

Annex 2: summary of responses

Part I: Questions

Chapter 1

1 General comments

Chapter 2

- 2A Please comment on the Consultation Arrangements proposed in this paper (see Appendix 1 Annex 2 " Proposed modifications to the ERGEG Public Consultation Practices) as a basis for the interim period and for later decision by the Agency as its own process.
- 2B Could the fora (i.e Florence, Madrid, London) be further enhanced to allow stakeholders to make an effective contribution to the development of the single European energy market? How could this be done in a practical way?
- 2C Could focused '**ad hoc panels**' of interested expert stakeholders assist the Agency in the development of regulatory policies? Should they be linked (though without full representation) to the **Florence, Madrid, and the new London Fora** to avoid the proliferation of consultation structures, ensure the effective delivery of stakeholder views and proper representation? Or should the ad hoc panels be organized independently of the Fora in close cooperation with energy consumer and network user representatives?
- 2D Are proposed measures to ensure the **proper public accountability** of the Agency broadly adequate?
- 2E What do you consider to be the key elements for the successful establishment of the Agency? What are the most important issues relating to the NRAs and their role within the Agency?

Chapter 3

- 3A Are the proposed priorities for the codes and technical areas the right ones? If not, what should the priorities be?
- 3B Do you agree with our proposed approach grouping the technical areas into codes (see Appendix 2)? If so, what could the groupings be?
- 3C Which aspects of market design or network operation should be fully harmonised across the Union through the first set of codes?
- 3D Appendix 2 Annex 1 of the Public Consultation document "The scope of codes": we describe the content of each area mentioned in the Commission's initial proposals. Do you think the description is complete? If not, what aspects should be elaborated within the areas?

Chapter 4

- 4A Are the mechanisms and observations outlined above – notably in relation to the interaction between the Agency and the ENTSOs (and CEER and GTEplus/ENTSO-E) adequate? Are there changes that should be considered for their improvement?

Chapter 5

- 5A Are the proposals in paragraph 69 to ensure the regional level involvement of stakeholders adequate? If not, how could they be further improved?
- 5B How do you envisage the Regional Initiatives operating after the entry into force of the 3rd package legislation? Will their role become less important, given the development of network codes at EU level?

Part II: Summary of responses

Question	Respondent	Response	ERGEG conclusions
1	Eurelectric	Propose 'market integration roadmap' using a project management approach to be agreed by stakeholders in first half of 2009.	Accept in principle
1	Vattenfall Europe Transmission GMBH	Voluntary arrangements during the interim to be consistent with enduring arrangements. Work should not begin until all participants are able to fulfil their role. ENTSO-E should soon be able to do so. A road map should be established with a concrete timeline for the detailed measures.	Accept need for roadmap in principle. Consultation document proposed interim arrangements should mirror enduring ones as far as possible.
2A	EnBw	Support proposals. Propose target of 5 pages for consultation on Framework Guidelines (agree target of 40 proposed for other consultations). Support proposals for impact assessments, call for evidence, quality charter and ad hoc panels. Automatic email notification of new documents should be implemented for RIs.	Size of documents yet to be established. Email notification already in place at ERGEG and accepted for RIs
2A	Vattenfall Europe Transmission GMBH	Voluntary arrangements should have precise consultation procedures. TSOs should be involved at every stage.	Proposed consultation procedures in interim were included in consultation document and have been amended to reflect responses. TSOs should be involved at relevant stages.
2A	Scottish and Southern	Agree proposals on consultation proposals but suggest code development consultations be grouped into packages covering several aspects or codes to reduce burden on stakeholders. Duplicate consultations by ENTSOs and Agency should be avoided. More transparency on ERGEG personnel responsible for particular issues to enable direct contact.	The consultation document stated that it deliberately examined only the role of the Agency and ERGEG, and that other responsible parties would need to react in respect of their processes. However, we agree that an end-to-end process for the development of the codes (i.e. from the development of the Framework Guidelines to the agreement and subsequent modification of the codes) is required as a next step. ERGEG intends to liaise with the Commission, ENTSO-E and GTEplus to develop such a process for the interim period. The envisaged process must preserve the independence of the Agency and ERGEG, whilst enabling an efficient process including for stakeholders.
2A	GTE	Agency arrangements should look at 'end to end' process. In respect of codes processes to ensure efficient co-operation with ENTSOs. Proposes a 'core group' (with detail in appendix to response) which would exist throughout the process from Framework Guideline to code implementation and subsequent modification to ensure continuity.	
2A	ETSO	Proposes that consultations by ETSO-E and Agency are organised to be seen as stages in a single process by stakeholders.	
2A	Shell	All main steps in process for establishing network codes (including development of framework Guidelines) should have interaction with stakeholders. ERGEG proposed consultation process does not achieve this. Further discussion required to establish scope of framework guidelines. Regulator should be obliged to incorporate views of market participants. Network code development should build on EASEE-gas experience. Agency intervention in code development should happen only when it has not been possible for the industry to reach a common position. Distinction should be drawn between ERGEG consultation and network code development where a different approach is needed. Transparent appeals process is needed.	
2A	RWE	Consultation process for Framework guidelines and codes inefficiently involves stakeholders repeatedly at different stages. This should be reduced where possible, in particular by reducing duplicate consultations by different bodies (i.e. either the Agency or the ENTSO consult, but not both). Appeal rights need to be clarified.	
2A	OGP	All main steps in process for establishing network codes (including development of Framework Guidelines) should have interaction with stakeholders. ERGEG proposed consultation process does not achieve this. Further discussion required to establish scope of framework guidelines. Regulator should be obliged to incorporate views of market participants. Network code development should build on EASEE-gas experience. Agency intervention in code development should happen only when it has not been possible for the industry to reach a common position. Distinction should be drawn between ERGEG consultation and network code development where a different approach is needed. Transparent appeals process is needed.	
2A	Gasunie	Concerned that consultation process may not be efficient as stakeholders may have to respond at several stages (ACER framework guideline, ENTSO network code, ACER draft network code). Proposed reasoned response be provided by ACER following consultations.	Proposals relating to impact assessments, calls for evidence and changes to the CEER consultation procedures will be implemented. The detailed consultation procedures will be amended to reflect the comments received and published.
2A	Assoelettrica	Support proposals for calls for evidence and impact assessments	
2A	centrica	Support proposals. Want NRAs to follow same consultation processes	

Question	Respondent	Response	ERGEG conclusions
2A	CEZ	Expect regulators to act on consultation responses	
2A	Nordenergi	Support proposals. Informal discussions should be transparent	
2A	Enel	Support proposals, including call for evidence, impact assessment, 'question desk'.	
2A	Eni Gas & Power	Support proposals. Think Network Code development may need more complex approaches.	
2A	E.on	Broadly supports proposals. Some drafting changes proposed.	
2A	Eurelectric	Welcomes proposed changes to ERGEG consultation procedures, and proposals for calls for evidence and impact assessments.	
2A	Eurogas	Support the proposals. Impact assessments to be used on any significant regulatory policies. Comments on Appendix 1 Annex 2 of the Public Consultation document "Proposed modifications to the ERGEG Public Consultation Practices".	
2A	Europex	Support proposals on calls for evidence and impact assessments. A reasoned response to consultation should be given by ACER and included in its rules.	
2A	VIK	Support the proposals. Some comments on Appendix 1 Annex 2 of the Public Consultation document "Proposed modifications to the ERGEG Public Consultation Practices". Support proposal for public summary of responses received and impact assessments. Proposes that ENTSOs adopt same rules.	
2A	IFIEC	Representative organisations should be invited to respond to all consultations. Impacts assessments to include impacts on end consumers, including industrial consumers. ENTSOs should observe proposed ERGEG consultation rules.	
2A	Stadtwerke Munchen GMBH/MVV Energie AG	Agree the consultation proposals, but propose that DSOs be included specifically. Agency should adopt ERGEG decisions except for fundamental reasons. ENTSOs should also consult DSOs on codes. Agency should always consult on advice to the Commission. Comments on Appendix 1 Annex 2 of the Public Consultation document "Proposed modifications to the ERGEG Public Consultation Practices". Support proposal of call for evidence. Email notification of new consultations should be facilitated.	
2A	VEO	Early involvement of stakeholder essential in decision making processes.	
2A	EFET	Early consultation should seek to establish network user requirements in the formulation of framework guidelines. Meetings on the development of Framework Guidelines should be documented and the documents published.	
2A	Edison	Gas storage operators to be included. Support proposals on call for evidence and impact assessments.	Agree on DSO and gas storage operator involvement.
2A	8KU	DSOs to be included as network users (wording proposed for consultation rules). Consultation, in particular, on: Commission priority list; ACER Guidelines; ENTSO 10 year investment plan; ENTSO draft technical and market codes; ENTSO final technical and market codes	
2A	ENA	Support proposal for impact assessments, but would like this to be an obligation. DSOs to be included in consultations. Resource costs for responding to consultation to be included by NRAs as operating costs.	
2A	CEDEC	DSOs to be included as network users. Current consultation rules not sufficient to take account of DSO interests in due time. Method of involving stakeholders should be in rules of procedure of ENTSOs.	
2A	ERDF	DSOs to be included in consultations by ERGEG and Acer, notably in respect of Framework Guidelines and codes. Agency-launched consultations should be primarily organised by NRAs to ensure proper involvement at national level.	

Question	Respondent	Response	ERGEG conclusions
2B	Eni Gas & Power	Fora should be retained for high level discussions	There was no agreement among respondents on the future role of the Florence, Madrid, London and other fora. There was no agreement on whether a separate stakeholder panel should be created. Those who suggested that a stakeholder panel, a market panel, or a network user panel be created made no suggestions to resolve the difficulty identified in the consultation document of how such panels might be formed in a representative and legitimate way. There would therefore seem to be no clear proposal to make to the Commission on how the fora might be improved, although the suggestion of beuc in respect of the London Forum has been noted. The suggestions that the membership of the fora might be expanded would seem to conflict with other observations about the inflexibility and unwieldiness of the existing format of the fora.
2B	Nordenergi	Do not support use of Florence or London Fora as 'stakeholder panel - too complex, and focus should be on wholesale and regional issues. Propose regional approach to establishing stakeholder panels on lines of existing stakeholder panels, based on regional structure of ENTSO-E. European stakeholder panel needed to co-ordinate.	
2B	E.on	Propose establishment of a network user panel in place of Florence and Madrid fora	
2B	APG	Support use of Florence/Madrid fora. Propose e-fora be developed of specific topics	
2B	Assoelettrica	Do not support use of Florence Forum as 'stakeholder panel - too inflexible.	
2B	centrica	Do not support separate stakeholder panels. Support use of existing fora but will need to be enhanced to be effective (e.g. Mini-fora, joint working groups). Individual company participation to be allowed	
2B	CEZ	Fora should have equal standing with industry bodies	
2B	ENA	Do not support use of Florence, Madrid or London Fora as 'stakeholder panel - too inflexible.	
2B	EnBw	Fora to act as 'co-ordination panels'.	
2B	Enel	Sceptical of stakeholder panel. Do not support use of Florence, Madrid or London Fora as 'stakeholder panel - too inflexible.	
2B	Eurelectric	Prefer standing market panel to use of Florence forum. Fora for high level discussion only.	
2B	Eurogas	Agree that existing Fora should be used, but think London Forum cannot play the same potential role as the Madrid forum.	
2B	Europex	Fora to be used for high level discussion only, including reports by ACER.	
2B	Gasunie	Fora should monitor progress and as sounding board for Commission.	
2B	GTE	Madrid forum for high level discussion and detailed work will take place outside of it.	
2B	VIK	Existing Fora inadequate to act as stakeholder panel.	
2B	IFIEC	Fora should be annual event where report on code development is presented.	
2B	OGP	Fora are not suitable for development of Framework guidelines or network codes. Suitable for high level discussion	
2B	RWE	The fora are preferred to a stakeholder panel, but the participants may need to be expanded.	
2B	Shell	Fora are not suitable for development of Framework guidelines or network codes. Suitable for high level discussion	
2B	Scottish and Southern	Fora participation should be expanded to include individual companies	
2B	Stadtwerke Munchen GMBH/MVV Energie AG	Support stakeholder panel under Florence/Madrid/London fora.	
2B	beuc	London Forum agenda should be more influenced by smaller consumer issues	

Question	Respondent	Response	ERGEG conclusions	
2C	GTE	Support ad hoc panel proposal like GTE 'core group' proposal. Suggest panel appointments made by Commission and should include ENTSOG/TSO representation. Panels should be independent not sub groups of the Fora.	Almost all respondents supported the proposal for ad hoc expert panels. Many commented that the governance arrangements of such panels should be carefully developed. In particular, many respondents were concerned that the panels' work should be transparent and that there should be a clear process for deciding the membership of each panel. Many suggestions for the panels to be representative had different views on the nature of that representation. We consider that members of panels should be appointed as individuals on the basis of their relevant expertise. GTE and EFET suggested that any panels created to support the process for the development of Framework Guidelines should also support the work of the ENTSOs in the development of the relevant codes. We think this proposal has merit and will include this idea in the work we propose in developing an end-to-end process for code development (see above). We accept the support given by many respondents that the ad hoc panels should be linked to the Florence, Madrid or London fora as appropriate.	
2C	Europex	Support proposals. Propose clear governance for panels and transparency of operation. Close interaction with stakeholder groups and panels more effective than (just) annual reports to Fora. Panel members should be most qualified experts.		
2C	Assoelettrica	Problem of need for balanced representation in ad hoc groups of 10 people as proposed. Smaller 'expert groups' could be better under Florence/Madrid fora		
2C	8KU	Supports both permanent and 'ad hoc' panels		
2C	APG	Support link between ad-hoc panels and Florence/Madrid fora		
2C	beuc	Stakeholder consultation to be a fixed item on agenda of each Forum. Ad hoc panels of stakeholders could be valuable. Panels should report back to relevant Fora.		
2C	CEDEC	DSOs to be included in ad hoc groups. Groups to report to Florence/Madrid fora		
2C	centrica	Support ad hoc, non-representative, advisory panels used flexibly		
2C	CEZ	Ad hoc panels would be acceptable if Agency acts as co-ordinator rather than 'controller'		
2C	Nordenergi	Support proposal for ad hoc panels		
2C	ENA	Support proposals for ad hoc panels		
3C	Gas Natural	Support idea of ad hoc panels, but concerned about appointment of members. Propose transparent selection by regulators following open call for candidates.		
2C	EnBw	Support idea of ad hoc panels. Membership should be based on expertise and, on a case by case basis, not limited to Florence and Madrid fora participants. Governance of panels should be published.		A decision on whether and how to make such a link will ultimately be a decision for the Commission.
2C	Enel	Problem of need for balanced representation in ad hoc groups of 10 people as proposed. Smaller 'expert groups' could be better under Florence/Madrid fora		
2C	Eni Gas & Power	Support ad hoc panels, but think they should be representative. Governance of panels should be developed.		
2C	E.on	Support proposals		
2C	Eurelectric	Support idea of ad hoc panels, but should be representative.		
2C	Eurogas	Support the proposal for ad hoc panels linked to Madrid forum.		
2C	Gasunie	Support proposal for ad hoc panels		
2C	VIK	Support proposals for ad hoc panels linked to Fora.		
2C	IFIEC	Expert groups should be open to all representative organisations and minutes of meetings published.		
2C	IFIEC	Membership of ad hoc panels should be from people designated by representative organisations.		
2C	OGP	Support proposal for ad hoc panels. Panel processes to be transparent and inclusive of all market participants through relevant associations. Panels could be linked to relevant fora.		
2C	RWE	Support idea of ad hoc panels but governance issues need to be clarified - notably appointment of members and transparency. All relevant stakeholder interests must be represented, including grid operators. Agency should manage process of constituting panels. Panels should report to relevant fora. ENTSOs might also use these panels in their work to ensure consistency and continuity.		
2C	Shell	Support proposal for ad hoc panels. Panel processes to be transparent and inclusive of all market participants through relevant associations. Panels could be linked to relevant fora.		
2C	Scottish and Southern	Ad hoc panels to contribute to preparation of consultations already in preparation so a balance view of stakeholders can be presented to the Agency		

Question	Respondent	Response	ERGEG conclusions
2C	Stadtwerke Munchen GMBH/MVV Energie AG	Support proposal for ad hoc panels	
2C	EFET	Support proposal for ad hoc panels. Process for constituting panels to be devised which is transparent and non-discriminatory, and based on objective criteria. The ad hoc panel should participate in the whole code development process (i.e. including leading on advising Acer on the preparation of Framework Guidelines, code development by the ENTSOs, in preparation of advice by ACER to the Commission on draft codes, and their subsequent modification). Codes affecting primarily TSOs could be lead by the ENTSOs.	
2C	Edison	Support proposal for ad hoc panels. Governance should include transparency and balanced membership.	
2C	ERDF	DSOs to be includes in ad hoc panels. Panels to be independent of fora.	The work of the Agency should be transparent, but the Agency must also be efficient. We think real time transparency as proposed is neither efficient nor necessary for it to be held to account.
2D	ENA	Support proposals. Should be accountable to Commission for budget.	Agency will be accountable for its budget under the EU accounting rules
2D	Scottish and Southern	Agency should be accountable for its budget	We recognise the strong support for the proposals in respect of the accountability of the Agency. The strong support for 'question desk' is also recognised and CEER will implement one which will be open to all participants. The proposals for a Quality Charter will be further developed. The role of the Fora and the proposed consultation procedures (including the proposal to provide reasoned response to each consultation) are addressed in other sections.
2D	centrica	Support accountability proposals. Like idea of a 'question desk'	
2D	APG	Proposals sufficient	
2D	Assoelettrica	Support accountability proposals. Like inquiry desk proposal	
2D	beuc	Propose duty for Agency relating to electricity and gas users, especially those who are disadvantaged so that decisions can be subject to legal scrutiny	
2D	CEZ	Proposals 'adequate'	
2D	Nordenergi	Proposals may be sufficient, but would like to see binding requirement that Commission evaluation report on ACER is published and subject to comment by stakeholders.	
2D	EnBw	Support proposals, including 'question desk'	
2D	Enel	Support proposals	
2D	Eni Gas & Power	Agree with proposals.	
2D	E.on	Support proposed measures. Propose Commission consult on ACER annual work plan and give feedback.	
2D	Eurogas	Support proposed measures. Propose Commission consult on ACER performance and give feedback.	
2D	Europex	Proposals to be supplemented with requirement for reasoned responses to consultations, and ACER reports to Fora.	
2D	VIK	Agree with proposals.	
2D	IFIEC	Support quality charter in principle, but need to understand specific standards proposed. Unclear what legal instruments stakeholders would have to ensure accountability of the Agency	
2D	Stadtwerke Munchen GMBH/MVV Energie AG	Approve of proposal for 'question desk' which should be open to DSOs, TSOs and grid users as well as end users.	The third package contains proposals for independent appeal of Agency decisions and the procedures for the appeal will be for the independent appeals panel to decide. Appeal of the decisions of NRAs is subject to national laws.
2D	Gasunie	Appeal procedures should be in place. Appeal should also apply to NRAs in respect of substance of decisions.	We agree. However, we think the Agency should also be capable of being held to account by other European institutions such as the Parliament.

Question	Respondent	Response	ERGEG conclusions
2D	GTE	Agency is accountable to the Commission, but transparency is desirable.	The third package proposes that the Agency has the function of advising the Commission on Framework Guidelines and on the draft codes prepared by the ENTSOs. These documents are defined as being cross border in scope. The Agency also has functions relating to co-operation between national regulators, and these functions may not be restricted to cross border issues as they could, for example, include sharing regulatory best practice.
2D	OGP	Agency should be accountable for ensuring implementation of the codes and monitoring. Regulators' role should be restricted to setting boundary conditions for codes, consulting gas market stakeholders on process and outcomes prior to approval and implementation of codes.	
2D	Shell	Agency should not go beyond setting boundaries for code development, should not have a role in raising code proposals, and clarity of roles and accountability routes for Agency and member state regulators.	We agree that good internal management and high calibre staff will be critical and this will be a challenge for the Director of the Agency when appointed. The third package proposes that the duties of NRAs be changed so that NRAs are each required to have a European perspective. We are giving separate consideration to the internal procedures of the Agency.
2E	centrica	Key tasks for 2009 are organisation and rules of procedure (already in work programme). High quality Agency staff with good programme management expertise to manage large-scale code development. Should avoid undue reliance on overburdened senior staff. NRAs to take a pan-European view.	
2E	EFET	Ability of ACER to operate in interests of all market participants, primarily at the wholesale level. Essential that roles of NRAs and ACER are distinguished. NRA staff must be obliged to discharge their functions in an objective manner so the Agency takes a truly European perspective.	Agree need for clarity in role of Agency in relation to other institutions. See also responses above.
2E	CEZ	Transparency and communication are key	
2E	Gasunie	Binding deadlines for internal decisions by ACER, mechanisms to resolve differences between regulators and NRAs should be bound by ACER decisions.	The role of the Agency envisaged in the third package in relation to cross border rules is to advise the Commission on draft codes drafted by the TSO bodies (the ENTSOs). The Commission may then decide to make proposals to the comitology procedure, through which binding rules could be made. The Agency is not the rule maker. During the interim period any work on the third package implementation will be voluntary (as work under the Florence/Madrid processes have been) and so there is no possibility to create a formal appeal procedure in this period.
2E	GTE	Efficient participation of all actors in the Agency's processes. NRAs to be bound by Agency decisions. TSOs to be funded to comply with and implement 3rd package requirements including codes.	
2E	Scottish and Southern	NRAs should have sufficient powers and authority to participate in the Agency decision making process.	Agree that clarity is needed in the roles of the Agency and NRAs (see above) including in respect of the regional initiatives. Third package proposals included ones to extend duties of NRAs to include wider European interests. Agree that Agency should play its part within the European regulatory framework to facilitate a sound investment climate as part of its role in facilitating a single European energy market. We do not agree that the Agency's Boards should include industry experts as it is of fundamental that the Agency is independent of commercial interests.
2E	8KU	Confirmed importance of independence of Agency; clear distinction between competencies of Agency and NRAs; Agency to focus of cross border issues; basic cross border harmonisation needed (e.g. Capacity allocation and congestion management)	
2E	ENA	Agency's advisory role to be restricted to preparing framework guidelines and on the draft network codes produced by the ENTSOs. Agency should be bound by principle of subsidiarity and better regulation principles.	Agree that clarity is needed in the roles of the Agency and NRAs (see above) including in respect of the regional initiatives. Third package proposals included ones to extend duties of NRAs to include wider European interests. Agree that Agency should play its part within the European regulatory framework to facilitate a sound investment climate as part of its role in facilitating a single European energy market. We do not agree that the Agency's Boards should include industry experts as it is of fundamental that the Agency is independent of commercial interests.
2E	ETSO	Agency's role to be clarified - 'cannot be rule maker, supervisory body and judge' - voluntary arrangements during interim to include appeal mechanism open to interested parties. Innovation on grid issues not to be 'frozen out by an inadequate, oversized regulatory framework'.	
2E	VEO	Clear distinction between Agency and NRA competencies needed so that no entity is in position of judge and party at the same time.	Agree that clarity is needed in the roles of the Agency and NRAs (see above) including in respect of the regional initiatives. Third package proposals included ones to extend duties of NRAs to include wider European interests. Agree that Agency should play its part within the European regulatory framework to facilitate a sound investment climate as part of its role in facilitating a single European energy market. We do not agree that the Agency's Boards should include industry experts as it is of fundamental that the Agency is independent of commercial interests.
2E	Nordenergi	Agency and NRAs should have strong mandate with primary objective to enhance the internal electricity market as a whole, even at the expense of national interests	
2E	E.on	Agency and NRA competencies should be distinct - Agency should be restricted to supra-national issues. Therefore Agency should be the only regulator EU and cross border issues. Efficient decision processes and sufficient powers (e.g. penalties) are also essential.	

Question	Respondent	Response	ERGEG conclusions
2E	EdF	Role of Agency and NRAs to be clear and distinct. Agency should focus on a harmonised cross border framework, but should also minimise structural differences in grid access rules and related market schemes.	
2E	EnBw	Role of the Agency should be clearly defined (cross border harmonisation and co-ordination). Detailed constitution and operation of the Agency must be defined. Relationships between the Agency and NRAs must be defined. Relationships between the Agency and the Regional Initiatives should also be defined.	
2E	Stadtwerke Munchen GMBH/MVV Energie AG	Agency should cover only cross border issues leaving NRAs to deal with issues with no cross border implications. Agency should be independent from Commission. Work programme and priorities should be sent to market participants at an early stage.	
2E	OGP	Agency should facilitate decisions between two or more member states, encourage an attractive investment climate, minimise bureaucracy. Agency Boards should include independent industry experts	
2E	Shell	Remit of Agency to be clearly set out, its activities should not overlap other relevant bodies, its decisions and those of related bodies should not be contradictory, facilitate a stable investment climate, its primary interests lie with the monopoly networks, and it understand the impact of its decisions before embarking on further change. Agency Boards should include independent industry experts.	Agree that NRAs should have strong enforcement powers in order to ensure a level playing field. In principle we would agree that the Agency should have enforcement powers, but legally this does not seem possible for the on the basis of existing case law. NRAs, like other parties, will be obliged to comply with any requirements resulting from binding guidelines or codes which have been approved through the comitology process.
2E	Enel	NRAs should have strong enforcement powers. Important to define how the Agency and NRAs will co-operate in the development of regional markets.	
2E	APG	Agency to have enforcement powers. Support majority voting	
2E	Assoelettrica	NRAs should have strong enforcement powers. Important to define how the Agency and NRAs will co-operate in the development of regional markets.	
2E	VIK	Enforcement by the Agency of codes and other EU regulation.	
2E	IFIEC	Enforcement by the Agency of codes and other EU regulation.	
2E	ETSO	Enforceability of Agency decision on NRAs, and in respect of ERGEG/CEER during interim period	
3A	Assoelettrica	Electricity: propose priorities should be capacity allocation, congestion management, balancing, secondary markets, and transparency. Gas: propose higher priority be given to grid access.	
3A	centrica	Support proposed priorities. Codes should be binding and enforceable. Fast track route to modifying codes is needed for simple or urgent changes. Governance of code development and modification needs to be developed. Project management of gas and electricity Guideline and code development should be better co-ordinated. Support proposal for binding guideline on gas storage.	
3A	CEZ	Agree proposed priorities	
3A	Eurogas	Gas: agree proposed priorities	
3A	Eni Gas & Power	Support the proposals.	
3A	Nordenergi	Areas and codes which address competition and transparency should be most urgent	
3A	ENA	Agree priorities but want reference to embedded generation (distribution connected) which will have a growing impact on grid operation in view of 2020 targets. Codes should be binding.	
3A	Shell	No objection to proposed priorities, but note relevance of EASEE-gas work on cbps in these areas	
3A	Scottish and Southern	Agree proposed priorities	
3A	E.on	Agree priorities. For electricity also want investments in cross border transmission to be a priority. For gas also think LNG and storage should also have codes.	

Question	Respondent	Response	ERGEG conclusions
3A	EnBw	Electricity: ITC should be Priority II; Basic technical balancing rules including reserve power rules and data exchange should be included in Priority I as they are relevant to security and reliability. Priority III should deal with harmonisation of balancing rules including reserve power rules and data exchange and settlement rules. Gas: Priority I should be capacity allocation and congestion management, grid connection and access rules; Priority 2 should be interoperability rules, harmonised transmission tariff structures.; Priority III should be operational procedures in an emergency, cross border balancing rules; Priority IV should be energy efficiency regarding gas networks.	
3A	APG	Electricity: Priority III to be ranked above Priority II	
3A	Enel	Electricity: propose priorities should be capacity allocation, congestion management, balancing, secondary markets, and transparency. Gas: propose higher priority be given to grid access.	
3A	ETSO	For the Commission to decide	
3A	Eurelectric	Electricity: Priority I - capacity allocation, congestion management, intra-day, balancing and reserve power, transparency. Priority II - security and reliability, grid investment plan with regional perspective, integration of RES. Priority III - grid connection and access rule, data exchange. Priority IV - Inter-TSO compensation and tariff harmonisation. Codes to be binding.	
3A	Europex	Priorities should be established through a set of objectives or criteria, clearer than those in the draft legislation, which have not yet been presented. Transparency is a priority. Modifying, through codes, existing EU legislation on cross border congestion management is a lower priority.	
3A	GTE	Gas priorities are transparency, investment and capacity. Less clarity on priorities within this group. Suggest that Commission set priorities at Madrid XVI. GTE offer to work with ERGEG to develop early Framework Guidelines. Proposes that the process for Framework Guideline development be set out with precision (on lines of their code presentation at Madrid XV).	
3A	Gasunie	Supports GTE answers	
3A	VIK	Priorities (electricity) should be: I - congestion management (including capacity calculation and allocation, security and reliability rules and emergency procedures); II - balancing and reserve power, transparency and interoperability rules; III - grid connection issues; VI - harmonisation of tariff structures including locational signals, data exchange and settlement, and energy efficiency within the grid.	
3A	IFIEC	Priorities (electricity) should be: I - congestion management (including capacity calculation based on a transparent common grid model, security and reliability rules); Priority II should include balancing and reserve power rules. Priorities (gas) should be: I - Transparency rules; II - capacity allocation and cross border capacity allocation primary and secondary capacity, common grid model on capacity available for operational grid safety and the market; III - rules for system balancing and other interoperability rules; IV - security and reliability rules, grid connection and access rules, data exchange and settlement rules, rules for trading related to technical and operational provision of network access services and system balancing; V - operational procedures in an emergency, energy efficiency regarding gas networks; VI - rules regarding harmonised transmission tariff structures; VII - rules regarding access to storage and LNG facilities; VIII - rules regarding investments in grid maintenance and extending capacity, both transmission lines and interconnectors, preferably within the rTPA regime.	
3A	OGP	Notes that EASEE-gas have produced 14 cbps. Proposes that Agency and industry associations should jointly prepare priorities	
3A	RWE	Priorities for gas should be: I - capacity allocation and congestion management rules, transparency rules, balancing rules; II - security and reliability rules, grid connection and access rules, data exchange and settlement rules, rules for trading related to technical and operational provision of network access and system balancing; III - rules regarding harmonisation of transmission tariff structures, interoperability rules; IV - operational procedures in an emergency, energy efficiency regarding gas networks. Electricity: support proposed priorities.	

Question	Respondent	Response	ERGEG conclusions
3A	Stadtwerke Munchen GMBH/MVV Energie AG	Concern that 'self regulation' by TSOs in 3rd package will not result in codes which take account of DSO interests to achieve objectives of 3rd package.	We do not agree that TSOs should be subject to 'self regulation' and see an important role for the Agency and NRAs in ensuring that the interests of all parties are taken fully into account.
3B	APG	Support grouping of areas into fewer codes	There is consensus that the areas should be grouped into a fewer number of codes. Some respondents thought that it is premature to decide on the exact grouping at this stage, and whilst we have some sympathy with that view, we think that the drafting process will be simplified if an initial view on grouping can be reached.
3B	centrica	Support proposals to minimise number of documents to go to comitology.	
3B	CEZ	Agree proposals for grouping	
3B	Nordenergi	Agree proposals for grouping	
3B	ENA	Agree proposals for grouping	
3B	EnBw	Agree with proposals, but subject to comments on priorities.	
3B	Eni Gas & Power	Support the proposals	
3B	E.on	See data exchange as critical to success in each area and so should be integrated into each proposed group. For gas, 'grid connection and access rules' to be reduced to grid connection rules'. Access to be included in Priority IV.	
3B	ETSO	Premature to define groupings, and in any case is for the Commission to decide	
3B	Eurogas	Gas: Agree	
3B	Europex	Agree with grouping	
3B	GTE	Premature to define groupings at this stage.	
3B	Gasunie	Supports GTE answers	
3B	VIK	Supports grouping. Possible groupings: 1 - congestion management (including capacity calculation and allocation); 2 - network security (security and reliability rules, emergency procedures, interoperability); 3 - balancing rules and reserve power; 4 - data issues (transparency, data exchange, settlement); 5 - grid access (grid connection and access, harmonisation of tariff structures including locational signals); 6 - energy efficiency).	
3B	IFIEC	Electricity: Grouping should be: I - network security and cross border capacities (including capacity calculation and allocation); II - balancing and reserve power rules; III - data and transparency; IV - grid access; V - energy efficiency.	
3B	OGP	Proposes that Agency and industry associations should jointly prepare grouping	
3B	Shell	Driver for grouping should be to streamline business processes between stakeholders. Suggests placing issues where end user has relationship with TSO in one group. Remaining group would therefore be shipper/trader issues.	
3B	Scottish and Southern	Codes could be grouped under two main headings: I - Technical codes (security and reliability, operational procedures in an emergency, interoperability, network planning, energy efficiency); II - Market codes (grid connection and access, data exchange and settlement, capacity and congestion management, transparency, balancing rules and reserve power rules)	
3C	APG	UCTE Handbook to be the basis for codes in the synchronous area as far as possible. Full initial harmonisation proposed for transmission capacity allocation procedures and allocation rules, congestion revenues distribution, cross border balancing rules and the ITC Guidelines	These responses will be used as the basis for a future consultation on the preparation of the draft Framework Guidelines.
3C	centrica	propose initial pan-European harmonisation of balancing (gas and electricity), Article 22 exemptions and proper conduct for open seasons.	
3C	CEZ	Ownership unbundling of transmission and transportation networks is essential	
3C	Nordenergi	Regulation of TSOs should be harmonised as soon as possible, together with barriers to further market integration. Implementation of 10-year investment plans should be given special attention, drawing on Nordic experiences.	
3C	EnBw	Aspects of grid connection and access to the grid, congestion management, capacity allocation and transparency	

Question	Respondent	Response	ERGEG conclusions
3C	Eni Gas & Power	Support the proposals	
3C	E.on	For electricity: grid connection and access; capacity allocation and congestion management rules; and transparency. For gas: transparency; then follow priorities established by GRI NW RI project. Transparency should utilise a mandatory common platform.	
3C	ENTSO	Believe first set of codes should address issues not so far covered, and in discussion with Commission. Modifications process important.	
3C	Eurogas	Emphasis should be on operational aspects which improve cross border flows and interoperability, enhance access and transparency. Quick wins should be identified.	
3C	Europex	Full harmonisation only where vital. Many details linked to market design (such as trading arrangements and associated services) should not be decided via codes.	
3C	Gasunie	Supports GTE answers	
3C	GTE	Assessment needed to determine extent to which harmonisation of network access is credible in the initial codes.	
3C	VIK	According to the priorities suggested in answer 3A	
3C	IFIEC	According to the priorities suggested in answer 3A	
3C	OGP	Proposes that Agency and industry associations should jointly prepare priorities for further harmonisation	
3C	RWE	In electricity believe single European market already exists and that regional markets should be completed before EU-wide harmonisation is envisaged. In gas harmonisation of inconsistencies in capacity allocation and capacity terms should have priority. Without delay capacity rules should be harmonised to the extent technically possible.	
3C	Shell	Proposes that Agency and industry associations should jointly prepare priorities for further harmonisation	
3C	Scottish and Southern	First priority for full harmonisation should relate to security of supply such as security and reliability codes, interoperability and operational procedures in an emergency	
3C	Edison	Electricity: Agency should prepare framework guidelines for assessment and monitoring implementation of 10 year investment plan, and cost allocation between TSOs. Gas: priorities are capacity auctions, balancing procedures and penalties.	
3D	APG	Specific comments on Appendix 2 Annex 1 of the Public Consultation document "The scope of codes"	These responses will be used as the basis for a future consultation on the preparation of the draft Framework Guidelines.
3D	centrica	Broadly support content of Appendix 2 Annex 1 of the Public Consultation document "The scope of codes"	
3D	CEZ	Description seems appropriate	
3D	Nordenergi	Support the proposals	
3D	EnBw	Agrees with the description	
3D	Eni Gas & Power	Specific comments offered on Appendix 2 Annex 1 of the Public Consultation document "The scope of codes"	
3D	E.on	Assume Agency will have no responsibility for exempted infrastructure	
3D	ENTSO	For ENTSO-E, Commission and regulators to identify the scope in consultation with stakeholders.	
3D	Eurogas	Initial view is that scope on gas is reasonable.	
3D	Europex	Unclear the extent to which the Framework Guidelines will draw on the description in Annex as opposed to the codes.	
3D	Gasunie	Supports GTE answers	
3D	GTE	Priorities with each area need to be identified	
3D	VIK	Some comments provided on Appendix 2 Annex 1 of the Public Consultation document "The scope of codes"	
3D	IFIEC	Some comments provided on Appendix 2 Annex 1 of the Public Consultation document "The scope of codes"	
3D	OGP	Forms a good starting point	
3D	Shell	Forms a good starting point	
3D	Scottish and Southern	Seems comprehensive	

Question	Respondent	Response	ERGEG conclusions
4A	CEZ	Proposed outline seems satisfactory, but more detail needed on co-operation of the institutions	Respondents' views are divided. Some consider that the Agency should separate its functions from those of the ENTSOs, and some think that the separation should be complete because of the risk that the staff of the Agency will either become too captured by the process and therefore unable to provide independent advice to the Commission on the final draft codes, or will have too much influence over code drafting. Others consider that the Agency and the ENTSOs should co-operate, notably in respect of the development of the codes, so that the process is an efficient one. Some consider that the process of code development, including the stages relating to the Framework Guidelines, should be fully integrated. We accept the view that the Agency's role in relation to providing independent advice to the Commission relating to the wider public interest, notably in respect of the draft codes, should be carefully protected. We also think that within this constraint, the end-to-end process of developing the codes should be facilitated in an efficient way.
4A	APG	Proposed mechanisms adequate. Propose that ENTSO-E open their WGs to experts from Commission and Agency, and that ENTSO-E's consultation with stakeholders be intensified	
4A	Vattenfall Europe Transmission GMBH	Relationship between Commission, ERGEG, NRAs and ENTSO-E should be clearly defined and accepted in the voluntary arrangements. Working arrangements should be efficient taking account of interdependencies between all stages of the code development process.	We therefore intend to develop and consult on a public document defining the interaction between ERGEG /CEER and ENTSO-E/GTEplus in the interim period, and to refine the document in the light of experience as a basis for the operation of the Agency.
4A	centrica	Special care needed in respect of vertically integrated TSOs involved in code development during the implementation phase of the 3rd package.	
4A	Gas Natural	Imperfect unbundling in 3rd package means ACER should oversee network unbundling regime to ensure fair network access and investment in interconnections.	
4A	Stadtwerke Munchen GMBH/MVV Energie AG	Concern that 'self regulation' by TSOs in 3rd package will not result in codes which take account of DSO interests to achieve objectives of 3rd package.	
4A	Eurogas	Scrupulous approach to relations with GTE+ necessary in the interim period.	
4A	8KU	Agency to have a role in enforcing/implementing codes to protect DSO interests	
4A	Eurelectric	Clear dividing line between ACER and ENTSOs is needed to ensure no entity is judge and party to a decision at the same time. Generally support proposed division in respect of framework guidelines and codes.	
4A	EnBw	Propose common working groups rather than representatives from one body attending working group meetings of the other. Also propose regular meetings on all issues in the annual Commission-approved priority list. Propose Agency should monitor and publish progress on work by the ENTSOs and that the ENTSOs should feed back to the Agency views on the pertinence of the Framework Guidelines.	
4A	Nordenergi	Formal, documented, co-operation procedures are needed at national and regional level as well as European level. Commission involvement is essential.	
4A	Europex	Where entities other than TSOs undertake relevant grid functions (such as power exchanges) they should be included in the co-operation between TSOs and the Agency.	
4A	VIK	Independence of Agency and Commission could be compromised if their staff are involved in ENTSO working groups. Support proposal for published document on ACER interaction processes with ENTSOs.	
4A	IFIEC	Independence of Agency and Commission could be compromised if their staff are involved in ENTSO working groups. Support proposal for published document on ACER interaction processes with ENTSOs.	
4A	RWE	ENTSOs to be fully involved in the code development and modification process for end to end.	
4A	Scottish and Southern	Agree that ENTSOs should open working groups to Agency and Commission	
4A	ERDF	Close co-operation between Agency and ENTSOs important	
4A	ETSO	Mechanisms used in the interim period should not differ materially from the enduring arrangements. Status of Framework Guidelines should be clarified.	We agree that the interim and enduring arrangements should be aligned as far as possible. We also agree that a common understanding must be established on the nature of the framework guidelines and the codes.
4A	ENA	Timelines need to be 'streamlined' given 2020 targets	The proposals by CEER/ERGEG are aimed at accelerating the timetable in the third package proposals as much as reasonably possible.

Question	Respondent	Response	ERGEG conclusions
5A	Eni Gas & Power	Co-ordination also needed at national level.	We note the broad support for the proposed approach to co-ordination between regional and European levels on European regulatory policy issues. This reinforces our view that we should build on the existing regional initiative arrangements rather than create any new, and potentially duplicate, structures. We accept that further clarification may be required in future on how these arrangements will operate in practice, but we think that there is already substantial experience of operating the regional initiatives from which to draw. We accept that all interested stakeholders should be able to participate in the co-ordination process. We are considering separately how best to manage the internal operations of CEER/ERGEG, and ultimately, the Agency. We have already decided to establish a new Regional Initiative Working Group within ERGEG to give greater focus, inter alia, to co-ordination issues.
5A	centrica	Support use of existing RI groups when regional involvement is required. Want more co-ordination between regions but welcome creation of RIG	
5A	EnBw	Agree that RI structures be utilised. Agency should use RCCs to gain appreciation of regional specificities. Agency should have strong co-ordination role between RIs.	
5A	Eurelectric	ACER and ENTSO to establish regional committees. Role of ACER and NRAs to be well defined.	
5A	GTE	Regional structures within ACER and ENTSOG should reflect the needs of each subject area.	
5A	CEZ	Seem appropriate	
5A	Nordenergi	Support the proposals	
5A	ENA	Support proposals	
5A	Eni Gas & Power	Measures proposed are relevant.	
5A	E.on	Broad agreement to proposals. Also propose identification of key pan-European solutions and suggest congestion management as one of these.	
5A	Eurogas	Further clarity is needed on how stakeholders will interact with co-ordination process.	
5A	Europex	Further clarification required	
5A	VIK	Regional stakeholder involvement should match that proposed for Agency.	
5A	IFIEC	Regional stakeholder involvement should match that proposed for Agency.	
5A	Shell	Broadly content with proposals	
5A	Scottish and Southern	Broadly content with proposals	
5A	Stadtwerke Munchen GMBH/MVV Energie AG	DSOs should be involved in co-ordination processes.	
5A	Vattenfall Europe Transmission GMBH	Working structures of the RIs should be considered to avoid duplication	
5A	Edison	Agency and ENTSOs to have regional committees	
5A	EdF	Agency should ensure co-operation of NRAs including at regional level.	
5A	Shell	Support consultation processes through European industry organisations rather than regional structures.	We do not think that regional issues and practices can be adequately represented solely by European associations. Whilst some may have good regional structures to facilitate co-ordination, many do not. We also consider that there is a valuable role for the Regional Initiatives, which they have already demonstrated, as 'pilots' for the development of potentially pan-European solutions. We therefore consider that a completely centralised approach to the development of regulatory policy would inhibit rather than enhance the path towards a single European energy market.
5A	OGP	Support consultation processes through European industry organisations rather than regional structures.	
5B	Eurelectric	RIs to be used as a pure implementation tool	We note the strong support for continuation of RIs and that many respondents made very positive comments on the progress they have achieved. It is our intention to refocus on the RIs in the light of the new regulatory framework contained in the third package.
5B	centrica	RIs have a key role to play over the medium term. 3rd package should facilitate progress in regions. Plans to merge regions should be prepared early.	
5B	8KU	Support continuation of RIs	
5B	APG	Regional solutions to be implemented before moving step by step to EU solution through merging regions	
5B	CEZ	Role of RIs will continue to be important	

Question	Respondent	Response	ERGEG conclusions
5B	Nordenergi	Role of RIs will continue to be important	
5B	ENA	Role of RIs will continue to be important	
5B	EnBw	Role of RIs will continue to be important. Regional stakeholder committees should deal not only with intra-regional issues, but also inter-regional ones.	
5B	Eni Gas & Power	RIs should aim to converge	
5B	E.on	Role of RIs will continue to be important	
5B	ETSO	Potential for merging some regions should be assessed. Concerned that RIs in their current form may inhibit creation of a single market.	
5B	Eurogas	Role of RIs will continue to be important	
5B	Europex	Work on congestion management projects does not always align with RI regions. Focus of ERI work should be on areas where a regional focus is helpful, such as information sharing.	
5B	Gas Natural	Role of RIs will continue to be important	
5B	Gasunie	Formal regional co-operation between TSOs should happen within ENTSOs. Regional co-operation should continue.	
5B	GTE	The GRI should continue, but 'progressively should be replaced by the European and regional co-operation envisaged in the 3rd package'.	
5B	VIK	Role of RIs will continue to be important	
5B	IFIEC	Role of RIs will continue to be important	
5B	OGP	Role of RIs will continue to be important	
5B	RWE	Role of RIs will continue to be important. Danger of double work through discussing same issues at national, regional and EU level, should be avoided.	
5B	Shell	Role of RIs will continue to be important	
5B	Scottish and Southern	Role will diminish over time	
5B	VEO	ACER should prioritise European ahead of regional market integration and adopt a supra-regional approach to avoid fragmentation between regions	
5B	EFET	Role of RIs will continue to be important	