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## Cover note to ERGEG Draft Guidelines for Good Practice on Information Management and Transparency in Electricity Markets

15 March 2006

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### 1 Introduction

This consultation paper sets out ERGEG's views on information management and transparency issues and consults on a proposed set of *ERGEG Guidelines for Good Practice on Information Management and Transparency in Electricity Markets* (in the following text: Guidelines). The Guidelines seek to establish a consistent approach to the provision of market related information to wholesale market participants - suppliers, generators, energy traders, large customers and demand side participants - across the EU Member States. The Guidelines are focused on information management and transparency at the wholesale market level and do not consider information that shall be made available to retail customers, which is the subject of separate work being undertaken by ERGEG and CEER.

The Guidelines:

- Set out ERGEG's views on the required level of transparency that shall at the minimum be in place across the European market;
- Are intended to give a minimum set of rules required for the organisation of information and its dissemination across the European market;
- Set out general principles governing information release, either through publication or through information released to market participants on request.

ERGEG recognises on the one hand that additional information management and transparency requirements may already exist in individual Member States and on the other hand that in some markets it is not (yet) possible to enforce fully these requirements due to the presently existing legal framework concerning data confidentiality. In the latter case, the Guidelines are intended to be used as the basis for the identification and proposals for any necessary changes to the relevant regulatory or legal framework, in order to fulfil throughout the EU the same level of minimum requirements for information management and transparency.

The ERGEG would anticipate that regulators, legislators and stakeholders would work towards the implementation of the Guidelines.

ERGEG would welcome responses from interested market stakeholders on all the issues raised in this document. Any comments should be received by **10th May 2006** and should be sent by email to [transparency@erggeg.org](mailto:transparency@erggeg.org).

In order to ensure transparency, ERGEG will publish all responses by placing them on the ERGEG website [www.erggeg.org](http://www.erggeg.org) unless they are marked as confidential.

Next steps:

- ERGEG intends to publish a final view on the Guidelines, following receipt and consideration of responses. The Florence Forum, presently scheduled for autumn 2006, may provide a good opportunity for ERGEG to present revised Guidelines.

- ERGEG would then anticipate that regulators, working together with stakeholders, will put in place and monitor functioning of the Guidelines to the extent possible. Such work is likely to involve dialogue and discussion with TSOs and market participants. 2007 will therefore be a year of appraisal. ERGEG intends to use this appraisal to identify the need for proposals for any necessary changes to the relevant regulatory or legal framework, in order to fulfil throughout the EU the information management and transparency requirements.
- It is also likely to be the case that parallel market and legislative developments will have a bearing on this period of monitoring and appraisal. Final reports by both DG TREN and DG COMP on the functioning of the electricity market are due by end 2006 and both are likely to contain analyses and remedies extending to transparency issues. Market integration through the formation and continuation of the 'Regional Initiatives' proposed by ERGEG is also likely to raise strongly the issue of transparency, and to develop policy further.

ERGEG will therefore need to assess the implications for the Guidelines, if any, when further findings are made available from one or more of these sources.

## 2 Rationale

ERGEG considers that the establishment of a clear pan-European framework for information management and transparency is of utmost importance for the development and functioning of competitive markets. The availability of and access to information, both across and between Member States, at all levels of the electric power supply value chain is of vital importance to market efficiency for the national markets and for the European Internal Electricity Market (IEM). In some instances the lack of sufficient and transparent information is considered to be undermining competition and hampering market development.

Furthermore, the holding or dissemination of market information itself, if done in an asymmetric or discriminatory manner, is likely to damage wholesale market confidence significantly, deter new entry to the market and hamper the competitive process. Information gaps and inconsistencies related to trade across borders may have a significant effect on cross border trade and investment and therefore ultimately on the development of the IEM.

Electricity wholesale markets are dynamic environments, with electricity suppliers, generators, traders and demand customers taking constant decisions, in various timescales, regarding their participation in those markets. The availability of relevant ex ante information on key issues, such as expected levels of demand, network investment and capacity allocation, forthcoming generator and network outages, clearly have the potential to impact upon a market participant's decisions within the market. For example, timely access to relevant demand forecast data, in varying timescales, will support a supplier in managing his portfolio and should therefore reduce e.g. the costs of imbalance.

Equally the availability of timely and accurate ex post information is important in helping market participants to understand past market activity and thus to predict future behaviour, which can be achieved within a market based environment. Market participants depend heavily on their access to such information and the absence of such information is likely to lead to inefficient decisions being taken and increase the risk faced by market participants. Any such absences are likely to have a negative impact on price formation, trading and investment decisions and competition.

In view of this, ERGEG considers that an adequate level of transparency is of vital importance for market efficiency and for economic welfare.

This echoes views made elsewhere. DG TREN in November 2005 published a 'Report on progress in creating the internal gas and electricity market' which stated that appropriate rules on transparency together with obligations to disclose important information, such as available generation capacity, must be in place. DG TREN noted that a situation where only the incumbents have the information necessary to trade effectively in the market is unacceptable. The DG COMP's energy sector inquiry (Energy Sector Inquiry - Draft Preliminary Report, 16<sup>th</sup> February 2006) for example stressed the importance of transparency. The 'Preliminary Report' confirmed the lack of transparency on wholesale markets and stated that 83% of market participants are not content with current levels of transparency.

EREGEG is also aware of complaints raised by market stakeholders, concerning the lack of adequate transparency, which acts to restrict market liquidity and the development of a competitive market. At the XII Florence Forum, a number of stakeholders (for example, Eurelectric, EFET, ETSO, etc.) stressed the need for greater market transparency. In their statements the stakeholders called on European energy regulators to secure the release of more information about, among others, transmission, demand and generation in European electricity markets, concluding that further information release will improve wholesale market competition, remove entry barriers and underpin the acceleration of European liberalisation. This is a view that EREGEG shares.

Whereas the highest possible information transparency for the market is an ultimate goal of the Guidelines, it must be borne in mind that in some cases, general access to certain information, or access to certain information in the non-aggregated format might introduce a danger of collusive behaviour or market distortion. For example, publishing detailed information on planned times of generators unavailability long in advance might motivate some market participants to withdraw additional generation capacity at those times, in order to create artificial scarcity and boost prices, what would result in unjustified higher revenues and profits. Whereas the Guidelines do not propose detailed treatment and remedies for such specific cases, the general aim remains at offering to the market all the detailed information needed and, where it is proven necessary from the perspective of non-discrimination, equal opportunity and fair regulation, impose additional ring fencing and/or regulatory measures to prevent misuse.

### **3 The Need for Consistency**

At present, arrangements for providing market participants with information related to electricity markets vary considerably across Member States. As we move towards IEM with increased cross border activity, there is a clear need for consistency in available market information between Member States to ensure that disparity of information does not impede cross border activity. This means that at least general principles on information transparency shall be adopted. Furthermore, it is also considered appropriate that a set of required information is identified to provide guidance to regulators and industry on this important issue.

EREGEG considers that a framework of sufficient transparency shall be set subject to national legislation and monitored by regulators through EREGEG. A common, coordinated approach of relieving information "asymmetry" through disclosing necessary data and information on all components of the electric power supply value chain - generation, transmission, distribution, supply, balancing, etc. - in a consistent and compatible manner will significantly contribute to maintaining and improving the operational security of the European electric power systems.

Some transparency requirements are already set up in the Directive 2003/54/EC and the Regulation (EC) 1228/2003 with accompanying Guidelines on Congestion Management (according to Article 8 of the Regulation). Furthermore, some additional requirements on transparency related to the financial markets are specified in Directive 2003/6/EC of 28 January 2003, on Insider Dealing and Market Manipulation. ERGEG is seeking to ensure that a common implementation is established for meeting those requirements.

In other areas, such as generation, no specific transparency requirements are defined in the European legislation. However, ERGEG considers that in view of the importance of such information to cross border trading activities and to the European electricity market in general, it is important to ensure that information is made available appropriately on a consistent basis.