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Time for action

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The pantomime season has come early this year with the recent headline row over how oil prices are set. It is the show that has something for everyone. Furious motorists. Politicians looking for cheap and cheerful publicity. And the kind of villain that the public love to hiss and boo – an extremely wealthy industry.

For those who have been on holiday or otherwise opted out of the world over recent weeks, the facts are pretty straightforward. Last month, the European Commission raided premises belonging to Shell, BP, Statoil and Platts, the leading oil price reporting agency. It feared that the oil companies had colluded in reporting distorted prices to Platts so as to manipulate the published prices for various oil products. No wrongdoing has been proved so far and the investigation could take years to complete. Meanwhile, back in the real world, the discredited price-setting system rocks on.

Even worse in many people's eyes, the oil majors had – with or without Platts help – possibly stopped smaller energy companies from taking part in the assessment process, thereby skewing prices even further. This all matters a lot. Prices assessed by outfits like Platts are used as benchmarks in the physical and financial derivatives markets for a whole stack of commodity products across the globe. Even small distortions can have a big impact on production costs and consumer prices for everything from petrol to airline tickets and cosmetics.

Cue outrage (real or synthetic) from politicians hungry for good publicity. The prime minister said the price-fixing allegations were "deeply worrying". The energy secretary Ed Davey threatened that, if the investigation revealed a scam, "the full force of the law" would be visited on those involved. There were hints that any fines imposed on erring oil companies might somehow find their way back to motorists by way of compensation.

This was not nearly enough for some, though. Robert Halfon, the Conservative MP for Harlow, has long wanted a proper investigation into the oil market. Earlier in the year, the UK's Office of Fair Trading had concluded that essentially everything was ok in the fuel sector in Britain and there was no need to bother the Competition Commission about it. In muscular John Bull style, Mr Halfon dismissed the OFT's conclusions as "limp-wristed and lettuce-like", adding that the cost of petrol "has become the number one cost of living issue for my constituents". Not that there is any proof yet, you understand, that petrol pump prices have in fact been affected by all this alleged wrongdoing.

Even so, it's obvious that the present arrangement needs reforming. It is impossible – and intellectually dishonest to try – to justify a system that depends on unsubstantiated and selective submissions from organisations with a direct financial interest in the finally calculated rate. Moreover, the mechanism has to be changed without waiting for the Commission's final conclusions on the ins-and-outs of this particular case. Naturally, if there has been any criminal behaviour, then this will have to be punished vigorously. The first job, though – and one that can be started immediately – is to amend the price assessment process itself.

Not that this is the first time the oil majors have run up against regulators. Seven years ago, the European Commission fined 14 firms €266.7m for fixing the price of bitumen in the Netherlands. In October 2007, BP paid $303m to settle claims made by the US Commodity Futures Trading Commission about market manipulation. And in 2012, Optiver Holding BV and a group of employees agreed to pay $14m to settle similar allegations over crude, heating oil and gasoline traded on the New York Mercantile Exchange.

Naturally, the industry and oil experts have played down the present row and the similarities with the Libor scandal. Insiders stress that price-fixing is harder to do in the oil business because the energy market is global with a large number of players. While this may well be true, you still get a strong sense of people closing ranks and a childlike see-no-evil denial in the hope that all this unpleasantness will just go away.

But of course it won't. The British public has little confidence in regulators and even less in the European Commission. Probably only bankers are disliked more in the UK than the Commission. The row also comes at a dangerous moment of poor economic health and (in the wake of the highly publicised tax avoidance shenanigans of household-name corporations) rising anger at the behaviour of wealthy companies. The present oil price-setting mechanism looks presumptively anticompetitive, and many will argue that the oil majors should now be forced to prove otherwise if they want to avoid swingeing penalties. It's time for the political and regulatory authorities to take action.

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