has worsened performance in the UK, with a series of crashes attributable to precisely to the fragmented structure introduced by liberalisation:[164] yet the EC is pushing forwards as fast as possible with introducing similar liberalisation of railways elsewhere in Europe.

Para 6 offers a further unsupported generalisation, this time concerning employment: "Initial fears that market opening would have a negative impact on employment levels or on the provision of services of general economic interest have so far proved unfounded. Market opening has generally made services more affordable." This is not true in electricity, for example, where 300,000 jobs have been lost in Europe in the last decade, [165] much of it attributable to liberalisation and responses to it such as outsourcing of work; and both the UK and Sweden, early liberalisers in electricity, have had to warn major companies about cartel behaviour forcing prices up.

A template for liberalization

The paper effectively discusses the possibility of a services directive in paragraphs 37-41. It does so by suggesting that there could be an attempt to generalise from the existing public service obligations in various sector directives in SGEI (para 38-39): "A general instrument could set out, clarify and consolidate the objectives and principles common to all or several types of services of general interest…". Such a directive would not be a framework for SGI or public services, but a framework for their liberalisation. This suggestion of creating a 'template' for further future liberalisations is effectively the opposite of what was intended by the requests to the Commission to draft a directive - the objective and reason for those requests was to give EU status to the objectives of SGI themselves, not to extend liberalisation even further.

Procurement: does corporatization mean compulsory tendering?

The green paper reiterates the usual acknowledgement that the treaty requires neutrality on the question of public or private ownership, and reiterates that states can decide for themselves whether to provide services through an in-house body or via a third party (para 79).

This fails to reflect yet another area of tension between EC law and public services organisation, this time the tendering requirements of the procurement directives. It seemed clear that a public authority could first decide whether to carry out a function itself – the EU's neutrality protecting this right - and, if it decided to outsource it, it would be required to invite tenders through a competitive and transparent procedure., but the authorities' freedom to choose seemed primary.

The green paper however takes an extreme position, claiming in effect that existing EU law means that in-house operations are economic undertakings and therefore subject to competition requirements - and therefore they are in breach of the Treaty's requirement for competition unless tenders being invited from other (private) bidders.

GATS: trading SGI for business abroad

The paper gives a remarkably prominent place to the negotiations at the World Trade Organisation (WTO) on the General Agreement on Trade in Services (GATS). In the main body of the paper, these are discussed under the heading of 'globalisation'. In the Annex, the 'international dimension' of GATS is one of the four key 'policy instruments' (along with regulation, evaluation and financing), and over 4 pages are devoted to outlining the relevance of GATS for SGI in EU countries.

The paper agrees[166] that SGI are not excluded as such from the GATS, and so the countries of the EU may have to liberalise the relevant public services as a result of trade negotiations: "For those services of general interest that are not excluded from the scope of the GATS, the degree of openness that countries offer is not set automatically and must be the subject of negotiations." (para A78). [167]

Financing public services – solidarity or market distortion?

The green paper displays the real contradictions over the question of financing public services, but without resolving them. Whereas for public services to work best, principles of solidarity, equality and risk-sharing are of primary importance, for markets, such mechanisms are seen as public subsidies which risk distorting the level playing field for competing companies – the danger outlawed by the state aid provisions of the treaty.

Thus the green paper makes a welcome acknowledgement of the importance of solidarity criteria for structuring the financing of a public service. It makes the interesting observation that "Other relevant criteria for selecting a financing mechanism, such as its efficiency or its redistributive effects, are currently not taken into account in Community legislation. Neither have the effects of the selected mechanism on the long-term investment of providers of services and infrastructure and on security of supply been specifically considered" (para 91) and then asks whether the EC "should take measures in favour of specific financing mechanisms" (para 92).

This is a real policy issue for public services and such debates should certainly be developed. However, the problem is that the Commission currently has no competence to deal with such a question - except through the treaty's reference to state aid in the context of competition. The main body of the green paper also notes the need for subsidies and solidarity principles (paras 86 and 87) but the idea of a debate on the solidarity criteria does not appear. Instead, it reiterates a plan (para 88)

> "to establish a Community framework for state aid granted for services of general economic interest, and then, if and to the extent justified by the experience gained with the application of this framework, adopt a block exemption regulation in the area of services of general economic interest. Work on guidelines on the application of state aid rules to services of general economic interest is currently underway."

The conflict between the solidarity principles and the 'state aid' approach is thus presented, but it is neither acknowledged nor discussed. By implication, the project on state aid rules has priority. It is clear that the EC is frustrated that states have too much exemption for SGI – reinforced by a recent ECJ decision, which ruled that subsidies to transport operators are not caught by the treaty provisions against state aid, on the basis of four simple criteria for exempting such subsidies. [168] The EC by contrast wants to acquire the authority to limit in advance the legitimate use of state aid, as part of the project to harmonise public services with internal market rules.

9 Conclusions

Sectoral overviews

Water

The past decade in the water industry in Europe has been characterised by two major influences – attempts to expand internationally by the big multinationals and their would-be rivals; and EU policy and legislation, particularly through the impact of the 1992 Urban Wastewater Treatment Directive on required levels of investment. EU Directives on environmental standards have led to increased levels of investment. The Water Framework Directive has not had a significant influence on the supply and distribution of water.

The major British companies, privatized in 1989, have attempted to expand abroad, but with limited success, and in a number of cases been taken over by foreign multinationals. As a result the private water sector is still dominated by the two leading water multinationals, Suez and Veolia; although in Western Europe the private sector's share of the industry has not changed significantly over the decade. In Eastern Europe, only the Czech Republic has seen significant privatisation, whilst other countries, such as Hungary and Poland, have relied more on public sector development for the investment and improvement needed in order to meet EU standards. This seems to be a classic example of cherry picking. Water companies have contracts in the main urban centres but little elsewhere except for the Czech Republic.

Energy

The past decade in the energy industry in Europe has been characterised by strong pressures from a variety of sources (EU policy and legislation, some national and local governments) towards liberalization and privatization. These pressures have led to a very rapid concentration of the sector. It is notably those companies that have been able to aggressively pursue market share through takeover and merger, whilst (despite the EU electricity directive) not being exposed to strong competition in their home markets, which have emerged as the dominant European energy companies. This includes the German utilities E.ON and RWE, and, still state-owned, the French Electricite de France and Gaz de France, and the Swedish Vattenfall. As well as consolidating at home, these companies have expanded heavily internationally, for example in energy privatization in eastern Europe."

Waste management

Environmental considerations, diversification of waste services, EU legislation as well as privatisation have all influenced the waste management industry during the past decade. By 2003, the European industry was dominated by a small number of large companies. The large US companies had retreated, but the number of European multi-utility companies is expanding. Although there is still considerable public sector provision of municipal waste management services across Europe, companies are lobbying for increased compulsory competitive tendering, the prohibition of municipal involvement in industrial waste markets and the deregulation of national waste industries.

Health and social care

Demographic factors and the need to limit public sector spending both influenced the introduction of privatisation and contracting out of healthcare ancillary services and social care services. By the mid 1990s private companies had begun to win contracts across Europe. The increased commercialisation of the health and social care sectors has also meant that the sector is vulnerable to EU competition legislation. Social care has not proved as profitable for companies as expected and some are withdrawing from social care provision in the short term. Other healthcare companies have started to expand into the direct provision of clinical services to the public sector. Within Europe, there is a growing awareness that healthcare policy cannot just be the responsibility of national governments but must also have some EU policy direction.

Conclusion

Each sector shows a slightly different pattern of multinational company involvement following the liberalisation and privatisation of public services. Multinational companies have tended to acquire small private companies that initially won municipal contracts. Although some utilities have been fully privatised, companies have experienced limits to their expansion resulting in either retreat from the market, or the development of European multi-utility mergers. However, companies are still lobbying for increased liberalisation and privatisation as well as finding new ways of operating within public sector environments.

EU directives and policies are becoming increasingly important, through their role in shaping the internal market, in further promoting the liberalisation of public services. Even though the defining and recognition of Services of General Interest suggests a potential safeguarding of public services, EU directives and policies highlight more dominant attitudes towards public services, which are determined by the need for a competitive internal market.

Although the need for some form of social solidarity is still being debated within the EU, the struggle to both protect and further develop public services and the workforces that are essential to their operation will continue.

10 Annex: Complete listing of EPSU-PSIRU commissioned research

EPSU commissioned research 1994-2004

Water

- **European Water Industry, 1994** - paper prepared by PSPRU for EPSC Conference, Brussels, 5-6 Sep 1994
- **EPSC Water Database, 1994**, PSPRU Report, November 1994
- **Water Finance, 1996,** PSPRU, PSI Water Conference October 1996
- **The problems with privatising water, 1997,** Jan-Willem Goudriaan (PSI) and David Hall (PSPRU), January 1997
- **Water multinationals: recent trends, April 1997,** PSPRU Paper for EPSU, 15 April 1997
- **Public partnership and private control - ownership, control and regulation in water concessions in central Europe,** David Hall, 1997
- **Privatisation and the water industry, 1997**, prepared for the seminar at the Stockholm Water Festival, August 1997
- **Water privatisation in CEE, 1998,** Report by PSPRU for PSI/EPSU Conference in Prague, 5/6th March 1998
- **Trends in the water industry in the EU 1999,** David Hall, February 1999 for PSI/EPSU meeting
- **Italian Water Industry 1999: A Profile,** D.Hall and E.Lobina, Feb 1999 – for PSI/EPSU meeting
- **European Water Industry: A background to a discussion on EWCs**, Robin de la Motte, David Hall, and Emanuele Lobina, October 2003

Waste Management

- **The Municipal Waste Management Industry In Europe - Issues, Trends and Multinationals**, PSPRU 1997
- **Mergers and acquisitions in the European waste management industry 2000-2001 -** report for waste meeting of EPSU trade union representatives, Steve Davies, February 2001
- **European waste management: background to a discussion on EWCs**, Steve Davies, March 2003

Energy

- **Employment in Energy Sector in Europe**, PSPRU, October 1996
- **Energy trends in EU,** David Hall and Emanuele Lobina, 12 March 1999
- **Gas Industry liberalisation, restructuring and employment in the EU,** Steve Thomas, David Hall and Vladimir Popov, May 2002
- **Critique of CEER Paper on regulation of energy infrastructure -** analysis and comments prepared for the European Federation of Public Service Unions (EPSU), Steve Thomas, June 2003
- **Blackouts: Do liberalisation and privatisation increase the risk?**, Steve Thomas and David Hall, December 2003
- **European Works Councils and the electricity sector,** Steve Thomas, 2004

Health and Social Care

- **Privatisation of Social Care Services across Europe,** PSPRU, December 1997
- **Are Health Systems National?,** Jane Lethbridge, April 2002
- **Public health sector unions and deregulation in Europe**, Jane Lethbridge, May 2003
- **Presenting the Case for Social Dialogue in the Hospital Sector at EU Level**, Jane Lethbridge, October 2003
- **European Works Councils and the Healthcare sector**, Jane Lethbridge, February 2004

Europe

- **EU competition policies and public services**, presentation at EPSU conference, 12th December 2001, David Hall, December 2001
- **Critique of the EC paper on Horizontal Evaluation of SGI**[169], David Hall (PSIRU, University of Greenwich) and Dexter Whitfield (Centre for Public Services), 25 September 2002
- **Water and DG Competition**, David Hall, May 2003

- **The European Commission's Guide to Successful Public-Private Partnerships - a critique,** Robin de la Motte and David Hall, May 2003
- **EC Internal market strategy – implications for water and other public services**, David Hall, May 2003
- **A critique of the EC green paper on Services of General Interest**, David Hall, September 2003

Other

- **Local government service privatisation and multinational companies in Europe**, PSPRU, February 1997
- **Privatization and Democracy,** David Hall and Jan Willem Goudriaan, June 1999
- **2004 EPSU PPPs Survey,** Robin de la Motte, March 2004

Selected research on Europe commissioned by PSI, 1996-2003

Water

- **The Water Multinationals,** David Hall, September 1999
- **Water and privatisation in central and eastern Europe, 1999,** David Hall and Emanuele Lobina, 26 September 1999
- **Water privatisation and restructuring in Central and Eastern Europe**, 2001, Emanuele Lobina, November 2001
- **International Solidarity in Water Public-Public Partnerships in North-East Europe**, David Hall & Emanuele Lobina, March 2003
- **Water privatisation and restructuring in Central and Eastern Europe and NIS countries, 2002,** Dave Hall, Emanuele Lobina, & Robin de la Motte, March 2003

Waste Management

- **The private sector and waste management in central and eastern Europe 2000**, Steve Davies, December 2000

Energy

- **Trends in energy privatisation in central and eastern Europe, 1998,** David Hall, June 1998
- **Energy restructuring in Albania, Bosnia, Croatia, Slovenia, former Yugoslavia, and surrounding region,** David Hall and Kate Bayliss, July 2000
- **Nordic Energy Market,** Sam Weinstein, 2000

Other

- **Privatisation in health services in Central and Eastern Europe,** PSPRU, September 1996
- **Services of General Interest in Europe an evidence-based approach -** written submission to European Parliament Committee on Economic and Monetary Affairs, 28 February 2001, David Hall, February 2001

---

[1] Further details on these are available on request from PSIRU
[2] "Les communes ont a negocier avec des partenaires prives dotes de moyens techniques puissants….la negociation et le suivi des contrats de delegation….impliquent un pouvoir d'expertise que n'ont pas necessairement les communes". CdC 1997, p. 125-126
[3] "La delegation est alors detournee de son objet pour devenir une technique elaboree de financement due budget principal, evaporable a l'usager-contribuable". CdC 1997
[4] See PSPRU Paper "Water Concessions: Ownership, Control and Regulation" (August 1997)
[5] Global Water Report 36, 18 Dec 97
[6] Standard & Poor's CreditWire 12/03/97; FT Bus Rep 22 Jul 97
[7] 03 Oct 97 FINANCE: HYDER TO SHED 350 JOBS IN SECOND CUT: THE GUARDIAN; Global Water Report, 23 Oct 97
[8] Global Water Report 23 Oct 97
[9] Birmingham Post, 27 Sept 96
[10] GWR 21Aug 96
[11] Financial Times, 7 Aug 97
[12] Reuters 29 May 97
[13] Global Water Report, 23 Oct 97
[14] Global Water Report, 23 Oct 97
[15] Global Water Report, 23 Oct 97

[16] 04 Dec 1998 Global Water Report
[17] 15 Jan 1999 LES ECHOS
[18] Source: Eureau: Management systems of drinking water production and distribution services in the EU Member States.
[19] Il Sole 24 Ore, 9 May 1998.
[20] Source: PSIRU database.
[21] Source: PSIRU database.
[22] SABI (SOUTH AMERICAN BUSINESS INFORMATION): EL CRONISTA (ARGENTINA): ARGENTINA: VIVENDI TAKES OVER SPARKLING 30-Jul-1999
[23] Napi Gazdasag/Vilaggzdasag 15 July 1999, as summarised by Reuters 15 July 1999: - Szeged local council is to break with the French concern; Compagnie Generale des Eaux, which operates the city's water supplier company, possibly leading to a series of lawsuits.
[24] 20 Oct 1998 HUF 1.5BN SEWAGE TREATMENT PLANT IN SZEGED: MTI-ECONEWS
[25] 09 Sep 1999 HUNGARY TO GET FURTHER EU FUNDS FOR INFRASTRUCTURE DEVELOPMENT.: BBC MONITORING SERVICE Reuter Textline (Q2:26)
[26] Warner, J., Stangret, P., Schwartz, K. & Braadbaart, O. (1999) The Public water PLC in Poland: the case of AQUA S.A., in Blokland, M., Braadbaart, O. & Schwartz, K. (Ed.) *Private Business, Public Owners – Government Shareholdings in Water Enterprises*. Published for the Ministry of Housing, Spatial Planning and the Environment of the Netherlands: 169-180.
27 Source: PSIRU database, "Problems following award of Sofia water concession to International Water", News ID 4255.
28 Valentin Georgiev, April 5, 2001, in PARI Daily, "Water tariffs rise disputed in court".
29 Valentin Dimitrov, "Sofia water supply tariff goes 30% up", PARI Daily, 16 February 2001.
30 Source: Bulgarian Federation of Consumers.
31 Valentin Georgiev, April 5, 2001, in PARI Daily, "Water tariffs rise disputed in court" (see note 2 above).
32 Source: PSIRU database, "Vivendi wins Prague water concession", News ID 4404.
33 Prague Business Journal, January 22, 2001, "Competitors say Vivendi-Anglian's Prague water bid is outrageous/High price tag could double water rates".
34 CTK Business News Wire, January 26, 2001, "Vivendi, Anglian likely to buy Prague water distributor".
35 CTK Business News Wire, September 27, 2001, "Prague PVK wants to expand into Central Bohemia".
36 Czech Republic and Slovakia Business Report, September 27, 2001, "Prague-based company to expand in Central Bohemia".
37 Source: PSIRU database, "International Water acquires control of Estonian capital's water", News ID 4425.
38 Source: PSIRU database, "Financial manipulations of Tallinn water by International Water", News ID 4495.
[39] Directive 94/45/EC was adopted by all EU member states except the UK on 22 September 1994, under Article 2(2) of the Agreement on Social Policy (the "Social Chapter") and was later extended to cover the rest of the European Economic Area (Norway, Liechtenstein and Iceland). The deadline for national implementation in these member states was 22 September 1996. The original Directive was extended to cover the UK by directive 97/74/EC in December 1997.
[40] Strictly speaking, the requirements apply to "undertakings", a term which may include partnerships or other forms of organisation as well as companies. *http://www.dti.gov.uk/er/consultation/ewcover2.htm*
[41] For details of this and commentary see "Water Multinationals - no longer business as usual" www.psiru.org/reports/2003-03-W-MNCs.doc
[42] Global Water Report, 18 July 2003
[43] Customer figures are estimates as of September 2003, which for Ondeo in particular are lower than for 2002. Figures may include some double counting due to joint ventures between multinationals, eg Berlin, Budapest, Adelaide (Veolia, Thames), various Suez-Veolia joint ventures in France, Veolia-SAUR in the Czech Republic, etc.
[44] The Suez figure excludes energy trading activities. Including these, total 2002 revenue is €46,090m.
Most of Vivendi Universal's stake in Veolia Environnement was sold in late 2002, leaving Vivendi with only 20% ownership. Vivendi Universal's 2002 sales were €58150m. On a pro forma basis (mostly the effect of excluding Veolia Environnement), the figure is €28,729m.
[45] PSIRU estimate for Ondeo: Total 2002 figures for SELS and SEIS, which includes waste services, is €15897m. In 2001 water generated two thirds (0.656%) of the water and waste total. This gives 2002 water figure as €10429m, an increase on 2001's €10088m of €341m. Note that 2003 figures will be lower, as Suez sold Ondeo Nalco, with revenues of around €2600m, in September 2003, as well as withdrawing from several concessions, such as Atlanta.
PSIRU estimate for Thames: Sales are based on Q1 2003 annualized, to include American Water, acquired in 2001 and consolidated from January 2003. Thames' 2002 reported sales were €2850m.
PSIRU estimate for SAUR: 73% of SAUR's 2002 business (€2516m) was in water, i.e. €1837m.
PSIRU estimate for Anglian Water: Subtracting AWG's figures for Infrastructure Management Business (GBP1181m) from total revenues gives GBP701m. However, as some of the business excluded in this way will be

water-related, the estimate given is based on UK water (Anglian Water Services Ltd, GBP727m in 2002-3) plus International Services (GBP209.5m in 2002-3), assumed to be largely water, particularly Chile and Czech Republic concessions.
PSIRU estimate for United Utilities: North West Water sales, 1999, were €1374m. UU combined water and electricity sales, 2002, were €1760m. Since some water-related work is through UU Contract Solutions (notably Welsh and Scottish contracts), the latter is taken as an estimate of water sales.
PSIRU estimate for Cascal-Vitens-Utilities Inc: revenues and customer numbers for the three companies added together.
PSIRU estimates for IWL 2002: in the UK IWL declared its revenues as GBP15m; but this appears to exclude some revenue consolidated by the Dutch-registered holding company International Water Holdings BV, so the figure quoted is a PSIRU estimate. Note that as of August 2003 IWL sold its Tallinn Water, Sofia Water, Aqua (Poland) and Manila Water stakes to United Utilities.
[46] A 24.1% interest in Bristol Water Holding was sold in 2002 for approximately €37 million, and a 31.74% interest in South Staffordshire for €131 million. Source: Veolia Environnement, Form 20-F, As filed with the Securities and Exchange Commission on May 30, 2003, p. 57.
[47] Source: European Commission DG XI Homepage July 1997
[48] Source: European Commission DG XI Homepage July 1997
[49] Source: Reuter Textline 16 May 1995
[50] Source: US Commerce Dept.
[51] Source: Market Europe Predicates Newsletters
[52] Source: Warmer Bulletin, Issue Number 48, February, 1996
[53] Source: BFI Annual Report 1996
[54] Source: BFI 1995 Company Report
[55] Source: Waste Management International Annual Report 1996
[56] Source: Privatisation Disaster for Quality, PSPRU 1992
[57] Source: European Report Issue 2153
[58] Source: Reuter Textline 11 June 1997
[59] 2002 in review: waste management market boosted by EU waste directives, Edie weekly summaries, 03/01/2003
[60] Ecotec (2002), Analysis of the EU Eco-Industries, their Employment and Export Potential A Final Report to DG Environment
[61] IWM (2001) Presidential Address. IWM Annual Conference, June 2001.
[62] Suez Annual Report 2001
[63] Hurst, Kevin (2002) Facing our future: combining idealism with realism. Kevin Hurst, Marketing Director, Onyx UK. Paper to the Environmental Services Training and Education Trust (ESTET) conference, 18 September 2002.
[64] Hurst ibid
[65] German Advisory Council for the Environment(2002) Environmental Report 2002: Towards a New Leading Role, March 2002
[66] Audit Commission (2001) Waste Management: Guidance for Improving Services
[67] Entwhistle, Tom, Martin, Steve and Enticott, Gareth (2002) Making or Buying? The value of internal service providers in local government. A report for Public Services Network
[68] Entwhistle et al ibid
[69] Vivendi (2001) Presentation to investors and credit analysts, June 2001
[70] Suez (2001) Corporate Brochure
[71] RWE (2002) Annual Report
[72] RWE ibid
[73] European Environmental Bureau (2001) Towards a low waste Europe: 10 key issues. April 2001
[74] Suez Press Release 9/1/2003 SUEZ introduces its 2003-2004 action plan: refocus, reduce debt, increase profitability
[75] Suez 2003-2004 Action Plan, 9 January 2003
[76] Suez 2003-2004 Action Plan, 9 January 2003
[77] Suez 2002 Results presentation
[78] VIVENDI ENVIRONNEMENT TO CHANGE NAME (VIVENDI ENVIRONNEMENT CHANGERA DE NOM LE 30 AVRIL), Les Echos, March 25, 2003
[79] Vivendi Environnement (2003) 2002 Annual Results, analyst meeting 4 March 2003
[80] RWE (2003) Annual Report 2002
[81] RWE (2003) Annual Report 2002
[82] Utility Week, "RWE denies plans to axe 10,000 jobs", January 31, 2003
[83] AFX News, "RWE's Roels says plans to develop new structure for company by this summer", March 17, 2003
[84] Saint Bris, Henri (2001) Public Private Competition. Presentation to the international FEAD conference, 12-13 October 2001, by Henri Saint Bris, Director of Strategic Development, Sita.
[85] FT Bus Rep 10.2.97

86 Reuters 08 March 1999: National Power in November paid 180 million pounds (Dollars 289.9 million) for the right to bill 2.2 million electricity customers in the Midlands region, and astonished analysts by putting up for sale its Drax coal plant - 40 percent of its UK generating capacity - in order to get regulatory clearance for the plan.
87 08 Mar 1999 FOCUS-NAT. POWER HEATS UK GAS BATTLE WITH CALORTEX: REUTER NEWS SERVICE - UNITED KINGDOM Reuter Textline (Q2:62)
88 02 Mar 1999 MULTINATIONALS AIM TO POOL POWER SUPPLIES: DIE PRESSE Reuter Textline (Q2:40)
89 25 Feb 1999 SWEDISH-GERMAN POWER COMPANY IN NETHERLANDS (ZWEEDS-DUITS STROOMBEDRIJF IN NEDERLAND): NRC HANDELSBLAD World Reporter (Q1:24)
90 Report fromKøbenhavns Belysningsvæsen (KB), which is a public utility (where we have about fifty percent of our members !), has joined forces with "Sydkraft" the swedish company, the Danish NKV and SEA´s to make an electricity-trading company and alliance.
91 22 Feb 1999 BOKSLUTSKOMMUNIKE FOR 1998 SWEDEN: SYDKRAFT'S 1998 RESULTS: Sydkraft/Press release Globalbase (Q1:23)
92 09 Oct 1998 Main: Norwegian Hafslund to be the second foreign firm to compete in the electricity market (La noruega Hafslund sera la segunda empresa extranjera que competira en el mercado electrico): Expansion FT McCarthy
93 06 Jul 1998 REPORT SAYS ENRON MAY HAVE BEEN BIG WINNER IN JUNE POWER TRADING: DOW JONES ONLINE NEWS World Reporter
94 12 Feb 1999 GOVERNMENT PONDERS ESB SALE: European Energy Report FT Bus Rep
95 The British government, as part of its 'Skills Dialogues' programme published a report in 2002 on future skill needs in the gas water and electricity industries. http://www.dfes.gov.uk/skillsdialoguereports/docs/SD_10_Gas_Water__Elect.pdf
96 Indicators are being collected under the auspices of the Council of European Energy Regulators (CEER). Their second report on quality of electricity of supply in Europe was published in September 2003. Council of European Energy Regulators Working Group on Quality of Electricity Supply (2003) 'Second benchmarking report on quality of electricity supply' AEEG, Rome (http://www.ceer-eu.org)
97 For an account of the UK information and incentives programme, see http://www.ofgem.gov.uk/temp/ofgem/cache/cmsattach/189_19dec01.pdf .
98 European Commission (2000) 'Recent progress with building the internal electricity market'
Communication from the Commission to the Council and the European Parliament Brussels, 16.5.2000
COM(2000) 297 final.
99 Financial Times, August 12, 2003, "Quarter of N-power plants shut in France"
100 "Why Europe will face more US-style blackouts" - Background paper by Claude Turmes, Member of the European Parliament and rapporteur on the electricity liberalisation directive. October 2003. http://www.cogen.org/Downloadables/Other/Claude_Turmes_paper_Oct2003.doc
101 "Report on the blackout in Italy on 28 September 2003 November 2003", http://www.energie-schweiz.ch/imperia/md/content/energiemrkteetrgertechniken/elektrizitt/strompanne03/3.pdf English press release at http://www.energie-schweiz.ch/imperia/md/content/medienmitteilungen/mm06-122003/89.pdf
102 UCTE Press Release Monday 29 Sept 2003, "After The Italian Nation-Wide Black-Out On 28 September 2003" http://www.ucte.org/pdf/News/20030929-After-the-Italian-Black-out.pdf
103 Deregulation's dysfunctional markets strike back: the blackout of '03 intensifies political and regulatory risk for U.S. transmission. By Peter Rigby. Platts Energy Business and Technology October 2003
http://www.platts.com/businesstech/index.shtml
104 EIB: The Growth Initiative: further report to ECOFIN 7 October 2003 . COUNCIL OF THE EUROPEAN UNION 13148/03 ECOFIN 277. Brussels, 1 October 2003 .
http://www.eib.org/Attachments/general/events/ecofin0710_2.pdf
105 After the Lights Went Out, Burns, Potter, Witkind-Davis, NRRI (USA) September 2003
106 U.S.-Canada Power System Outage Task Force Interim Report: Causes of the August 14th Blackout in the United States and Canada. page 74: ftp://www.nerc.com/pub/sys/all_updl/docs/blackout/814BlackoutReport.pdf
107 'SKILLS DIALOGUES: LISTENING TO EMPLOYERS' Business Strategies report July 2002 An Assessment of Skill Needs in the Gas, Water and Electricity Industries. For further information on the problems of outsourcing in the European electricity industry see Restructuring and outsourcing of electricity distribution in EU by Stephen Thomas and David Hall May 2003 http://www.psiru.org/reports/2003-05-E-distriboutsource.doc .
108 Svenska Kraftnät: The black-out in southern Sweden and eastern Denmark, 23 September, 2003 Preliminary report
http://www.svk.se/docs/aktuellt/Avbrott030923/Disturbance_Sweden_DenmarkSept23.pdf
109 The US blackout - Lessons for Europe. Presentation at European Energy and Transport Forum 26 September 2003 by William Webster, DG TREN Electricity and Gas Unit William.Webster@cec.eu.int.

110 EIB: The Growth Initiative: further report to ECOFIN 7 October 2003 . COUNCIL OF THE EUROPEAN UNION 13148/03 ECOFIN 277. Brussels, 1 October 2003 . http://www.eib.org/Attachments/general/events/ecofin0710_2.pdf

111 "Why Europe will face more US-style blackouts - Background paper by Claude Turmes, Member of the European Parliament and rapporteur on the electricity liberalisation directive. October 2003.

112 Energy Probe: Update on the Blackout Report 20 November 2003 http://www.energyprobe.org/energyprobe/index.cfm?DSP=content&ContentID=8943

113 NERC Affirms U.S.-Canada Power System Outage Task Force Findings ftp://www.nerc.com/pub/sys/all_updl/docs/blackout/11-19-03-Interim-Report-PR.pdf

114 Source: Employment In Europe 1995 (European Commission)

115 Source: Employment In Europe 1995 (European Commission)

116 Hall D. Lethbridge J., Lobina E.,, Thomas S., and Davies S. (2002) The UK experience – privatised sectors and globalised companies A paper presented at the Cesifo/University of Warwick conference Munich, January 2003.

117 UNISON (2003) Nursery companies, UNISON Bargaining Support June 2003

118 Capio Press release 16 February 2004

119 Source: Reuters News Service 21/4/97

120 Source: http/www.iss.dk

121 Source: ISS Annual Report 1996

122 Source: 03 Feb 97 Reuter News Service

123 www.issworld.com

124 Global Newswire 31 October 2001, 7 December 2001

125 Sodexho Annual Report 1996

126 Sodexho Annual Report 1996

127 Consolidated Treaty Art 3: see Annexe II for full text

128 Consolidated Treaty Art 3, p and q: see Annexe II for full text

129 There are some areas where the EU objectives have a specific effect on the provision of public services, most notably the commitment to an environmental policy, whose standards have required the considerable improvement of water, sanitation and pollution control services. And the Treaty of Amsterdam explicitly obliges the European Community to take into account the high level of health protection in all policies thus obliging the European Community to take into account health considerations also in other sectoral policies.

130 Consolidated Treaty Art 5: see Annexe II for full text

131 Consolidated Treaty Art 16: see Annexe II for full text

132 Consolidated Treaty Art 86: see Annexe II for full text

133 Consolidated Treaty Art 87: see Annexe II for full text

134 Consolidated Treaty Art 256: see Annexe II for full text

135 Article 36 of the Charter of Fundamental Rights of the European Union

136 The European Commission Communication on 'Services of General Interest in Europe'. (COM (2000)580 - C5 0399/2001- 2001/2157 (COS)).

137 REPORT on the Commission communication 'Services of General Interest in Europe' (COM(2000) 580 – C5-0399/2001 – 2001/2157(COS)) Committee on Economic and Monetary Affairs 17 October 2001 Rapporteur: Werner Langen A5-0361/2001 http://www.psiru.org/epsuconference/documents/296003EN%20langen%20rapport.doc

138 See EPSU's Proposed Amendments to the European Parliament Report on the Commission Communication on 'Services of General Interest in Europe'. http://www.epsu.org/structures/resol/lanFprop.pdf

139 Pre-Draft CEEP-ETUC proposal for the structure of a framework directive establishing a legal framework for services of general interest in the European Union[139] (wk 23/07/01) http://www.psiru.org/epsuconference/CEEP-CES%20DirectiveE.doc

140 Brussels, 18.6.2002. COM(2002) 331 final. http://europa.eu.int/comm/economy_finance/publications/structural_policies/2002/com_2002_331_en.pdf

141 Brussels, 7/12/2001: Annex to the report on the functioning of product and capital markets. SEC (2001) 1998). http://europa.eu.int/comm/internal_market/en/update/economicreform/cardiff02enfull.pdf

142 "Study On The Application Of The Competition Rules To The Water Sector In The European Community" December 2002. Prepared By Wrc And Ecologic For The European Commission - Competition Directorate General Study Contract No. Comp/2002/E3/Si2.334052 http://europa.eu.int/comm/competition/publications/studies/water_sector_report.pdf

143 Speech by Commissioner Frits Bolkestein Member of the European Commission in charge of the Internal Market and Taxation, to Institute of Economic Affairs, London, 7 November 2002 "Nuclear energy needed more than ever" http://europa.eu.int/comm/internal_market/en/speeches/spch-02-543_en.htm

144 This paper uses the terms public services and "services of general interest (SGI)" interchangeably. The EC dislikes the term public services but, like others, uses the notion of public service to define SGI.

[145] Green Paper On Services Of General Interest COM(2003) 270 Final Europa.Eu.Int/Comm/Secretariat_General/Services_General_Interest/Docs/Com_2003_270_Fi_En.Pdf
[146] See Draft Treaty establishing a Constitution for Europe (18.07.2003) http://european-convention.eu.int/DraftTreaty.asp?lang=EN , proposed amendments at http://european-convention.eu.int/amendemTrait.asp?lang=EN , and the discussions and papers at http://europa.eu.int/futurum/index_en.htm .
[147] For an overview of the relations between EU laws and healthcare systems, see Jane Lethbridge: "Are Health Systems National?". April 2002 . http://www.psiru.org/reports/2002-04-H-national.doc
[148] "The European Union and Health Services" Paton et al. European Health Management Association 2002 http://www.tu-berlin.de/fak8/ifg/mig/pdf-dateien/2002/EU&HealthServices/EU&HealthServices1.pdf
[149] Ibid, Summary, section 2.1, 5.2
[150] http://europa.eu.int/comm/competition/publications/studies/water_sector_report.pdf
[151] http://europa.eu.int/comm/regional_policy/sources/docgener/guides/ppp/ppp_en.pdf
[152] http://www.europa.eu.int/comm/internal_market/en/update/strategy/index.htm
[153] europa.eu.int/comm/internal_market/en/update/strategy/index.htm
[154] http://www.wdm.org.uk/campaign/gats109leaks.htm
[155] http://europa.eu.int/comm/research/water-initiative/index_en.html
[156] http://www.corporateeurope.org/water/infobrief6.htm
[157] http://europa.eu.int/comm/internal_market/en/publproc/general/concen.htm
[158] AFSJ - Charter of Fundamental Rights - ARTICLE 36 http://www.europarl.eu.int/comparl/libe/elsj/charter/art36/default_en.htm
[159] For example Regulation (EEC) No 1191/69 of the Council of 26 June 1969 on action by Member States concerning the obligations inherent in the concept of a public service in transport
[160] Bulletin EU 9-1996 General interest services (1/1) General interest services *1.3.4.* Commission communication on services of general interest in Europe. Reference: Commission opinion on the Intergovernmental Conference: COM(96) 90; Bull. 1/2-1996, points I.1 and 2.2.1 http://europa.eu.int/abc/doc/off/bull/en/9609/p103004.htm
[161] "A Methodological Note for the Horizontal Evaluation of Services of General Economic Interest COM(2002) 331 final http://europa.eu.int/comm/economy_finance/publications/structural_policies/2002/com_2002_331_en.pdf , section 3.1.d
[162] For a PSIRU/CPS critique of this see Critique of the EC paper on Horizontal Evaluation of SGI September 2002
[163] There is in fact one clear link between competition and the internal market on the one hand, and public services on the other, is the procurement legislation which requires contracts issued by public authorities to be tendered openly throughout the EU and transparently evaluated.
[164] See Press Association May 28, 2003 Potters Bar: 'No Evidence Of Sabotage Or Vandalism'
[165] EPSU estimate
[166] See Markus Krajewski : Public Services and Trade Liberalization: Mapping the Legal Framework. Journal of International Economic Law Volume 6, Issue 2, July 2003: pp. 341-367
[167] The paper (para 101) and the annexe (paras A86-A90) states that in the GATS negotiations the EU has already offered binding commitments in respect of some SGI (telecommunications, private education, environmental services and health and social transport. It claims that these commitments are in respect of services which are *"already open to competition"* and that these commitments have so far had no impact on the way in which services of general interest are regulated or financed.
[168] Judgment of the Court of Justice in Case C-280/00: Altmark Trans GmbH and Regierungspräsidium Magdeburg v Nahverkehrsgesellschaft Altmark GmbH. 24 July 2003 PRESS RELEASE No 64/03 the court rules that financial support which merely represents compensation for public service obligations imposed by the member states does not have the characteristics of state aid
[169] *A Methodological Note for the Horizontal Evaluation of Services of General Economic Interest*, Brussels, 18.6.2002 COM(2002) 331 final http://europa.eu.int/comm/economy_finance/publications/structural_policies/2002/com_2002_331_en.pdf