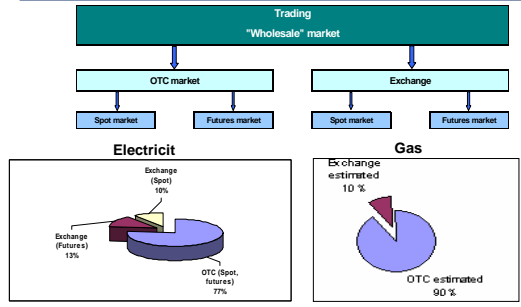


SESSION II – Market Monitoring, Oversight and Abuse: EU Experience

By CNE (Spain)
New Orleans, 14 November 2008

PART I. WHOLESALE ENERGY MARKETS: GENERAL OVERVIEW

Wholesale Energy Markets: General Overview

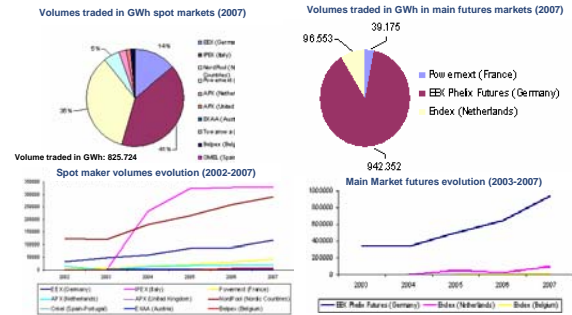


Total traded (2007): 8.22 million GWh

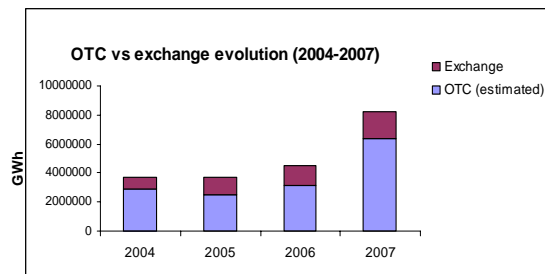
Total traded (2006): 9 million GWh

Source: Study "Review and analysis of EU wholesale energy markets".

ENERGY MARKETS: VOLUMES OF ELECTRICITY TRADED IN ORGANIZED SPOT MARKETS AND IN FUTURES MARKETS



European OTC Power Market vs. Exchange



Source: Study "Review and analysis of EU wholesale energy markets".

CHANGE IN SPOT PRICE FOR ELECTRICITY



Source: OMEL

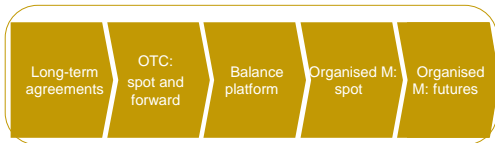
Evolution of Natural Gas Markets



The evolution of European wholesale gas markets **tends towards the consolidation of organised gas markets**.

Long-term agreements continue to represent more than **95% of gas supply** to Europe.

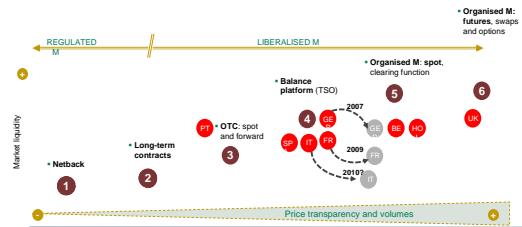
Gas negotiation in Europe is mainly carried out in **OTC markets** (they represent 90% of gas negotiation), although most countries are evolving towards **organised spot and futures markets**, which offer **price transparency**.



Evolution of Natural Gas Markets



The most developed organised gas markets are the **United Kingdom**, followed by **Holland and Belgium**. Countries such as Germany, France and Italy are currently working to establish or promote organised gas markets



PART II. WHOLESALE ENERGY MARKETS: MAIN PROBLEMS

Main Obstacles to a European Single Market



Although a great effort has been made by the European Commission in terms of stimulating a single European energy market, important obstacles remain with regard to:

- *The physical nature of the energy products (i.e. infrastructure requirements, transmission networks, national -as opposed to transnational- generation);*
- *The asymmetrical availability of this physical information;*
- *The lack of transparency of trading activities;*
- *Market concentration and vertical integration.*

Main Problems Detected




PRICE VOLATILITY. Volatility in the wholesale energy markets offers huge opportunities but equally huge risks. The entrance of new players including hedge funds, investment banks and speculative traders creates new dynamics that mean companies have to operate in a high risk environment.

MARKET LIQUIDITY. In general, an increase in physical connection capacities and market coupling initiatives has increased liquidity and price signals in the European power market. Such drives at both national and regional levels must continue.


MARKET TRANSPARENCY. It is crucial for market players, regulators and policy-makers to monitor and assess the functioning of the markets. Therefore, clear information on issues such as prices, market participants, liquidity and volumes is important for markets to operate transparently and efficiently.

PART III. EUROPEAN ENERGY POLICY

Main Objectives of European Energy Policy



The EU Electricity & Gas markets: third legislative package




The EU's energy policy aims to achieve a sustainable, competitive and secure energy market.

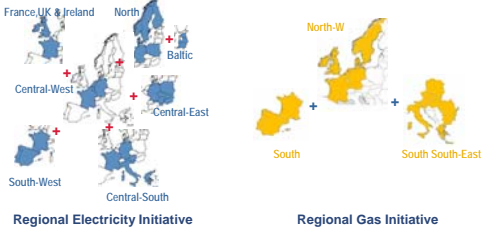
The aim of the liberalisation of energy markets is to offer end-users choice between suppliers.

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Regional Integration



The ERGEG Regional Initiatives create 7 electricity and 3 gas Regional Energy Markets (REMs) as a staging post towards a single energy market. These REMs identify and implement practical solutions for overcoming barriers to competition and trade within the regions.




Regional Electricity Initiative

Regional Gas Initiative

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Market Transparency



September 2007 – EC's proposals for a "Third Legislative Package"

Third Package – Internal Market

- Modification of Directive 2003/54/EC
- Modification Directive 2003/55/EC
- Modification of Regulation 1228/2003
- Modification of Regulation 1775/2005
- Regulation for the creation of ACER



Third Package – AIM

- Effective Unbundling
- Transparency
- TSOs cooperation
- Reinforcement of NRAs
- Creation of ACER

- Currently (legal framework), transparency requirements are mostly related to available capacity in networks.
- Existing guidelines are just for electricity (not for gas)
- Sector Inquiry by the EC points to lack of liquidity and lack of transparency as main barriers towards well-functioning wholesale markets.
- The "3rd package" extends transparency requirements to gas, reinforces the monitoring role of NRAs and calls on energy & financial regulators to cooperate.
- More transparency in network operators but also new "record keeping" requirements on supply undertakings. Supply undertaking needs to keep at the disposal of regulators the relevant data relating to all transactions in gas/electricity supply contracts and derivatives
- New obligations to TSOs, SSOs & LNG operators to disclose relevant information
- 1st reading by the European Parliament in June-July 2008 and by the European Council in October 2008. Guidelines and comitology on record keeping retained by the Council (deleted by EP)

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Market Regulation



Joint advice by CEER & CESR on Market Abuse


- "...the scope of MAD may not properly address market integrity issues in the electricity and gas markets..."
- "...even with greater trade transparency, the analysis ...on the possible insufficiencies of MAD in the context of market abuse would not differ..."
- "...implementing disclosure obligations comparable to article 6 of MAD in the energy sector regulations would improve the situation..."
- "...developing ...tailor-made market abuse framework in energy sector legislation for all electricity and gas products not covered by MAD..."
- "...further work will be necessary to develop the detailed arrangements..."

Joint advice by CEER & CESR on record keeping, transparency and exchange of information (under ERGEG Public Consultation until 24th Nov 2008)

- The Commission calls for a harmonization of the record-keeping rules for investment firms under MiFID and the records to be kept by supply undertakings under the 3rd package.
- Pre and/or post-trade transparency requirements; advantages and disadvantages-risks.
- Preliminary views on the exchange of information between energy and securities regulators lead to the need for a sound legal basis by European legislation.

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NRA's Powers to adopt measures to promote competition



Measures to promote effective competition – CEER Regulatory Benchmark

Article 22c, paragraph 3, lit. b) of the Commission proposal for amending the Electricity Directive and article 24c, paragraph 3, lit. b) of the proposal for amending the Gas Directive require Member States:

"to ensure that regulatory authorities shall have the power to carry out in cooperation with the national competition authority investigations of the functioning of electricity markets, and to decide, in the absence of violations of competition rules, on any appropriate measures necessary and proportionate to promote effective competition and ensure the proper functioning of the market, including virtual power plants."

Measure	Response
Article 22c, paragraph 3, lit. b)	NO
Article 24c, paragraph 3, lit. b)	NO
Article 22c, paragraph 3, lit. a)	YES, ...but with remarks
Article 24c, paragraph 3, lit. a)	YES, ...but with remarks
Article 22c, paragraph 3, lit. c)	YES, ...but with remarks
Article 24c, paragraph 3, lit. c)	YES, ...but with remarks
Article 22c, paragraph 3, lit. d)	YES, ...but with remarks
Article 24c, paragraph 3, lit. d)	YES, ...but with remarks
Article 22c, paragraph 3, lit. e)	YES, ...but with remarks
Article 24c, paragraph 3, lit. e)	YES, ...but with remarks
Article 22c, paragraph 3, lit. f)	YES, ...but with remarks
Article 24c, paragraph 3, lit. f)	YES, ...but with remarks
Article 22c, paragraph 3, lit. g)	YES, ...but with remarks
Article 24c, paragraph 3, lit. g)	YES, ...but with remarks
Article 22c, paragraph 3, lit. h)	YES, ...but with remarks
Article 24c, paragraph 3, lit. h)	YES, ...but with remarks
Article 22c, paragraph 3, lit. i)	YES, ...but with remarks
Article 24c, paragraph 3, lit. i)	YES, ...but with remarks
Article 22c, paragraph 3, lit. j)	YES, ...but with remarks
Article 24c, paragraph 3, lit. j)	YES, ...but with remarks
Article 22c, paragraph 3, lit. k)	YES, ...but with remarks
Article 24c, paragraph 3, lit. k)	YES, ...but with remarks
Article 22c, paragraph 3, lit. l)	YES, ...but with remarks
Article 24c, paragraph 3, lit. l)	YES, ...but with remarks
Article 22c, paragraph 3, lit. m)	YES, ...but with remarks
Article 24c, paragraph 3, lit. m)	YES, ...but with remarks
Article 22c, paragraph 3, lit. n)	YES, ...but with remarks
Article 24c, paragraph 3, lit. n)	YES, ...but with remarks
Article 22c, paragraph 3, lit. o)	YES, ...but with remarks
Article 24c, paragraph 3, lit. o)	YES, ...but with remarks
Article 22c, paragraph 3, lit. p)	YES, ...but with remarks
Article 24c, paragraph 3, lit. p)	YES, ...but with remarks
Article 22c, paragraph 3, lit. q)	YES, ...but with remarks
Article 24c, paragraph 3, lit. q)	YES, ...but with remarks
Article 22c, paragraph 3, lit. r)	YES, ...but with remarks
Article 24c, paragraph 3, lit. r)	YES, ...but with remarks
Article 22c, paragraph 3, lit. s)	YES, ...but with remarks
Article 24c, paragraph 3, lit. s)	YES, ...but with remarks
Article 22c, paragraph 3, lit. t)	YES, ...but with remarks
Article 24c, paragraph 3, lit. t)	YES, ...but with remarks
Article 22c, paragraph 3, lit. u)	YES, ...but with remarks
Article 24c, paragraph 3, lit. u)	YES, ...but with remarks
Article 22c, paragraph 3, lit. v)	YES, ...but with remarks
Article 24c, paragraph 3, lit. v)	YES, ...but with remarks
Article 22c, paragraph 3, lit. w)	YES, ...but with remarks
Article 24c, paragraph 3, lit. w)	YES, ...but with remarks
Article 22c, paragraph 3, lit. x)	YES, ...but with remarks
Article 24c, paragraph 3, lit. x)	YES, ...but with remarks
Article 22c, paragraph 3, lit. y)	YES, ...but with remarks
Article 24c, paragraph 3, lit. y)	YES, ...but with remarks
Article 22c, paragraph 3, lit. z)	YES, ...but with remarks
Article 24c, paragraph 3, lit. z)	YES, ...but with remarks

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