



EREGG Draft Comitology Guidelines on Fundamental Electricity Data Transparency Initial Impact Assessment

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1 PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

1.1 The issue of transparency

Transparency refers to the public availability and disclosure of all relevant information. A prerequisite for a market to function properly is to have all the relevant information available to all market participants including potential and prospective market entrants. The more information is disclosed about an economic activity the better. Also in economic theory, one of the characteristics assigned to perfect competition assumes perfect information being available to buyers and sellers of a commodity.

The introduction of competition into generation and retailing of electricity has resulted in the development of increasingly competitive wholesale electricity markets. The development of efficient European wholesale markets is critical to achieving the aims of market liberalisation and can bring considerable benefits to customers. Market transparency is key to the successful development of efficient wholesale markets.

Information relevant to market actors in the wholesale electricity market can be divided into categories in different ways. One way of classifying the information is to make a distinction between the so called **fundamental data** elements that are related to network infrastructure, and the demand and supply factors, and thus to physical delivery of electricity and **trading transparency** that covers information on the trading activities themselves.

Fundamental data transparency refers to the availability of information on the relevant aspects affecting the electricity market through its impact on the behaviour of market actors (TSOs, generators, users and traders) and thus on price formation and electricity trade taking place. Market participants rely heavily on accurate, complete and timely information on both the availability of transmission infrastructure and market fundamentals (information on supply and demand) for their trading decisions. For the electricity transmission infrastructure, these data include e.g. available and reserved transmission capacities, information on the actual use of the infrastructure, long-term forecasts of available capacities, forecasts of grid development through investments and effect to transfer capacities and information on maintenance periods. For market fundamentals, the data includes, among other things, forecasts on aggregated demand, planned and unplanned generation outages and the realised values for the forecasted data.¹

Trading transparency is often divided into pre-trade and post-trade transparency. Pre-trade transparency includes information accurately indicating the size and price of prospective trading interest whereas post-trade transparency refers to the

¹ Q&A: the infringement exercise concerning cross-border energy network access and regulated prices, European Commission Memo09/297, Brussels 25 June 2009.

dissemination of trade price and volume of completed transactions from all markets trading that commodity.

Transparency of transactional data is essential in order to ensure market confidence in energy trading. Data which influence market fundamentals should be made transparent to a sufficient extent, taking into account legitimate competition concerns (e.g. collusive behaviour).

Further, an effective monitoring regime requires consistent access to market data. The 3rd Package implements new requirements on transparency of transactional data. The record keeping obligations codified under the 3rd Package will give regulators the power to access the transactional data kept by supply undertakings, which are required to keep records on all trading transactions for 5 years.

After the European Commission (the Commission) published the 3rd Package proposals, it has been seeking advice on issues concerning record keeping and transparency of transactions in electricity and gas supply contracts and derivatives. In this context, the Committee of European Securities Regulators (CESR) and the European Regulators' Group for Electricity and Gas (ERGEG), conducted a public consultation and delivered joint advice to the European Commission². Further, the Commission has worked closely with stakeholders with the aim of developing a proposal for an efficient, effective and coherent oversight regime specifically designed for energy markets to ensure market integrity and transparency. The Commission states that such a regime should lead to clear benefits, including:

- Increased probability of the detection of market misconduct;
- Reduced incidence of misconduct as a result of effective oversight;
- Reduced risk premiums;
- Higher liquidity levels as a result of greater market confidence;
- Reduced bid-offer spreads as a result of greater market confidence.

To ensure a wide public consultation on this issue, the Commission has launched a public consultation closing on 23 July 2010. The Commission can adopt binding guidelines in this area to ensure the uniform application of the record keeping obligations provided for in the 3rd Package.

In parallel, and following a mandate from the European Commission (see Section 1.2 below), ERGEG has been working on the first category described above, fundamental data. The present Initial Impact Assessment addresses **fundamental data in electricity markets** and supports and accompanies ERGEG's Draft Comitology Guidelines on Fundamental Electricity Data Transparency (Ref. E10-ENM-02-07, 8 September 2010). The European Network of Transmission System

² Record-keeping, transparency and exchange of information – ERGEG and CESR advice to the European Commission in the context of the Third Energy Package, Ref. C08-FIS-07-03, 17 December 2008

Operators for Electricity (ENTSO-E) in their Transparency Policy, published in March 2010³, has defined fundamental data as being such information that describes physical conditions influencing the electricity market directly or indirectly. To compete effectively, all market participants need to be able to predict the likely evolution of supply and demand fundamentals and transmission capacity availability. Market participants base these predictions on analysis of expected levels of future load, transmission capacity and generation capacity, and by detailed analysis of actual events in the past and the observed impact on prices. In this impact assessment, transparency refers to the public availability of information necessary for market participants to be able to make such an assessment.

1.2 Rationale behind the initiative and for the ERGEG mandate

The Conclusions of the XVII European Electricity Regulatory Forum that took place in Rome on 10 and 11 December 2009 stated that “Regarding transparency rules, ERGEG agreed to give an advice to the Commission on a legally binding guideline by the next Forum in view of ERGEG developing a final draft by the end of 2010. This work shall be prepared in close co-operation with ENTSO-E and with full consultation of the stakeholders.”

A Commission letter⁴ of 18 January 2010 to ERGEG confirmed the Commission position regarding the guideline on fundamental data transparency in electricity. The letter also referred to the Commission’s discussion paper from September 2009 where transparency was mentioned as an area for priority. The Commission requested ERGEG to advise the Commission in this matter and prepare a draft guideline by the end of 2010, which the Commission could formally adopt and make legally binding through comitology. The letter further defined that the work should take into account the existing requirements for fundamental data transparency in the Congestion Management Guidelines annexed to Regulation 1228/2003/EC and the experience gained during the period the requirements have been in force. Additionally, the work made on transparency in the Regional Initiatives should also be taken into account. The Commission also suggested in its letter that the work on the draft guideline on fundamental data transparency is done in close co-operation with ENTSO-E. In its letter, the Commission finally suggested to give full recognition in the draft guideline to the efforts of ENTSO-E to create a single interface for publication of data through a common internet portal.

1.3 Organisation and timing

This Initial Impact Assessment has been prepared by ERGEG. The work started in February 2010 with the analysis of the problem, objectives and policy options. To establish close co-operation with ENTSO-E as requested by the XVII European

³ ENTSO-E Transparency Policy 1.3.2010, p. 3-4.
https://www.entsoe.eu/fileadmin/user_upload/library/Key_Documents/100311_ENTSO-E_Transparency_Policy.pdf

⁴ See Annex 2.

Electricity Regulatory Forum Conclusions and the Commission letter of 18 January, a joint working group with ENTSO-E was established. The Commission (DG ENER, DG COMP) was invited to participate in the joint working group. The joint working group met physically eight times and, in addition, had a number of virtual meetings in the form of either video or telephone conferences. A workshop on 1 June 2010 with invited stakeholders was organised jointly by ERGEG and ENTSO-E.

1.4 Consultation and expertise

ERGEG, in co-operation with ENTSO-E, organised a **workshop on Internal Electricity Market Transparency** (IEM Transparency: Fundamental Data, Rules, Tools) in Brussels on the 1 June 2010. The workshop was attended by some 90 participants representing electricity generators and suppliers, traders, customers, TSOs, distribution network operators, the European Commission and regulators. The workshop focused on the design of transparency framework and the tools to implement the transparency requirements.

Workshop participants called for new European legislation to establish a minimum level of transparency to provide market participants with a coherent view of European energy markets, ensure reliable price formation and reduce barriers to entry. There was wide support for introducing more detailed binding rules on fundamental data transparency as the current rules of the Regulation and the Congestion Management Guidelines are not detailed enough, which leads to inefficient implementation. Participants emphasised that the legislation should make clear what information should be published and who has the legal responsibility for ensuring its publication. Participants noted that any legislation should apply to both conventional and renewable generation. With regard to the responsibility to publish the information, there was broad consensus that the owner of the data should be responsible for its publication, or ensuring that it is published.

Specific areas of fundamental data in electricity were also discussed. In particular, traders emphasised the importance of publishing information on generation outages as soon as it is known because for every distressed buyer there is an ignorant seller. The long-term benefits in terms of market trust and liquidity would reduce overall balancing costs for everyone and the benefits would outweigh the short term costs for any generator that faces slightly increased balancing costs if they are operating in an uncompetitive market or the balancing mechanism isn't well designed. Furthermore, the need for data on balancing market was raised. Some traders expressed the need for access to real time balancing information and noted that in some countries balancing information is only published ex-post which means it is published too late for it to be of any use to the market.

In addition to the need for transparency for wholesale market information, transparency on market rules was considered as important as fundamental data transparency. One of the questions to the workshop panel addressed the estimate of costs and benefits of improving transparency. Assessing the benefits is a complicated task, as the level of transparency has a wide influence on the functioning of the electricity wholesale market and price formation on it. However, a rough estimate of benefits in the range of 100 million-billion was given while at the

same time the costs of introducing a stricter transparency regime were estimated to be at the level of 10 million.

The workshop addressed the practical solutions for providing the relevant data and the alternatives of pan-European and regional approaches were discussed. There seemed to be wide support for a European platform due to the fact that the focus is on an integrated European market and therefore a pan-European view on the market is needed. However, it was admitted that there can exist additional regional sources of information. Regional and European approaches to transparency should be complementary but the separate and varying regional approaches cannot replace the need for a European approach. There have been established in some countries/regions transparency initiatives and some concern was indicated that these initiatives would be undermined by a mandatory European solution.

The workshop participants also raised the issue of format of the data – it has to be easy, allowing for example automatic downloading. This would then enable the development of systems that automatically push/pull data between different databases when something new happens. This highlights the importance of the consistency of the data as there will not be any manual check of it.

2 PROBLEM DEFINITION

2.1 What is the issue or problem that may require action?

The costs of poor transparency in energy markets are well known. Insufficient transparency has adverse effects on **market competition** and price **formation** as not all the market actors have access to the same information and an **uneven playing field** is created. This **asymmetry of information** that results from a lack of transparency also creates opportunities for **market manipulation**. In addition, if incumbents have access to better information or more complete information, the perception that market manipulation can take place acts as a strong **barrier to entry** and **reduces trust in the price formation** process and may result in **lower liquidity**. Publication of fundamental data is seen as a first step and pre-condition to the creation of a competitive and efficient European electricity market.

Lack of transparency has been an ongoing concern and an identified major shortcoming in the internal electricity market since the adoption of the 2nd Package in 2003. The **Regulation (EC) No. 1228/2003**⁵ provided for the first binding rules in its Article 5 on the provision of information on interconnection capacities, requiring for example the TSOs to publish safety, operational and planning standards, including the general scheme for the calculation of the total transfer capacity and the transmission reliability margin. In 2005 the Commission's Progress Report⁶ called for appropriate rules on transparency, remarking that a situation where only the incumbents have the information necessary to trade effectively in the market is unacceptable.

The **Commission's Sector Inquiry** identified⁷ a lack of reliable and timely information on the markets as a key barrier to the development of a competitive single European energy market. The Sector Inquiry concluded that network users require more transparency going beyond the then existing minimum requirements set by EU legislation. Data relating to network availability, especially for electricity interconnection, was considered to be particularly important. Furthermore, data on the operation of generation capacity also needed to be more widely available. For electricity in particular, it was noted that rules on proper market conduct and supervision differ significantly between Member States, as there is little harmonisation at EU level of transparency requirements. The Sector Inquiry also stated that at present there is an information asymmetry between the vertically integrated incumbents and their competitors. Improved transparency would minimise risks for new market players and so reduce entry barriers and improve trust in the wholesale markets and confidence in price signals.

⁵ Regulation (EC) No 1228/2003 of the European Parliament and of the Council of 26 June 2003 on conditions for access to the network for cross-border exchanges in electricity

⁶ Communication from the Commission to the Council and the European Parliament Report on progress in creating the internal gas and electricity market, Brussels, 15.11.2005 COM(2005) 568 final

⁷ Communication from the Commission Inquiry pursuant to Article 17 of Regulation (EC) No 1/2003 into the European gas and electricity sectors (Final Report), Brussels, 10.1.2007, COM(2006) 851 final

Despite efforts over the past eight years to coordinate improved transparency at the European level through voluntary initiatives, significant progress has been realised largely through national or regional initiatives with relevant TSOs power exchanges or third parties responsible for collecting, aggregating and publishing information on electricity market fundamentals. These initiatives were based on meeting the needs of national or regional stakeholders, taking into account the maturity of the relevant markets and specificities of the market design. From a European perspective, this approach has resulted in a **patchwork of information** being available to the market through a **mixture of voluntary or legal initiatives**. In some regions or Member States, there is a perception that sufficient information is made available to market participants. However, there are also regions within Europe where it is recognised that the level of fundamental data transparency is insufficient. This is one problem which this framework guideline will seek to address.

A second problem is the strong heterogeneity of the information that is currently published in each Member State or region. A lack of harmonisation in both the type of information that is available and the format in which it is published makes it impossible for market participants to develop a coherent and accurate view of electricity market fundamentals. With a shift to deeper integration of European energy markets through, for example, the various market coupling initiatives, the need for information covering a wider geographical market and ultimately the whole European market is becoming imminent. It is clear that in order for wholesale market participants to make efficient and well informed choices they will increasingly require information to be available at an inter-regional and pan-European level.

This comitology proposal seeks to address this problem by **requiring harmonisation at the European level and proposing that a minimum standard of information must be published in all regions and Member States**.

Fundamental data has been provided by TSOs on their national websites and on the websites of power exchanges. NordPool Spot has been publishing for a number of years information on planned and unplanned outages of power plants, transmission infrastructure and significant consumption units. Another example of publishing is the establishment of the central transparency platform for generation and consumption data (www.transparency.eex.com) by the European Energy Exchange (EEX) and the four German transmission system operators – Amprion GmbH, EnBW Transportnetze AG, transpower stromübertragungs GmbH and 50Hertz Transmission GmbH at the end of 2009. During the first six months since the establishment of the new platform, the degree of coverage of the statutory publication requirements has increased from 74.8 % initially to almost 93 % now. Despite the fact that the number of reporting companies has increased, a voluntary initiative entails the risk of not being able to ensure effective disclosure of relevant information.

In November 2006, the predecessor of ENTSO-E, ETSO (the Association of European Electricity Transmission System Operators) launched the ETSOVista platform. It made available, for the first time, key operational and congestion management information about electricity transmission between Member States for the largest part of Europe's high voltage electricity transmission grid and included an overview map of quasi-real-time physical flows, the exchange schedules per border per hour, the yearly, monthly and daily auction data per border and the access rules

and other documents. ETSOVista platform has since been renamed entsoe.net. However, due to the lack of binding requirements on TSOs and other relevant data providers – especially generators – the entsoe.net platform has not managed to cover a sufficient degree of fundamental data of the Member States.

In the rest of this impact assessment, we explore the costs and benefits associated with introducing more detailed binding requirements on fundamental data transparency and establishing a central information platform to provide this data in an easy and efficient way to all interested parties free of charge.

2.2 The existing legislation and previous efforts to improve transparency

The current rules of fundamental data transparency in electricity are defined in the Regulation (EC) No. 1228/2003 and the Congestion Management Guidelines⁸. The Guidelines were adopted in November 2006, replacing the annexed guidelines of 2003 and becoming applicable in December 2006.

With the adoption of the 3rd Package, a new Electricity Regulation, Regulation (EC) No. 714/2009 entered into force having as its annex the 2006 Congestion Management Guidelines. Compared with the original annexed guidelines of 2003, the **Congestion Management Guidelines** of 2006 that are the applicable ones now and also after 3 March 2011 when the new Regulation becomes fully applicable, contain significantly more detailed requirements on transparency, based though on the same Regulation. The Guidelines put obligations on TSOs to provide information on transmission infrastructure and its use, generation, load, balancing and also certain wholesale market aspects. As part of the information has its source outside the TSOs, i.e. generators and users of electricity, market participants concerned are obliged to provide the TSOs with the relevant data for publication.

Information on network infrastructure shall include information on capacity allocation and congestion management procedures applied and operational and planning security standards. The classes of information to be published on a regular basis (annual, month-, week-ahead forecasts, daily day-ahead and intra-day information) include data related to available transmission capacity, capacity used, aggregated realised commercial and physical flows, ex-ante information on planned outages and ex-post information for the previous day on planned and unplanned outages of generation units larger than 100 MW. Additionally, information on forecast demand and generation as well as ex-post realised values for the forecast information is to be published.

In parallel to the development of the EU legislation promoting transparency and contributing to it, ERGEG launched its work on transparency in electricity in 2005, in recognition of the fact that more detailed rules on transparency are needed to

⁸ COMMISSION DECISION of 9 November 2006 amending the Annex to Regulation (EC) No 1228/2003 on conditions for access to the network for cross-border exchanges in electricity

ensure that a minimum and sufficiently harmonised transparency framework would be established across the internal electricity market. The work was undertaken in close coordination with the preparation of the amended Congestion Management Guidelines including the legally binding rules on transparency.

Guidelines of Good Practice for Information Management and Transparency (GGPIMT), prepared and approved by ERGEG in August 2006,⁹ sought 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 Member States. The Guidelines focused on information management and transparency at the wholesale market level and did not consider information that shall be made available to retail customers. The Guidelines set out ERGEG's views on the required level of transparency that should at a minimum be in place across the European market, were intended to give a minimum set of rules required for the organisation of information and its dissemination across the European market and set out general principles governing information release.

The preparation of the GGPIMT included extensive public consultation of the relevant stakeholders including a public hearing organised by ERGEG in July 2006. The GGPIMT was presented at the Florence Electricity Regulatory Forum on 7-8 September 2006.

Differing views among the stakeholders with regard to the publishing of generation data led to the establishment of a Florence Forum ad hoc "Transparency Working Group (TWG) chaired by the Commission. The conclusions of the XIII Florence Forum stated that "... (the) Commission and ERGEG would invite transmission system operators, Eurelectric, EuroPEX and EFET to a Working Group at which rapid progress will be made to implement them as far as possible immediately on a voluntary basis".

The TWG was to discuss practical implementation of transparency measures and it met three times making efforts to consolidate the views and solutions with regard to disclosure of generation information.

The XIV Florence Forum held in 2007 stressed the importance of quick and coherent implementation of the existing transparency requirements across Member States. The Forum invited ERGEG to further develop the transparency framework and ETSO to further develop the ETSO Vista platform in order to make it fully compliant with the legal requirements set in the Regulation (EC) 1228/2003 and annexed Congestion Management Guidelines (CM Guidelines).

⁹ Guidelines of Good Practice on Information Management and Transparency in Electricity Markets, Ref: E05-EMK-06-10, 2 August 2006

2.3 ERI transparency reports and transparency monitoring

ERGEG launched the Electricity Regional Initiative (ERI) in February 2006. Seven regions (Regional Energy Markets or REMs) were established according to the regions defined by the mini-fora that were organised in 2005 and later confirmed in the amended Congestion Management Guidelines.

The REMs established their priorities during 2006 among which transparency was one of the three areas of work together with congestion management and balancing. The Northern European (NE) REM was the first region to finalise its regional transparency report in September 2007¹⁰. The report was used as a blue print for four other regions which adopted a transparency report on the basis provided by the Northern Europe report. This ensured a common and compatible approach towards transparency and information management of the Northern region with the Central-East, Central-West, South-West and the Central–South REMs.

The NE regional transparency report covered generation, transmission and interconnection, load, balancing and wholesale markets. **Implementing the report led to improvements in the previous practice of publication.** For the first time, generation data, including information about unavailability of consumption and generation units will be available region-wide.

One of the main impediments identified was the data delivery from generation and consumption units located in the distribution grids. Market participants concerned (also generators and significant consumption units) are obliged to provide the TSOs, which are responsible for publication, with all the relevant data concerning cross-border trade based on Congestion Management Guidelines. Therefore TSOs shall be able to get data from generators and significant consumption units connected to the transmission network.

A two step approach was agreed for the implementation of publication: the first step was to make available information on network, load, and balancing and the second step regarded information on generation. Regarding the location of publication a publication on a common European website was envisaged and considered important as transparency should not only be harmonised at a regional level but also at a European level in order to allow for a true internal electricity market to develop. As interim solutions, the use of the websites of power exchanges and TSOs were accepted.

The Central-West European region adopted their transparency report in November 2007¹¹ and the Central-East European region in February 2008¹². In September

¹⁰ Report on Transparency, Final version 13.9.2007, Northern Regional Electricity Market, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_INITIATIVES/ERI/Northern/Final%20docs/Report_on_Transparency1.pdf

¹¹ Report on Transparency, Final version 23.11.2007, Electricity Regional Initiative, Central Western Regional Electricity Market, <http://www.energy->

2008, the South-West¹³ and in January 2009 the Central-South¹⁴ European regions had their transparency reports approved.

In 2009, ERGEG undertook a review of the five regional transparency reports in order to assess whether there are any differing approaches to certain classes of information and if so, whether the differences caused any problems to market functioning and integration. The underlying issue was that transparency requirements for electricity as specified in Regulation (EC) 1228/2003 and the annexed CM Guidelines have shortcomings regarding the degree of detail of required information and may lead to different interpretations within the Member States.

The outcome of the assessment was that the **degree of coherence between the five regional transparency reports is very high**. However, there are some differences between the transparency reports. This was the result of the concept of the ERGEG Regional Initiatives, where on the one hand different regional developments are enabled and on the other hand establishment of the Internal Electricity Market (IEM) in the future is ensured.

In line with this general concept, the NRAs have observed that differences in the transparency reports in other regions do not interfere with the IEM. The NRAs have had in some topics different opinions on the relevance of information (e.g. long forecasts for load) or on legal questions (e.g. should data on unavailability of consumption units to be published on an aggregated basis because of business secrets). But overall the level of information to be published is the same and is comparable between the regions and does not form obstacles to market integration and the IEM. Therefore, work for the transparency reports is an important step on the way to the IEM.

However, the existing five reports are applicable only in the respective regions and not across the whole EU. Furthermore, the work in the ERGEG Regional Initiatives showed that existing legal transparency requirements are not precise enough for European harmonisation of transparency. Therefore, to ensure a European-wide consistent framework for transparency the requirements set out in

[regulators.eu/portal/page/portal/EER_HOME/EER_INITIATIVES/ERI/Central-West/Final%20docs/Report%20on%20Transparency](http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_INITIATIVES/ERI/Central-West/Final%20docs/Report%20on%20Transparency)

¹² Report on Transparency, Final version 08.02.2008, Electricity Regional Initiative, Central Eastern Regional Electricity Market, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_INITIATIVES/ERI/Central-East/Final%20docs/Report%20in%20Transparency%20in%20the%20CE%20REM

¹³ Report on Transparency, 15.9.2008, Electricity Regional Initiative, South West Regional Electricity Market, Ref: E08-ERI-SW-RCC-05-04c, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_INITIATIVES/ERI/South-West/Final%20docs/E08-ERI-SW-RCC-05-04c_Transparency_%20report_%20final.pdf

¹⁴ Report on Transparency, Final version 26.1.2009, Electricity Regional Initiative, Central Southern Regional Electricity Market. http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_INITIATIVES/ERI/Central-South/Final%20docs/Transparency%20Final%20version.pdf

these reports should be made legally binding through the transparency provisions foreseen in the 3rd Package.

2.4 What are the underlying drivers of the problem?

An underlying driver of the problem is that the **existing legally binding rules on fundamental data transparency in electricity are not detailed enough**, which lends itself to differing interpretations of the specific data items, time frames and timings of publication. This complicates both implementation by TSOs and the enforcement by regulators. Consequently it has led to differences in the level of transparency across the Member States. In 2007, ERGEG prepared its first Compliance Monitoring Report assessing the compliance with the Electricity Regulation and the Congestion Management Guidelines. The report showed that compliance with the transparency requirements differs widely across the Member States.

In May 2007, ETSO published the Legal Survey on Transparency¹⁵ for the first time, which provided the first overview of the status of transparency in Europe in the electricity market. The survey showed satisfactory results for most of the countries, although the space for improvement has been detected and some legal barriers were identified as the reason for not providing the required information to the public. In addition to the developments undertaken by individual TSOs in achieving greater transparency within their respective markets and in meeting their own obligations under the Congestion Management Guidelines, ETSO developed a web based data transparency platform, ETSOVista, to act as central point for the publication and exchange of market related data in a coordinated way amongst TSOs across Europe. In 2008, the ETSOVista platform was significantly improved and the amount of information and number of participating TSOs increased.

The follow-up of the compliance with the Electricity Regulation and the Congestion Management Guidelines undertaken by ERGEG was presented to the November 2008 Florence Electricity Regulatory Forum. According to the 2nd Compliance Monitoring Report, one third of the TSOs met the requirements on the publication of the generation data and a similar state of compliance was reached for the information on the load as specified in the Electricity Regulation and the Congestion Management Guidelines.

Based on the findings of ERGEG's 2nd Compliance Monitoring Report¹⁶, the Commission launched a check of compliance of all Member States with some of the requirements of the Electricity Regulation, including those related to transparency. In

¹⁵ Legal survey of transparency, ETSO, May 2007
https://www.entsoe.eu/fileadmin/user_upload/library/publications/etso/Congestion_Management/Transparency%20legal%20survey_Executive_summary_final.pdf

¹⁶ Regulation (EC) 1228/2003 Compliance Monitoring, Second Report, Ref: E08-ENM-03-05, 10 September 2008, http://www.energy-regulators.eu/portal/page/portal/EER_HOME/EER_CONSULT/CLOSED%20PUBLIC%20CONSULTATIONS/ELECTRICITY/2008%20Compliance%20Monitoring/CD/E08-ENM_03-05-Second_Compliance_Report_10%20Sept%202008.pdf

June 2009, the Commission sent letters of formal notice to 25 Member States for not complying with the EU legislation on the internal market for electricity and gas. The Commission had found that almost all TSOs put out some infrastructure related information but almost none of them did it with the required granularity and/or regularity. Furthermore, the level of compliance for the provision of fundamental market data with electricity generation related information was even lower.

To continue the infringement procedures, the European Commission sent requests in June 2010 to 20 Member States about the implementation of electricity and gas Regulations and the annexed Guidelines. The rules aim at increasing the capacity and transparency of gas and electricity markets. The Member States in question have two months to respond to the requests, which take the form of 'reasoned opinions' under EU infringement procedures. In the absence of satisfactory responses from the Member States concerned, the Commission may refer them to the EU's Court of Justice.

The Commission sent a total of 35 reasoned opinions to the following 20 Member States: Austria, Belgium, Bulgaria, the Czech Republic, Germany, Spain, France, Greece, Hungary, Ireland, Italy, Luxembourg, The Netherlands, Poland, Portugal, Romania, Slovenia, Slovakia, Sweden and the United Kingdom. Key violations identified by the Commission concerned, among other things, lack of information provided by electricity TSOs, thereby obstructing effective access for supply companies to networks.

The second underlying driver of the problem is that the **TSOs do not have incentives to disclose the information**. The TSOs are regulated entities whose pricing is regulated through various models of economic regulation applied in the Member States. Usually, the tariffs or tariff methodologies are set through the definition of the regulatory asset base, the allowed capital expenditures and allowed expenses for operational costs. The economic regulatory models very seldom contain incentives for the TSOs to provide the market actors with relevant information on the market fundamentals, which information the TSO on a regular basis collects from the generators, big consumers and DSOs connected to its network.

2.5 Who is affected, in what ways, and to what extent?

The main categories of actors affected are TSOs, generators, consumers and traders.

The TSOs are affected in two ways. The increased transparency requirements can cause extra costs to the TSOs as they need to establish systems to collect the information on a frequent basis and make it publicly available. On the other hand, better transparency can increase the possibilities of generators, consumers and traders to keep themselves in balance thus reducing the balancing costs. These costs are charged from balance responsible parties and are extra costs for market actors because balancing power is usually more expensive.

Generators of electricity are better able to plan their generation schedules and investments in generation capacity when they have an improved knowledge on electricity demand and the availability of transmission capacity. Improved

transparency will also make the functioning of wholesale market competition more efficient. As there are generators that are not vertically integrated to network activities, they will benefit from a more level playing field as all the generators should have available to them the same relevant information on the fundamental aspects of the electricity market. Improved transparency will furthermore lower and remove entry barriers to the market as potential market entrants will have at hand better information on the market fundamentals. Finally, generators are assigned with the task of providing the information for which they are the source to the TSOs, who then make it publicly available. However, larger generation/consumption might have already real time measurement equipment installed and information flow to TSOs for network operation reasons so this information can be used for realised values.

Consumers of electricity will benefit from the better functioning competition through competitive and efficient electricity prices. At the moment, poor transparency is causing additional costs to the consumers in the form of higher prices that result from uncompetitive markets. Consumers larger than a defined size will bear the small additional task and cost of providing the TSOs with the relevant load information.

Traders of electricity will enjoy the benefits of greater transparency as it will assist their decision making related to electricity deals. To be able to assess the prices and volumes it is of the utmost importance to have available update and sufficient information on network, generation, load and certain wholesale market data.

2.6 How should the problem evolve, all things being equal? Should the EU act?

The 3rd Package entered into force on 3 September 2009 and will be applicable by 3 March 2011 with some exceptions that relate to the unbundling provisions. The provisions shall be applicable from 3 March 2011, with the exception of Article 11, which shall apply from 3 March 2013.

The provisions of transparency are included in Article 15 of Regulation (EC) 714/2009 and the annexed Congestion Management Guidelines and they remain nearly unaltered compared with Article 5 of the Regulation (EC) 1228/2003 and the amended Congestion Management Guidelines. The amendments regarding fundamental data transparency included in the new Regulation are paragraphs 4 and 5 of Article 15.

Paragraph 4 of Article 15 now includes the core of the requirements stemming from the Congestion Management Guidelines stating the classes of relevant data that transmission system operators shall publish. These include data on aggregated forecast and actual demand, on availability and actual use of generation and load assets, on availability and use of the networks and interconnections, and on balancing power and reserve capacity. Additionally, availability and actual use of small generation and load units, aggregated estimate data may be used.

The second amendment provided by new paragraph 5 of Article 15 assigns the market participants with the obligation to provide the transmission system operators

with the relevant data. This requirement has previously been included in paragraph 5.5 of the Congestion Management Guidelines.

To sum up, the changes introduced in the new Regulation do not change the substantial provisions of the old Regulation but raise the abovementioned requirements from the level of Congestion Management Guidelines to the level of Regulation.

The 3rd Package **does not introduce any substantial improvement to the fundamental data transparency framework and thus it does not solve the problems identified in the current transparency framework** provided by the Regulation and the annexed guidelines. The current provisions on transparency do not provide detailed enough requirements on which specific data and in which timeframe should be made available to market participants. The lack of binding detailed rules also impedes the effective enforcement of the transparency requirements indicated by the ERGEG 2nd Compliance Monitoring Report and the infringement procedures launched by the European Commission in June 2009. Additionally, the current transparency framework does not contain any rules on the display of the data – whether there should be a common platform to ensure easy availability and access to the fundamental data in electricity that has been recognised as necessary and relevant for the market actors.

The XIII Florence Forum in 2006 set up a voluntary working group consisting of all the relevant parties to work for the speedy implementation of the transparency rules. However, the voluntary approach did not succeed in providing any significant progress at the European level. As shown by the failure of the voluntary approach, more detailed binding legislation is needed.

3 OBJECTIVES OF THE INITIATIVE

3.1 General objectives

The overarching objective of the ERGEG proposal is to achieve competitive and liquid European electricity markets by promoting reliable price formation and market participants' trust in wholesale market functioning.

In particular, this implies creating a level playing field for all relevant market players where relevant actors have easy and free access to the same market information at the same moment in time. Establishing a minimum common level of fundamental pre-trade transparency is essential to the efficient functioning of wholesale electricity markets. Likewise, post-trade fundamental transparency is also important, as it shows how well forecasts were realised and the status of power system when it comes to the market outcome.

3.2 Specific objectives

The objective of the comitology proposal is to define a common minimum level of publication on transmission infrastructure utilisation, generation, load and balancing to promote the development of a competitive and liquid European wholesale market. Information should be available for all market participants – suppliers, energy traders, generators, and demand side participants – on a fair and non-discriminatory basis across all Member States.

A specific objective is to develop a central information platform to enable all market participants to establish a coherent and consistent view of forecast and real time pan-European transmission infrastructure utilisation, generation, load and balancing.

4 POLICY OPTIONS

4.1 Option 1 – Continue with current arrangements

This option implies that the current rules on fundamental data transparency in Article 5 of Regulation 1228/2003/EC and section 5 of the annexed Congestion Management Guidelines will continue to form the basis of the European minimum transparency requirements.

In addition ERGEG will continue to work through the Electricity Regional Initiatives with stakeholders to improve wholesale market transparency on a voluntary basis and monitor progress and compliance with the existing legal requirements through the regional monitoring reports.

Publication of information will continue to evolve on the basis of the ERI transparency reports and as a result of voluntary initiatives by e.g. power exchanges (the EEX example) and ENTSO-E, which is working to develop its transparency platform entsoe.net.

This approach is likely to continue to deliver **incremental improvements** in electricity wholesale market transparency. In addition, the Commission's recent infringement proceedings are likely to result in improved compliance with the current legal requirements. However, based on regulators' experience with implementing the existing legal requirements and the voluntary approach to improve transparency through the regional initiatives, it is ERGEG's view **that this framework is not sufficient to tackle the problems identified in chapter 2.1.**

The five¹⁷ regional transparency reports prepared on the basis of ERGEG's Guidelines of Good Practice on Information Management and Transparency provide a detailed overview of the existing regional requirements and level of fundamental data provision.

A comparison of the regional monitoring reports shows a mixed approach to the provision of information across Member States and regions in Europe. The current voluntary approach within the framework of regional initiatives has failed to secure coherent and consistent provision of fundamental data across Member States and regions. In particular, the patchwork of legal and voluntary initiatives that exists across Europe today is not appropriate to provide market participants with a pan-European view of generation, load, transmission capacity and balancing.

4.2 Option 2 – Adopt more detailed binding rules

This option implies adopting more detailed binding rules for fundamental data transparency. One way to achieve this is to amend section 5 of the Congestion Management Guidelines annexed to Regulation 714/2009/EC. Article 18(5) of the

¹⁷ Northern, Central-East, Central-West, South-West and Central-South European Regions

Regulation 714/2009/EC states that the Commission may amend the Congestion Management Guidelines, in accordance with the principles set out in Articles 15 and 16 of the Regulation. Article 15 of the Regulation also addresses issues related to provision of fundamental data.

The second way would be to use the process of framework guidelines and codes but that would require more time as the framework guidelines could be officially consulted and prepared by the Agency for the Cooperation of Energy Regulators (ACER), after which the time allowed to prepare a draft network code would according to the new Electricity Regulation take 12 months if fully used.

The Commission also has the possibility to adopt legally binding guidelines on its own initiative following Article 18 of the new Electricity Regulation, and this comprises the third way. Although all these alternatives enable the achievement of the policy option, namely to have more detailed binding rules for the publishing of fundamental data in electricity. In line with the Commission's letter (see Annex 2), the envisaged approach is the third one, which implies adopting a comitology guideline on the basis of Article 18 of the new Electricity Regulation.

As regional markets become more integrated through market coupling and increased physical interconnection, it will become increasingly important for market participants to be able to forecast supply and demand and transmission capacity availability across Member States and regions and develop a pan European view. Therefore, the benefits of having similar rules on, and provision of, fundamental data are likely to increase as markets become increasingly integrated.

It is ERGEG's view that more detailed binding rules are necessary to secure that market participants have access to a minimum and consistent level of fundamental data on transmission infrastructure utilisation, generation, load and balancing across Europe. It is important that information is easily available to all market participants – suppliers, energy traders, generators, and demand side participants – on a fair and non-discriminatory basis.

This option also includes setting binding rules on the publication of information, i.e. how and by whom the information is to be published and also rules on how the information is provided to TSOs e.g. by generation, loads etc. Furthermore, it contains the idea of a centrally run and managed web based transparency platform for providing fundamental data.

In the next chapter, we will assess the likely costs and benefits associated with the provision of specific types of fundamental data to market participants and the development of a single European platform for the provision of pan-European fundamental data.

5 COMPARISON OF POLICY OPTIONS

This section assesses the impact of setting additional and more detailed legally binding pan-European rules for publication of information on generation, load, transmission and interconnectors as well as balancing compared to Article 5 of the amended CM Guidelines of Regulation 1228/2003/EC (714/2009/EC). A full list of the detailed requirements that will be included in the ERGEG comitology proposal is provided in a separate document (Ref: E10-ENM-02-07, Draft Comitology Guidelines on Fundamental Electricity Data Transparency). In this section, we assess the costs and benefits for different stakeholders for information types that will have a significant impact in terms of either cost, for the TSOs or relevant stakeholder to publish the information¹⁸, or benefit to market participants and customers in terms of improving the efficient functioning of European wholesale electricity markets.

Additionally, ERGEG will assess the benefits and costs of establishing a central information platform that would be the means to publish those data items that are covered by the binding transparency requirements on fundamental data in electricity.

ERGEG will not assess the costs and benefits related to Option 1 – Continue with the current arrangements – as ERGEG does not consider that this option will lead to sufficient transparency to ensure non-discrimination, effective competition and the efficient functioning of the market.

5.1 Generation

It is important that market parties are able to forecast available generation capacity, both in the long-term and closer to real time, as this will enable market parties to anticipate for any given period the volume of available generation and, when put together with forecasted demand information, the likely market clearing price.

It is ERGEG's view that setting a minimum benchmark for pan-European publication of information on generation availability and use, will have the following benefits:

- Provide enhanced economic signals to the market;
- Minimise the need for Transmission System Operators (TSOs) to take costly balancing actions that are covered by the Balance Responsible Parties;
- Reduce the potential for market volatility; and
- Improve market participants' trust in the price formation process and encourage liquidity.

¹⁸ These costs relate to the necessary investment to build robust information systems that provide accurate and close to real time information.

It is important to note that ERGEG considers that these benefits will be realised over a significant time period. As market participants learn how to make better use of the information that is available, and the format, timeliness and type of information published is refined, ERGEG anticipates that the information will become increasingly useful to market participants. These benefits are explained in more detail in the assessment of the costs and benefits associated with key generation data types below.

ERGEG considers that the key generation data types, in terms of costs and benefits are:

- Installed generation capacity;
- Planned outages of generation units;
- Aggregate scheduled generation;
- Forecasts for wind, water and solar;
- Ex-post actual generation and unplanned outages.

It is important that all market parties are aware of the **installed generation capacity** for the market in which they operate. This information is necessary for market parties to develop a good understanding of the supply curve for the relevant market area and will facilitate a more robust price formation process. The information should also reduce price volatility as market participants are better able to forecast the price steps required to meet different levels of demand.

An issue to be assessed is the level of aggregation of the information. At a minimum, the information on installed generation capacity needs to be available by generation type as different types of generation have different marginal costs and will then – as a general rule – be offered to the market in a different order. Usually, there is more detailed knowledge of the installed generation capacity available to the market parties and e.g. electricity industry consultants. It has been argued especially by energy traders that unit per unit information on installed generation capacity should be publicly available. ERGEG is aware that the counterpart of this type of information is the information on planned outages of the generation units, which is included as a disclosure requirement in the ERI transparency reports and also applied in the current regimes. The advantage of disclosing unit per unit information on installed generation capacity on a unit basis would contribute to improving understanding of the generation landscape and creating a more level playing field in energy trading among incumbent generators, market entrants and pure energy traders.

It is proposed that information on installed generation capacity is published for each generation unit. Similarly, it is considered important that ex-ante information about the available capacity is published at the same level of disaggregation, i.e. unit by unit.

The inclusion of a requirement to disclose unit per unit information introduces the need to set a threshold for the unit size for which the disclosure requirement applies. The current Congestion Management Guidelines stipulate that information on planned and unplanned outages of generation units of 100 MW and above is to be

disclosed to the market. As the limit is lowered the amount of data to be submitted to the information platforms increases. On the basis of the gained experience it seems reasonable to preserve the current threshold for publication.

Information on the **planned outages of generation units** is important to market parties as – the effect depending on the size of the unit that will be out of use – this will affect the supply and, due to its influence on the supply curve, will also affect the decisions of other suppliers, traders and users of electricity. This is already required by the current Congestion Management Guidelines for the units of 100 MW and above. Naturally, TSOs need information on planned outages of generation units as such outages will have an effect on system security.

Information on **aggregate scheduled generation** is also highly relevant to all market actors. Furthermore, this information has to be available to the TSOs before the day-ahead market as it is necessary for calculation of transmission capacity.

Forecasts for wind, water and solar are relevant classes of information in those systems and markets where these generation types have an adequately significant share of generation capacity. Due to the intermittent character of this kind of generation, even moderate shares of total generation are important in the forecast. However, a threshold is suggested in order not to increase information flows too much and not to burden very small generators. It is proposed that in countries with more than 1% feed-in of wind or solar power generation per year or for bidding areas with more than 5% feed-in of this type of generation per year both forecast and actual data on generation is to be published. Regarding water, it is proposed to have publication in countries with more than 15% feed-in of this type of generation per year or for bidding areas with more than 30% feed-in of this type per year.

Ex-post information on **actual generation and outages** is needed so that market actors are able to assess and analyse the relationship between supply, demand and price and attribute the observed price movements to the developments in the fundamental factors like actual generation and experienced outages of power plants. Ex-post information on actual generation is to be provided on an aggregated basis by generation and fuel type. This level of aggregation will provide the market parties with a reasonable level of information on the realised generation and supply.

Information on actual unit by unit generation output is available in some parts of Europe on a commercial basis. A firm called Genspace is collecting real-time information on generation units and their operation through monitoring frequency of the electricity networks via frequency monitors (a loss of a generation unit and the ramp up of a unit display themselves as a frequency disturbance) and selling such information. As actual unit by unit generation output information is considered relevant by market parties to create a proper picture of the market, it is proposed that this data item is also published in a short frequency.

Ex-post information on unplanned outages and the cause of the outage needs to be provided on a unit by unit basis as already required by the Congestion Management Guidelines for units of 100 MW and above. Additionally, information on start-up of units after an unplanned outage is to be made publicly available without delay.

To provide information on generation data items, generators incur costs, as they need to submit the agreed information in a timely manner to the administrator of the publishing platform. Information on aggregate scheduled generation, forecasts on wind, solar and water generation as well as ex-post information on actual generation need to be submitted on a daily basis, whereas frequency of the information on outages is naturally dependent on the occurrence of such events. Information falling into this category needs to be provided currently to the TSOs on a national basis and to the national or regional power exchange depending on how the implementation of the current transparency requirements has been organised.

5.2 Transmission and interconnection

The users of information on transmission and access to interconnectors would be generators and traders acting on internal and cross-border markets, but also regulatory authorities. The information needs to be provided by the TSOs. It is important that information on transmission and interconnectors is published to create a level playing field and equal competitive conditions, as it secures equal information to all market participants.

It is ERGEG's view that setting a minimum benchmark for pan-European publication of information on transmission and interconnectors will have the following benefits:

- Enables efficient use of transmission networks and interconnections;
- Enables existing players to plan their positions;
- Engenders trust in the market;
- Enables evaluation of how security criteria are met;
- Improves the efficiency of the use of the transmission network, fosters introduction and usage of flow based capacity calculation methods in order to raise compatibility between the commercial and actual physical flows between the different control areas;
- Provides information to the market which will aid evaluation of future investment opportunities and needs.

As is the case for the disclosure of generation data, similarly the benefits of improving transparency of transmission and interconnector information will be realised over a significant time period. This is due to the same reason, namely that market participants learn how to make better use of the information that is available, and the format, timeliness and type of information published are refined. Against this background, it can be anticipated that the information will become increasingly useful to market participants.

ERGEG considers that the most important requirements for publication of information on transmission and interconnectors are:

- Actual interconnector flows to be published in real time per interconnector;
- Real time updates in month and year ahead forecasts of available transmission capacity if changes occur;

- Week-ahead forecasts of available transmission capacity to be published daily at 7:00 CET and real time if changes occur;
- Daily forecasts of day-ahead and intra-day available transmission capacity to be published D-1 at 07:00 CET and real time updates if changes occur;
- Real time notification of any reduction in available capacity from unplanned outage (including direction of capacity, amount of capacity unavailable, expected restoration);
- Notification of restoration in available capacity following unplanned outages;
- Daily maintenance schedules and planned outage periods as soon as planned plus real time updates if changes occur;
- Publication of aggregated contracted cross-border capacity bookings ex-ante up to a year forward;
- In publishing availability of cross-border capacity, TSOs shall specify the capacity already reserved for long-term contracts with perimeter countries and how long these contracts are in existence.

Market parties need information on the **available transmission capacities** for various time-frames to be able to assess the effect of available capacity on trading possibilities and price formation. Similarly, information on **unplanned and planned outages and the restoration of lines** will have an effect on available capacities. In case such events influence cross-border capacities, they may affect the results of market coupling. For example, an outage of a transmission line may reduce cross-border capacity that is available for market coupling and this may then result to price differences across the bidding zones. Information on **contracted cross-border capacity bookings** provides market actors crucial information on how much capacity will be available for day-ahead market coupling. As pre-contracting of cross-border capacity reduces the amount available for day-ahead allocation, the larger the pre-contracted share of capacity and the less capacity is left for day-ahead allocation thus signalling scarcity of capacity in case of significant demand for transmission capacity.

5.3. Load

Market parties need to be able to forecast load, both in the long-term and closer to real time, as this will enable them to anticipate for any given period the demand for electricity and together with accurate generation information, the likely market clearing price.

It is ERGEG's view that setting a minimum benchmark for pan-European publication of information on load will have similar benefits as were listed for the improved transparency of generation data and data on transmission and interconnectors:

- Provides enhanced economic signals to the market;
- Provides market actors with information on market size;
- Minimises the need for TSOs to take costly balancing actions to be borne by Balance Responsible Parties;
- Reduces the potential for market volatility;

- Improves market participants' trust in the price formation process and encourage liquidity.

EREG considers that the key load data types, in terms of costs and benefits are:

- Day, week, month and year-ahead load forecasts;
- Hourly actual load;
- Year-ahead forecast margin including peak load forecast;
- Planned outages of consumption units;
- Unplanned outages of consumption units.

The best variable to describe the volume of total consumption in the electricity system is total load, which is the sum of power generated by power plants in the networks of TSOs and DSOs, from which the export-import balance of exchanges on interconnections between the bidding areas and the power absorbed by energy storage resources is deduced. However, currently not all the TSOs are able to get this information from their networks, and instead, vertical load is calculated. Vertical load is the total amount of the power flowing out of the transmission network to the distribution networks, to directly connected end-consumers or to the consuming part of generation. It is proposed that until the end of 2013, vertical load could be used as the proxy for load if data on total load is not achievable.

Day-ahead load forecast is important for the day-ahead electricity market as it allows generators and traders to assess the demand curve and make informed decisions on the running of the generation units and on the trading needs. Also, this information has to be available to the TSOs before the day-ahead market as it is necessary for calculation of transmission capacity. Similarly, market actors need weekly, monthly and yearly forecasts.

Information on actual load close to real time is important to the market actors. It is proposed that this load information – due to the technical ability to provide information on load – is based on vertical load. With regard to publishing it is proposed that this type of data is published at the latest one hour after the operational hour.

Difference between yearly forecast of available generation capacity and yearly forecast of load (all withdrawals and losses to be included), both evaluated at time of annual peak load per bidding area is important information to generators for assessing the need for building new generation capacity. Publication of this information facilitates understanding of the market situation by market participants as it shows the balance between supply and demand. The forecast of power balance during critical times, e.g. winter time in the northern areas and summer time in the southern part of Europe, is important as high prices may arise due to the lack of power or capacity. This is also important information for demand response purposes.

Planned outages of large consumption units provide generators, traders and TSOs with the information on the envisaged decrease in the future consumption. Correspondingly, information on actual consumption and past outages provided

afterwards is significant in enabling market actors to understand price formation as a result of demand interaction with actual supply.

It is the TSOs that are the main providers of information on load data items, with the exception of information on outages, which is to be provided by the consumption units themselves. Already, large volumes of information are provided by the TSOs, as required by the current Congestion Management Guidelines. The information is disclosed either nationally on the TSOs' websites or regionally on the website of a power exchange. Accordingly, the additional costs will be related to the establishment of a European platform.

5.4 Balancing

The users of information on balancing would be generators, balancing responsible parties, demand response parties and traders, as far as they are involved in the intra-day and balancing trade.

Reaching a high level of transparency in this field is important, as it could contribute to reduced market power of dominant and well-informed generators, and could indirectly have positive effects on short term security of supply.

It is ERGEG's view that setting a minimum benchmark for pan-European publication of information on balancing will have the following benefits:

- Helps market players to formulate their balancing offers;
- Increases the level of transparency in the management of TSOs;
- Increases the level of transparency on the services provided by the Balance Responsible Parties;
- Enables monitoring of the balancing markets.

ERGEG considers that the key data types on balancing, in terms of costs and benefits include:

- Rules on balancing and the methodology for calculating imbalance charges;
- A description of cross-border balancing arrangements;
- Volume of balancing power contracted by TSOs;
- Reservation prices or capacity payments and their pricing methodology;
- Imbalance prices and volumes and prices of bids and offers (including averages and marginal prices of bids/offers);
- Financial balance of the market (expenses, payment);
- Market information on the type of balancing bids/offers used;
- Maximum and minimum prices of exchanged bids and offers per procurement step;
- Volume of balancing energy activated in various control areas.

Volume of balancing power contracted by TSOs is important to market participants as the overall amount of balancing power is a prerequisite to estimate market size and attractiveness of the market, in addition to security.

Imbalance prices per bidding area are relevant to the account of the balance responsible parties. **Information on averages and marginal prices of bids/offers and volumes** increases the transparency of the balancing market and is important for monitoring purposes. Increased transparency might lead to more efficient balancing markets and thus reduced balancing costs for generators, traders and consumers.

Harmonisation or standardisation of bid formats (activation period, run-times, etc.) would, to the extent this is possible, also contribute to transparency in the sense that it would be easier for participants (and the TSO) to compare products and prices.

Financial balance of the market increases the transparency of the balancing market and has special relevance for markets where expenses for balancing do not equal income from imbalance pricing.

The TSOs, as responsible for organising and operating the balancing markets, are the main providers of information on balancing. Already now this information is provided by the TSOs as required by the Congestion Management Guidelines. However, the Congestion Management Guidelines do not provide detailed rules regarding information on balancing, but requirements are set out in ERGEG's Guidelines of Good Practice on Information Management and Transparency in Electricity Markets. The information is disclosed either nationally on the TSOs' websites or regionally on the website of a power exchange. Accordingly, the additional costs will be related to the establishment of a European platform. However, as the guidelines of good practice are not legally binding, the requirements might create additional costs for some TSOs.

5.5 Publication of transparency data

Overall, ERGEG considers that there are benefits to customers and the market more widely in respect of enhanced economy and efficiency from improved publication of information on generation, load, transmission and interconnections and balancing in the European electricity market.

ERGEG recognises that there will be associated IT costs for TSOs, generators and consumers who will have to provide TSOs with the relevant information and to establish appropriate contracts between TSOs and their relevant counterparties to implement the proposals.

In terms of costs, ERGEG notes that there may be costs associated with:

- The IT infrastructure that needs to be established to provide the data to the platform on a regular basis and in order for the information to be made available to market participants;
- Establishing contracts that ensure the flow of information from the data providers other than TSOs (generators, consumers) to the TSOs and contracts that ensure also the provision of information from the TSOs to a central platform.

EREG considers that the majority of the costs associated with the proposal are the upfront costs of establishing the IT infrastructure to make the information available to all market participants in a non-discriminatory and user friendly fashion.

There are alternative ways of making fundamental transparency data available. Currently TSOs, power exchanges and ENTSO-E are disclosing data that fall within the scope of the electricity fundamental data as defined in this Initial Impact Assessment. Each TSO usually publishes information on its own transmission network infrastructure, cross-border interconnections and the relevant load, generation and balancing information. The shortcoming with the TSO approach is that although they provide the transparency information covering their own transmission systems, a full picture of a wider region, without speaking of the whole IEM, is missing.

The power exchanges have undertaken useful initiatives to improve transparency in the area where they operate. There are good examples of such initiatives, e.g. the Nord Pool Spot website and the central transparency platform for generation and consumption data established by EEX and the four German TSOs. The power exchange initiatives, too, lack the capacity to provide a full picture of the European electricity market and fundamentals affecting it. They manage to provide a regional view. Furthermore, they may not succeed in covering all the relevant sources of information that are needed to prepare a sound description of the market developments and the future European integration.

ENTSO-E has committed to develop the European wide entsoe.net platform to ensure data coverage and consistency. To ensure that a fully comprehensive platform is reached and all the relevant market parties submit on an agreed basis all the relevant information to the platform, binding rules are considered necessary for establishing such a publication service. The establishment and running of such a platform will inevitably cause costs to TSOs and ENTSO-E. These costs will be subject to the NRAs' approval and may be socialised in cases where this is justified, efficient and reasonable.

6 CONCLUSION

In this draft Initial Impact Assessment, ERGEG has assessed what such information that describes physical conditions influencing the wholesale electricity market directly or indirectly needs to be publicly available without any charge.

As electricity markets become more integrated, it will become increasingly important for market participants to be able to forecast supply and demand and transmission capacity availability across Member States and regions and develop a pan European view. Therefore, the benefits of having similar rules on, and provision of, fundamental data on electricity are likely to increase as markets become increasingly integrated.

Two main policy options were assessed. Policy option 1 implied continuing with the current transparency regime on fundamental electricity data transparency relying on the annexed Congestion Management Guidelines of the Electricity Regulation, supported by the ERGEG Electricity Regional Initiatives' efforts and the European Commission's infringement procedures to enhance transparency.

The present transparency regime has improved transparency requirements in five Electricity Regional Initiative regions to some extent. Despite that, the level of transparency is still asymmetric and patchy and market participants have been calling for wider and more harmonised fundamental data transparency.

As a result, ERGEG considers policy option 1 an inefficient option and would not recommend this option.

Policy option 2 implies adopting more detailed legally binding rules on fundamental electricity data through comitology guidelines as enabled by Article 18.3 of the New Electricity Regulation. More detailed binding rules are necessary to secure that market participants have access to a minimum and consistent level of fundamental data on transmission infrastructure utilisation, generation, load and balancing across Europe. It is important that information is easily available to all market participants – suppliers, energy traders, generators, and demand side participants – on a fair and non-discriminatory basis.

The more detailed binding rules would build upon the current requirements of Article 15 of the New Electricity Regulation and paragraph 5 of the annexed Congestion Management Guidelines and would not contradict their contents. The propositions on introducing more detailed requirements for reporting and publishing information on generation and load aim at enhanced economic signals to the market and strive for minimising the need for costly balancing and price volatility. The specified set of information on load and generation would also improve trust in price formation and thus liquidity.

Policy option 2 would also enable more efficient use of transmission networks and interconnectors and enable market participants to plan their positions in a better way. By doing so trust in the market and even security criteria could be better met.

Concerning balancing, policy option 2, would provide better planning in balancing and increase the level of transparency in the TSO management and allow for monitoring of the balancing markets.

Binding fundamental transparency rules are necessary in order to take fundamental data transparency to the pan European level. The drafted guidelines on fundamental transparency are a first step in this direction. Furthermore, it is important that the guidelines include clear and appropriate definitions for the data items in order to guarantee a European wide harmonisation of fundamental transparency data.

An important issue in addition to the data disclosure requirements is the decision on the publication at the central information platform. There are alternative ways of making transparency data available. Currently TSOs, power exchanges and ENTSO-E are disclosing much of the data that fall within the scope of the electricity fundamental data as defined in this Initial Impact Assessment. Each TSO usually publishes information on its own transmission network infrastructure, cross-border interconnections and the relevant load, generation and balancing information for their respective control area. The shortcoming with the TSO approach is that although they provide the transparency information covering their own transmission systems, a full picture of a wider region, without speaking of the whole IEM, is missing.

ERGEG has, in this draft initial impact assessment, come to the conclusion that a central information platform needs to be developed to enable the publication of the information that has been defined here as vital for the proper functioning of the electricity markets. A natural party to undertake this assignment would be ENTSO-E as TSOs are in a central role when providing the information and also when collecting it when they are not themselves the owners of the data. However, if before the implementation of these guidelines TSOs, generators, consumption units and Distribution System Operators have submitted the information to the local or regional platforms, these platforms can be used to provide the information for publication on the central information platform.

7 MONITORING AND EVALUATION

The responsibilities and obligations proposed in policy option 2 fall on TSOs, as both owners of data (transmission and interconnections, balancing) and collectors and submitting entities of data (generation, load). Furthermore, responsibilities and obligations are proposed to be placed on generation units, consumption units and distribution system operators as well as owners of some classes of data.

With regard to TSOs, generation units, consumption units and distribution system operators, it would be the NRAs who would be assigned the task of overseeing and ensuring compliance with the envisaged more binding rules. The NRAs are already responsible for ensuring compliance with the Electricity Regulation and its annexed Congestion Management Guidelines.

As the proposition includes the set-up of the central information platform by ENTSO-E, it would be appropriate for the Agency for the Cooperation of Energy Regulators to ensure compliance with these guidelines regarding the obligations placed on ENTSO-E.

ANNEX 1 – Glossary and Abbreviations

Term	Definition
ACER	Agency for Cooperation of Energy Regulators
ATC	Available Transfer Capacity, defined by the ETSO method
CESR	Committee of European Securities Regulators
CM	Congestion Management
DG COMP	(European Commission) Directorate General for Competition
DG ENER	(European Commission) Directorate General for Energy
EFET	European Federation of Energy Traders
ENTSO-E	European Network of Transmission System Operators – Electricity
ERI	(ERGEG) Electricity Regional Initiative
ETSO	Association of European Electricity Transmission System Operators)
Eurelectric	The Union of the Electricity Industry
EuroPEX	Association of European Power Exchanges
FB	Flow-based
FG	Framework Guidelines
GGPIMT	Guidelines of Good Practice for Information Management and Transparency
IEM	Internal Electricity Market
NTC	Net Transfer Capacity, defined by the ETSO method
OTC	Over-The-Counter trading is to buy and sell products such as commodities or derivatives directly between two parties, as opposed to exchange trading, which occurs via facilities constructed for that purpose (exchanges).
PCG	Project Coordination Group
REM	Regional Energy Market
TC	Transfer Capacity
TRM	Transmission Reliability Margin
TTC	Total Transfer Capacity
TWG	Transparency Working Group

ANNEX 2 – Mandate for ERGEG to provide advice to EC on transparency

In a letter of 18 January 2010, from the Director of the EU Commission DG Energy to the ERGEG President, the EU Commission requested ERGEG submit advice on a comitology guideline on fundamental data transparency in electricity.

The letter referred to the Commission discussion paper from September 2009 where transparency was an area proposed to be a priority. The Commission explained that in this case they thought there were good reasons to deviate from the normal procedure of writing first a Framework Guideline and then a network code. The Commission wanted to speed up the process for making detailed legally binding rules for transparency of fundamental data in the electricity markets. This approach was also confirmed at the December 2009 Florence Forum through the support of stakeholders.

The letter stated that “...we now request ERGEG to advise the Commission in this matter and prepare a draft guideline by the end of 2010 which the Commission could formally adopt and make legally binding through comitology.”

The Commission specified its assignment by defining that the work should take into account the existing requirements for fundamental data transparency in the congestion management guidelines annexed to Regulation 1228/2003/EC and the experience gained during the requirements have been in force. The work on transparency made in the Regional Initiatives was also to be taken into account.

The Commission also suggested in its letter that the work be done in close co-operation with ENTSO-E. As regards the mode of publication, the Commission suggested that the efforts of ENTSO-E to create a single interface for publication of data through a common internet portal be given full recognition.