

EREGEG public consultation; first thoughts on Implementing the 3rd Package

The European Energy Regulators are, until 31 December 2008, consulting on [Implementing the 3rd Package](#). This Fact Sheet summarises the *why, what and when* of this public consultation.

The 3rd energy package proposals in a nutshell

Although the European Commission's "3rd package" proposals have reached only their first reading, Regulators have developed initial thinking on how the proposals will be implemented in the coming years. The package comprises five legislative proposals which seek to establish a new European regulatory system for energy based upon;



- effective separation (**unbundling**) of Transmission System Operators (TSOs) from supply and production facilities;
- an **Agency** for the Cooperation of Energy Regulators (ACER) who would protect the *public interest* and;
- the creation of European network bodies of TSOs (**ENTSOs**) which would require TSOs to cooperate so as to develop and operate their networks as part of a single EU grid.

Currently Europe has 27 fragmented national energy markets. There is a need to integrate national markets, and to simplify and harmonise rules. The 3rd package is crucial for delivering a *single*, competitive EU market in gas, and similarly a *single* EU market in electricity. It provides for **EU-wide Network Codes** which would be a major step forward towards a seamless, integrated EU grid.

Why consult now?

Although there inevitably remains some uncertainty on the definitive 3rd package which will be agreed by Europe's law makers, the main thrust is clear at this stage of the ongoing negotiations.

The 3rd package is critical to bring real benefits to European energy consumers. It is clear that the implementation of these measures, when finally agreed, will take some time. European Energy Regulators are, at this early stage, beginning the process of considering the implementation challenges in an effort to reduce the lead time to the absolute minimum.

Original timeline for Network Codes + EU Investment Plan				
2009	2010	2011	2012	2013
Q1 2009: Third Package adopted	Q2 2010: Agency operational at the earliest Agency has six months to draft Framework Guidelines (Q4 2010 at earliest)	Q1 2011: ENTSOs operational – they then have one year to draft each network code	Network codes in place – 2012 at the earliest	Jan 2013: first 10 year EU network plan by ENTSOs (required every two years)
Q3 2009: Regulators to prepare highest priority framework guidelines	June 2010: Final consultation by Agency on priority Network Codes	Binding Network Codes in place following comitology		
Preparatory work by EREGEG, ENTSO-E and GTEplus in interim period (i.e. from the point 3 rd package is adopted and it takes effect (possibly 2011) e.g. draft ENTSO work plans by Q4 2010)				
Regulators' proposed accelerated timeline for Network Codes				

3rd package implementation takes a long time. Regulators consider that an early start is needed so as to make progress.

In this consultation paper the regulators **prioritise the codes and set out a process and timetable** for developing and modifying the codes.

EREG – as formal advisory body to the European Commission on energy issues – also undertook (at the Madrid Forum in May) to prepare for consultation a comprehensive document on the practical aspects of implementing the framework proposed in the 3rd package.

Objectives of this public consultation:

- How the key elements of the 3rd package can be put into practice
- Clarify who does what - especially between the Agency and the ENTSOs
- Examine in detail how stakeholders can be involved in the processes – notably with the development of Framework Guidelines and Network Codes
- Accelerate the implementation process

What are the energy regulators consulting on?

In implementing the emerging features of the 3rd energy package, regulators are consulting on 3 core issues:

- (1) The Agency: Work timetable and future stakeholder involvement with the Agency
- (2) Framework Guidelines and Codes: Prioritising network codes, a process and timetable
- (3) Regional developments

Issue 1: Work timetable and future stakeholder involvement with the Agency

Regulators consider that the creation of EU network bodies of TSOs (ENTSOs) as proposed in the 3rd package must be matched by enhanced powers of the [Agency which will be the acknowledged guardian of the public interest](#). This is necessary in order that network users, consumers and investors can have confidence in the new European regulatory framework. Regulators are consulting now on how to ensure [proper stakeholder involvement with the Agency](#).

Under the 3rd package, only the Agency (not ERGEG, which may not continue after its establishment) can take decisions and present advice to the European Commission. Thus, the Agency, once established, will have to adopt its own consultation procedures. ERGEG has decided itself to enhance its own well-established public consultation processes. The Agency could adopt these (with or without amendments).

Proposed improvements to the current [ERGEG consultation procedures](#) include:

- Impact assessments
- Quality Charter so as to improve the Agency's accountability to stakeholders
- Calls for evidence

Some stakeholders themselves have suggested a "[Stakeholder Panel](#)", which in addition to the normal consultation processes, would assist the Agency in engaging effectively with network users and consumers. Different arrangements could be envisaged, including a fully representative stakeholder panel (although this could duplicate the existing Madrid/Florence Fora and require a complicated structure), or 'ad hoc panels' of expert customer and network users.

Issue 2: Framework Guidelines and prioritising Network Codes

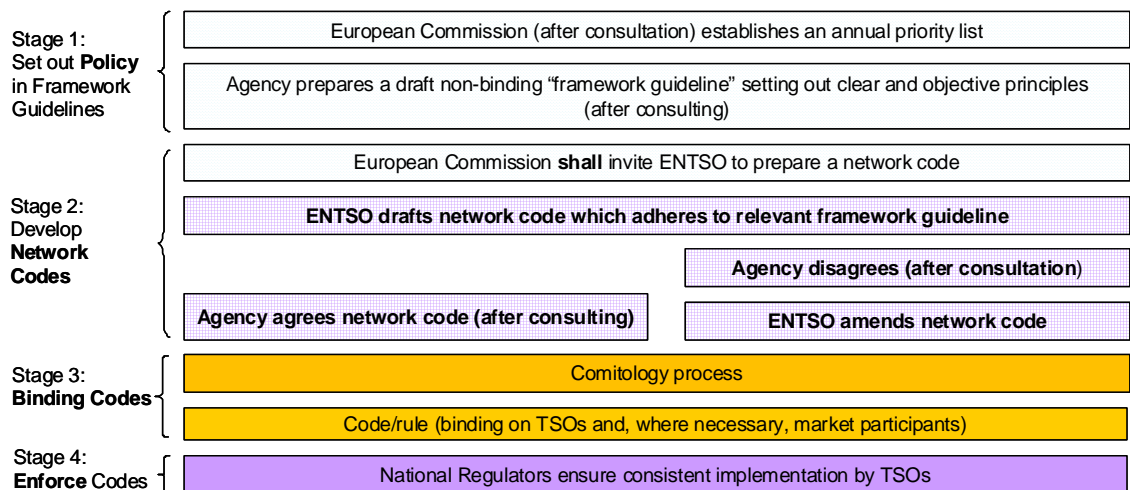
Binding EU Network Codes should enable national grids to interact in a seamless way

Currently Europe does not have an integrated EU grid. The provision of grid infrastructure is largely driven by national laws and requirements and not taken from an EU perspective, resulting in insufficient capacity. There is also a need to have cross-border network codes (e.g. on security and reliability standards so as to avoid further blackouts, or on capacity allocation and congestion management so as to make sure existing capacity is fully used).

The 3rd package provides for cross border network “Codes”, which are key to a seamless EU grid. The regulators support the European Parliament’s position that the [Agency should have a key role](#) during the process which leads to the development of these EU Codes:

The Codes should be based on higher level “Framework Guidelines”, prepared by the Agency, which will define the objectives and scope of the Codes and would guide the ENTSOs in their subsequent drafting.

The regulators advocate that the [Codes be binding](#) (not just in cases where TSOs fail to implement them), directly applicable and enforceable by national regulators.



Energy Regulators’ proposed priorities for network codes

Although the number of areas in which Codes will be developed is specified in the 3rd package, the number of codes and their priority is not. The regulators seek views on whether to [group](#) the areas into a fewer number of codes. This consultation papers sets out the regulators’ [priorities](#) for the codes (although the final decision is the European Commission’s).

Priority	Electricity	Gas
1	Security and reliability rules; interoperability rules; and operational procedures in an emergency;	Capacity allocation and congestion management; transparency; and balancing rules;
2	Grid connection and access rules; capacity allocation and congestion management rules; and transparency rules;	Rules regarding harmonised transmission tariff structures; interoperability rules;
3	Balancing rules including reserve power rules; and data exchange and settlement rules; and	Security and reliability rules; grid connection and access rules; data exchange (although aspects of this area may have relevance to other, higher priority areas) and settlement rules; rules for trading related to technical and operational provision of network access services and system balancing; and
4	Rules regarding harmonised transportation tariff structures including locational signals and inter-TSO compensation rules; and energy efficiency on electricity grids.	Operational procedures in an emergency, energy efficiency regarding gas networks.

Issue 3: Coordinating regional and national approaches in the EU framework

The ultimate goal of the 3rd energy package proposals is a single EU gas (and electricity) market.

In creating (7 electricity and 3 gas) regional markets in Europe, the ERGEG Regional Initiatives pursue the same objective of moving (via national to regional markets) towards a single EU market.

Regulators believe that the Regional Initiatives, which are based on the concept of *think Europe, act regionally*, will become a central part of the implementation process of the 3rd package.

Stakeholders need clarity on how the process of co-ordination of European and regional decision making will work and how they can interact with it. Regulators' proposals to enhance co-ordination at regional and EU level include.

- Co-ordination of work plans at European level with those proposed in the Regional Initiatives.
- Using European and appropriate regional approaches to consult with stakeholders.
- In-year monitoring of regional developments.
- Issues which emerge at regional level that have wider European implications will be subject to scrutiny and EU consultation on a case-by-case basis before adoption.
- Disputes between regulators would, as proposed in the third package, be referred to the Agency for resolution.
- The publication of co-ordination arrangements between the Agency and the ENTSOs.

When to submit views on this public consultation?

The [Implementing the 3rd Package](#) consultation runs from 21 October 2008 – 31 December 2008. The documents are available on the website www.energy-regulators.eu

In conjunction with this public consultation, a [CEER and ERGEG conference on Implementing the 3rd package](#) will take place in Brussels on Thursday, *11th December 2008*. Its objective is to seek stakeholders' preliminary views before the close of the consultation. Places at the conference are limited. To register for the conference please send an e-mail with your name, organisation, and contact details to Ms. Alina Stoian (alina.stoian@ceer.eu) by 5 December 2008, at the latest.

Regulators invite comments from all parties to this consultation by *31st December 2008*. These should be sent by e-mail to: implementation@erggeg.org

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