

**AGGREGATES, CEMENT AND READY-MIX CONCRETE MARKET
INVESTIGATION**

**Summary of telephone response hearing with the Department of Energy &
Climate Change held on 11 July 2013**

**Market data remedy C6: Recommendations to the UK Government/European
Commission on the publication of Great Britain cement producers' verified
emissions data under the EU ETS**

1. The Department of Energy & Climate Change (DECC) expressed a number of concerns about the Competition Commission's (CC's) proposed remedy in relation to the publication of emissions data under the EU Emissions Trading System (EU ETS) (remedy option C6).
2. DECC's position (as set out in its published written response to the CC's Notice of Possible Remedies) was that that even if the publication of EU ETS data contributed to the creation of the AEC in the cement market provisionally identified by the CC, the benefits obtained from publishing this data outweighed any detrimental effects. Therefore, DECC did not agree that the CC's remedy proposal (C6) should be implemented.
3. DECC's view was that the primary cause of the AEC was the behaviour of the companies in the cement market rather than the publication of the EU ETS data, and that compared with the companies' behaviour publication of this data seemed to be more of a second or third order issue.
4. A number of public benefits were derived from the publication of the EU ETS data. The transparency achieved by publishing the data put pressure on companies to reduce their emissions and to become more energy efficient and transparent about their carbon footprint. The data enabled the public, environmental NGOs and trade associations to examine and compare the environmental performance of one plant against another. This allowed questions to be raised about why some plants had higher emissions than others. The publication of this data was part of the Government's transparency agenda which was to help inform public opinion and assist the public in making judgements based on facts. DECC noted that the website of Sandbag, an NGO focused on emissions trading, had maps showing the locations of all EU ETS plants (including cement plants) and data about each plant's emissions.
5. A delay in the publication of the data would not be as problematic as a total prohibition on publication. DECC said that aggregated data for the sector as a whole would suffice in terms of the general debate about the EU ETS. In terms of comments about individual companies' performances, the type of people who were interested in this data tended to pass comment on it almost immediately after data became available and would be likely to make assumptions in its absence, so a time lag would reduce the quality and factual basis of this type of debate. However, it would be difficult to measure how damaging this would be.
6. In respect of the timing of the data's publication, the data was published the day after the final deadline for its submission. This was intended to ensure that all participants in the carbon market were on a level playing field with regard to information. Previously, when there had been a delay in the data's publication, some interested

parties, which in some cases might have had access to other sources of information, were able to gain an advantage in trading of carbon allowances. In addition, some member states were required by their national laws to publish the data as soon as it became available. Any delay on publication of the data would have to be the same across the EU. There would be practical difficulties in introducing a delay, including the requirements noted above on some member states to publish their data immediately.

7. DECC explained how the system had operated under EU ETS Phase I. Each installation had had to submit emissions data for the calendar year by the end of March of the following year and in turn, had had to surrender the correct number of allowances in order to cover those emissions. Phase I of the ETS ran from January 2005 to December 2007. Allowances could not be taken over into Phase II. However, allowances obtained in Phase II could be taken in to Phase III which started on 1 January 2013.
8. Pre-2006 there had been a lag of up to six weeks in the publication of the data. This delay caused harm as countries published their data at different times during the six-week period. As a result, some traders gained unfair advantages, and the delay in universal publication led to the market being volatile. In particular, the 2006 data showed a large surplus in the supply of allowances compared with emissions which led to a considerable fall in the carbon price because the system was over-allocated. As a result of the delay in publication, there was a concern that some would have been able to anticipate this price fall before others and use this knowledge to take a profit. This experience was an important reason for ensuring that the data was published without delay. It might be possible to analyse some of the price data from the pre-2006 period in order to get a clearer picture of the market's behaviour.
9. All data submitted by cement producers to the European Union Registry had to be independently verified. Every installation had to have its emissions verified by an independent verifier who produced a monitoring and verification report and submitted the data electronically to the Union Registry. Verifiers had to be certified by the UK Accreditation Service.
10. The Environment Agency had access to the Union Registry data and was responsible for compliance and ensuring compliance although it operated on a risk-based approach. Environmental Information requests had a much lower threshold for publication than ordinary Freedom of Information requests and therefore, if the Environment Agency received requests for that data, there would be no justification under the Environmental Information Regulations to withhold it. The Environment Agency covered installations in England. There were also counterpart agencies covering installations in Scotland, Northern Ireland and (since 1 April 2013) Wales, and offshore installations were regulated directly by DECC. If a publication time lag were to be implemented across the whole of the EU, DECC did not think that this would preclude the Environment Agency (and its counterparts in Wales, Scotland and Northern Ireland) from disclosing data.
11. A recommendation by the CC for a delay in the publication of cement data might well lead to other business sectors involved in the in EU ETS to argue for similar treatment.
12. The way the EU ETS allowance allocation rules worked meant that some companies in some industry sectors were holding large surpluses. It was in the public interest to know which companies held surplus allowances. The recession had led to a fall in production in some key sectors which had therefore not had to surrender as many allowances as expected. In effect, the rules coupled with the recession had had an

unintended consequence of enabling companies to sell off excess allowances and make significant profits. There was debate in Europe as to whether these free allowances and the profits made on them were akin to subsidies for these industries and whether these profits should be recouped by a windfall tax.

13. DECC had not been lobbied by industry for greater transparency of data. The pressure for publication and transparency came from non-participants. DECC was unaware of any pressure from EU ETS participants.
14. EU ETS allowances could be transferred across a business's different activities. So, a conglomerate could use the allowances for different parts of its business as easily as it could move cash between them.
15. In 2014, the European Commission would review the list of sectors that were covered by the carbon leakage risk. The EU ETS Directive specified that the list would be reviewed every five years. Some sectors might be removed from the list but, subject to seeing the updated analysis, DECC officials believed that carbon leakage was a sufficiently high threat to the cement plants to make it unlikely that cement would be removed from the list.
16. DECC mentioned that another customer benefit of the EU ETS data's publication was the ability to see and track developments across Europe.