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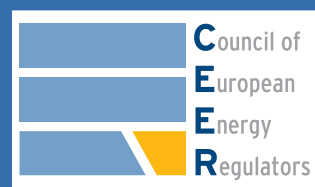
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2007 Annual Report

of the European Energy Regulators





2007 Annual Report of the European Energy Regulators

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Annual Report of the European Energy Regulators for the period of 1 January 2007 to 31 December 2007 to all members of the CEER and of the ERGEG, the European Parliament, Council of Ministers and the European Commission.

This document comprises a report made under Article 3 (8) of the European Commission Decision of 11 November 2003 (2003/796/EC), as set out in the Official Journal of the European Union, which established the European Regulators' Group for Electricity and Gas (ERGEG).

How to contact the European Energy Regulators

The CEER has a small Brussels-based Secretariat headed up by a Secretary General, Mrs. Fay Geitona.



Mrs. Fay Geitona
CEER Secretary General



Una Shortall
CEER Deputy Secretary General and
press contact

Further information on the European energy regulators, and the public documents referred to in this report, can be downloaded from their websites or obtained directly from the CEER Secretariat.

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Membership of the CEER

I. Introduction

Who are the European Energy Regulators?

This report covers the 2007 activities of the European energy regulators through two bodies, the CEER and the ERGEG. As watchdogs that oversee the efficient functioning of energy markets in Europe, the energy regulators play an important role in protecting consumers' interests and facilitating the development of competition.

What is the CEER?

The CEER is the Council of European Energy Regulators. It is the organisation in which independent national regulators of electricity and gas in Europe voluntarily cooperate. The CEER is a preparatory body for the work of the European Regulators Group for Electricity and Gas (ERGEG). The CEER is a not-for-profit association under Belgian law.

What is the ERGEG?

The ERGEG stands for the "European Regulators Group for Electricity and Gas". It was set up on 11 November 2003 by a European Commission Decision (2003/796/EC)¹.

The ERGEG is charged with advising and assisting the European Commission in consolidating the internal energy market in Europe, in particular with respect to preparing draft implementing measures in the field of electricity and gas. The objective is to help ensure a consistent application in all Member States of EU energy legislation.

Why are there two bodies currently representing the European energy regulators?

The national energy regulators of Europe had, since the year 2000 and on their own initiative, joined ranks in creating the CEER with the objective of facilitating cooperation among regulators, and between regulators and the European Institutions.

In recognition of their work, the European Commission formally established the ERGEG in November 2003. In creating the ERGEG as its advisory body on internal energy market issues and mandating it to consult openly and at an early stage, the European Commission placed the work of the energy regulators on a more formal footing and created an open platform to allow all interested parties (not just regulators) to participate in the regulatory process.

Both the CEER and ERGEG share similar objectives and there are strong linkages between the bodies. The membership of the CEER and the ERGEG is almost identical. One difference is that the European Commission is represented at a high level at the meetings of the ERGEG, but not the CEER. The national energy regulators of countries which are candidates for accession to the EU and from European Economic Area (EEA) countries also participate in the ERGEG meetings as observers.



Sir John Mogg
CEER President and
ERGEG Chair

CEER Vice Presidents and ERGEG Vice Chairs



Asta Sihvonen-
Punkka (EMV)



Walter
Boltz
(E-Control)



Alessandro
Ortis (AEEG)



Istvan Pataki
(HEO)

Who were the Board members in 2007?

In December 2007, the existing Board members were renewed for one further year and Mr. Johannes Kindler (BNetzA) was elected as a new Board member.

Messrs. Jorge Vasconcelos, Jean Syrota, Pippo Ranci and Callum McCarthy, as founding Board members of the CEER, are honorary members of the CEER.

¹ Official Journal L 296 of 14.11.2003, pp. 34-35

2. Chairman's Statement

What shaped energy regulators' work in 2007?

The European Commission's Strategic Energy Review and Sector Inquiry reports of January 2007 were not only an endorsement of our stated position, but of course shaped our work for the year ahead. They clearly showed that competition is not working in EU energy markets and that the problems run deeper than a few large companies not playing by the rules. Moreover, the rules themselves are inadequate and incomplete, resulting in a "regulatory gap" which undermines confidence in the market.

The ERGEG had already identified a number of causes for the "regulatory gap," including the lack of implementation of existing EU rules, differences in the powers of national regulators, and the absence of an EU regulatory framework to deal with cross border issues. Thus, in warmly welcoming the Commission's commitment to put structural remedies in place, both through the rigorous application of competition law and new legislative proposals, we devoted considerable resources in 2007 to providing robust advice to the Commission in preparing the foundations for a new energy regulatory framework. Our significant input to the Commission's third package proposals and our complementary regulatory action in targeting key competition problems reflect our firm belief in the wisdom of comprehensive remedies, which include structural, competition law and regulatory interventions, to deliver competitive energy markets in Europe to the benefit of the end consumer.

3rd energy liberalisation legislative proposals

Energy regulators have been strong advocates of the need for a comprehensive regulatory framework at EU level to realise the EU's stated objectives of competition, security of supply and sustainability. Following our preliminary advice to the European Commission on their Strategic Energy Review, we delivered ERGEG's detailed advice (a set of 6 papers later made public in June) on the key elements for creating such a framework. On 19 September 2007 the European Commission launched its third energy liberalisation legislative proposals.

We had proposed to the Commission that their third package proposals should strengthen the powers and independence of regulators at a national level; create an EU framework for the cooperation of energy regulators with decision making powers on cross-border issues; break up competitive and monopoly activities of energy utilities (with ownership unbundling as the preferred option); and improve the functioning of markets. However, we cannot give the proposals presented by the

Commission in September an unqualified endorsement, believing instead that in some important areas significant improvements are needed. As the Commission's proposals progress through the co-decision legislative process, we will engage constructively to achieve a robust, functioning regulatory framework suitable for Europe's needs.

Towards an EU Agency for the Cooperation of Energy Regulators?

The Commission's publication of a third energy liberalisation legislative package (five proposals) will have a strong impact on European energy policy and specifically on our organisations. The Commission believes that the ERGEG has made a positive contribution to the development of the internal energy market but that it is time for the ERGEG, which does not have decision-making powers, to evolve. This is why it proposes a new EU Agency for the Cooperation of Energy Regulators (ACER) with rather limited decision making powers. The Commission does not intend the EU Agency as a substitute for national regulators, nor as a European regulator.

At the moment national regulators cannot deal effectively with cross border issues. The resulting "regulatory gap" with respect to cross-border investment undermines the confidence of market investors. Currently the provision of grid infrastructure by Transmission System Operators (TSOs) is largely driven by national laws and requirements, and not taken from a European perspective. Improved regulatory arrangements at national level, although significantly important, will not be sufficient to accelerate progress towards a single EU energy market. An overall framework is needed to oblige and allow TSOs and regulators to pursue the development of transmission network infrastructure across and between national markets. The new EU Agency (ACER), if properly established with appropriate powers and real independence, should facilitate cross border trade and help the EU develop an integrated network working as a single EU grid.

Improving the 3rd package proposals

While we welcome much of what the European Commission has proposed in the third package, we have identified some significant weaknesses in the proposals. Our primary concern lies with the regulation of networks and in particular with the role of and inter-relationship between the proposed new EU Agency and the new European Network of Transmission System Operators (ENTSOs). Firstly, the scope of the "technical and market rules" in eleven generic areas attributed to the TSOs

(which lie at the heart of delivering an integrated EU energy market) is too broad and lacks definition. There is also no place in the process for either the EU Institutions or the Agency to make a number of important decisions on such questions. Secondly, the technical and market codes (where agreed by the Agency) could remain voluntary, thus unenforceable in which case the system would fail. Thirdly, there is not sufficient regulatory oversight of the ENTSOs – the Agency has no decision making power over the codes nor with regard to the 10-year investment plan. Such issues are of real importance, raising the question of whether TSOs can be held responsible for the security of the network and therefore in our comments on the Commission's third package proposals we have proposed an alternative approach.

What is needed is a clear sense of direction and resolution of the key political issues at the earliest stage of the process. We therefore suggest "strategic guidelines" be prepared by the Agency with extensive consultation of stakeholders. These "strategic guidelines", agreed via comitology, set up at the front end of the process a framework which would guide the drafting process by the ENTSOs of the detailed rules needed. The Agency would monitor this work of the ENTSOs and at the end of the process confirm that the codes and rules meet the objectives of the "strategic guidelines" established in the comitology process. The resulting codes and rules would be binding and enforced by the Agency, thus avoiding the legal complications resulting by the Commission's proposals, notably in respect of voluntary codes which would not be enforceable. Without a clear process for regulatory approval, the Commission's proposals risk codifying a model of self-regulation by network operators at EU level, a problem which is compounded if there is not full and proper implementation of the unbundling rules.

We also have some concerns with the governance of the Agency. We believe that the principles of independence and accountability that the Commission has rightly required for regulators at national level must also be upheld in respect to the EU Agency. Clearly any new arrangements must not leave energy consumers worse off. For this reason, we propose a number of changes which should improve the effectiveness of the ACER and avoid any unnecessary expenditure for the EU budget.

We see that the European Council and Parliament have a key role in the co-decision process to redress these shortcomings of the Commission's proposals. Since we believe that a more effective regulatory framework could still be developed, we propose a few significant amendments to the Commission's proposals to improve the regulatory process in the public interest.

Corporate goodwill is not enough, effective unbundling and legal obligations are of central importance

A number of countries with large vertically integrated energy utilities strongly oppose "ownership unbundling". However, it needs to be understood that the conflict of interest inherent within vertically integrated firms distorts investment in new infrastructure. Such energy giants can be slow to improve market transparency, and may well have little incentive to build necessary infrastructure which would introduce competition on their domestic markets. An expectation of corporate goodwill on their part is simply not enough.

This is why we strongly advocate that EU legislation – fully implemented - is needed to effectively separate the TSO from the production and supply businesses (in principle preferably through ownership unbundling, or a deep ISO model as an alternative) in both electricity and gas. Furthermore, a Regional Independent System Operator (RIO) would not resolve the EU's deep rooted problem of undue discrimination on the part of vertically integrated firms – effective unbundling would have to be a pre-requisite of any RIO model. Effective unbundling would address one of the key barriers to investment, namely the incentives on the TSO, but it cannot address all such barriers. Others, such as building authorisations and permit for transmission network infrastructure (beyond the remit of energy regulators) remain critical issues which need to be addressed urgently.

Effective unbundling, coupled with legal obligations on TSOs to develop and operate an integrated EU grid, subject to proper regulatory oversight, will facilitate transparency, co-operation by network operators and will stimulate investment in and access to infrastructure – key issues identified in the Sector Inquiry. This in turn will enhance security of supply and put pressure on prices.

Tackling competition barriers

We welcome the European Commission's commitment to strong competition law enforcement together with effective unbundling and an effective energy regulatory framework at EU level. For our part, regulators too have targeted key competition barriers such as the lack of transparency, lack of market integration and balancing at grass roots level through the Regional Initiatives framework.

Regional Initiatives

The creation by ERGEG in 2006 of 7 electricity and 3 gas regions as a staging post to a single energy market has proved invaluable with significant evidence of improved transparency and better co-ordination by TSOs on cross

border infrastructure issues. An integral part of this success has been the active involvement of relevant stakeholders. We also commend the European Commission's commitment to the regional approach in their 3rd package proposals, the appointment of EU coordinators on four key energy projects and their full support to the Regional Initiatives as an effective tool for the implementation of new legislative requirements and facilitating regional market integration. We invite those Member State governments who are not yet fully engaged to acknowledge that national borders are becoming increasingly irrelevant by fully participating in the ERGEG Regional Initiatives.

Transparency of information should be a "quick win"

Providing transparent information to market participants is an essential ingredient for efficient and competitive markets. Through the Regional initiative we continue to push for increased regional transparency by way of voluntary measures as well as using national regulatory powers wherever possible. However our monitoring of (gas and electricity) TSOs confirmed that compliance with the mandatory transparency rules is highly unsatisfactory. Additionally our experience with electricity generators in terms of not publishing plant by plant availability data - and similarly with gas storage operators - has clearly demonstrated that seeking implementation of ERGEG's transparency guidelines on a voluntary basis is wholly ineffective. We are determined to make the current serious lack of transparency a thing of the past.

Ensuring transparency requires three elements (a) binding rules (b) regulators to have the powers to ensure compliance and (c) a genuine commitment by industry, Member States and the Commission itself to the transparency goal. Our hope is that the European Commission will follow up on our monitoring so as to root out bad practices and that the European Parliament and Council will be convinced of the need for mandatory transparency rules.

Market opening, consumer rights and regulated energy prices

This year, I was accused in the press of just promoting the consumer's interest and for this I make no apology - it is my statutory duty as a regulator. The retail market was a core focus of our work at EU level with studies on obstacles to gas switching, smart metering, and advice on how to protect vulnerable customers in open markets. Our monitoring showed that more than 80% of eligible customers choose to stay on regulated tariffs. Our message is clear - regulated tariffs distort competition and jeopardise both security of supply and efforts to fight climate change. We thus call for the abolition of regulated tariffs or, where appropriate, that price regulation be

brought in line with market conditions. We ask those Member States who continue to offer regulated tariffs to put in place (by 1 July 2008) a roadmap to move towards a competitive market.

Messages from the Chair

To the European Commission, we are grateful for the time you have spent in listening to our comments and proposals - even if not all were accepted - and in particular for the support for our strong argument in favour of a clear stable EU regulatory framework crucial for much needed investment, for the need for effective unbundling and other measures guaranteeing non-discriminatory access to an integrated EU grid.

We urge the European Parliament and Member States governments to "think European" by putting in place a legislative and institutional framework at EU level that is fully effective and fit for purpose. This means that TSOs must be effectively unbundled and there must be public interest oversight by energy regulators.

To TSOs, traders and the electricity and gas industries, we invite you to add your considerable contribution and competence to the maximum extent to the Regional Initiatives.

To consumers, we remain committed to retaining consumer interests at the heart of liberalised energy markets. We will continue our efforts to ensure fair and dynamic competition, promoting market integration, customer protection and effective unbundling. But, as individual consumers, each of us should proactively play our part to stimulate competition by shopping around for the best value, and where appropriate changing our consumption behaviour so as to become more energy efficient.

I must also pay thanks to the tremendous commitment and support from our Secretary General, Fay Geitona, and our Deputy Secretary General, Una Shortall, and thank our very fine staff in the Brussels office.

Finally, this report is a testament to the time and energy our members, the energy regulators, have devoted to the great challenge and who have committed to looking outside their national jurisdictions in the interest of the EU energy consumer. To them and to all stakeholders many thanks to one and all!



Sir John Mogg
CEER President and ERGEG Chair

3. Overview of 2007 and the year ahead

2007 was a year of intense activity for Europe's energy regulators. The stark findings of the Sector Inquiry at the start of the year highlighted the need to tackle serious competition problems in the energy market through a broad base of remedies, including measures available to regulators. The European Commission's Strategic Energy Review echoed our long held plea for the establishment of an effective energy regulatory framework at EU level. This placed the ERGEG in a central role in advising the European Commission on its third package of energy liberalisation legislative proposals on a range of issues. The full opening of energy retail markets on 1 July brought consumer issues to the forefront of our work for yet another year.

Advice to the European Commission on the 3rd package

The ERGEG is charged with advising and assisting the European Commission in the consolidation of the EU internal energy market, in particular with respect to the preparation of draft implementing measures in electricity and gas markets. Consequently a large part of our work in the first half of 2007 was devoted to providing robust advice to the European Commission on a wide range of topics which fed into the Commission's third energy liberalisation legislative proposals of the 19 September.

The bulk of the ERGEG advice took the form of a set of six detailed papers, made public in June. This advice specified where legally binding rules were needed (e.g. gas storage, transparency and operational security rules), and set out in detail the precise elements required for an appropriate European framework of energy regulation. Inherent in this advice is that independent and properly empowered regulators at both EU and national level are needed to achieve predictable regulation which is at the heart of competitive markets and the creation of a sound climate for investment. National arrangements on their own are simply not enough to ensure the greater integration of national markets.

On unbundling, ERGEG had already in its 2006 assessment of regulators' national reports come to a similar conclusion to the Commission (in their Strategic Energy Review) that the legal and functional unbundling regime (to be implemented by July 2004) hasn't worked, and found insufficient unbundling to be the most persistent barrier to competition. Consequently, unbundling was already a high priority on the regulators' 2007 work programme. In advising the European Commission, the ERGEG examined the options of ownership unbundling and Independent System Operator (ISO) and strongly recommended to the European Commission that the model for new legislation should be based in principle on

ownership unbundling for Transmission System Operators (TSOs) in both electricity and gas.

Implementing existing EU energy legislation - monitoring and reporting

The work of the energy regulators during 2007 reflects our belief that the full implementation of the existing EU legislation is an imperative for competitive single electricity and gas markets in Europe to develop. A significant part of the regulators' work in 2007 continued to focus on the consolidation and implementation of the current legislative framework. The ERGEG's extensive monitoring and reporting activities help ensure a consistent application in Member States of EU legislation on electricity and gas.

Once again in 2007, the regulators provided the European Commission with raw data for its annual benchmarking report, published individual country reports and an ERGEG assessment of the development of the European energy market.

During 2007, regulators also monitored compliance by Member States with the legally binding requirements of both the electricity and the gas regulation. These exercises showed disappointing results and the urgent need for improvements.

Implementing existing EU energy legislation - technical advice and new guidelines

The ERGEG also provided advice on how best to implement existing legislation and prepared, where necessary, draft ERGEG guidelines which supplement existing EU legislation. New ERGEG guidelines (which by their nature are not legally binding) were developed on Open Season Procedures in gas and on Regulatory Accounts Unbundling. Other draft ERGEG guidelines are under development (gas capacity calculation, and on LNG) or being revised (e.g. electricity balancing) following public consultations during 2007.

In electricity, significant resources were devoted to focusing on the critical elements needed for a more efficient operation and completion of the internal electricity market. This included a range of works on the development of and access to infrastructure, network operator co-ordination and tackling the obstacles that act against an effectively functioning market (e.g. fragmented balancing markets). Detailed technical work was undertaken in other areas including voltage quality and unbundling (in electricity and gas).

In gas, regulators at the EU level continued to build on previous years' work on interoperability, transparency, balancing, storage, and LNG issues. In addition, work was undertaken in a number of new issues including European gas grid code, secondary markets, capacity calculation, tariff treatment and the treatment of new gas infrastructure.

Key issues on the consumer side included a study on smart meters, work on regulated energy tariffs and our call for the abolition of regulated tariffs, our recommendations on the obstacles to gas switching, and our promotion of consumer rights. In recognising the importance going forward of harmonising retail electricity market designs across Member States, the regulators began examining in 2007 whether this process could be facilitated within the framework of the ERGEG Regional Initiatives.

Regional Initiatives

After setting up the Regional Initiatives in 2006, regulators wholeheartedly committed themselves in 2007 to continue to take a lead role in facilitating regional market integration via the Regional Initiatives framework. At EU level the progress within and convergence across regions is systematically monitored, analysed and reported by the regulators. In 2007, the ERGEG Regional Initiatives have had a real impact through practical improvements that facilitate trade between EU countries.

Beyond Europe

Completing the internal energy market in Europe is also the bedrock of an external EU energy policy. The extension of a common regulatory space to neighbouring regions is important for secure and sustainable energy supplies to Europe. According to the Commission's Strategic Energy Review, the ERGEG is expected to play an important role in the dialogue with Europe's international partners. The Energy Community of South East Europe and the MEDREG process featured high in our 2007 international collaboration efforts. In 2007 we also forged new, or re-kindled old, alliances with strategic partners such as Russia and the United States. Our 2006 initiative of an International Energy Regulation Network website (www.iern.net) is working well and facilitates international co-operation at regulatory level.

Promoting sustainability and security of supply

Security of supply, competitiveness and liberalisation objectives always underpin key elements of our work and 2007 was no different. In February we published our advice to Commissioner Pieblags on the blackout of November 2006. The United Nations Climate Change conference in Bali in December 2007 echoed the

concerns in numerous reports (Stern, International Energy Agency (IEA), and Intergovernmental Panel on Climate Change (IPCC)) on the urgent need for global action to cut carbon emissions. At the Spring European Council, EU Member States had already pledged that 20% of energy should come from renewables, and to unilaterally reduce Europe's CO₂ emissions by 20% by 2020 (and by 30% if there is an international agreement). For this reason, in our own EU-US December roundtable discussions with regulators from America, we placed a global approach to climate change and security of supply at the top of our agenda.

In our belief the EU's Emissions Trading Scheme (ETS) – the world's largest carbon trading scheme – is a key tool to tackle climate change. In July 2007, the CEER recommended a number of improvements to the ETS to overcome some of the problems of the scheme which would ensure a more consistent application of it across Member States. For example, under the ETS's first phase (2005-2007) too many permits were issued, causing the price of carbon to fall which undermined the whole basis of the scheme. The CEER advocated a move towards the full auctioning of permits as the most efficient allocation method. This would not only force big polluters to pay more but also would provide an incentive to invest in more efficient plants and close down the bigger polluting plants. The CEER further advocated setting an EU-wide cap, the broadest possible coverage (including to the aviation sector), harmonisation of compliance and enforcement and the establishment of links with 3rd countries so as to facilitate the emergence of a global scheme.

The year ahead

The primary focus of our work continues to be on creating a single energy market in Europe. A number of public consultations held during 2007 will result in 2008 on new or amended ERGEG guidelines (e.g. on LNG and on electricity intra-day and balancing). These voluntary guidelines are a non-binding instrument which supplement Community legislation and which should facilitate the correct implementation of the existing laws. There are a number of ongoing tasks related to security of supply including recommendations on generation adequacy treatment, system adequacy monitoring and reporting, and better TSO coordination so as to maximise available capacity.

The third package proposals also give rise to technical work on a wide range of issues such as rules for an EU grid in electricity and gas, and the joint mandate given to ERGEG and CESR (the financial regulators' association) to cooperate and advise the European Commission on guidelines for record-keeping requirements. For 2008, we stand ready to support the European Parliament and Council in taking forward the European Commission's third package proposals. Likewise we will provide

whatever expertise the European Commission requires as follow-up to the third energy liberalisation package, its second set of legislative proposals on renewable energy and climate change proposals (expected to deliver the targets and objectives agreed by Member States at the Spring 2007 European Council) and its Strategic Energy Technology Plan.

We fully recognise the complementary nature of the competition law framework and the energy liberalisation framework, each of which share the same goal of transferring the benefits of effective competition to end consumers. This is why our 2008 work programme reflects ongoing regulatory actions to tackle the key competition problems of the Sector Inquiry. At EU level this includes work to improve market integration (such as on balancing, gas hubs and common principles to promoting cross border trading), further work on gas market transparency and on unbundling.

The Regional Initiatives will continue to be a core area of our work at both EU and regional level. As the objective of the Regional Initiatives is the creation of a single European electricity and gas market, a vision on how to progress from the regions towards the single market will be a priority in 2008.

4. An Energy Policy for Europe – regulators' input in shaping policy

The European energy context

On 10 January 2007, the European Commission published a comprehensive package of measures entitled "An Energy Policy for Europe". This Strategic Energy Review outlined the need for action on a number of fronts – tackling climate change, ensuring security of supply, making the EU economy more competitive, and setting core energy objectives. Key targets of the proposed EU energy policy included a "20-20-20" goal by the year 2020; reducing greenhouse gas emissions by at least 20%; improving energy efficiency by 20%; and raising the share of renewables by 20% by 2020.

The Commission's Strategic Energy Review proposed a number of measures supporting the proper functioning of the internal gas and electricity market, including effective unbundling, harmonisation of the powers of national regulators, better cross-border regulation, and effective transparency. In parallel, the Commission adopted the final report of its energy Sector Inquiry, conducted throughout 2005-2006, which identified a series of issues that prevent meaningful competition in Europe's electricity and gas markets. Key problems identified by the Sector Inquiry were market concentration, collusion between incumbents, insufficient unbundling, a lack of integration of national markets, vertical integration (which led to a lack of access to infrastructure and lack of or delayed investment), and an absence of transparency.

The ERGEG advice in preparing a third legislative package

Regulators had already advised the European Commission in 2006 (in response to their Green Paper) that to deliver effective European market in electricity and gas, it is vital to build an integrated EU grid, effectively unbundle the network companies that operate it, and to provide regulators with the powers to oversee it.

Unsurprisingly the CEER and ERGEG strongly endorsed the Commission's Strategic Energy Review and its commitment to put structural remedies in place both through the rigorous application of competition law, and a set of new legislative measures including effective unbundling. In its response to the Commission's Communication "An Energy Policy for Europe" (February 2007), the ERGEG focused on the internal energy market aspects of the Strategic Energy Review. The regulators set out what short term actions were needed alongside new EU legislation.

At the Spring European Council, Member States broadly endorsed the Commission's proposals but sought clarification on a number of key measures. It agreed in its conclusions to "the establishment of an independent mechanism for national regulators to cooperate and take decisions on important cross-border issues."

By April, the ERGEG had provided its detailed advice to the European Commission in their preparation of the third energy legislative package. The ERGEG advocated that new legislation is urgently needed and should comprise a number of core elements:

- (1) ownership unbundling of TSOs;
- (2) the development of integrated EU grids in electricity and gas;
- (3) new EU obligations to be placed on TSOs and the creation of EU network bodies; and
- (4) strong national regulators and a European regulatory function to oversee the work of the EU network bodies.

This ERGEG advice took the form of six comprehensive papers (later published on 6 June 2007) on: (1) unbundling; (2) the legal and regulatory framework for a European system of energy regulation; (3) network regulation; (4) ETSO plus/ GIE plus; (5) powers and independence of national regulators; and (6) transparency requirements.

In its advice, the ERGEG explained not only what is missing from the existing framework but moreover proposed the specific type of legislative requirement needed, clearly explaining its reasoning. For example, the unbundling paper provides case study examples of regulators' experiences with the ownership unbundling and ISO models in practice. In it, the ERGEG considers a deep-ISO model as a second best option to ownership unbundling. Compared with the ownership unbundled model, heavy, intrusive, burdensome and potentially costly regulation is required to manage the inherent, potential conflict of interests between the monopolistic and competitive elements of vertically-integrated companies in the ISO model, without any additional benefit to consumers. The paper explains why ownership unbundling is required in both electricity and gas and why a Regional Independent System Operator model (RIO) does nothing to solve the unbundling issue.

In these set of six papers, the ERGEG provided the Commission with detailed proposals for the legislative requirements of a comprehensive regulatory framework for single EU energy markets and integrated EU grids. Rather than a single EU regulator, the regulators proposed an enhanced ERGEGplus body and clearly explained how it would work as well as the levels of co-operation that ETSO+ and GIE+ should undertake, how investment planning would work and how costs and risk allocation should work. In order to reach a wider audience, the core messages of ERGEG's detailed advice were summarised in three factsheets.

In July the European Parliament adopted a report backing the core aspects of the Commission's "Energy Policy for Europe" proposal. The Parliament considered in particular that "transmission ownership unbundling is the most effective tool to promote investments in infrastructures in a non-discriminatory way, fair access to the grid for new entrants and transparency in the market". It underlined however that other measures are also necessary and that the differences between electricity and gas may call for partially different implementation. The Parliament called for enhancing "cooperation between regulators at EU level, through an EU entity, as a way to promote a more European approach to regulation on cross-border issues; underlines that the Commission should play a determining role, whilst not undermining the independence of regulators; believes that decisions by regulators should be made on specifically defined technical and trade issues and on an informed basis considering, when appropriate, the views of TSOs and other relevant stakeholders, and should be legally binding". In September the Parliament adopted a resolution towards a European foreign policy on energy.

The European Commission's third package proposals and the regulators' response

On 19 September the European Commission published its third energy liberalisation package proposals which address the following issues;

- strengthening the powers and independence of national regulators;
- the creation of an EU Agency for the Cooperation of Energy Regulators (ACER) which is a body entrusted with some decision-making powers on cross border issues;
- the creation of European Network Transmission System Operator (ENTSOs) bodies
- effective unbundling with ownership unbundling as the preferred option but as a derogation Member States may opt for an ISO model instead; and
- Improving the functioning of markets, including improving transparency and access conditions for storage and LNG.

In December 2007, the regulators published their key comments on the European Commission's third package proposals. Regulators welcome much of the Commission's proposals, in particular its commitment to the single energy market, the strengthening of the powers and independence of regulators at a national level, the provisions for effective unbundling (ownership unbundling being our preferred option) the improvements to the functioning of markets, and the creation of an EU Agency. Nevertheless, the European regulators have concerns about the role and interplay between the EU Agency and the ENTSOs. In particular,

1. The scope of the "technical and market rules" in 11 generic areas attributed to the TSOs (which lie at the heart of delivering an integrated EU energy market) is too broad and lacks definition.
2. The technical and market codes could remain voluntary, thus unenforceable in which case the system would fail.
3. There is not sufficient regulatory oversight of the ENTSO – the Agency has no decision-making power over the codes nor with regard to the 10-year investment plan.

The regulators believe that the Agency must approve the TSO's draft investment plan. It must also have a clearly defined role in monitoring the EU TSO bodies and, in particular, their introduction, processing and agreements on draft technical codes to ensure that the oversight of established public interest concerns will be fully met. Without a clear process for regulatory approval, the Commission's proposals risk codifying a model of self-regulation by network operators at EU level, a problem which is compounded if there is not full and proper implementation of the unbundling. Furthermore, the new EU regulatory framework should build upon, not replace, the current established consultation practices of the ERGEG. Under the European Commission's 19 September proposals, it is the ENTSOs, and not the EU Agency, which is obliged to consult. The European regulators underline that unless consultation is carried out in an open, fair and impartial way, confidence in the process is undermined. It is essential that the regulators themselves conduct their own consultation before advising the European Commission on proposed codes.

Consequently, in the public interest, the regulators proposed a few significant improvements to the Commission's proposals to have a more balanced, efficient regulatory process. Regulators advocate that a clear sense of direction and resolution of the key political issues is needed at the earliest stage of the process. This could be achieved by "strategic guidelines" prepared by the Agency, with extensive consultation of stakeholders, for consideration in the comitology process. For each code or rule the strategic guidelines would address questions such as the extent and pace of harmonisation and the overall objectives. On the basis of the "strategic guidelines", the

ENTSOs, monitored by the Agency and in full consultation with stakeholders, will develop the detailed rules needed. The Agency would at the end of the process confirm that the codes and rules meet the objectives of the “strategic guidelines” established in the comitology process. The resulting codes and rules would be binding and enforced by the Agency, thus avoiding the legal complications resulting by the Commission’s proposals, notably in respect of voluntary codes.

The ERGEG assessment of the development of the European energy market

Under the 2003 electricity and gas directives national energy regulatory authorities are required to publish an annual report on the outcome of their monitoring activities related to the functioning of the electricity and gas markets. The ERGEG Assessment of the Development of the European Energy Market 2007 draws some main conclusions from the national reports in terms of moving towards an internal energy market in Europe particularly on unbundling, market integration and security of supply.

Some key developments in the 2007 national reports are that full retail market opening (on 1 July) for the Member States concerned went smoothly. ERGEG finds that regulated tariffs are distortionary and should be phased out. As already pointed out in 2006 ERGEG assessment, there are encouraging signs of a new investment cycle.

In highlighting once again the insufficient extent of unbundling, the ERGEG points to the continuing vague implementation of the legal and functional provisions of the directives in most national laws, and advises that a stricter unbundling regime at transmission level – with a clear preference for ownership unbundling - is needed to facilitate effective competition in both electricity and gas.

The ERGEG advises the Commission that the current gas transparency requirements are insufficient and that the more extensive transparency rules provided by ERGEG’s voluntary guidelines on transparency in wholesale electricity markets need to be made legally binding.

There were encouraging signs of cross border integration, helped in no small way by the Regional Initiatives framework established by ERGEG in 2006. In an effort to improve regional market integration, the important role of the ERGEG Regional Initiatives which is delivering concrete results (e.g. on transparency and market coupling) is underlined. The ERGEG Assessment highlights the need for more support from Member States to overcome obstacles (such as regulatory gaps) to fully functional regional markets and the need for an effective EU regulatory framework to ensure appropriate TSO coordination. The ERGEG Assessment also finds that political interference in energy regulation remains a concern with the independence of some national regulators endangered through the direct influence of ministries or parliaments in terms of appointments or even individual decisions of national regulators.

5. Regional Initiatives

The Regional Initiatives framework

Regional markets and the ERGEG Regional Initiatives framework are now firmly regarded as a critical element in the move towards the ultimate goal of EU energy market integration. Through the Regional Initiative framework, launched in Spring 2006, regulators seek to develop a process whereby obstacles to trading electricity and gas with neighbouring countries are considered within each Regional Energy Market (REM) and solutions tailored so as to improve market integration both within and across regions. After identifying the priority topics, each electricity and gas REM in 2007 became clearly engaged in the implementation phase, resulting in real progress in terms of regional market integration.

Progress

On-going progress is posted on the dedicated Regional Initiatives section of the ERGEG website (www.ergeg.org). It includes information on public consultations, press releases and meetings within the regions, milestones achieved, as well as the progress reports made to the Florence and Madrid fora. Also a “Regional Initiatives – Progress and Prospects” conference, jointly hosted by the ERGEG and the European Commission, was held in Brussels in March 2007. The Regional Initiatives Annual Report, launched at the conference, provides a first assessment of the activities and the results achieved within the regions. Updates on each region and a “region in the spotlight” are now standard features of the monthly online newsletter *European Energy Regulators’ News*.

Regional approach in the third energy liberalisation legislative package

Regional cooperation is underlined in the European Commission’s 3rd package legislative proposals as a means to promote regional and single market integration. The explanatory memorandum explicitly refers to the ERGEG Regional Initiatives and the articles of the legislative proposals themselves contain a number of regional provisions for Member States, regulators, TSOs, and the proposed new EU Agency for regulators. The proposals support and foster regional co-operation of TSOs (e.g. regional investment plans which must not be contradictory to the 10 year investment plan) while also ensuring a coherent outcome at the European level. The monitoring task of the regional cooperation activities foreseen in the proposals is planned to be given to the EU Agency.

The 3rd package provides the legislative framework that is necessary to make the transition to a competitive, single EU gas and electricity market. However, the 3rd package is not the complete answer and furthermore, both the legislative procedure and the subsequent implementation of the EU laws into national legislation will take time. Meanwhile progress on all fronts, including local political initiatives and the ERGEG Regional Initiatives themselves, is necessary if the single EU energy market is to become a reality. The ERGEG Regional Initiatives can support these processes by developing and implementing practical solutions, at a market level, to help make the political objective a reality.

The role of the Regional Initiatives now and in the future

The Regional Initiatives provide stakeholders with a process, that is reasonably adaptable to change, and that can tackle new issues as they arise in the transition to a single market. As demonstrated below, the Regional Initiatives have already proved in 2007 that they can deliver real outcomes before the necessary legislation is passed. Some significant improvements are already being delivered – for example in areas of transparency, access to capacity, implementation of the congestion management guidelines and Transmission System Operators’ (TSOs) and regulators’ coordination on cross border issues. These improvements help facilitate the development of regional markets by removing barriers to competition and trade. In this way, the Regional Initiatives are laying a firm foundation for the transition to a single market and the more progress that can be made now, the easier the next steps will be to take.

The Regional Initiatives are also instrumental in identifying regulatory gaps such as missing or faulty legal provisions. Hence, the Regional Initiatives build a bridge between the legislative authorities on the one hand and the market on the other. In this way the grass-roots work of the Regional Initiatives has in an important way helped identify the need for and facilitated the creation of more general regulatory provisions for the EU level. Once the 3rd package proposals have gone through the legislative process, the Regional Initiatives can continue to provide a route for achieving the single market in facilitating the implementation of new legislative requirements on TSOs and others.

Electricity Regional Initiative – regional electricity market integration

The Electricity Regional Initiative creates 7 regions namely Baltic, Central-East, Central-South, Central-West, Northern, South-West and France, UK and Ireland.

Electricity regions deliver results

The evidence from 2007 is that the Electricity Regional Initiative is delivering results on the ground, particularly on capacity calculation, capacity allocation, firmness of capacity rights and market transparency. Regions are focusing on correctly implementing the Congestion Management Guidelines. Several projects on harmonising capacity allocation are under development including in the Central-West, France-UK-Ireland, Central-South and South-West and Central-East REMs, focusing the target for setting-up a single regional auction platform for allocating long and medium term products. These regional auction platforms will help to harmonise and improve the characteristics of allocated products (firmness, compensation scheme, hourly/daily, quarterly or monthly, etc).

Market coupling is proving to be a successful driver to greater EU power market integration, by making better use of the cross border transmission lines and creating regional markets. Plans are already underway for further market coupling in the future and the linking of regions. Trilateral market coupling (TLC) of the Belgian, Dutch and French spot markets exists since November 2006. There are plans to implement market coupling in the entire Central-West REM (linking Germany and Luxembourg with the current 3 countries) by 2009, directly followed by the coupling of the Dutch and Nordic market. There are also plans to couple the French and MIBEL markets and eventually to roll-out market coupling to all regions.

In the Northern REM there is an agreement to publish online load, transmission, interconnection and balancing data by 1 January 2008, and generation data by 1 July 2008. The harmonisation of transparency rules in the Northern REM has already provided the basis for regional transparency reports in the Central-West REM (published in December 2007) and in the Central-East REM (to be published in 2008). The Northern REM's report is also the basis for transparency discussions in the Central-South REM and South-West REM.

The regulators from the Central-West REM, the Central-South REM and the South-West REM have recently expressed a common view on the overall benefit of adopting a market based approach to curtailment of capacity rights (i.e. any curtailment of capacity rights should be compensated at the market price spread, except in case of Force Majeure). The France-UK and Ireland (FUI) REM and the Baltic region are firmly focused

on harmonising balancing regimes within the region. Meanwhile, in the South-West REM, the regulators of France, Portugal and Spain agreed an action plan for priorities on interconnectors and capacity, market transparency, congestion management, compatibility of market rules, and balancing mechanisms.

Convergence towards a single electricity market

During 2007, the ERGEG also conducted a public consultation to assess whether priorities and solutions adopted in each of the electricity REMs are coherent with each other and could potentially enable convergence towards a single EU electricity market. It concludes that processes and legal bases do exist at EU level to guide progress at a regional level, particularly with regard to congestion management and transparency. Most regions have identified and been pursuing similar priority topics, which, in principle, should allow further integration of regions at a later stage. The report also highlights that the electricity REMs need to maintain their momentum in dealing with issues such as capacity calculation and allocation, transparency and regulatory/legal framework questions. In 2008, the regulators will publish their vision of how to proceed from regional electricity markets to a true single market.

The South East Europe electricity region and the ERGEG Regional Initiatives

The accession of Bulgaria and Romania to the EU raised the issue of whether an 8th region for South East Europe should be created within the ERGEG Regional Initiatives framework. The European Commission declared that with regard to the Congestion Management Guidelines it intends to establish a new region, the 'SEE Region', for the application of common coordinated congestion management methods. This region shall comprise countries that are EU members (Bulgaria, Greece, Hungary, Romania, Slovenia) as well as Contracting Parties to the Energy Community Treaty.

Moreover, because the Energy Community provides an institutional structure (equivalent to the REM structure of the Regional Initiatives framework) which is already in place and functions, it was agreed that for now the "SEE Region" will continue to operate under the Energy Community's Athens process (including for the application of Congestion Management Guidelines and other cross border trade issues) rather than under the ERGEG Electricity Regional Initiative. Proper coordination and coherence between the "SEE Region" and the ERGEG Electricity Regional Initiatives is assured.

Electricity Regional Energy Markets (REMs)	Lead Regulator
Central West Belgium, France, Germany, Luxembourg and Netherlands	Belgium (CREG)
Northern Denmark, Finland, Germany, Norway, Poland and Sweden	Denmark (DERA)
France, UK & Ireland France, Republic of Ireland, Northern Ireland and Great Britain	Great Britain (Ofgem)
Central-South Austria, France, Germany, Greece, Italy and Slovenia	Italy (AEEG)
South-West France, Portugal and Spain	Spain (CNE)
Central-East Austria, Czech Republic, Germany, Hungary, Poland, Slovakia and Slovenia	Austria (E-control)
Baltic Estonia, Latvia and Lithuania	Latvia (PUC)

Gas Regional Initiative – regional gas market integration

The Gas Regional Initiative, established by the ERGEG in 2006, creates 3 regional gas markets (in the North-West, South and South-South East) of Europe. Each of the three regions is heavily engaged in implementing their action plans. Common priorities across the regions include transparency, development of hubs, interoperability and access to capacity. Examples of concrete results include improvements in gas interconnection and capacity, transparency and regional efforts to improve gas interoperability.

Gas regions deliver results

The evidence in 2007 is that the Gas Regional Initiative is delivering results. Practical successes in the North-West REM include more transparency on storage and the fact that more access to capacity is on the way (co-ordinated open seasons and the launch of a secondary day-ahead project). A memorandum of understanding has been signed which should help facilitate better regulatory coordination on cross-border issues, for example on interconnectors and market design. Examples of success in the South REM include joint investment plans to increase interconnection capacities at the borders, agreement by

the Spanish and Portuguese governments to develop an Iberian gas market (MIBGAS) and commitments to improved transparency. Success in the South-South East REM includes plans for a regional investment plan, standardised bulletin board for secondary market trading, TSOs' commitment to a "one-stop-shop" for capacity bookings and a day-ahead gas price index was established for the Central European Gas Hub trading location.

Convergence towards a single gas market

The treatment of priorities across the gas regions is broadly similar and should allow further market integration. Progress within regions is carefully monitored at an EU level by the ERGEG. External reporting in 2007 included progress reports (of action plans, deliverables and results per region) presented at the Madrid Forum in February and October, and at the inaugural Regional Initiatives Annual Conference in March 2007. In October 2007, the ERGEG launched a public consultation on convergence and coherence across the three regions. The results of this public consultation will be used by ERGEG as input in 2008 for mapping out how to proceed from regional markets to a single European gas market.

The South East Europe gas region and the ERGEG
Gas Regional Initiative

With Romania and Bulgaria joining the EU in 2007, the membership of the South-South East gas region was enlarged so as to include these two new Member States. The region now comprises: Austria, Bulgaria, Czech Republic, Greece, Hungary, Italy, Poland, Slovakia, Slovenia, and Romania. Success in the South-South East region includes the establishment of a day-ahead gas price index for the Central European gas hub trading location at Baumgarten. Furthermore, TSOs in the region set up a platform offering a one-stop-shop service to shippers who want to transport gas over several TSO systems.

Gas Regional Energy Markets (REMs)	Lead Regulator
North West Belgium, Denmark, France, Germany, Ireland, Northern Ireland, Netherlands, Sweden and the United Kingdom	The Netherlands (DTe)
South France, Portugal and Spain	Spain (CNE)
South-South East Austria, Bulgaria, Czech Republic, Greece, Hungary, Italy, Poland, Slovakia, Slovenia and Romania	Austria (E-Control) Italy (AEEG)

6. Electricity

In the first half of 2007, in its advisory role to the European Commission, the ERGEG put much effort in responding to the Commission's request for advice on a wide range of electricity topics which fed into the Commission's third energy liberalisation package proposals of the 19 September 2007. In addition, the following topics were addressed.

Compliance with the Electricity Regulation shows disappointing results

The ERGEG was asked to prepare a report on regulators' experience of Member States' compliance with the Electricity Regulation (1228/2003/EC). A similar exercise was conducted in the gas sector. The ERGEG's monitoring report, which was presented at the 14th Florence Forum (September), shows compliance with the Electricity Regulation's binding requirements varies widely and is disappointing.

If implemented correctly, the amended Congestion Management Guidelines, which came into force on 1 December 2006, should have been a major step. These binding guidelines split Europe into 7 electricity regions (the same ones as set up under ERGEG's Electricity Regional Initiative), requiring TSOs to coordinate and implement common capacity calculation and allocation procedures in the regions. Unfortunately the regulators' monitoring shows that this is not the practice in the regions.

For capacity allocation methods, only coordinated explicit and implicit auctions fulfill the requirements of the Regulation, whereas in practice other methods are still used on some congested interconnectors. Progress is nonetheless being made through the Regional Initiatives framework – with the so called “market coupling” (in the Central West and Northern regions) offering the highest potential of integrating Europe's electricity markets through implicit auctions at the day-ahead stage.

On transparency, only a few TSOs publish all information related to network availability, access and use together with a report on congestion and its future management. Furthermore, publication of data is not yet coordinated within the regions and substantial differences exist with regard to the information, level of aggregation and timing. To this end, substantial efforts are being made by regulators through the Regional Initiatives to push for a more harmonised approach to transparency both within and across regions.

There are still no binding Inter-TSO Compensation (ITC) guidelines - instead a series of temporary ITC systems

have been negotiated and entered into by some (but not all) TSOs. The voluntary schemes that were applied for 2007 did not fully comply with the Electricity Regulation. The major sources for non-compliance were (i) the applied cost basis, i.e. not taking into account the Long Run Average Incremental Costs; and (ii) the fees set for the nominated export to and import from non-participating countries within the EU, in so far as these fees had not been socialised among the transmission network customers. The European Commission has taken over responsibility for the preparation of the ITC guidelines, given its mandate to initiate the comitology process needed for the binding guidelines. The ERGEG is of the view that it is important to have a permanent solution in the form of binding ITC guidelines as soon as possible so as to achieve stability and predictability to the ITC scheme.

The lack of functioning ITC guidelines has also hampered the adoption of transmission tariffication guidelines (which must be adopted at the same time as the ITC ones). Currently the tariff systems and charges differ but they are in general built on comparable schemes and components which are applied in a non-discriminatory way. The tariffs are not distance-based but entry-exit based systems, and in some countries zonal or nodal systems are applied. However, the inclusion of stranded cost elements in the tariff cost base in some Member States does not comply with the Electricity Regulation.

This monitoring of compliance with the Electricity Regulation will be developed into a yearly exercise, the results of which will be presented to industry and Member States at the annual Florence Forum. Based on common criteria for measuring compliance, developed by the ERGEG, national energy regulatory authorities can monitor compliance in a coherent way.

Integrating electricity balancing markets in Europe

The electricity network is in need of constant balancing of loads so that a continuous flow of electricity can be maintained. Balancing markets in Europe are generally national in scope or smaller. Insufficiently integrated markets – including balancing and intra-day markets – are among the key impediments, as identified in the European Commission's Sector Inquiry, to a competitive single European electricity market. Integrated, or at least full interaction of national balancing markets, makes both economic and technical sense.

Following a public consultation in 2006, the ERGEG published “Guidelines for Good Practice on Electricity

Balancing Markets Integration” (GGP-EBMI). Balancing guidelines were also developed for the gas sector. The GGP-EBMI focused initially on manually activated reserves. During 2007, the ERGEG worked on elaborating the original GGP-EBMI so as to also address cross-border intraday trade and automatically activated reserves. This work will be completed in 2008 along with some concrete proposals and a roadmap on how to integrate the electricity balancing markets. Integrating balancing markets, combined with efficient intraday trading and automatically activated reserves, will support liquidity, foster competition and increase transparency.

Blackouts and infrastructure investments

At Commissioner Piebalgs' request, the regulators investigated and reported on the blackout of November 2006. In their final report (February 2007), the ERGEG criticised the lack of appropriate coordination by network operators and their failure to take account of the lessons of the Swiss/Italian blackout of 2003. A recurring ERGEG recommendation to the European Commission in 2007 was the need for an EU framework that obliges TSOs to develop and operate the transmission network infrastructure to European operating and security standards, and for legal obligations on individual TSOs to comply with these EU standards.

Following a workshop on critical electricity network in spring, the regulators published their conclusions to the ERGEG public consultation on “Cross Border Framework for Electricity Transmission Network Infrastructure”. Besides reiterating the need for an EU electricity grid framework, other recommendations for new infrastructure included the need to clarify and speed up consents and authorisations. On foot of a request from the European Commission, the ERGEG also provided best practice examples of licensing and construction authorisation procedures based on regulators' experiences.

The framework for a European electricity grid

During 2007, the ERGEG set out a detailed proposition for a comprehensive regulatory framework for the establishment of a European electricity (and gas) network necessary to provide secure and reliable network services and a well integrated European electricity (and gas) grid.

In its (June) advice on the third energy package (See paper 3 on Network Regulation – Overall Framework), the ERGEG set out the suite of standards/guidelines required for a European electricity grid to develop. This paper also outlined a proposal on how the European electricity grid should be defined in law, the obligations needed on TSOs in relation to the EU grid and the legislative route to achieve this. A separate paper (See paper 2 on the Legal

and Regulatory Framework for A European System of Energy Regulation) outlines a clear model for the formation and operation of our proposed new European regulatory framework including its vital interaction with national regulators, European bodies (of effectively unbundled) TSOs and the EU Institutions.

As well as the precise definition of the European electricity grid (which must be set out in law), the regulators will continue their work in 2008 on two other key components of a European electricity grid, namely (a) the grid connection and access conditions that shall apply in common for all grid uses and (b) the main contents of the Security and Reliability Guidelines (Article 8 of the Regulation 1228/2003/EC).

Security and quality of electricity supply

Ensuring security of supply implies addressing a complex and interacting array of factors, both technical and qualitative. In 2007, the European regulators examined how to improve the treatment of generation adequacy, how to better monitor it and how to share data that is necessary for the identification of security of supply risks. Different national generation adequacy treatments must not negatively affect competition nor market functioning. Access to relevant information is therefore of crucial importance to ensure generation adequacy in electricity markets. Market-based demand flexibility can also play a role in improving generation (and system) adequacy. The CEER will present recommendations on generation adequacy at the end of 2008. National practices on the treatment of transmission and distribution losses are also being reviewed.

As regards the issue of quality of supply the ERGEG published, in July, conclusions to its public consultation on voltage quality regulation. The principal outcome is the need for the European Committee on Electrotechnical Standardisation (CENELEC), in cooperation with regulators and other stakeholders, to revise voltage quality standard EN 50160. To this end a cooperation between CENELEC, who is responsible for standardisation in the electricity sector, and the CEER has begun. Preparatory work also began on the CEER's fourth benchmarking report on quality of electricity supply which will be published in 2008.

Environmental-related issues

Sustainable development, climate change, energy consumption, and generation are intrinsic parts of both the problem and the solution in a global environment. European regulators recognise the role they can play within their remit. In this respect, the CEER has considered the EU Emissions Trading Scheme (ETS), end-use energy efficiency and the integration of renewable energy sources into the market.

While most national regulatory authorities do not have direct regulatory powers over the allocation of emission quotas, decisions related to the EU ETS are relevant to the development of the internal electricity market. In July, the CEER published its advice on revisions to the EU ETS at the end of its first phase (2005 – 2007).

Under the ETS, large polluters trade allowances to emit carbon to stay below emission caps set by the EU. The CEER believes that a tight emissions cap is key for the success of the ETS. In responding to the European Commission's review of the ETS, the CEER highlighted that the relatively short (5 year phases) for which allowance caps are set has an impact on long-term certainty and predictability and thus advocated a longer term EU wide cap rather than setting the cap by the aggregate of the national allocation plans of the Member States. The CEER believes that the restricted coverage of the scheme does not provide a strong incentive for abatement to occur at the lowest possible cost and thus advocated the widest possible coverage to include all sectors and gases. As the free allocation of allowances creates windfall profits and is not the most efficient method of allocation the regulators recommended that instead permits should be auctioned, and that greater harmonisation across Member States of compliance and enforcement would be likely to result in a more robust and efficient scheme. The CEER also considers that links with 3rd countries could facilitate the emergence of a global scheme.

In addition, the CEER contributed to the proposed Memorandum of Understanding (MoU) on end-user energy efficiency in the European Commission's Action Plan on energy efficiency. The MoU seeks to put in place guidelines between the regulators on ways to work together to facilitate further end user energy efficiency. During 2008, the CEER will build on this work, developing associated guidelines on end-use energy efficiency.

At the same time, regulators are considering their role not only in facilitating renewables in the energy mix but also in balancing the impact of more renewable energy on electricity generation, networks and markets. This work will continue into 2008.

7. Gas

In the first half of 2007, in its advisory role to the European Commission, the ERGEG put much effort in responding to the Commission's request for advice on a wide range of gas topics which fed into the Commission's third energy liberalisation package proposals of the 19 September 2007. In addition, the following gas topics were addressed.

Gas balancing

The ERGEG recommended to the European Commission to make legally binding its Guidelines on Good Practice for Gas Balancing (GGPGB) of December 2006. The GGPGB are the result of extensive and transparent public consultations with market participants and they represent the ERGEG's interpretation of Article 7 of the Gas Regulation (1775/2005/EC). The ERGEG requested full compliance with the GGPGB by 1 April 2007. In the ERGEG's view, the existing binding balancing requirements in the Gas Regulation are not sufficient to ensure the safe, secure and reliable operation of the network across the EU, nor the non-discriminatory and transparent application of balancing rules. As a result, there is a need for binding requirements providing sufficient detail and guidance on the arrangements that should be put in place for gas balancing. In addition, national regulatory authorities should be provided with the necessary powers to take effective and appropriate action in instances of non-compliance. The ERGEG Impact Assessment (September 2007) shows that there are no significant costs involved for TSOs or market operators of making them binding.

Transparency

Transparency of information is crucial to the development of a competitive market. For this reason, the ERGEG conducted in 2007 a significant amount of work to improve transparency conditions in the European gas market, including detailed advice to the European Commission on an improved legal framework for gas (and electricity) transparency as well as in-depth monitoring of compliance with the current legally binding transparency requirements.

In its advice to the European Commission on the third energy liberalisation package proposals (See paper 6 on Transparency) the remedies proposed by the ERGEG for gas included specific amendments that should be made to the existing Gas Regulation (relating to the transmission network) and additional transparency provisions (that go beyond the existing Gas Regulation) on other types of infrastructure including storage and LNG.

In 2007, the ERGEG monitored 43 European TSOs' compliance with the legally binding transparency requirements of Gas Regulation (1775/2005/EC). Findings from this "Compliance with Transparency Requirements of the Gas Regulation – An ERGEG Monitoring Report" show that overall compliance is unsatisfactory, particularly for contracted and available capacities and historical flows. Nearly one in two operators did not publish online annual average flows for the past three years.

Further to a request of the European Commission at the XII Madrid Forum in February 2007, the ERGEG conducted additional monitoring in an attempt to better understand the reasons for this severe lack of compliance. This report, which confirms the initial monitoring exercise shows that: (i) comprehensive and complete implementation of the Gas Regulation needs to be ensured by competent authorities in an effective manner; (ii) additional transparency requirements are needed to ensure fair Third Party Access (TPA) to LNG and storage facilities; (iii) the European Commission's explanatory notes are not complied with by most TSOs; and (iv) current sanction mechanisms for non-compliance are mostly ineffective. Towards the end of 2007, the ERGEG launched a public consultation on gas transparency.

Secondary markets

The final report of the European Commission's Sector Inquiry (January 2007) shows that a number of European gas interconnection points are subject to contractual congestion. This implies that the market potential of current gas infrastructure is far from fully utilised. The ERGEG believes that well established secondary gas markets can address contractual congestion problems when combined with other 'positive' and 'negative' incentives.

ERGEG launched a public consultation on secondary markets in May 2007. Results (Secondary Markets – An ERGEG Conclusions Paper, October 2007) show that stakeholders believe that improving primary capacity markets is a prerequisite for a well functioning secondary market, and generally support the ERGEG's view that improvements in the design of secondary and primary markets are needed.

The ERGEG's recommendations for improving performance in secondary markets include: (i) encouraging TSOs to establish a centralised trading platform with the possibility of trading cross-border bundled products and the possibility of daily anonymous trading via central counterparty; (ii) requiring TSOs to reduce the implementation lead time of a transfer between two

shippers from up to ten days to up to a few hours; and (iii) forcing TSOs to play an active role in addressing contractual congestion, if necessary by means of new legislation.

In relation to improving performance in primary markets, the ERGEG believes that TSOs should improve the offer of interruptible capacities and start reporting to the market and regulators regularly on how they apply Use-it-or-Lose-it (UIOLI) provisions and offer unused capacity to the market. In this respect, the ERGEG will take work forward in 2008 on improving the current guidelines annexed to the Gas Regulation on capacity allocation mechanisms and congestion management procedures.

EU gas grid

The ERGEG considers a well integrated EU gas (and electricity) grid as essential for competitive markets to develop. The concept of an "EU grid" is one which would comprise national networks which are joined together more effectively than today and which operate as a part of an integrated whole.

The scope of the duties and obligations on TSOs, regulators and others will depend upon the exact definition of the EU grid. During 2007, ERGEG gave some thought to the possible role and functions of a European grid including ways to harmonise rules for grid access and ensure operational security and reliability.

The ERGEG advice on the third energy liberalisation legislative proposals (See paper 3 on Network Regulation) states that "the definition of the scope of the European gas grid shall cover those transmission pipelines that are predominantly used for cross-border transportation of natural gas or that make natural gas available at national borders and interconnection points". The regulators are currently developing a technical approach regarding the definition of an EU gas grid in light of the approach taken by the Commission in its third energy package proposals of 19 September 2007.

Guidelines on capacity calculation

Development of competition and convergence in an internal European gas market requires that capacities in gas transmission networks are calculated and provided in a consistent manner both over time and across networks. TSOs across Europe still have large flexibility in calculating available capacities and with each having their own way of calculating available capacity, there is no guarantee that capacity is offered on a fair and non-discriminatory basis to all network users or that a fluid and competitive market will develop.

In 2007, the ERGEG conducted a public consultation on gas capacity calculation. Responses to the public

consultation (Calculation of Available Capacities - An ERGEG Conclusion Paper, December 2007) included requests for more transparency on capacity calculations and methodologies as well as an overall support for ex ante approval of methodologies and key assumptions of capacity calculation by national regulatory authorities. Based on these conclusions the regulators will produce guidelines on gas capacity calculation in 2008.

Benchmarking of gas transmission tariffs

The ERGEG published in 2007 the "Gas Transmission Tariffs – An ERGEG Benchmarking Report". This benchmark compares the transmission tariffs and balancing penalties of just six European gas TSOs. Obviously the success of any benchmarking exercise depends in part upon wide participation. While several gas TSO had asked to be benchmarked, in practice they were then unwilling to submit the data, a problem compounded by the lack of appropriate powers for regulators to collect the data and/or disclose the data for benchmarking purposes.

The gas tariff benchmarking report shows that there are still large differences regarding tariffs structures and system designs, as well as balancing penalties both in terms of absolute level of penalties and of how TSOs penalise different customer profiles. Some of these differences can be explained by differences in the design of the entry/exit system, market conditions and in geographical/geological circumstances. The report underlines the lack of transparency in this area and notes that the differences may hamper trade across gas transmission networks.

Gas investment

In 2007, the ERGEG's work focused on the regulatory treatment of new gas infrastructure work in the following areas:

Exemptions of Article 22 of Gas Directive 2003/55/EC

Article 22 of Directive 2003/55/EC provides for an exemption to the application of Third Party Access (TPA) rights in infrastructure investments that would otherwise not be made. Although this provision promotes investment on the one hand, it reduces TPA application on the other hand. Moreover, if granting exemptions becomes the rule rather than the exception the creation of a competitive European market for natural gas may be jeopardised.

The ERGEG presented at the XIII Madrid Forum (October 2007) regulators' experience with Article 22 exemptions. Findings from the ERGEG report (Treatment of New Infrastructure – European Regulators Experience with Article 22, September 2007) show that a significant

number of infrastructure projects are exempted from TPA regime, and that there is no common approach among regulators on how to apply Article 22 exemption criteria. The report points out that a diverging framework can encourage “forum shopping” by investors, who might build infrastructure in more favourable investment frameworks instead of building where infrastructure is actually needed.

Following the ERGEG recommendation for an EU-wide approach to allow consistent assessment of requests to exempt new investment from TPA, the European Commission will provide guidance on the practical implementation of the criteria in the Article 22 exemptions. Additionally the Commission's third package proposals provide for the new Agency to be given the powers to decide on Article 22 exemptions in a cross-border context.

New Gas Infrastructure Regulation in the Energy Community

The Energy Community Treaty promotes the creation of integrated energy markets in South East Europe. The institutional set up of the Energy Community entrusts the ERGEG to assist the European Commission within the Energy Community Regulatory Board (ECRB). In this context, the ERGEG provided the European Commission with (internal) advice regarding draft guidelines for New Gas Infrastructure Investment Regulation (NGIIR) in the Energy Community of South East Europe. The ERGEG position on the NGIIR consists of three parts: (i) the scope of application; (ii) the recommendations on Article 22 guidelines; and (iii) the analysis of the institutional aspects of the NGIIR.

Open Season procedures

Open Seasons procedures offer a transparent approach for system operators to consult the market on how much infrastructure is needed and the terms for marketing this infrastructure. For this reason it is recognised as good practice. Following a public consultation, the ERGEG published its “Guidelines of Good Practice on Open Season Procedures” (GGPOS) in May 2007. The GGPOS should apply to new infrastructure projects (including transmission pipelines, LNG and storage facilities) and address issues such as: (i) the structure of open season procedures; (ii) analysis of results; (iii) information that needs to be made public; and (iv) coordination with adjacent system operators and between regulators.

Cross border issues

In 2007, the ERGEG examined the regulatory treatment of cross border investments. The ERGEG informally advised the European Commission on conditions for enhancing investments, TSO cooperation for new investments, regulatory framework - including possible regulatory gaps, cooperation between regulators and investment climate, and transparency.

The ERGEG launched in November 2007 a public consultation on a set of principles for cross-border tariffication developed in accordance with the requirements of Gas Regulation. It seeks to provide national regulatory authorities and TSOs with guidance on cost reflective, transparent and non-discriminatory cross-border TPA tariffs. To this end, the ERGEG consulted market players on tariffs and costs principles, incentives for new infrastructure and the criteria for assessing pipe-to-pipe competition.

LNG guidelines

Liquefied Natural Gas (LNG) growth has a significant impact on the development of competition in EU gas markets. During the course of 2007, the European Commission requested the ERGEG's advice on whether four LNG technologies (i.e. offshore gravity based structures, platform based import terminals, floating storage re-gasification units, and re-gasification vessels) fall under the scope of the Gas Directive 2003/55/EC. The ERGEG advised the Commission (May 2007) on the conditions under which each of the four technologies can fall within the scope of the Gas Directive.

In advising the European Commission in its preparation of the third package proposals the ERGEG recommended extending the scope of part of the Gas Regulation to regulated LNG re-gasification terminals, and furthermore that guidelines should be attached to the Regulation dealing with technical issues and containing rules applicable to infrastructures subject to a regulated TPA regime.

The ERGEG launched in December 2007 a public consultation on draft Guidelines of Good Practice on Third Party Access to LNG facilities (GGPLNG). Based on the conclusions of this public consultation, the ERGEG will in 2008 finalise its guidelines for LNG.

8. Customer issues

2007 marked the year of the consumer will full opening of retail electricity and gas markets by 1 July 2007. The ERGEG's work on customer issues had a particular emphasis on retail market issues such as end-user price regulation, obstacles to supplier switching and the potential of smart meters. In addition, the ERGEG played a central role in the European Commission's consumer awareness campaign. This initiative focuses on explaining to consumers what full liberalisation means and the benefits it will bring, as well as their rights and options for dealing with unfair practices or presenting complaints.

Regulated end-user tariffs distort competition and should be abolished

The ERGEG conducted a Status Review of End-User Price Regulation. The survey (published in June) assessed the effects on market functioning of Member States' maintaining regulated energy prices. The ERGEG report underlined that fully open markets with well functioning competition cannot in the long term co-exist with regulated end-user energy prices.

The clear message in an accompanying position paper (published in July) is that end-user price regulation distorts the functioning of the market and jeopardises both security of supply and the efforts to fight climate change. Therefore end-user price regulation should be abolished, or where appropriate, brought into line with market conditions.

The ERGEG report calls on all countries which are in a transitional period to publish (by 1 July 2008) an individual road map to remove regulated prices. In countries where in practice there may still be only one supplier and a consequent lack of choice for consumers, regulated end-user energy prices should only continue for as short a period as possible. In such Member States where there is only one supplier, the ERGEG urges the Member State governments and regulators to act rapidly so as to create an environment to attract the new entry of suppliers.

Retail market functioning – switching and smart metering

In a competitive and liberalised energy market, consumers should benefit from the freedom to choose and switch suppliers. In April 2007, the regulators published a “Status Review and Guidelines of Good Practice on Obstacles to Switching in the Gas Retail Market”. It makes the case for common rules for market opening and better provision of information for consumers. Among other things, the

regulators called for a review of the relationships between the distribution system operators, suppliers and customers (in key areas such as rules, responsibilities and contractual agreements); the enhancement of customer protection through good information and clear procedures; the improvement of customers' understanding for the reasons behind price changes; and non-discriminatory access to a list of existing and new connections for all suppliers. The regulators have begun a similar review of the electricity sector.

Another issue linked to retail markets and customers relates to the development of so-called “smart meters”. In order to become more energy efficient, consumers need to be able to monitor how much energy they use. Key benefits to consumers of “smart metering” include helping those least able to pay for their energy use and promoting energy efficient behaviour and responsible consumption. Some smart meters allow for demand-side management tariffs to be introduced which would allow consumers use energy at off-peak time or reduced off-peak charges. There are also supplier savings such as reduced meter reading costs, less billing inaccuracy and better forecasting.

In November 2007, the ERGEG published a report on smart metering, with a focus on electricity regulation. It contains some recommendations for regulators and some policy options, according to both types of metering frameworks established in EU Member States: regulated (i.e. monopoly) and liberalised (i.e. where the meter service is open to competition). Notwithstanding the market model, the ERGEG recommends that functional requirements for smart meters be established in order to guarantee minimum services for customers and reduce investment risk for meter operators. The use of technical standards both within and between countries needs to be promoted and third party access to metering data should be established.

Consumer protection and customer awareness

Consumer awareness and active participation are necessary ingredients for the successful functioning of liberalised retail markets. Towards this end, the ERGEG published (January) a handbook of best practice regulatory treatment of customer information. It focuses on pre-contractual customer information and sets out a range of communication tools recommended by the regulators of countries that have already opened their residential markets to competition. The report's aim is to improve the information made available to consumers of gas and electricity. The report was presented to the European

Commission and consumer associations at a consumer information workshop hosted by the ERGEG in April 2007.

Regulators also actively participated in the European Commission's consumer awareness campaign. This included the preparation of national information posters for the 17 Member States that opened their electricity and/or gas market in July 2007, posters for each EU Member States on the protection of the consumer, and national fact sheets for the 'agathepower' website (www.agathepower.eu). Regulators also participated in videos and consumer awareness events at both the EU and national level.

The ERGEG responded to the European Commission's public consultation on a draft Charter on the Rights of Energy Consumers. The Commission is expected to present a final approach on consumer energy rights in 2008.

9. Better regulation and spreading it worldwide

The European regulators deepened in 2007 the commitment they have already demonstrated to the principles of "better regulation". These wide ranging efforts included a review of the ERGEG public consultation practices, a widening of our training initiatives and reaching out to those most in need of our help both within and beyond Europe. For the past number of years, the CEER has developed international cooperation activities with national regulators and their regulatory associations worldwide. These activities are aimed at exchanging information on best regulatory practices, benchmarking and institutional building.

International cooperation

The international cooperation activities of European regulators stem from the EU's international energy priorities. The European Commission's Communication "Prospects for the Internal Gas and Electricity Market" (10 January 2007) states that the ERGEG is expected to play an important role in the dialogue with Europe's international energy partners enabling strong promotion of international co-operation at regulatory level. It explicitly mentions: continuing work on South East Europe, Euro-Mediterranean and the International Energy Regulation Network (IERN) project and establishing new avenues with Russia, EU-US dialogue and others. In this context, the CEER prioritised three areas of strategic importance in 2007.

Supporting EU policy on security of supply

During 2007, the European regulators engaged in cooperation activities with the European Commission and others in order to provide a regulatory dimension to EU security of supply policy in the following strategic regions: Russia; Algeria; Ukraine and Moldova; the countries of the "Baku Initiative" and other Energy Regulators Regional Association (ERRA) members; and the Euro-Mediterranean countries.

Although informally working for some time, with the strong support of the CEER, energy regulators in 23 countries (including France, Italy, Greece, Spain, Slovenia and Portugal) formally founded MEDREG, the Mediterranean working group on electricity and natural gas regulation, as a legal body in November 2007.

Its objective is to develop a common framework of rules which will facilitate investment, improve the integration and the efficiency of the energy markets in the Mediterranean area and guarantee better service to consumers. Such regulatory cooperation could also improve relationships between energy producing and

energy consuming countries in terms of supply security and the diversification of energy sources.

Supporting implementation of EU "energy acquis", particularly in the Energy Community

There are obvious benefits, both for the EU and its neighbours, to integrating the energy infrastructure of neighbouring European states into that of the EU. For this reason the CEER cooperates with candidate countries (Turkey, Croatia and FYROM) and potential candidates for EU membership, as well as the Contracting Parties (Albania, Bosnia and Herzegovina, Croatia, FYROM, Montenegro, Serbia, UNMIK Kosovo) of the Energy Community of South East Europe.

The Energy Community of South East Europe aims to bring the Balkan states into the EU's developing single electricity and gas markets. The Energy Community Treaty, which entered into force on 1 July 2006, commits all its partners to work together to develop integrated gas and electricity networks across their territory, and to assist each other in the event of any disruptions.

The Energy Community has clear decision-making and support structures. Its institutional setup now obliges the ERGEG - in its formal advisory role to the European Commission - to assist the European Commission within the ECRB. To this end, the ERGEG Chair participated in the ECRB meetings throughout 2007 and ERGEG's advice was requested on a number of subjects including the treatment of vulnerable customers in the region and draft guidelines for new gas infrastructure investment regulation. Additionally the European regulators continued in 2007 to participate in the so called "Athens Forum" for electricity which dealt with important issues such as the smooth integration of inter-TSO compensation regimes, the set up of a new Coordinated Auction Office which would be responsible for the congestion management "dry-run" in the region, developing a regional wholesale market, and the effective harmonisation of the SEE electricity region and the ERGEG Regional Initiatives. The first gas forum of the Energy Community took place in Slovenia in November 2007.

Structuring dialogue and sharing experiences with other regulators/regulatory associations

Since the year 2000, regulators from the USA and EU have had 5 regulatory roundtable meetings. In December 2007, the 6th US-EU roundtable took place between the CEER, the Federal Energy Regulatory Commission (FERC) and the National Association of Regulatory Utility

Commissioners (NARUC) in Athens. Topics discussed included effective energy regulation and unbundling, experiences with regional market integration, investment and critical infrastructures, security of supply, and climate change issues.

The CEER also strengthened cooperation with ARIAE (the Latin America energy regulatory association). A CEER/ARIAE roundtable on regional energy markets took place in Madrid in June. Some of the issues addressed included regulatory processes, security and quality of supply, promoting competition, energy efficiency, and sustainability.

Further contacts were established with other regional regulatory associations such as the African Forum for Utility Regulators (AFUR), the South Asian Forum for Infrastructure Regulation (SAFIR) and the Canadian Association of Members of Public Utility Tribunals (CAMPUT). Such international co-operation has been facilitated by the success of the International Energy Regulation Network (IERN) web platform (www.iern.net). With more than 300 energy regulators worldwide this website, set up by CEER in 2006, allows for the global exchange of information on energy regulation. The CEER also strengthened cooperation with other non-regulatory bodies such as the International Energy Agency (IEA), World Bank and the United States Agency for International Development (USAID).

Training

Training on regulatory issues is a basic tool of enhanced international cooperation in the energy sector. Most internal training on energy regulation is channelled through the Florence School of Regulation (FSR) - a joint venture which the CEER, the European Commission and the European University Institute of Florence set up four years ago to provide training and research in regulation. Regulators contributed their expertise in 2007 to FSR's training and other activities. This included a FSR publication on electricity service quality regulation and a series of FSR workshops on different topics including energy derivatives markets, network governance (unbundling) and retail competition. The CEER also continued to provide advice and speakers for ERRA's training activities. In 2007, the CEER broadened its training initiatives both by establishing cooperation with the Interstate Oil and Gas Transport to Europe (INOGATE) project and through a more structured staff exchange programme with energy regulators in the Energy Community of South East Europe.

Improved ERGEG public consultation practices

The 2003 decision of the European Commission which establishes the ERGEG mandates it to consult widely and to do so at an early stage. The ERGEG consultation practices - which include written consultations and public hearings - are used in conjunction with the Madrid and Florence fora to deliver such an established, open and transparent process.

Following a review of its practices, the ERGEG's public consultation guidelines were updated (July 2007) to provide better feedback showing how stakeholders' views are taken into account and to also address the issues of confidentiality and the regional consultations carried out under the Regional Initiatives framework. In carrying out public consultations, the regulators are guided in particular by the principles of transparency, consistency, accountability and the need to ensure high quality stakeholder consultation including the use, when appropriate, of regulatory impact assessments.

Reaching out to consumers and stakeholders

The aim of regulators is to protect the interests of consumers. In the context of the development of a single electricity and gas market in Europe, this means acting in the interest of the European energy consumers. It is naive to expect ordinary consumers to come to us. This is why we have actively sought out alliances with organisations trusted by consumers (such as BEUC, the European consumers' association) and publicly elected representatives so that we can help them help the people they represent.

Throughout 2007 we have strengthened our efforts with MEPs and the European Council, who play a central role in Europe's energy policy, so as to make them better aware of our expertise and independent advice as they embark on examining Europe's new energy legislative proposals.

We also continue to engage with energy stakeholders at the EU level and, via the institutional set up of the Regional Initiatives, at the regional level. This and the extensive use of ERGEG public consultations, bi-lateral meetings and public hearings should assure our stakeholders that regulators are listening and appreciate their contributions and collaborative efforts toward a common goal of an integrated EU energy market.

External communication

The European energy regulators' contribution to energy policy formulation and development is self-evident. The significant growth in our public consultations, reports, ERGEG guidelines and advice to the European Commission has focused our attention on our external communication strategy.

The websites of the European Energy Regulators remain a principal tool of communication. The websites host all reports, position papers, advice, and written communication material. Some new web functionalities were introduced such as e-mail alerts to "online subscribers" and streamlining of the Regional Initiatives section. Recognising that decisions reached by regulators at EU level may be of wider interest, the agendas and decisions of the ERGEG meetings are now also publicly available on the ERGEG website.

In order to have any value, for example in preparing legislative proposals, our formal advice to the European Commission must, by nature, be detailed and comprehensive. In an effort to better communicate our positions to a wider audience, we have made greater use of tailored communications material such as press releases, FactSheets and a dedicated Annual Report on the Regional Initiatives. In addition since June 2007 we also dispatch a free, electronic newsletter entitled *European Energy Regulators' News*. As well as news from the Regional Initiatives, this short newsletter contains one feature article and news of press releases, public consultations, advice to the European Commission and regulatory developments at a national and international level.

Appendix I – Gas/Electricity TSOs Tables

Electricity

EREGG/CEER Members	No. of electricity TSOs	No. of ownership unbundled electricity TSOs	Regulated end-user electricity prices in open market ¹
Austria	3	0	No
Belgium	1	0	No
Bulgaria	1	0	Yes
Cyprus	1	0	Yes
Czech Republic	1	1	No
Denmark	1	1	Yes
Estonia	1	0	Yes
Finland	1	1	No
France	1	0	Yes
Germany	4	0	Yes
Greece	1	0	Yes
Hungary	1	0	Yes
Ireland	1	0	Yes
Italy	9	1	Yes
Latvia	1	0	Yes
Lithuania	1	1	Yes
Luxembourg	12	0	No
Malta	NAP	NAP	NAP
Norway	1	1	No
Poland	1	0	Yes
Portugal	3	1	Yes
Romania	1	1	Yes
Slovak Republic	1	1	Yes
Slovenia	1	1	No
Spain	1	1	Yes
Sweden	1	1	No
The Netherlands	1	1	Yes
United Kingdom	1	1	No

NAP = not applicable

Source: CEER

¹ Partially or totally, with regulated prices in at least one market segment. Situation as of June 2007, based on ERGEG "Status review on end-user price regulation" (E07-CPR-08-04)

Gas

EREGG/CEER Members	No. of gas TSOs	No. of ownership unbundled gas TSOs	Regulated end-user gas prices in open market ²
Austria	7	0	No
Belgium	1	0	No
Bulgaria	1	0	Yes
Cyprus	NAP	NAP	No gas
Czech Republic	1	0	No
Denmark	1	1	Yes
Estonia	1	0	No
Finland	1	0	No
France	2	0	Yes
Germany	22	0	No
Greece	1	0	No
Hungary	1	1	Yes
Ireland	1	0	Yes
Italy	2	1	Yes
Latvia	1	0	Yes
Lithuania	1	0	No
Luxembourg	1	0	No
Malta	NAP	NAP	No gas
Norway	NAP	NAP	No
Poland	1	1	Yes
Portugal	1	1	Yes
Romania	1	1	Yes
Slovak Republic	1	0	Yes
Slovenia	1	0	No
Spain	8	1	Yes*
Sweden	2	1	No
The Netherlands	1	1	Yes
United Kingdom	1	1	No

NAP = not applicable

Source: CEER

² Partially or totally, with regulated prices in at least one market segment. Situation as of June 2007, based on ERGEG "Status review on end-user price regulation" (E07-CPR-08-04)

* Regulated end-user gas prices in Spain will be phased out by mid 2008.

Appendix II - The ERGEG/CEER Reports, Public Consultation documents and Position Papers

Note: All the public documents referred to in this Annual Report can be downloaded from the CEER and ERGEG websites

Reports, Publication Consultation documents and Position Papers

- Blackout of 4 November 2006: ERGEG final report – February 2007 (Ref: E06-BAG-01-06), 6 February 2007
- ERGEG's response to the European Commission's Communication "An Energy Policy for Europe" (Ref: C06-BM-09-05), 6 February 2007
- Secondary Markets: the way to deal with contractual congestion on interconnection points – An ERGEG Public Consultation Paper (Ref: E07-GFG-22-14a), 18 April 2007
- Cross Border Framework for Electricity Transmission Network Infrastructure – An ERGEG Conclusions Paper, (Ref: E07-ETN-01-03), 18 April 2007
- Obstacles to switching in the gas retail market - ERGEG Guidelines of Good Practice and Status Review, (Ref: E06-CSW-05-03), 18 April 2007
- ERGEG Guidelines of Good Practice on Regulatory Accounts Unbundling (following a public consultation), (Ref: E05-CUB-11-02), 21 April 2007
- Draft Guidelines of Good Practice on Functional and Informational Unbundling - An ERGEG Public Consultation Paper, (Ref: C06-CUB-12-04), 30-Apr-2007
- ERGEG Public Consultation on the draft Guidelines for Good Practice on Open Season Procedures – An Evaluation of the Comments Received, (Ref: C06-GWG-29-05b), 21 May 2007
- ERGEG Guidelines for Good Practice on Open Season Guidelines (following a public consultation), (Ref: C06-GWG-29-05c), 21 May 2007
- ERGEG's 3rd legislative package input – Paper 1: Unbundling (Ref: C07-SER-13-06-1-PD), 5 June 2007
- ERGEG's 3rd legislative package input – Paper 2: Legal and Regulatory Framework for a European System of Energy Regulation (Ref: C07-SER-13-06-2-PD), 5 June 2007
- ERGEG's 3rd legislative package input – Paper 3: Network Regulation (Ref: C07-SER-13-06-3-PD), 5 June 2007
- ERGEG's 3rd legislative package input – Paper 4: ETSOplus/GIEplus (Ref: C07-SER-13-06-4-PD), 5 June 2007
- ERGEG's 3rd legislative package input – Paper 5: Powers and Independence of National Regulators (Ref: C07-SER-13-06-5-PD), 5 June 2007
- ERGEG's 3rd legislative package input – Paper 6: Transparency Requirements For Electricity and Gas – a Coordinated Approach (Ref: C07-SER-13-06-6-PD), 5 June 2007
- Calculation of Available Capacities: Understanding and Issues – An ERGEG Public Consultation Paper (Ref: C06-CAP-06-03), 14 June 2007
- ERGEG Status Review on End-User Price Regulation (Ref: E07-CPR-08-04), 14 June 2007
- CEER Response to the Commission's Review of the European Union Emissions Trading Scheme (EU ETS), (C07-ENV-09-03), 18 July 2007
- Compliance with Electricity Regulation 1228/2003 – An ERGEG Monitoring Report – July 2007 (Ref: E07-EFG-23-06), 18 July 2007
- Compliance with Transparency Requirements of Gas Regulation 1775/2005/EC – An ERGEG Monitoring Report – July 2007 (Ref: E07-TRA-02-03), 18 July 2007
- End-User Energy Price Regulation - An ERGEG Position Paper (Ref: E07-CPR-10-03), 18 July 2007
- ERI Convergence and Coherence Report – An ERGEG Public Consultation Paper, (Ref: E07-ERI-05-03), 18 July 2007
- Gas Transmission Tariffs - An ERGEG Benchmarking Report (Ref: C06-GWG-31-05), 18 July 2007
- Guidelines on ERGEG's Public Consultation Practices (Ref: E07-EP-16-03), 18 July 2007
- Towards Voltage Quality Regulation in Europe – An ERGEG Conclusions Paper (Ref: E07-EQS-15-03), 18 July 2007
- Towards Voltage Quality Regulation in Europe – An Evaluation of the Comments Received (Ref: E07-EQS-15-04), 18 July 2007
- ERGEG's response to the EC's public consultation "Towards a European Charter of the Rights of Energy Consumers" (Ref: E07-CFG-15-03), 12 September 2007
- Impact Assessment for Guidelines for Good Practice for Gas Balancing (Ref: E07-GFG-27-03), 12 September 2007
- Treatment of New Infrastructure: European Regulators' Experience with Article 22 Exemptions of Directive 2003/55/EC – Interim Results of ERGEG survey (Ref: E07-TNI-01-04), 12 September 2007
- Gas Regional Initiative Convergence and Coherence Report – An ERGEG Public Consultation Paper (Ref: E07-GRI-01-05), 8 October 2007
- Additional Transparency Requirements - An ERGEG Monitoring Report (Ref: E07-TRA-02-03b), 9 October 2007
- Secondary Markets: The Way to Deal with Contractual Congestion on Interconnection Points – An ERGEG Conclusions Paper (Ref: E07-GFG-22-14b), 18 October 2007
- CEER Response to a Regional Independent Operator (RIO) Proposal by EURELECTRIC (Ref: C07-GA-34-08), 13 November 2007
- ERGEG Public Consultation on Gas Transparency Monitoring – An ERGEG Questionnaire (Ref: E07-TRA-02-03c), 16 November 2007
- ERGEG Principles on Calculating Tariffs for Access to Gas Transmission Networks – An ERGEG Public Consultation Paper (Ref: E07-CBT-01-03), 22 November 2007
- Compliance with Regulation 1228/2003 and Congestion Management Guidelines - Criteria for Compliance (Ref: E07-EFG-25-03), 10 December 2007
- ERGEG's Assessment of the Development of the European Energy Market 2007 (Ref: C07-URB-05-03), 11 December 2007
- Calculation of Available Capacities – Understanding and Issues - An ERGEG Evaluation of Comments Paper (Ref: C06-CAP-06-03a), 11 December 2007
- Calculation of Available Capacities – Understanding and Issues - An ERGEG Conclusions Paper (Ref: C06-CAP-06-03b), 11 December 2007
- ERGEG Draft Guidelines of Good TPA Practice for LNG System Operators – An ERGEG Public Consultation Paper (Ref: E07-LNG-03-06), 13 December 2007
- Key Comments on the European Commission's Third Package (Ref: C07-GA-36-08), 20 December 2007

Appendix III - Press Releases and Fact Sheets 2007

Press Releases

- "Time to Deliver" - European Energy Regulators call for new legislation to put Single Energy Market back on track, 10 January 2007 (Ref: PR-07-01)
- European Energy Regulators' put forward a set of "good practices" in the field of consumer information, 22 January 2007 (Ref: PR-07-02)
- European Energy Regulators' hard hitting Final Report to the European Commission on the November 2006 Blackout criticises transmission system operators, 6 February 2007 (Ref: PR-07-03)
- European Energy Regulators' call on Member States and Parliament to endorse the European Commission's Energy Policy for Europe proposals, 8 February 2007(Ref: PR-07-04)
- The Regional Initiatives: Progress and Prospects, 28 March 2007 (Ref: PR-07-05)
- EU energy regulators recommend measures for an EU electricity grid, 30 April 2007 (Ref: PR-07-06)
- Europe's new energy legislation – Energy Regulators' advice in a "six pack", 7 June 2007 (Ref: PR-07-07)
- Putting energy consumers first, 5 July 2007 (Ref: PR-07-08)
- EU Energy Regulators back the European Commission's 3rd energy package proposals, 19 September 2007 (Ref: PR-07-09)
- Support by Florence Forum for the Commission's proposals for an EU Agency, 25 September 2007 (Ref: PR-07-10)
- Madrid Forum supports an EU Agency for the cooperation of regulators, 17 October 2007 (Ref: PR-07-11)
- American and EU energy regulators meet in Athens to share best regulatory practice, 7 December 2007 (Ref: PR-07-12)

Fact Sheets

- ERGEG Fact Sheet on the Regional Initiatives: progress and prospects – March 2007, 27 March 2007
- Fact Sheet on the new 3rd Package of energy legislation, 6 June 2007 (Ref: FS-07-03)
- Fact Sheet on Unbundling, 6 June 2007 (Ref: FS-07-04)
- Fact Sheet on a European System of Energy Regulation: Regulatory and EU Network Bodies, 6 June 2007 (Ref: FS-07-05)

Appendix IV - Presentations by the European Energy Regulators

Presentations

- ALTIN, Cemil, Chair of ERGEG's Balancing Workstream, Draft ERGEG Guidelines of Good Practice for Gas Balancing, 12th meeting of the Madrid Forum, 20-21 February 2007
- BOLTZ, Walter, CEER Vice President, ERGEG Report on Compliance with Regulation 1775/2005, 12th meeting of the Madrid Forum, 20-21 February 2007
- BOLTZ, Walter, CEER Vice President, ERGEG Comments on Draft Explanatory Note on Transparency, 12th meeting of the Madrid Forum, 20-21 February 2007
- BOLTZ, Walter, CEER Vice President, Gas Regional Initiatives – Progress so far, 12th meeting of the Madrid Forum, 20-21 February 2007
- BOLTZ, Walter, CEER Vice President, Interoperability – Status of Conclusion of Operating Balancing Agreements, 12th meeting of the Madrid Forum, 20-21 February 2007
- BOLTZ, Walter, CEER Vice President, Regulated Pipeline Tariffs: How Will They Operate? Platt's Developing European Gas Supply Infrastructure Conference, Vienna, 5-6 November 2007
- BOLTZ, Walter, CEER Vice President, ERGEG Transparency Monitoring, 13th meeting of the Madrid Forum, 16-17 October 2007
- BOLTZ, Walter, CEER Vice President, ERGEG Gas Regional Initiative coherence and convergence, 13th meeting of the Madrid Forum, 16-17 October 2007
- BOLTZ, Walter, CEER Vice President, ERGEG's response on Interoperability, 13th meeting of the Madrid Forum, 16-17 October 2007
- BOLTZ, Walter, CEER Vice President, ERGEG's response to GTE Transparency Platform, 13th meeting of the Madrid Forum, 16-17 October 2007
- COSTA CAMPI, María Teresa, CEER General Assembly Member, "The 3rd Legislative Package for the Internal Electricity and Natural Gas Markets. Relevant Aspects of the Proposals by the European Commission". VI Gresol Conference. Tarragona (Spain), 25 October 2007
- JAMME, Dominique and RIESER, Dan, Co-Chairs of ERGEG's Open Seasons Workstream, Draft ERGEG Guidelines of Good Practice for Open Seasons Procedures, 12th meeting of the Madrid Forum, 20-21 February 2007
- KAPETANOVIC, Tahir, Co-Chair of the ERGEG Electricity Market Task Force, European Harmonisation on Distribution Level. Geode Seminar: Distributors and the New Energy Regulation, Brussels, 25 April 2007
- KAPETANOVIC, Tahir and BONNESOEUR, Nicolas, Co-Chairs of the ERGEG Security of Supply Task Force, Presentation on Security for Electricity Supply, 14th Florence Forum, 25 September 2007
- MOGG, Sir John, CEER President/ERGEG Chair, ERGEG's response to the Commission's Communication "An Energy Policy for Europe", 12th meeting of the Madrid Forum, 20-21 February 2007
- MOGG, Sir John, CEER President, Industry debate on "Economic nationalism vs liberalisation: to what extent does the rise of national champions threaten the implementation of full EU gas liberalisation", 13th Annual Flames Conference, Amsterdam, 14 March 2007

- MOGG, Sir John, CEER President, Regulatory Frameworks for Fair Competition. IEA conference on Energy in Central and Eastern Europe, Prague, 19 March 2007
- MOGG, Sir John, CEER President, Looking to Europe: delivering competitiveness, security and sustainability, Adam Smith's Institute 12th Annual Conference: the Future of Utilities, sustainability, profitability and the customer: far-sighted approaches for a pressured industry, London, 27 March 2007
- MOGG, Sir John, CEER President, Promoting Market Integration by Regulatory Tools, ERGEG Regional Initiatives Progress and Prospects Conference, Brussels, 28 March 2007
- MOGG, Sir John, CEER President, European Policy Forum's 2007 Energy Policy and Regulatory Summit, Brussels, 16 April 2007
- MOGG, Sir John, CEER President, Regulatory Cooperation: the European Model, Florence School of Regulation Annual Conference, Florence, 11 May 2007
- MOGG, Sir John, CEER President, European Energy Policy at the Crossroads, Conference Energy and Regulation, Comision Nacional de Energia, Madrid, 22 May 2007
- MOGG, Sir John, CEER President, Introductory Presentation. Claeys and Casteels' Launching the 3rd Liberalisation Package Conference, Brussels, 19 September 2007
- MOGG, Sir John, CEER President, "The European Regulators' views for a truly single internal energy market in the EU". The 7th Annual Italian Energy Summit, Milan, 26-27 September 2007
- MOGG, Sir John, CEER President, Key Note address at the CERA Annual European Gas and Power Executive, London, 14 November 2007
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Appendix V - Membership of the ERGEG

Austria	Energie-Control GmbH (E-Control)
Belgium	Commission de Régulation de l'Electricité et du Gaz (CREG)
Bulgaria	State Energy and Water Regulatory Commission (SEWRC)
Cyprus	Cyprus Energy Regulatory Authority (CERA)
Czech Republic	Energy Regulatory Office (ERU)
Denmark	Danish Energy Regulatory Authority (DERA)
Estonia	Estonian Energy Market Inspectorate (EEMI)
Finland	Energy Market Authority (EMV)
France	Commission de Régulation de l'Energie (CRE)
Germany	Federal Network Agency for Electricity, Gas, Telecommunications, Posts and Railway (BNetzA)
Greece	Regulatory Authority for Energy (RAE)
Hungary	Hungarian Energy Office (HEO)
Ireland	Commission for Energy Regulation (CER)
Italy	Italian Regulatory Authority for Electricity and Gas (AEEG)
Latvia	Public Utilities Commission (PUC)
Lithuania	National Control Commission for Prices and Energy (NCC)
Luxembourg	Institut Luxembourgeois de Régulation (ILR)
Malta	Malta Resources Authority (MRA)
The Netherlands	Office of Energy Regulation (DTe)
Poland	The Energy Regulatory Office (ERO)
Portugal	The Energy Services Regulatory Authority (ERSE)
Romania	Romanian Energy Regulatory Authority (ANRE)
Slovakia	Regulatory Office for Network Industries (URSO)
Slovenia	Energy Agency of the Republic of Slovenia (AGEN)
Spain	The National Energy Commission (CNE)
Sweden	Swedish Energy Agency (EI)
United Kingdom	Office of Gas and Electricity Markets (Ofgem)
Observers:	
Iceland	National Energy Authority (Orkustofnun)
Norway	Norwegian Water Resources & Energy Directorate (NVE)
Turkey	Energy Market Regulatory Authority of Turkey (EMRA)

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Honorary Members

Messers. Jorge Vasconcelos, Callum McCarthy, Pippo Ranci and Jean Syrota as founding members of the CEER are Honorary Members of the CEER.